

Memo

Development Assessment

To: Development Determination Panel

Cc: Steve Findlay
Manager Development Assessment

From: Natalie Nolan
Planning Consultant

Date: 10 December 2019

Subject: DA2019/0616 – 5 Birdwood Avenue, Collaroy

Record Number: 2019/705868

Reference is made to pages 181 and 182 of the Agenda for the Development Determination Panel Meeting to be held on Wednesday 11 December 2019.

Under the heading D1 Landscaped Open Space, the following is stated within the Assessment Report: -

- *“To enable planting to maintain and enhance the streetscape.*

The proposal incorporates landscaping forward of the secondary dwelling and it is recommended that a condition of consent be imposed requiring a street tree to be provided on Council’s road reserve adjacent to the property. The existing streetscape, particularly in this part of Birdwood Avenue is dominated by large two/three (2/3) storey buildings of significantly greater bulk and predominantly hard surface area within the front setback.”

Comment: A referral was sent to Council’s Landscape Advisor in relation the conditioning of a street tree within Council’s road reserve. Concerns were raised by the Landscape Advisor about the possible impacts of a street tree on views and hence the condition was removed based on that advice.

Reference is also made to a typographical error on page 182 under the heading Conclusion, where the following is stated within the Assessment Report: -

“In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- *Inconsistent with the objectives of the DCP*
- *Inconsistent with the zone objectives of the LEP*
- *Inconsistent with the aims of the LEP*
- *Inconsistent with the objectives of the relevant EPIs*
- *Inconsistent with the objects of the Environmental Planning and Assessment*

Act 1979”

The correct wording is: -

“In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- *Consistent with the objectives of the DCP*
- *Consistent with the zone objectives of the LEP*
- *Consistent with the aims of the LEP*
- *Consistent with the objectives of the relevant EPIs*
- *Consistent with the objects of the Environmental Planning and Assessment Act 1979”*

A submission was received by Council on 5 December 2019 from Bentag Pty Ltd, who are the owners of No. 3 Birdwood Ave, Collaroy.

The issues detailed in the submission are addressed below:

- **Notification of Development was not received**

Comment: Council notified the application in accordance with provisions of Warringah Development Control Plan 2011. Further a notification sign was erected on site by the applicant as required by Council. Photographic evidence was provided by the applicant of the erection of the notification sign.

- **Garden Shed/Garage Approval**

Comment: An approval for the garage structure has not been found in Council's records, however, the garage structure has been in existence on site prior to the more recent works being carried out and aerial photos depict a garage structure in the existing location in 1996 (23 years ago) and a structure is also identified on a 1943 aerial photograph (76 years ago). Extracts of the aerial mapping/photography are included below.



Source: SEA map 1996



Source: SIX maps 1943 (Subject site identified by )

- Existing vegetation adjacent to western boundary is a light and visual intrusion

Comment: This vegetation is in existence and is not part of this application. This is a civil matter.

- Stone wall encroaches boundary with No. 5 Birdwood Avenue.

Comment: The Development Application does not propose any works in relation to the existing retaining wall. This matter is to be addressed via the Compliance action and the associated Building Certificate application.

- **No previous approval for the retaining walls**

Comment: Unauthorised works were carried out on site, including the modification of the existing garage structure, including fit-out and addition to the rear for use as a secondary dwelling and a new hard stand parking area for two (2) cars with associated retaining works/landscaping. The matter was referred to Compliance and a Notice of Intention to Serve an Order has been served in regards to these works. A Building Information Certificate also needs to be submitted in relation to the retaining walls.

- **Stormwater runoff**

Comment: The application was referred to Council's Development Engineers for comment and they made the following assessment comments: -

'No objections are raised to the proposed development, subject to conditions.'

Conditions are recommended in relation to providing details of stormwater disposal prior to issue of a Construction Certificate and certification to be provided prior to final occupation.

A further submission has also been received from Mrs Judith Byrne from No. 2/7 Birdwood Avenue on 5 December in addition to an original submission. The additional issues raised are addressed below:

- **Council not responding to unauthorised works**

Comment: It is acknowledged that unauthorised works were carried out on the subject site. The matter was referred to Compliance and a Notice of Intention to Serve an Order has been served in regards to these works. A Building Information Certificate will need to be submitted for these unauthorised works and a condition of consent has been included in the recommendation.

- **Subsidence of neighbouring bin storage**

Comment: The submission refers to an engineer's report relating to the probable cause of subsidence on the western side of No. 7 Birdwood Avenue. There is no copy of this report on Council records. However, this is a matter for Compliance and will be addressed during the assessment of the Building Certificate. A condition of consent has been included in the recommendations requiring the lodgement of a Building Certificate prior to the issue of a Construction Certificate.