

MINUTES OF KU-RING-GAI PLANNING PANEL HELD ON WEDNESDAY, 9 SEPTEMBER 2009

Present: Elizabeth Crouch (Chairperson)
Kerry Bedford
Bill Tsakalos

Staff Present: Director Development & Regulation (Michael Miocic)
Director Strategy & Environment (Andrew Watson)
Team Leader Urban Planning (Craig Wyse)
Senior Governance Officer (Geoff O'Rourke)

Others Present: K Gordon (Kerry Gordon Planning Services)

The Meeting commenced at 5.01pm

APOLOGIES

File: S06347

NOTE: The General Manager, John McKee, tendered an apology for non-attendance.

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:

Memorandum: Refer GB.2 - 2 Marian Street, Killara - Works to Improve Fire Safety, Improve Accessibility, Improve the Vehicular Access & Parking Provision & Improve the Sound Attenuation of the Building - the Works are Proposed to Gain a POPE Approval of Use of the Theatre for Performance - Memorandum by Director Development & Regulation dated 7 September 2009 in relation to a correction to the contact details of a submitter on Report Page 6.

CONFIRMATION OF MINUTESPP23 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 26 August 2009
Minutes numbered PP20 to PP22

Resolved:

(Moved: B Tsakalos/K Bedford)

That Minutes numbered PP20 to PP22 circulated to the Ku-ring-gai Planning Panel were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

GENERAL BUSINESSPP24 **Consideration of Draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 - Deferred Matter - Lindfield & Deferred Matter - Turramurra**

File: S07603 & S03082

The following members of the public addressed the Panel:

D Merrington
J Postle
M Riley

To enable the Ku-ring-gai Planning Panel to consider the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 Lindfield and Turramurra Deferred Matters following the exhibition periods.

Resolved:

(Moved: Chairperson, E Crouch/B Tsakalos)

- A. That the Ku-ring-gai Planning Panel adopt the provisions for the deferred areas in Lindfield and Turramurra in Draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 in accordance with the attached maps and as recommended in this report, which includes the following:
- i. Land at 1, 3, 5, 7 and 9 Russell Avenue and 4, 6, 8 and 10 Middle Harbour Road, Lindfield:

- Zone R3 – Medium Density Residential.
 - Minimum lot size = 1,200sqm.
 - Maximum height of buildings = 11.5m.
 - Maximum floor space ratio = 0.8:1.
- ii. Residential flat buildings being identified as an additional permissible use at 1 Russell Avenue, Lindfield under Schedule 1:
- iii. Land at 4B and 6 Finlay Road, Turramurra:
- Zone R3 – Medium Density Residential.
 - Minimum lot size = 1,200sqm.
 - Maximum height of buildings = 11.5m.
 - Maximum floor space ratio = 0.8:1.
- iv. Land at 1440, 1444, 1444A 1444B, 1446, 1446A, 1448, 1450, 1452, 1454, 1456, 1456A, and 1458 Pacific Highway, 1, 3, 5, 7, 9, 11 and 15 Lamond Drive, Turramurra:
- Zone R4 – Residential High Density.
 - Minimum lot size of 5,000sqm.
 - Maximum building height of 23.5m.
 - Maximum FSR of 1.3:1.
 - 1458 Pacific Highway listed as a local heritage item under Schedule 5.
- v. Land at 1426, 1428, Pacific Highway 2, 4 and 8 Lamond Drive and 2-4 Finlay Road, Turramurra:
- Zone R4 – Residential High Density.
 - Minimum lot size of 1,200sqm.
 - Maximum building height of 17.5m.
 - Maximum FSR of 1.3:1.
 - 1428 Pacific Highway listed as a local heritage item under Schedule 5.
- vi. That a provision be inserted into the LEP written instrument that requires a minimum lot size of 5000sqm for the development for the purpose of a residential flat building or multi dwelling housing on land in the precinct covered by 1440, 1444, 1444A, 1444B, 1446, 1446A, 1448, 1450, 1452, 1454, 1456, 1456A, and 1458 Pacific Highway, 1, 3, 5, 7, 9, 11 and 15 Lamond Drive, Turramurra.
- B. That delegation be granted to the General Manager, Ku-ring-gai Council, in consultation with the Chair of the Ku-ring-gai Planning Panel, to make all necessary corrections and amendments to the revised draft Local Environmental Plan provisions applying to the deferred areas in Lindfield and Turramurra for drafting inconsistencies, or minor amendments as necessary to ensure consistency with NSW Standard Order Template and Department of Planning policy.
- C. That a copy of the amended draft Local Environmental Plan provisions applying to the deferred areas be submitted to the Director General of the Department of

Planning in accordance with the relevant requirements of the Environmental Planning & Assessment Act.

