

19 March 2012

Determination of the Concept Plan for Expansion of the Marrickville Metro Shopping Centre – 34 Victoria Road and 13-55 Edinburgh Road, Marrickville (MO09_0191)

Concept Plan Application

The Preferred Project Report seeks Concept Plan approval for expansion of the Marrickville Metro Shopping Centre, including the following:

- Demolition of existing warehouse buildings and associated structures on the Edinburgh Road site;
- Refurbishment and construction of a first floor addition to the existing retail building on the Victoria Road site and construction of a new building with two levels of retail on the Edinburgh Road site.
- 528 additional car parking spaces to provide a total of 1628 spaces in two levels of roof top parking over both buildings.

The original proposal and Environmental Assessment (EA) were advertised for public comment between 28 July 2010 and 10 September 2010. The Department received 6 submissions from public authorities and 548 individual submissions, including a petition with 4830 signatures, objecting to the proposal. Thirty submissions of support were received.

The proposal was modified to that set out in the Preferred Project Report (PPR). The PPR was exhibited between 16 February 2011 and 18 March 2011. In response, 740 submissions were received, of which 720 were from individuals objecting to the PPR, 15 submissions from individuals in support, and 5 submissions from public authorities.

In its assessment, the Department considers that the proposal's impacts have been addressed in the PPR and by way of conditions of approval. Therefore the Concept Plan is recommended for approval without the need for any further environmental assessment, subject to conditions.

Delegation to the Commission

On 16 December 2011, the Director-General of the Department of Planning and Infrastructure referred the proposal to the Planning Assessment Commission (PAC) for determination under Ministerial Delegation.

Ms Gabrielle Kibble AO nominated Dr Neil Shepherd AM (Chair) and Dr John Roseth to constitute the Commission for the proposal.

In accordance with the Minister's delegation dated 14 September 2011 with effect from 1 October 2011, the application has been forwarded to the PAC for determination since Marrickville Council objected to the proposal at both the EA and PPR stages, and as more than 25 public submissions were received.

Department's Assessment Report

The Director-General's assessment of the PPR proposal identifies the following key issues:

- Economic impact;
- Traffic, access, public transport and car parking;
- Height and built form;
- Residential amenity; and
- Landscaping.

The report concludes that the Department is satisfied that the site is suitable for the proposed development and that, on balance, the project's environmental, social, economic and public benefits to the region will outweigh its costs; and that the impacts have been addressed in the PPR, the revised Statement of Commitments and recommended conditions.

Site Visits

Both Commissioners visited the site on 13 February 2012, and one Commissioner re-visited the site and surrounding area on 15 February 2012.

Meetings

Department of Planning and Infrastructure

On 23 January 2011, the Commission met with officers from the Department of Planning and Infrastructure for a briefing on the project. They discussed the economic impacts arising from the proposal, the voluntary planning agreement, staging, and various conditions aimed at reducing the proposal's impacts.

Marrickville Council

Also on 23 January 2011, the Commission met with officers from Marrickville Council. The Council explained the reasons for its objection to the proposal, which were based on the site's planning background, its designation by Council as a stand-alone shopping centre, and the strategic planning intentions for the LGA. The economic impact on shopping strips; and the scope of the voluntary planning agreement in relation to community facilities and upgrading shopping strips were discussed. Traffic and urban design aspects of the scheme were generally agreed to have been resolved subject to conditions, however the Council raised an equity issue about traffic generation by Marrickville Metro potentially restricting redevelopment options for surrounding sites.

Proponent

The Proponent's representatives met with the Commission on 23 January 2011. The Proponent outlined the planning application history; their assessment of economic impacts on surrounding shopping strips and centres; their reasoning in relation to staging and community/shopping strip contributions and the impact of removing Smidmore Street from the proposal. The Commission raised concern about safety issues arising from retention of through traffic on Smidmore Street.

Public Meeting

Following the above meetings, the Commission advertised its intention to hold a public meeting to hear the views of the community. Notice of the meeting was given in the Sydney Morning Herald and the Inner West Courier. The Commission also wrote to all those who had made written submissions on the proposal to invite them to the meeting.

The public meeting was held on 13 February 2012 at the Petersham RSL, 7 Regent Street, Petersham. Twenty-eight people spoke at the meeting against the proposal, including representatives of the Marrickville Chamber of Commerce; Metrowatch; and Marrickville Council. A list of speakers is available in Appendix 1.

