



Building and Development Dispute Resolution Committees—Decision

Sustainable Planning Act 2009

Appeal Number:	42- 15
Applicant:	Mr Brett Wendt
Assessment Manager:	Vermeer Building Certification Pty Ltd
Concurrence Agency:	Ipswich City Council (Council)
Site Address:	1147 - 1167 Pine Mountain Road, Pine Mountain and described as Lot 3 on SP 229734 – the subject site

Appeal

Appeal under section 527 of the *Sustainable Planning Act 2009* (SPA) against a Decision Notice issued by Vermeer Building Certification Pty Ltd as the Assessment Manager refusing an Application for proposed extension to an existing dwelling and siting of a new shed, as a result of advice from Ipswich City Council as the Concurrence Agency.

Council considers that the proposal will have an extremely adverse effect on the amenity or likely amenity of its neighbourhood and the aesthetics of the proposed building will be in extreme conflict with the character of its neighbourhood.

Date and time of hearing:	Thursday 3 March 2016 at 2:00pm
Place of hearing:	The subject site
Committee:	Nishu Ellawala– Chair John Panaretos - General Referee
Present:	Brett Wendt – Applicant Victor Vermeer– Assessment Manager Martin Wallis – Council representative Michael Bond – Council representative

Decision:

The Building and Development Dispute Resolution Committee (Committee), in accordance with section 564 of the SPA **sets aside** the decision of the Assessment Manager on 10 November 2015 to refuse the Application for proposed extension to an existing dwelling and siting of a new shed, and approves the Application for a Development Permit for Building Work in accordance with the amended Plan submitted by Council to the Committee on 17 March 2016, subject to following conditions.

- (a) The site development shall be undertaken as shown on:
Site Plan 06/3/7/A1 Dated 10/03/16;
Floor Plan 06/3/7/A2 Dated 10/03/16;

Elevations 06/3/7/A3 Dated 10/03/16;
Elevations 06/3/7/A4 Dated 10/03/16;
Elevations 06/3/7/A5 Dated 10/03/16;
Proposed Colour scheme document dated 21/03/16.

- (b) provision of a vegetation buffer to screen the dwelling and shed from the Pine Mountain Road as shown on amended Floor Plan 06/3/7/A2;
- (c) security bond is to be submitted to Council prior to the issue of the associated development permit for building work, as security for the performance of:
 - Reinstatement of building \$78,000.00
 - An administration fee of \$360.00 is to accompany the security bond for registration of the security bond, inspections and partial release as works are completed.
- (d) The Performance Bond may be reduced during the restoration at Council's discretion, subject to an inspection by Council and providing the quotes for required remaining works are less than the bond amount held by Council.

Background

The appeal is in relation to a Decision Notice issued by the Assessment Manager to refuse a Building Development Application (Application) for a proposed extension to an existing dwelling and the siting of a shed 30metres x 18metres. The refusal was based on advice from Ipswich City Council as the Concurrence Agency dated 10 November 2015.

The Application proposes the reuse of demountable buildings for the purpose of a dwelling extension with a total floor area of 1,056 square metres, and a shed with a wall height of 6metres (overall height of 8.883metres and plan area of 540 square metres.

Council assessed the impact of the proposed development under Schedule 7, Table 1, Item 17 and Item 25 of the *Sustainable Planning Regulation 2009* and refused the Application for the following reasons:

- *The scale of the proposed buildings are more of an industrial /commercial scale and not in keeping with other similar classes in the neighbourhood. As such, it is considered that the dwelling extension and shed will be in extreme conflict with the character and amenity of the locality.*
- *The proposed overall floor area (1,056 square metres), style and bulk form of the dwelling extension, and the proposed shed wall height of 6m(overall height of 8.883m), will impact on the visual amenity of the surrounding properties by their sheer size and height. These characteristics are considered to have an extreme adverse effect on the amenity of the neighbourhood.*
- *The proposed materials, primarily involving prefabricated panels, are also considered to have an extreme adverse effect on the amenity of the locality and be in extreme conflict with the character of the locality.*

Council also provided the following additional comments regarding the dwelling extension in their Concurrence Agency advice letter dated 10 November 2015;

- *A building approval was issued on the 24 October 2014 for the unlawful demountable buildings (approximately 46) to be used in the construction of a dwelling.*
- *The building approval associated with the dwelling lapsed on the 24 October 2015 without taking up the development.*
- *Now submitted new application to Council for a smaller dwelling using less demountable buildings (approximately 10) but including the construction of an industrial size shed.*

The Assessment Manager, upon receiving Council advice issued a Decision Notice dated 23 November 2015, refusing the Application.

