

SYDNEY CENTRAL CITY PLANNING PANEL

TO: Sydney Central City Planning Panel – 13 June 2019

SUBJECT: 65-71 Kerrs Road, LIDCOMBE NSW 2141

FILE No: DA-210/2018

Application lodged	16 July 2018
Applicant	Moma Architects
Owner	Mr S M Allam
Application No.	DA-210/2018
Description of Land	65-71 Kerrs Road, LIDCOMBE NSW 2141, Lot 10 Sec C DP 3431, Lot 9 Sec C DP 3431
Proposed Development	Demolition of existing structures and Construction of a two-storey boarding house containing 37 boarding rooms over basement parking.
Site Area	1972.80m ²
Zoning	R2 – Low Density Residential Zone
Disclosure of political donations and gifts	Nil disclosure
Heritage	No
Principal Development Standards	Height of Building Permissible: 9m Proposed: 7.3m
Issues	Submissions

SUMMARY

- Development Application No.DA-210/2018 was received on 16 July 2018 for the demolition of existing structures and construction of a two-storey boarding house containing 37 boarding rooms over basement parking.*
- The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 7 August 2018 and 21 August 2018. The application was renotified for another 14 days between 8 November 2018 and 22 November 2018; and again between 19 April 2019 and 3 May 2019. In response, a petition with 50 signatures and three individual submissions were received.*
- The application is recommended for deferred commencement approval subject to the conditions as provided in the attached schedule.*
- The application is referred to the Panel as the proposal is lodged under Affordable Rental Housing and has a CIV above 5 million dollars.*

REPORT

SUBJECT SITE AND SURROUNDING AREA

The subject site is legally described as Lot 9, Section C and Lot 10, Section C DP3431. The development site can be best described as a parallelogram shaped lot with a frontage of 45.72m to Kerrs Road and a total site area of 1,972m².

The site is situated within an established residential area close to the intersection of Kerrs Road and Carroll Street. The subject site is in a R2 – Low Density Residential zone and is 730m walking distance to Lidcombe Station. Bus stops with regular services to Auburn, Merrylands, Granville and Bankstown is situated within 300m from the site. The site is opposite a mini mart corner shop and also within a short distance to shops and other services.

The subject site is mostly surrounded by single and double storey dwellings, there is a three storey walk up residential flat building across the road and a two storey walk up residential flat building immediately to the west of the site.

