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Our Ref: APP: Meadowbank

23 September 2011

Mr Sam Haddad FVIPA, MAICD
Director-General
Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Attention: Mr S Truong

Dear Director-General,

**MP – 0110 – Achieve Australia Limited Concept Plan, Meadowbank
Director-General's Requirements
Property: 74-76 Belmore Street and 8 Junction Street, Meadowbank**

We refer to the Concept Plan Application lodged with the Minister for Planning by Achieve Australia Limited (**Achieve**) for a development at 76 Belmore Street and 8 Junction Street, Meadowbank comprising residential flat buildings including the retention of a heritage item and demolition of the remaining structures pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979 (NSW)*.

We are the solicitors for Friends of Crowle Home Incorporated (Incorporation no. 9896024) (**Friends of Crowle**), an association incorporated under the *Associations Incorporations Act 2009 (NSW)* comprising family members and other supporters of existing residents of Crowle Home. Crowle Home is for intellectually disabled persons, among the most vulnerable persons in our community.

Implementation of the development embodied in the proposed Concept Plan will displace these residents from Crowle Home.

The purpose of this letter is to request an extension of time from the Department to enable us on behalf of Friends of Crowle to make submissions in respect of the Concept Plan Application (including the Environmental Assessment Report and Social Impact Assessment).

We request the Department to allow us an extension of time until 5pm on Friday 30 September 2011.

The reason for this request is that:

- We are acting as solicitors for Friends of Crowle on a *pro bono* basis; that is to say providing our legal services to Friends of Crowle for free and without charging it fees and disbursements or out-of-pocket expenses
- Friends of Crowle was incorporated on 15 September 2011: see copy of the attached Certificate of Incorporation as an Association. Given that incorporation occurred so very recently (that is, one week ago today) we have had insufficient time in which to advise, and obtain instructions from, Friends of Crowle in respect of the Concept Plan Application. An extension of time allows us a more realistic opportunity to advise, and obtain instructions from, Friends of Crowle in respect of the Concept Plan Application so as to allow it to participate in the planning process
- Office-bearers, and many other members, of Friends of Crowle are parents and relatives (that is, carers) of intellectually disabled people at Crowle Home. Typically they have very much less time as compared to people, who do not have intellectually disabled people as members of their immediate families, to spend with lawyers for the purpose of asking questions and obtaining advice. That makes it difficult to find common times convenient for even the office-bearers to attend meetings with ourselves as lawyers even though we make ourselves available out of usual office hours during the week and weekends.

For the record, we oppose on our client's behalf the Concept Plan for a number of reasons including that the proposed Concept Plan (including the Environmental Assessment Report and Social Impact Assessment) do not address adequately, or comply with, the Director-General's Requirements and in particular DGRs 17 (consultation) and 18 (social impacts).

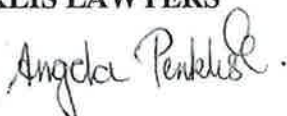
If we do not hear from the Department in response to this letter before 5pm later today we must assume that the Department has granted us this request for an extension.

Would you please telephone Angela Penklis on 0416 298 275 or Philip Sutherland on 0408 275 599 if you wish to discuss this request.

Yours faithfully

PENKLIS LAWYERS

per:



Angela Penklis

Principal

Phone: 02 9223 4714

Email: angela@penklislawyers.com.au

JENNIFER ANN ROLLO
135 PRINCES STREET
PUTNEY NSW 2112

REMOVE THIS TOP SECTION IF DESIRED, BEFORE FRAMING



**Fair
Trading**

Certificate of Incorporation as an Association

THIS IS TO CERTIFY that the undermentioned Association is registered as an incorporated association in New South Wales under the Associations Incorporation Act 2009.

Association Name: **FRIENDS OF CROWLE HOME INCORPORATED**

Incorporation No: **INC9896024**

Date of Incorporation: **15 September 2011**

Issued this fifteenth day of September, 2011.

Michael Coutts-Trotter
Director General
Department of Finance and Services

Penklis Lawyers

Our Ref: APP: PFS: Meadowbank

30 September 2011

Suite 802 Level 8
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Mr Sam Haddad FVIPA, MAICD
Director-General
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Attention: Mr S Truong

Dear Director-General,

**MP – 0110 – Achieve Australia Limited Concept Plan, Meadowbank
Director-General's Requirements
Property: 76 Belmore Street and 8 Junction Street, Meadowbank**

We are the solicitors for Friends of Crowle Home Inc. 9896024 (**Friends of Crowle Home**), an association incorporated under the *Associations Incorporations Act 2009 (NSW)* comprising family members and other supporters of a large number of the existing residents, as well as those residents themselves who would be displaced by implementation of the development embodied in the above Concept Plan. Together with Blake Dawson, we are acting on a pro bono basis for Friends of Crowle Home. In terms of allocating the work between Blake Dawson and ourselves, we have carriage of the planning issues in particular and it is in that capacity we write this letter to you.

Friends of Crowle Home is an association incorporated under the *Associations Incorporations Act 2009 (NSW)*, members of which are family, friends and carers of intellectually disabled residents of Crowle Home, and users of day care facilities and programmes there, at 76 Belmore Street and 8 Junction Street, Meadowbank (**the Crowle Home Site**).

Residents of Crowle Home have moderate to severe intellectual disabilities and require high levels of support and care, "24/7". They have lived most of their adult life at Crowle Home. In many cases, residents have called Crowle Home "home" for several decades. Crowle Home residents are arguably some of the most vulnerable and disadvantaged people in our community.

We refer to the Concept Plan Application lodged with the Minister for Planning by Achieve Australia Limited (**Achieve**) for a development at **76 Belmore Street and 8 Junction Street, Meadowbank (Crowle Home Site)** comprising residential flat buildings including the retention of a heritage item and demolition of the remaining structures pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979 (NSW)* (**the EP&A Act**).

We make this submission on behalf of Friends of Crowle Home. We oppose the Concept Plan for a number of reasons including that Achieve as the applicant has not addressed, and complied with, the Director-General's Requirements (**DGR**) and in particular DGRs 17 (Consultation) and 18 (Impact on existing and future residents/tenants).

We assert the Department must reject the Concept Plan Application in its entirety or require the applicant to address, and comply with, the DGRs and in particular DGRs 17 (Consultation) and 18 (Impact on existing and future residents/tenants). This process must be *genuinely* transparent in the sense of openness, full and frank and Friends of Crowle Home must be proactively consulted and involved throughout.

Friends of Crowle Home's preferred choice of accommodation is for cluster housing for residents of Crowle Home on the Crowle Home Site. Our client does not want to see the residents of Crowle Home moved into community or shared support housing. There is very strong concern that support (such as it is) residents receive in this type of housing is inadequate. Unfortunately, in the last 3 years Achieve has relocated many of the residents of Crowle Home away from the Crowle Home Site and into the community. We understand that Achieve proposes to relocate the remaining residents as soon as accommodation is located. Relocation must cease immediately because the applicant has not addressed, and complied with, DGRs 17 and 18.

Director-General's Requirements

We understand that on 1 September 2010 the Minister for Planning's delegate Mr Chris Wilson declared the Project to be a project to which Part 3A of the EP&A Act applies for the purpose of Section 75B of the EP&A Act.

