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STATEMENT OF HERITAGE IMPACT
PROPOSED SUBDIVISION OF LOCAL HERITAGE ITEM
37 BURNS ROAD WAHROONGA

INTRODUCTION

This Statement has been prepared by Robert Staas of Noel Bell, Ridley Smith & Partners Architects Pty Limited to accompany an application to Ku ring gai Council for a three lot Torrens Title Subdivision of the existing two lots (Lot 15 & Lot 16 in DP 2943) forming the property known as No. 37 Burns Road Wahroonga. The development implies the demolition of an existing garage and several small structures along the southern boundary of the existing property.

The site is a Local Heritage Item in the Ku ring gai Heritage LEP and was identified as an Archaeological Item in the Ku ring gai Heritage Study 1987, where it is noted as having scientific, archaeological, aesthetic, rarity value, group value and landmark value.

STATE HERITAGE REGISTRATION

Council have on two occasions nominated the property for State Heritage Registration with the NSW Heritage Council but to date there has been no action taken by them in this regard to have the building registered. The earlier attempt to have the building listed in this way met with the Heritage Council declining to act and confirming the Local significance of the place. This point was confirmed during the Court proceedings relating to the site.

In seeking advice from the Heritage Office, Council were informed that:

"An appropriate curtilage for the existing house and a suitable location, massing and scale for any new development on the site should take into account the views of the house from Burns Road and Cleveland Street. New Development on the site should therefore be restricted to the area to the rear of the existing house and should provide a visual buffer between the historic house and the new development."

This statement clearly indicated the Heritage Office's acceptance of some form of new development on the site in the southern sector subject to appropriate scale and visual relationships.

PROPOSED CONSERVATION AREA

The site is also located within an area proposed by Ku ring gai Council to become an Urban Conservation Area. This proposal currently has no statutory weight and is still under consideration and public advertising for comment.

The site is in the vicinity of a number of other Heritage Items that may be impacted by the proposal including those immediately adjoining the site:

No. 29 Cleveland Street adjoining the site to the south.

No. 39 Burns Road adjoining the site to the east

DETAILED HERITAGE ASSESSMENT

Extensive professional examination of the site, the buildings, the gardens and the surrounding streetscape setting was undertaken as part of a recent SEPP 5 application to Ku ring gai Council by the owners of the site and these were again examined in detail during the Land & Environment Court proceedings leading to the Judgement of Justice Bignold.

A Conservation Plan for the site was prepared at the request of the NSW Heritage Office by Noel Bell, Ridley Smith & Partners Architects Pty Limited. This contains a number of policies and recommendations in relation to development of the site and future treatment of the building and landscape. Council are in possession of a copy of this document.

COURT JUDGEMENT RE DEVELOPMENT POTENTIAL

In his judgement, Judge Bignold considered on balance that the proposed development was unacceptable on Heritage grounds. However in his findings he stated in regard to the potential for development of the site that:

"It is important to record that the Council's witnesses indicated a decided preference for the creation of two additional residential lots in the southern sector of the appeal site, ie entirely free standing free of 'Craignair', leaving the bulk of the site as the curtilage to 'Craignair'."

"....some form of further development potential inherent in the appeal site should reasonably be allowed to be realized, if that is the necessity of the situation."

Although the Applicant's heritage experts contended for the proposed development as offering a preferable 'development outcome' for the appeal site respecting the heritage significance of 'Craignair', I would prefer the two lot subdivision solution of the southern sector of the appeal site that was conceded and preferred by most of the Applicant's (sic) heritage experts. Their lack of unanimity of this issue and on the separate issue of converting 'Craignair' into four units, did not in my evaluation of the evidence, weaken the Council's case against the proposal or confound the overall integrity and thrust of the expert evidence adduced by the council."

COUNCIL EXPERTS EVIDENCE RE DEVELOPMENT POTENTIAL

During the proceedings evidence was presented against the proposed form of development and in favour of a more traditional subdivision of part of the site as an acceptable and more sympathetic alternative.

In the Statement of evidence of David Logan for the Council he noted:

"I believe that a more appropriate reduced curtilage for the item would be one that would restrict future development to the southern portion of the site, beyond the rear of 'Craignair'. Development in this zone could thus be similar to the battle axe properties located to the rear of No.s 39 and 41 Burns Road. Vehicular access would be possible from Cleveland Street and, possibly, from Burns Road, although the former would be more appropriate from a heritage viewpoint."

