

CANTERBURY-BANKSTOWN COUNCIL

MINUTES OF THE

INDEPENDENT HEARING AND ASSESSMENT PANEL MEETING

**HELD IN THE FUNCTION ROOM
CAMPSIE CUSTOMER SERVICE CENTRE**

ON 20 JUNE 2016

PRESENT: Mr Lloyd Graham (Town Planning) - Chairperson
Mr Michael McMahon (Law)
Dr Chloe Mason (Social Science)
Dr Ian Garrard (Environmental Science)
Mr Roger Hedstrom (Urban Design/Architecture)

STAFF IN ATTENDANCE: Ms Chauntelle Mitchell (Administration Officer - IHAP)
Mr Brad McPherson (Group Manager Governance, not present for the closed session)
Mr Andrew Hargreaves (Team Leader - Development Assessment Operations, not present for the closed session)

THE CHAIRPERSON DECLARED THE MEETING OPEN AT 6.00 PM.

INTRODUCTION

The Chairperson welcomed all those present and explained the functions of IHAP and that the Panel would be considering the reports and recommendations from the Council staff and the submissions made by objectors and the applicant and/or the applicant's representative(s) and determining the development applications.

DECLARATIONS OF INTEREST

The Chairperson asked the Panel if any member needed to declare a pecuniary interest in any of the items on the agenda. There were no declarations of interest.

DELEGATION

By Minute No. 8, dated 24 May 2016 the Council delegated to the Independent Hearing and Assessment Panel the Council's power to determine certain development applications.

DETERMINATION

1 21 BIARA AVENUE, CLEMTON PARK: DEMOLITION AND CONSTRUCTION OF TWO STOREY ATTACHED DUAL OCCUPANCY AND TORRENS TITLE SUBDIVISION

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Panel Assessment

The Development Application seeks to demolish the existing dwelling to erect a two storey attached dual occupancy and Torrens title subdivision. The proposal is in the R3 medium density residential zone and is permissible with Council consent.

The principal issues before the Panel include front and rear setbacks with a primary frontage to Biara Avenue. The proposed setback is 4.6 metres over approximately half of the dwelling's façade when a minimum of six metres is required. The remaining half of the façade is 6.16 metres from the front boundary and exceeds the minimum requirements. In the view of the Panel, having regard to the

open streetscape nature of Biara Avenue and the townhouse development further south, it accepts that a 4.6 metre setback is acceptable in this instance.

On the matter of rear setback, the easternmost wall of unit 2 encroaches to within 1.2 metres of the site boundary, whereas under clause 2.1.7 of the DCP it requires a 6 metre setback. However, in the view of the Panel, it would be appropriate to take account of the fact that Unit 2 would face Viking Street and to adopt this street frontage for the purpose of assessment with respect to the DCP. Accordingly the Panel accepts the 1.2 metre side setback, adjacent to lot 35 Viking Street, as conforming to the DCP requirements in these circumstances.

The third issue involves the matter of fencing. It has been proposed that a 500mm setback be allowed for landscaping along the front boundary. However, in the view of the Panel, the more important consideration is to preserve five existing palm trees on the site. The sixth palm tree, which is adjacent to the water meter, will need to be removed because it encroaches on the proposed driveway to unit 1. As a consequence of these changes, it will be necessary to alter condition 26.4 to specify 'five' palm trees and not 'two' as currently shown.

Public Addresses

<p>Mr Jonathan Zymaras (Building designer representing applicant)</p>	<ul style="list-style-type: none"> • Proposal is to demolish existing structures and construct an attached dual occupancy. • Advised efforts were made to comply with the client's brief and Council guidelines. • Agrees with Council officer's recommendation. • Answered questions from the Panel in relation to: <ul style="list-style-type: none"> - Front and rear setback: Applicant's representative noted controls are silent on rear and side setback on corner blocks. Notes once sub-divided the frontage will be on Viking Street. Due to the irregular site shape the result is a 1.2m setback. - Solar access impact to adjacent property on the eastern boundary: He notes the proposed development meets the minimum solar access requirements of a minimum two hours sunlight. - Retention of palm trees: Confirmed the intention was to retain as many palm trees as possible, deletion of trees was a result of Council request to move the front fence 500m off the boundary. Raised no objection to a condition to retain six palm trees.
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IHAP Decision

THAT Development Application DA-359/2015 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

Amend condition 26.4 as follows:

- a) Replace the first sentence with the following words "Five palm trees shown on the Survey Plan prepared by Goran Mladenovski, received by Council 13 August 2015 must be retained and protected during construction. The sixth palm tree is required to be removed for driveway construction for unit 1.";
- b) After the words "prior to construction" in the second sentence add the words "excepting construction of the front fence and footings".