On 16 September 2010, the Director-General of Planning issued the Director-General's Requirements (**DGRs**) pursuant to section 75F of the EP&A Act and requires an Environmental Assessment Report (**EAR**) to be prepared by or on behalf of Achieve.

We were concerned that these DGRs failed to include reference to *the social impacts* of the proposed Project. We submitted that the social impacts are a key issue which must be addressed in the EAR for the Project.

We referred you to section 5 of the EP&A Act which states the objects of the EP&A Act as follows:

“The objects of this Act are:

- (a) to encourage:*
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages **for the purpose of promoting the social and economic welfare of the community and a better environment,***
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) the protection, provision and co-ordination of communication and utility services,*
 - (iv) the provision of land for public purposes,*
 - (v) **the provision and co-ordination of community services and facilities,***
and
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) ecologically sustainable development, and*
 - (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.”*

Section 4 of the EP&A Act defines “environment” as follows:

“environment includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.”

The expression “environment” is therefore capable of a wide meaning and includes social impacts, and “environment” when used in section 5 must be read and applied accordingly. Accordingly, we requested the Director-General to modify these requirements pursuant to Section 75F of the EP&A Act so as to include social impacts as one of the key issues to be addressed by Achieve in the EAR: see copy of our letter dated 10 March 2011 addressed to the Director-General.

Subsequently, by letter dated 14 April 2011 the Director-General notified Achieve the Department had amended the DGRs and required Achieve to undertake the following additional assessment set out in the new clause 18 of the DGRs:

“18. Impact on existing and future residents/tenants

- *The EA shall address the social, health and safety considerations with respect to both the existing disadvantaged/disabled tenants and residents and any new disadvantaged/disabled tenants and residents. The assessment should consider the social, health and safety impacts and should include, but not be limited to, the following:*
 - *prepare a relocation strategy for existing tenants and private residents/occupants, including consideration of timing, relocation assistance and protocols for ensuring that existing residents/tenants will not be disadvantaged by any relocation;*
 - *address the adequacy of existing services, social infrastructure, employment opportunities and open space to meet the needs of new disadvantaged/disabled tenants/residents and identify the range of new services proposed to meet the needs of tenants/residents;*
 - *identify the nature of consultation with the existing community regarding the relocation strategy; and*
 - *identify how the Concept Plan has considered affordability and housing choice for the disadvantaged and disabled.”*

History of Crowle Home

Before giving reasons which we believe justify our asserting Achieve has failed to address adequately, or comply with, the Director-General’s Requirements and in particular DGR 17 and DGR 18, it may assist you if we provide a short history of Crowle Home.

Crowle Home was officially opened on 29 November 1952, and building the residential facility commenced in 1953. We understand that over the years many improvements were made to the facilities and grounds of Crowle Home. These include additional residential accommodation, a swimming pool and an assembly hall. Facilities were financed, in part, by fundraising activities conducted by families, friends and carers of the residents of Crowle Home, and in some circumstances their physical labour constructed those facilities.

We understand that as recently as two years ago Crowle Home accommodated 90 residents and that approximately 30 residents remain at Crowle Home today.

Crowle Home was established under the auspices of The Sub-Normal Children's Welfare Association (SNCWA), following a philanthropic gift to the SNCWA of the Crowle Home Site. In 1984 the SNCWA changed its name to the Challenge Foundation. The Challenge Foundation operated in branches.

In 1993 the operations of the Ryde branch of the Challenge Foundation were incorporated and became known as The Crowle Foundation Ltd (**Crowle Foundation**). Crowle Foundation merged with Achieve Foundation Ltd (**Achieve Foundation**) in 2008 by way of

parallel schemes of arrangement approved by the Federal Court of Australia, to form a new entity named Achieve Australia Ltd: see *Achieve Foundation Limited v ACNewCo Limited: In the Matter of Achieve Foundation Limited and The Crowle Foundation Limited* [2010] FCA 382 (21 April 2010).

Achieve is the current operator of Crowle Home.

Reading Justice Foster's judgment given in the case referred to immediately above in connection with the scheme of arrangement approving the merger of Crowle Foundation and Achieve Foundation and transferring the assets of each of them to Achieve gives no clue of the imminent closing down of Crowle Home. Indeed, the judgment quotes extracts from the Scheme Booklet which – putting it at its weakest – imply Crowle Home was to continue to operate on the Crowle Home Site after the Federal Court approved the scheme of arrangement. For example:

- “The Finance Committee, Management and the Board, are therefore of the opinion, that the best option for The Crowle Foundation *to be able to continue its mission and objectives*, is to seek a merger with Achieve Foundation ... This will *enable the existing services of The Crowle Foundation to be retained and also provide the opportunity to grow and expand the services currently offered* ... The Crowle Foundation may be able to survive for a time without such a merger, but certain unacceptable and unpalatable options will need to be implemented, such as the closure of or reduction of current services ... The Crowle Foundation would have to sell or mortgage part of its property portfolio ...” [emphasis added]: see [2010] FCA 382 at paragraph 11 per Foster J
- “We are all firmly convinced that that [sic] we can *provide these services more effectively*, and at a reduced cost, by merging our organisations into one Foundation” [emphasis added]: [2010] FCA 382 at paragraph 26 per Foster J
- “In the Scheme Booklet, it was also said that the merger would *ensure the survival, long term viability and success* of the activities of both Achieve and Crowle ...” [emphasis added]: see [2010] FCA 382 at paragraph 27 per Foster J.

We were not instructed, and did not participate in, the proceedings before Foster J in the Federal Court of Australia. Our knowledge of the proceedings is founded upon the judgment. Reading the judgment, we find no mention of Achieve proposing closing Crowle Home; or of relocating the residents of Crowle Home; or of redeveloping the Crowle Home Site. The President of Friends of Crowle Home (who is the mother of a person who was, and is, using day care facilities there) instructs us she did not know at that time of Achieve's proposal to close Crowle Home.

The judgment discloses that just over 87% of the members of Crowle present and voting at the Crowle scheme meeting voted in favour of the Crowle scheme resolution; and the balance voted against the Crowle scheme resolution: see [2010] FCA 382 at paragraph 42 per Foster J. We question whether the vote would have gone that way if, for example, members of Crowle (a company limited by guarantee at that time) were then informed, for example, that Achieve proposed closing Crowle Home, relocating residents to accommodation away from Crowle Home and redeveloping the Crowle Home Site. It is not clear to us from reading the judgment that the Federal Court was informed of proposed redevelopment of the Crowle Home Site when its approval was sought under the *Corporations Law* for the scheme of arrangement.

Bed Bonds

At the time when the SNCWA operated Crowle Home, relatives of many residents of Crowle Home entered into an agreement with the SNCWA providing that the SNCWA would provide accommodation for the nominated resident at Crowle Home for life.

Those agreements are referred to by the families of residents and former residents of Crowle Home as “Bed Bonds”. Blake Dawson has reviewed copies of eight Bed Bonds relating to current residents of Crowle Home, or residents recently relocated from Crowle Home. Each Bed Bond contains the following clause (among others):

“In consideration of the payment of the sum of ... The Association undertakes and agrees to receive into the W A Crowle Home 76 Belmore Street Ryde in the State aforesaid (hereinafter called ‘the Crowle Home’) any one person approved for residence at the Crowle Home nominated by the Parent (such person being hereinafter called ‘the Child’) and the Association further undertakes and **agrees to provide accommodation at the Crowle Home for the Child during his/her life**” [emphasis added].

