

## CHANNEL 7 FORMER EPPING SITE PROTECTION BILL 2007

### Agreement in Principle

**Mr GREG SMITH** (Epping) [10.05 a.m.]: I move:

That this bill be now agreed to in principle.

The object of the Channel 7 Former Epping Site Protection Bill 2007 is to protect the site at Epping by ensuring that Parramatta City Council remains the consent authority for any application to carry out development on the site, by prohibiting the carrying out of excessive development on the site and by requiring community consultation in relation to the carrying out of the development on the site. Part 2 of the bill provides for council authority in relation to the carrying out of any development. Part 3 provides that the development of the site is to require the consent of Parramatta City Council. Part 4 requires that the council develop a concept plan for the site. Part 5 requires that community consultation be undertaken by the council in finalising that plan. The Minister for Planning, the Hon. Frank Sartor, has already taken a decision to take over control of this site and a legal declaration to that effect has been made. In particular, clause 5 of the bill states that it:

prevents the making or operation of any declaration under the *Environmental Planning and Assessment Act 1979* that the carrying out of development on the site is a project to which Part 3A of that Act applies or that has the effect of making development on the site a project or part of a project to which Part 3A of that Act applies.

Most crucial is the reference to:

Any such declaration that has been made

A declaration has been made.

or is made has no effect to the extent to which it applies to the site.

This bill is based on a previous bill introduced by my distinguished predecessor, the former member for Epping, Mr Andrew Tink, on 31 August 2006. Whilst based on a bill by the member for Lane Cove, it is essentially a simpler bill.

**Ms Gladys Berejiklian:** Epping.

**Mr GREG SMITH:** No, Lane Cove. Mr Roberts introduced a similar bill earlier. The need for the bill goes back some little time and the antecedents go back to 2005. Channel 7 owns a large area in Mobbs Lane, Epping, which is a very narrow lane. They are proposing to put 700 or so dwellings on there, which is far more than the Parramatta City Council would allow. The residents of that area are totally against it. They are already facing enormous development with the brick pit site on the corner of Midson Road and Mobbs Lane, which has caused extra traffic. The traffic and other problems associated with this development, with massively increased approval for sites, will be catastrophic.

The circumstantial evidence is overwhelming that the reason for this becoming part of part 3A and the Minister taking it over is that there has been a sweetheart deal between this Government and Channel 7, which has taken over premises or is building premises at the

former Eveleigh railway yards, now the Australian Technology Park, and it is very much in the Government's interest to have such a large tenant and to keep on side with a large media organisation. It is a disgrace that this State is taken over by a Minister for Planning who has more powers, apparently, than Attila the Hun. The money floating into this Government to fund election advertising against the State Opposition and the Federal Government is a scandal. The people of Epping will not tolerate it. At this stage, by consent, I postpone the completion of my agreement in principle speech until a later hour.

**Debate resumed, by consent, from an earlier hour.**

**Mr GREG SMITH** (Epping) [10.23 a.m.]: The need for this bill goes back some little time and the antecedents go back to late 2005. I refer to part of a letter dated 16 December 2005 from a constituent, Mr R. N. Burwood, 6 Marook Street, Carlingford, addressed to the Acting Director, Department of Planning, which was written in response to a letter he had received in his letterbox. Mr Burwood writes:

I am writing in regard to your letter dated 17 November, 2005 covering the above matter—

that is, the site development concept proposal plan for Channel 7, 61 Mobbs Lane, Epping—  
It was with some amazement that I should receive a letter from your department about a development on this site as one would think that this should be first processed through Parramatta City Council. This site falls in the Parramatta City Council zone and one would think that the local Council would have a better insight into this area than a centralised department in the city. Parramatta City Council would also know the impact on the local area, which would be made by such a large development on this site.

