

MINUTES OF KU-RING-GAI LOCAL PLANNING PANEL MEETING HELD ON MONDAY, 8 APRIL 2024

Present: Chairperson (Kara Krason)
Expert Panel Member (Vincent Hardy)
Expert Panel Member (Shivesh Singh)
Community Member (Ian Arnott)

Staff Present: Director Development & Regulation (Michael Miocic)
Development Assessment Services Manager (Shaun Garland)
Planning Panels Coordinator (Kerry Frair)

Team Leader – Development Assessment (Amy Ayling)
Executive Assessment Officer (Brodee Gregory)
Team Leader – Development Assessment (Selwyn Segal)
Development Assessment Officer (Natalie Lawrie)
Team Leader – Development Assessment (Jonathan Goodwill)
Executive Assessment Officer (Luke Donovan)
Executive Assessment Officer (Brent Pearce)
Team Leader Engineering Assessment (Ross Guerrera)
Senior Development Engineer (Vincent Ooi)
Senior Landscape Development Officer (Fiona Ambrosino)

The Public Meeting commenced at 12:30PM

DECLARATIONS OF INTEREST

The Chair advised of the necessity for the panel members and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

Shivesh Singh – declared a “Reasonably perceived” conflict of interest (see attached)

ADDRESSES TO PANEL

GB.4 – 20 Avon Road, Pymble

Alaine Roff
Brett Maynard
Greg Hastie
Kate Hadwen

GENERAL BUSINESS**KLPP03 17 Blenheim Road, Lindfield - Alterations and additions to a dwelling house, including a Clause 4.6 variation**

File: eDA0009/23

Vide: GB.1

The Panel Resolved:**DECISION****PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

- A. The Ku-ring-gai Local Planning Panel, as the consent authority, is of the opinion that the request submitted under Clause 4.6 to vary the floor space ratio development standard under Clause 4.4 (2a) of Ku-ring-gai Local Environment Plan 2015 has met the requirements of Clause 4.6(3) of Ku-ring-gai Local Environment Plan. The Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variation to the development standard.
- B. The Ku-ring-gai Local Planning Panel, as the consent authority, being satisfied that the proposed development would be in the public interest, grants development consent to eDA0009/23, subject to conditions contained in the Development Assessment Report. Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the approved works are not physically commenced within five years of the date of the Notice of Determination.
- C. **Date of the decision:** 8 April 2024
- D. **Reason for the decision:** The development proposal, subject to conditions, is acceptable in terms of the relevant provisions of the Environmental Planning and Assessment Act 1979 and is considered to be in the public interest.
- E. **How community events were taken into consideration:** The application was notified in accordance with the Council's Community Participation Plan and no submissions were received.

Voting: unanimous

KLPP04 **35 Grosvenor Street and 38 Junction Road, Wahroonga - Modification of consent to DA0149/18 proposing to remove deferred commencement condition and internal and external changes to the approved Seniors Housing development**

File: eMOD0024/23

Vide: GB.2

The Panel Resolved:

DECISION

- A. The Ku-ring-gai Local Planning Panel, as the consent authority, being satisfied that the proposed modification satisfies Section 4.55(2) and (3) and Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and will be in the public interest, modifies the development consent to DA0149/18 to remove the deferred commencement condition; and internal and external changes to the approved Seniors Housing development, at 35 Grosvenor Street and 38 Junction Road, Wahroonga, subject to the recommended conditions as per the of Development Assessment (Modification) Report, with the exception of the following changes to Conditions:

Condition 2 – replace the words “any” with “the word relevant”.

Condition 30 – to be relocated from prior to issue of construction certificate section to the prior to commencement of works section of the conditions.

- B. **Date of the decision:** 8 April 2024
- C. **Reason for the decision:** The development proposal, subject to conditions, is acceptable in terms of the relevant provisions of the Environmental Planning and Assessment Act 1979 and is considered to be in the public interest.
- D. **How community events were taken into consideration:** The application was notified in accordance with the Council’s Community Participation Plan and no submissions were received.

Voting: unanimous

KLPP05 **8 Bingara Street, West Pymble - Torrens title subdivision of one lot into two lots and conversion of the existing detached dual occupancy into two single dwellings.**

File: eDA0035/23

Vide: GB.3

The Panel Resolved:

DECISION

PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A. The Ku-ring-gai Local Planning Panel, as the consent authority, is of the opinion that the requests submitted under Clause 4.6 to vary Clause 4.1(3) minimum lot size, Clause 4.1(3A) minimum lot width and Clause 4.4 maximum FSR development standards within Ku-ring-gai Local Environmental Plan 2015 have met the requirements of Clause 4.6(3). The Panel is also of the opinion that strict compliance with the development standards are unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the variations to the development standards.
- B. The Ku-ring-gai Local Planning Panel, as the consent authority, being satisfied that the proposed development would be in the public interest, grants development consent to eDA0035/23 for Torrens title subdivision of a detached dual occupancy into two lots at 8 Bingara Street, West Pymble, subject to the conditions contained in the attached Development Assessment Report. Pursuant to Section 4.53 of the Environmental Planning and Assessment Act 1979, this consent lapses if the subdivision certificate is not issued within five years of the date of the Notice of Determination.
- C. **Date of the decision:** 8 April 2024
- D. **Reason for the decision:** The development proposal, subject to conditions, is acceptable in terms of the relevant provisions of the Environmental Planning and Assessment Act 1979 and is considered to be in the public interest. In reaching this decision the Panel relied on corrections provided in a supplementary memo dated 8 April 2024 in relation to minimum allotment size and floor space ratio (Attachment A).
- E. **How community events were taken into consideration:** The application was notified in accordance with the Council's Community Participation Plan and no submissions were received.

ATTACHMENT A**Ku-ring-gai Local Planning Panel****Meeting Date:** 8/04/2024**Item Number:** GB.3**Address:** No. 8 Bingara Street West Pymble**Proposal:** Torrens title subdivision of a detached dual occupancy into two lots**Memorandum of correction**

The Ku-ring-gai Local Planning Panel has identified the following errors in the assessment report:

Issue 1:

Subject to the proposed new lot sizes and pursuant to clause 4.4 (2A) of the Ku-ring-gai LEP, the maximum Floor Space Ratio Standard that applies is 0.4:1 (sites that are <800m²).

Page 10 of the assessment report incorrectly identifies the applicable floor space ratio standard that applies to Lot 2 as 0.386:1 (sites that are 800m² but not more than 1000m²). Whereas the correct floor space ratio standard that applies is 0.4:1 (sites that are 800m² or less).

The table on page 10 of the assessment report has been reproduced below and amended, as marked up in red to correct the error

Development standard	Proposed	Com
CI 4.1(3) - Minimum subdivision lot size: Minimum Lot Size – 930m ² (excluding access handle)	<u>Lot 1:</u> 522m ² <u>Lot 2:</u> 453.2m ²	NO NO
CI 4.1(3A) – Lot width – 18 metres, other than a battle-axe allotment	<u>Lot 1:</u> 17.455 metres <u>Lot 2:</u> Battle-axe allotment	NO N/A
CI 4.4 - Floor space ratio (FSR) 2A <u>Lot 1:</u> 0.4:1 (lots <800m ²) or 257.92m ² (max) <u>Lot 2:</u> 0.386:1 (lots 800m²-1000m²) or 339.1m² (max) 0.4:1 (lots <800m ²) or 181.28m ² (max)	<insert text - press F11> <u>Lot 1:</u> 303.67m ² (0.58:1) <u>Lot 2:</u> 183.78m ² (0.406:1)	NO NO

The proposed variation to the floor space ratio standard was correctly identified in the Applicant's Clause 4.6 request to vary a development standard and as assessed by the officer.

The proposed variation to the floor space ratio standard was correctly identified in the 'proposed' column of the table on page 10.

Issue 2:

DA0432/07 was previously approved by Council for the Torrens title subdivision of

the existing dual occupancy on 21/03/2007. At that time, there was no minimum lot size development standard for dual occupancy development in the former Ku-ring-gai Planning Scheme Ordinance.

Similarly, there are currently no minimum lot size development standards for dual occupancy development in the current Ku-ring-gai LEP (2015). Unless the site is listed in Schedule 1 of the Ku-ring-gai LEP (2015).

The subject site is not listed in Schedule 1 of the Ku-ring-gai LEP (2015) and therefore does not benefit from clause 4.1(3C) which states:

(3C) Despite subclauses (3), (3A) and (3B), if the erection of a dual occupancy (detached) is permissible on a lot under Schedule 1, development consent may be granted for the subdivision (after the dual occupancy (detached) has been erected) of that lot if—

(a) each resulting lot would have an area of at least 550 square metres, and

(b) each resulting lot would contain one of the dwellings.

Despite this, page 13 of the report includes the following comments that contradict the development standards that apply:

The subject application is for subdivision of an existing approved dual occupancy, which was lawfully constructed and would have met the minimum subdivision requirements of Clause 4.1(3C), had it been captured by Schedule 1.

However, as the proposed Torrens title subdivision details new lot sizes of 522m² (Lot 1) and 453.2m² (Lot 2) being less than 550m², the comments pertaining to Clause 4.1(3C) are made in error as both lots are less than 550m².

Accordingly, the minimum lot size that currently applies to the site, pursuant to clause 4.1(3) of the Ku-ring-gai LEP (2015) is 930m².

Clause 4.1(3) was correctly identified in the 'development standard' column of the table on page 10.

The proposed variation to the minimum lot size standard was correctly identified in the 'proposed' column of the table on page 10.

