



PCU030922

Major Projects Assessment
Department of Planning &
Infrastructure, GPO Box 39
Sydney, NSW, 2001

Wojciech Dobkowski
5 Hibiscus Street
Bonnyrigg, NSW, 2177

Department of Planning
Received
22 FEB 2012
Scanning Room

Alan Bright
Acting Director, Metropolitan & Regional Projects South
NSW Planning & Infrastructure
23-33 Bridge Street
Sydney, NSW, 2000

February 20, 2012

Dear Mr Alan Bright ^{and} /or Department of Planning & Infrastructure

Subject: 1) Purchase Lot 711, Stage 1 Bonnyrigg
2) Application No MP 06_0046 MOD 3 and previous applications
3) Application No MP 06_0046 MOD 4

We object to the modification request. Reasons are in this letter underneath.
Number of pages: 6.

We purchased home from a plan in Bonnyrigg, Lot 711 in 2009.
A seller was the NSW Land and Housing Corporation. The seller agent was the BECTON.
In July 2010 the home was build and the purchase was settled.

1. Layout in relation to Lilac Pl Street, noise and environmental issue

There is an issue regarding purchased home, Lot 711, 5 Hibiscus Street.
The building has been located very close to Lilac Pl Street. On that Street, there is no space between fence and the street curb. The Lilac Pl Street is very narrow, and on opposite there are placed garages, which are fronting directly the street, virtually without any space left.
It causes that our property whole living area, main bedroom and second bedroom are facing directly garages where distance to them is very small.

That fact affects the property.

Lilac Pl Street is not a normal sort of street, but it is a street only with garages entry/ exits. And whole living area of our home is closely adjacent to that street and its garages (2) on opposite side.

The properties (which garages belong to), have their fronts on other street (New Leaf). This makes convenient for occupiers of the garages to use the street (and their garages) in a way as a car service lane. It happening really, and is a source of persisting noise and car exhaust.
The fact that there is no space from curb contributes to heavy noise and fumes inside home, even if windows are closed.

Why we were not informed that the street curb would be placed just on the front of our living area without any space left? Why we were not informed that motor vehicles will be allowed to operate and drive in so small distance from our property? Usually all streets have footpath and some grass space between property and street kerbstone. Why there is no space left between the property and the kerbstone? It is very unusual fact that living area is so close to street curb. The fact that during purchase process, we were not informed about it, was misleading to us. Our building and its living area is placed very close to the fence... and all the more the property was placed in front of garages entry which are fronting directly on street.

It contributes also to neighbourhood vehicles manoeuvring when entering/ leaving garages what contributing to higher level of noise and fumes generated and every time when a neighbour car is entering or exiting its garage, it has an impact on the property by noise and exhaust fumes generated. I demonstrated it well to Becton officer and it was acknowledged. My wife has asthma and exhaust fumes affect her even more.

The property is been affected by noise and car exhaust of high level.

If someone purchases goods, (e.g. TV set), the government legislation protects purchaser from unfair dealing (e.g. from hiding anything what affects the normal use of a device).

We purchased not a TV set but the property which cost me and my family whole life of hard work, so I expected that I would be treated fairly, especially if vendor was a government agency. We expected and we expect that government agencies would act with high standard of ethics, even if those agencies are the selling party.

We are very disadvantaged and I expect clear action to mitigate this situation, and eliminate the things which badly affect the situation.

We intend to live in normal quiet environment. The environment in which we are living now is worse than heavy street traffic because the Lilac Pl Street is treated more like garage car service lane and the noise and exhaustion is generated in direct proximity of living area of our home. Sometimes it happens even during late night. It is unacceptable. The key factor is that the property has been situated in direct proximity of the street curb, street drivable area and in front of garages.

2. Subdivision Plan and Size of the backyard

There is another issue. I would not raise that issue, but in a light of other issues it clearly indicates a logic that the conduct may be not accidentally, with intention to mislead or to deceive.

In proposed subdivision plan which we received in contract, our Lot 711 was of 182.1 sq. m. There were some differences between subdivision plan and site plan during selling. During purchase time, I put request about subdivision plan to be sure the subdivision plan is correct one. That was only one subdivision plan we have received from seller and we were told that subdivision plan we received is a correct one; we relied on that plan.