Issues raised included:

- The proposal is contrary to the Council's strategic planning for the area in relation to the zoning; contrary to designation of the shopping centre as 'stand alone'; contrary to Council policy; and contrary to the need to reinforce existing centres that are on the rail network.
- The proposal is an inappropriate and inequitable use of the Part 3a process and the application should be determined by Marrickville Council.
- Consultation on the proposal was inadequate.
- Lack of demand or justification for expansion of the centre.
- Economic impacts resulting in loss of business on existing shopping strips in the Marrickville local government area would affect their viability and survival.
- There would be additional residential amenity impacts, including noise, disturbance and safety concerns.
- There were significant existing management issues including compliance with operating/delivery hours; abandoned trolleys; litter; and customers' anti-social behaviour.
- The proposal would exacerbate existing safety, noise, congestion and road degradation arising from the delivery routes and times.
- The proposal would generate increased traffic including a cumulative effect with other development, increasing safety concerns and congestion on an already congested road network.
- There would be a negative impact on availability of on-street parking, exacerbated by lack of resident restricted parking areas and other development including the Annette Kellerman Aquatic Centre.
- The height and design were not in sympathy with the surrounding residential setting.
- There was a lack of detailed plans and consideration of residential amenity impacts arising from proposed shopfronts on Victoria Road.
- Loss of trees; and risks from pruning and exploratory root investigation methodology.

Due to the nature of issues raised at the public meeting, the Commission held further meetings with the Council and with the Proponent on 16 February 2012.

Marrickville Council – Second Meeting

When the Commission met with officers from Marrickville Council for the second time, a range of issues raised at the public meeting were discussed including shopping trolley management; delivery routes; delivery hours; hours of operation; surrendering of consents; litter; pedestrian safety; the Victoria Road precinct and trees. The draft conditions of consent were also discussed.

Proponent – Second Meeting

A number of management issues raised in submissions and at the public meeting were put to the Proponent for their response in the second meeting. Issues discussed included those matters listed above as raised with Council; and the timing for various aspects (e.g. surrendering of consents and implementation of a centre-wide shopping trolley management system) were also discussed.

Commission's Comments

Orderly Development of Land

'In-principle' objection to the proposal was raised by a number of parties including Marrickville Council, concerned that the expansion would not constitute orderly development of land, as it is incompatible with Marrickville's zoning and centres' policies. The Commission has considered this issue, and on balance accepts the view expressed in the Department's Assessment Report with regard to the proposed expansion onto the Edinburgh Road site.

Economic Impact

The economic impact from expansion of the existing Marrickville Metro, particularly on local shopping strips, is one of the major issues in this assessment.

Three consultancies prepared economic impact assessments estimating the economic impact of the proposal. They all agreed that expansion of the Marrickville Metro will have some detrimental economic impacts and that these impacts will have their greatest effect on the Marrickville Road and Illawarra Road shopping strips (collectively referred to as Marrickville Road in this section of the report), though they disagreed on the size of that impact.

The proponent's Economic Impact Assessment by Pitney Bowes Business Insight (PBBI) estimated that the proposed development would result in a downturn of 4.1% in the Marrickville Road shopping strip. Hill PDA, commissioned by the Marrickville Chamber of Commerce and Marrickville Council, in contrast estimated a 14.3% downturn at Marrickville Road. The Department then commissioned a further independent economic impact assessment and peer review from Leyshon Consulting, which noted that the two prior consultants had adopted very different approaches and assumptions, and either underestimated or overestimated the impact. Leyshon Consulting estimated that the Marrickville Road shopping strip is more likely to experience a downturn of between 8% and 10%.

The Commission accepts the findings of the Leyshon Consulting report as the most likely to be correct. In its report, Leyshon Consulting concluded that it is clear that any expansion of the shopping centre would have a further negative effect on nearby strip centres, but that the impact is unlikely to be significant enough to lead to an unacceptable loss of services in the existing shopping strips. Planning law does not permit the refusal of a proposal simply on the grounds that it constitutes competition to existing commercial interests.

Based on the economic impact assessments reviewed, the Commission does not consider that the Marrickville Metro proposal's projected economic impact on the shopping strips would be sufficiently detrimental to the community and society to justify refusal. In coming to this conclusion, the Commission also considered other examples where the extent and breadth of detrimental economic impacts on the community and society have justified refusal of applications or appeals.

