



Council misused heritage rules to block development: Urban Taskforce

By Rachel Borchardt

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Ashfield Council has been caught misusing heritage rules to block a development, according to Aaron Gadiel, chief executive of the NSW Urban Taskforce.

"This is a stinging rebuff for Ashfield Council," Gadiel says.

The council tried to block plans by Trinity Grammar to build a swimming pool, a new hall, extra classrooms and underground parking.

The school's proposal involved the demolition of 11 houses already owned by the school. It was blocked by the council, partly on heritage grounds.

The Land and Environment Court has since intervened, overturning the decision and giving the development a green light.

Land and Environmental Court senior commissioner Dr John Roseth says the council and resident opposition could only be explained by "long-standing frustration and animosity in their relations with the school."

The council's grounds for denying the development application relied on the presence of several heritage conservation areas surrounding the site, as well as its plans to declare a new heritage conservation area covering school property.

It argued that the development would have an unacceptable impact on the heritage conservation areas. The court refused to accept this, also dismissing council claims, says Gadiel, "that 11 houses should not be demolished because they were 'suitable' for a heritage conservation area".

"This saga has been going on for 20 months," he adds.

"The application was lodged in March 2006. It took the council 13 months to decide to refuse the application, and another seven months for the court appeal to be dealt with.

"This is only the latest attempt by councils misusing the state's heritage laws to block

well-planned urban development."

Ashfield Council denies they used heritage laws in an attempt to stop the development.

"Heritage was one concern of council in relation to the expansion of Trinity Grammar. Other concerns about the development application included parking, traffic, student numbers, use of facilities by non-students, and acoustics of the swimming pool," says a spokesperson for Ashfield Council.

The council's concern over heritage issues was because "many of the houses in the street neighbouring the school were proposed to be listed in a Heritage Conservation Area".

"This process was commenced before council received this Development Application," the spokesperson adds.

The council also denies the DA took 13 months to process because of an attempt to refuse the application based on heritage laws.

"The delay," says the spokesman, "was due to numerous requests for additional information to enable a complete and thorough assessment of the development application."

According to Gadiel, councils are continuing to use heritage laws to block DAs.

"Last month, efforts by Parramatta Council to heritage-list up to 12 ordinary 1960s and 1970s homes in Toongabbie and Epping were widely reported in the media.

"Last year, the Land and Environment Court found that an apartment building, listed as a heritage item by North Sydney Council, didn't satisfy the listing requirements.

Despite the ruling, the building is still listed by the council as heritage protected."

Gadiel says Heritage laws are being heavily misused by "the 'not-in-my-backyard' (nimby) brigade, working hand-in-glove with some local councils".

"It's time these laws were reformed," says Gadiel, "to stop their blatant misuse."

The Trinity Grammar ruling hot on the heels of criticism levelled at councils for their lengthy approvals process.

NSW planning minister Frank Sartor says local councils that take an average of 100 days or more to process development applications, now number 18 -- up from 12 councils last year.

Preliminary results from the 2006-2007 Local Development Monitoring Report, based on responses from 90 of the state's 152 councils, show local governments are taking longer

to process DAs. On average, the report found the time for DA processing has increased from 68 to 75 days.

"Unfortunately, the early results also show that small developments can take more than two months to be processed," says Sartor.

"People are telling me that delays in the processing of their home renovations and other small works are costing them time and money."

More than two-thirds of the applications are for projects under \$100,000.

"The vast majority of applications are not from developers, but mums and dads," Sartor says. "This is the group we most need to help with our reforms."

More comprehensive results will take in responses from the 62 councils yet to complete the survey.