

Panorama Towers

**91-95 John Whiteway Drive
GOSFORD NSW 2250
19 May 2020**

**Department of Planning, Industry and Environment
4 Paramatta Square
12 Darcy Street
Paramatta
NSW, 2150**

**State Significant Development Application
SSD-10321
Residential Development at 89 John Whiteway Drive GOSFORD**

In light of the recent and very public issues in Sydney with the Opal Towers debacle and the controversy surrounding the Mascot Towers fiasco, we wish to object to this SSD Application currently on Exhibition. This application and associated documentation that are available on the Department's website have some glaring omissions and inaccuracies. They make assumptions for the approval of obviously unacceptable non-compliance of planning and development controls, as if these controls do not apply to this applicant.

PREAMBLE

This same applicant has already submitted a Development Application to the Central Coast Council, to which we, as potentially impacted neighbours, have submitted objections on four occasions due to the constantly changing application documentation. Similarly, their initial application was submitted as if there were no controls over this property at all. The attitude of the applicant and the volumes of documentation makes one wonder whether our small voice has any chance against this application, unless we can trust that the Department will be as considerate of our opinions as those of the applicant. We expect that the Department will act with due diligence in fully and completely reviewing the applicant's documentation in accordance with the controls and ensure that any contraventions of such are rejected or sincerely reviewed with reference to our objections.

Property buyers make their decisions based on many factors, of which the LEP and DCP controls over neighbouring vacant land is a large part of that consideration and was certainly applicable when we purchased our apartment. Given the applicant is a property developer it is expected that they were fully aware of the controls over this property at time of purchase, as we were when we purchased our apartment. We therefore trust that this will also be taken into consideration when evaluating this application which contravenes several controls.

We fully support the issues raised by other organisations in their SEARS advice documentation, specifically the issues raised by the Central Coast Council.

It is ironic that this application would not qualify for an SSD if it were to adhere to the legitimate and reasonable DCP and LEP controls.

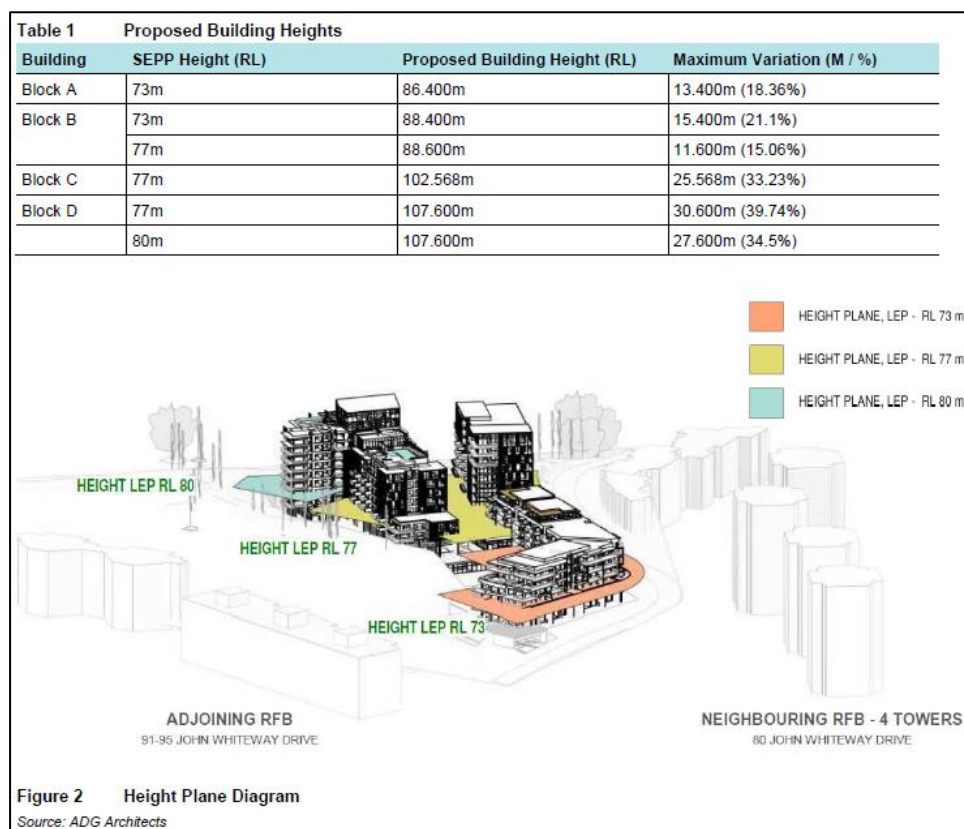
POINTS OF OBJECTION

1. Consultation with public and neighbours.
 - a. The notice to neighbours was not as thorough as was reported in this document. Both the newspaper notice and the post- box drop gave very short notice. There was no attempt at contacting Strata managers in order to ensure that all owners were notified in time to plan and attend the consultation. It is requested that the issues raised in this consultation by the public be reviewed as objections by the Department.
 - b. When asked, the applicant declined to identify all parties involved in this application. We request that the Department review members and any association they may have with any of the consultants who have provided reports supporting this development application.

