



**KU-RING-GAI PLANNING PANEL
TO BE HELD ON WEDNESDAY, 21 OCTOBER 2009 AT 5.00PM
LEVEL 3, COUNCIL CHAMBERS
818 Pacific Highway, Gordon**

A G E N D A

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NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESSES TO THE PANEL

DOCUMENTS CIRCULATED TO THE PANEL

CONFIRMATION OF MINUTES

Minutes of Ku-ring-gai Planning Panel

File: S06347

Meeting held 23 September 2009

Minutes numbered PP26 to PP28

MINUTES FROM THE CHAIRPERSON

PETITIONS

GENERAL BUSINESS

GB.1 **26 to 30 Marian Street, Killara - Development Application to Modify Development approved under DA0820/07 to Increase the number of Units, Basement Reconfiguration including Increase Parking Spaces, Changes to Layout and Facade and Associated Changes**

File: DA0350/09

Ward: Gordon

Applicant: Marian Street Pty Ltd

Owner: Marian Street Pty Ltd

To determine development application No.0350/09 for consent to modify development approved under Development Application No.0820/07.

Recommendation:

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

That the Ku-ring-gai Planning Panel, as the consent authority, refuse consent to DA0350/09 to modify the development approved under the consent to DA0820/07 to increase the number of units, basement reconfiguration including increase in parking spaces, changes to layout and façade and associated changes on land at 26 – 30 Marian Street, Killara for the following reasons:

1. The proposed development is contrary to the aims and objectives of Clause 25C(2)(g) and 25(D)(2)(k) of the KPSO and LEP 194. The development does not achieve a high level of residential amenity for the future occupants with inadequate solar access provided to 62% of the apartments proposed. This is a significant departure from the Residential Design Flat Code and DCP 55 requirements.
2. The proposal is contrary to Principles 2, 3, 4, 5, 6 and 7 of State Environmental Planning Policy No. 65. The submitted BASIX Certificate is unacceptable and does not provide accurate calculations to determine performance.
3. The development is inconsistent with SEPP BASIX 2004. The submitted BASIX Certificate 251876M-02, dated 10 September 2009, does not accurately calculate the area for low water use planting. The areas used for access for maintenance adjacent to the western and southern site boundaries should be excluded from the calculation.
4. An impact assessment has not been provided in relation to the Bluegum High Forest species in accordance with Section 5A of the Environmental Planning and Assessment Act 1979 (the seven-part test) to determine the impact upon the BGHF (Tree No 6) as a result of the proposal.
5. The development does not satisfy Principle 7 (Amenity) under SEPP 65, the provisions of the RFDC and the design objectives under Section 4.5 (Residential amenity) under DCP 55, which requires residential flat development to provide a high level of amenity for future occupants. The proposal is required to provide 3 hours of sunlight to 70% of

apartments. The development achieves compliant solar access to only 38% of apartments. The development results in poor internal amenity.

6. The proposed increase in density results in the non-compliance with the required solar access. The proposed apartment layout includes a number of single aspect units which do not receive direct sunlight, achieve cross ventilation and configuration means kitchens are not located within 8 metres of a window (apartments G02, G03 and G09). The development is considered to result in poor internal amenity for these apartments.
7. The development is inconsistent with Part 01 Local Context of the RFDC and provisions of DCP 55 in relation to the required front setback. The application further reduces the non-compliance with the front setback requirement from Caithness Street by 4.4 metres. The DCP control requires a 13 – 15 metres setback. The proposed setback is 10 – 12.6 metres. The approved development provided for a setback of 10 – 17 metres.
8. The development is inconsistent with Part 01 Local Context of the RFDC and provisions of DCP 55 in relation building depth. The proposed buildings have a depth of 19.2 metres which is a departure from the requirement of 10 – 18 metres maximum and this departure raises concern due to the inadequate solar access achieved through the development.
9. The information submitted is insufficient to determine whether RFDC requirement and Section 4.5.4 internal amenity control C-6 of DCP 55 in relation to storage for each apartment is satisfied. This non-compliance further contributes to overall poor performance of the proposed apartments.
10. The proposed increase in residential units is an over development of the site. The development results in poor internal amenity for occupants and therefore the development is unsuitable for the site. The development is contrary to the public interest in accordance with Section 79C(1)(b),(c) and (e) of the Environmental Planning and Assessment Act.

EXTRA REPORTS CIRCULATED AT MEETING

BUSINESS WITHOUT NOTICE - MATTERS OF GREAT URGENCY

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- a. The provisions of:
 - i. any environmental planning instrument, and*
 - ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - iii. any development control plan, and*
 - iv. any matters prescribed by the regulations,*

*that apply to the land to which the development application relates,**
- b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. the suitability of the site for the development,*
- d. any submissions made in accordance with this Act or the regulations,*
- e. the public interest.*