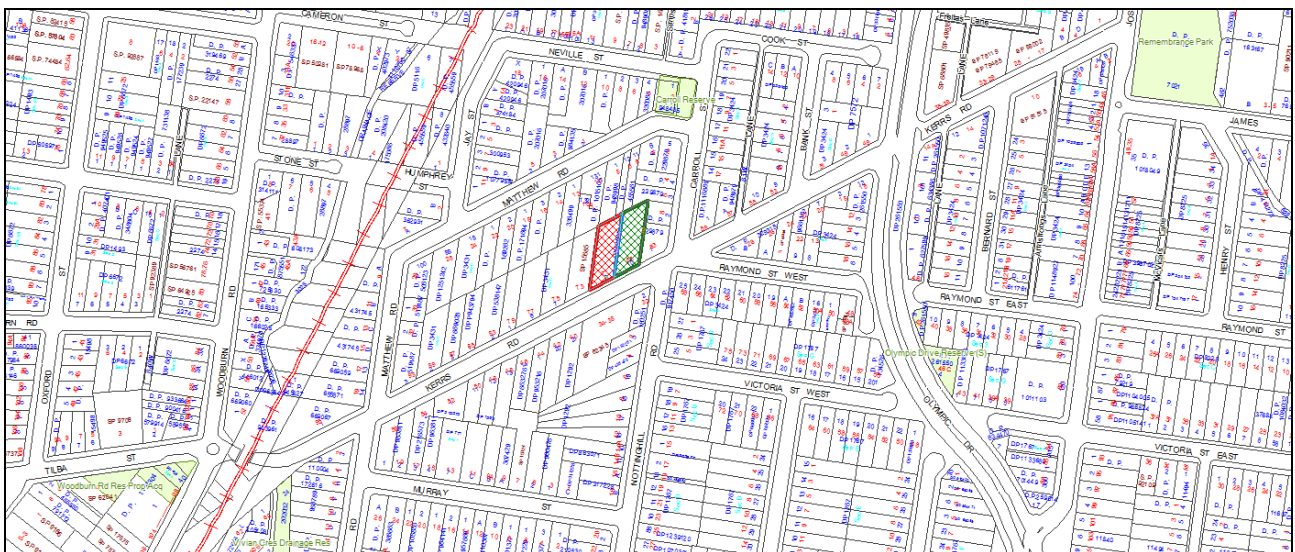


Figure 1 – Locality Plan of subject site

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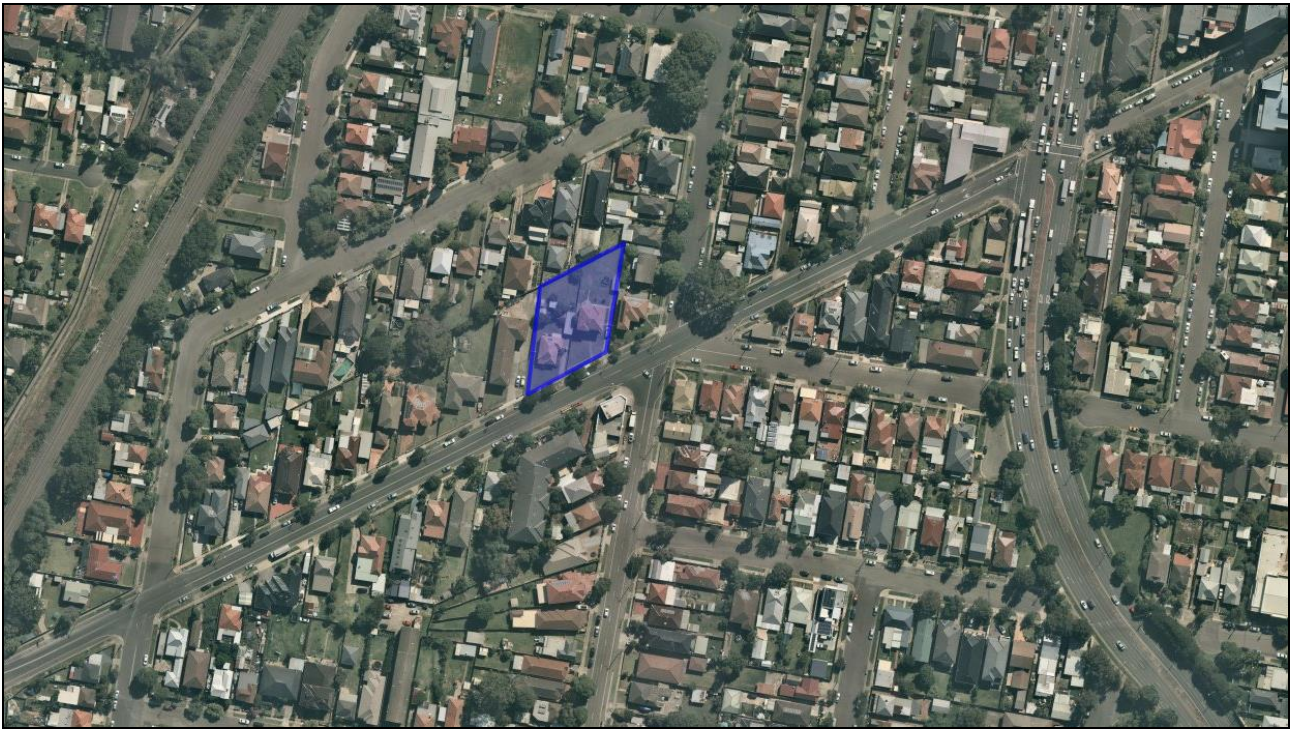


Figure 2 – Aerial view of subject site



Figure 3 – Street view of subject site

DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for the demolition of existing structures and construction of a two-storey boarding house containing 37 boarding rooms over basement parking.

