

Good morning Angela,

We have also uploaded this Opposition PDF for Application A007086830 to Developmenti.

We strongly oppose the requested 'Minor changes' as we do not believe they are minor changes.

Please see letter attached.

Thanks for your consideration

DAPublic-A007086830

Oppose

The "minor" changes requested in the new development application have previously been declined by council, namely:

1. An extra level, which was declined in the original application,
2. The setbacks for the balconies from the northern boundary, which were originally declined by council,
3. The new undercroft removes planting area, which considering the building covers some 72%+ of the site, means minimal planting.

Increasing the height by adding another level makes it 8 floors and is outside recent approvals for a site <1100 sqm.

Figure 8 on page 21 does not accurately reflect the heights of the buildings and approvals, there are only 3 approvals, 2 being Highpoint and Kingsholm are sites much larger than 2000sqm, and 105 Swann Road is 1300sqm. There are no approvals >5 stories on less than 1300sqm on Swann Road.

I object to the proposed changes to the approval (A006504068).

1) Not a 'minor' change

The proposal is not a 'minor' change and should be assessed as an 'other' change to enable appeal rights for existing submitter.

The proposal is "*substantially different development*" (ref Development Assessment Rules V3 Schedule 1 4(g) as the proposal '*increases the severity*' of known impacts (being overshadowing, loss of breezes, overlooking, impacts on amenity of neighbours, increased traffic); and

Development Assessment Rules V3 Schedule 1 4 (i) "*removes an incentive or offset component that would have balanced a negative impact of the development*"

The extent of the proposed changes, by adding an additional storey, reducing setbacks and increasing density, result in additional impacts to neighbours. I object to those changes, and wish to reserve my right to appeal. Should Council accept the changes as 'minor' you are removing my right to appeal this decision. These changes are not 'minor'

Notwithstanding, under section 81 (2) (b) of the Planning Act, Council is required to take into account the submissions that were made to the original application. I trust that the submissions concerning height, setbacks, length of building, building bulk etc... are considered in the context of the proposed change, as any further increases in the building envelope will not address the submitter concerns.

2) Proposed Changes

The approved development already exceeds the strategic and built form outcomes anticipated for the site by the Planning Scheme. This is repeatedly acknowledged by Council in the Notice about Decision for the original application (A006504068).

The process of assessment for the approval involved 2 years of negotiation and in that time resulted in a reduction of bulk, scale, and height of the building. It should be noted that the local community are already dismayed with the scale of the approval, and do not agree with Council's decision that the proposal (A006504068) complies with the performance outcomes of the Planning Scheme. However, the prohibitive cost of an appeal (we were quoted up-wards of \$100,000) effectively prohibits the general public from pursuing a justifiable outcome in the Planning Court. Thus, the community relies upon Council to make a fair and equitable decision that reflects the community's expectations and the Planning Scheme. This approval already does not achieve this, and any additional height or reduction in setbacks should not be considered.

The proposed change reintroduces the height, bulk and length of the building, reduces rear setbacks and increases site cover of upper levels.

The Change intensifies the existing amenity impacts of the proposal on the neighbours, and will further decrease access to morning sunlight (winter and summer), and further restrict breezes to my unit.

The changes should be assessed against the Planning Scheme. The submitted planning report by B Planned states that the proposal does not dramatically alter the approved built form in terms of scale, bulk and appearance. I do not agree with the assertion. The extruded upper levels and additional storey will have a significant and direct effect on my amenity . It will increase the time I am in shade everyday of the year and will further block breezes to my unit,

This change application seeks to re-introduce bulk and scale elements that would diminish outcomes that have been relied upon to justify the overall approval.

A review of the Notice about Development for A006504068 reveals the following:

Rear (north) Setbacks

Council justified accepting the height of the original approval (A006504068) at 7 storeys based on a 12m rear setback to the upper levels, to “*give the appearance of a 5 storey building*” (NAD page 5). Increasing the actual height/storeys and reducing the rear setbacks will no longer provide a building that appears as 5 storeys by Council’s own assessment.

Further, the approval does not comply with the acceptable outcome for building height transition to the northern (rear) boundary, but has been approved based on a performance outcome for the upper levels of a 10m setback in lieu of the 20m (a significant departure from the AO).

The setback of the upper levels is integral to justifying the existing approved height against the Planning Scheme. There can be no reduction of these setbacks, as they have been relied upon as performance outcomes for the 7 storeys. By this same logic, any additional height/storeys would require additional **increases** (not decreases) in all boundary setbacks. This is not what the applicant has proposed, and should not be approved.

In the Notice about Decision (A006504068), in addressing submitters concerns about building height I quote:

“Additional building height has been balanced through the design, articulation, modulation and setbacks of the built form and sensitively designed through screening and planting to ensure it does not unreasonably impact on the amenity and privacy of the surrounding area.”

As a submitter , I disagree with this assessment. The impacts on my amenity by the proposal are significant. Any additional increases in the building envelope will exacerbate these impacts.