But on the day of settlement we found that the backyard (land) size was far different (smaller) from the one specified in subdivision plan in contract.

Up to that day, the selling party assured us, that the real size of land has been as on subdivision plan. We have not received new subdivision plan neither any notification that subdivision plan was changed.

On that day the selling party told us that difference is only a few per cent and all is ok. We informed the selling party that difference might be bigger (even more than 10 per cent). After that, the selling party informed us that the subdivision plan in contract was only a draft and is not valid.

It means that the selling party sold us property without a subdivision plan.

We had a confidence that the purchased Lot 711, really has been as shown on received Subdivision Plan. We relied on the subdivision plan (in the contract) (182.1 sq. m.) which became invalid.

3. Council assessment

In a context of letter regarding the last modification applications, I contacted the Fairfield City Council last month. I found out that the development of my home (Lot 711) and matters regarding development of Lilac Pl Street were subject of some reservations from the Council. It means that Council did not agree on such development and was opposed for such development (on Lot 711) according Council assessment. (E.g. Lot 711 building; Lilac Pl Street drivability road expert assessment).

That issue could be very important for (perspective) purchaser.

Why we were not informed about it. It was directly about our prospective property and about its direct proximity.

4. Approval of Application No MP 06_0046 MOD 3 and previous applications

- We have not been advised about this or previous modifications
- Higher density in proximity of Lilac Pl Street increases probability of higher traffic on that Street. The traffic volume on Lilac Pl Street is critical for property on Lot 711 from reasons described above. It means that even relatively low traffic on Lilac Pl Street is burdensome. At present Lilac Pl Street is drivable, and its traffic affecting the dwelling of Lot 711. The traffic on Lilac Pl Street, as well consists of some kind of motor bikes rides traffic. Some of them are residents of New Leaf Estate (including garages fronting Lilac Pl Street). It contributes to big noise affecting my all dwelling area which is in very close proximity of Lilac Pl Street drivable area.

This causes, that any proposed increase of number of dwellings in the Leaf Estate, affects our property in unprecedented and unique way.

Our property directly faces the proposed "Stage 4a". Our property is directly on front of Lilac Pl Street. Lilac Pl Street is on every side of our property.

- When we were purchasing property the selling party informed us that there will not be apartment development in New Leaf Estate. With exception of only on (close to) northern part of Bonnyrigg Avenue and Elizabeth Drive Street, where would be limited number of apartment dwellings.
This fact that such kind of information was released may be acknowledged and proved. And this kind of information had influence on our property purchasing decision. So building of apartment dwelling in Stage 4 (and others stages) may be part of illegal conduct in light of Trade Practices Act (TPA).
The TPA prohibits engaging in conduct that is misleading or is likely to mislead or deceive. Here we had such situation. During purchase we were informed about specific type of dwelling in the estate (in proximity of the property [about 400 m]), and soon after purchase, the same selling party have applied for changes of it, without informing and consulting with us who have interest in it.

Taking under consideration the above points, the approval for apartment development should be revised or put on hold, until unfair business practices and its consequences will be mitigated to satisfaction of all interested parties (including me who was misled)

5. Application No MP 06_0046 MOD 4

I object the modification request.
The reason is:

- Higher density in proximity of Lilac Pl Street increases probability of higher traffic on that Street. The traffic volume on Lilac Pl Street is critical for property on Lot 711 from reasons described above. It means that even relatively low traffic on Lilac Pl Street is burdensome. At present Lilac Pl Street is drivable, and its traffic affecting the dwelling of Lot 711. The traffic on Lilac Pl Street as well consists of some kind of excursion traffic of motor bikes. Some of them are residents of New Leaf Estate (including garages fronting Lilac Pl Street). It contributes to big noise affecting my all dwelling area which is in very close proximity of Lilac Pl Street drivable area.
This causes, that any proposed increase of number of dwellings in the Leaf Estate, affects our property in unprecedented and unique way.
Our property directly faces the proposed "Stage 4a". Our property is directly on front of Lilac Pl Street. Lilac Pl Street is on every side of our property.
- When we were purchasing property the selling party informed us that there will not be apartment development in New Leaf Estate. With exception of only on (close to) northern part of Bonnyrigg Avenue, where would be limited number of apartment dwellings.
This fact that such kind of information was released may be acknowledged and proved. And this kind of information had influence on our property purchasing decision. So building of apartment dwelling in Stage 4 (and others stages) may be part of illegal conduct in light of Trade Practices Act (TPA).