2. Development Control Plans (DCP) & Local Environmental Plans (LEP).

We object to this application's non-compliance with the character of the DCP Special Area – John Whiteway Drive Precinct - as well as the non-compliance of the LEP in the following areas.

- a. Height restrictions (HOB) – In the Clause 4.6 Variation Request document, the included diagram below and the percentages that the proposed buildings exceed the height controls are self-evident. We object to the extent to which the applicant has proposed the height controls be surpassed and also to the expectation that this variation document will justify the non-compliance.



- b. Floor Space Ratio (FSR) - The extent of the land in question is stated as 2.3Ha. However, when taking into proper consideration the various LEP and associated DCP controls together with the Restriction as to user, these would reduce the extent of the land available for development by 1.2Ha, down to 1.1Ha. Applying the LEP/DCP controls over 1.1Ha would render the number of units, and therefore mass of building, to something more acceptable. It would also make this application ineligible as an SSD development as its assumed value would likely then be less than the \$75 million dollar threshold if kept within DCP/LEP controls.

i. Gosford LEP FSR states:

1. Exclusions from site area:

a. The following land must be excluded from the site area—

- i. land on which the proposed development is prohibited, whether under this Plan or any other law.***

In the case of this specific property the above would reference the restriction as to user - (88B). We object to the fact that this has not been taken into consideration when determining the FSR and expect that the Department will uphold such.

- c. As per the comments from the Central Coast Council, we object to any activities that do not meet the requirements of Chapter 10.3 Special Area - John Whiteway Drive Precinct. The following have only been commented on in the Geotechnical report, but have not been committed to by the applicant.
- i. Any unacceptable stability risk to the ridgeline proposed by the development;***
- ii. Any risk to the existing and approved potential development;***
- iii. An assessment of potential impacts on the neighbouring residential developments is required, including the construction and stabilisation methodology to be implemented; and***
- iv. Appropriate measures to minimise this risk to both the ridgeline and the proposed development, including recommendations for acceptable setbacks.***
- d. Numerous comments have been made in the Geotechnical documentation regarding the issues of the proposed removal of the ridge-line and rock fall stability dangers. At a minimum, if this application were to be approved in its current incarnation, we object to any deviation from the specific requirements provided in the Geotechnical report. A subset of which include the following for reference and by no means exclude any insurance and liability of the applicant for associated damages to neighbouring properties and buildings.
- i. Appropriate safeguards will need to be implemented to capture any potential over break from the excavation and ensure the safety of both the western and northern neighbouring properties and the personnel working near the cut face and headland.***
- ii. We recommend that only excavation contractors with appropriate insurances and experience on similar projects (e.g. potential rock face instability issues) be used.***

- iii. We cannot advise on the stability of the western face of the headland as access for inspection was not readily available.***
- iv. We recommend that prior to construction commencing, a detailed assessment of the quarry faces below the site should be carried out by an experienced geotechnical engineer or engineering geologist to identify adverse defects and to propose appropriate stabilisation measures.***

We strongly object to the lack of Geotechnical evaluation of the quarry cliff faces onto neighbouring properties on the Southern, Western and Northern boundaries of the site. The excuse made in point *iii* above is rejected as there was no evidence of any effort to contact any member of the body corporate or the strata managers in order to gain access to the neighbouring properties.

Specifically, the building footprint of the neighbouring property Panorama Towers on the Southern part of the Western boundary, extends up to and ends at the base of the quarry cliff face. Not visible, due to the gardens, visitors parking area, pool and cabana, is the underground storage and parking garages which are directly at the base of the quarry cliff face. This area would be susceptible not only to rocks and dust, but also to uncontrolled runoff and siltation from above.

The applicant's Geotechnical documentation only speaks of rock catching fencing on the boundary of the site which have been identified in a drawing from their Preliminary Construction Management Plan – Figure 1, as shown below.