- D. That all persons who made a submission be notified of the Panel's decision.

CARRIED UNANIMOUSLY

PP25

2 Marian Street, Killara - Works to Improve Fire Safety, Improve Accessibility, Improve the Vehicular Access & Parking Provision & Improve the Sound Attenuation of the Building - the Works are Proposed to Gain a POPE Approval of Use of the Theatre for Performance

File: DA0185/09

Ward: Gordon
Applicant: Ku-ring-gai Council
Owner: Ku-ring-gai Council

The following members of the public addressed the Panel:

**C Neville
M McCrae
W Blaxland
M Inglis**

To determine DA0185/09, which seeks consent to carry out works to improve fire safety, accessibility, vehicular access and parking and improve the sound attenuation of the building. The works are proposed to gain a POPE approval for use as a theatre.

Resolved:

(Moved: K Bedford/B Tsakalos)

That the Ku-ring-gai Planning Panel, as the consent authority, grant development consent to DA 185/09 for upgrade works to improve fire safety, acoustic attenuation, accessibility and vehicular access and for use of the ground floor and part of the ground floor as a Place of Public Entertainment on land at 2 Marian Street, Killara, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Dwg No	Description	Drawn by	Dated	Lodged
A-02	Car Park Layout	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-03	Car Park Layout	Tonkin Zulaikha Greer	14-7-09	27-7-09

Dwg No	Description	Drawn by	Dated	Lodged
A-04	Existing Plan Level 0	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-05	Existing Plan Level 1	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-06	Existing Plan Level 2	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-07	Existing Elevation & Section	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-08	Existing Long Sections	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-09	Proposed Plan Level 0	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-10	Proposed Plan Level 1	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-11	Proposed Plan Level 2	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-12	Proposed Front Elevation & Cross Section	Tonkin Zulaikha Greer	14-7-09	27-7-09
A-11	Proposed Long Sections	Tonkin Zulaikha Greer	14-7-09	27-7-09

Document(s)	Prepared by	Dated
Statement of Environmental Effects – including appendices	MG Planning	April 2009
Environmental Noise Impact Report	Day Design Pty Ltd	11 August 2009
Operational and Security Management Plan	Unknown	May 2009

Reason: To ensure that the development is in accordance with the determination.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

3. Notice of commencement

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

4. Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:**5. Utility provider requirements**

Prior to issue of the Construction Certificate, the applicant must make contact with all relevant utility providers whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained. All utility services or appropriate conduits for the same must be provided by the developer in accordance with the specifications of the utility providers.

Reason: To ensure compliance with the requirements of relevant utility providers.

6. Construction waste management plan

Prior to the commencement of any works, the Principal Certifying Authority shall be satisfied that a waste management plan, prepared by a suitably qualified person, has been prepared in accordance with Council's DCP 40 – Construction and Demolition Waste Management.

The plan shall address all issues identified in DCP 40, including but not limited to: the estimated volume of waste and method for disposal for the construction and operation phases of the development.

Note: The plan shall be provided to the Certifying Authority.

Reason: To ensure appropriate management of construction waste.

7. Fire Safety Upgrade

Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000 the whole building must comply with the following fire safety upgrade works and form part of Stage 1 works of the development. Details of compliance are to be submitted with the application for a Construction Certificate Stage 1:

- a. The Recommendations under Part 9 of the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd are to be adopted and implemented in the building as part of the upgrade works.
- b. The Performance Verification Report recommended under Clause 8.1.1 in the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report (Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd), must be prepared as an Alternative Solution to demonstrate that the fire resisting construction in the building as required under Specification C1.1 of the BCA will comply with the relevant performance requirements of the Building Code of Australia.

