



Report of Meeting

Independent Hearing and Assessment Panel

Tuesday, 12 December 2017

6.00pm

**Committee Rooms 202 and 203,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLANDSHIRE

PRESENT: Grant Christmas (Chairperson/Expertise in Law), Christine Theodore (Expertise in Property Law and representing the Community), Michael Mantei (Expertise in Planning Law) and Ashley Dunn (Expertise in Architecture).

Staff in attendance was the Manager Development Assessment & Certification (Simone Plummer).

DISCLOSURES OF INTEREST

File Number: 2015/14239

There were no disclosures of interest declared.

IHAP009-18	Proposal:	Construction of a dwelling and inclinator
	Property:	15A Georges River Crescent, Oyster Bay
	Applicant:	Scope Design & Energy Services
	File Number:	DA16/1700

IHAP RECOMMENDATION

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the maximum height control satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the maximum 8.5m height development standard be varied to 8.9m, in respect of this application.
2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/1700 for Construction of a dwelling and inclinator at Lot 203 DP 1210752 15A Georges River Crescent, Oyster Bay is determined by the granting of deferred commencement development consent subject to the conditions contained in Appendix "A" and the following additional/amended conditions:
 - The addition of Deferred Commencement condition 1(e) to read: "A detailed materials and finishes schedule with accompanying photomontage which provides for building colours that respect the bushland setting."
 - Condition 3A(i) is to be deleted but re-imposed as Deferred Commencement condition 1(f).
 - Condition 3A(ii) is to be deleted and replaced with the following condition: "The inclinator is not approved and shall be replaced with screen planting within those portions of the setback where natural earth occurs. These amendments are to be reflected on the construction certificate plans and the endorsed landscape and vegetation management plan."

- The addition of condition 3A(iii) to read: "The window to the ensuite on the ground floor is to be constructed of frosted glass."
- The addition of condition 3A(iv) to read: "The windows to the bedrooms adjacent to the north eastern boundary are to be constructed of frosted glass to a height of 1600mm above finished floor level."
- Condition 14 is deleted.
- Condition 16A is to be amended to read: "To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings and driveways at Nos. 9, 15, 17, 17A Georges River Crescent, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report. The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer."

PANEL COMMENTARY

Site Visit

The Panel inspected the subject site and the Applicant, Mr Cosmo Wu was present on-site. The Panel noted the steepness of the site and the extensive native vegetation. No objectors to the application requested that the Panel take a view of their property. Despite this, the Panel was able to see all of the objectors' properties.

Presentations to Panel at the Public Meeting

There were five objectors from different addresses to the application.

John Wood of 9 Georges River Crescent

- (a) The development was not in character and would be out of place in Oyster Bay.
- (b) There is no other house in the locality of this size.
- (c) The view from the water would be of a 6 storey dwelling.
- (d) The E3 zone was intended to show the site as being environmentally sensitive and this was reflected in the extensive birdlife.
- (e) The objectives of the zoning were not addressed in the Council report.
- (f) The development does not comply with the Council's height limit.
- (g) Recognises that the site will be developed.

(h) The wall height of 8 metres was excessive.

Diana Day of 9 Georges River Crescent.

- (a) The E3 zone has significant environmental and scenic values and permits only limited range of development.
- (b) The construction of the dwelling would lead to a loss of property values.
- (c) The development will cause a loss of privacy.
- (d) The development is out of scale with the surrounding development.

Rochelle Cannon of 17 Georges River Crescent

- (a) The inclinators should not be approved.
- (b) The limitations on the time for use of the inclinators were insufficient to address the expected impacts.
- (c) The amount of excavation is excessive and is unreasonable in light of the restriction imposed on her development.
- (d) The rock faces on the site should be preserved.
- (e) There needs to be strict conditions about drilling and excavation. Such conditions were required on her 2015 approval.

Norm Mackenzie representing owner of 15 Georges River Crescent

- (a) The scale of the development is excessive.
- (b) The condition requiring a dilapidation report should also require assessment of the existing driveway.
- (c) The bond proposed by the condition is inadequate.