Because the Commission accepts that there will be some impact, it has considered options to mitigate these impacts on the shopping strips.

The proposed staging of the development has been formalised in the approval, to spread the impacts of the development over time and to allow local shops to adjust to the changing circumstances. The proponent has agreed to stage the development as set out in a revised Statement of Commitments in Schedule 3 of the approval. The minimum three year gap between occupation of Stages 1 and 2 is then enforced under condition (E3).

Condition (E24) requires the proponent and Council to enter into a Voluntary Planning Agreement. Under this agreement, the Proponent would contribute a total of \$600,000 to Marrickville Council, payable at \$100,000 per annum for three years from occupancy of Stages 1 and 2 respectively. This contribution is to be used for public domain and other improvements to shopping strips within the Marrickville local government area, to assist in offsetting the economic impact arising from the Marrickville Metro expansion.

Traffic and Parking

The surrounding road network and intersection capacity is constrained with limited opportunity to increase capacity significantly. The proposal would result in some increase in traffic in the area, which is a concern raised in submissions and at the public meeting, as is the possible resultant increase in pollution.

Traffic impacts were the subject of four consultants' assessment reports on behalf of the Proponent, Marrickville Council, Marrickville Chamber of Commerce and the Terrace Tower Group (owner of Westfield Eastgardens). The Department then commissioned an independent review of the Proponent's traffic assessment. Several measures are proposed to offset impacts from increased traffic levels.

The Department's assessment of traffic impacts is that, subject to the recommended measures, the road network would operate at its current level albeit on an existing congested road network. The Commission concurs with this assessment. Specific concerns with Smidmore Street and deliveries to the centre are outlined below.

Smidmore Street

In the Preferred Project Report Smidmore Street is retained as a vehicular thoroughfare, whereas originally it was intended to be purchased from the Council and incorporated into the scheme.

Although the reasons behind removal of Smidmore Street from the scheme are understood, it is unfortunate that there will now be shopfronts facing each other across Smidmore Street, encouraging shoppers to traverse the road between the two parts of the centre at ground level with their awareness of road safety reduced from having been in a shopping centre environment. This raises safety concerns for pedestrians crossing the road that, in the opinion of the Commission, cannot be satisfactorily mitigated through signage and surfacing alone.

To improve pedestrian safety on Smidmore Street, in Condition B15, the Commission requires the proponent to obtain approval from the Local Area Traffic Committee prior to issue of the Construction Certificate for pedestrian traffic signals and a crossing between the two shopping centre entrances. Condition E22 then requires implementation prior to issue of the Stage 1 Occupation Certificate. The intention is that the crossing will be similar to that employed at Sydney Domestic Airport between the airport and the carpark, with priority given to pedestrians.

While the Commission considers that a controlled crossing provides an adequate standard of protection for pedestrians, in the Commission's view there could be merit in further assessment by the Council and Proponent concerning closure of Smidmore Street to through traffic and creation of a pedestrian mall between the two halves of the centre. Any such proposal (including any carpark modifications) would need to be dealt with by way of a future modification to this approval.

Deliveries

It is evident from the submissions and speakers at the public meeting that delivery traffic is currently a major issue for local residents. Although the Commission supports the proposed new modernised, noise insulated, and consolidated docks, these would not overcome the current issues, and would also not occur until Stage 2 of the proposal.

The current issues are multi-faceted and include the constrained road network; existing permitted delivery times, dock layout; poor directions to the centre; and poor driver behaviour including disregarding signage. Roads particularly affected in proximity to the site are Victoria Road (between Juliett Street and Murray Street) and also Murray Street which has a chicane. It is apparent that minimising truck impacts on residents needs to be approached in a number of ways.

The proponent advised the Commission that the current delivery hours are restricted by the Centre management rather than as a condition of any consent, whereas the Department's report refers to use between 7am and 7pm. The Department recommends extension of the current loading dock operating hours to 7am -10pm after completion of Stage 2.

The Commission is of the view that the hours of operation of the new and existing loading docks should be restricted to between 7am and 7pm on any day, due to the existing impacts and the residential setting of the shopping centre. After completion of Stage 2 the proponent may apply for approval from the Council to extend these hours. Matters that would require consideration at that time include the effectiveness of the noise insulation of the new loading docks, the effectiveness of any noise attenuation works undertaken on the existing Smidmore Street dock, the provisions of the NSW Industrial Noise Policy in force at the time, and the effectiveness of controls for access routes to the loading docks for delivery vehicles.