- c. The Performance Verification Report recommended under Clause 8.5.2 in the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report (Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd), must be prepared as an Alternative Solution to demonstrate that egress from the backstage as required under NSW H101.6 of the BCA will comply with the relevant performance requirements of the Building Code of Australia.
- d. With reference to Clause 8.5.1 in the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report (Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd), the fire separation of the place of public entertainment venue is to be achieved by providing construction having an FRL of not less than 60/60/60 between the ground floor/level one administration areas, dressing rooms, WC areas, storeroom and air conditioning room and the remainder of the building to achieve compliance with NSW H101.2 of the Building Code of Australia.
- e. The ceiling in the fire isolated stair shall be lined with one hour fire rated construction to cover the exposed timber elements so as to achieve compliance with Clause 8.1.8 of the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report (Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd) in lieu of preparing a Performance Verification Report. The ceiling shall have an FRL of not less than 60/60/60 and be suitably fire stopped in accordance with C3.9 and C3.15 of the Building Code of Australia.
- f. All storerooms located in the place of public entertainment area on ground and first floor levels must be fire separated from the building in accordance with NSW H101.16 of the Building Code of Australia
- g. Openings in the external walls which are located less than 3 metres from the allotment boundary are to comply with Clause C3.2 and Clause C3.4 of the Building Code of Australia, or alternatively, an Alternative Solution meeting the relevant Performance Requirements of the Building Code of Australia shall be prepared.
- h. An automatic smoke detection and alarm system must be installed throughout the building in accordance with Table E2.2a of the Building Code of Australia.
- i. Install a system of emergency lighting external to the building to illuminate the path on the access ramp on the western side of the building. Lighting must comply with Australian Standard AS2293.1.
- j. **SMOKE HAZARD MANAGEMENT** - With reference to Part 9(e) of the Fire Safety Upgrade Building Code of Australia (2008) Fire Safety Upgrade Report (Version 2 dated 26 February 2009 prepared by BCA Performance Pty Ltd), a system of Smoke Hazard Management must be provided within the stage/auditorium area to comply with the requirements of Part E2 and NSW Table E2.2b of the Building Code of Australia.

- k. Remove 2 seats from the last row in the auditorium to allow 16 seats in a row to comply with NSW H101.11.1(b) of the Building Code of Australia.
- l. Any door used by the public in the entertainment venue that is required to be secured shall be fitted with a panic bar so as to comply with NSW D2.21(c) of the Building Code of Australia.
- m. The electric mains installation in the building shall be upgraded to comply with NSW H101.19 of the Building Code of Australia.
- n. Lighting in the building shall be upgraded to comply with NSW H101.20.1 of the Building Code of Australia
- o. The gantry door is to be provided with a 1 metre high balustrade complying with Clause D2.16 of the Building Code of Australia to protect persons from falls to the surface beneath.

Reason: To ensure public safety

8. Disabled access

Disabled access to and within the building shall be upgraded in accordance with the **Disability Building Upgrade Plan under Part 8** of the Disability Upgrade Report Version 1 dated 2 April 2009 prepared by Christine Cheung of Funktion – Making Life Fit. Details of works and prepared Alternative Solutions are to be submitted with the application for a Construction Certificate for each Stage of the development reflecting the Priority Rating System under 8.1 of the Disability Upgrade Report

Reason: To ensure equitable and dignified access for all

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

9. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

10. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the development is in accordance with the determination.

11. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm.

Where it is necessary for works to occur outside of these hours (i.e. concrete pours and standing of plant), approval for such will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

11a. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

12. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the Department of Environment & Climate Change "Interim Construction Noise" Guidelines.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

13. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

14. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

15. Toilet facilities

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

16. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site

- at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR THE POPE:

17. Acoustic treatments

All acoustic treatments proposed by Day Design Pty Ltd in their environmental noise impact report, No 4105, rev A, dated 11 August 2009, shall be undertaken to the air conditioning system and theatre building. Supporting documentation indicating compliance with the required external noise criteria is to be submitted to Council should there be any variations or modifications to the proposed acoustic treatments.

Reason: To protect the amenity of surrounding properties.

18. Noise limiter

An electronic noise limiter shall be installed to all amplified sound equipment associated with the use of the theatre in order to maintain a level not exceeding 75dBA when measured within the theatre at a distance of 6m from the speakers.

Reason: To protect the amenity of surrounding properties.