Of the eight Bed Bonds Blake Dawson reviewed:

- all were entered into between 1968 and 1977
- six Bed Bonds referred to consideration of \$1200 paid to the SNCWA in return for the undertaking from SNCWA to house a proposed resident at Crowle Home “during his/her lifetime”, and
- two later Bed Bonds referred to consideration of \$2000 paid to the SNCWA in return for the undertaking from SNCWA to house a proposed resident at Crowle Home “during his/her lifetime”.

It was a term of the “Crowle Foundation Scheme of Arrangement” (that is, an order made by the Federal Court of Australia in the legal proceedings referred to above) that all the existing

liabilities of the Crowle Foundation (which must include any obligations the Crowle Foundation had under the Bed Bonds) would become the liabilities (and obligations) of Achieve upon the merger.

We are instructed Achieve is *not* honouring Bed Bonds. The Concept Plan application does *not* address this breach of obligation in circumstances in which parents and others entering Bed Bonds believed their relative had accommodation at Crowle Home for life.

We attach the Memorandum to Friends of Crowle Home Inc. prepared by Blake Dawson and dated 21 September 2011 which contains a report of its factual investigation regarding the establishment of Crowle Home.

Planning and development consultant's report: Mr Harvey Sanders of Design Collaborative Pty Ltd

We attach a copy of the report addressed to the Director-General set out in the letter dated 22 September 2011 prepared by Mr Harvey Sanders of Design Collaborative Pty Ltd, planning and development consultants. Would you please read the report for yourself to take account of Mr Sanders' expert opinion.

We present this short summary of the report in the context, as Mr Sanders notes, that Friends of Crowle Home's "... principal concern is that the displacement of the existing residents who have lived all of their lives on the property would have a serious and detrimental effect on their well-being" (see p 1 of Mr Sanders' report):

- "On the basis of our assessment of the documentation that comprises the Environmental Assessment Report, the provision of on-site accommodation on continuous basis for the existing residents has not been given serious or realistic consideration": see p 1 of Mr Sanders' report
- "In our view proper consideration should be given to an option that provides for the provision of appropriate accommodation on-site as the first stage of any development of the site. This work could take place on a part of the site that would not require the existing residents to be relocated": see p 2 of Mr Sanders' report
- "It is readily apparent that such a course of action would minimise the disruption to the lives of the existing residents and would lead to a much better outcome in terms of their well-being": see p 2 of Mr Sanders' report
- "We further note that the assessment of the social impact appears to be based on what we would consider to be the false premise that it is essential for the existing residents to be relocated to accommodation off the site in order for the site to be redeveloped ... this is clearly not the case and it would be possible to

formulate a Concept Plan that provided for the continuing occupation of the site by the existing residents”: see p 2 of Mr Sanders’ report

- “... the Environmental Assessment Report does not give any consideration to the appropriate and realistic alternative of providing on-going on-site accommodation for the existing residents”: see p 3 of Mr Sanders’ report
- “In our opinion, the Proponent [that is, Achieve] has not properly fulfilled the requirement to properly consider the social impact of the implementation of the development of the site envisaged under Concept Plan on the existing residents of Crowle Home. Such a proper consideration would, in our view, lead to the conclusion that the only realistic manner in which the future well-being of those residents could be assured with the degree of confidence that the Minister must have before approving such a Concept Plan would be by providing appropriately designed accommodation on the property as the first stage of a development undertaken pursuant to a Concept Plan approved by the Minister”: see p 3 of Mr Sanders’ report
- “On this basis it is our view that the Minister should either ask the Proponent [that is, Achieve] to make appropriate changes to the Concept Plan to address this issue or approve the Concept Plan with changes that would address the matters raised in this submission. If the Proponent [that is, Achieve] does not change the Concept Plan and/or the Minister is not disposed to make such changes as part of the approval process then it is our submission that the Minister ought not approve the Concept Plan presently under consideration”: see p 3 of Mr Sanders’ report.

Social Impact report: Dr Judith Stubbs of Judith Stubbs & Associates

We attach a copy of the report prepared on behalf of Friends of Crowle by Dr Judith Stubbs of Judith Stubbs & Associates (**JSA**). Would you please read JSA’s report to take account of Dr Stubbs’ expert opinion.

The report is lengthy and we do not provide a summary of its contents in this letter. The report contains its own executive summary: see at pp 6 to 18 of the report. There are also tables summarising, among other things, key social impacts identified (see table 5-1 at pp 70 to 72 of the report) and adequacy of the consultation process: see table 7.2 at pp 86 to 87 of the report) and table 7.3 at pp 89 to 91 of the report. Both executive summary and tables are useful to identify key concerns, reasonability and impact concisely but *not* a substitute for reading the report in full to understand Dr Stubbs’ research, reasoning and conclusion including basis of the executive summary.

In terms of DGR 17 (Consultation) and DGR 18 (Impact on existing and future residents/tenants), this extract from the executive summary of section 7 of the report entitled

JSA Review of the Environmental Assessment against DGR 17 and 18 is material to assessing the Concept Plan. **The JSA report demonstrates the Concept Plan's failure to address adequately, or comply with, DGR 17 and DGR 18.** We set out this extract from JSA's report to highlight some specific points:

"Overview of Methodology

In order to review the social impacts associated with the proposed closure and relocation of current residents at the site and in the wider community, and to review the adequacy of relevant documentation accompanying the Concept Plan application, JSA undertook a number of research strategies, including:

- Review of relevant documentation and literature pertaining to supported accommodation services, deinstitutionalisation, the proposal, and the history of Crowle Home;
- Review of relevant local, sub-regional and metropolitan planning documents;
- 19 semi-structured, in-depth interviews with key stakeholders, including: family members of people currently receiving accommodation and other support from Achieve Australia (at Crowle Home and elsewhere); ex-staff members of Achieve Australia and former volunteers; and relevant spokespeople from other government and non-government disability services providers.
- Follow up conversations with selected interviewees in order to understand the relocation planning and consultation process undertaken by Achieve Australia;
- Site visits in order to understand the site and immediate surrounds, and to assess site compliance with selected planning standards, namely SEPP Senior Living (2004) and AS1428.1 due to the relevance of such a development to the needs of Achieve clients and the locality more broadly;
- Review of relevant additional demographic and housing data related to the locality, including a review of previous studies undertaken by JSA for City of Ryde Council in affordable housing and strategic planning.

A summary is first provided of JSA's preliminary review of the EA and SIA against the relevant Director General's Requirements (DGRs). This is followed by a summary of potential positive and adverse social impacts, and broad recommendations on mitigations that may assist in addressing adverse social impacts identified.

JSA Review of Relevant DGRs

Section 7 of this report provides our preliminary review of the applicant's EA and SIA against the relevant Director General's Requirements (DGRs), namely DGR 17 and DGR 18.

- DGR 17, which states that the applicant must "undertake an appropriate and justified level of consultation in accordance with the Department's Major Project Community Consultation Guidelines October 2007"; and

- DGR 18, which requires an assessment by the proponent for consideration of the social impacts on existing and future residents, including the social, health and safety impacts on existing and future residents.

