



# Penrith Local Planning Panel

## Determination and Statement of Reasons

<b>APPLICATION DETAILS</b>	DA18/1199 – 6 Edith Street, Kingswood
<b>DATE OF DETERMINATION</b>	Wednesday 27 February 2019
<b>PANEL MEMBERS</b>	Jason Perica (Chair) John Brunton (Expert) Geoff Martin (Community Representative)
<b>APOLOGY</b>	Mary-Lynne Taylor (Expert)
<b>DECLARATIONS OF INTEREST</b>	N/A
<b>LISTED SPEAKER(S)</b>	Lisa Rooney (Resident) Lyndy Rastell (Resident) Vince Montgomery (Resident) Wendy Spinks (Resident) Zeina Madrajat (Resident) Jonathan Wood (Town Planner - Think Planners)

Public Meeting held at Penrith City Council on Wednesday 27 February 2019, opened at 4:00pm

### **Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979**

Development Application DA18/1199 at Lot 55 DP 241989, No. 6 Edith Street, Kingswood – Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House containing 13 Boarding Rooms, Manager's Room & Basement Car Parking.

### **Panel Consideration/Reasons for the Decision**

The Panel had regard to the Assessment Report, supplementary memo dated 27 February 2019 and site observations.

The Panel generally agreed with the assessment by Council staff although added some additional reasons for refusal.

The Panel considered the request from the applicant to defer the matter although took the view there were a number of significant issues and any resulting necessary changes are likely to result in a proposal which is significantly different to the current proposal. This did not warrant its deferral.

In terms of considering community views, the Panel considered the objections raised in submissions and at the meeting and generally agreed with the Council staff's summary and response. This includes specific concerns with the proposals lack of integration with the current surrounding residential character of the immediate area which includes bulk and scale, architectural design, landscaping, setbacks, external colours and finishes. There were also concerns with amenity both to and from the proposed building.




**Panel Decision**

The Panel decided to adopt the recommended by Council staff for refusal (included amendments within the memo dated 27 February 2019) with the following changes;

1. Reason No.2 be amended to refer to the performance based criteria of the guidelines relating to landscaped area within Clause 29(a) of the SEPP (Affordable Renting Housing) 2009 and the issue relating to character of the area under Clause 30(a) be a separate reason for refusal.
2. An additional reason for refusal to address the inadequate communal living room under Clause 30(1)(a) of the SEPP (Affordable Renting Housing) 2009.
3. An additional reason for refusal to address the proposal not satisfactorily addressing the requirement of SEPP55 (Remediation of Land).
4. An additional reason for refusal to address the plan of management not being inconsistent with Schedule 2 of the Local Government (General) Regulation 2005.
5. An additional reason for refusal to address inadequate stormwater management for the developments.

**Votes**

The decision was unanimous.

<p>Jason Perica – Chair Person</p> 	<p>John Brunton – Expert</p> 
<p>Geoff Martin – Community Representative</p> 	



# MEMORANDUM

Reference: DA18/1199  
 To: Penrith City Council Local Planning Panel  
 From: Wendy Connell, Senior Development Assessment Planner  
 Date: 27 February 2019  
 Subject: **Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House containing 13 Boarding Rooms, Manager's Room & Basement Car Parking at 6 Edith Street, Kingswood.**

I refer to the above matter scheduled for determination with the Penrith City Council Local Planning Panel on Wednesday 27 February 2019 and a request for clarification from The Local Planning Panel dated 27 February 2019 and provide the following clarification on the matter/recommend the following;

LPP comment	Assessment Officer Comment
Communication with applicant and Council	<p>It is not considered that modifications to the current design will appropriately resolve the existing concerns as outlined within the assessment report.</p> <p>It is noted that the applicant did not engage through Council's Pre-lodgement service prior to the lodgement of the application. Many of the issues outlined in the report would have been raised during a Pre-lodgement meeting.</p> <p>The application is also not considered to have had regard to key standards and controls with SEPP (ARH) or Penrith DCP 2014.</p> <p>The amendments required to meet key standards and controls outlined in the SEPP (ARH) and Penrith DCP 2014 would mean a significant re-design of the proposal. If only minor amendments were required, the applicant would have been given the opportunity to amend the proposal during the assessment period.</p> <p>The applicants email dated 26 February to the Panel has not acknowledged the local character or bulk or scale as issues to be addressed in this instance.</p>
Cl 29 of AHSEPP	<p>Commencing on page 4 of the report under Clause 29, standards that cannot be used to refuse consent outlines includes height, landscape, solar, private open space. The report on page 5 states that:</p> <p><i>The proposed development is assessed to comply with the above mentioned applicable standards related to parking, height and accommodation size. However, the proposed does not comply with the standards related to landscaped area, solar access and private open space.</i></p>



