

## SYDNEY WEST JOINT REGIONAL PLANNING PANEL

Meeting held at **Ku-ring-gai Council** on **Wednesday 05 August 2015 at 2.00 pm**

Panel Members: Mary-Lynne Taylor (Chair), Bruce McDonald, Stuart McDonald, Cr Elaine Malicki and Cr Christiane Berlioz

**Apologies:** None

**Declarations of Interest:** Stuart McDonald declared a non-significant non pecuniary interest in relation to this particular matter because his firm SJB Planning undertakes professional contract work from time to time with the Aqualand who made a submission on this application but who made no direct contact in this matter.

### Determination and Statement of Reasons

2015SYW123 – Ku-ring-gai Council, DA0578/14, Demolition of existing structures and construction of a mixed use development consisting of retail and commercial space, 33 residential units, roof top swimming pools, basement parking and stratum subdivision, 43 Lindfield Avenue, Lindfield and 9 Havilah Lane, Lindfield.

**Date of determination:** 05 August 2015

#### **Decision:**

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

#### **Panel consideration:**

The panel considered: the matters listed at item 6, the material listed at item 7 and the matters observed at site inspections listed at item 8 in Schedule 1.

#### **Reasons for the panel decision:**

1. The proposed facility will add to the supply and choice of housing within the North Metropolitan Subregion and the Ku-ring-gai local government area in a location with ready access to metropolitan transport services, including Lindfield Railway Station and to the amenity and services offered by Lindfield Village Centre. The proposed development will add to the commercial and retail capacity of the Centre.
2. The Panel has considered the applicant's request to vary the development standard contained in Clause 4.3 Floor Space Ratio – Ku-ring-gai LEP (Local Centres) 2012 and considers that compliance with the standard is unreasonable and unnecessary in the circumstances of this case as the variation will not result in a building that is inconsistent with the scale of buildings planned for this locality and the development remains consistent with the underlying intent of the standard and the objectives of the B2 Mixed Use Zone.
3. The proposed development adequately satisfies the provisions of the Contaminated Lands Management Act 1997 and the relevant State Environmental Planning Policies including SEPP 65 Design Quality of Residential Flat Development and associated Residential Flat Design Code and SEPP 55 Remediation of Land. Subject to the deferred commencement conditions imposed the proposal adequately satisfies SEPP (Infrastructure) 2007.
4. The proposal adequately satisfies the provisions and objectives of Ku-ring-gai LEP (Local Centres) 2012 and Ku-ring-gai Local Centres DCP.
5. The scale and architectural treatment adopted for the proposal are consistent with the anticipated character of the urban village context in which the site is situated.
6. The proposed development will have no significant adverse impacts on the natural or built environments including the amenity of nearby established dwellings or the performance of the local road network.
7. In consideration of conclusions 1-6 above the majority of the Panel (M L Taylor, B McDonald and S McDonald) consider the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

Councillors Malicki and Berlioz would not approve the application because there is a non-compliance with SEPP 65 side setbacks and building separation on the northern side which will impact on the current amenity of the residents of the existing residential flat building at 51-53 Lindfield Avenue. As well there is no certainty that the otherwise viable site development potential will be able to be achieved at 51-53 Lindfield Avenue because of the non-complying setbacks and breach of building separation rules.






Further, in the event of the future development on 51-53 Lindfield Avenue, there may be potential impacts on the

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amenity of future residents of the subject application because of these breaches.

**Conditions:** The development application was approved subject to the conditions detailed in Council's Assessment Report.

### Panel members:

 <b>Mary-Lynne Taylor</b>	 <b>Bruce McDonald</b>	 <b>Stuart McDonald</b>
 <b>Elaine Malicki</b>	 <b>Christiane Berlioz</b>	

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## SCHEDULE 1

1	<b>JRPP Reference – 2015SYW123, LGA – Ku-ring-gai Council, DA0578/14</b>
2	<b>Proposed development:</b> Demolition of existing structures and construction of a mixed use development consisting of retail and commercial space, 33 residential units, roof top swimming pools, basement parking and stratum subdivision.
3	<b>Street address:</b> 43 Lindfield Avenue, Lindfield and 9 Havilah Lane, Lindfield.
4	<b>Applicant and Owner:</b> Wzrm Pty Ltd
5	<b>Type of Regional development:</b> The proposal has a capital investment value greater than \$20 million
6	<b>Relevant mandatory considerations</b> <ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ SEPP (Building Sustainability Index: BASIX) 2004</li> <li>○ SEPP 65 (Design Quality of Residential Flat Development)</li> <li>○ SREP (Sydney Harbour Catchment) 2005</li> <li>○ Draft SEPP 65</li> <li>○ Ku-ring-gai Local Environmental Plan (Local Centres) 2012</li> <li>○ Local Centres DCP</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Development Contributions Plan 2010</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Regulations: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Regulation 2000</li> </ul> </li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EPA Act or EPA Regulation.</li> <li>• The public interest.</li> </ul>
7	<b>Material considered by the panel:</b> Council assessment report with deferred commencement consent, Pre DA report, Letter to applicant, Sydney trains concurrence, Clause 4.6 variation, Plans, Elevations and written submissions. Verbal submissions at the panel meeting: <ul style="list-style-type: none"> <li>• Wally Zagoridis</li> <li>• Vick Lake</li> <li>• Mr Lonergan</li> <li>• Angus Harris</li> </ul>
8	<b>Meetings and site inspections by the panel:</b> 05 August 2015 - Site Inspection & Final Briefing meeting.
9	<b>Council recommendation:</b> Deferred commencement approval
10	<b>Conditions:</b> Attached to council assessment report