DGR 17: Consultation

The NSW Department of Planning *Guidelines for Major Project Community Consultation* October 2007 states that, “consultation is part of working openly with the community and other stakeholders and providing opportunities for their views and preferences to have input into the assessment process and decision making” with the goal of consultation being “to strengthen decision making by ensuring all relevant issues are considered.”¹

In summary, relevant documents reviewed (principally the EA and the SIA), as well as additional research undertaken by JSA, indicate that there are serious inadequacies in the process implemented and/or reported by the applicant against all relevant criteria in the Department’s Guidelines. This includes:

- No evidence in the EA or SIA that there was direct consultation with existing residents or their families regarding the proposal prior to lodgement of the EA, no documentation of relevant concerns and how these have been considered and addressed in the EA. Such concerns are supported by reports from those interviewed by JSA during the preparation of this report that the process was highly unsatisfactory. This is a significant issue given the serious potential adverse impacts on these groups, and the desirability of factoring in key considerations or mitigations into the proposed redevelopment;
- No evidence that the views or preferences of existing residents, their families, neighbours or the wider community have been taken into account in the SIA and decision making process by the applicant (e.g. the EA does not contain a matrix of concerns raised and ways these had been addressed). Again, this is serious deficiency given the vulnerability of residents and their families to adverse social impacts, and the importance of factoring in appropriate mitigation that would assist in satisfying the matters raised by these groups;
- Consultation appears to have involved a narrow range of stakeholders. For example, the families of Crowle residents report that they were not invited to the ‘information session’ which the applicant conducted during the EA exhibition period, and there is no evidence that other key individuals, interest groups or organisations with a state or national interest in disability services have been consulted regarding the proposal in the SIA (e.g. no detailed summary of interviews with such stakeholders is provided in the SIA). Such organisations could have included, for example, intellectual disability advocates; the NSW Department of Ageing, Disability and Home Care; City of Ryde Council staff specialising in social planning and/or disability programs and services;

¹ NSW Department of Planning (2007) Guidelines for major project community consultation, October, Pg 2.

- Consultation in the lead up to the preparation of the EA also appears to have been limited to a series of 'information sessions', and most of the methods suggested by the Department in the Department's Major Project Community Consultation Guidelines are not reported to have been utilised.
- No information or evidence of protocols or special methods used to engage vulnerable and disadvantaged people relevant to the proposal in the process is provided, and no evidence of consultation with these groups is provided in the EA or SIA (e.g. frail aged, people with an intellectual disability or their families);
- No details are provided in the EA regarding the process for ongoing consultation with relevant individuals or groups, which is likely to be very important given the protracted process of relocation and transition involved in the redevelopment, and the vulnerability of residents during this process as discussed above;
- No detailed reporting or documentation of consultation outcomes is provided in the EA or SIA as required under the Guidelines.

DGR 18: Social Impacts on Existing and Future Residents

Relocation Strategy

As part of the Director General's Requirement 18 (DGR 18), the applicant is required to:

'Prepare a relocation strategy for existing tenants and private residents/occupants, including consideration of timing, relocation assistance and protocols for ensuring that existing residents/tenants will not be disadvantaged by any relocation;'

However, there is no documented evidence in or attached to the EA that such a relocation strategy exists or is being effectively implemented. Significant concerns were raised by those interviewed during our research that the process has been inadequate in a number of ways, particularly regarding the lack of information and engagement of family members in the future housing choices and service arrangements of existing residents, including those already relocated. As noted below, reports of deteriorating conditions onsite for remaining residents is also a serious concern, as is the lack of a detailed relocation strategy for remaining residents, and plans for adequate care, health and safety during the transition and redevelopment process. This is reported to be leading to high levels of stress and anxiety for residents and their families. **It may be preferable that the relocation of residents ceases until detailed plans are provided for how these issues will be managed in the future.**

It is also noted that individual Transition Plans are a requirement of the NSW ADHC for any resident transitioning to a placement in supported accommodation. The requirements of these transition plans are set out in Section 7.11 of the NSW DHS publication *Allocation of Places in Supported Accommodation*. Again, the process is reported to have been inadequate by many of those interviewed by JSA. It may well be that the relocation process has been more satisfactory than reported by many interviewees in the course of JSA's research, and that detailed written

procedures and protocols exist. However, there is insufficient evidence in the EA or the SIA of the nature of the process to date, which generally contain vague statements about the process that will be implemented. No written plans, procedures or protocols are provided with the EA. **Though only a Concept Plan at this stage, the nature of the proposal and the potential for significant adverse social impacts should again have guided the provision of sufficiently detailed information to make an assessment of the adequacy of the measures that will accompany the redevelopment.** Again, this appears to be a significant deficiency of the EA and related SIA.

Adequacy of existing services to meet the needs of new tenants/residents

Point 2 of DGR 18 also sets out the following requirement of the applicant:

‘Address the adequacy of existing services, social infrastructure, employment opportunities, and open space to meet the needs of new disadvantaged/disabled tenants/residents and identify the range of new services proposed to meet the needs of tenants/residents’.

However, there is very limited information provided in the SIA regarding the nature, location or adequacy of services and facilities for people with a disability in the locality. There are likewise no interviews, surveys or other data provided regarding the availability or adequacy of services that may be accessed in the locality by the existing residents (should they remain onsite) nor other people with some form of disability if they are to move on to the site (for example, into the 10% of adaptable housing proposed as part of the development).

The lack of such data is a critical omission from the research conducted and reported as part of the EA and SIA, particularly given the nature of the proposal and the requirements under the amended DGRs. Statements that the ‘majority will be already known to the service system’ or that ‘residents will be integrated into the wider community and would utilise services and facilities available to the whole community’ (EA, p 76) are of little comfort when current service availability and capacity is not demonstrated in the SIA or EA. Further, the SIA notes that the proposal will ‘increase the availability of supported accommodation places’ (though as discussed later, there is no evidence for this statement provided to support this statement (see for example p53 of the SIA). *If* this were to be the case in the locality, again it would be prudent to understand the service environment into which this additional accommodation is being introduced. Finally, the SIA notes that, ‘Interviews with service providers have provided an overview of existing and anticipated service demand’ (p 52). This may well be the case, but JSA was unable to find evidence of detailed data or information arising from such interviews to support claims made regarding service adequacy in the SIA.

It would appear that **far more information is required on service provision and adequacy in the locality, as well as the needs and the proposed level of service support for existing residents**, in order to satisfy this part of DGR 18 and ensure that potential adverse impact on residents or in the wider locality are avoided or adequately mitigated.

Nature of Consultation with Existing Community Regarding Relocation Strategy

Point 3 of DGR 18 also sets out the following requirement of the applicant:

‘Identify the nature of consultation with the existing community regarding the relocation strategy’.

As noted above, there are serious deficiencies with consultation in general, and in relation to the Relocation Strategy in particular. This is regarded as a significant matter that would need be addressed before the EA would be regarded as satisfactorily demonstrating that there will be no (or at least acceptable level) of adverse social impacts. Again, this may warrant a cessation of relocation of existing residents until such matters are demonstrated as being properly addressed by the applicant.

Concept Plan to Consider Housing Choice and Affordability

Point 4 of DGR 18 also sets out the following requirement of the applicant:

‘Identify how the Concept Plan has considered affordability and housing choice for the disadvantaged and disabled’.

