

MINUTES OF KU-RING-GAI PLANNING PANEL HELD ON WEDNESDAY, 26 MARCH 2008

Present: Elizabeth Crouch (Chairperson)
Kerry Bedford
Vince Berkhout

Staff Present: General Manager (John McKee)
Director Development & Regulation (Michael Miocic)
Director Strategy (Andrew Watson)
Manager Urban Planning (Antony Fabbro)
Senior Governance Officer (Geoff O'Rourke)

The Meeting commenced at 5.04pm

PP9 **APOLOGIES**

File: S06347

Mr Bill Tsakalos tendered an apology for non-attendance and requested leave of absence.

Resolved:

That the apology by 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.

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: Memorandum by Director Development & Regulation dated 26 March 2008 in relation to GB.2 - 1/105 Grandview Street, Pymble - Commercial - Change of Use to a Brothel - in reference to Page 28 of the Business Paper that part of the Recommendation is incorrect.

CONFIRMATION OF MINUTESPP10 **Minutes of Ku-ring-gai Planning Panel**

File: S06347

Meeting held 12 March 2008
Minutes numbered PP1 to PP8

Resolved:

(Moved: Kerry Bedford/Chairperson, Elizabeth Crouch)

That Minutes numbered PP1 to PP8 circulated to Panel members were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

GENERAL BUSINESSPP11 **1 to 3 Duff Street & 17 Lamond Drive, Turramurra**

File: DA0462/07

Ward: Comenarra

To request that the application be deferred to the Ku-ring-gai Planning Panel's 9 April 2008 meeting pending design amendments and to allow sufficient time for Council's development assessment officers to consider the changes now proposed by the applicant.

Resolved:

(Moved: Kerry Bedford/Vince Berkhout)

That the application be deferred for consideration to the 9 April 2008 Planning Panel meeting to allow the applicant to amend the application to address concerns raised by the Planning Panel at its meeting on 12 March 2008 and for Council officers to assess and report on the design amendments agreed to by the applicant.

CARRIED UNANIMOUSLY

PP12 **1/105 Grandview Street, Pymble - Commercial - Change of Use to a Brothel**

File: DA0353/07

Ward: St Ives

Applicant: Ms Hoi Wan Cheung

Owners: Mr P E & Mrs A M Greenwood

The following members of the public addressed the Panel:

**I Griggs
N Hanna**

To determine DA0353/07 which seeks consent for the change of use of the premises to a brothel. This application is referred to the Ku-ring-gai Planning Panel as it has not been determined within 90 days after the date on which it was lodged.

Resolved:

(Moved: Vince Berkhout/Kerry Bedford)

- A. That the Ku-ring-gai Planning Panel, as the consent authority, grant development consent to DA0353/07 for a change of use to a brothel and an illuminated sign on land at 1/105 Grandview Street, Pymble, subject to the following conditions:

The Conditions of Consent are as follows:

1. Duration of consent

This consent will cease after a period of 12 months from the date that it is granted unless the applicant lodges an application under section 96 of the Environmental Planning and Assessment Act 1979 to extend the operation of the consent and the Council agrees to grant the extension.

Reason: To allow Council to monitor the use and to ensure any possible adverse impacts are avoided.

CONDITIONS THAT IDENTIFY APPROVED PLANS

2. Approved architectural plans and documentation (new development)

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:

Plan no.	Drawn by	Dated
Proposed massage centre	Ian Snell & Associates	received 2 May 2007
Site plan entitled "sketch"	unknown	received 2 May 2007

Document(s)	Dated
Plan of Management DA0353/07	Undated

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

3. 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 of Council.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

4. Ensuites

Plans and specifications of the required ensuites, to each working room, detailing the location of a toilet, shower and hand basin shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate:

Reason: To ensure compliance with the BCA.

5. Portable fire extinguisher

Portable fire extinguishers shall be installed as required by the Building Code of Australia, Part E 1.6. Details are to be submitted to the satisfaction of the PCA, prior to issue of the Construction Certificate.

Reason: To ensure fire safety.

6. Exit signs

Exit signs are to be installed as required by the Building Code of Australia, Parts E 4.5, 4.6 and 4.8. Details are to be submitted to the satisfaction of the PCA, prior to issue of the Construction Certificate.

Reason: To ensure fire safety.

7. Openings in external walls

Openings in external walls which are located less than 3 metres from boundaries (south-eastern window, north-western windows, sliding door in Massage Room 2 and entry sliding door) are to comply with clauses 3.2 and 3.4 of the Building Code of Australia. Details are to be submitted to the satisfaction of the PCA, prior to issue of the Construction Certificate.