We strongly object to the fact that this fencing is at the top of the quarry cliff faces and does not take into consideration rock falls that would occur below this line as a result of the proposed excavation and removal of the ridge line.

The aerial image of the Panorama site has been superimposed on top of Figure 1 to clearly show the parking, gardens and swimming pool which was incorrectly positioned in figure 1 and can now be seen as directly at the base of the quarry cliff face.

The drawing clearly shows in yellow the rock catch fence which coincides with the cliff faces.

We strongly object to the fact that the full extent of the Panorama Towers building has not been considered. This has been highlighted in red and clearly shows the vulnerability of this neighbouring property.

The extent of the area marked in red shows areas of daily use where residents access their vehicles, their personal storage areas and use the swimming pool on a daily basis. It is expected that should such excavation work be permitted that the applicant be fully insured and held liable for any damage to property and belongings, or injury to people utilising these areas. The authorising authority should also be held responsible should this be approved, as this is an obvious disaster waiting to happen.



Figure 1: Extent of Rock catcher and Geo-textile fencing.

e. Dilapidation Surveys

The applicant's Geotechnical documentation also recommends a Dilapidation Survey as stated below.

Prior to the commencement of demolition and excavation, we recommend that dilapidation surveys be completed on the structures below the rock faces in the adjoining properties to the west and north.

The dilapidation surveys should include detailed inspection of the neighbouring pool, pavements, fences etc, where all defects including defect location, type, length and width are rigorously described and photographed.

The owner of the adjoining properties should be provided with a copy of the dilapidation reports and should be asked to confirm (by signing a copy of the report) that the report presents a fair record of existing conditions.

We do not wish to merely be given a copy after that fact and strongly insist that we be contacted prior to any commencement of the Dilapidation Survey. We would like to know who is to be appointed to undertake such survey and would like to have input as the extent and detail to which the survey is done.

3. Main entrance.

- a. We object strongly to the positioning of this entrance at the Southern end of the site for the following reasons:

- i. Contrary to what has been stated, there is a line of sight problem that will not only be dangerous for motorists approaching from around the sharp corner below the site, but for those drivers exiting the site at this point.
- ii. The sharp corner is also on a steep rise adding to the line of sight problem.
- iii. The sharp corner and steep rise will result in drivers approaching from below the site to accelerate, thereby introducing even further safety problems with the positioning of this entrance/exit.
- iv. This proposed entrance is directly opposite that of another large block with many vehicles entering and exiting at peak times, creating their own congestion. Adding another entrance/exit opposite to this will create further congestion and safety problems for residents who live and travel on this road daily.
- v. The applicant's documentation only considers intersections beyond John Whiteway Drive and does not consider the impact of traffic volumes on John Whiteway Drive for existing residents. It also does not consider the impact of traffic volumes of already approved and other future developments on John Whiteway Drive itself.
- vi. Access to the property and entrance to basement parking. The applicant has continued to ignore what is the most common-sense placement of access to the site. This should be on the Eastern side of the property for obvious reasons, viz:
 - It would be approximately mid-way between existing accesses to two developments which are on the opposite side of the road. This would alleviate any traffic congestion during peak times on John Whiteway Drive and any of the neighbours.
 - This is a straight, flat section of road where sight lines are better than those of the proposed access, which due to the vertical slope of the proposed portion of road impedes sight lines.

4. Waste Plan – location of waste collection facility facing Panorama Towers.

a. Noise Pollution – disturbance to neighbours.

Nothing has been done which indicates any means of preventing or managing this. Trucks manoeuvrings to get into position for garbage collection, the noise of the trucks engines and mechanised tipping systems plus the tipping process itself, are all sources of substantial noise pollution that have not been considered in this design. This is exacerbated by the fact that these noise disturbances will not only face directly at the living areas in Panorama Towers, but will also be echoed around in the space between the Panorama Towers building and the vertical cliff face. It needs to be noted that garbage removal usually takes place very early in the morning when it is not unreasonable to expect peace and quiet. In addition to this, vehicles entering and leaving the basement parking would also be a constant source of

disturbance. In particular on the ramp leading in to and out of the basement, the sides of which face Panorama Towers. These are shown as open.

- b. Light Pollution – This is not limited to only the manoeuvrings of garbage disposal trucks in the early hours of the morning, but would be a constant source of direct light pollution and disturbance to neighbours living in Panorama Towers. Due to the sheer volume of vehicles that this proposed basement parking will house, this would be a constant blinding disturbance directly into the bedrooms and living areas.

Your faithfully,