The EA and SIA upon which it relies makes a range of statements about housing ‘choice’ and ‘affordability’, and the contribution which implementation of the Concept Plan will make to each of these issues. However, apart from providing a broad indicative mix of apartments, the documents provide little detail on how ‘affordable housing’ or ‘housing choice’ will be achieved as part of the redevelopment for people with a disability and people who are otherwise disadvantaged, nor the number and nature of dwellings that will be provided on-site or off-site through the capitalisation strategy that the applicant reports it is pursuing through the redevelopment. Likewise, very limited choice of housing options for those with moderate to high support needs is detailed in the EA/Concept Plan apart for broad statements that ‘a number of units’ may be retained on site to accommodate some existing residents. **Firm proposals for appropriate housing choice for existing and recently relocated residents need to be provided by the applicant as part of the Concept Plan, and these should be developed, where appropriate, with residents, their families and other key stakeholders. Targets, target groups and mechanisms to achieve genuinely affordable housing as part of the development should also be detailed.**

Scoping of Likely Social Impacts and Mitigations

A summary of potential positive and adverse social impacts is provided here, drawing on more detailed data and information in the body of the report. Overall, the risk of negative impacts on highly vulnerable groups and on the wider locality is significant, and we consider that a number of issues need to be addressed and/or more information provided before the application proceeds. There are also a number of potential positive impacts of the proposal; however, again more information needs to be provided on the proposal before benefits noted in the applicant’s SIA could properly be claimed by the applicant. The mitigation of potential adverse impacts should also be addressed at this stage in a more detailed way to ensure that such impacts are addressed before,

during and after the redevelopment. The following briefly addresses the potential positive and adverse impacts in turn, and proposes broad mitigations to address the current shortcomings of the proposal.

Positive Social Impacts

There are a range of likely positive impacts arising from the proposed redevelopment. These may be considered at two levels - impacts on existing residents of Crowle Home and other clients of Achieve Australia, and impacts in the wider locality. The following paragraphs provide an overview of these potential impacts, comments in a preliminary way on the likelihood that they will be achieved, and makes suggestions that may ensure such benefits arise from the proposed redevelopment.

In terms of **residents of Crowle Home and clients of Achieve Australia**, there is the potential for the following positive impacts, though in most cases insufficient detail is currently provided in the EA or the SIA to claim such impacts as a benefit of the proposal:

- Increased capital (community-owned) accommodation for Achieve Australia arising from the redevelopment of the site, which will most likely occur with a private sector partner/developer - achieving this benefit will depend upon the extent to which existing capital 'tied up' in the site can be exchanged for replacement capital stock (e.g. units, houses, facilities actually *owned* by Achieve) from the redevelopment. Currently, there is no detail provided in the SIA or EA on the expected capital return from the redevelopment of the site, and thus no way of assessing the extent to which there will be a benefit from the redevelopment, and the extent to which existing and potential bedspaces in Crowle Home will be replaced with new capital housing stock (estimated as a potential 70-80 *capital* bedspace capacity, though currently less *funded* places);
- Improved outcomes in quality of life for existing residents of Crowle Home arising from increased 'physical integration' from being accommodated within the wider community – the literature indicates that such outcomes often, though not always, accompany deinstitutionalisation of people with an intellectual disability. There are often benefits associated with some objective measures of quality of life, which can be an important benefit of the proposal. However, genuine 'social integration' is far more problematic, and there are significant risks of social isolation, and lower quality of life outcomes where there is inadequate engagement of people with a disability and their families in the process of transition, relocation and housing choice, and where their service and support needs are not adequately considered and monitored as they move to community living arrangements. The EA and SIA again do not provide adequate evidence that such issues have been adequately considered or mitigated, and our research with key stakeholders including families of existing residents and those recently relocated out of Crowle Home, indicates that there have been significant problems with consultation and engagement on transition planning and implementation to date. There are also reported to be significant problems related to staff turnover and the deterioration of services currently being provided to the 30 remaining Crowle Home residents with moderate to severe intellectual disabilities. This does not bode well for residents who may remain on site during the redevelopment. These residents and

their families will need high levels of support and appropriate levels of care to assist them to adjust to the ongoing loss of their friends, trusted staff members and the environment where most have lived for most of their adult lives. Again, **details of how the transition will be managed, for those who remain on site and those relocated throughout the process, are needed to mitigate the high levels of anxiety and distress some will experience, and to avoid impacts related to occupational health and safety during the physical redevelopment process;**

- Opportunities to diversify housing and support options to meet the needs of those with an intellectual disability arising from the redevelopment of the site and closure of Crowle Home, which is also in accordance with current government policy and good practice – government policy and the literature identifies a range of housing and support options appropriate to different support needs for people with an intellectual disability (See Table 4.2 in Section 4.2 below). However, the range of possible options for onsite replacement of housing are not currently considered or detailed in the SIA or EA, and proposals are limited to vague statements about rehousing some residents within ‘a number of units’ obtained through the redevelopment of the Crowle Home site. There is also no detail provided about the level of care required by existing residents, and a proper assessment of their needs in the SIA. **Far more detail on the amount, nature, models of care, timing and staging of replacement housing stock proposed by the applicant is needed for such a benefit of the redevelopment to be claimed and to ensure an important opportunity to obtain secure capital stock is maximised.** As noted below, it is also an important mitigation of negative impacts for this vulnerable group (see also ‘negative impacts’ below);
- As noted, a number of accommodation options are possible to replace the capacity for up to 90 secure capital bedspaces for people with an intellectual disability that will be lost as a result of the redevelopment, noting that there are currently less funded places at the home. This would provide a positive benefit of the project and a significant mitigation. Several factors suggest that a range of such accommodation and support options are required. These factors include:
 - the fact that the 31 remaining Crowle residents are older and have lived most of their adult life at Crowle Home,
 - that the current residents have moderate to high support needs (some with early onset dementia) and are likely to be the hardest to rehouse;
 - the danger of social isolation and loss of important social networks for these residents (discussed below);
 - the locality already has a higher than average proportion of older residents and people with a disability and a projected shortfall of independent living units and high and low care housing options for older people and those with a disability;
 - that the applicant’s SIA notes that the units constructed through the redevelopment are likely to attract a high proportion of those 55+ years of age

- However, a review of the Concept Plan documentation indicates that **most of the options that form part of the current government policy have not been considered on the site (or elsewhere), and the proposal for 450 one- and two-bedroom apartments and 20 three-bedroom apartments may preclude a number of these options. Again, such detail needs to be provided in the EA.**

In terms of the **wider locality**, there is the potential for the following positive impacts:

- The site has the potential to meet the strategic objectives of government through the development of 470 well-located apartments in an area identified as suited to intensive urban development;
- The provision of smaller units, including 10% as adaptable housing, provide increased housing choice for key target groups including younger and older couples and singles, as well as workers and students in the LGA. The nature of stock indicates that a reasonable proportion is likely to be purchased by investors, which is likely to increase stock available for private rental as well as purchase;
- There are likely to be ESD benefits from the development of well-located smaller accommodation close to transport and services, including efficient use of existing infrastructure, reduced car dependency, and the potential for adaptive reuse of some onsite buildings;
- The development of smaller units is likely to provide for an increased diversity in price points, with some lower amenity stock likely to be of 'lower cost' than larger units, which the market tends to favour. However, as noted in Section 6 of the Report, it is unlikely that the units created will be 'affordable housing' to most low to moderate income earners in the locality, including the 'disadvantaged and disabled' specified in DGR 18, without a deliberate strategy on the part of the applicant to create affordable housing. This may also depend on the fit out and the location of the individual units.

