

Statement of Environmental Effects

65-71 KERRS ROAD,
LIDCOMBE

12 NOVEMBER 2019

QUALITY ASSURANCE

PROJECT: Statement of Environmental Effects – Section 4.55(2)

ADDRESS: 65-71 Kerrs Road, Lidcombe

LOT/DP: Lot 9 & 10/C/DP: 3431

COUNCIL: Cumberland Council

AUTHOR: Think Planners Pty Ltd

<i>Date</i>	<i>Purpose of Issue</i>	<i>Rev</i>	<i>Reviewed</i>	<i>Authorised</i>
<i>October 2019</i>	<i>Draft issue for review</i>	<i>Draft</i>	<i>LK</i>	<i>AB</i>
<i>November 2019</i>	<i>Draft Issue for client</i>	<i>Final</i>	<i>SR</i>	<i>AB</i>

Integrated Development (under S4.46 of the EP&A Act). Does the development require approvals under any of the following legislation?

Fisheries Management Act 1994	No
Heritage Act 1977	No
Mine Subsidence Act 1992	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No
Concurrence	
SEPP 1- Development Standards	No
SEPP 64- Advertising and Signage	No
SEPP Coastal Management 2018	No
SEPP (Infrastructure) 2007	No
SEPP (Major Development) 2005	No
SREP (Sydney Harbour Catchment) 2005	No

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EXECUTIVE SUMMARY

This Statement of Environmental Effects has been prepared in support of a Section 4.55 (2) modification application for amendments to the approved plans associated with DA-210/2018.

On 13 June 2019 the proposal was approved by Sydney Central City Planning Panel which was for the following:

- *Demolition of existing structures and Construction of a two-storey boarding house containing 37 boarding rooms over basement parking.*

A subsequent Section 4.55 was submitted to undertake changes to the basement and fire egress associated with the development.

This modification seeks consent for further amendments to the proposal. For full detail on the changes see the plans that have amendments shown in red, with the following key changes listed below:

- Modifications to the ground floor, first floor and elevations
 - o 6 x stairwells (approved) replaced with 2 x stairwells
 - o Additional communal room on the ground floor
 - o Increase to the size of the central courtyard to improve amenity for residents
 - o Additional 1 x room on the ground floor and 2 x rooms on the first floor. The total number of boarding room suites will be 40 (37 approved). It is noted these are located centrally to the building and maintain the approved setbacks and provide for good internal amenity and are designed to ensure any impacts to adjoining properties are minimised.
 - o Rationalizing roof into a single slope
 - o Improved streetscape presentation
 - o Cladding changed to CFC
 - o Change to the balustrade to adopt aluminium palisade form

In simple terms the changes seek to rationalise the fire egress to the building- and improve safety by discharging the fire stairs externally, improve amenity through the introduction of a communal room on the ground floor, and providing 3 additional rooms given the more rationalised fire stair arrangement.

Finally the largest driver was to improve the streetscape presentation from that approved to adopt a better contextual fit- which is reflected clearly on the photomontage extract provided over the page.



As can be seen from the image above the revision to the façade provides a much better fit in the R2 context of the locality.

The site is zoned R2- Low Density Residential under the Auburn Local Environmental Plan 2010. 'Boarding Houses' are permissible with consent within the R2-Low Residential Density Zone noting the application is made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.

The proposed changes are considered to be minor in nature and considering that the changes are contained wholly within the building footprint, with adjustment to the elevations, the amendments are clearly substantially the same development as that approved. The proposal continues to be a boarding house, noting that the proposed modification will have very limited amenity impacts with potential impacts have been addressed via previous DAs.

The additional 3 rooms will have limited impact given that they are located within the approved building footprint and therefore the bulk and massing of the building is unchanged and therefore overshadowing impacts are no different to the approved scheme. The setbacks ensure suitable separation to the adjoining properties and therefore is sufficient and compliant levels of on-site parking provided for the additional 3 rooms.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well-located land; the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the modification application subject to necessary, relevant and appropriate conditions of consent.

BRIEF HISTORY

The Development Application associated with the current proposal is provided below:

DA-210/2018

On the 13th of June 2019 the proposal was approved by Sydney Central City Planning Panel which was for the following:

- *Demolition of existing structures and Construction of a two-storey boarding house containing 37 boarding rooms over basement parking.*

S4.55 (1A) Modification

A Section 4.55 (1A) modification was submitted on the 22nd of October 2019 for the approved DA-210/2018. A summary of the proposed changes are listed below.

- Basement Modification (A1.02)
 - o Changes to basement layout accommodating the reconfiguration of the fire stairs
 - o Subsequent adjustment to parking configuration to provide a more efficient layout;
 - o Provision of 8 motorcycle spaces in a single area of the basement;
 - o Provision of a plant room/storage area within the basement.
 - o Reconfiguration of the carpark and expansion to the south enables additional 2 car parking spaces, resulting in a total of 23 car parking spaces.
 - o Reconfiguring the basement footprint to align with the building foot print above.
 - o Increase in deep soil areas.
- Ground and First Floor Modification (A1.03 and A1.04)
 - o Amendment to the fire stair configuration to reflect the changes to the basement levels.

