



City of Parramatta	
File No:	DA/330/2023

SECTION 4.15 ASSESSMENT REPORT Environmental Planning & Assessment Act 1979

DA No:	DA/330/2023
Subject Property:	135 Victoria Road, PARRAMATTA NSW 2150
Proposal:	Demolition of the existing dwelling, tree removal and construction of a two storey boarding house with basement parking
Date of receipt:	13 June 2023
Applicant:	JS Architects Pty Ltd
Owner:	Mina Property Investments Pty Ltd
Property owned by a Council employee or Councillor:	The site is not known to be owned by a Council employee or Councillor
Political donations/gifts disclosed:	None disclosed on the application form
Submissions received:	1 submission
Recommendation:	Refusal
Assessment Officer:	Denise Fernandez

Legislative Requirements

Relevant provisions considered under section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979	<ul style="list-style-type: none">• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• State Environmental Planning Policy (Housing) 2021• State Environmental Planning Policy (BASIX) 2004• Parramatta Local Environmental Plan 2023 (PLEP 2023)• Parramatta Development Control Plan 2011 (DCP 2011)
Zoning	R3 Medium Density Residential
Bushfire Prone Land	No
Heritage	No
Heritage Conservation Area	No
Designated Development	No
Integrated Development	No
Clause 4.6 variation	Yes – Application seeks a variation to Clause 25(1)(g)(ii) – Minimum lot size for the boarding house under Part 2, Division 2 – Boarding Houses of the Housing SEPP.
Delegation	Parramatta Local Planning Panel (application seeks variation to a development standard <10%).

1. Executive Summary

The proposed development is for a boarding house with 10 rooms in the form of a 2-storey development with basement parking. The subject site has frontage to Victoria Road.

The wider locality is characterised by a mix of low and medium density residential developments. The site is located within proximity to local, shops, bus services, education and employment opportunities.

The issues with the development arise from the undersized nature of the allotment, the proposed scale of the boarding house and the narrow nature of the site. The Housing SEPP requires that boarding houses on R3 zones be a minimum of 800m². The subject site has an area of 695.6m². To maximise the yield of development on the site, it has compromised compliance with side and rear setbacks. As a result, side elevations are lengthy and unrelieved which is visually imposing when viewed from adjoining developments. Further, as the boarding rooms on the first floor contain living room components, the insufficient boundary setbacks result in increased opportunities for undue amenity impacts on adjoining developments.

The undersized nature of the allotment, the proposed scale, and the narrow width of the site has also reduced the amount of landscaping provided on site which further exacerbate the bulk and scale of the development. The opportunities for deep soil are further reduced due to the extent of the basement beyond the building envelope. The development also provides a front setback more than the required range pursuant to PDCP 2011. This results in a disruption to the rhythm and pattern of development and landscaping on the streetscape. The quality of the facilities within the boarding house is also compromised as the proposal does not provide the minimum area for communal open space and communal living areas.

Given the poor design outcomes of the development and the amenity impacts which result from the current built form, the development is not considered to be compatible with the character of the local area or the envisaged character of the precinct.

As the development site has a frontage to Victoria Road, the application was referred to Transport for NSW. In response, TfNSW requested further information to complete its assessment of the development. This information has not been submitted and therefore concurrence from TfNSW has not been issued.

The application also failed to submit information required to satisfactorily assess the development with regards to engineering and universal access.

The application was notified/advertised and received one (1) unique submission within the notification period. The issues raised related to scale and character, privacy, overshadowing, acoustic, traffic, parking, on-site facilities and the notification of plans.

For the above reasons and others throughout the report, Council cannot support the application and is recommending refusal.

It is noted that on 24 August 2023 the Applicant commenced proceedings in Class 1 of the Land and Environment Court's jurisdiction appealing against the Council's deemed refusal of the development application.

2. Site Description and Conditions

The subject site is legally described as Lot 46 in DP 8016 and commonly known as 135 Victoria Road, Parramatta. The site has an approximate area of 695.6m².

The lot currently comprises single storey weatherboard dwelling with ancillary structures to the rear. Vehicular access is provided off Victoria Road. The site is a mid-allotment block and is generally rectangular in shape, sloping from the south (rear) towards Victoria Road. The street frontage to Victoria Road is 15.24m in length.

Surrounding the site are a mix of single storey dwelling houses and 2 storey multi-dwelling developments. Opposite the site is Collett Park and to the north-west are local shops.

To clarify the location of the application site and specifically that of the subject site, refer to the aerial image and photographs in **Figures 1 - 8** below.



Figure 1: Aerial view of the subject site and surrounds. Subject site outlined in blue. Source: Nearmap: August 2023.



Figure 2: Subject site from Victoria Road. Source: Site Inspection.



Figure 3: Adjoining development immediately to the west (137 Victoria Road). Source: Site Inspection.



