



E-MAILED
30/01/15

Michelle & Eran Smith

29th January 2015

The Honourable Catherine Ester Doust MLC
Chairperson,
Uniform Legislation and Statutes Review Committee,
Legislative Council of Western Australia,
Parliament House,
West Perth,
WA 6005

Dear Ms Doust,

RE: Submission – Parliamentary Inquiry – Planning and Development (Development Assessment Panels) Regulations 2011

We, Michelle and Eran Smith of 17 ; would like to lodge our comments to the inquiry into the Planning and Development (Development Assessment Panels) Regulations 2011. We would like to express our concerns over what seems to be an abuse of process by the developer of 58 Kennedy Street, Maylands and the conduct of the Metro Central Joint Development Assessment Panel (JDAP).

In December 2013 plans were submitted for approval to the City of Bayswater for a two storey development comprising ten multiple dwellings at the above mentioned site. The residents around the proposed development received a request to comment due to the multiple breaches of the Residential Code. Strong community opposition to the high plot ratio, rezoning from R40 to R60, annex of crown land due to lack of green component, lack of parking, lack of infrastructure in a double cul-de-sac street atop a prominent hill and other non-compliance to the R-Code of the development within a Character Protected Area of local heritage importance. At Council meeting in April 2014, the proposed development was strongly opposed in line with community concerns and the proposal was withdrawn for amendments.

In June 2014 the developer submitted revised plans proposed a three storey development, comprising eleven dwellings and an underground car park and elevators. These plans were submitted to the Joint Development Approval Panel (JDAP) due to estimated cost in excess of AU\$3M, bypassing Council approval. In August 2014, the proposed amended development was approved by the JDAP against Council recommendations and community expectations.

Within a short period of time (October 2014), the developer revised the JDAP approved plans to ten dwellings, with no underground carpark and no elevators. The community argued to JDAP that with the removal of these amenities, the development no longer exceed the AU\$3M and should be reverted to local council for approval and is not within the scope of JDAP. Different cost estimates by reputable professional architects and builders submitted to JDAP were dismissed as negligible and the panel questioned the quality of the estimates. However, JDAP accepted the developer's own cost estimate without question including concerns GST was included to push the costing over the AU\$3M mark. The revised proposed development was approved additional to the 16 known dispensation from height, plot ratio of 0.91 in lieu of 0.68, privacy screening and setbacks.

As a community, we believe that the development approval process was abused and the concerns of the local community were dismissed and were not taken into account. The JDAP lacked

transparency and were strongly biased towards the developer and the complete disregard to the basic planning requirements and the Local Planning Scheme, especially in a Character Protected Area. The five member panel, comprise of three unelected "expert" members and two local government members undermines the process as reflected in the majority of development proposals approved. We are only familiar with one proposal rejected out of the hundreds approved. The unlimited discretionary powers welded by JDAP is of major concern, with no need to explain the reasoning for their decisions, overriding the R-Codes with no accountability but to the Minister of Planning. We strongly believe this process is flawed and open to abuse and manipulation. We call the legislative assembly to investigate the conduct and behaviour of the JDAP on this matter.

Yours Sincerely,
Michelle & Eran Smith