Those changes sought to rationalise the scheme and the current changes are designed to provide further changes to improve the development.



SITE AND LOCALITY ANALYSIS

Situated within an established residential area, the subject land parcel resides on the north western side of Kerrs Road, approximately 20m north west of the intersection of Kerrs Road and Nottinghill Road. The site can be best described as parallelogram shaped land parcel with a frontage of 45.72m to Kerrs Road, a site depth of 53m, resulting in a total site area of 1,972m².

Moreover, the subject land parcel is within a short car trip to local shops, public transport, services, industrial precincts, schools and recreational opportunities. Bus stops with regular services to Auburn, Merrylands, Granville and Bankstown is situated within a 300m walking radius from the development site.

The aerial map extract below shows the existing and immediate context of the subject site.

Figure 1: Aerial Map Extract (Source: Six Maps)



Subject Site

PROPOSED SECTION 4.55 MODIFICATION

This modification seeks consent for further amendments to the proposal. For full detail on the changes see the plans that have amendments shown in red, with the following key changes listed below:

- Modifications to the ground floor, first floor and elevations
 - o 6 x stairwells (approved) replaced with 2 x stairwells
 - o Additional communal room on the ground floor
 - o Increase to the size of the central courtyard to improve amenity for residents
 - o Additional 1 x room on the ground floor and 2 x rooms on the first floor. The total number of boarding room suites will be 40 (37 approved). It is noted these are located centrally to the building and maintain the approved setbacks and provide for good internal amenity and are designed to ensure any impacts to adjoining properties are minimised.
 - o Rationalizing roof into a single slope
 - o Improved streetscape presentation
 - o Cladding changed to CFC
 - o Change to the balustrade to adopt aluminium palisade form

The design amendments provide a superior outcome and provide a number of key design improvements to the previous scheme, including:

- The adoption of a double height entry foyer connecting through to the central courtyard to better signify the entry and provide a suitable scale to the entry as well as light and views into and from the courtyard;
- Façade panels that have been introduced are designed to accentuate the terrace form and also screen A/C units;
- Palisade balustrade design replaces glass for privacy and to screen the balcony clutter when viewed from the street;
- The landscape plan has been amended to create improved individual entries;
- The revised colour palette provides a better fit with the character of the locality.
- The central courtyard area has been increased in size to improve useability;
- The communal rooms on both levels have been designed to front the courtyard and improve useability and functionality of the space.

The additional 3 rooms will have limited impact given that they are located within the approved building footprint and therefore the bulk and massing of the building is unchanged and therefore overshadowing impacts are no different to the approved scheme. The setbacks ensure suitable separation to the adjoining properties and therefore is sufficient and compliant levels of on-site parking provided for the additional 3 rooms.

PLANNING CONTROLS

STATUTORY CONTROLS

The relevant Statutory Planning Controls include:

- Section 4.55 (2) Environmental Planning Assessment Act 1979
- State Environmental Planning Policy No.55 - Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy-(Vegetation in Non-Rural Areas)2017
- Auburn Local Environmental Plan 2010.

POLICY CONTROLS

The applicable policy control documents include:

- Auburn Development Control Plan.

CONSIDERATION OF PLANNING CONTROLS

The following summarises the relevant planning controls in relation to the proposal and the compliance of each.

S.4.55(2) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to S.4.55 (2) of the Act, Council may consider an application to amend a development consent provided that, inter alia:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and

(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

The application is substantially the same as the approved development, with the S.4.55(2) modification seeking to modify minor elements. The proposal can be reasonably and appropriately considered 'substantially the same development when having regard to case law set down by the Land and Environment Court.

The question as to whether a modified proposal is 'substantially the same' as that originally approved has been an ongoing issue dealt with in the Land and Environment Court. It is also important to note that the Court has consistently described the section 4.55-modification provision of the Act as "beneficial and facultative". It is designed to assist the modification process rather than to act as an impediment to it; "It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision" (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the 'substantially the same' test.

Having regard to the series of amendments proposed in this application, it is noted that the proposal remains materially and essentially the same development.

Therefore, the proposal is considered to be substantially the same development as that originally approved.

It is anticipated that the development application will be notified to adjoining property owners and a discussion against the relevant planning controls is provided further in this statement.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Site contamination has been addressed via **DA-525/2017**.

STATE ENVIRONMENTAL PLANNING POLICY – (VEGETATION IN NON- RURAL AREAS) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) was introduced in August 2017. This SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation. The proposal is limited to revising the approved basement parking scheme and other minor internal modification with no changes to the approved landscaping scheme, as such SEPP – (Vegetation in Non-Rural Areas) 2017 does not apply to the current application.

STATE ENVIRONMENTAL PLANNING POLICY – (INFRASTRUCTURE) 2007

Has been addressed via previous DA, noting that the development site is not located within proximity to a classified road and as a result it is not necessary to consider the provisions of Clause 102 of the SEPP that requires a consent authority to consider the impact of arterial roads on buildings used for residential purposes.

