

MINUTES OF KU-RING-GAI PLANNING PANEL HELD ON WEDNESDAY, 2 DECEMBER 2009

Present: Bill Tsakalos (Chairperson)
Vince Berkhout

Staff Present: General Manager (John McKee)
Director Development & Regulation (Michael Miocic)
Senior Governance Officer (Geoff O'Rourke)

The Meeting commenced at 5.02pm

PP32 **APOLOGIES**

File: S06347

Ms Elizabeth Crouch tendered an apology for non-attendance [illness] and requested leave of absence.

Ms Kerry Bedford tendered an apology for non-attendance [illness] and requested leave of absence.

Resolved:

That the apologies by Ms Elizabeth Crouch and Ms Kerry Bedford for non-attendance be accepted and leave of absence be granted.

CARRIED UNANIMOUSLY

DECLARATIONS OF INTEREST

The Chairperson adverted to the necessity for the Ku-ring-gai Planning Panel members and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

No Interest was declared.

DOCUMENTS CIRCULATED TO THE PANEL

The Chairperson adverted to the documents circulated in the Ku-ring-gai Planning Panel Members' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

Late Item: Business Paper Book Agenda - Copy of BP 10/09 Book Agenda - pages 2 & 3 left out of Business Paper Book

CONFIRMATION OF MINUTES

PP33 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 21 October 2009
Minutes numbered PP29 to PP31

Resolved:

(Moved: V Berkhout/Chairperson, B Tsakalos)

That Minutes numbered PP29 to PP31 circulated to Panel members were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

PETITIONS

PP34 **Petition to Support Tennis Court Lights at Killara Lawn Tennis Club - (Seventy-Six [76] Signatures)**

File: DA0492/09

"We the undersigned support the recently submitted Development Application DA0492/09 by Killara Lawn Tennis Club for the installation of tennis court lighting to the 4 courts nominated.

We would urge Council to support the application and note our support for a Community Facility that should be encouraged and supported.

Our support considers the impact of the lights on lighting, noise, parking and amenity to the surrounding properties and considers it to be reasonable and acceptable."

Resolved:

That the Petition be received and noted .

CARRIED UNANIMOUSLY

GENERAL BUSINESSPP35 **Ku-ring-gai Planning Panel - Meeting Cycle 2010**

File: S06347

To consider the Ku-ring-gai Planning Panel's Meeting Cycle for 2010.

Resolved:

(Moved: V Berkhout/Chairperson, B Tsakalos)

A. That the 2010 Meeting Cycle for the Ku-ring-gai Planning Panel be as follows:

February	3 February 2010
	24 February 2010

B. That in the event that the Panel operates past these dates, the Panel will meet the day following each formal meeting of Council.

CARRIED UNANIMOUSLY

PP36 **8 Arnold Street, Killara - Lighting of Tennis Courts**

File: DA0492/09

Applicant: Killara Lawn Tennis Club Ltd

Owner: Killara Lawn Tennis Club

The following members of the public addressed the Panel:

K Demlakian

B Clarke

R Heinrich

G McKee

C Miller

M Zazulak

C Szatow

E Keys

DA0492/09 which seeks consent for lighting of 4 tennis courts was called to Council for determination by Councillor Keays on 10 August 2009. The DA was reported to the Council meeting of 20 October 2009 at which it was deferred for a site inspection.

Resolved:

(Moved: V Berkhout/Chairperson, B Tsakalos)

That the Ku-ring-gai Planning Panel, as the consent authority, refuse consent to Development Application No. 00492/09 for extended hours of operation and the erection of lighting standards and luminaires on land at 8 Arnold Street, Killara, for the following reasons:

