



The rescission motion and the story so far:

As part of their review of the Macpherson and St Thomas St Neighbourhood Centre, the council planners had come to the conclusion that the size of retail premises in the Neighbourhood Centre was not limited by the Waverley LEP. After the community consultation period, where it became obvious that the residents did not want a big shopping centre in Macpherson St, the planners recommended a cap on the size of retail premises be introduced. They also made other recommendations such as limiting traffic in Chesterfield Lane to residential only. They drew up draft legislation (ie the draft LEP amendments) for the councillors to vote on.

At the Waverley Council meeting on 19/2/13, the liberals ensured that the draft LEP amendments limited the size of retail premises (i.e. shops) in the Neighbourhood Centre to 400 m2. The labor party and green councillor tried to have the shop size limited to 80 and 100 m2 but the liberals voted this down.

What was to happen next:

The next step in the process is for the draft LEP amendments to go to the state government Dept of Planning and Infrastructure (DoPI) who approve the amendments and send it back to the council for a period of community consultation. After the period of consultation the council can adjust the amendments or not and then send them back to the DoPI for final approval. They 'gazette' the amendments and they become part of the LEP legislation i.e. the law.

BUT

Two labor councillors and the green councillor put a rescission motion to the full council on 9/3/13. This is basically like annulling a marriage. If a rescission motion is passed, the original motion is 'rescinded'. In legal terms it is as if the original motion never existed. So in this case, had the rescission motion passed then the draft LEP amendments would not have existed in legal terms. The labor councillors were then going to put a new draft LEP amendment motion with smaller shop size limitations.

However the rescission motion was lost (liberals voted it down). So the draft LEP amendments stand as passed on 19/2/13 and the process described above will take place. The first step is that the Waverley Council planners will send the draft LEP amendments to the DoPI this coming week.

How does this effect the RSL DA

The process described above is entirely separate to the DA process that will take place now that the RSL redevelopment DA has been submitted. As the DA was submitted before the draft LEP amendments (passed 19/2/13) have been gazetted (ie become law), the DA will be assessed against the current Waverley LEP (2012). We think that the developer and the RSL did not want their proposal assessed against the draft LEP amendments because they place much stricter planning controls on what sort of development takes place on the RSL site. We think they do not like the draft LEP amendments. The rescission motion has no bearing on this process because it was related to the draft LEP not the current Waverley LEP 2012.

Glossary:

LEP – Local Environment Plan. This is the planning law that sets the controls for development at specific sites. Each council area in NSW has an LEP. The one governing development at the RSL site is the Waverley LEP 2012. It can be accessed at <http://www.legislation.nsw.gov.au/maintop/view/inforce/epi%20540%202012%20cd%200%20N>

Gazette – refers to publishing the official version of a piece of legislation. Gazetting is a way of officially informing the general public that the state has passed a law.