The basement car parking includes:

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- Stairs and lift;
- 8 motorbike spaces;
- 8 bicycle spaces;
- 21 parking spaces (including four accessible spaces).

The ground floor includes:

- Managers room;
- 17 rooms (1 one of which is accessible);
- Waste area;
- Outdoor seating with BBQ area;
- Pergola in communal open space;
- Driveway to basement;
- Stairs and lift.

The first floor includes:

- 19 rooms (3 of which are accessible);
- Common room;
- Stairs and lift.

HISTORY

- A pre-DA meeting was held with Council on 4 December 2017 with the following main issues identified:
 - o Character of the area needs to be addressed;
 - o Three storeys would not be supported;
 - o Privacy must be addressed.
- Application DA-210/2018 was lodged with Council 16 July 2018. The following main issues were identified with the application:
 - o Character;
 - o Three storeys at the rear;
 - o Parking;
 - o Privacy;
 - o Solar access;
 - o Communal areas.
- Three set of amended plans were assessed by Council.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by Think Planners dated 13 July 2018 and was received by Council on 16 July 2018 in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

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INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory subject to deferred commencement conditions to address the drainage easement and driveway design issues.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory subject to deferred commencement condition to address the mechanical ventilation issue. The Environmental Health team has assessed the submitted acoustic report, contamination report and hazardous material survey and has found them to be satisfactory.

Building Surveyor

The development application was referred to Council's Building Surveyor for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

Landscape Architect/Officer

The development application was referred to Council's Landscape Architect/Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported subject to recommended conditions of consent.

EXTERNAL REFERRALS

The application was not required to be referred to any external government authorities for comment.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of

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Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$5,350,457 which exceeds the \$5 million threshold for Affordable Rental Housing. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Details of contamination investigations carried out at the site:</p> <p>A Preliminary Site Investigation report prepared by <i>eiaustralia</i> was submitted with the application. The report did not reveal any potential matters of concern with regard to contamination and concludes that the site is suitable for its intended use. A hazardous material survey report was also submitted (as requested by the health team).</p>	

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<p>a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p> <p>(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</p> <p>(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</p> <p>(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p> <p>(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p> <p>(d) private open space if at least the following private open space areas are provided (other than the front setback area):</p> <p>(i) one area of at least 20m² with a minimum dimension of 3m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p> <p>(e) parking if:</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The maximum building height for the site permitted under ALEP 2010 is 9m. The proposed development is 7.3m in height at the rear and 6.3m at the front.</p> <p>The front setback with its landscaping is considered to be consistent to that of the surrounding streetscape.</p> <p>There is a communal area on the first floor with north and east facing windows. The east facing windows will receive direct sunlight between 9am and 10pm. The north facing windows will receive direct sunlight between 12pm and 3pm meeting this requirement.</p> <p>Private open space for lodgers has been provided in the middle of the site that is mostly covered and a large 300m² area at the rear with a pergola.</p> <p>A 8.6m² area has been provided adjacent to the managers room.</p> <p>The development is located within an accessible</p>
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<p>(i) in the case of development in an accessible area—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>area and the car parking rate of 0.5 spaces per boarding room applies to the site.</p> <p>There 36 rooms + caretakers room</p> <p>The number of parking spaces required for the proposed development is $36 \times 0.5 = 18$ spaces.</p> <p>There is also one caretaker which requires an additional space.</p> <p>Total required: 19</p> <p>Total provided: 21</p>
<p>(f) accommodation size</p> <p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12m² in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16m² in any other case.</p> <p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p> <p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The GFA for each boarding room (excluding any area used for the purposes of private kitchen or bathroom facilities) complies with the minimum prescribed.</p> <p>All requires services are provided within each boarding room.</p> <p>Noted.</p>
<p>30 Standards for boarding houses</p> <p>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p> <p>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p> <p>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25m²,</p> <p>(c) no boarding room will be occupied by more than 2 adult lodgers,</p> <p>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p> <p>(e) if the boarding house has capacity</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>There are 37 rooms in total with one communal area on the first floor.</p> <p>None of the boarding rooms are over 25m².</p> <p>This can form part of a condition of consent. All rooms are nominated as double rooms.</p> <p>Small kitchenettes are available in each room with a small bathroom.</p>

