



CASTLECRAG PROGRESS ASSOCIATION INC.

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14 September 2012

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New Planning System Team
Department of Planning and Infrastructure
GPO Box 39,
SYDNEY 2001

Dear Sirs

Submission on Planning System Green Paper

I write on behalf of Castlecrag Progress Association Inc. in response to the Planning System Green Paper of July 2012.

Castlecrag Progress Association

Castlecrag Progress Association ('CPA') has been in existence since 1925. It was incorporated in April 1992 under the Associations Incorporation Act 1984 and has an unbroken record of service to the residents of Castlecrag. Internationally and nationally recognised American architects, Walter Burley Griffin and Marion Mahony Griffin, were active members of the Progress Association, with Walter serving on the Executive Committee.

The objectives of the CPA are:

- To do everything possible to promote and further the interests of the district of Castlecrag or other nearby areas where it is possible that benefit could accrue to the advantage of the district and could enhance and stimulate the community life of residents of Castlecrag and environs, and
- To conserve the natural and human heritage of Castlecrag for the benefit of future generations.

The CPA had an input into the material contained in Willoughby Development Control Plan ('WDCP') insofar as it affects Castlecrag including the Griffin Conservation Area and foreshore scenic protection areas. Over the years we have monitored the development applications of Castlecrag. Helping to persuade Willoughby City Council ('WCC') to refuse non-complying development applications (that would have adversely affected the environment and the amenity of neighbouring properties), many of which have subsequently been upheld by the Land and Environment Court), have we think reduced the numbers of such applications. These well thought out controls that the community increasingly expects will be enforced by Council have led to a higher degree of certainty of outcome. Applicants have come to understand what they should do to obtain a quick approval rather than a long drawn out refusal. We feel strongly that appropriate development is by no means curtailed in Castlecrag by the present planning laws.

Castlecrag

Castlecrag is a special place. It is a suburb in the bush surrounded by water and bushland located partly on an undulating peninsula, which extends eastward into Middle Harbour. Large sandstone tors and overhangs are common along escarpments and are often visible from the Harbour.

Early subdivisions initiated by the Griffins created community environments and provided shared views. The pattern of subdivision and residential streets especially those south of Edinburgh Road follows the contours of the land and is a legacy of Walter Burley Griffin's vision for a model residential garden suburb, designed to take full advantage of its topography and natural features.

The significance of Castlecrag heightened by the works of the Griffins was formally recognised in 1981 by the National Trust of Australia (NSW) classifying the Castlecrag and Haven estates as an Urban Conservation Area. With the advocacy and support of the community, including our Association and the Walter Burley Griffin Society, WCC recognised the unique nature of the Griffins' Castlecrag and its responsibilities as the local government authority when in 1995, it defined the Griffin Conservation Area situated within Castlecrag. With its own expert staff, community input and the expertise of a specialist heritage consultant, the Council prepared a Development Control Plan with specific controls for Castlecrag in general and for the Griffin Conservation Area in particular. Council reviewed these again in 2002/2003 and fine-tuned the controls with further community input and expert advice.

Architectural walking tours for local and international (mainly American) tourists (many of whom are architectural experts) to view the architecture and landscape heritage of Griffin's Castlecrag are quite commonplace.

As a result of the underlying design principle of the Griffins for Castlecrag, being the subordination of the built form to the landscape, its strong sense of community, its unique heritage and specific controls, much of the special natural character and internationally significant built heritage of Castlecrag has been retained.

The Green Paper

After the NSW Labor Government's more recent (and in our view) detrimental 'reforms' to the planning system, our Association welcomed the O'Farrell government's proposed changes to the system. We understood from the election pledge that there would be greater community participation in the planning process and the return of increased decision making to Councils.

Our Association had seen the new government's pledge to change the planning system as an opportunity not only to build on the strengths of the current planning system under the NSW Environmental Planning and Assessment Act 1979 ('EPA Act') - which when introduced was celebrated as being one of the most progressive in the world - but to advance community participation and to greater protect the environment as integral parts of the planning system for a sustainable future.

