
Sent: 17/11/2020 10:11:43 AM

RE: PROPOSED CONSOLIDATION OF 3 LOTS INTO 1 LOT AND

Subject: RESUBDIVISION INTO 3 TORRENS TITLE LOTS, PPTIES: 14-16 ELLEN STREET, CURL CURL AND 2 WYADRA AVENUE, FRESHWATER

ATTENTION: CHAIRPERSON AND PANEL MEMBERS OF THE NORTHERN BEACHES LOCAL PLANNING PANEL, ITEM 3.1, DA-2020/0147, PPTIES: 14-16 ELLEN STREET, CURL CURL AND 2 WYADRA AVENUE, FRESHWATER.

RE: CONSOLIDATION OF 3 LOTS INTO 1 LOT AND RESUBDIVISION INTO 3 TORRENS TITLE LOTS.

Dear Chairperson and Panel Members,

I refer to the abovementioned proposed development.

I note that you are to consider a report on the above proposed development which has been prepared by Anne-Marie Young of Northern Beaches Council (Council).

I was requested by adjoining owners and residents to provide my professional opinion on the **Original** Proposal which was lodged with Council.

I considered that the **Original** Proposal was objectionable on a number of grounds and I lodged a detailed objection against the **Original** Proposal.

I note that my Clients and their Architect approached the Applicants and offered mediation discussions to try and achieve a mutually agreeable **Amended** Proposal. I am pleased that recent mediation discussions have been successful which have resulted in the current **Amended** Proposal which has been agreed to by my Clients and the Applicants.

Anne-Marie Young has recommended approval of the **Amended** Proposal.

My presentation to your Planning Panel is dealing with one issue only, but nonetheless a significant issue.

As part of the agreed **Amended** Proposal, there is a set of Building Envelopes depicting the agreed Building Envelopes for the **Amended** Proposal.

I consider that the agreed Building Envelopes should be reflected by way of a Covenant pursuant to Clause 1.9A(2)(a) which relates to a "Covenant imposed by the Council or that the Council requires to be imposed".

As you are keenly aware, the Covenant/Instrument normally imposed by Council relates to a Positive Covenant to ensure maintenance of drainage/stormwater systems.

I, however, earnestly request that your Planning Panel impose a condition requiring a Covenant reflecting the agreed Building Envelopes for the following reasons:

- Clause 1.9A(2)(a) clearly allows your Planning Panel to impose a Condition of Consent requiring a Covenant/Instrument reflecting the agreed Building Envelopes, on the Title of the Land. In fact, Clause 1.9A(2)(a) specifically allows your Planning Panel to impose a condition requiring such Covenant/Instrument.
- The subject site has correctly been identified as a sensitive one (as per the Land and Environment Court's Planning Principle in *Parrot v Kiama Council*). For example, part of the subject site is steep to very steep and contains rock outcrops. Furthermore, the subject site is in a visually important setting being on an

east facing slope facing towards the Pacific Ocean.

- I consider it very important that the agreed Building Envelopes, which respect the sensitivities of the subject site, must be maintained in the future. Accordingly, the most effective and positive means of ensuring the agreed Building Envelopes are maintained are by way of a Covenant reflecting the agreed Building Envelopes.
- The Applicant/Owners of the proposed development site agreed to a Covenant.

I should note that Anne-Marie Young of Council does not consider it necessary to impose a Covenant and proposes that the agreed Building Envelopes be reflected as a Condition of Consent. I respectfully disagree. As you are keenly aware, a Covenant on Title would provide greater weight and security than a Condition of Consent and I consider it essential that the agreed Building Envelopes be protected to the greatest degree possible.

For the abovementioned reasons, I earnestly request Council impose a Condition of Consent requiring a Covenant/Instrument on the Title of the Land reflecting the Building Envelopes agreed to between my Clients and the Applicants.

Thank you for considering this submission.

Yours sincerely,

TONY MOODY

M: 0414 330 807

E: tonymoody@tonymoody.com.au or tony@tonymoody.com.au

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