That interesting letter expresses surprise that the Department of Planning has jumped into this matter from day one. From day one the department has not given a toss about Parramatta council. Looking back on this matter with hindsight, I expect the department always had the express intention of taking over this site and leaving Parramatta City Council completely out of the picture. On 7 November 2005 Mr Tink wrote a lengthy letter to the Minister for Planning. In that letter he said that he understood there were rumours that the Minister was considering the former Channel 7 site as a potential State significant site under the State environmental planning policy for major projects and that there was a proposal to put 900 residential dwellings on the site. In the letter Mr Tink asked the Minister to determine that the site is not of State and regional importance and to allow Parramatta City Council to undertake its normal decision-making in relation to development applications.

In the reply Mr Tink received in December 2005 the Minister said that following an approach from Channel 7 he had agreed to consider the potential to declare the site a State significant site and to consider a concept plan. In the letter he indicated that he had not made a decision, and that he had forwarded Mr Tink's letter to the department for its information. After further pressing, in January last year Mr Tink received a letter from the Parliamentary Secretary. Apparently the Minister did not seem to think that it was important to continue direct correspondence, so he replied through his Parliamentary Secretary. With no disrespect to that office holder, that indicated to Mr Tink that in the Minister's mind the matter mind was being downgraded and pushed aside as an irritant. It is more than an irritant to the residents of Mobbs Lane and surrounding streets. Mr Tink was advised by the Parliamentary Secretary that the Minister had agreed to consider a concept plan for the site and that public submissions were being reviewed. That was where the matter stood: the Minister had not made a decision.

The Minister has advised me in answer to a question on notice that 208 written submissions were received in response to the public exhibition. From my reading of the written submissions of which I have copies, the vast majority—which were from local people affected by this decision—were in opposition. Apart from a large number of letters in similar or identical terms that had been sent as responses to constituents, Mr Tink heard nothing more from the Minister. In addition to writing to the Minister he raised the matter in a private member's statement in the House on 17 November 2005. At that time he outlined a number of issues of concern, apart from the bulk of this development. Mr Tink said that the site had a history of major life-threatening flooding down into the Eastwood area, which was under the control of Ryde City Council, that there had been two massive flood events and that run-off from the high ground that the Channel 7 site occupies acts as a natural accelerator during major flooding to create problems.

Mr Tink believes, as I do, that the problems attendant on the development of a largely open greenfield site, which would be substantially covered by dwellings that act as mini-accelerators during heavy rain events, would be better considered by councils rather than by a department in the central business district, or wherever it may be located these days. Another major issue is traffic generation, especially along Mobbs Lane. The development site has a street address of 61 Mobbs Lane. The street—by which I mean the actual road paving—is well described as a lane and has not developed much from when it was originally laid some time around 1900 as access to a dairy. The road is barely coping with current traffic volumes, let alone the volume that would be generated by a development of many hundreds of units. A number of other issues also need to be taken into account.

The Epping Civic Trust, under the leadership of its president, Graham Lovell, and with assistance from Alan Swales and Graham Wyber, has taken a very active part in this issue, as have John Blair of the *Northern District Times* and John Booth of the *Weekly Times*. The civic trust first raised the matter in its October 2002 newsletter under the heading, "What Type Residential Development for the Channel 7 Site?" It has followed through pretty assiduously ever since. A meeting organised by the trust was held on 27 June 2006. A large number of people attended that significant meeting and a number of resolutions were passed. In July 2006 Mr Tink received a letter from constituents, Barbara and John Buzio, who live in Valley Road, Epping, near this development. They said that they had attended the public meeting organised by the Epic Civic Trust. The letter stated:

As the Parramatta Council can no longer successfully represent the concerns of the community in this matter, I ask you to take up the battle on our behalf and use the strength of the opposition

**Debate resumed from 27 September 2007.**

**Mr GREG SMITH** (Epping) [10.00 a.m.]: On the last occasion I spoke about constituents who had written in response to submissions called for by the Department of Planning about the proposed Channel 7 redevelopment in Mobbs Lane and I said that a massive number of home units and other dwellings were going to be erected on what is largely open space at the present time. I emphasised the traffic problems this development would cause in the very narrow laneway with one lane each way for traffic in an area where considerable flooding had occurred when open space was likely to be aggravated by the erection of lots of buildings. These constituents were not criticising the council; they wanted the power to decide questions on development applications to be returned to Parramatta City Council, which would have approved the erection of a much smaller number of dwellings on this site.