Figure 4: Adjoining development to the east (133 Victoria Road). Source: Site Inspection.



Figure 5: Multi-dwelling housing on Grandview Street. Source: Site Inspection.



Figure 6: Local shops located north-west from the subject site. Source: Site Inspection.



Figure 7: Collett Park and developments directly opposite the subject site. Source: Site Inspection



Figure 8: Collett Park directly opposite the subject site. Source: Site Inspection

3. The Proposal

Development Application 330/2023 was lodged on 13 June 2023 for the demolition of the existing dwelling, tree removal and construction of a two storey boarding house with basement parking. Specifically, the application seeks approval for:

- Enabling works which comprise:
 - Demolition of all existing structures on site
 - Removal of 4 trees throughout the site
- Construction of a 2 storey boarding house with 10 rooms comprising of the following:

Basement Level

- 3 residential parking spaces, 1 disabled space, 1 shared space, 1 visitor parking, 2 x motorcycle spaces, 10 storage rooms, waste room, Lift and Driveway Ramp

Ground Level

- 4 x 2 person boarding room, common laundry, common room, bicycle storage room, lift, stairs and electrical room.

First Floor

- 6 x 2 person boarding room, lift and stairs.

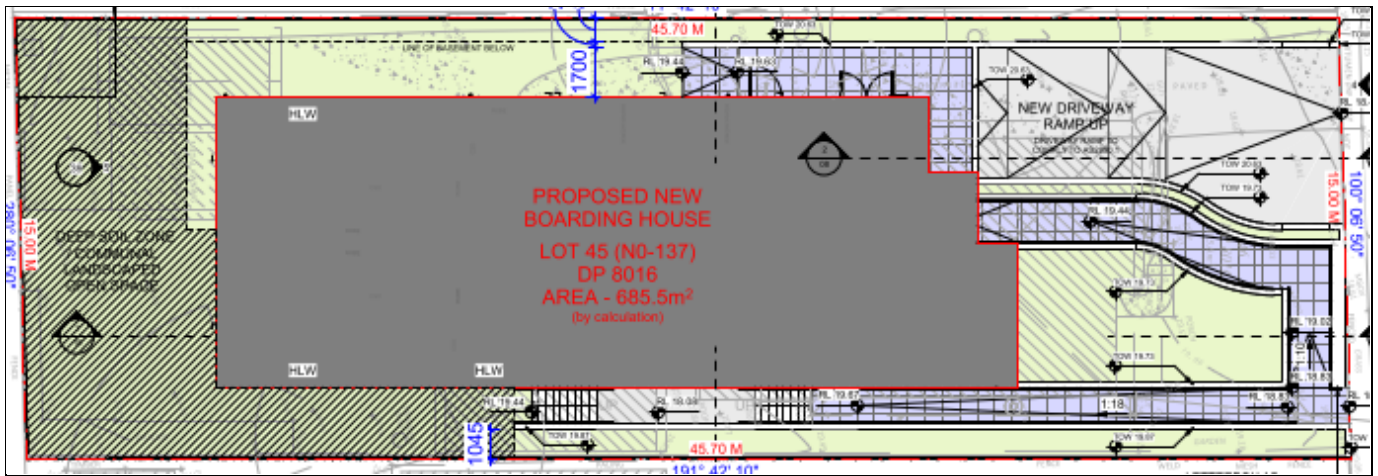


Figure 9: Site Plan. Source: JS Architects



Figure 10: Photomontage. Source: JS Architects

4. Permissibility

Parramatta Local Environmental Plan 2023

The site is zoned R3 Medium Density Residential. The sites to the east and west are also zoned R3 Medium Density Residential. The sites to the south (rear) are zoned R2 Low Density Residential. Collett Park to the north-east is zoned RE1 Public Recreation and the shops to the north-west are zoned E1 Local Centre. The site is also within proximity to sites zoned SP2 Educational Establishment and R4 High Density Residential on Pennant Street to the north. See Zoning Map below.



Figure 11: Zoning Map. Subject site outlined in yellow. Source: (ePlanning Spatial Viewer)

The proposed development is defined as the following under PLEP 2023:

boarding house means a building or place—

- (a) that provides residents with a principal place of residence for at least 3 months, and
- (b) that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (c) that contains rooms, some or all of which may have private kitchen and bathroom facilities, and
- (d) used to provide affordable housing, and
- (e) if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,

but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The boarding house is permissible with consent within the R3 Medium Density Residential zoning applying to the land.

