

6 April 2010

Committee Secretary Senate
Education, Employment and Workplace Relations Committee
PO Box 6100 Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

**RANDWICK PRESBYTERIAN CHURCH/COOGEE PREPARATORY BOYS SCHOOL
BER PROJECT**

The NSW State Government legislated an Act last May called the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009. This Act overrides State Environmental Planning Policies already in place. The SEPPs have development standards such as:

- Building height – not to exceed 12 metres
- Side and rear setbacks – a building must be at least 5 metres from any side or rear boundary
- Noise – where a gym, indoor sporting facility or hall located less than 20 metres from a common boundary with land zoned residential, must meet acoustic performance elements in the NSW Government Schools Facilities Standards for design
- Overshadowing – specific requirements to prevent overshadowing of any adjoining residential property

The non-compliant project currently underway at Randwick Presbyterian Church, Alison Road, Randwick well and truly exceeded the above standards so the Church used the NBJP Act to have their plans for this excessive overbuild approved. 25 Cook Street Randwick is on the northern side of the Church and extends from Cook Street through to Abbey Street Randwick.

There was no community consultation prior to 13 November 2009. The building plans are dated May 2009.

BACKGROUND

On 13 November 2009 the Executive Committee of 25 Cook Street Randwick (EC) became aware that the Randwick Presbyterian Church (Church) had received authorisation from the NSW Nation Building and Jobs Plan Taskforce (Taskforce) to construct a 5 storey (16 metre high) building on the boundary of both properties just 2.8 metres from the apartment windows of our 3 storey block of twelve.

For this massive building to proceed, scaffolding would need to be erected on 25 Cook Street, Randwick. The Church needed our permission to erect this scaffolding. This is the only reason the EC was informed about the construction of this new multi-storey building.

The new building is replacing a hall. The hall is located on a tight parcel of land that is owned by the Church. At the site there is a Church (Heritage), the Reverend's residence (the Manse) and the hall (now gutted and extended out and up).

This excessive project is described in the Nation Building Economics Stimulus Plan as being the

“Refurbishment of existing multipurpose hall and classrooms and creation of a new library area”.

The grant the Church received was \$2,000,000.

This is much more than a “refurbishment” - it is the construction of a new building.

The original hall was two storeys with a steeply pitched roof. The Church hall has been extended over 4 metres into open space. The west elevation is 5 storeys (16 metres) sloping to the east elevation. The roof lines are rounded and do not match anything in the vicinity. It is a cheap and bulky building that does nothing to enhance its surroundings - the beautifully maintained Alison Park and a row of listed terraces in The Avenue known as “Avonmore Terraces”. Our 1960s block has many design features from that decade including entrance porticos, triangular garden beds, niches and detailed brick work.

To construct a building of this size that defies all SEPPs and local building regulations and codes in such a short timeframe is extraordinary. The Solicitor, we appointed, advised us that the Nation Building and Jobs Plan (State Infrastructure Delivery) Act, 2009 overrides all SEPPs. The Church had the benefit of an unchallengeable decision allowing the development of their hall into a 16 metre tall, modern, multi-storey building just 2.8 metres from the windows of the adjacent building.

In our letter dated 15 November 2009 we asked the School for:

1. Construction management plan
2. A survey of the site boundaries
3. Elevations of the proposed new building
4. Shadow diagrams
5. Education projects checklist and summary report
6. Statutory justifications such as departure from height restrictions or any deviations from development standards
7. Any Expert Planning Assessments attached to their application

8. All relevant paperwork that was necessary for the approval of the application.

Our solicitor when speaking to the NBJP Taskforce Case Manager on 24 November 2009 requested the same. The Case Manager said he would “get instructions in relation to making copies of all supporting documents available to us”.

A member of our EC was thrown into the overwhelming position of having to meet with members of the Taskforce (Heather Warton – Director, Sara Roach, Scott Schimanski – Case Manager) in an attempt to try and remedy what was unfolding unjustly before our eyes. She was told that the site of the building had been visited by an “expert” who deemed it not to have any impact on the adjacent property. When she asked for a copy of the “expert planning assessment” she was declined. She was told that the assessment was confidential.

We believe that the secretiveness surrounding this approval was because our adjacent property was overlooked during the assessment. The plans and the authorisation dated 11 November 2009 make no mention of 25 Cook Street Randwick.

Again we mention that a 16 metre monolithic building is being constructed on the boundary just 2.8 metres from our windows. It has replaced a boundary fence with open space behind it and its sheer size and bulk obviously affects light, airflow and aspect of these apartments.