The restriction on loading delivery hours is set out in Condition F5. Conditions F6 and F7 then require all loading to occur from these docks and within the confines of the site. For clarity, and because waste collection should also occur from the loading docks, Condition F8 applies the same time restriction to waste collection.

Delivery impacts are strongly related to truck access routes and driver behaviour, whether deliberate or inadvertent. To mitigate these impacts, the following conditions have been incorporated into the approval:

- Condition B15(f) requires the proponent to obtain Local Area Traffic Committee approval for traffic management works and signage to prevent vehicles over 6 metres in length accessing or leaving the shopping centre via the intersection of Victoria Road and Murray Street. Condition E22 then requires this to be carried out prior to issue of the Occupation Certificate for Stage 1.
- Condition C16 requires preparation of an Operational Delivery Management Plan addressing a number of measures, to the satisfaction of the Council.
- Condition E22 requires the street address of the shopping centre to be modified to a Smidmore Street address.

Hours of Operation

The Department's Assessment Report lists the operating hours of the Centre as 9.00am to 5.30pm on Monday to Wednesday and Friday; 9.00am to 9.00pm on Thursday; 9.00am to 5.00pm on Saturday and 10.00am to 4.00pm on Sunday. However, there are multiple consents extending these hours for existing traders, and these hours do not accurately reflect the actual trading patterns of the Centre. For example, Woolworths operates 7am to 10pm 7 days.

Given the residential setting of the Centre and for greater certainty, the Commission has required in Condition F4 that the trading hours for the entire centre should be limited to 7am-10pm on any day, although in reality most shops will trade significantly less than these hours. This matter is complicated by the staging and as some existing tenancies will continue to operate.

The trading hours for Stage 1 development would be limited from the outset to 7am-10pm on any day. Under Condition B3, all prior consents applying to the Victoria Road site must also be surrendered prior to issue of the first Construction Certificate for Stage 1, and from that point in time the same hours would apply to the existing Marrickville Metro shopping centre and new shops under Stage 2. Due to existing leasing arrangements for Kmart, some flexibility is provided for this tenant to operate

until this matter can be resolved through a new lease agreement as set out in Condition F4.

To avoid a situation where the existing shopping centre tenancies may have no valid consent, the application description has been modified to authorise the use of the existing building for retail premises and business premises, and then to approve the proposed expansion.

It is also noted that Condition E2 requires separate approval for the fit out and use of separate tenancies, which will provide additional control over all proposed shops.

Shopping Trolleys

Abandoned shopping trolleys and their collection are a major source of annoyance and disturbance for residents. Existing strategies for control / collection of trolleys are ineffective for the Centre overall, with Woolworths and Kmart trolleys frequently abandoned. Coin-operated systems significantly reduce the incidence of abandonment for retailers such as Aldi and the greengrocer, and consequently reduce disturbance associated with collection of trolleys from the surrounding streets.

The Commission is of the view that this matter requires resolution for both the existing and proposed shops. Condition B42 requires preparation of a Shopping Trolley Management Plan to be approved by the Council prior to issue of the Construction Certificate. The Plan is objective-based, and aimed at containing trolleys within the centre and its carparks. The proponent has requested the opportunity to roll out a coin-operated system due to reservations about the technology and effects of current wheel locking systems, which is reasonable, provided the implemented system is effective and appropriately managed. As such, Condition E21 requires independent reviews of the shopping trolley management system at two key points in time. If the coin-operated system is ineffective, a disabling system must be installed across the centre.

Condition B42 and E20 both require the proponent to make available online and telephone contacts to report any abandonment of trolleys, and for a register to be maintained that will be considered in the independent review.

Litter

Litter is a concern for residents, and evidenced in unsightly amounts of litter around the shopping centre and its neighbouring streets. From the branded packaging it is reasonable to assume it is originating from the shopping centre and that the Marrickville Metro should take responsibility for its prevention and/or collection.

Condition (B41) requires preparation of a litter management plan, to be implemented prior to occupation of Stage 1. It is anticipated that an effective litter collection policy will set in place a regular (i.e. at least daily) patrol and collection of litter from a specified range of streets surrounding the shopping centre. The Council agrees with implementation of a condition to this effect, and also notes that it would like any plan to incorporate recycling of litter where possible.

