



Report of Meeting

Independent Hearing and Assessment Panel

**Held on Tuesday, 24 January 2017
commencing at 6:05pm
in the Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

PRESENT: Charles Hill (Chairperson/Expertise in Planning), Scott Lee (Expertise in the Town Planning), Ashley Dunn (Expertise in Architecture) and Craig McCallum (Community Representative with Expertise in Traffic).

Staff in attendance was the Director Shire Planning (Peter Barber) and Manager Major Development Assessment (Mark Adamson).

Disclosures of Interest
File Number: 2015/1778

The Chairman, Charles Hill, indicated that he was known to one of experts speaking on behalf of the residents in relation to item IHAP007-17, but that he had had no involvement in the project, nor had he had any discussions with the consultant in respect of the subject proposal.

IHAP007-17 Proposal: Demolition of Existing Structures and Construction of a Multi Dwelling Housing Development Containing 16 Townhouses – Highview Crescent, Oyster Bay
Property: Lot 274 & 275 DP 14716 (Nos. 24 & 26) Highview Crescent, Oyster Bay
Applicant: Gregory Haydn Moriceau
File Number: DA16/1215

Messrs Gilberd, O'Neill and Terry on behalf of the Objectors, and Messrs Betros, Woodward and Phegan, on behalf of the Applicant, addressed the Panel regarding this matter.

IHAP RECOMMENDATION:

THAT:

1. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/1215 for demolition of existing structures and construction of a multi dwelling housing development containing 16 townhouses at Lot 274 & 275 DP 14716 (Nos. 24 & 26) Highview Crescent, Oyster Bay is determined by the refusal of development consent for the reasons outlined below:
 - a) Failure to comply with the objectives of the R2 Low Density Residential Zone.

IHAP007-17 Cont'd

2. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the proposed site planning, orientation and arrangement of buildings is not in keeping with the prevailing pattern of development in the area and will result in amenity impacts on a large number of neighbouring low density residential properties as well as having compromised internal amenity for future residents of the scheme. In this respect the development fails to satisfy the relevant provisions of Clause 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clause 5 in Chapter 4 of Council's draft Development Control Plan.
3. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the overall bulk and massing of the proposed buildings is not in keeping with the character of the area and will result in visual impacts on a large number of neighbouring low density residential properties. Access to the dwellings and around the site is poorly resolved and the street entry is flanked by two waste storage areas. In this respect the development fails to satisfy the relevant provisions of Clauses 6.16 and 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clauses 1 and 3 in Chapter 4 of Council's draft Development Control Plan.
4. The application is considered unacceptable pursuant to the provisions of s79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that in light of the above, the applicant has not satisfactorily demonstrated that the site can sustain the number of dwellings proposed or that the site is suitable for the development.
5. The application is considered unacceptable pursuant to the provisions of s79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that it is considered that in the circumstances of the case approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

PANEL COMMENTARY:*Site Visit*

The Panel inspected the subject site and its surrounding locality. The Panel also inspected the adjacent properties at 49 Scylla Road, 92 Caravan Head Road, 98 Caravan Head Road, 22 Highview Crescent, 88 Caravan Head Road and 47 Scylla Road Oyster Bay.

Presentations to Panel at the Public Meeting

At the meeting the Panel heard from Mr Gilbert, Mr O'Neill and Mr Terry on behalf of the objectors, and Mr Betros, Mr Phegan and Mr Woodward on behalf of the applicant.

IHAP007-17 Cont'd

Matters raised by the Objectors in relation to the proposed application include the following:
Privacy, overdevelopment, visual impact, traffic, parking, bulk and scale, out of character, impact on existing vegetation, and tree loss.

Consideration of Issues

The Panel were satisfied by the Council's officers assessment report, and agreed that the proposal failed to adequately respond to the sites contours, vegetation and relationships with adjoining properties, and as a result the Panel were of a view that the design's response to minimise overlooking of adjoining properties has resulted in an external presentation on upper levels of vast blank walls with very minimal window openings.

The Panel were also of the view that the proposed development was not consistent with the objectives of the R2-Low Density zone.

The Panel also noted that whilst there was some support by the ARAP review, there were a number of matters which had not been sufficiently addressed.