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to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager, (f) (Repealed)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A manager's room has been proposed.
(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The development is not on land zoned primarily for commercial purposes.
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Number of boarding rooms = 37 Therefore 8 is needed for each. 8 has been provided of each.
(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
30AA Boarding houses in Zone R2 Low Density Residential A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	This development application was lodged prior to this amendment. Clause 54C provides savings provisions for applications lodged prior to the gazettal of the amendment.
30A Character of local area A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	See discussion below.
Part 4 Miscellaneous 52 No subdivision of boarding houses A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No subdivision is proposed as part of this application. This will be reinforced as a condition on any consent issued.

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

Discussion

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The ARHSEPP does not provide guidance in how to determine if a development is compatible with the local area. In this regard case law in the Land and Environment Court has considered the merits assessment of Clause 30A. In addition the Land and Environments Court's Planning Principle 'Surrounding Development – Compatibility of proposal with surrounding development' (*Project Venture Developments Pty Ltd v Pittwater Council* [\[2005\] NSWLEC 191](#)) provides for guidance on how to assess compatibility of development with the character of local area. Using case law and the Land and Environment Court Planning Principle, a merit assessment of character of the local area should consider the following 3 steps:

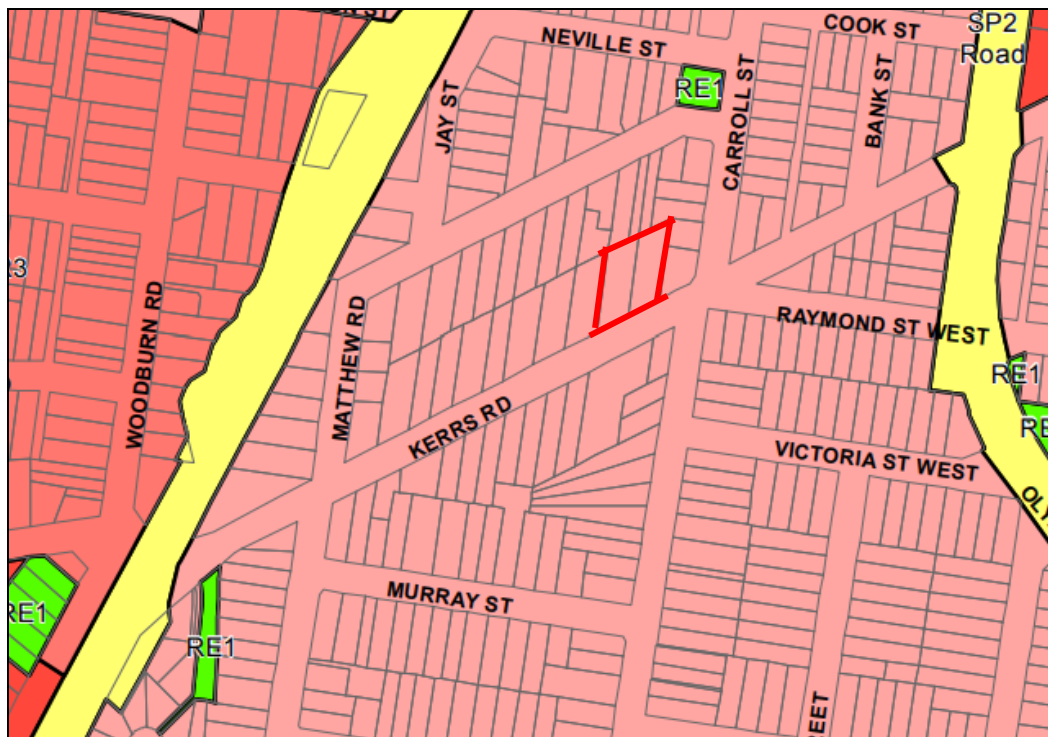
- Step 1 – Identify the local area.
- Step 2 – Determine the character (present and future) of the local area.
- Step 3 – Determine if the development is compatible with the character of the local area.