19. Acoustic management plan

An acoustic management plan shall be prepared by a suitably qualified acoustic engineer and is to incorporate;

- a. measures recommended in the Environmental Noise Impact Report prepared by Day Design Pty Ltd, No 4105, Rev A, dated 11 August 2009 and any variations or modifications arising from Condition 17.
- b. a staff training component detailing how staff should patrol the external areas to the building (eg footpath, building surrounds and car park) during interval and/or at the end of the performances as appropriate, to ensure noise impacts to neighbours are limited and patrons leave the site quickly and in a quiet manner
- c. a requirement that the fire doors to the western side of the theatre should be appropriately monitored and supervised so that the doors are not left open, chocked open or opened for any reason other than in the event of an emergency or as required to allow disabled access and egress and persons are prevented from congregating in this area;
- d. procedures for the documentation of noise related complaints and including provisions for further acoustic monitoring and/or any modifications to the acoustic management plan where necessary.

The requirements of the acoustic management plan are to be complied with at all times.

Reason: To protect the amenity of surrounding properties.

20. Accessibility upgrade

The measures identified as urgent within the disability upgrade report, prepared by Function, dated 2 April 2009, are to be carried out prior to the issue of an Occupation Certificate, the measures identified as essential are to be carried out within 2 years of the date of this consent and the works the measures identified as desirable are to be carried out within 5 years of the date of this consent.

Reason: To ensure equitable and dignified access for all.

21. Signage

Signage shall be prominently displayed at all exit locations within the building and car park areas with wording to the effect of reminding patrons to leave the premises in a quiet and orderly manner.

Reason: To protect the amenity of surrounding properties.

22. Driveway/car park

The following upgrade works are to be carried out to the vehicular access and car park.

- a. The southernmost section of the access road is of adequate width to accommodate 2-way flow and shall be marked with a dividing line. This area would also act as a waiting/passing bay for vehicles leaving the car park;
- b. A holding line shall be provided across the northern end of the car park adjacent to the driveway and a sign with wording 'Give Way to Vehicles Travelling Down Access Road' (or similar) to be provided adjacent to the holding line;
- c. A 'Pedestrians' warning sign shall be installed on the internal access road approaching Marian Street.

Reason: To ensure safe vehicular access and the safety of pedestrians.

23. Approval for "No Parking" restrictions

Separate approval for the alterations to the 'No Parking' restrictions on Marian Street shall be sought through the Ku-ring-gai Traffic Committee and Ku-ring-gai Council.

Reason: To ensure safety of vehicular access.

24. Operational and security management plan

The operational and security management plan, dated May 2000, shall be amended as follows:

- a. The description of the premises section shall be altered by the removal of the last sentence;
- b. The number of parking spaces referred to in the document is to be altered to 36;
- c. A site plan, identifying the windows and doors that are required to be kept closed during performances, is to be attached to the statement;
- d. The acoustic management plan is to be attached to the statement;
- e. Section 2.2 is to be deleted and replaced by a section entitled "Sale of Food/Beverages" and is to detail the requirements of Conditions 30 and 31;
- f. Section 2.5 is to be altered to correspond with the hours contained in Condition 34;
- g. Section 3.2 is to be altered to include the requirements of Condition 36; and
- h. Section 4.2 is to be altered to correspond the requirements of Conditions 17-19, 25, 32, 35-38 and the contents of the environmental noise impact report prepared by Day Design Pty Ltd, no 4105, Rev A, dated 11 August 2009.

Reason: To ensure protection of the amenity of the area.

25. Acoustic assessment

Following the implementation of the required acoustic measures for the air conditioning system and prior to the issue of the Occupation Certificate, an assessment shall be undertaken by a suitably qualified acoustic consultant confirming compliance with the relevant noise criteria, as set out in Condition 38.

Following the installation of the required acoustic treatments to the theatre, an assessment shall be undertaken by a suitably qualified acoustic consultant confirming compliance with the relevant noise criteria, as set out in Condition 38.

Reason: To protect the amenity of surrounding properties.

26. Fire safety certificate

Prior to the issue of the Occupation Certificate, the Principal Certifying Authority shall be satisfied that a Fire Safety Certificate for all the essential fire

or other safety measures forming part of this consent has been completed and provided to Council.

