

**COUNCIL SUBMISSION ON MP10\_0165 being a Concept Plan Application for a Residential Development at 5 Whiteside Street and 14 & 16 David Avenue, North Ryde.**

**Background**

Council provided comments on the Director-General's requirements for this project in January 2011. A period of community contact followed and the design was subsequently amended and then publicly exhibited by the Department of Planning and Infrastructure (DoPI) from 11 August to 9 September 2011. Although changes have been made to the proposal, it remains well outside the scale and scope of Council's adopted planning controls relating to height and residential density and is therefore in a form that Council cannot support.

**Summary of Issues**

The major issues of concern to Council are:

- Inappropriate in the broader planning context.
- Issues associated with Pedestrian Accessibility
- Traffic issues
- Lack of any genuine social impact assessment
- Impacts on surrounding residents

**BROADER PLANNING CONTEXT**

**Capital Investment Value**

The application was originally submitted to DoPI as a Major Project under the former Part 3A of the Environmental Planning and Assessment Act. To qualify, the project needed to demonstrate a Capital Investment Value (CIV) exceeding \$100 million. The exhibited proposal has included a revised CIV of \$86.7 million (Appendix J).

Had the application been submitted in this form originally, it would not have qualified as a Major Project. It would have been required to follow a different path of assessment as a Planning Proposal including Council being the approval authority for the initial assessment. Based on its current position, Council would not have supported the project in the form of a Planning Proposal for a number of sound planning reasons as detailed below.

**Premature and Piecemeal**

The planning controls for the Macquarie Park Employment Corridor came at the conclusion of a structured planning exercise over an extensive area over several years. The plans for this Specialised Centre are still being refined to better address the effective and equitable provision of infrastructure and services. No targeted planning exercise has yet been undertaken for areas south of the Macquarie Park corridor (i.e. south of Epping Road) which are currently low density residential suburbs. As such, the broader community and infrastructure needs for the area have not yet been investigated or assessed in a coordinated way. The subject proposal

relies on the existing infrastructure and existing levels of service in many areas to meet its needs and the needs of its future residents. This includes unsubstantiated assumptions about the capacity of State Government services such as schools and community services to take on extra population.

It is Council's preferred approach to identify new development sites out of a comprehensive planning exercise rather than have individual development sites or one-off proposals drive strategic planning outcomes. Council has resolved to commence such an exercise within the next five years. The area for consideration will include all the residential area immediately to the south of Epping Road.

#### Non-compliance with current planning controls

The proposal does not comply with the current planning controls that apply to every other property zoned R2 (Residential Low Density). The height, bulk and scale are all beyond the expectation of development potential of all its similarly zoned neighbours. This raises a question of equity for local residents who expect that identified planning controls should have some weight and certainty which gives them protection from unexpected and piecemeal development.

#### Ministerial discretion

Except for the provisions of the Major Projects applications, the proposed residential flat development is a prohibited use in the R2 zone under Ryde LEP2010. Pursuant to Section 75O and Section 75R of the Environmental Planning and Assessment Act, the Minister in deciding to give a determination for a Concept Plan may take into account the provisions of any environmental planning instrument. Council's position is that, in this case, any determination for this Concept Plan should fully consider provisions of RLEP2010 for reasons of co-ordinated planning and equity. This is one site and one landowner in a corridor of land that extends for many kilometres alongside the Macquarie Park corridor.

If the Department is of a mind that higher density development should be considered in this locality, then processes are underway to present it a more equitable and strategic way including, but not limited to Draft Ryde LEP 2011. However, Council's preferred option at this time would be to commence the planning study mentioned above to avoid any delay with the exhibition of Draft Ryde LEP2011.

#### Issues associated with the Part 3A process

The community perception following the change of State Government in March 2011 is that the Part 3A legislation no longer applies. It is perplexed that applications such as this have been revived for public exhibition and the response to the proposal can confidently be characterised as negative. It is the community's expectation that the decision making affecting local areas will have proper consideration of local issues and concerns. As such, a more strategic approach is seen as both fair and warranted. A windfall decision for a single site is seen as the opposite.