# MEMORANDUM

<p>Consideration of Draft SEPPs (Remediation, Environment)</p>	<p>While it is noted that a draft amendment to SEPP55 was exhibited it is yet to be adopted. The provisions of this Draft SEPP do not alter necessary considerations in the assessment of an application but references to this draft SEPP (and others where relevant) will be referenced in the assessment reports for future matters.</p>
<p>Future character statements</p>	<p>It is acknowledged that Penrith DCP does not provide a future character statement, however through objectives and controls within 5.11 Boarding Houses and 2.4 Multi Unit Housing of Penrith DCP, points are provided which clearly reflects the need for new developments to:</p> <ul style="list-style-type: none"><li>▪ <i>fit the local character,</i></li><li>▪ <i>designed to have a sympathetic relation with adjoining development;</i> and</li><li>▪ <i>adopt key features of established suburban design.</i></li></ul> <p>This is reinforced through the SEPP (ARH) where consideration must be given to the <i>design of the development is to be compatible with the character of the local area</i> under Clause 30A.</p> <p>The proposal is not considered to comply with the intended established/future character of the area as outlined within the assessment report.</p>

# MEMORANDUM

<p>Schedule 2 of LGA Regs</p>	<p>Schedule 2 Standard enforceable by orders, <i>Part 1 Standards for places of shared accommodation</i>, sets seven (7) standards that relates to the proposed development. In particular, attention is drawn to standard's 6 and 7:</p> <p><i>6 Furniture and Fittings</i>  <i>Appropriate furniture and fittings must be provided and maintained in good repair.</i></p> <p><i>7 Long Term Residences</i>  <i>If the place is one in which persons may board or lodge for 7 days or longer, an adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar devices to screen bedroom and dormitory windows for privacy must be provided for the occupants.</i></p> <p>The Plan of Management submitted with the application outlines on page 3 that:</p> <p><i>It is noted that this new generation boarding house will not be provided as a fully furnished product and therefore tenants are to provide their own furniture and associated furnishings for their room- more akin to a small studio apartment than a traditional boarding house.</i></p> <p>Noting the above, this is therefore not considered consistent with the requirements of Schedule 2 of the Local Government (General) Regulation 2005.</p>
<p>SEPP 55, disabled access – review/x reference to be satisfied</p>	<p>Although matters regarding SEPP 55 and the access arrangements to the private open space are raised in the report, the discussion points raised were not deemed reasons for refusal.</p> <p>SEPP 55 – as the site has maintained a residential use for a significant amount of time and the fill discussed in the assessment report coincide with the construction of retaining walls on site. It is not considered that potential contamination concerns specifically exist. This matter could be addressed via an appropriate condition requesting a Statement from the owner supported by a Phase One preliminary site investigation to be submitted to Council for approval prior to the commencement of any works on site.</p> <p>Access – the application was not supported by an Accessibility Report. The steps to the rear private open space was identified during the assessment and would require a design element change to rectify.</p>

# MEMORANDUM

<p>Is site subject to flooding and if so implications</p>	<p>The site is not affected by flooding.</p> <p>Please note, there was an inaccuracy in the Appendix - DCP Compliance table and <b>C3 Water Management</b> discussion within the assessment report which was not inserted in the report.</p> <p>Section C3 Water Management should be included to read:</p> <p>Council's Development Engineers raised concern with the following:</p> <ul style="list-style-type: none"><li>▪ <i>The retaining wall on the southern boundary is not supported as it would block the sheet flow from upstream catchment.</i></li><li>▪ <i>The OSD location is unclear and amended plans should be submitted. A full length of section plan shall also be provided.</i></li></ul>
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Wendy Connell  
**Senior Development Assessment Planner**