The EA and SIA make assumptions about the automatic affordability of the units that will be created, but no study or data is provided in support of this, and our preliminary research indicates that they will in fact be at the less affordable end of the multi-unit market in this part of the locality. Given the opportunities provide by this site, the serious need for affordable housing in the locality, and the fact that redevelopment is likely to contribute to upward pressure in prices in a cumulative way, a number of mitigative measures are suggested under 'negative impacts in the wider locality' below.

Negative Social Impacts and Potential Mitigations

There are also a range of likely negative impacts arising from the proposed redevelopment, some of which are outlined as the 'other side' of potential positive impacts if the redevelopment (including transition and relocation of existing residents) is not well managed. These may again be considered at two levels - impacts on existing residents of Crowle Home and other clients of Achieve Australia, and impacts in the wider locality. The following paragraphs provide an overview of these impacts,

comments in a preliminary way on the likelihood that they will occur, and makes suggestions regarding appropriate mitigations or future actions.

The key potential adverse social impacts on **individual residents of Crowle Home and their families**, or those recently relocated from it, include the following:

- **Uncertainty, stress, anxiety and related adverse health impacts** associated with reported high staff turnover, and deterioration of support, care and client supervision for residents still on site during the current 'wind down' of operations and transition to new living arrangements – our preliminary research indicates that there is cause for concern regarding the adequacy of consultation and engagement of residents and their families in transition planning as required by government policy; the adequacy of on-site care and change management processes at a particularly stressful time for residents and their families; and the lack of documentation by the applicant of detailed transition plans, protocols or service arrangements regarding the way in which the process will be managed to avoid or minimise potentially serious social (including health and safety impacts) on remaining residents. It is **recommended that the following mitigative measures be adopted by the applicant:**
 - **Provide documentary evidence of the consultation process, protocols and procedures associated with transition planning and relocation for existing and recently relocated residents and their families in accordance with government policy on transition planning and related matters (e.g. how individual choice in housing has been achieved, guarantees that there will be no service disruption or other disadvantage to residents from the relocation and/or change to accommodation and support arrangements, etc);**
 - **Provide detailed plans and protocols for how the redevelopment of the site and associated relocations will be managed so as to avoid negative impacts on residents including a detailed on-site service and change management plan; staging and rehousing plan (e.g. that identifies the residents who will remain on site and those who will be relocated, the staging of housing to be constructed on site and whether this can be built early so as to minimise the number of moves that residents may need to make; the service arrangements that will be implemented; OH&S plans as to how the physical redevelopment will be managed to avoid negative health impacts from demolitions, social instability, etc);**
 - **Consider the cessation of all further relocations until the findings of this report have been carefully considered (in particular the outcomes of our preliminary consultation with key stakeholders reported in Section 5 and review of policy and literature in Section 4), and key stakeholders have been adequately consulted in accordance with legal and policy requirements.**
- **High risk of social isolation, emotional distress and ill-health** from loss of existing, long-term social networks, barriers to 'social integration' with the wider community when placed in new accommodation in the community, loss of service networks and attachment to

familiar surroundings - these are very real risks in our experience in working with highly disadvantaged communities undergoing similar transitions, and the Crowle Home residents are arguably some of the most vulnerable and disadvantaged people in the community. The need for proper consultation and engagement in transition, relocation and service planning of residents and families is again noted as an important mitigative measure.

To address this, we **recommend the following principles underpin the Concept Plan**, noting that such principles would appear to be supported in government policy and research of good practice:

- **That all residents who wish or need to be accommodated on site as part of the redevelopment be provided with the choice to do so in accommodation and support arrangements that meets their individual care, health and social needs;**
- **That the applicant detail the accommodation options that will be developed to rehouse those residents who wish or need to be relocated on site as part of the Concept Plan;**
- **That appropriate accommodation options be developed by the applicant in close consultation with Crowle Home residents, those recently relocated from Crowle Home, their families and/or other interested parties to ensure the best immediate and long-term outcomes for residents and their families;**
- **That onsite accommodation be constructed in Stage 1 of the redevelopment so that existing and recently relocated residents can be rehoused with a minimum of disruption, dislocation and stress so as to minimise adverse social, emotional and health impacts;**
- **That detailed plans and protocols be developed and documented by the applicant in close consultation with Crowle Home residents, those recently relocated from Crowle Home, their families and/or other interested parties in relation to onsite and offsite service arrangements, consultation and community engagement, timing and staging of redevelopment, rehousing and transition arrangements for residents who remain on site and those to be relocated as part of the process, and OH&S during the redevelopment process, and that these plans and protocols be provided as part of the Concept Plan.**

NOTE: a more detailed review of likely individual social impacts from preliminary interviews and a review of policy and literature is provided in the table at the end of Section 5.

The key potential adverse **social impacts on the wider locality** arising from the redevelopment, and suggested mitigations, include the following:

- Impact of housing affordability from cumulative redevelopment within the locality - given the opportunities provide by this site, the serious need for affordable housing in the locality,

and the fact that redevelopment is likely to contribute to upward pressure in prices in a cumulative way, it is **recommended that the applicant:**

- Undertake research on the local housing market and need for affordable housing, or alternately review existing detailed research on this matter (see Section 6 below);
 - Provide more detail regarding the way in which this site could actively provide for 'affordable housing' in the locality;
 - Provide a target and mechanism for the delivery of affordable rental housing on site, specifying the target groups for whom such housing would be provided and the likely price points of units for sale or rent - for example, 5-10% of units created could be retained by Achieve and rented to clients and other low to moderate income households in the locality through a registered community housing provider at a rental cost that is affordable for these groups. The economic feasibility of this would need to be explored;
 - Use the provisions of SEPP (Affordable Rental Housing) 2009 to increase the number of permissible dwellings or to otherwise vary the development standards that would normally apply to increase the stock of such housing;
 - Consider innovative housing forms suited to low income students and key workers, such as boarding houses, as provided for in the SEPP. These would also be suited to lower support needs people with an intellectual disability if appropriately managed, and again aid with social integration.
- The loss of the capacity for up to 90 secure, capital bedspaces in supported accommodation for people with a moderate to severe intellectual disability and in Sydney SD more widely – as noted above, levels of disability in the locality are higher than average, and there is an identified shortage of appropriate, secure accommodation for people with an intellectual disability in the locality and metropolitan area more generally. This is a serious potential impact of the redevelopment in the locality, and a potential externality of the project. As noted above, currently, there is no detail provided in the SIA or EA on the expected capital return from the redevelopment of the site, and the extent to which existing and potential bedspaces in Crowle Home will be replaced with new capital housing stock. As such **we recommend that:**
 - **Detail should be provided in the EA to ensure that there are no adverse impacts arising from the loss of secure, community-owned bedspaces in the locality for people with moderate to high support needs;**
 - **Appropriate accommodation options to replace capital stock lost be developed in close consultation with Crowle Home residents (current and recently relocated), their families and other interested parties. The Concept Plan should provide further detail on the accommodation options, number of dwellings, staging, timing and support arrangements that will replace the capital stock lost to ensure any adverse impacts in the wider locality are mitigated. “**

Petition

A bundle of signatures forming a petition against the Concept Plan were delivered to the Department last Friday. An additional bundle is attached comprising more signatures forming part of the petition. The petition is organised by Friends of Crowle Home.