Mr Logan also proposed in his evidence that the existing house could be easily divided into two dwellings which he considered would be acceptable. He noted that this type of action was contemplated in the Heritage and Neighbourhood Character Study as an incentive to the retention of heritage items. He noted that Council had the power to grant Strata Subdivision of such an arrangement under the Heritage Incentive Clauses of the LEP.

In his oral evidence on questioning from the Judge, he stated that he thought up to three lots could be created off the existing property without adversely impacting on the heritage setting of the house and its remnant gardens.

In the Statement of Evidence of Robert Moore for the BBK Group he noted:

"Whether the significance of 'Craignairn' and its setting can be retained while sustaining a reduction in the present property curtilage is a difficult question. It could be argued that the placement of a new house within the southeast corner of the site, or a new lot carved off along the southern boundary of the property, would not unacceptably affect the significance of the property.... I am of the opinion that it may be possible for two, or even possibly three such home sites to be created, on lots comprising an 'excised block' similar to the sites of No. 27 or 29 Cleveland Street."

Mr Moore's evidence also contained advice to the Council regarding potential constraints on development to ensure compatibility with the surrounding development. He confirmed this opinion regarding the acceptability of subdivision in his oral evidence to the Court.

In the Statement of Evidence of Greg Patch, for the Wahroonga Conservation Fund he notes in relation to potential development of the site that:

"Alternative strategies may include a level of subdivision and concomitant development of a lesser intensity to that proposed."

On questioning by the Judge, Mr Patch confirmed his preference for a subdivision for free standing houses along the southern boundary of the site.

It is clear from these statements and the findings of the Court, that sympathetic subdivision of the land with the creation of two lots in the southern sector is acceptable in heritage terms and that potential strata subdivision of the house into a number of units would also be acceptable in terms of its impact on the heritage item and its setting.

THE PROPOSAL

The current proposal before the Council is for a three lot subdivision of the existing site, leaving the majority of the site as the setting for 'Craignairn' while providing two new building allotments adjoining the southern boundary. The proposal is shown on a drawing prepared by Mepstead & Associates. The proposed subdivision utilizes the existing vehicular entry from Cleveland Street and the general position of the driveway to the rear of the existing house. It flares slightly to the east of the house to create the third allotment to allow for the substantial retention of the existing boundary planting in the south east corner of the site. Indicative building platforms are shown indicating the scale and position of future development that is not the subject of this application. The platforms are positioned to respect the existing building setbacks in accordance with the recommendations of the Council experts in the Land & Environment proceedings.

THE HERITAGE CONSTRAINTS ARISING FROM THE CONTEXT

The major constraints arising from the context of the subdivision along the southern boundary of the site are the established setback created by the adjoining heritage listed house at 39 Cleveland Street and the provision of adequate separation to the rear of the main house. Additionally the retention of existing vegetation is a significant constraint. Located within the proposed development areas are a later garage structure, a livestock enclosure and a small shed. These buildings have low significance in the overall identified significance of the site as a local landmark and no identified association with any particular phase of development of the site. Demolition of these structures was envisaged in the recommendations for the subdivision of the southern portion of the site for development.

HERITAGE IMPACT ASSESSMENT

The following assessment follows the standard assessment criteria set down in the guidelines published by the NSW Heritage Office.

The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons:

The proposal constrains future development to the least obvious and visible section of the site and does not affect the primary setting of the original house and garden. The indicated building locations would be recessive in terms of the existing streetscape because of the setbacks from the surrounding streets and because of the existing perimeter planting surrounding the site.

The following aspects of the proposal could detrimentally impact on heritage significance for the following reasons.

The proposed subdivision of the site will reduce the original curtilage of the house 'Craignairn' but has been located where it will have the lowest visual and physical impact. The subdivision will provide a sustainable economic return allowing the eventual conservation of the remainder of the site.

