

Green light for Oxlade development

By *Natalie Rayment*

The Planning and Environment Court has ruled to uphold Brisbane City Council’s approval for Azure Development Group’s 156 Oxlade apartment building on Oxlade Drive, New Farm.

Azure’s proposal for a six-storey apartment was approved by Brisbane Council in 2020. Residents in neighbouring 11-storey Kirribilli apartments appealed the council’s decision due to concerns the proposal did not meet the neighbourhood plan acceptable outcomes for height. They claimed this would adversely affect their amenity with respect to privacy, overshadowing, and views.

Judge Nicole Kefford said, with reference to an earlier case: “... [Compliance] can be achieved by demonstrating compliance with either the acceptable outcomes... or the performance outcome itself ... while the references to five storeys provide strong guidance on what the community might expect, other provisions indicate that the appropriateness of the

height, scale and form will also be informed by other facts, such as their consistency with the amenity and character existing in, and intended for, the area.”

In this case, Ms Kefford ruled that the proposed development is a “well-designed, location-responsive medium density residential development” which “appropriately responds to the characteristics of the subject land, as well as the height, bulk, and nature of adjoining buildings.”

Ms Kefford determined that impacts on amenity were reasonable according to the standards of comfort and enjoyment which are to be expected by ordinary people.

In practice, this means that though the proposed development did not meet the five-storey acceptable outcome, it did meet the neighbourhood plan. It is appropriate in the context of its location as there is a wide variance of heights on the southern side of the street and so the six-storey outcome would improve streetscape cohesiveness and provide a gradual height transition.

This judgement reveals how our performance-based planning system

works in action. The judgement explains that councils draft planning schemes without access to “detail about every attribute of every piece of land within its local government area”. A planning scheme “guide[s] the parameters of development in performance-based terms. They do not advance a particular design option or solution for a particular site.”

Put simply, what is a good development outcome will vary from site to site; attempting to apply a one-size-fits-all approach is not only impractical, but does not deliver best results.

One key takeaway is that “development may differ from the planning controls but be compatible with... or designed to complement the planning outcome sought”.

Perhaps at the heart of this issue – the reason the approval was taken to court – is the lack of broad community understanding about the way our planning system works.

Court documents reveal the appellants thought of acceptable outcomes as limits, rather than guides. Had the residents known this when they bought their apartments, would it have changed



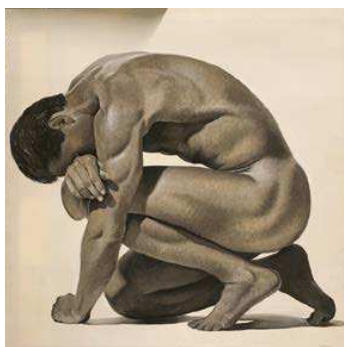
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their decision to buy? Perhaps not. However, it might have saved undue anxiety, not to mention the costs of bringing the appeal to court.

Our planning system is complex, and there is a lot of misinformation circulating. We at YIMBY Qld want to be a part of raising awareness and sharing knowledge about planning, its complexities and intricacies, so we can have more robust conversations about good planning outcomes in our city.

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