Vote: 5 – 0 in favour

2 27 HUGH STREET, BELMORE: DEMOLITION OF UNAUTHORISED WORKS, EXTENSION OF EXISTING INDUSTRIAL BUILDING AND ADDITIONS TO EXISTING RESIDENCE

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Panel Assessment

The applicant seeks approval for the demolition of unauthorised works, extension of the existing industrial building and additions to an existing residence.

The principal issues before the Panel are that the proposed garage has a nil setback to the site's southern boundary where a setback of 900mm is required under the DCP. The Panel accepts that in this particular instance, a nil setback is acceptable because it mirrors the industrial building on the opposite side of Minnie Street and that this development is in an industrial zone.

A further issue before the Panel is the proposed vertical extension to the existing industrial building which would not comply with the building height plane. In that respect the existing structure also does not comply with the building height plane.

However, the Panel accepts that as this development is within the industrial zone, and adjacent to an industrial use to the rear in Minnie Street, that the 1.5 metre vertical extension is acceptable and there will be little if any shadow effects on the adjoining residential property in Hugh Street.

What is particularly of concern to the Panel is the prospect of deleterious effects on the neighbouring property when the proposed works to extend the industrial building take place. In order to address this some changes to condition 27 are required.

Public Addresses

Ms Suraya Coorey (objector)	<ul style="list-style-type: none">• Her property adjoins the subject property.• Notes the existing light industrial building has a nil setback to the eastern boundary which does not comply with building height plane.• Questions what measures will be taken by the applicant to avoid damage to structures on her property during construction, noting that in part the existing light industrial building abuts her carport and touches the guttering on her property.• Raised concern regarding the independence of a consultant hired by the applicant to prepare a dilapidation report with the risk to her interest.• Answered questions from the Panel in relation to:<ul style="list-style-type: none">- Concern regarding possible damage: She confirmed she would be in favour of: providing input into the choice of consultant preparing the dilapidation report, if Council nominated the consultant, or if the report was prepared to the satisfaction of Council, and the scope of the report to include what precautions can be taken to minimise damage to her property;- Proposed industrial building height: Confirmed she had no objection to the height of the building, provided no damage occurs to her property during construction.
Mr Abdul Matin Mohammed (owner of subject property)	<ul style="list-style-type: none">• Advised additions to existing residence are to provide accommodation for his family.• Wants an outcome acceptable to himself and his adjoining neighbour.• Notes the industrial building on the subject site abuts the existing structures on the adjacent property, this was the existing condition when he purchased the property, and when the adjoining owner purchased their property.

IHAP Decision

THAT Development Application DA-584/2015 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

1. The recommendation be amended to include the following deferred commencement conditions:

- "A. This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent that:
1. The applicant prepare a Dilapidation Report/photographic survey submitted by a structural engineer to the satisfaction of Council. The report shall focus on the adjoining property, 25 Hugh Street, Belmore, detailing the physical condition of the property notably: the guttering on the garage abutting the existing workshop; both internal and external, including such items as walls, ceilings, roof, structural members and other similar items.
 2. A construction plan is submitted to the Principal Certifying Authority outlining the technique of construction that will be applied to the existing workshop abutting the garage on the adjacent property, outlining how the additional 1.5 metres will be added to the workshop and yet prevent damage to the adjacent garage and shelter on the adjoining property.
- B. The following conditions of consent will be included in the development consent issued by Council after the applicant provides information sufficient to satisfy Council in relation to the deferred commencement condition."
2. Amend condition 27 by deleting the first sentence.