Having read the Green Paper, with its underlying emphasis on prompt delivery of planning outcomes, its promotion of economic development but its limited attention to sustainable development principles, we are extremely concerned that Castlecrag's unique heritage and beauty (for which several generations of our community have worked tirelessly) is at risk. The focus of the Green Paper gives every indication that it is developer driven. We trust that we are wrong and that the White Paper will counter this impression.

Our initial comments on the Green Paper insofar as we see its focus adversely affecting Castlecrag and its community, and which we trust will be addressed in the White Paper, follow:

Public Participation

We welcome the 'major shift' proposed in the Green Paper for the new planning system to engage communities as an integral part of making key planning decisions that will affect the growth of their communities. However the Green Paper fails to provide any details about how this will be achieved. Given the known reluctance of communities to engage in strategic planning we think this is a recipe for developer stakeholders to determine the future development of our communities.

We are most concerned as it appears from the Green Paper that the community will not be given any opportunity at all to comment on, or object to, individual developments whether next door or anywhere else in the community. The opportunity for community input into decision-making must be available at both the early strategic planning stage and when individual developments are being assessed. At present the people living in the Griffin Conservation Area and in the Scenic Protection Areas of Castlecrag are able to comment on individual development applications and as a result of this have encouraged Willoughby City Council to refuse a number of non complying, view destroying proposed developments, many of which refusals have been upheld on appeal to the Land and Environment Court. As discussed, this has led to greater certainty for the Castlecrag community, both for applicants/potential developers and neighbours.

We therefore strongly believe there needs to be legislated rights for public participation at all stages of the decision making process and because of the heritage and environmental attribute of Castlecrag, this should apply to Castlecrag as a whole, not only to the Griffin Conservation Area and the current scenic protection areas.

Strategic Plans

Strategic Plans must be legislated to have statutory weight. They must also give more focus to climate change, improved environmental outcomes and urban sustainability and design than is currently provided in the Green Paper. New South Wales, the largest and to us the most important state in Australia deserves a planning system of which its citizens and the O'Farrell Liberal Government can be proud.

'Depoliticization' of decision - making

The Green Paper proposes removing Councillors from the decision making process. It seems instead that the General manager and staff of each council and/or 'expert' boards will assess development applications. Without knowing the make-up of the 'expert' boards, there is no assurance that these 'experts' will have the particular local knowledge necessary to adequately assess development in Castlecrag. Councillors, being best placed to know their local area as well as being subjected to the ballot box every four years would seem to be the safer option. We ask for the retention of our elected Councillors in the decision making process.

DCPs

It seems that the Green Paper proposes to remove the current Development Control Plans ('DCPs'), replacing them with guidelines. Willoughby Development Control Plan (WDCP) with special provisions directed to the Griffin Conservation Area and the scenic protection areas of Castlecrag has served our community well to date. As discussed, WCC's expert staff assisted by community input and the expertise of a specialist heritage consultant developed Willoughby Local Environment Plan ('LEP'). The LEP created the Griffin Conservation Area and listed all the Griffin (as well as other house) as heritage items of state or local significance. WDCP was adopted the following year creating controls designed amongst other things to preserve the heritage of Willoughby City including the Griffin Conservation Area and the foreshore scenic protection area of Castlecrag. It codified for Castlecrag the Griffin design principles, the underlying principle being the subordination of the built form to the landscape. While we think this is a very good document there is room in the new planning laws for clarification and strengthening of its provisions. We urge that the current provisions of WDCP will be respected, strengthened and incorporated in any new legislation used for assessing development in the WCC area in general and in Castlecrag in particular.

Heritage Conservation Areas

We are extremely concerned that there is no reference in the Green Paper to heritage conservation areas. We trust that they will be retained in the White Paper. To go through the process of trying to reinstate such areas de novo in Suburban Character Zones would seem to be a pointless and arduous process for the communities involved and we trust that the current conservation areas, including of course the Griffin Conservation Area in Castlecrag, will be retained in the White Paper.

