

## MINUTES OF KU-RING-GAI PLANNING PANEL HELD ON WEDNESDAY, 21 OCTOBER 2009

Present: Elizabeth Crouch (Chairperson)  
Vince Berkhout

Staff Present: Director Corporate (John Clark)  
Acting Director Development & Regulation (Corrie Swanepoel)

*The Meeting commenced at 5.00pm*

### PP29 **APOLOGIES**

File: S06347

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

Mr Bill Tsakalos tendered an apology for non-attendance [overseas] and requested leave of absence

**NOTE:** The General Manager, John McKee and the Director Development & Regulation, Michael Miocic, tendered apologies for non attendance.

#### **Resolved:**

That the apologies by Ms Kerry Bedford and Mr Bill Tsakalos 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.

## ADDRESSES TO THE PANEL

The following member of the public addressed the Ku-ring-gai Planning Panel on items not on the Agenda:

J Hamilton

## CONFIRMATION OF MINUTES

### PP30 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 23 September 2009  
Minutes numbered PP26 to PP28

### **Resolved:**

(Moved: V Berkhout/Chairperson, E Crouch)

That Minutes numbered PP26 to PP28 circulated to Panel members were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

**CARRIED UNANIMOUSLY**

## GENERAL BUSINESS

### PP31 **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

**The following members of the public addressed the Panel:**

**L Chen  
G Zylber  
G Coppin  
S Donnellan**

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

**Resolved:**

(Moved: V Berkhout/Chairperson, E Crouch)

**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 to 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 be 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.

**CARRIED UNANIMOUSLY**

*The Meeting closed at 5.45pm*

The Minutes of the Ku-ring-gai Planning Panel held on 21 October 2009 (Pages 1 - 4) were confirmed as a full and accurate record of proceedings on 2 December 2009.

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Chairperson