Vote: 5 – 0 in favour

3 22 LUMEAH AVENUE, PUNCHBOWL: DEMOLITION, CONSTRUCTION OF DETACHED DUAL OCCUPANCY, FRONT FENCE AND TORRENS TITLE SUBDIVISION INTO TWO LOTS

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Panel Assessment

The principal issues before the Panel were the external wall height and the separation between the two proposed buildings. With respect to the wall height, the overall view of the Panel was that if the parapets were eliminated then this would then lead to a conforming height development, or very close to conforming height. On the question of separation between the buildings, the majority view of the Panel was that if two lots had already been created then the proposed development on each of the two sites would then conform with the appropriate side setbacks. In that respect, the separation between the two buildings was acceptable to the majority of the Panel.

A minority report was issued to reject the proposal in the following terms.

"The basis of the rejection was two-fold: exceedance of the maximum height requirements and failure to provide adequate building separation. The exceedance of the building height, in the case of Dwelling 1 was 13% over the required maximum of 7 metre height, and 7% in the case of Dwelling 2. However of more importance than the numeric non-compliance is that the proposal fails to meet the objective building height control, being to ensure new buildings have a scale that is visually compatible with the adjacent building and intended character of the zone. The proposal is not visually compatible with adjacent buildings. Rather dual occupancy developments in the surrounding area are predominantly single structure sharing a common wall.

The proposed development also fails to provide adequate building separation. The minimum required separation is 5 metres, and one dwelling proposes less than 50% (2.4 metres) of this requirement and the second dwelling 10% below the minimum. The objective of this control is to ensure reasonable sunlight and privacy and that the distances between are proportional to building height. The proposal's exceedance of the building height control further exacerbates the impact of failing to meet the minimum building separation and thus exacerbates the visual discontinuity it has with adjacent buildings."

Public Addresses

There was no public address for this item.

IHAP Decision

THAT Development Application DA-624/2015 be **APPROVED** in accordance with the Council staff report recommendation, subject to the following changes to the recommended conditions:

Insert new condition 18.1 as follows:

“18.1 The parapet wall projections shall be deleted and the framed elements modified so that the maximum wall height of 7m is complied with on all façades.”

Vote: 4 – in favour
1 – against

4 67 ROSEMONT STREET SOUTH, PUNCHBOWL: MODIFICATION TO WIDEN GARAGE OF APPROVED DWELLING

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the public hearing.

Panel Assessment

This application seeks a modification under Section 96(1A) of the Environmental Planning and Assessment Act to widen the proposed garage to 2.905 metres. However, in order to achieve an internal width of 3 metres for the proposed garage, which would allow a car door to be opened, the recommendation before the Panel is that the brick veneer side wall of the existing building needs to be converted to a new single brick veneer side wall, to increase the internal width of the garage to at least 3000mm. This would then comply with the appropriate standards but the setback of the garage from the northwestern boundary would need to be reduced to 500mm.

The overall view of the Panel was that the construction of a garage with a side wall would have the effect of benefiting the adjoining neighbour, in that the noise from a vehicles starting, slamming of doors etc would be minimised with the garage construction rather than an open carport. Accordingly the overall view of the Panel was that the recommendations contained in the report should be supported.

A minority view was also expressed to reject the proposal. “The basis of this rejection was that the basic design was as originally proposed by the applicant and subsequently approved by Council, as such:

- Any shortfall in the characteristic of design relates to the proponent themselves;
- The block has a limitation, being both narrow block (10.06 metres) and not of a large area (453.8 square metres), viz a narrow block of limited area;
- The variation being sought is to reduce the minimum side setback by some 44% of the 900mm minimum to some 500mm and will result in impacts on the adjacent neighbours who have expressed concerns of the non-compliance of Council of its own policy and the additional impact in relation to noise, acoustic privacy and daylight;
- Alternate options are available to the applicant, such as an open carport and to retain the required minimum 900mm minimum setback. As such the proposal results in an undue impact on the adjacent neighbours and does not warrant approval.”

Public Addresses

There was no public address for this item.

IHAP Decision

THAT Development Application DA-35/2015/A be **APPROVED** in accordance with the Council staff report recommendation.

Vote: 4 – in favour
1 – against

The meeting closed at 8.43 p.m.