#### Council's Local Strategy and Housing Targets

Earlier submissions that incorrectly asserted that the proposed development would assist Council in meeting Housing Targets set by the former Department of Planning as part of the Metropolitan Strategy have been updated and corrected. However, the

Environmental Assessment Report still presents the proposal as a “very limited opportunity” to provide additional housing in the City of Ryde. The main limitation appears to be that it is only this site. It is Council’s position that additional opportunities for housing should be within the Council’s Housing Strategy, not outside it.

## **ISSUES WITH PEDESTRIAN ACCESSIBILITY**

The project seeks to justify the huge uplift in height and density for the site on the basis of accessibility to public transport, particularly Macquarie University and Macquarie Park Railway Stations and styles itself as Transit Oriented Development based on distances from these two railway stations and access to Epping Road bus services. However, the presentation of distances is invariably schematic being showed a series of circles or diagrammatic straight lines.

The realities of the journey by foot or bicycle are not addressed. In particular, the impact of Epping Road as a barrier is ignored. The circuitous nature of the route is not taken into account. Transit oriented development should be about safe and constant access to transport options. The CPTED (Crime Prevention through Environmental Design) analysis (Appendix Q) does not extend beyond the boundaries of the subject site. It examines accessibility to the site only by car or by a person who has already negotiated safe passage to one of the front entries. For example, there is no exploration of the current journey across busy Epping Road or through Macquarie Park’s lonely commercial and industrial precincts at night. While there is an expectation that in future years the pedestrian accessibility across Macquarie Park will be improved as that precinct redevelops, the impact of current conditions are conveniently ignored.

The likely rejoinder to this will be that the Macquarie Park Pedestrian Movement Study (2009) does not propose any significant upgrades around the site. A strong reason for this is that the study also did not envisage any significant uplift in dwelling numbers and residential population on this site as it is zoned R2 (Low Density Residential).

## **TRAFFIC ISSUES**

Although the proposed development has frontage to Epping Road (and the adjacent County Road Reserve), the journey by car to and from the site relies largely on access through the local street network. It is understood that future access to Epping Road and the County Road Reserve is not favoured by the NSW Roads and Traffic Authority. If this is the case, then vehicular access to the site will be wholly and exclusively through existing local streets.

The proponent’s Transport and Accessibility Impact Study (i.e. Traffic Report) includes consideration of a direct access to Epping Road from Whiteside Street. If this is to be denied by the RTA, then clearly the Traffic Report will need to be revisited to take account of the full impact on the local street network.

It is noted that other than formalising the Whiteside connection to Epping Road, no other substantive works are proposed to accommodate the increased traffic flows within local streets and around the intersection of Lane Cove Road and Epping Road and around Lane Cove Road and Herring Road. This conclusion is based on an expectation a direct connection to Epping Road will be provided from Whiteside Street to Epping Road. It is not clear what weight the added commitment to fund

traffic improvements (Addendum to EA dated 15/7/2011) has if the Whiteside Street / Epping Road connection is deleted.

The value of the commitment to undertake a Local Area Traffic Management study "to identify measures to improve existing traffic conditions" after the Concept approval has been granted lacks logic and rigour. Firstly, a LATM should be carried out before any development is approved and its task should be to identify measures to satisfactorily accommodate the additional loads that will be placed on the local road network as a result of this development. A worthy commitment would then be for the proponent to fund any works required to bring the network up to scratch.

A commitment to fund a study to suggest solutions to a problem that will only occur if the application is approved without any commitment to funding those solutions is highly questionable. The implication is that not only the burden of inconvenience and increased traffic congestion will fall on the local community; it will also be directly responsible for funding the costs of any identified solution as a result of the proposed development. This is clearly unacceptable.

