



Penrith Local Planning Panel

Determination and Statement of Reasons

APPLICATION NUMBER	DA18/0810 – 1 Edna Street Kingswood
DATE OF DETERMINATION	8 May 2019
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Christopher Hallam (Expert) Stephen Welsh (Community Representative)
APOLOGY	Mary-Lynne Taylor (Expert)
DECLARATIONS OF INTEREST	No conflicts of interest were declared.
LISTED SPEAKER(S)	Vince Montgomery (Resident) Lyndy Rastall (Resident) Tony Wilkinson (Resident) Wendy Spinks (Resident) Joe El-sabbagh (Architect) Jonathon Wood (Town Planner)

Public Meeting held at Penrith City Council on Wednesday 8 May 2019, opened at 3:30pm.

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

Development Application DA18/0810 at Lot 87 DP 241989, No.1 Edna Street Kingswood for Demolition of Existing Structures & Construction of Two (2) Storey Boarding House containing 16 Boarding Rooms & Basement Car Parking.

Panel Consideration/Reasons for the Decision

The Panel had regard to the assessment report prepared by Council officers and site observations. The Panel also had regard to a memo dated 8 May 2019 from Council staff. A BASIX Certificate was also received as part of the proposal and provided to the Panel prior to the meeting.

Approval of the proposal was appropriate for the following main reasons:

1. The proposal complied with key standards and controls in the SEPP (Affordable Rental Housing) 2009 and Council's LEP 2010.
2. The use is permissible in the zone and is suited to the site. There are no controls regarding the number or concentration of boarding houses in the area or zone.
3. This proposal, as amended through the development assessment process (and further amended by conditions of consent) is consistent with the character and likely future character of the area in terms of the building design and is of a form, scale and finish which could be expected in the zone, given the applicable planning controls.
4. The impacts from the use are able to be appropriately regulated through conditions of consent, a Plan of Management and the governing legislation (including the EPA Act, 1979, Local Government Act 1993, associated Regulations and the Boarding Houses Act 2012).
5. Flooding and environmental considerations have been appropriately considered and addressed in the design and site planning, subject to further conditions of consent.
6. This proposal (as amended) is consistent with the objectives and provisions of Penrith DCP 2014 (including recent amendments relating to Boarding Houses).
7. This proposal (as amended) will have acceptable traffic impacts, while the proposed parking met applicable controls in terms of the quantum, while also being appropriately located in the basement.
8. This proposal (as amended) will have minimal and acceptable direct amenity impacts on neighbours in terms of privacy and overshadowing.
9. Granting consent would be in the public interest.

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, as outlined in the Council assessment report, and noting reasons above.

In terms of additional conditions imposed by the Panel, it was noted that the applicants representatives accepted the approach and a condition to require the front room 4 to be converted into a permanent onsite manager's residence, if substantiated adverse amenity impacts on neighbours from the use of the premises occurred after a reasonable trial period.

Panel Decision

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA18/0810 for Demolition of Existing Structures & Construction of Two (2) Storey Boarding House containing 16 Boarding Rooms & Basement Car Parking be approved subject to the conditions in the Council staff assessment report to the Local Planning Panel meeting of Wednesday 8 May 2019, subject to the following amendments:

- Incorporation of additional standard conditions at Condition 1, prior to a Construction Certificate and prior to an Occupation Certificate relating to the BASIX Certificate number 946915M, dated 2 August 2018.

- A new Condition 1A to state:
 “The plans shall be amended to address the following issues to the written satisfaction of the Development Services Manager **prior to the issue of the Construction Certificate**;
 a) Deletion of the northern first floor balcony off the corridor. This may be repositioned to the southern elevation off the corridor, if desired. The remaining northern window shall include obscure glazing or fixed external louvres to a height of at least 1600mm above first floor finished level;
 b) Incorporation of a concrete cover at ground level over the driveway entrance at its northern end, adjacent to Room 5, extending south-wards to the furthest extent possible, while still meeting head clearance and disabled carparking access provisions (2200mm clearance);
 c) Incorporation of landscaping with a minimum depth of soil of 600mm along the western side of the ground floor to allow planting to further ameliorate the visual and acoustic privacy impacts to the west. The rainwater tank shall be repositioned further north, closer to the Common Room to minimise use of this landscaped area. This shall also be included in a revised and updated landscape plan, including ongoing irrigation and maintenance;
 d) If proposed, air-conditioning shall be by a centralised unit and located along the eastern elevation at least 6m from the northern boundary”.

