



Report of Meeting

Independent Hearing and Assessment Panel

**Held on Tuesday, 21 March 2017
commencing at 6:10pm
in the Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

PRESENT: Justin Doyle (Chairperson/Expertise in Law), Grant Christmas (Expertise in Law), Jason Perica (Expertise in Town Planning) and Russell Smith (Community Representative with Expertise in Marketing and Business Management).

Staff in attendance was the Manager Major Development Assessment (Mark Adamson).

Disclosures of Interest

File Number: 2015/1778

There were no disclosures of interest declared.

**IHAP012-17 Proposal: Demolition of Existing Structures and Construction of 9
Townhouses with Associated Landscaping and Front
Fence - Burraneer Bay Road, Burraneer**

**Property: Lots 20, 21 & 22 DP 6779 (Nos. 92, 94 & 96) Burraneer Bay
Road, Burraneer**

Applicant: Tiptell Pty Ltd

File Number: DA16/0277

Messrs O’Dowd, Turpin, Lapham, Webster, Taper and Mss Webster & Webster, Akkari, Turpin, Buhagiar, Sutherland and Booker on behalf of the Objectors, and Mr Black (Town Planner) and Mr Marros (Architect), on behalf of the Applicant, addressed the Panel regarding this matter.

IHAP RECOMMENDATION:

THAT:

1. Development Application No. 16/0277 for the demolition of existing structures and construction of 9 townhouses with associated landscaping and front fence at Lot 20 DP 6779, Lot 21 DP 6779, Lot 22 DP 6779 (Nos. 92, 94 & 96) Burraneer Bay Road, Burraneer be approved, subject to the General Manager being satisfied upon consideration of advice from the staff that the following issues have been adequately resolved:
 - a) The DA plans (including architectural, landscaping and stormwater design drawings) are to be amended to ensure consistency and accuracy.
 - b) The depiction of the TPZ (tree protection zone) of the significant trees proposed by Council staff to be retained (both on the subject and adjoining sites) and that of the neighbouring residences are to be accurately depicted on the architectural drawings and confirmation is to be obtained from an appropriately qualified practising arborist that the DA design allows for retention of those trees, taking into account the matters raised in the report of Peter Castor of Tree Wisemen Australia Pty Ltd dated 15 March 2015.

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- c) The applicant is to supply a report by a certified practising engineer that stormwater on the site is adequately managed by the proposed hydraulic design (or any amendment to that design) having regard to accepted engineering standards with specific attention to:
 - i. the size of the pipe on and within adjoining stormwater easements;
 - ii. stormwater flows onto the property from the west;
 - iii. ensuring all areas of the site have appropriate storm and rainwater collection;
 - iv. the capacity of the proposed stormwater detention tanks, pit levels and discharge levels;
 - v. collection of stormwater along the eastern boundary;
 - vi. available fall along the proposed path of stormwater through the site
 - vii. consistency between the detention tank as depicted in cross-section and plan form;
 - viii. whether a “credit” for rainwater capture (by rainwater tanks) is appropriate having regard to the available means of reusing that water, and the adequacy of the system to cater for a 1:100 year event (having regard to Council’s standards).
 - d) The bedrooms at Level 1 on the eastern side of the development are to be reversed so that their balconies face west over the proposed driveway (and not to the east), with associated internal re-organisation to also ensure adverse privacy impacts do not arise to the east, by appropriate window placement and details.
 - e) The roller doors to the rear courtyards on the Eastern elevation of the development (to the rear of proposed parking areas) are to be replaced by solid sliding doors (not glass) of a maximum width of 2 m (with any windows to have a sill height exceeding 1.5 m), to avoid adverse privacy impacts and impacts from car headlights.
2. Authority be delegated to the General Manager to determine the development application having regard to the advice of the staff in relation to the above issues with conditions to be imposed in accordance with Appendix A of the staff report as well as any further conditions arising from the matters identified above.

PANEL COMMENTARY:*Site Visit*

The Panel attended the DA site and considered specifically the quality and health of the significant trees identified on the tree survey and their relationship to the proposed development. By considering vantages from properties to the east and south of the development, the Panel undertook a qualitative assessment of the likely impacts of the development in terms of view impacts, privacy, bulk and scale.

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Presentations to Panel at the Public Meeting

The Panel was addressed by a significant number of objectors who raised a variety of amenity issues including:

- a) Mr O'Dowd who spoke on behalf of the occupants of 13 Dominic Street, 2 Craig Street and Unit 10/86 – 90 Burraneer Bay Road. He raised issues of:
 - i. retention of trees;
 - ii. the recent Council resolution to alter the DCP concerning the restriction of two-storey development in the rear of proposed townhouse developments;
 - iii. the lack of, and need for, a robust site analysis;
 - iv. the differences between the proposal and that the subject of a pre-DA meeting;
 - v. differences of opinion with the compliance table and statements within the staff assessment report.
 - vi. a mismarking of the extent of the site in the overhead photograph.
- b) Mr Lapham of 7 Dominic Street who addressed a number of concerns about the quality and adequacy of the stormwater design.
- c) Ms Akkari of 9 Dominic Street who raised a variety of merit issues contained in written notes handed to the meeting addressing principally engineering, changes in level, survey discrepancies between sites, flooding and privacy issues.
- d) Ms Turpin who addressed various merit issues including privacy impacts, her preference for single-storey development, traffic and the recommendations of ARAP not being followed.
- e) Mr Webster of 13 Dominic Street who presented a number of concerns and particularly:
 - i. the protrusion of the ground levels of the east facing units above natural ground level;
 - ii. the uncertainty of the plans;
 - iii. width of the privacy screen;
 - iv. Council controls and objectives relating to height and the character of the area.
- f) Mr Taper of Unit 5/86-90 Burraneer Bay Road addressed concerns of the relationship of the levels of the dwellings and courtyards for Units 7, 8 and 9 No. 86-90 Burraneer Bay Road and the relationship of the floor levels of the proposed development to the adjoining townhouses.
- g) A group of speakers including Ms Bughagiar, Ms Sutherland and Ms Booker who reiterated a number of the merit concerns raised by the other neighbours.
- h) Mr Webster who spoke a second time on behalf of the occupants of Units 3 and 8/86–90 Burraneer Bay Road who again repeated matters previously raised.

During the course of verbal submissions, a number of plans, documents and photographs were tabled to highlight issues discussed by speakers, which assisted the Panel in understanding concerns raised.

Consideration of Issues

The Panel considered the various concerns that have been raised by the objectors (written and verbal), aided by questioning of the applicant's planner and architect.

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Ultimately, the Panel is satisfied with the design response to the site.

The proposed design does not adopt specific suggested changes made by the Council's ARAP, but the Panel was satisfied those design alternatives had at least been considered by the Applicant's design team.

While there are undoubtedly other approaches to the construction of the townhouse development on the site that may have different or reduced impacts, the Panel was bound to consider the proposal before it against the currently prevailing governing planning controls and framework. The proposal was compliant with all development standards within SSLEP 2015 and all draft DCP controls, with the exception of a minor rear boundary setback non-compliance.

While the Panel understood the elected Council has unanimously resolved to incorporate a 60-40% control for townhouses in the R2 zone (restricting height to one storey for the rear 40% of sites), this has neither been the subject of community consultation nor is it within the currently available draft DCP. It is unknown for instance whether a savings provision would be adopted if the resolution is ultimately put into effect. The Panel accordingly gave reduced weight to that resolution.

The key issue for careful consideration was whether the proposal was consistent with the objectives of the zone, recognising differences in zoning objectives between the R2 and R3 zones, both of which permit multi-dwelling housing. Certainly, there are issues regarding vegetation impacts. However, these appear less significant on site than on aerial photographs. Also, the "character of the area" is changing and is likely to continue to change, given the governing planning controls.

The immediately adjoining site to the east (within which some objectors reside) has a character similar to that proposed (despite changes in detail and rear massing). The proposal as submitted is considered to be generally acceptable, provided that residual concerns of the Panel arising from deficiencies in the DA documentation can be resolved.

The issues that were not resolved were:

- a) A number of inconsistencies were identified by the Panel in the architectural plans which may have arisen through the several amendments that were made to the design during the assessment process. These should be resolved.
- b) The criticisms of the stormwater design made by an objector Mr Lapham created sufficient doubt in the minds of the Panel members to indicate that closer examination than usual was required at DA stage for this site. Provided that a report on the design from a practising engineer was obtained and any recommendations of that engineer are adopted, the Panel was however satisfied that stormwater could be adequately managed.

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- c) Mr Webster, an objector, reported to the Panel that he had plotted the data contained in the report of the applicant's arborist onto the architectural plans and found there to be a significant understatement of the TPZ required for each of the trees marked for retention. In response, the applicant could not confirm the accuracy of its own drawings. A report by Tree Wise Men (Peter Castor) raised a number of additional concerns which questioned whether those trees could be retained with the present design. In those circumstances, it is appropriate for the applicant's arborist to specifically consider the observations made by Mr Castor and confirm whether the proposed design would in fact allow for retention of the valuable significant trees and if not what design modifications were necessary.
- d) The Panel members also thought that specific design changes would improve the amenity impacts on neighbours, and specifically:
- i. the reversal of the upper level bedrooms on the eastern facing units such that the balconies would face into the central aisle of the new development, with the less intrusive bathroom windows facing towards the neighbours.
 - ii. the large openable doors at the ends of the garages should be replaced by solid sliding doors to prevent headlight, noise and privacy impacts.

As the plans need to be better resolved and the issues raised above are yet to be satisfactorily addressed, it is not yet possible in the opinion of the Panel to issue an approval for the development.

The better course is for the applicant to prepare updated plans and supporting material which should be submitted to Council staff for further consideration.

However as the general form and suitability of the development has been assessed by the Panel and found to be acceptable, it is not necessary for the matter to return for further consideration by IHAP, and the General Manager should be delegated authority to finally determine the DA and issue a notice of determination based on the final material supplied by the applicant, subject to the decision of the elected Council on the DA.

VOTES: 4:0

ASSESSMENT OFFICERS RECOMMENDATION:

That Development Application No. 16/0277 for the demolition of existing structures and construction of 9 townhouses with associated landscaping and front fence at Lot 20 DP 6779, Lot 21 DP 6779, Lot 22 DP 6779 (Nos. 92, 94 & 96) Burraneer Bay Road, Burraneer be approved, subject to the conditions contained in Appendix "A" of the report.

The Meeting closed at 10:00 pm.