Clause 104 identifies a number of types of development that require concurrence from Roads and Maritime Services where development is identified as 'traffic generating development'. The current proposal is not identified as traffic generating development by schedule 3 and accordingly, the proposal is not required to be referred to the RMS for comment.

STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING 2009)

The SEPP (ARH) 2009 has been addressed via the approved development application. It is noted the proposal has introduced an additional three (3) suites which have used the SEPP as a guideline given the Auburn DCP 2010 contains no relevant controls relating to boarding houses.

The rooms are compliant with the requirements of the ARH SEPP, complying with the minimum and maximum size requirements as follows:

- G13/14: 29sqm total and 23sqm excluding kitchen and bathroom.
- 134/135: 29sqm total and 23sqm excluding kitchen and bathroom.

Sufficient parking is provided for the additional rooms, compliant with the requirements of the ARH SEPP (0.5 spaces per room) as follows:

Carparking

- Required 40 x Rooms= 20 Spaces
- Provided= 21 Spaces

Motorcycle and Bicycle

- Required 8 & Provided 8

The modification is to retain the existing building envelope, with a revised building façade that is more visually attractive and is consistent with the character of the local area.

AUBURN LOCAL ENVIRONMENTAL PLAN 2010

The development site is zoned R2- Low Density Residential under the provisions of the Auburn Local Environmental Plan 2010, as shown on the map extract below.

Figure 2: Zoning Map Extract (Source: Auburn LEP 2010)



The development proposal is also consistent with the prescribed zone objectives that are stipulated as:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal provides a new generation boarding house that is not only located within a suitable location but will make available a variety of housing types within the and contribute towards providing low cost flexible rental accommodation for tenants such as single retirees, working singles, students from outside the Sydney metropolitan area and young couples an opportunity to live within Lidcombe in close proximity to local services and facilities.

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions.

Auburn Local Environmental Plan 2010			
Clause	Control	Comment	Complies
Zoning	R2 - Low Density Residential	A boarding house is permissible with Council consent in the R2 - Low Density Residential Zone.	Yes
Part 2 Permitted or Prohibited Development			
2.3	Zone objectives and Land Use Table	The Section 4.55(2) proposal will continue to provide a residential development that is consistent with the zoning objectives of the R2 Zone.	Yes
2.7	Demolition requires development consent	No additional demolition works than that proposed under DA-210/2018 is proposed.	N/A
Part 4 Principal Development Standards			
4.3	Height of Buildings: 32m	The proposed changes will have no impact on the height of the mix use building approved under DA-210/2018.	N/A
4.4	Floor space ratio	It is evident there is no FSR control prescribed within the LEP. The proposal continues to provide an appropriate FSR.	Yes
Part 5 Miscellaneous Provisions Principal Development Standards			
5.10	Heritage conservation	Has been addressed previously, noting that the modification is limited to the basement level and other minor internal changes.	N/A
Part 6 Additional Local Provisions – Generally			
6.1	Acid Sulfate Soils	Has been addressed via DA-210/2018	N/A
6.2	Earthworks	Has been addressed via DA-210/2018	N/A
6.43	Flood Planning	Has been addressed via DA-210/2018	N/A
6.4	Foreshore Building Line	Has been addressed via DA-210/2018	N/A
6.5	Essential Services	Has been addressed via DA-210/2018	N/A

AUBURN DEVELOPMENT CONTROL PLAN 2010

The development site is proposing a boarding house noting the Auburn Development Control Plan 2010 does not have specific controls for boarding houses and therefore the DCP provision for detached dwellings, dual occupancies, multi dwelling housing and residential flat buildings are not relevant to the assessment of the proposal and the development must be assessed on 'merit' with regard to setbacks and overall design.

On that basis an assessment against SEPP (Affordable Rental Housing) 2009 has been provided in order to provide a guide on the suitability of the design of the development in the absence of specific controls in the Auburn DCP 2010.

Parking and Loading

Parking and loading have been addressed via DA-210/2018. Moreover, further detail on parking and loading is part of the separate Statement of Environmental Effects Section 4.55 (1). See attached for detail noting the proposal continues to meet the parking requirements set out in SEPP (Affordable Rental Housing) 2009.

Waste

It is noted that waste is to be appropriately managed during the demolition and construction stages of the development and has been addressed via DA-210/2018.

Access and Mobility

The relevant requirements and objectives contained within Auburn Development Control Plan 2010: Access and Mobility have been considered in the assessment of the development application. Appropriate access is provided to, from and within the site for those with disability. Furthermore, one accessible boarding room is provided as part of the development.

Stormwater Drainage

The proposed development remains to incorporate Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of Stormwater on site and within the area. Stormwater Drainage has been addressed via DA-210/2018.

Tree Preservation

Tree Preservation has been addressed via DA-210/2018 noting the proposal provides for appropriate levels of landscaping on the site that softens the building form and contributes to the overall character of the development.

CONCLUSION

Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents with the exception of those discussed in detail previously in this statement. Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.