Victoria Road Interface

The Department's Assessment Report considered resident concerns about residential amenity impacts arising from the proposed streetscape (shopfronts and 'civic place') and concluded that the proposals would not result in any adverse impacts on amenity to properties in Victoria Road.

This conclusion is difficult to reconcile with the Commission's inspections and the residents' submissions at the public meeting. The street is narrow and the front yards of the residences (and front rooms – usually bedrooms in these types of dwellings) are in relatively close proximity to the proposed shopfronts and civic space.

In response to the concerns raised, the proponent volunteered to modify the design to reduce the potential impacts. Condition B2(d) now requires the new shopfronts fronting Victoria Road to the immediate east of Civic Plan to be removed and replaced with a solid wall treatment and/or fixed glass display windows, to be shown in plans submitted to the Director General prior to issue of the relevant Construction Certificate (for Stage 2 in this instance).

As previously stated, Condition E2 also requires separate approval for the fit out and use of separate tenancies which will provide control over the use and hours of all shops. This would take into account specific uses and their relationship to neighbours, such as for shops fronting Victoria Road.

Trees

Several mature trees surround the shopping centre, which significantly enhance the character of the area. Concern has been raised with regard to any removal and pruning.

This matter was discussed with the Proponent and Marrickville Council which both cross-checked recommended conditions and trees specified in D29, and verified their consistency with the Arboricultural Report. Conditions D29 and D31 have been strengthened in response to comments from both parties, including specifying a range of minimally-invasive root exploratory and trenching measures and resultant pruning/construction methods.

Community Facility Contribution

A previous community facility offer by the proponent was not accepted by Council and was therefore removed from the PPR.

Condition E25 reinstates this as now agreed by both the Proponent and Council. This requires the Proponent to enter into a voluntary Planning Agreement with the Council, to contribute \$600,000 (indexed) payable in two equal instalments, being \$300,000 to be paid prior to the issue of the Construction Certificate of Stages 1 and 2 respectively.

With the Council's agreement, an on-site community facility may be provided in lieu of a financial contribution.

Conclusion

From visiting the site, reviewing the Department's Assessment Report and written submissions, and hearing the concerns raised at the public meeting, it is evident to the Commission that there is strong public dissatisfaction with some aspects of the current operation of the shopping centre.

The Commission has issued consent, as recommended by the Department's report, approving renovation and expansion of the shopping centre to provide an improved shopping environment.

However, the Commission has used the redevelopment of the site as an opportunity to resolve some of these existing problems, by imposing conditions that are more stringent and require more effective management. To do otherwise would expose residents in the local area to a potential increase in unacceptable impacts from the expansion.

Commission's Determination

The Commission has carefully considered the Department's Assessment Report, including agency and public submissions and the issues raised at the public meeting.

The Commission is satisfied with the assessment and has determined to approve the concept plan, subject to the additional modifications made by the Commission.

A handwritten signature in blue ink, appearing to read 'Neil Shepherd', followed by a large, stylized loop.

Dr Neil Shepherd, AM
PAC Member (Chair)

A handwritten signature in blue ink, appearing to read 'John Roseth'.

Dr John Roseth
PAC Member

Appendix 1

List of Speakers at the PAC Meeting

Planning Assessment Commission (PAC) Meeting – List of Speakers Proposed Marrickville Metro Extension (MP09_0191)

Date: Monday, 13 February 2012, from 1pm.

Place: Petersham RSL, 7 Regent Street, Petersham

1 – 3. Marrickville Chamber of Commerce with the following speakers:

- Morris Hanna
- Victor Macri
- Con Halalambis

4. Michele Margolis

5 – 9. Metrowatch with the following speakers:

- Anna Keohan
- Carol Menzies
- Sally Browne
- Stella Coe
- Coleen Fowler

10. Jacqueline Yetzotis

11. Nino Lo Giudice

12. Katie Humphries

13. Gayle Hansen

14. Charlotte Wood

15. Brett Brown on behalf of Terrace Tower Group

16 – 18. Marrickville Council with the following speakers:

- Marcus Rowan
- Councillor O'Sullivan
- Councillor Olive

19. Richard Healy

20. Jillian Grove

21. Montana Middleton

22. Helen Williamson

23. Chris Johnson

24. Karen Bedford

25. Carl Pritchett

26. Sam Byrne

27. Joanne Flanagan

28. Molly Furzer