Even when factoring in the unlikely future connection to Epping Road from Whiteside Street, the Traffic Report (Appendix L -Tables 1 & 7), shows that for all other measured intersections around the site, there is

- Increased degree of saturation
- Increased Intersection delay
- Level of Service reduced

For all the intersections connecting to Lane Cove Road, this includes an existing and proposed Level of Service equal to "F". There is no Level of Service worse than "F". So the intersection with Epping Road remains "F", the intersection with Trevitt Road, Paul Street and Napier Crescent (all local streets) remain as "F" – or as the Table 7 coyly puts it: "Existing Conditions Maintained". Without the Whiteside Street connection, this realistically becomes "Existing Conditions Worsened".

The Department of Planning and Infrastructure is well aware that this Major Project is but one under assessment in the near vicinity. They include the Allengrove proposal (at the corner of Lane Cove and Epping Roads), the Australand proposal at the corner of Lane Cove and Waterloo Roads, the Stamford proposal (at the corner of Epping and Herring Roads). Add to this the approvals for 128 Herring Road, the Macquarie University Concept Plan (Waterloo Road and Herring Road among others). All developments have a Capital Investment Value (CIV) in excess of \$100 million to qualify as a Major Project (although Allengrove has subsequently been reduced below the qualifying amount). Each proposal is accompanied by a significant number of car parking spaces that will require access through the existing road network. An off ramp is currently under construction from the M2 Motorway into Herring Road and a new on ramp from Talavera Road (via Christie Road) will increase loads in these streets. Notwithstanding all this potential development and additional traffic movement, each Traffic Report steadfastly maintains that each individual development will have "no impact on the existing (failing) operation of the intersections" and is "considered supportable on traffic planning grounds" (page 34 of Appendix L in this case).

Assessment of the traffic impacts of this development cannot be made in isolation from the impacts of other approved and proposed developments. While the thrust of all the separate Traffic Reports is that no-one will notice the failing intersections continuing to fail, it is Council's contention that unless a more integrated and strategic

approach is taken to traffic issues for these roads, people will eventually notice as the levels of saturation increase and levels of service fall further

### Claims for Transit Oriented Development Questioned

Contrary to the general exposition in the EA that the subject site is superbly located to all services including public transport (trains and buses) and to social infrastructure, the Traffic Report supports car parking provision in accordance with Council's Development Control Plan (DCP) on the basis that any significant deviation could cause "adverse amenity impacts". The Traffic Report also notes that the minimum rates are mandatory under Council's DCP. Remarkably, these are adhered to while planning controls with greater statutory weight under the Council's Local Environmental Plan (LEP) can be readily set aside. A smaller, more compliant development that complied with Council's car parking DCP would be another means to reduce potentially "adverse amenity impacts".

The same questions arise for this proposal as with the nearby Allengrove proposal. If the provision of a relatively high level of parking is justified as residents would still require access to shopping, recreational, educational and other trip purposes, many of which will occur in the evening, how does this fit with the concept of *Transit Oriented Development* and with objectives to enliven the Macquarie Park Corridor and promote public transport use? If the residents are driving elsewhere for everything but a bus or train ride, then how different is that to any block of flats near a railway station?

The reliance of the proposed development on the local street network for all access means that even short journeys will require a circuitous route "around the block". This convoluted manoeuvre undertaken many times over, often in heavy traffic and through failing intersections will undermine any sustainability or transit orientation otherwise claimed for the project.

### Confused association with the role of Macquarie Park as a Specialised Centre

Proximity to a railway station was seen as a driver for this development on the basis that it provided for access to areas away from Macquarie Park. This is seen as misunderstanding the role of Macquarie Park as commercial attractor and employment destination.

## **LACK OF ANY GENUINE SOCIAL IMPACT ASSESSMENT**

Council has consistently sought a Social Impact Assessment to be undertaken with residential development proposals that involve a significant increase in the local population and a style of apartment dwelling that is new to the City of Ryde. The project also claims to offer "optimisation" of local infrastructure and local amenities without specifying what these might be and what optimisation of them involves. A Social Impact Assessment would have been useful in helping to add specificity to this stated outcome.

The proponent's response is that by their assessment the area is well served by social infrastructure (whatever that means) and in any case, the Department of Planning didn't require such an assessment to be undertaken. Neither response is helpful or adequate in addressing the future needs of a new population of up to 500 people. Clearly the expectation is that any unmet needs will be provided by

someone other than the proponent. This is another illustration as to why this development is premature in its timing and piecemeal in its approach.