As assessment against each step is provided below:

Step 1 - Identify the local area

This assessment identifies the local area as primarily the visual catchment of the site (as viewed from within the site and directly adjacent to the site on the street) which is shown in the aerial view provided earlier in the report.

The local area for the purposes of this application is outlined on the zoning map below:



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Neighbouring single storey dwelling to the east of the site:



Corner shop on the opposite side of the site:



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Three storey walk up residential flat building immediately opposite the site:



Two storey walk up residential flat building to the west of the site:



Step 2 – Determine the character (present and future) of the local area

The identified character area is within the zone R2 Low Density Residential and contains primarily one and two storey residential dwelling houses. Immediately opposite the site is a two storey corner store and a three storey walk up residential flat building containing 24 units. Immediately to the west is a two storey walk up residential flat building containing 8 units. The area is undergoing transition and it is likely that the existing older building stock of single dwellings will be redeveloped to large two storey dwellings already evident in the street.

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Step 3 - Determine if the development is compatible with the character of the local area.

In accordance with the Land and Environment Court's 'Planning Principle' and recent case law on the character test within Clause 30A of the ARHSEPP, compatibility is best defined as 'capable of existing together in harmony'. In order to test compatibility two questions are to be considered. These questions as well as a response to each are provided below:

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

The above question is relatively objective. Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

In terms of the physical impacts of the development, the following points are made:

- The design of the proposal and orientation of the lot means that there is minimal overshadowing of adjoining sites.
- Privacy impacts are mitigated through the use of large setback to the rear, privacy screens and planting.
- Noise impacts from the common room are reduced through highlight windows facing the neighbouring property.
- The development proposal does not result in the constrained development potential of the adjoining properties to other uses permissible in R2 zones.
- To reduce impact and protect privacy the trees at the rear of the site shall be planted before construction begins.
- The car parking is located in the basement so that it does not add to the physical aspect of the building.
- The street facing elevation allows for passive surveillance of Kerrs Road.
- The proposal is a purpose built boarding house development which has utilised architectural and design treatments to ameliorate amenity impacts on neighbouring properties.

The development will have acceptable impacts on neighbouring developments.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

The predominant building types within the local area are one and two storey residential dwelling houses other than immediately adjoining the site is a two storey walk up residential flat building and opposite the site a three storey residential flat building. Given that predominant future character of the area is to maintain the low density residential use in terms of usage and building type. It is expected there will be upgrades to the residential housing stock via alterations and additions and knock down rebuilds. As such the proposed two storey building form and materials and finishes are considered to be in harmony with the emerging development in the area. The building has also been divided into two parts with a glass element in the middle to give it appearance of two separate buildings to match the existing bulk and scale of buildings in the area.

In this context, it is considered that the proposal is considered to be compatible with the existing and future desired character of the locality.

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Local Environmental Plans

Auburn Local Environmental Plan, 2010 (ALEP 2010)

The provision of the ALEP 2010 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the ALEP 2010 and the objectives of the R2 – Low Density Residential zoning.

(a) Permissibility:-

The proposed development is defined as a “Boarding House” and is permissible in the R2 – Low Density Residential zone with consent.

boarding house means a building that:

- (a) *is wholly or partly let in lodgings, and*
 - (b) *provides lodgers with a principal place of residence for 3 months or more, and*
 - (c) *may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
 - (d) *has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*
- but does not include backpackers’ accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.*

The relevant matters to be considered under ALEP 2010 and the applicable clauses for the proposed development are summarised below.

