

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA20/0717 – 6 Edna Street KINGSWOOD NSW 2750
DATE OF DETERMINATION	7 April 2021
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Christopher Hallam (Expert) Stephen Welsh (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
SPEAKERS	Anthony Boskovitz – Applicant Dr Judith Stubbs – Sociologist James Brendan O’Kelly – Resident Wendy Spinks – Resident Vince Montgomery - Resident

Public Meeting held via video conference on Wednesday 7 April 2021, starting at 2:00pm.

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

Development Application DA20/0717, Lot 53 DP 241989 at 6 Edna Street KINGSWOOD NSW 2747 - Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House including Basement Car Parking.

Panel Consideration

The Panel had regard to the assessment report prepared by Council Officers, supplementary memorandum dated 6 April 2021 prepared by Council Officers submissions received, and the following plans;

- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Affordable rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017

- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

It was noted that amended plans and a social impact assessment were emailed to Council by the applicant in response to Council's Assessment Report (email dated 1 April 2021). The emailed information does not form part of the development application and as such has not been considered in the assessment of the Development Application by Council staff, nor the determination of this Development Application by the Panel. The submission does not comply with requirements detailed within Clause 55 of the Environmental Planning and Assessment Regulations 2000, as outlined within Council's supplementary memorandum dated 6 April 2021.

The Panel considered the applicant's verbal request for a deferral. However, given the nature, volume and breadth of issues that still need to be resolved, the likely time this would take and the likelihood an acceptable proposal would be considerably different, the Panel was of the view that deferral was not warranted or appropriate in this instance.

In terms of considering community views, the Panel noted there were 34 submissions received from the public notification of the Development Application. The Panel agreed with the assessment of issues raised, as outlined in the Council report.

Panel Decision

DA20/0717, Lot 53 DP 241989 at 6 Edna Street KINGSWOOD NSW 2747 - Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House including Basement Car Parking be refused for the following reasons:-

1. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of Penrith Local Environmental Plan 2010 as follows:
 - (a) The proposal is inconsistent with Clause 1.2, Aims of Plan, and the objectives of the R3 Medium Density Residential zone, particularly those related to a variety of housing types, enhancement of the local character and identity of established residential areas, provision of development that reflects the desired future character of the area and achieves and maintains a high level of residential amenity.
 - (b) The proposal is unsatisfactory having regard to the principles of sustainable development under Clause 7.4 Sustainable development.
2. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal has not satisfied the provisions of Clause 7 of the provisions of *State Environmental Planning Policy No. 55 - Remediation of Land*.
3. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:

- The development application does not provide satisfactory provision of landscaped area and is not considered to suitably respond to the local character of the area.
4. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:
 - C1 Site Planning and Design Principles;
 - C2 Vegetation Management;
 - C3 Water Management;
 - C4 Land Management;
 - C5 Waste Management;
 - C6 Landscape Design;
 - C10 Transport, Access and Parking;
 - Part D2 Residential Development; and
 - Part D5, Section 5.11 Boarding houses.
 5. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(i) and 4.15(1)(iv) of the *Environmental Planning and Assessment Act 1979*, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and Clause 50 of the *Environmental Planning and Assessment Regulation 2000* in that the application was not accompanied by a BASIX Certificate relevant to the type of development proposed, as is required by Part 1 of Schedule 1 of the Regulations. The application was not accompanied by a BASIX Certificate applicable to the type of development proposed, is BASIX affected development, and therefore does not comply with the requirement under clause 3 *Aims of Policy*, and clause 6 *Buildings to which Policy applies*.
 6. The development application is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of that development including those related to:
 - (i) unsatisfactory streetscape and local character impacts;
 - (ii) unsatisfactory noise and privacy impacts;
 - (iii) unsatisfactory traffic, parking, access and manoeuvring provision;
 - (iv) unsatisfactory external and internal amenity stemming from room sizes and room layouts;
 - (v) unsatisfactory sustainability considerations;
 - (vi) inadequate landscaping provision and setbacks; and
 - (viii) inadequate Operational Plan of Management.
 7. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not suitable for the proposed development. The size of the site and dimensions of the site create limitations to the driveway gradient, turning area and resultant finished floor levels relative to existing ground levels. The proposed driveway location removes a significant tree and basement clearance requirements result in a basement protrusion above natural ground level necessitating accessible ramping in the setback to Evans Street which does not provide a suitable secondary street landscape design treatment.
 8. The application is not satisfactory for the purpose of Section 4.15(1)(d) and 4.15(e) of the *Environmental Planning and Assessment Act 1979* due to

matters raised in submissions and the public interest with respect to impacts of the development on residential amenity, local character, changing nature of the area and privacy.

Reasons for the Decision

The Panel generally agreed with the assessment contained with Council's Assessment Report.

Given the Panel refused the development application, the reasons for the decision are outlined above.

Votes

The decision was unanimous.

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