Reason: To ensure fire safety.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**8. Provision of linemarking/ signposting**

Prior to the issue of an Occupation Certificate, the applicant is to arrange for linemarking/ signposting to delineate a dedicated parking space for Unit 2, which is to be adjacent to the Post Office building, and to indicate pedestrian access to the development beside the kiosk. The parking space is to be compliant with AS2890.1:2004 with regard to dimensions. The signpost must indicate that the space is for the exclusive use of the printing business between 8am and 6pm, Monday to Saturday.

A plan of the proposed layout is to be submitted to, and approved by, Council's Traffic Engineer prior to the linemarking/ signposting being carried out.

Reason: To ensure traffic and pedestrian safety and amenity.

CONDITIONS TO BE SATISFIED AT ALL TIMES:**9. Hours of operation**

The hours of operation are restricted to 10am to 10pm, seven (7) days a week. The business is not to operate outside of these hours.

Reason: To maintain neighbour amenity.

10. Health standards

The development shall comply with all of the relevant health standards under Clause 3 of Development Control Plan for the Control and Regulation of Brothels (DCP 42).

Reason: To ensure that the development complies with appropriate public health standards in the public interest.

11. Department of Health and WorkCover Authority

The premises must comply with any guidelines issued by the Department of Health and WorkCover Authority.

Reason: To ensure that the development is of a satisfactory standard of health and cleanliness, in the public interest.

12. Cleanliness

The premises must be kept in a clean condition at all times, in particular showers, baths, toilets, kitchens and waste storage areas.

Reason: To ensure that the development is of a satisfactory standard of health and cleanliness, in the public interest.

13. Plan of management

The premises must be operated in accordance with the submitted plan of management (prepared on behalf of *Hoi Wan Cheung* and submitted to Council on *22 June 2007*) except where amended/varied by conditions of this consent.

Reason: To ensure the premises are well-run, encourage a satisfactory and safe environment for sex workers and their clients, and that the operation of the premises does not cause a disturbance in the local area.

14. Noise levels

Sound generated from the premises shall not cause the noise levels to exceed 5dBA above background noise levels when measured at the nearest property boundary of the site.

Reason: To uphold the amenity of the surrounding area by ensuring that disturbance is not caused by noise impacts arising from the use of the premises.

17. Personal protective equipment

Adequate supply and storage of personal protective equipment including condoms, dams, gloves, water-based lubricants and other personal protective equipment must be made available within the premises free of charge to workers.

Reason: To ensure the premises maintain high standards of public health.

18. Staff notice board

A staff notice board must be clearly positioned in the staff room or kitchen and shall be used for the display of details on worker health and safety as required by the NSW Health and WorkCover NSW "Health and Safety Guidelines for Brothels in NSW" (2001). This would include safe sex information, rules for the cleanliness of the premises, OHS matters etc contact details for relevant health and sexual health services for sex work staff.

Reason: To promote the health and well-being of all employees.

19. Storage and handling of sharps

If sharps (i.e. needles) are used a non-reusable sharps containers complying with Australian Standard - AS 4031 should be provided. Sharps must be disposed of in accordance with the Environmental Protection Authority's requirements.

Reason: To promote the health and well-being of all persons working within or visiting the premises.

20. Lighting

Appropriate lighting in accordance with the standards contained in NSW Health and WorkCover NSW "Health and Safety Guidelines for Brothels" must be provided in each working room.

Reason: To promote the health and well-being of all persons working within or visiting the premises in accordance with the NSW Health and WorkCover NSW "Health and Safety Guidelines for Brothels".

21. Lighting

Any external lighting is to be switched off at close of business (10pm each day).

Reason: To maintain neighbour amenity.

22. Waste removal facilities

A waterproof waste bin must be provided in each working room and must be capable of being cleaned. Disposable plastic liners should be used in waste bins.

Reason: To ensure waste removal facilities are readily accessible to areas where sex work is undertaken and upholds the health and safety of those present in the premises.

23. Contaminated waste

Contaminated waste, in this context, is considered to be used condoms, dental dams, gloves, or any other latex product which has been in contact with body fluids, soiled tissues and the like must be disposed of by a licensed waste collector. Contaminated waste disposal units must be of sufficient number, location and design for staff to appropriately implement the necessary procedures. Containers are to be yellow in colour and are to be clearly marked with the International Biohazard Symbol.

Reason: To ensure waste removal facilities are readily accessible to areas where sex work is undertaken and upholds the health and safety of those present in the premises.

24. Clean linen

Clean linen must be provided for the use of each client, including bed linen, bed covers and towels for the use of individual clients and staff.

Reason: To ensure the premises provide an adequate standard of health protection for sex workers and their clients.