The TPA prohibits engaging in conduct that is misleading or is likely to mislead or deceive. Here we had such situation. During purchase we were informed about specific type of dwelling in the estate (in proximity of the property [about 400 m]), and soon after purchase, the same selling party have applied for changes of it, without informing and consulting with us who have interest in it.

We realise that for vendor and its partners it could be a good business (to sell affected and diminished property). But for me and for my family it is whole life of hard work. It is a price we are paying.

We purchased our property (from NSW Land and Housing Corporation) in good faith. We had trust that we would not be deceived by vendor and its agent.

We realise that the applications MP 06_0046 MOD 4 (and MP 06_0046 MOD 3) are determined in accordance with the provisions of the Environmental Planning Assessment Act, 1979.

We expect that the applications will be determined also in accordance with the provisions of other NSW Policies and Acts if the applications scope or subject includes other NSW Policies and Acts. In this case the vendor was the NSW Land and Housing Corporation who acted by Becton as its agent. So in this case (the application may apply also to The Trade Practices Act [TPA] or other NSW policies), we expect that the application will be maintained and examined in accordance with the provisions related to TPA.

If the Metropolitan & Regional Projects South NSW Planning & Infrastructure is not capable for such determination we expect that this case you will direct to NSW Planning Minister and/ or other government agencies which may be capable for this determination. (NSW Housing, NSW Fair Trading and others agencies)

In the time of home purchase, we took under consideration other similar offers in the area or its proximity. One of them was Hoxton Park (land and house package). In that time, there were some lots for sale clearly for less than 400,000. (It was also placed on very narrow street, but there was no problem or issue. I checked it by visiting this place two months ago).

But on the time of settlement, there was nothing left under 400,000 in the area, and in order to purchase new home under 400,000, we had no other option then to settle with house with much smaller backyard, a Lot 711. NSW Land and Housing Corporation agent, the Becton officer expressed understanding to our situation in the time when we presented the issue to him but...

After some (long period of) time he replied that, if on settlement time we had have knowledge of the issue, it is the same as we had accepted all conditions. He passed responsibility to our side. It was unfair response. We made decision about purchase on a day of contract. After that, any change of our decision from our side, could likely result with loss of deposit according to contract.

We were afraid that in the case of our refusal of settlement, we would loss our deposit. The deposit was all we had.

The fact is that in process of purchase we were victims of misleading and deceptive conduct from vendor site in a light of Trade Practises Act (TPA). The TPA prohibits engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. "Conduct" does not just mean things which were said on the vendor's behalf – it includes things which were not said.

We are very disadvantage. Even if for vendor and its partner it was a success and good business, but for us it was a distress.

It is really burden for us, I am not exaggerating.

All the things may be examined and they may find that my attitude is sincere and genuine.

We have big concerns. But because our attitude is sincere and genuine we have no reservations this letter is published.

I would like to admit, that we are as customers in a bad and hopeless situation in front of powerful organisation and her dealing.

Kind Regards


Wojciech Dobkowski

5 Hibiscus Street

Bonnyrigg, 2177, NSW

MARIA DOBKOWSKA



DECLARATION

I Maria Dobkowska of 5 Hibiscus Street, 2177, NSW, have not made and do not intend to make any political donation or gift to any Councillor or employee of any government organisation within the previous 2 years of making this application or its determination.

Maria Dobkowska

DECLARATION

I Wojciech Dobkowski of 5 Hibiscus Street, 2177, NSW, have not made and do not intend to make any political donation or gift to any Councillor or employee of any government organisation within the previous 2 years of making this application or its determination.

A handwritten signature in black ink, reading "Wojciech Dobkowski". The signature is written in a cursive style with a large, looped 'W' and 'D'.