5. Relevant Application History

Date	Comment
13 June 2023	DA/314/2023 was lodged with Council.
21 June 2023	Site Inspection
21 June to 12 July 2023	21 Day advertising / notification of the application
24 July 2023	Council sends correspondence that the proposal is unlikely to be supported for various reasons including non-compliant site area, compliance with requirements under the Housing SEPP, compliance with Parramatta Development Control Plan 2011, engineering, traffic, universal access, and concerns raised by Transport for NSW.
24 August 2023	Council received notice that the applicant has lodged a Class 1 Appeal.

6. Referrals

Referral	Comment
Acoustic	No objections, subject to conditions of consent.
Waste	No objections, subject to conditions of consent.
Food	No objections, subject to conditions of consent.
Landscaping	No objections, subject to conditions of consent.
Engineering	Not supported, additional information required.
	<u>Stormwater Requirements recommendation</u>

1. Referral to TfNSW for the applicants proposal to alter the existing stormwater pit – convert into a butterfly grate and construct a new pit over the existing line to accommodate the outlet from the OSD tank.
2. The tailwater level shall be considered as the Top of Kerb. System has a drowned outlet and not enough storage has been provided.
3. Stormwater grates shall be provided at the extremities of the storage, over hydraulic components of the tank and any point that is not 3m from an access point to enable visual inspection and access for cleaning.
4. Provision shall be made to ensure that external flows entering the development site do not cause the OSD system to unintentionally surcharge. Any flows generated from the local upstream catchment are not to be obstructed but rather permitted to drain into the development site. These flows shall be quantified and captured with an intercepting swale or directed into an overland flow path and subsequently directed to the point of discharge separate to the OSD system. The applicant shall provide the following information on the stormwater management plans:
 - a. Calculations demonstrating that the swale has capacity to cater for all external flows entering the site as a result of all storm events up to and including the 1% AEP storm event.
 - b. he proposed swale shall be designed using the minor/major system design principles noted in Australian Rainfall and Runoff
 - c. Flows generated by the local upstream catchment can be quantified using Rational Method or DRAINS,
 - d. Floatable material (bark or timber mulch) shall not form part of the swale
 - e. All plans shall be revised to incorporate the swale.
5. Council does not permit groundwater to be pumped to its stormwater system. The applicant shall provide sufficient evidence that there will be no interference with the groundwater or provide a tanked basement solution.

Water Sensitive Urban Design Recommendations

6. This development is required to incorporate WSUD into its stormwater management plan. The applicant has not submitted a MUSIC model demonstrating compliance with the Water Management controls listed in section 3 of Councils DCP. In this regard, the proposed stormwater plans shall incorporate WSUD and Stormwater Harvesting measures within the plans and submit to Council a **MUSIC model** and layout to be included in the plan demonstrating compliance with the minimum requirements and targets listed in the DCP.

Retaining Walls

7. If any earthworks are proposed, the following shall be provided:
 - (a) A separate cut and fill plan.
 - (b) All retaining walls that form part of this development shall be shown across all plans.
 - (c) All retaining wall details including top of wall, bottom of wall, wall type, cross-section for all wall types.
 - (d) The retaining walls shall be designed to ensure that natural flows from adjoining properties are not impeded or diverted.

Traffic

Not supported, additional information required.

The access driveway into the basement carpark is to be redesigned such that at least the first 6m from the property boundary has a minimum kerb to kerb width of 5.5m in accordance with Clause 3.2.2 of AS 2890.1 and that a vehicle entering the car park can wait wholly within the site boundary without obstructing Council’s footpath to allow an exiting vehicle to pass through unobstructed.

Universal Access

Not supported, additional information required.

The following information is to be addressed in amended plans:

- 1) Ensure door sizes and circulation follow AS1428.1 Figures 30, 31 and 32. (Including the accessible units bathroom door (it doesn’t seem to fit).
- 2) Low level thresholds should be provided at all doors accessing outdoor areas.

- 3) The Abutment of differing surfaces shall have a smooth transition. *Design transition shall be 0 mm. Construction tolerances shall be as follows:*
 - (a) 0 ± 3 mm vertical.
 - (b) 0 ± 5 mm, provided the edges have a bevelled or rounded edge to reduce the likelihood of tripping. **AS1428.1.7.2.**
- 4) Equipment and furniture within the communal areas will require accessible and inclusive features suitable for a person with a mobility and other impairments.

Note: AS1428.2 provides guidance on accessible furniture including, reach ranges and varying heights of tables and seats with back and arm rests.

SUMMARY

1. Ensure compliance with the Vista Access Architects Pty Ltd access report.
2. Ensure door sizes and circulation follow AS1428.1 Figures 30, 31 and 32.
3. Ensure low level thresholds at doors providing access to the outdoor areas.
4. The abutments of varying surfaces are to provide level transitions.
5. Ensure equipment and furniture provide suitable features for a person with a mobility impairment.

Social

Not supported

City Strategy (Social/Cultural) does not support this development in its current form, with the key concern being non-compliance with minimum requirements for the provision of communal space.