Notwithstanding the above however, the Panel were of the view that the proposal had some merit, and through appropriate site planning and design, reduction of density, and general massing, the site is potentially suitable for multi dwelling development.

More detailed site analysis should ensure that any future proposal could achieve a high urban design outcome, and afford appropriate streetscape presentation and residential amenity for future residents and adjoining properties.

Reasons for Variation from Council Officer's Recommendation

The Panel proposed deletion of conditions related to increased landscaping, as it was satisfied that the amount of landscaping required by Council's controls had been satisfied.

VOTES: 4:0

ASSESSMENT OFFICERS RECOMMENDATION:

That pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/1215 for demolition of existing structures and construction of a multi dwelling housing development containing 16 townhouses at Lot 274 & 275 DP 14716 (Nos. 24 & 26) Highview Crescent, Oyster Bay is determined by the refusal of development consent for the reasons outlined below:

IHAP007-17 Cont'd

1. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development falls short of the required minimum landscaped area for the site and will have an impact on local ecology by the removal of a significant number of trees. It will also have an impact on trees on neighbouring land. In this respect the development fails to satisfy the relevant provisions of Clause 6.14 of the Sutherland Shire Local Environmental Plan 2015 and Clause 4 in Chapter 4 of Council's draft Development Control Plan.
2. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that no Clause 4.6 exception to vary the Landscaped Area development standard under the Sutherland Shire Local Environmental Plan 2015 has been submitted in support of the proposal.
3. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the proposed site planning, orientation and arrangement of buildings is not in keeping with the prevailing pattern of development in the area and will result in amenity impacts on a large number of neighbouring low density residential properties as well as having compromised internal amenity for future residents of the scheme. In this respect the development fails to satisfy the relevant provisions of Clause 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clause 5 in Chapter 4 of Council's draft Development Control Plan.
4. The application is considered unacceptable pursuant to the provisions of s79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979 in that the overall bulk and massing of the proposed buildings is not in keeping with the character of the area and will result in visual impacts on a large number of neighbouring low density residential properties. Access to the dwellings and around the site is poorly resolved and the street entry is flanked by two waste storage areas. In this respect the development fails to satisfy the relevant provisions of Clauses 6.16 and 6.17 of the Sutherland Shire Local Environmental Plan 2015 and Clauses 1 and 3 in Chapter 4 of Council's draft Development Control Plan.
5. The application is considered unacceptable pursuant to the provisions of s79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that in light of the above, the applicant has not satisfactorily demonstrated that the site can sustain the number of dwellings proposed or that the site is suitable for the development.
6. The application is considered unacceptable pursuant to the provisions of s79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that it is considered that in the circumstances of the case approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

IHAP008-17 Proposal: Construction of a Dual Occupancy, Inground Swimming Pool and Strata Subdivision – Willarong Road, Caringbah South
Property: Lot C DP 416082, (No. 403A) Willarong Road, Caringbah South
Applicant: Innovative Architects Pty Ltd
File Number: DA16/0735

Messrs Daintry, McLaren, Elliot, Staunton, Kelly and Mss Elliot, Haining and Szeles on behalf of the Objectors, and Messrs Jones, Braithwaite and Mss Wynne and Reynolds, on behalf of the Applicant, addressed the Panel regarding this matter.

IHAP RECOMMENDATION:

That Development Application No. 16/0735 for construction of a dual occupancy, inground swimming pool and strata subdivision at Lot C DP 416082 (No. 403A) Willarong Road, Caringbah South be approved, subject to the conditions contained in Appendix "A" of the report, and amended as follows:

2. Design Changes Required

A Before Construction

The following design changes must be implemented:

- i) The planter boxes either side of the front entrance stairway to the proposed new dwelling and adjacent to the driveway shall be reduced in height (approximately 1m high) to create reasonable "sight line", as defined in clause 3.2.4 of Australian Standard AS2890.1:2004, between pedestrians entering the driveway and motorists.
- ii) Reconstruct / modify the letter boxes on the southern side of the Right-Of-Carriageway upon No.401 Willarong Road to accommodate the required street number and letter box for the proposed new dwelling.
- iii) Removal of the clerestory window, on the roof over the kitchen.
- iv) Reduction of the height of the veranda roof on the western elevation of the building to comply with Council's height limit control.
- v) Privacy screens, or minimum sill heights of 1600mm above finished floor levels, to be provided on the northern boundary windows.
- vi) Clarification as to the location of the air-conditioning plants for each of the units.
- vii) All drawings should show AHD levels for existing and finished floor levels, ridge heights, eave heights, window sills and heads and door sills and heads.
- viii) Preparation of a dilapidation report in relation to the ROW.