Figure 4 – Auburn 2010 Compliance Table

Parramatta Local Environmental Plan (PLEP) 2011	
Is the development consistent with the aims of the LEP?	Not inconsistent.
Is the development consistent with the Zone objectives?	Not inconsistent.
Maximum height of building – 9m	Yes – overall building height is 7.3m
Floor space ratio (FSR)	There is no FSR in R2 zones. The proposal equates to having a FSR of 0.54:1
Heritage Conservation	Yes – heritage item number 129 is in the vicinity being two dwellings located at 53 and 55 Kerrs Road, Lidcombe. This proposal is not considered to negatively impact the heritage item.
Acid Sulphate Soils	Yes – Class 5
Earthworks	Yes – Acceptable
Flood Planning	N/A
Biodiversity Protection	N/A
Water Protection	N/A

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The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Auburn DCP 2010 provides guidance for the design and operation of development to achieve the aims and objectives of the ALEP 2010.

There are no controls under ADCP 2010 that are relevant to a boarding house development.

It is important to note that the immediate neighbour to the east has recently installed solar panels on their roof. These solar panels are unaffected by the proposed development and are not overshadowed.

The provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 (EP&A Act s4.15(1)(a)(iii))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2000* (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The subject site and locality is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒ Mail ☒ Sign ☒ Not Required ☐

In accordance with Council's Notification requirements contained within the Auburn DCP 2010, the proposal was publicly notified for a period of 14 days between 7 August 2018 and 21 August 2018. The application was renotified for another 14 days between 8 November 2018 and 22 November 2018; and again between 19 April 2019 and 3 May 2019. In response, a petition with 50 signatures and three separate submissions were received with none disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

1. Issue: Zoning says it must be residential and not commercial

Planner's comment: A Boarding House is considered a residential development.

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2. Issue: Auburn LEP does not include a ratified clause for conversion of a residential property into a boarding house

Planner's comment: The proposed development is not for a conversion but rather a redevelopment. Boarding house development is a permissible form of development in the zone.

3. Issue: There is already a development by same applicant on 2-6 Kerrs Road, Lidcombe.

Planner's comment: There are no restrictions how many developments an applicant can seek. There are also no restrictions how many boarding houses can coexist in an area.

4. Issue: Insufficient parking spaces for the development

Planner's comment: The proposed development complies with parking requirements under the ARH SEPP and provides one additional parking space.

5. Issue: This development will cause traffic congestion

Planner's comment: A traffic report was submitted with the proposed development which finds that the development would cause minimal impact on the existing road network. This was considered by Council's traffic engineers and was found to be satisfactory.

6. Issue: Noise pollution

Planner's comment: An acoustic reports for the construction of the development was submitted with the application which will form part of a condition of consent. An acoustic report was also submitted which outlined any noise emissions from car park and indoor common areas. A condition of consent will be imposed to ensure compliance with the acoustic reports.

7. Issue: Increased risk of having accidents

Planner's comment: Evidence to support this claim has not been submitted for consideration.

8. Issue: A precedence will be set into place

Planner's comment: It is not considered to be a precedence as the development is permissible and compliant.

9. Issue: Boarding House needs to be close to public transport

Planner's comment: The development is considered to be walking distance to Lidcombe Train Station being 730m.

10. Issue: Development in the vicinity were built before ALEP 2010 and therefore would be illegal now

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Planner's comment: The residential flat buildings built in the vicinity of the development would not be a permissible form of development under the current LEP but still form part of the current character of the area.

11. *Issue:* Character of the local area

Planner's comment: The proposed development is considered to be compatible with the character of the local area. This matter has been discussed earlier in the report.

12. *Issue:* Financial impact on current value of property

Planner's comment: Evidence to support this claim has not been submitted for consideration

13. *Issue:* The lift suggests that it will be higher than two storeys

Planner's comment: The development is for two storeys only. Any development on this site must comply with the maximum building height stipulated under the ALEP 2010.

