

13 August 2009

Naremburn Progress Association

Dear Sir/Madam,

### **Short history of the Development Saga for 7-9 Donnelly Road**

The first development application by Keenwill Pty Ltd for this property was submitted to Council sometime in 2002, this DA being for construction of two townhouses. Curiously none of the affected residents received any advice of this DA from Council, however affected residents did receive Council notification when the plans were amended in late 2003.

After initial objections to the development from affected residents, objections were subsequently withdrawn after the developer agreed to a range of conditions. The DA was eventually approved by Council in early 2004.

Residents were advised by Council in March 2006 that the developer had lodged a DA for the construction of a 72 children child care centre with residential dwelling above. Although Council officers recommended approval of this development, Council subsequently refused it.

The Developer appealed to the Land and Environment Court and that appeal was heard on site, and in court, in August 2007. The LEC Commissioner subsequently upheld Councils refusal on a range of grounds including:

- Scale and bulk incompatible with existing housing
- Overdevelopment of the site
- Adverse impact on neighbours amenity
- Traffic and parking issues

Council received a further DA from Keenwill in July 2008, this time including the demolition of an affected adjoining property at 5 Donnelly Road. This application was recommended by Council offices for refusal, and it was subsequently refused by Council on 13 October 2008. That council meeting was attended by a large number of affected residents, some of who addressed Councillors at the meeting.

Again the developer appealed to the LEC and this was heard in December 2008, both on site and in court. This appeal was again refused by the LEC Commissioner.

This was around the time of local government elections, and the developer at that time set up a website promoting the virtues of the child care centre as well as advising electors to vote for councillors who had voted in favour of the proposal. A glossy flyer was widely distributed throughout the Willoughby area.

As if on remote control, Council received a further application in early 2009 for essentially the same proposal containing some minor alterations. This application was considered at the council meeting on 09 June 2009 where again a large number of affected residents attended, and addressed Council. Once again the application was refused in line with the Council officers recommendations.

In July 2009 Council received an application for a Section 82A Review. Section 82A allows the applicant to ask Council to review a previous decision, but requires that the amended development must be substantially the same development as the development described in the original application. This review was considered by Council on 27 July 2009, and was again attended by affected residents, some of who addressed councillors. This application was again refused by Council along similar lines to previous occasions.

The matter is now due to be heard by the LEC for a third time at a date yet to be advised. Willoughby Council has voted to supply legal representation to oppose the appeal.

In total the proposal has now been refused by Willoughby City Council on four occasions, and by Land and Environment Court on two occasions. A brief summary of some of the reasons for refusal (there are a significant number) follows:

- Overdevelopment of the site
- Scale and bulk inconsistent with existing housing
- Failure to meet low density zone objectives
- Failure to meet required 20 metre frontage for a child care centre
- Failure to meet requirements for a child care centre not to be built in a closed in street
- Failure to satisfy evacuation concerns – evacuation route for children and babies is via major regional road, Brook St.
- Proposal will create unacceptable traffic impacts
- Proposal will create unacceptable amenity impacts on residents in Donnelly Road and Merrenburn Avenue
- Site is unsuitable for the proposed development
- Approval would set an undesirable precedent
- Shortfall in landscaping
- Parking areas fail to meet requirements
- Bulk and scale impact to adjoining properties on the rear boundary is unacceptable
- Failure to meet prescribed setback requirements

It is worth noting that the site was not purchased with the intention to build a child care centre. It was purchased to renovate and sell the existing house, and build two townhouses on the adjoining vacant land. The CCC plan was brought out only when the property bubble burst, with the hope of getting the developer out of a financial difficulty.

It also needs to be noted that in Naremburn and surrounding areas there are currently around 70 child care centres, most of which are advertising vacancies.

Observers of this drawn out saga can be left to draw their own conclusions, however it is worth considering the unsettling effect this is having on many of the affected residents. Affected residents are required to submit new objections on each occasion, as well as attend council meetings and address councillors. Perhaps the developer is hoping that the war of attrition will eventually wear out the objectors and their most reasonable concerns. Affected residents have indicated that their stamina is unwavering.

Merrenburn Avenue Resident  
Naremburn 2065