PANEL COMMENTARY:

Site Visit

The Panel inspected the subject site and its surrounding locality. The Panel also inspected the adjacent properties at 397A Willarong Road, 403 Willarong Road and 411 Willarong Caringbah South.

IHAP008-17 Cont'd

Presentations to Panel at the Public Meeting

At the meeting the Panel heard from Mr Daintry, Mr McLaren, Mr & Mrs Elliot, Mr Staunton, Mr Kelly, Ms Haining and Ms Szeles on behalf of the objectors and Mr Jones, Ms Wynne, Mr Braithwaite and Ms Reynolds on behalf of the applicant.

Matters raised by the Objectors in relation to the proposed application include the following:

Building height, landscape area, privacy impacts, stormwater drainage, car parking and use of driveway area, and loss of views.

Consideration of Issues

The Panel noted that the Council had addressed all the issues raised in the submissions, particularly those related to view sharing and use of the ROW.

Whilst the Panel were satisfied with the assessment of the application by the Council Assessment Officer, the Panel were of the view that the view sharing could be improved with the deletion of the clerestory window on the roof over the kitchen, even though it appears to comply with Council's height control, subsequently and more importantly, a reduction of the height of the western verandah roof, to comply with the Council's height limit in this location, would then decrease the impact the proposed development would have on the views from 403 Willarong Road.

Further to the above, Council's attention is particularly drawn to the submission by Mr Staunton (lawyer) on behalf of the owners of 403 Willarong Road, where he questioned the adequacy of the applicant's submission in respect of the Clause 4.6 variation of Council's LEP, in relation to height control.

However, as the Panel has recommended a reduction in the height of the dwelling to comply with Council's requirements, a variation to the height limit is now longer required.

Notwithstanding the above, the Panel agreed that there was some support for Mr Staunton's argument, and as such, if Council were of a mind not to support the Panel's recommendation in respect to the reduction of the wall height on the western elevation, it should seek a review, and if appropriate, request the preparation of a new Clause 4.6 variation to the height control.

In respect of the use of the ROW, the Panel agreed with the Council's assessment report, that there is a degree of reasonable concern for the safety of people accessing number 403 Willarong Road directly from the ROW. The Panel also note that these concerns are existing and unlikely to be changed in the future.

IHAP008-17 Cont'd

The traffic consultant has recommended in his verbal presentation to the Panel, that a Risk assessment of the ROW should be undertaken to assess the additional risk which may result from the construction of the additional dwelling.

Whilst the Panel believed that this requirement may assist, any recommendations arising from that report would not necessarily be enforceable, if it related to the adjoining properties.

In that regard the Panel also noted that Council had concluded that additional safety measures were capable of being put in place by the neighbours, and in any case; given the situation presently exists there is no direct correlation between the circumstance and the proposed extra dwelling with the exception of the additional vehicles using the proposed garage. The increase is considered to be minimal in this circumstance.

Reasons for Variation from Council Officer's Recommendation

The Panel were of the view that the view sharing would be improved by the removal of the clerestory window and reduction of the height of the building. In addition, the Panel were of the view that privacy would be improve with the provision of privacy screens, additional levels were required to assist Council in determining the actual height of the proposed development, no works to be provided on the ROW adjoining neighbouring properties without the consent of those neighbours, and clarification of location of air conditioning plants as a result of concerns raised by neighbours in relation to potential noise.

VOTES: 4:0

ASSESSMENT OFFICERS 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 5.4m maximum height for a dual occupancy on an internal lot in Zone E4 Environmental Living 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 5.4m maximum height for a dual occupancy on an internal lot development standard be varied to 6.25m, in respect to this application.
2. That Development Application No. 16/0735 for construction of a dual occupancy, inground swimming pool and strata subdivision at Lot C DP 416082 (No. 403A) Willarong Road, Caringbah South be approved, subject to the conditions contained in Appendix "A" of the report.

The Meeting closed at 8:30pm.