

MEMORANDUM

Reference: DA20/0717

To: Penrith Local Planning Panel

From: Donna Clarke – Consultant Planner

Date: 6 April 2021

Subject: Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House including Basement Car Parking at 6 Edna Street Kingswood

I refer to the subject development proposal and the related assessment report that is scheduled for consideration by the Penrith Local Planning Panel on 7 April 2021.

This memorandum provides a response to questions from the Local Planning Panel ahead of the upcoming Local Planning Panel meeting.

No.	Question	Response
1	There are references to “information provided by Police” to help conclusions about adverse impacts. There did not seem to be a submission from Police in the submissions sent. Can such information be provided to the Panel?	<p>The development application was not referred to the NSW Police noting comments received from Council’s Community Safety and Social Planning Teams did not raise specific objection to the proposal.</p> <p>It is a contention raised within the Court Appeal and the filed Statement of Facts and Contention which relates to cumulative implications of clusters of boarding houses in the local area.</p> <p>Police Data as requested is provided for your information.</p>
2	The report cites no objections otherwise suggested conditions from Health, Community Safety Officer and Social Planning. Are these the specialist areas that usually provide expert comment on boarding houses?	These specialist officers are usually consulted on proposed boarding houses and in this instance raised no objection to the proposal as part of their review.
3	Are there any provisions in a planning document about concentration of boarding houses?	There are no specific planning documents regarding concentration of boarding houses. However, Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009

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		requires consideration to be given prior to granting of consent to the character of the area and clustering or concentration of boarding houses in an area will undoubtedly change the character of the area.
4	Does the eastern side setback comply?	The eastern side setback does comply with the numerical requirement however concern has been raised regarding the ability to landscape this area as a consequence of the indicated setback. The proposed setback dimension does not allow for sufficient canopy tree planting which does not contribute positively to the amenity of the area or the local character.

In addition to matters identified by the Panel for clarification, Council received an email on 1 April 2021 from the applicant which included a number of attachments and a request that the attachments be made available to the Panel. This email and attachments were received after the completion of the assessment and the referral of the assessment report to the Local Planning Panel.

The additional information received by email does not form part of the Development Application nor has it formed part of the assessment process. In accordance with Clause 55 of the Environmental Planning and Assessment Act 1979, additional or amended information cannot be considered if:-

- The information is not lodged via the NSW Planning Portal
- The amendment of an application (including receipt of amended plans) is only permitted where agreed to by the consent authority.
- The application to amend or vary the proposal must include particulars sufficient to indicate the nature of the changes made

The applicant has not satisfied the above three requirements and as such the information is not accepted, cannot be relied upon and has not been included in the assessment of the development proposal.

Notwithstanding this, a review of the amended plans has confirmed that the revised development is not supportable and would not alter the existing recommendation for refusal. Council is not supportive of the minor changes, with the principal issues remaining unresolved in particular with respect to bulk and scale, landscaping and setbacks, character and streetscape, amenity impacts, SEPP 55, BASIX and inconsistency in documentation.