One particular letter requested that Mr Tink introduce a private member's bill, which he did,

and I now have reintroduced such a bill. Mr Tink received other letters from constituents reflecting the types of comments of a large number of individual representations, which numbered about 100. Most of the letters were original, not photocopies. In a letter dated 8 August 2006 addressed to the Minister but sent care of Mr Tink, who passed it to me, N. and A. Cartwright said:

I feel quite strongly that the approval power has been taken away from our local Parramatta City Council into your department's hands.

Our local council knows our area and because the Councillors live locally they voice the residents' opinions. They have our interests and what is best for our area at heart. Do you?

That question was directed at the Minister. The letter continued:

How long have you lived in the area, Mr Sartor? I do not believe that you ever have! You cannot be an expert on everything—leave local Councils to deal with proposed developments in the area. They know the local area best.

The Minister visited the Epping electorate a week or so ago, but not to look at the Channel 7 site or the problems being caused by the development—I do not believe he has ever been there—nor to look at the Office Works site on Pennant Hills Road, which is a planning fiasco because a private certifier has gone berserk and that development project is gravely encroaching on residential land. The Minister did not visit Epping to look at the site about which we have raised problems, but to steal the thunder from me, the member for Epping, after I had persuaded the Chamber of Commerce and others at a meeting several months ago about the way to achieve a unified town centre in Epping.

Epping is under the control of two councils, Parramatta and Hornsby, both of which have different planning attitudes to the town. I had persuaded the Chamber of Commerce that it would be best to have a united body, perhaps even along the lines of a county council, for the betterment of development and planning in Epping. What happened? At Maxine McKew's behest the Minister was invited to address the Chamber of Commerce. Of course, I was not invited, which appears to be the customary practice. The Minister proposed all sorts of suggestions and reckoned that he was going to fix everything for the Epping town centre. No doubt that is likely to mean there will be high-rise development on both sides of the railway line casting great shadows over the beautiful parks and gardens where people like to walk—but the developers will be happy. Unfortunately, that is the image of this Government in my area, where it takes over by plonking down some development that it wants and ignoring the comfort of residents.

**Mr Jonathan O'Dea:** In my area too.

**Mr GREG SMITH:** It is widespread in this State. That is one of the reasons we need the Coalition to stay in power at least in Canberra. In a letter dated 7 August, again addressed to the Minister but sent care of Mr Tink, Mr Eric Bentley said:

Our Council, consisting of local representatives, is in the best position to judge the appropriate level of development on the site and will involve the local community in its deliberations.

It is my view that the current development proposal before you for this site is a gross overdevelopment for the following reasons:

1. Density of units too many and far in excess of Council's planning controls.
2. Height too high and out of character with the surrounding area.

The surrounding areas comprise mainly single-storey dwellings and some of the proposed unit complexes will be four storeys. Mr Bentley continued:

3. Traffic chaos in neighbouring streets never designed to take the levels of traffic predicted to be generated by the development.

Shortly before Mr Tink spoke in this House on 31 August last year, he received an email from Darryl Lance of the Loftus Square Park Committee in Epping, which stated:

We have heard from our Councillors that Mr Sartor has control over this development and that no consultation will be had. If that is the case it is a travesty. What right does Mr Sartor think he has to take control of something that should be under our Council's jurisdiction?

We elected our very capable councillors—

Many of them are Labor members—

and demand that they are allowed to do what they were elected for, look after our interests.

Mr Tink received a large number of high-quality representations from constituents who have considered this matter carefully and are disturbed about it. He sent those representations to the Minister as he received them. He was more than a little irritated that after receiving the letter from the Parliamentary Secretary on 6 January 2006 he did not officially hear anything further, except a repeat of the contents of that letter. Indeed, rather than being given the courtesy of advice from the Minister, he had to read in the local paper that apparently the Minister for Planning had made a decision to declare this land of State significance under part 3A of the Environmental Planning and Assessment Act. The article appeared to suggest that the Minister's decision had been gazetted on or about 16 August 2006.