Necessary to Retain Protection of Natural and Cultural Heritage and Local Amenity

Natural and cultural heritage and local amenity must be identified and protected in the strategic planning stage. Account must be taken in the White Paper of foreshore scenic protection areas and the existing foreshore building lines. The recognition of the foreshore protection areas and the implementation of the foreshore building lines have played a very important role in Castlecrag in reducing the amount of inappropriate development enabling our suburb to continue to be surrounded by beautiful remnant native bushland. Aboriginal heritage, non-indigenous heritage, biodiversity and ecosystems, soils, water and the watercycle, landscape, amenity and air quality must all be included in this process. We trust that they will be all be retained in the White Paper.

Complying Development

We ask that this be limited in the White Paper to minor low impact development only, in Castlecrag in general and in the Griffin Conservation Area and the foreshore scenic protection areas of Castlecrag in particular.

Private Certifiers

It seems from the Green Paper the reliance on private certifiers will increase. As we believe there have been problems in our area with the use of some private certifiers we ask that they be selected from a panel on a rotational basis to reduce the perception of subjectivity and to prevent developers from choosing their own privately – paid certifiers to approve developments in the absence of external review.

Increased Flexibility for Developers

The Green Paper seems to allow for the approval of a grossly non-complying development or in other words ambit claims 'based on its merits' and in the context of 'plan objectives'. This has the potential to reduce certainty, clarity and consistency. We don't know how the merits of a development will be assessed, particularly if the SEPPs are removed, (SEPP1 in particular, with its large amount of case law on how objections to various provisions of the current LEPs should be assessed). We fear that assessment of non-compliances without the appropriate legislative directions and particularly without community comment or objection is likely to leave itself open to abuse from developers and other stakeholders.

SEPPs

We are concerned about the proposed removal of the SEPPs, for example SEPP19 which currently protects urban bushland on private property, and others including those requiring residential flats or apartment buildings to be designed by architects. We have discussed SEPP1 above. While we trust similar provision will be contained in the proposed replacement NSW Planning Policies we fear that the directions in such policies will be of a lower level than are the provisions of the SEPPs.

Conclusion

We think the emphasis in the Green Paper for the new planning system on economic development ahead of ecologically and socially sustainable development is at the heart of what is wrong with this Green Paper.

However even from an economic viewpoint, Sydney is a beautiful and (apart from its current lack of infrastructure) most desirable city. It is one of the great cities of the world. Its natural bushland and waterways so close to the city and its beautiful suburbs in the bush, such as Castlecrag, also so close to the city centre, are the envy of many living in other great cities of Europe, the US and Asia. Sydney's economic development (and therefore the rest of New South Wales) is we believe dependent upon Sydney's beauty and its desirability as a place in which to live and work, as well as being a major tourist destination.

If as it seems the Green Paper removes community participation from all involvement in the development process, apart from the undefined community engagement during strategic planning, then we deplore this. We reject any proposal that either waters down or removes provisions of WLEP and WDCP directed to the Griffin Conservation Area and the foreshore scenic protection areas of Castlecrag in particular and to Castlecrag in general.

It is hard to avoid the conclusion that the new planning system proposed by the Green Paper is developer driven and risks destroying the heritage and beauty of not only Castlecrag but also of Sydney and most of New South Wales. We urge the government not to take the planning laws of New South Wales back to the developer driven days of the 1960s but forward to one that advances community participation and greater protection of the environment as integral parts of the planning system for a sustainable future.

Yours sincerely

jill·newtonsecretary

Castlecrag Progress Association

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cc The Committee Members of the Castlecrag Progress Association; Mr Nick Tobin General Manager of Willoughby City Council; The Hon Gladys Berejiklian, Member for Willoughby; Sailors Bay Ward Councillors