The measures taken to minimize potential heritage impacts are as follows:

The new blocks are located in a manner that is compatible with the existing development pattern in Cleveland Street providing a pattern that is of a similar scale to adjoining house lots to the south. The proposed setback from the Cleveland Street frontage maintains that set by the adjoining house to the south establishing a cohesive street pattern in this section of the street and reducing any potential visual impact from Burns Road along the bushland frontage of the western boundary of 'Craignairn'.

The proposed driveway position and access to the third lot is a natural separation with the existing house that is currently formed by the existing driveway and service areas. With the provision of additional screen planting to the new lot along its northern boundary with 'Craignairn' there will be a low visual impact from within the heritage garden area and virtually no impact from the Burns Road frontage.

The form of subdivision proposed leaves a substantial curtilage to the existing house incorporating most of the original formal garden areas and the significant frontages to the Burns Road, Cleveland Street corner presentation.

OPTIONS

The following Options and sympathetic solutions have been considered and discounted for the following reasons:

The house is one of the largest in the surrounding area with many similar buildings having passed into institutional hands. The desirability and livability of such a house in the 21st century without the aid of live in help must be questioned. Much of the house has been virtually closed off for many years.

The original preference for the development of the site was a sympathetic SEPP 5 development on a strata title basis. This provided for the continued maintenance of the house and grounds and provided for a need in the community. This option was refused by the Council and also refused on appeal to the Land & Environment Court.

The current application has been made after several months of unsuccessful attempts to sell the property as a single lot both by Auction and by Private Treaty. This was the option recommended by a number of the objectors to the previous application and it is clear that there is no ready market for properties of this size and value. A number of similar properties in the area also remain unsold at the present time.

Various arrangements of subdivision were investigated following the judgement of Justice Bignold and the present application was selected as having an acceptable level of impact on the Heritage Item and the surrounding development while providing an acceptable financial return to the owners based on the value of the land in this locality.

The following questions are those raised in the NSW Heritage Office Guidelines for subdivision:

How is the proposed curtilage allowed around the Heritage Item appropriate?

The remnant curtilage provided for the House incorporates the bulk of the original garden areas and maintains a substantial visual setting when viewed within the property as well as from the surrounding streets. The extent of curtilage provided is more than was considered necessary by the officers of the NSW heritage Office in their evaluation of the site and maintains all of the significant views and vistas identified in the various reports and studies carried out for the place. The proposal places development in areas of the lowest value in terms of the original design presentation, areas which were formerly occupied by service uses which have since disappeared.

Could future development that results from this subdivision compromise the significance of the heritage item? How has this been minimized?

While this application is not for any specific development apart from the form of subdivision, care has been taken to ensure that the location of new buildings on the site will have an acceptable impact in relation to both 'Craignairn' and the adjoining heritage items. The potential for the development to unduly impact on the significance of the place has been minimized by the location of the lots, the location of potential building platforms and the maintenance of the existing driveway pattern and landscape features of this section of the site.

Could future development that results from this subdivision affect views to, and from, the heritage item? How are negative impacts to be minimized?

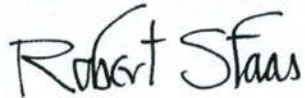
It is unlikely that any future development would have a strong impact on views either to or from the heritage item. The Buildings principal outlooks are to the north and east away from the proposed development sites. The location proposed for development is well outside the primary view stations for the main house and is well screened by existing perimeter planting.

In relation to other adjoining heritage items the proposed development locations are compatible with the general pattern of development in the area and are unlikely to have a significant visual impact on them individually or on the existing streetscape.

CONCLUSION

The proposed subdivision of 'Craignairn' is in the form recommended by all of the Council experts and by the presiding Judge in the Land & Environment proceedings leading to the necessity for this application. The subdivision form and location is based on a detailed understanding of the history of the development of the site and the relative significance of the component parts. The potential development arising from such a form of subdivision is considered to be acceptable in terms of physical proximity and general visual impact and will need to be assessed on its particular merits.

I consider that the present application will have a low level of impact on the heritage value of the heritage property and is acceptable from this point of view.

A handwritten signature in black ink, reading "Robert Staas". The signature is written in a cursive, slightly stylized font. The first name "Robert" is written in a more formal, blocky cursive, while the last name "Staas" is more fluid and connected.

ROBERT STAAS

Director / Heritage Consultant

Noel Bell Ridley Smith & Partners Architects Pty Limited