



Building and Development Tribunals

Queensland Government

Department of **Local Government and Planning**

APPEAL

Integrated Planning Act 1997

File No. 3 – 03 - 074

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Redland Shire Council

Site Address: 19 Ogilvie Street, Alexandra Hills

Nature of Appeal

An appeal under Section 4.2.9 of the Integrated Planning Act 1997 against the decision of Redland Shire Council to refuse a development application for proposed alterations/additions at property described as Lot 232 RP 106575, situated at 19 Ogilvie Street, Alexandra Hills.

Date and Place of Hearing: 12.30 pm on Wednesday 17 December, 2003 at the office of the Department of Local Government and Planning, Level 25 Mineral House, 41 George Street, Brisbane.

Tribunal: E K George

Present: Applicant
Ron Drury – Consultant to Applicant
Ken Rauber – Redland Shire Council

Decision

In accordance with Section 4.2.34.(2) of the Integrated Planning Act 1997, I **confirm** the Redland Shire Council decision contained in its letter dated 13 November 2003, reference BD124490, to refuse a development application for proposed additions/alterations at the subject property, on the ground that the proposed ceiling height of 2 250mm to habitable rooms on the ground floor of the dwelling fails to meet Performance Requirement P2.4.2 of the Building Code of Australia.

Background

An application was made to Redland Shire Council (the Council) under the Standard Building Regulation 1993 (SBR), for proposed additions/alterations to an existing Class 1a dwelling at 19 Ogilvie Street, Alexandra Hills. The application before Council contained a provision for a ceiling height of 2 250 mm to habitable areas to the ground floor level. The application to the Council was

refused on the grounds that the proposed ceiling heights to habitable areas are less than the Deemed to Satisfy Provisions contained in the Building Code of Australia (BCA), and, that an Alternative Building Solution provided by the Applicant did not meet the Performance Requirements of the BCA.

Material Considered

- 1.0 Application submitted to the Council for development approval for additions/alterations to the existing Class 1a dwelling, including a report prepared by Mr R Drury on 4 September 2003.
- 2.0 Letter from the Council to the applicant, dated 22 October 2003, an Information Request during assessment of the submitted application.
- 3.0 Letter from Mr R Drury 29 October 2003 accompanying a Report prepared by Mr Drury on 29 October 2003.
- 4.0 Letter from the Council 31 October, 2003, refusing the application and setting out the reasons for the refusal.
- 5.0 Letter from Mr Drury to the Council dated 3 November further addressing issues.
- 6.0 Letter from the Council to the Applicant dated 13 November 2003, advising that following review of the submission of 3 November 2003 by Mr Drury, the decision by the Council cannot be altered.
- 7.0 Appeal form and attachments dated 1 December 2003.
- 8.0 Verbal submissions by the applicant and Mr Drury, to the Tribunal dated 17 December 2003.
- 9.0 Verbal submission by the Council to the Tribunal dated 17 December 2003.
- 10.0 Standard Building Regulation 1993.
- 11.0 Building Code of Australia – Volume 2.
- 12.0 Integrated Planning Act 1997.

Findings of Fact

- 1.0 The Tribunal has jurisdiction to hear this appeal.

Reasons for the Decision

- 1.0 The reduction in ceiling height to the proposed habitable rooms on the ground floor of the existing dwelling has been considered under the following aspects:

- (a) Light and ventilation;
- (b) Smoke reservoir capacity of ceiling space; and
- (c) Physical characteristics.

- (a) Light and ventilation

It is accepted that the proposed reduction in ceiling height will not contribute to significant reduction in light and ventilation considerations, given that all proposed rooms will have access to natural light and ventilation via windows to external walls of the dwelling.

- (b) Smoke reservoir capacity

Whilst exit travel distances are not a required consideration of Volume 2 of the BCA (Class 1 & 10 Buildings), the reduction in ceiling height of 150mm, will reduce potential smoke reservoir capacity of the proposed ground-floor bedrooms. Whilst a

smoke detector/alarm is indicated on the proposed ground-floor plan, the reduction in ceiling height would decrease the safety of the two rooms, compared with that of a ceiling of height of 2 400mm.

(c) Physical characteristics

The council have argued that bedrooms are not necessarily a 'low-use' room, in that these rooms may be subject to use by a person for a considerable portion of the person's daily life. This view is supported, given the required 'Acceptable construction practice' provisions of the BCA. It is not considered that the alternative solution provided gives sufficient evidence to confirm that a proposed ceiling height of 2 250mm meets the performance requirements P2.4.2.

Errol K George
Building and Development
Tribunal Referee
Date: 22 December 2003

Appeal Rights

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal 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 Tribunal's decision is given to the party.

Enquiries

All correspondence should be addressed to:

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