Political donations disclosure statement

We attach the political donations disclosure statement signed by Ms Jenny Rollo, President of Friends of Crowle Home Inc and dated 23 September 2011.

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Would you please acknowledge receiving this letter and its attachments in due course. Do contact us if we may assist the Department further.

Yours faithfully

PENKLIS LAWYERS

per:



Angela Penklis

02 9223 4714

angela@penklislawyers.com.au

per:



Philip Sutherland

02 9223 4714

philip@penklislawyers.com.au

Attachments

These documents are attached to this letter:

1. Letter dated 22 September 2011 prepared by Mr Harvey Sanders of Design Collaborative Pty Ltd and addressed to the Director-General
2. *Proposed Redevelopment of Crowle Home, Meadowbank: Review of Social Impacts & Consultation*, a report prepared by Judith Stubbs & Associates for Penklis Lawyers on behalf of Friends of Crowle Home Inc., September 2011 (4 copies)
3. Memorandum to Friends of Crowle Home Inc. prepared by Blake Dawson and dated 21 September 2011

4. Political donations disclosure statement signed by Ms Jenny Rollo, President of Friends of Crowle Home Inc and dated 23 September 2011, and
5. Petition.



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22 September 2011

Ref: 119709.2L

The Director General
Department of Planning and Infrastructure
23-33 Bridge Street
Sydney NSW 2000

Attention: Mr S Truong

Dear Sir,

Re: Major Project – MP10_0110 – Achieve Australia Concept Plan, Ryde

We act for the Friends of Crowle Home Inc 9896024 who comprise family members and other supporters of a large number of the existing residents, as well as those residents themselves, who would be displaced by the implementation of the development embodied in the above Concept Plan. Our clients have asked us for advice on the Concept Plan and to that end we have reviewed the Environmental Assessment Report and related documentation, visited the site and the surrounding area and had a number of discussions with representatives of our clients and with others acting on their behalf. As a consequence of those deliberations our clients have asked us to make the following submission to the Department in response to the public exhibition of the Concept Plan.

Context

Our clients' principal concern is that the displacement of the existing residents who have lived all of their lives on the property would have a serious and detrimental effect on their well-being. This aspect of the impact of the Project is the subject of further advice that our clients have obtained from Dr Judith Stubbs of Judith Stubbs & Associates who have undertaken a review of social impacts and consultation in respect of the social impacts of the implementation of the Concept Plan.

Consideration

On the basis of our assessment of the documentation that comprises the Environmental Assessment Report, the provision of on-site accommodation on continuous basis for the existing residents has not been given serious or realistic consideration. Some limited consideration has been given to the possibility that existing residents may move back to the site after the proposed development has been completed, whenever that might be, having been relocated, with the associated dislocation of their lives, for an indeterminate and unspecified period of time to indeterminate locations and with unspecified levels of support and care.

In our view proper consideration should be given to an option that provides for the provision of appropriate accommodation on-site as the first stage of any development of the site. This work could take place on a part of the site that would not require the existing residents to be relocated. Once such accommodation had been completed the existing residents could be moved out of their current accommodation and the balance of the site would then be available for development. The precise form of the accommodation to be provided for the existing residents would be a matter which would need to be given further consideration and could be informed by the work that has been undertaken by Dr Stubbs on behalf of our mutual client. It is also important to note that this approach would not preclude the balance of the site being developed in manner generally consistent with the form of development depicted in the Concept Plan.

In this respect we would have thought that the Proponent should have given consideration to such an option in response to the additional matter that the Director General raised in the context of the Environmental Assessment Requirements for this Project; in particular, the need to assess the *“impact on existing and future residents and tenants”* (see the Director General’s letter dated 14 April 2011 to the Proponent). It is difficult to see how proper regard could have been given to the social impacts of the proposal on the existing residents without a detailed and comprehensive consideration of such an alternative.

It is readily apparent that such a course of action would minimise the disruption to the lives of the existing residents and would lead to a much better outcome in terms of their well-being.

We further note that the assessment of the social impacts undertaken by the Proponent appears to be based on what we would consider to be the false premise that it is essential for the existing residents to be relocated to accommodation off the site in order for the site to be redeveloped. As is apparent from our comments, above, this is clearly not the case and it would be possible to formulate a Concept Plan that provided for the continuing occupation of the site by the existing residents. We further note that the assessment also appears to be based on the premise that *“current disability policy and legislation supports the principle that people with disabilities should, so far as is possible, live in and be part of the community rather than live in institutional care”*.

We would make the following comments in the context of the above observations. Firstly, whilst that might be the current *“disability policy”* and whilst it might be an appropriate basis for the provision of accommodation for person with disabilities in some circumstances it is not necessarily the appropriate basis for the consideration of the future of the existing residents of the Crowle Home who have lived for virtually all of their lives on the site and for whom it is their only real home. Secondly, the accommodation that is provided on the site is, in itself, a community for the residents and it provides the appropriate basis for their on-going care.

In the above context, it is also our understanding that the options related to the provisions for on-site accommodation to replace that lost through the redevelopment proposed for consideration by Dr Stubbs in her review of social impacts are in line with both government policy and good practice in community integration, whilst also assisting in maintaining residents’ friendship and support networks and mitigating related adverse social impacts on residents associated with social isolation, stress, ill health and dislocation.

As a consequence of adopting what we consider to be the aforementioned false premise the Environmental Assessment Report does not give any consideration to the appropriate and realistic alternative of providing for such on-going on-site accommodation for the existing residents.

We further note that it would be open to the Minister, or his/her delegate, to amend the Concept Plan prior to approval pursuant to the provisions of Section 75O of the Environmental Planning and Assessment Act 1979. Indeed, such amendments would be clearly contemplated by the public participation process unless such a process was considered as an exercise in advising the public rather than an exercise in seeking meaningful input from interested parties.

Conclusions

In our opinion, the Proponent has not properly fulfilled the requirement to properly consider the social impact of the implementation of the development of the site envisaged under Concept Plan on the existing residents of Crowle Home. Such a proper consideration would, in our view, lead to the conclusion that the only realistic manner in which the future well-being of those residents could be assured with the degree of confidence that the Minister must have before approving such a Concept Plan would be by providing appropriately designed accommodation on the property as the first stage of a development undertaken pursuant to a Concept Plan approved by the Minister.

On this basis it is our view that the Minister should either ask the Proponent to make appropriate changes to the Concept Plan to address this issue or approve the Concept Plan with changes that would address the matters raised in this submission. If the Proponent does not change the Concept Plan and/or the Minister is not disposed to make such changes as part of the approval process then it is our submission that the Minister ought not approve the Concept Plan presently under consideration.

Yours faithfully,
DESIGN COLLABORATIVE PTY LTD



H M Sanders
Director

Memorandum to Friends of Crowle Home Inc 9896024

21 September 2011

Our reference
AEC JYG 02 2024 4256

1. Instructions

We have been asked by Friends of Crowle Inc to provide a summary of our factual investigations regarding the establishment of Crowle Home at 76 Belmore St, Ryde NSW (**Crowle Home**).