The Applicant, upon receiving the refusal lodged an appeal to the Building and Development Dispute Resolution Committee Registrar on 21 December 2015.

A hearing was conducted at the subject site on Thursday, 3 March 2016 attended by the persons listed above to hear the appeal and conduct a site inspection.

Both the Applicant and Council made representations at the hearing regarding the refusal to permit the proposed extension to an existing dwelling and the siting of a shed. Following these representations, and viewing the subject area, both Council and the Applicant were afforded time to negotiate and reach an agreement.

The Council advised the Committee by email dated 17 March 2016 that it has reached an agreement with the Applicant, the terms of which are acceptable to the Committee and adopted for the Committee decision.

Material Considered

The material considered in arriving at this decision comprises:

1. 'Form 10 – Appeal Notice', grounds for appeal and correspondence accompanying the appeal lodged with the Committees Registrar on 21 December 2015;
2. Ipswich City Council (Assessment Manager) Decision Notice dated 18 March 2010 and approved plans for Reinstatement of Dwelling & Storage Shed.
3. Ipswich City Council referral agency response dated 18 January 2010 and plans for an oversize Shed;
4. Council Information Request dated 27 June 2014;
5. Response to Council Information Request dated 7 July 2014;
6. Council Decision Notice dated 5 August 2014 - Application 3508/2014/MCU;
7. Vermeer Building Certification (Assessment Manager) Decision Notice dated 24 October 2014 and approved plans for a Class 1a Removal Dwelling & 10a Carport;
8. Vermeer Building Certification (Assessment Manager) Decision Notice dated 23 November 2015.
9. Ipswich City Council referral agency response dated 10 November 2015 & plans;
10. Oral submissions by the Applicant; the building certifier and the Council representatives at the hearing;
11. Email dated 17 March 2016 from Ipswich City Council to Committee Registrar advising Council and Applicant have reached an agreement.

Findings of Fact

The Committee makes the following findings of fact:

1. The subject site has an area of approximately 6 Ha and is zoned RC - Rural C (Rural Living) Ipswich Planning Scheme.

2. The Application involves the reuse of demountable buildings for the purpose of a dwelling extension with a total floor area 1,056 square metres, and a shed with a wall height of 6 metres and plan area of 540 square metres.
3. In 2014 a building approval was issued for the construction of a dwelling using approximately 46 demountable buildings which lapsed on the 24 October 2015.
4. The Application under appeal is for a smaller dwelling using fewer demountable buildings, approximately 10 including the construction of shed with a plan area of 540 square metres.
5. Council refused the Application on 10 November 2015. Council considered that the proposal would have an extremely adverse effect on the amenity or likely amenity of its neighbourhood and the aesthetics of the building proposed would be in extreme conflict with the character of its neighbourhood.
6. The Assessment Manager, upon receiving Council advice issued a Decision Notice dated 10 November 2015, refusing the Application.
7. The Applicant lodged an appeal against the Decision Notice with the Building and Development Committee Registrar on 21 December 2015.
8. The appeal hearing was conducted on the 3 March 2016 on site and the Applicant and Council reached an agreement outside the hearing.
9. Following the appeal hearing, the Applicant submitted an amended proposal to Council.
10. The Council advised the Committee by email dated 17 March 2016 that it has reached a mutually agreed resolution with the Applicant. Council is in support of the amended proposal subject to certain conditions being imposed which the Committee duly considered and adopted as part of its decision.

Reasons for the Decision

Council advised the Committee by email on 17 March 2016 that both Council and the Applicant were generally in support of the amended plan with conditions.

The Committee is of the view that the amended proposal incorporates colours and finishes generally consistent with the character of the area and includes a landscaped buffer area to reduce the visual impact of the extension to an existing dwelling and shed from the Pine Mountain Road.

The Committee is satisfied that, subject to conditions imposed by this decision, the proposed extension to an existing dwelling and siting of a new shed is of a size, bulk and form that is in keeping with the character of the area; does not adversely impact upon the amenity of neighbouring properties.

Nishu Ellawala
Building and Development Committee Chair
Date: 30 March 2016

Appeal Rights

Section 479 of the *Sustainable Planning Act 2009* provides that a party to a proceeding decided by a Committee may appeal to the Planning and Environment Court against the Committee's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Committee or
- (b) that the Committee had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Committee's decision is given to the party.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Dispute Resolution Committees
Building Codes Queensland
Department of Housing and Public Works
GPO Box 2457
Brisbane QLD 4001
Telephone (07) 1800 804 833 Facsimile (07) 3237 1248