Voting: unanimous

KLPP06 **20 Avon Road, Pymble - Increase the enrolment capacity of Pymble Ladies College to 2550 students**

File: eDA0041/23

Vide: GB.4

The Panel Resolved:

DECISION

PURSUANT TO SECTION 4.16(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

- A. The KLPP defers consideration of the application and requests the applicant to provide an updated Traffic Impact Assessment report including the following information:

Approved baseline

- a summary (tabulated and diagrammatic) of all traffic and parking key assumptions, likely impacts and relevant conditions of consent under previous approvals, including a summary of the consolidated outcome
- confirmation of total number of approved enrolled students
- clarification of total number of all approved FTE staff, including maximum staff on-site at any given time, or where no specific conditions on staff numbers exist provide the number of FTE staff assumed in the relevant planning and traffic impact assessment reports
- total number and allocation by user group/building of on-site carparking spaces, including a car parking masterplan diagram

Existing baseline

- a summary (tabulated and diagrammatic) of all current traffic and parking key assumptions and likely impacts
- confirmation of total number of existing enrolled students
- clarification of total number of all existing FTE staff, including maximum staff on-site at any given time
- confirm that the number of FTE staff assumed in the relevant planning and traffic impact assessment reports matches current staff numbers
- total number and allocation by user group/building of on-site carparking spaces, including a car parking masterplan diagram

Proposed outcome

- a summary (tabulated and diagrammatic) of all proposed traffic and parking key assumptions
- assessment of impacts relative to approved and existing baselines
- confirmation of total number of proposed enrolled students
- confirmation of total number of all proposed FTE staff, including maximum

staff on-site at any given time. If no additional FTE staff are proposed to cater for the proposed increase in students, confirm the existing maximum staff number that has been assumed in the relevant planning and traffic impact assessment for the current proposal.

- total number and allocation by user group/building of proposed on-site carparking spaces, including a car parking masterplan diagram
- any recommendations to mitigate those impacts including but not limited to submission of an operational transport and access management plan and green travel plan

The above information is to be provided both exclusive and inclusive of the approved Early Learning Centre.

- B.** The applicant is to provide advice as to whether further modification of State Significant Development approvals is required either prior to or as a result of this application.
- C.** All of the above information is to be provided to Council within 28 days from the date of this deferral (8 April 2024).
- D.** Council staff prepare a supplementary assessment report to the KLPP dealing with the terms of deferral as soon as possible following receipt of the required information. The report should address the requirements of the Community Participation Plan.
- E.** Date of the decision: 8 April 2024

Voting: unanimous

KU-RING-GAI LOCAL PLANNING PANEL

Declaration of Interest

MEETING DATE	Monday 8 April 2024
Agenda Item/Panel reference number	GB.1 – 17 Blenheim Road Lindfield – Alterations and additions to a dwelling house, including a Clause 4.6 variation GB.2 – 35 Grosvenor and 38 Junction Rd Wahroonga – Modification of consent to DA0149/18 proposing to remove deferred commencement condition and internal and external changes to the approved seniors housing development. GB.3 – 8 Bingara Street West Pymble – Torrens title subdivision of one lot into to lots and conversion of the existing detached dual occupancy into two single dwellings. GB.4 – 20 Avon Road Pymble – Increase the enrolment capacity of PLC to 2550 students

In relation to this matter, I declare that I have:

no known conflict of interest

an actual¹ , potential² or reasonably perceived³ conflict of interest as detailed below:

Krason 4/4/24
Signature **Date**

.Kara.Krason.....
Name

¹ An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.
² A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.
³ A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.
2019/067982

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In relation to this matter, I declare that I have:

no known conflict of interest

an actual¹ , potential² or reasonably perceived³ conflict of interest as detailed below:

There may be a reasonably perceived conflict of interest regarding Item GB.4 - 20 Avon Road.

~~I had an Independent Contractor Agreement with Urbis to prepare planning reports with the last work undertaken in June 2021. I do not have any contract, nor have I undertaken any work for Urbis since that time which will result in a conflict of interest to determine this DA. I do not have any business or personal contact with Director, Alaine Roff who previously engaged me to prepare a planning report.~~

~~I have no current or previous involvement in the Pymble Ladies DA or site.~~

Shivesh Singh 2/04/2024

Signature **Date**

Shivesh Singh

Name

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In relation to this matter, I declare that I have:

no known conflict of interest

an actual¹ , potential² or reasonably perceived³ conflict of interest as detailed below:


Signature

3 APRIL 2024
Date

IAN ARNOT
Name

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In relation to this matter, I declare that I have:

no known conflict of interest

an actual¹ , potential² or reasonably perceived³ conflict of interest as detailed below:

 2/4/24
Signature Date

Vince Hardy
Name

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2019/067982

The Public Meeting closed at 2.05pm

The Determination Meeting closed at 5.30pm

The Minutes of the Ku-ring-gai Local Planning Panel Meeting held on 8 April 2024 (Pages 1 - 13) were confirmed as a full and accurate record of proceedings by Kara Krason on 10 April 2024.



Chairperson