- A new condition to state:
 In order to monitor and evaluate the successful management of the premises, this consent is granted on a trial period basis, in relation to the use of Room 4 as a boarding room, ending two years after the issue of an Occupation Certificate. An application to continue the use of this room may be made prior to this trial period ending, and in assessing such an application, the Council shall have regard to any substantiated complaints, the views of the Local Area Command of NSW Police and the history of the management of the premises. If such review demonstrates substantiated problems then the Council may require the ground floor south-eastern room (Room 4) to be made a permanent on-site Manager’s residence.

- Amend Condition 24c to stipulate that access to the carpark shall be via a roller door, located at the bottom of the driveway, installed to ensure quiet operation.

- Incorporation of an additional condition to require the installation of a footpath for the full Edna Street frontage, to Council’s satisfaction and approval **prior to the issue of an Occupation Certificate**.

- Incorporation of an additional condition to require the installation of a telephone landline in the common room which allows free calls to the site Manager and emergency services, **prior to the issue of an Occupation Certificate**.

- Incorporation of an additional condition to state:

93. The submitted Plan of Management shall be amended to address the following issues, to the written satisfaction of the Development Services Manager **prior to the issue of the Construction Certificate**;

 - a) provision of a landline in the common room;
 - b) provision of secure access to the basement carpark, limited to the 8 allocated car spaces;
 - c) display, at the entrance to Edna Street and on the rear stair wall facing Callow Lane, in a clear and legible font, the contact number and details of the site manager and 24 hour telephone contact details;
 - d) provisions to ensure the site manager is appropriately trained in conflict and dispute resolution;
 - e) community liaison procedures during demolition, construction and ongoing operations following occupation, to facilitate open lines of communication regarding the impact and management of the premises.





- A new condition to require;

The premises shall be managed in perpetuity accordance with the Plan of Management referred to in Condition 1, as may only be amended with the written approval of the Council.

- A new condition to require the payment of Section 7.11 Development Contributions in accordance with Penrith City Council’s Development Contribution Plans (Cultural Facilities, District Open Space and Local Open Space).

Votes

The decision was unanimous.

<p>Jason Perica – Chair Person</p> 	<p>John Brunton - Expert</p> 
<p>Christopher Hallam – Expert</p> 	<p>Stephen Welsh – Community Representative</p> 

MEMORANDUM

Reference: DA18/0810

To: Penrith City Council Local Planning Panel

From: Sufyan Nguyen, Development Assessment Planner

Date: 8 May 2019

Subject: **Demolition of Existing Structures & Construction of Two (2) Storey Boarding House containing 16 Boarding Rooms & Basement Car Parking 1 Edna Street Kingswood**

I refer to the above matter scheduled for determination with the Penrith City Council Local Planning Panel on Wednesday 8 May 2019 and a request for clarification from The Local Planning Panel dated 5 May 2019 and provide the following clarification on the matter/recommend the following;

LPP comment	Assessment Officer Comment
Basix Certificate	A BASIX Certificate was submitted with the application. In this regard, it is recommended via a condition of consent that an amended BASIX Certificate be submitted prior to the issue of a Construction Certificate.
Draft SEPPs	<p>The following comments have been included in the Draft Environmental Planning Instruments section of the Major Assessment Report:</p> <p>The <i>Draft Environment State Environmental Planning Policy (SEPP)</i> was exhibited from 31 October 2017 to 31 January 2018, which will simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. These environmental policies will be accessible in one location, and updated to reflect changes that have occurred since the creation of the original policies.</p> <p>The Draft Environmental SEPP proposes to consolidate the following seven existing SEPPs:</p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 19 – Bushland in Urban Areas</i> • <i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i> • <i>State Environmental Planning Policy No. 50 – Canal Estate Development</i> • <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</i> • <i>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)</i> • <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> • <i>Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.</i> <p>Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.</p>



MEMORANDUM

	<p>In consideration of the aforementioned, noting that the proposal does not pose any significant impacts on the surrounding environment, the proposal is not considered to be inconsistent with this Draft Instrument.</p> <p>Further, the <i>Draft Remediation of Land State Environmental Planning Policy (SEPP)</i>, which will repeal and replace the current <i>State Environmental Planning Policy No 55—Remediation of Land</i> was exhibited from 31 January to 13 April, 2018.</p> <p>It is proposed the new land remediation SEPP will:</p> <ul style="list-style-type: none">• provide a state-wide planning framework for the remediation of land• maintain the objectives and reinforce those aspects of the existing framework that have worked well• require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land• clearly list the remediation works that require development consent• introduce certification and operational requirements for remediation works that can be undertaken without development consent. <p>In consideration of the proposed changes, noting that the subject site has no known history of land contamination, in addition to an appropriate condition of consent that is recommended in relation to any potential asbestos handling and/or removal, as stipulated by EPA requirements, the proposal is not considered to be inconsistent with this draft instrument.</p>
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Sufyan Nguyen
Development Assessment Planner