25. Provision of receptacle

At least two receptacles must be provided in a readily accessible area of the premises for the separate storage of clean linen and used linen.

Reason: To ensure the premises provide an adequate standard of health protection for sex workers and their clients.

26. Provision of laundering arrangements

Due to the absence of adequate laundering facilities arrangements must be provided for the cleaning of towels, sheets and linen by a private contractor.

Reason: To ensure the premises provide an adequate standard of health protection for sex workers and their clients.

27. Waste bin storage and collection

Waste bins are to be stored and collected from within the site, and in accordance with Council's Waste Management DCP.

Reason: To ensure the amenity of the surrounding area is not adversely affected by waste storage and removal arising from the use of the premises.

28. Waste bin screening and location

Waste bins must be adequately screened or otherwise stored so as not to detract from the streetscape or presentation of the premises when viewed from public areas.

Reason: To maintain the streetscape amenity of the area.

29. Parking for Unit 2 not to be used by the subject development

The designated parking space for Unit 2 is not to be used for the subject development during the hours indicated.

Reason: To maintain traffic and pedestrian safety and amenity.

30. Privacy and visual amenity

To ensure the privacy and visual amenity is maintained to the adjoining property at No. 4A Park Crescent, Pymble, the following measures shall be implemented:

- i) A fixed privacy screen shall be installed for the entire length of the north-eastern elevation of the first floor rear terrace area and shall have a minimum height of 1.8 metres above deck level. The privacy screen shall be constructed of complimentary/durable material and

shall be designed so as to prevent direct overlooking of No. 4A Park Crescent, Pymble.

(Note: The existing privacy screen is to be upgraded.)

- ii) A fixed privacy screen shall be installed for the entire length of the north-eastern elevation of the lower landing adjoining the access stairs on the rear elevation of the building and shall have a height of 1.8 metres above the landing level. The privacy screen shall be constructed of complimentary/durable material and shall be designed so as to prevent direct overlooking of No. 4A Park Crescent, Pymble.

(Note: The existing privacy screen is to be upgraded.)

- iii) A fixed privacy screen shall be installed for the entire length of the north-eastern elevation of the balcony adjoining massage room 2. The privacy screen shall have a height of 1.8 metres above the balcony level. The privacy screen shall be constructed of complimentary/durable material and shall be designed so as to prevent direct overlooking of No. 4A Park Crescent, Pymble.
- iv) The terrace and landing areas on the rear elevation of the building shall not be utilised for the purpose of a waiting area. A "No waiting" sign shall be affixed to the wall adjoining the terrace and landing areas on the rear elevation of the building.

Reason: To maintain neighbour amenity.

- B. That Conditions 15 and 16 of the Staff Recommendation be reviewed by the Director Development and Regulations to ensure the required upgrades are more commensurate with the nature and scope of the proposed use.

The original recommended conditions were as follows:

15. Kitchen area

All work in relation to construction, fitting out and finish of kitchen area is to comply with the Food Act 2003, Food Regulations 2004, Food Standards Code (Food Safety Standards) and Australian Standard AS4674-2004, Design, Construction and Fitout of Food Premises.

Reason: To ensure that the development complies with appropriate public health standards in the public interest.

16. Ensuites

Ensuites are to be provided to each working room, including a toilet, shower and hand basin. Clean towels must be supplied for every client. Sanitary facilities must be kept clean at all times and include adequate provision of soap dispensers, electronic dryers or single use towels.

Reason: To promote the health and well-being of all persons working within or visiting the premises.

CARRIED UNANIMOUSLY

PP13 **Ku-ring-gai Draft Town Centres Local Environmental Plan**

File: S06347

The following members of the public addressed the Panel:

**P Dobrojevic
M Haldey
N Hanna**

To provide information to the Panel on the exhibition of the Ku-ring-gai Town Centres Local Environmental Plan.

Resolved:

(Moved: Kerry Bedford/Vince Berkhout)

- A. That staff prepare a revised Ku-ring-gai Town Centres Draft Local Environmental Plan with minor amendments to the Section 68 version of the Draft Local Environmental Plan (based on Group 1 and Group 2 amendments) as outlined within the report and these be presented for consideration to the Panel at a meeting before the end of June 2008.
- B. That the studies and reviews for the group 3 amendments continue to be prepared and a detailed timetable be prepared for the Panel's consideration.

CARRIED UNANIMOUSLY

The Meeting closed at 5.30pm

The Minutes of the Ku-ring-gai Planning Panel held on 26 March 2008 (Pages 1 - 10) were confirmed as a full and accurate record of proceedings on 9 April 2008.

Chairperson