THE SCHOOL

The reason why this Church build is being funded through the BER is because Coogee Preparatory Boys School (CPBS) leases this hall from the Church to use as their school but there appears to be no guarantee that it will remain their school in the long term. The students of this school use the public park opposite as their playground as there is little open space, let alone a playground, at the site. CPBS has a small number of students. The surrounding streets and area could not cope if it is the School's intention to increase its enrolments to fit this building.

According to Attachment J of the “Guidelines for Expert Planning Assessment” for the school to increase its enrolments by more than 10% (which is based on student and teacher populations over the previous 12 month period) then an expert planning assessment is required. Some of the key issues that need to be addressed for the assessment are:

- “Adequacy of landscaped areas to accommodate increased school population”
- “Traffic, transport and parking implications”
- “Potential environmental or amenity impacts the immediate vicinity of the school and across the broader community on other development adjoining or in the locality (existing or permitted by zoning) on the proposal, and how they might be mitigated”
- “Justification for why the project is in the public interest and should be authorised”

All of which would not pass the expert assessment in this case.

THE AUTHORISED BUILDING

After perusing the plans on the internet the new building appears quite versatile and could also be used as an office building, doctor's suites or student accommodation. The Church is located in the heart of Randwick Junction and in very close proximity to The University of New South Wales and the Prince of Wales Hospital.

We must ensure that the Randwick Presbyterian Church does not profit from this taxpayer funded building. Any development applications for future use or change of use should be made available to

the public through regular Council procedures. The current and future use of this building in its entirety should be for infants and primary educational purposes only.

WHAT THE BER MEANS TO US

Our understanding of the BER is to construct school buildings in the shortest possible time at the taxpayer's expense. To do this local councils and SEPPs are ignored. Non-compliant buildings are permitted where they would never have been permitted before. The complaints process is via the school. There is no neutral government body in place to deal with the aftermath. Any legalities have to be pursued as a civil matter.

The EC cannot comprehend how the construction of this new building was permitted by the Taskforce without community consultation knowing that for the building to proceed scaffolding would need to be erected on private property. The plans are dated May 2009 which gave the proponent over six months to confer with their immediate neighbours before the build was authorised. In fact the Executive Committee should have been consulted prior to the plans being drawn.

Instead they told us on 13 November 2009, after it was authorised, that they were scheduled to start building works on 1 December 2009 which gave us precious little time to ensure that our property was protected considering the intensity of this major construction.

The Church has taken advantage of our lack of knowledge and experience in these matters and continues to ride roughshod over us in order to get this building constructed in the unrealistic and dangerously short time it was allocated which has already been extended from 28 February 2010 to 29 April 2010 with a further extension beyond this date. They are in breach of an Agreement dated 3 December 2009. In other words they got what they needed from us (permission to place scaffolding on our private property) without giving us anything in return. They continually ignore us or use delay tactics because they have the weight of the State Labor Government behind them.

For us, with residents in such close proximity to this rushed building, we seriously hope that all good building practises have been observed during the construction but we have no way of knowing this for sure.

NBJP TASKFORCE

Within the Taskforce there appears to be no accountability. Even though these buildings were permitted by the Taskforce there is no mediating body within the Taskforce to handle any disputes that arise during a building process.

Our understanding is that the Taskforce's job is just to approve the application and then pass it on to the proponent who then becomes not only the recipient of huge amounts of taxpayer's money but also the sole arbitrator in any complaints that may arise. To us this is irresponsible.

We have been unable to find any authority in place which will mediate between the Church and ourselves. As this is a private school the BER complaints division passed us to the AIS which was unwilling to be involved as their job is to just make sure that all projects are running to time and staying within the budget.

CONCLUSION

The Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 is a knee jerk reaction to the GFC. It is being used to push through development projects that would never have come to fruition if the right processes were followed. The recipients of the grants have become greedy in order to spend all the taxpayer's money that was so loosely given to them by this Labor Government.

So far the feedback that we have read or heard is that the small number of handpicked builders/project managers used for these constructions are inflating their prices/costs to match the enormous funds granted to Schools. It was not, as it should have been, a competitive tender process that would have kept it honest.

Also local communities are being unjustly ignored. This legislation needs to be made defunct to restore people's rights in having a say about what goes on in their community. Attention should not only be given to the inflated costs of these buildings but also to the people of neighbouring properties who have been "ripped off" in a different sense.

Yours faithfully

Susan Byrnes

Nina Cruz

Robert Santamaria

Executive Committee