14. *Issue:* The current building is facing the opposite direction to all other buildings on that side of Kerrs Road

Planner's comment: The proposed development provides a consistent front setback with neighbouring buildings. There is no requirement that the development needs to follow the same orientation to that of the other buildings in the street.

15. *Issue:* How will it be monitored that boarders will stay a minimum of 3 months? How will Council monitor the site not being used as a group home, hotel, motel, senior housing, serviced apartments or airbnb

Planner's comment: A plan of management was submitted with the application which shall form part of a condition of consent. The operation of boarding houses is managed by the Boarding Houses Regulation 2013. There is also a boarding house manager that lives on the premises to ensure compliance.

16. *Issue:* Who will the boarders be

Planner's comment: The boarders can be any single person or couple who require accommodation for a minimum of three months.

17. *Issue:* Sex workers coming to the premises

Planner's comment: The application is for the development to be used as a boarding house and not sex services premises. Any illegal activity on site should be reported to the boarding house manager and/or police.

18. *Issue:* Increase violence, gun battles and murders.

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Planner's comment: The anticipated residents who would make use of a boarding house are young couples, students, the elderly and no evidence to support the claim of increase of violence, gun battles and murders has not been submitted for consideration.

19. *Issue:* The developers are planning to build 35 two bedroom units

Planner's comment: The proposed development is for a 37 room boarding house for a maximum of two persons per room.

20. *Issue:* The size of the boarding house that is permitted in R2

Planner's comment: There is a restriction of a maximum of 12 boarding rooms in R2 zone, however this only came in effect after the subject development application was already lodged. The savings provisions provided under the ARH SEPP exempt this development application from complying with the control.

21. *Issue:* Rooms are too small

Planner's comment: The rooms comply with the minimum and maximum requirements set out in the ARH SEPP.

22. *Issue:* Proximity to neighbouring properties

Planner's comment: A 1.5m side setback has been proposed on either side with a 9m rear setback. These setbacks are considered to be satisfactory.

23. *Issue:* Overcrowding

Planner's comment: A boarding house is a permissible form of development and the size of the development is considered to be acceptable in this instance. Until recently, there is no restriction to the number of rooms that apply to the development.

24. *Issue:* Privacy

Planner's comment: Privacy has been minimised by the use of privacy screens and planting.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

SECTION 7.11 (FORMERLY S94) CONTRIBUTION TOWARDS PROVISION OR IMPROVEMENT OF AMENITIES OR SERVICES

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure.

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Comments:

The development requires the payment of contributions in accordance with Council's Section 94 Contributions Plans.

As at 20 May 2019 the fee payable is \$106,434.88. This figure is subject to indexation as per the relevant plan. The draft determination attached includes a condition requiring payment of the contribution prior to issue of a Construction Certificate.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, State Environmental Planning Policy (Affordable Rental Housing) 2009, Auburn LEP 2010 and Auburn DCP 2010 and is considered to be *satisfactory for approval subject to deferred commencement conditions*.

The proposed development is appropriately located within the R2 zone under the relevant provisions of the Auburn LEP. The proposal is consistent with all statutory and non-statutory controls applying to the development. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to deferred commencement conditions.

RECOMMENDATION

1. **That Development Application No. DA-210/2018 for Demolition of existing structures and Construction of a two-storey boarding house containing 37 boarding rooms over basement parking on land at 65-71 Kerrs Road, LIDCOMBE NSW 2141 be approved via deferred commencement, subject to attached conditions.**
2. **Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

ATTACHMENTS

1. Draft Notice of Determination
TRIM No. P024170/2019

SYDNEY CENTRAL CITY PLANNING PANEL

- 2. Architectural Plans
TRIM No. T033615/2019
- 3. Submissions Received
TRIM No. T036720/2019
- 3. Plan of Management
TRIM No. T028700/2019
- 4. Landscape Plan
TRIM No. T028699/2019
- 5. Stormwater Plans
TRIM No. T019462/2019
- 6. Contamination report
TRIM No. T053563/2018
- 7. Hazardous Materials Survey report
TRIM No. T075911/2018