Note: A copy of the Fire Safety Certificate must be submitted to Council.

Reason: To ensure suitable fire safety measures are in place.

27. (deleted)

28. Materials and assemblies

Materials and assemblies in the place of public entertainment area shall comply with Specification C1.10 4(c) and NSW Specification C1.10 4(d) and (e) of the Building Code of Australia. Evidence of compliance shall be submitted to the principal certifying authority.

Reason: Compliance with the Building Code of Australia

29. Floor and ceiling materials

Floor materials, floor coverings, wall and ceiling linings in the place of public entertainment area shall comply with Specification C1.10a of the Building Code of Australia. Evidence of compliance shall be submitted to the principal certifying authority.

Reason: Compliance with the Building Code of Australia

CONDITIONS TO BE SATISFIED AT ALL TIMES:

30. No sale of alcohol

No sale or consumption of alcohol is to occur from the site at any time.

Reason: To protect the amenity of surrounding properties.

31. Sale of food/beverages

Sale of food and beverages from the site is to be limited to the sale of pre-packaged food and non-alcoholic beverages prior to and at intervals during performances.

Reason: To ensure public health and safety.

32. Air-conditioning

The air-conditioning system associated with the bar, in the lower section of the building, is not to be used at any time.

Reason: To protect the amenity of surrounding properties.

33. Occupancy

A maximum of 300 persons are to occupy the seating within the auditorium at any one time.

Reason: To ensure appropriate fire egress and safety.

34. Hours of use of auditorium for performances

The auditorium is not to be used for performances outside the following hours:

- Sunday – Thursdays 9.30am – 9.30pm (with all audience members to leave the site by 10.00pm)
- Friday – Saturdays 9.30am – 11.00pm (with all audience members to leave the site by 11.30pm)

Reason: To protect the amenity of surrounding properties.

35. Acoustic monitoring

Attended acoustic monitoring by an independent consultant (i.e. excluding any consultant or firm involved in DA0185/09 for the Applicant or any objector) nominated by Council shall be conducted on at least two occasions during performances in the first year of operation and with an initial assessment within three months of occupation to ensure compliance with the day, evening and night noise criteria. The monitoring is to occur with no prior notice to the occupants or performers.

Should the acoustic monitoring identify breaches of the noise criteria, a report is to be prepared identifying further noise attenuation measures or management measures necessary to achieve compliance and additional monitoring will be required after installation/implementation of the recommendations to ensure compliance is achieved.

Reason: To protect the amenity of surrounding properties.

36. Closure of doors

The emergency exit doors to the western side of the theatre are to be kept closed at all times during performances, except in the event of an emergency. As an interim arrangements the fire doors are permitted to be used as required to allow disabled access and egress for the auditorium until the proposed alternative permanent facilities are installed.

Reason: To protect the amenity of surrounding properties.

37. Use of mechanical ventilation

The mechanical exhaust ventilation system serving the food preparation area and bar in the lower section of the building are not to be used at any time.

Reason: To protect the amenity of surrounding properties.

38. Noise criteria

On any occasion that public entertainment is occurring in the theatre, the external noise level shall not exceed the ambient background level by greater than 5dB(A) when measured on the boundary at any affected residential property. The noise level is to be assessed as an Leq level over 15 mins and include any corrections for the character of sound as identified in Table 4.1 of the Department of Environment and Climate Change (formerly known as the EPA) Industrial Noise Policy.

At any time the noise level from the operation of the air conditioning system shall not exceed the ambient background level by greater than 3dB(A) when measured on the boundary at any affected residential property. The noise level is to be assessed as an Leq level over 15 mins and include any corrections for the character of sound as identified in Table 4.1 of the Department of Environment and Climate Change (formerly known as the EPA) Industrial Noise Policy.

During the period, 10pm to 7am, noise emitted from the POPE component of the premises shall not exceed $L_{1,1 \text{ min}}$ background + 15dB(A) when measured or assessed outside any residential bedroom window.

Reason: To protect the amenity of surrounding properties.

CARRIED UNANIMOUSLY

The Meeting closed at 5.45pm

The Minutes of the Ku-ring-gai Planning Panel held on 9 September 2009 (Pages 1 - 16) were confirmed as a full and accurate record of proceedings on 23 September 2009.

Chairperson