Not only were constituents, Parramatta City Council and Mr Tink ignored, but also they were not even paid the elementary courtesy of being told the Minister had made a decision. They had to read about it in the local paper. That is typical of the arrogance of the Iemma Government and the Minister for Planning. The Premier needs to look out for the Minister for Planning: Across the State people have had just about enough of not being given the courtesy of being told when a decision was made affecting their areas. Parramatta City Council reflects the views of the major political parties to varying degrees. For many years the council has returned a Labor administration. I do not always see eye to eye with councils of that persuasion and others—neither did Mr Tink—but as far as Mr Tink and I could tell, Parramatta council appears to always try to do the right thing in exercising its powers to assess development applications. Some councils struggle to do that; some councils simply struggle to exist.

Parramatta City Council still has under its control one of the largest central business districts in Australia. It assesses some of the most complex development applications to come before any council anywhere in Australia. As far as I can tell, the council has always conducted itself in a reasonable and professional manner. It is eminently capable of carrying out all the assessments required for the Channel 7 Epping site. There was no reason whatsoever to take away the council's powers over this site. The Minister could have said he had identified certain problems with the council and he could have attempted to make a case that he did not believe the council was capable of determining this development application.

The Minister has not made out such a case, nor has he claimed to do so. I do not believe there is any evidence that would justify the Minister making out such a case. There is no basis for the department taking over planning in this area. I invite the Minister or his department to

itemise and particularise where Parramatta City Council has fallen short to justify the Minister taking this step. What elements, allegations or issues go to Parramatta City Council being considered incompetent, apparently in the Minister's eyes, or unable to properly consider this development application? The council may have approved a far smaller number of dwellings, which would have meant far less return from the development. Channel 7 may have stayed at its former site or may have moved to a location other than the Eveleigh centre, giving the Government, of course, great benefit from the 11-storey office block development.

The Government, in its contribution to debate on this bill, will have to give a pretty good answer to my question. I suspect it will oppose and reject the bill. If it does, the least the Government can do is identify where Parramatta City Council has fallen short in this matter. I do not believe the Government can demonstrate that. If it cannot, why is the Minister taking the power away from the council? On what basis can the Minister justify stripping a council of its power to consider a development application, in the absence of any evidence that the council is incapable of properly undertaking this task?

Parramatta City Council has considered the most extraordinarily complex applications, particularly relating to the Parramatta central business district, which is one of the major growth central business districts in Australia. Like Mr Tink, I have never heard it said that there has been a problem with the council considering such applications. I ask the Minister to provide evidence to warrant his intervention. If a Minister of the Crown in this State were trying to settle upon an outcome that was acceptable to the public, balancing local public interests with developer interests, Parramatta City Council would be the way to go. The Minister cannot possibly assess local concerns from an office in the Sydney central business district, or wherever he is located. That task is, and always has been, best done through local councils and local councillors who are in a unique position to do so. Councillors are both elected representatives and people who exercise considerable executive authority when ultimately voting on these sorts of issues. One of the councillors and former lord mayor of Parramatta is a member of Parliament on the Government side. Why is he not capable of acting in a proper way on Parramatta council to decide on this issue? I ask the Minister for the third and final time to justify his refusal to allow Parramatta City Council to determine this matter. If he cannot, he should withdraw the part 3 order.

As we have seen in recent times in the case of *Gray v The Minister for Planning*, the Minister and his department make mistakes. In that case the Land and Environment Court granted a declaration to the applicant, an environmental group, "that the Director General's view that an environmental assessment prepared by a particular company in respect to the Anvil Hill project adequately addressed the Director General's environmental assessment requirements was void and without effect." The department makes mistakes. The trouble is that apart from environmental groups and developers affected by a decision, people do not have the money to go to court and take on the Minister. He is likely to try to bankrupt them and take them to the High Court.

[*Business resumed.*]

**Mr GREG SMITH:** It is a great honour to be giving a homily in their presence.

**Mr Gerard Martin:** You had better raise your standard.

**Mr GREG SMITH:** Despite the chirping from the other side, there is no doubt on the merits of this issue, and on the basis of equity and justice the Epping electorate deserves a break

from the Minister, and Parliament should pass this legislation.