### Urban Design and Architectural Merit issues

The proposed development is located in an established urban neighbourhood. While it will rely on connection to the existing low density urban fabric, it takes the cues for its scale and character from development in Macquarie Park across Epping Road. Council's position is that the effect of Epping Road as a separating element between the Macquarie Park Employment Corridor and the existing urban area of North Ryde needs to be taken into account. In the absence of a more strategic consideration, the Major Project process should not be used to allow leverage or leakage of one form of development into areas that have not been appropriately zoned nor had the benefit of any broader planning study that has determined a suitable scale of development for the area.

It is Council's contention that the scale of the development is so far beyond applicable planning controls that a detailed assessment of the architectural merit is premature. In any case, it is clearly DoPI's role to undertake this assessment. Council may provide more detailed consideration for any Preferred Project Report.

### **IMPACTS ON SURROUNDING RESIDENTS**

The potential impacts on existing local residents may take a number of forms which have been mentioned in Council's previous submission and are clearly espoused in the local residents' submissions to the Department.

The community's expectation was for a development that met the same planning rules that apply to them. It has been a matter of great confusion to local residents on how a site that is zoned for low density development can seek approval for building of up to eight storeys in height and a density well in excess of the 0.5:1 that applies to them.

The main impact arises from the bulk and scale of the proposal and the traffic impacts generated. As a consequence of this the impacts on privacy and amenity of residents and local traffic conditions are potentially greater. While the developer may make a windfall benefit based on now discontinued legislation, the local residents have no means to mitigate or offset the impacts of the development as they must abide by Council's planning control and application process.

A more strategic and equitable planning process that engages all residents in determining the future character of their community is therefore warranted.

### Other Matters

#### *Site Contamination*

Appendix D provides a preliminary environmental site assessment which identifies the level of contamination assessment at this stage has been based on a site history assessment and soil screening from 30% of the minimum sampling density. The proponent's consultant advice is that this provides an appropriate level of contamination assessment for the development at this stage (i.e. to Concept

approval – Appendix D Page 2) and includes advice on works that would be required after approval is given.

It is Council's expectation that a complete assessment of contamination risk is necessary before any consent to develop the site is granted. How can the Department that the means to remediate the site will be satisfactory if it is unaware of the full extent of contamination and potential risk. The proposal seeks to increase the population of the site from nought to in excess of 600 people. Once the Concept Plan is approved, it is going ahead. Too late then if a problem is found.

Any consideration of potential contamination should include the adjoining County Road Reserve to the extent that temporary uses of that land may have affected the subject site.

#### *Section 94*

It is Council's expectation that any Section 94 contributions payable for the proposed development will be paid in full. Council's policy is to include any room capable of being used as a bedroom for the purposes of calculation so that a separate study would be included.

### **CONCLUSION**

Although any application for development must be considered on its merits, consideration of this application must also take account of both its physical and planning context. It is one of two similarly scaled and configured development proposals on the southern side of Epping Road in close proximity to each other. The other proposal is known as the Allengrove site (MP10\_0037).

They are also both close to, but outside the Macquarie Park Employment Corridor. They have both been designed at a size and scale to meet a CIV value of at least \$100million as the main qualifier as a Major Project under the Part 3A process. While the associated legislation has now been revoked, the application process continues. In other words, applications submitted under on what has been subsequently determined to be a flawed process, and designed initially to the maximum specifications of that process are now to be determined.

Each proposal is a "one-off"; two large sites in an area currently zoned for low density residential development with a scale and character of development that reflects that zoning and a local community that respects that zoning. Council's has made a separate submission that does not support the Allengrove proposal. For very similar reasons, this proposal at Whiteside Street is not supported. The development proposal is so far out of scale with the adjoining residential development and so far away from any of Council's adopted planning controls that it cannot be supported. Its traffic solution is flawed and its likely impact on the amenity of the local community is too great. The application should be refused.

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