We understand this information will be used to oppose the Development Application by Achieve relating to 76 Belmore St, Ryde NSW.

2. Crowle Home

Crowle Home was established in 1952 under the auspices of The Sub-Normal Children's Welfare Association (**SNCWA**), following a philanthropic gift to the SNCWA of the Crowle Home site.

In 1984 the SNCWA changed its name to the Challenge Foundation. The Challenge Foundation operated in branches. In 1993 the operations of the Ryde branch of the Challenge Foundation were incorporated and became known as The Crowle Foundation Ltd (**Crowle Foundation**). The Crowle Foundation merged with Achieve Foundation Ltd (**Achieve Foundation**) in 2008 by way of parallel schemes of arrangement approved by the Federal Court of Australia, to form a new entity named Achieve Australia Ltd (**Achieve**).

Achieve is the current operator of the facilities at Crowle Home.

Crowle Home was officially opened on 29 November 1952, and building of the residential facility commenced in 1953.

We understand that over the years, many improvements have been made to the facilities and grounds of Crowle Home. These include additional residential accommodation, a swimming pool and an assembly hall. These facilities were financed, in part, by fundraising activities conducted by the families, friends and carers of the residents of Crowle Home, and in some circumstances were constructed by the physical labour of those persons.

As recently as two years ago, Crowle Home accommodated 90 residents, although we understand that approximately 30 residents remain on site today.

3. Bed Bonds

Crowle Home provided, among other services, accommodation for people with intellectual disability.

When Crowle Home was operated by the SNCWA, relatives of many residents of Crowle Home entered into an agreement with the SNCWA which provided that the SNCWA would provide accommodation for the nominated resident at Crowle Home for life.

Those agreements are referred to by the families of residents and former residents of Crowle Home as "**Bed Bonds**". We have reviewed copies of

eight Bed Bonds relating to current residents of Crowle Home, or residents recently relocated from Crowle Home.

Each Bed Bond reviewed by us contains the following clause (among others):

"In consideration of the payment of the sum of ... The Association undertakes and agrees to receive into the W A Crowle Home 76 Belmore Street Ryde in the State aforesaid (hereinafter called 'the Crowle Home') any one person approved for

residence at the Crowle Home nominated by the Parent (such person being hereinafter called 'the Child') and the Association further undertakes and agrees to provide accommodation at the Crowle Home for the Child during his/her life." (*emphasis added*)

Of the eight Bed Bonds reviewed by us:

- (a) all were entered into between 1968 and 1977;
- (b) six Bed Bonds referred to consideration of \$1200 paid to the SNCWA in return for the undertaking from SNCWA to house a proposed resident at Crowle Home "during his/her lifetime"; and
- (c) two later Bed Bonds referred to consideration of \$2000 paid to the SNCWA in return for the undertaking from SNCWA to house a proposed resident at Crowle Home "during his/her lifetime".

It was a term of the "Crowle Foundation Scheme of Arrangement" (and therefore an order of the Federal Court, as discussed below) that all the existing liabilities of the Crowle Foundation (which would include any obligations that the Crowle Foundation may have had under the Bed Bonds) would become the liabilities (and obligations) of Achieve upon the merger.

4. 2008: merger of Crowle Foundation and Achieve Foundation

On 2 July 2008 the Crowle Foundation and Achieve Foundation announced that they had entered into a Memorandum of Understanding to explore a "merger of equals" to enable financial viability, growth and continued diversification of services offered to all clients. The Crowle Foundation had 196 members at the time. Achieve Foundation had 14 members. The merger was to be accomplished through two parallel schemes of arrangement and the incorporation of a new entity, ACNewCo Ltd (**ACNewCo**). ACNewCo subsequently changed its name to Achieve Australia Limited.

The Scheme Booklet was issued to the members of the Crowle Foundation in October 2008. It states, amongst other things, that:

- (a) an identified risk of the merger is that the wishes of the Crowle Foundation Members with regards to the development of the "Belmore Street site" would not be taken into consideration by the merged foundation. The Scheme Booklet states that the "wishes of stakeholders would be actively sought and listened to by the Board and management of ACNewCo. The in-principle agreement of Crowle Directors to assess the sale of one third of the site and use of the funds for the development of services would be progressed in 2009 with full consultation" (at page 57);
- (b) the Finance Committee, Management Committee and the Board of Crowle were of the opinion that the best option for The Crowle Foundation to meet its mission and objectives, was to seek a merger with Achieve Foundation as a matter of urgency. This would enable the existing services of The Crowle Foundation to be retained and provide the opportunity to grow and expand the services currently offered, such as respite; and

- (c) that membership of ACNewCo would initially be limited to sixteen persons (eight from each of Crowle Foundation and Achieve Foundation) but would "be expanded on the Merger Date as detailed in Section 3". Section 3 of the Scheme Booklet states that membership shall "initially" (page 45) be limited to sixteen persons, and that "further ordinary members may be admitted in 2009" (page 55).

The Boards of the Crowle Foundation and Achieve Foundation published and distributed a leaflet to their members in or around October 2008 (**Leaflet**). The Leaflet states:

- (a) Development of the Property:
 - (i) the land asset of the Crowle Foundation was recognised as a "big issue" for members;
 - (ii) the Crowle and Achieve Boards recognised that the Crowle land underpinned the core of the Crowle Foundation's heritage and legacy;
 - (iii) that the issues regarding the Crowle site had been considered at length by the Crowle Board, and at their August 2008 meeting it was unanimously resolved that "an in-principle agreement to sell approximately up to one third of the southern end of the Crowle site, subject to zoning approval, for the funding of alternative accommodation and other services as identified. A development on the northern end of the site (previously occupied by the German School) will be explored as part of the solution".
- (b) Membership of the new foundation:
 - (i) members and friends will continue to have a critical role in the new foundation;
 - (ii) both foundations were committed to consult with all stakeholders and would adopt a framework to facilitate participation in the development of new and existing services; and
 - (iii) that the initial limited number of members of the new organisation was an interim step with an increase in the number of members of the merged entity in 2009, in line with the constitutional requirements.

The parallel schemes of arrangement (and therefore, the merger of Crowle Foundation and Achieve Foundation) were approved by Justice Foster of the Federal Court of Australia on 20 November 2008.

Our enquiries have confirmed that Achieve has not expanded its membership since the time of the merger.

Blake Dawson

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details		Planning application reference (e.g. DA number, planning application title or reference, property address or other description)		
Name of person making this disclosure FRIENDS OF CROWLE HOME INC.		MP10-0110		
Your interest in the planning application (circle relevant option below)				
You are the APPLICANT		YES / NO	OR	
		YES / NO	OR	
You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION YES / NO				
Reportable political donations made by person making this declaration or by other relevant persons				
<p>* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).</p> <p>* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR</p> <p>* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.</p>				
Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation
NO POLITICAL DONATIONS				
Please list all reportable political donations—additional space is provided overleaf if required.				
By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.				
Signature(s) and Date				
Name(s)				
Jennifer Rollo 23/9/11 Jennifer Rollo President Friends of Crowle Home Inc.				