

**MINUTES AND DETERMINATION OF THE
LIVERPOOL LOCAL PLANNING PANEL MEETING**

Monday 25th July 2022

Held at the
MS Teams Online

Panel: Michael Mantei (Chair)
Fiona Gainsford
Jason Perica
Stephen Dobell-Brown

There were no conflicts of interest declared by any panel members in relation to any items on the agenda.

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ITEM No:	1
APPLICATION NUMBER:	DA-379/2021
SUBJECT:	Change of use of an existing shed to create a detached dual occupancy and construction of a new dwelling
LOCATION:	Lot 14 DP 2650, 9 GREENDALE ROAD, BRINGELLY
OWNER:	Mrs M J Perry and Mr B J Perry
APPLICANT:	Urban Planning & Building Consultants
AUTHOR:	Pradip Adhikari

ISSUES RELATED TO THE APPLICATION

1. The Panel has reviewed the Council officers' assessment report for development application DA-379/2021 as contained in the Planning Panel report for the meeting of 25 July 2022 and associated documents including the applicant's written request under clause 4.6 of Liverpool Local Environmental Plan 2008 ("LEP 2008"). Panel members have familiarised themselves with the development site and immediate locality.
2. The Panel received representations at the meeting from one of the Owners and from the Owners' town planning consultant.
3. The said Owner requested that the Panel defer determination of the application so that it could be amended to delete the proposed new dwelling and retain the existing cottage as a dwelling, as well as provide Council with additional information such as a contamination and arborist assessments.
4. The Panel's principal concern is the proposed development's non-compliance with the minimum lot size for dual occupancy contained in clause 7.10 of LEP 2008. The Panel has considered the applicant's written request to vary the standard under clause 4.6 of LEP 2008. The Panel is not convinced that the request demonstrates that compliance with the minimum lot size is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravention of the development standard. The Panel must assume the intent of the clause has a town planning purpose associated with the minimum lot size of 2 ha.
5. The Panel considers that the proposed variation will not be in the public interest. The Panel considers that the proposed variation is not consistent with the objectives of clause 7.10 of LEP 2008 and the objectives for development within the RU4 zone. The objective of the standard which is to "maintain opportunities for productive rural and urban fringe uses by providing certainty about the land area required for two dwellings to be on a single lot in rural zones". The proposed development, due to the size of the lot and proximity of the existing shed to the northern boundary, has the potential to prejudice the ongoing semi-rural use of the land to the north of the site and accordingly is not consistent with the objectives of clause 7.10.

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6. The Panel considered whether to defer its determination as requested by the Owner. However, the Panel does not see how deferral will address the Panel's principal concern. The Panel noted the personal circumstances of the owner. While the Panel has sympathy for the personal circumstances of the owner, clause 4.6 of LEP 2008 requires an objective assessment of the circumstances and town planning merits of the proposed development.
7. The Panel considered the Owners' submission that a similar development had been approved on the lot to the north of the site. On further enquiry of Council officers, the Panel was advised that the approved development in that instance was for a secondary dwelling, not a dual occupancy. Clause 7.10 does not apply to a secondary dwelling.
8. The Panel notes the submitted plans do not accurately identify the existing features of the existing shed nor does the application specify the purpose of the storage use of shipping containers and the existing shed. Any resubmission of a future application should address these matters.

VOTING NUMBERS:

4 – 0 in favour

DETERMINATION OF PANEL:

That Development Application DA-379/2021 for the change of use of an existing shed to create a detached dual occupancy and construction of a new dwelling at Lot 14 DP 2650, 9 GREENDALE ROAD, BRINGELLY be refused for the following reasons:

1. The applicant's written submission under clause 4.6 of LEP 2008 to vary the minimum lot size for dual occupancy in clause 7.10 of LEP 2008 does not adequately demonstrate that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - (b) there are sufficient environmental planning grounds to justify contravening the development standard.
2. The proposed development will not be in the public interest because it is consistent with the objectives of the standard in clause 7.10 of LEP 2008 and the objectives for development within the RU4 zone.
3. The proposed development does not clearly demonstrate that the site is suitable for residential development in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) – Remediation of land and Part 1, Section 10 (Contaminated Land Risk) of the Liverpool Development Control Plan 2008, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is not consistent with the zone objectives as the siting of the building will likely result in unacceptable land use conflicts within the RU4 – Primary

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Production Small Lots zone of Liverpool LEP 2008, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

5. The proposed development does not clearly demonstrate that the site is suitable for residential development in accordance with Part 5 - Development in Rural and E3 Zones, Section 2 – Tree Preservation of Part 1 of Liverpool Development Control Plan 2008, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
6. The proposed development does not comply with Part 5 - Development in Rural and E3 Zones, Section 1 (Building Form, Style and Streetscape) of the Liverpool Development Control Plan 2008, in that the proposal (shed as secondary dwelling) does not comply with the required design, sensitive to site attributes, such as streetscape character, natural landform, existing vegetation, views and land capability of rural character of the vicinity, pursuant to Sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
7. The proposed development does not comply with Part 5 - Development in Rural and E3 Zones, Section 2 (Setback) of the Liverpool Development Control Plan 2008, in that the proposal (shed as second dwelling) does not comply with rear setback of 10m and front setback of 50m (new dwelling), pursuant to Sections 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
8. The proposed development is not in the public interest, pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.