1. The proposed development involves intensification of a non-conforming use under the Ku-ring-gai Planning Scheme Ordinance. The intensification of the existing use within a low density residential area would have an adverse impact on the amenity of surrounding residents, particularly with regard to noise impact, visual impact, indirect illumination and privacy impacts.
2. Noise generated up until 10pm Monday to Saturday and until 8.30pm on Sundays would adversely affect residential amenity and would disrupt the sleeping patterns of surrounding residents.
3. The submitted environmental noise assessment is unsatisfactory as the assessment and conclusions rely on the LAeq (15 minute) noise levels rather than the LAmax noise levels, which are the most appropriate noise descriptors for intermittent noise sources when considering sleep disturbance. As a consequence, the recommended acoustic measures will not adequately limit noise generated directly from the use of the tennis courts.
4. The submitted noise assessment is unsatisfactory for the following reasons:
 - a. Unattended background noise readings were undertaken and it was determined that the rating background noise level was higher in the evening than in the daytime. Generally, background noise levels are higher in the daytime given increase activity. No explanation has been provided by the applicant for what might have contributed to the elevation of the background noise level in the evening.
 - b. All predicted noise compliance levels are based on the assumption that the background noise level in the evening is 41dBA and therefore the report concludes that the use of the courts at night will not create offensive or intrusive noise to the occupants of the surrounding properties. Review of the noise readings provided reveals that the background noise level readings for Sunday evening were lower than on other nights and appeared to be below 40dBA for most of the period of the recording. In this circumstance, the noise levels predicted in the report from the use of the tennis courts would exceed the background noise level by greater than 5dBA and would therefore be likely to cause disturbance to the nearest residences.

5. The lighting proposal and associated extended hours of operation will detract from views and the 'peace and quiet' enjoyed by residents.
6. The submitted lighting report (obtrusive light review) states that that the illuminated courts will be visible from the adjoining dwellings. From the supplied light measurements, the combination of direct and indirect illumination (of up to 18 lux) will affect the night time amenity of rear upstairs windows of adjoining properties in Locksley Street.
7. The proposal is not in the public interest.
8. The lighting of the courts would increase the number of patrons and vehicles visiting the site during the extended hours. No parking facilities have been provided within the club's grounds which forces patrons to park on the Arnold Street. This results in additional pressure. The application provides inadequate and conflicting traffic information. The submitted traffic counts for Arnold Street were not prepared by an appropriately qualified person and cannot be relied upon.

CARRIED UNANIMOUSLY

PP37 **Planning Proposal - Amendment to Ku-ring-gai Draft Local Environmental Plan Town Centres 2009**

File: S06347

For the Ku-ring-gai Planning Panel to consider a planning proposal for the inclusion of a suspension of covenants clause in the Draft Ku-ring-gai Local Environmental Plan Town Centres 2009.

Resolved:

(Moved: V Berkhout/Chairperson, B Tsakalos)

- A. That the Ku-ring-gai Planning Panel in accordance with *Division 4 LEPs of the Environmental Planning and Assessment Act, 1979 (as amended)* initiate a draft Local Environmental Plan to insert a new model clause into the draft Plan to allow the suspension of covenants, agreements and instruments, the clause will not apply for certain purposes including clause 4.5(9) and (10) of the Standard Instrument.
- B. That the General Manager be granted delegation to prepare and submit a planning proposal to the Minister for Planning in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979 (as amended)* to insert a suspension of covenants clause and to include the following:
 - i. a statement of the objectives or intended outcomes of the proposed instrument;
 - ii. an explanation of the provisions that are to be included in the proposed instrument;

- iii. the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under Section 117); and
 - iv. details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.
- C. That the planning proposal exhibition process be in accordance with the NSW Department of Planning's LEP Practice Note (PN09-003) 12 June 2009 and any other requirements from the LEP Panel.
- D. That a report be brought back to the Ku-ring-gai Planning Panel at the conclusion of the exhibition period.

CARRIED UNANIMOUSLY

The Meeting closed at 5.45pm

The Minutes of the Ku-ring-gai Planning Panel held on 2 December 2009 (Pages 1 - 6) were confirmed as a full and accurate record of proceedings on 9 December 2009.

Chairperson