Gregor Taylor of 17A Georges River Crescent

- (a) The bulk of the building was excessive.
- (b) The view from his property will be replaced by a building where there are currently native trees.
- (c) The size of the house is too big with 9 bedrooms and 6 bathrooms.
- (d) The building could be converted into a number of dwellings.
- (e) The development was not in keeping with the zoning or the bushland suburb of Oyster Bay.

Applicant's representatives, Cosmo Wu (owner) and Glen Bowerman (building designer), addressed the Panel.

- (a) The dwelling is large to cater for an extended family.
- (b) The building will not be used for more than one dwelling.
- (c) The concerns raised by the objectors about removal of rock can be conditioned.
- (d) The details of the privacy screens will be provided to the satisfaction of Council officers.
- (e) The building designer conceded that the removal of trees and extensive excavation was driven by the owner's brief.
- (f) The building designer considered it was appropriate to provide details of the materials and finishes at the construction certificate stage.
- (g) The building designer considered that the cross ventilation of the building was satisfactory and limited side boundary windows assisted privacy to neighbours.
- (h) The building designer agreed that the spot levels on the survey were inadequate.
- (i) The building designer considered that there was sufficient information to approve the inclinator.
- (j) The building designer considered that there was sufficient boundary setback on the north western boundary for the inclinator, stairs and landscaping.

Consideration of Issues

The Panel agreed that the Clause 4.6 request to the non-compliance with the height development standard adequately addressed the contravention of the development standard by demonstrating that compliance with the development standards was unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out. The Panel accepted that the height over and above the 8.5 metre standard was acceptable having regard to the lack of impacts and particularly as it did not contribute to view loss from adjoining properties.

The Panel considered that there was insufficient landscaped area along the north-west boundary and the proposed inclinator was an unacceptable component of the development. There was not enough information submitted with the application to be satisfied as to the final form, appearance and amenity impacts of the inclinator. The Panel acknowledges that with further information, the Council may be able to consider a separate development application for an inclinator at a future time.

The Panel considered that more detailed information was required about the materials and finishes and a deferred commencement condition should be imposed.

The Panel required a deferred commencement condition relating to the design details of the proposed privacy screens.

The Panel noted the size of the development but considered that suitable compromises had been made to ensure that the extent of excavation was limited on a steep and rocky site. The Panel noted that conditions requiring extensive planting of native vegetation was required a condition of consent.

The Panel considered that a number of conditions were required to be amended or added to in order to address some of the issues raised at the Panel meeting. The Panel ultimately concluded that the development was acceptable and that the recommendation of approval was appropriate (subject to the additional conditions recommended above).

The Panel has determined to grant Deferred Commencement consent accordingly.

Panel Member Ashley Dunn did not agree with the Assessment Officer's recommendation. Mr Dunn considered that the proposed development was unacceptable for the following reasons: The design was inappropriate for an environmentally sensitive site.

The design did not respect the neighbouring properties, particular having regard to the long blank walls to the side boundaries.

The design failed to retain numerous native trees and remanent bushland.

The proposed setbacks were minimal having regard to the size and bulk of the development.

The design of the dwelling failed to provide adequate cross ventilation and would result in excessive mechanical heating and cooling.

The proposed inclinor was a poor design solution and an internal lift would be a more sensible design solution.

The drawings submitted with the DA contained inadequate information and detail to fully describe the proposal, particularly in regard to the size, location and form of existing sandstone outcrops, the longitudinal sections through the site and the proposed materials and finishes of the building.

[NB: Having regard to the above, the references below to "the Panel" are a reference to the majority decision.]

VOTES: 3:1

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the maximum height control satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the maximum 8.5m height development standard be varied to 8.9m, in respect of this application.

2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/1700 for Construction of a dwelling and inclinor at Lot 203 DP 1210752 15A Georges River Crescent, Oyster Bay is determined by the granting of deferred commencement development consent subject to the conditions contained in Appendix "A".

The Meeting closed at 8.50pm.