- The applicant clarify the number of lettable rooms, maximum number of boarding house tenants and the associated management requirements.
- The applicant must meet the requirements for the management and operation of the boarding house as affordable housing in perpetuity.
- That, the applicant increase the provision of communal space to improve amenity for future boarding house tenants.
- That, the applicant consider embellishing the communal outdoor space to improve amenity for boarding house tenants.
- That, the applicant consider locating the communal indoor space adjacent to the communal outdoor space.
- That, an Emergency Evacuation Plan be submitted prior to commencement of operations of the boarding house.

Transport for NSW (TfNSW)

Not supported, additional information required.

TfNSW has reviewed the submitted application and is unable to provide concurrence to the proposed vehicular crossing on Victoria Road under Section 138 of the Roads Act 1993, for the following reasons:

1. Swept paths should be submitted to demonstrate passenger vehicles can simultaneously enter and exit the site from the kerbside lane of Victoria Road to prevent queuing that may affect efficiency and safety of the kerbside bus lane. Lane allocation of Victoria Road should be included on plans to demonstrate manoeuvres from the kerbside lane do not affect traffic flows on adjacent lanes and movements can be wholly contained within the kerbside lane.
2. Submitted plans indicate driveway design within the property boundary but exclude vehicular access to Victoria Road. Concept civil design plans should be submitted indicating the vehicular crossing within the road reserve on Victoria Road. TfNSW requests the abovementioned plans for further assessment prior to the determination of the application.

7. Environmental Planning Instruments

7.1 Overview

The instruments applicable to this application are:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (BASIX) 2004
- Parramatta Local Environmental Plan 2023 (PLEP 2023)
- Parramatta Development Control Plan 2011 (PDCP 2011)

Compliance with these instruments is addressed below.

7.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 2 VEGETATION IN NON-RURAL AREAS

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to the site. The aims of the plan are to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of the non-rural areas of the State through the preservation of trees and other vegetation.

Council's Consultant Landscape Architect raised no objections to the removal of four (4) trees subject to appropriate conditions of consent.

It is considered that the removal of four (4) trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area. The proposed replacement planting will ensure that the development will not result in an unacceptable loss of amenity values or finite natural resources. Notwithstanding, for reasons stated throughout this report, the proposal cannot be considered for approval.

7.3 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021 – CHAPTER 10 SYDNEY HARBOUR CATCHMENT

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (erosion control, etc) could have been managed by conditions of consent.

7.4 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021 – CHAPTER 4 REMEDIATION OF LAND

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not identified in Council's records as being contaminated. A site inspection reveals the site does not have an obvious history of a previous non-residential land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated. In addition, a Phase 1 Environmental Site Assessment prepared by Geotesta was submitted with the application. Geotesta noted:

- *All the contaminant concentrations of interest were found to be within the site assessment criteria (SAC).*
- *The Preliminary Site Investigation's limited soil sampling and analysis program conducted indicated a low risk of soil and groundwater contamination. It is the opinion of Geotesta Pty Ltd that the site is*

- suitable for the proposed residential subdivision pending on the results of an additional Data Gap Contamination Assessment.*

• *Due to the existence of a data-gap in this investigation, a further Data Gap Contamination Assessment post demolition of the existing buildings is required to address further potential areas of concern (main emphasis on the footprints of the hardstands) identified in the AECs and to determine if any contamination hotspots exist around the existing sheds and dwellings.*

Council Comment: It is noted that the conclusion refers to the suitability of the site for a residential subdivision. This appears to be an error on the part of the author of the report. The PSI notes on page 10 that the site is to be developed for a residential use. A boarding house is a form of residential accommodation pursuant to PLEP 2023. Accordingly, the conclusions of the PSI are accepted, noting that the history of uses on the site is also residential in nature.

7.5 STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 – CHAPTER 2 INFRASTRUCTURE

The relevant matters to be considered under Chapter 2 of the SEPP for the proposed development are outlined below.

Chapter 2	Comment
Clause 2.45 – electricity infrastructure	The proposal does not require the provision of a new substation.
Clause 2.48 - Development likely to affect an electricity transmission or distribution network	N/A. The subject site is not within proximity to electricity infrastructure or substation.
Clause 2.100 – Development in or adjacent to rail corridors	N/A. The subject site does not adjoin a rail corridor.
Clause 2.119 – frontage to a classified road	<p>No</p> <p>The site has frontage to a classified road (Victoria Road). Accordingly, the application was referred to Transport for NSW (TfNSW). Upon review, TfNSW requested additional information to assist with its assessment of the proposal. Council has not received any submissions from the application to address this concern from TfNSW.</p> <p>As such, TfNSW cannot issue its concurrence under Clause 2.119 of the SEPP and therefore the proposal cannot be supported.</p>
Clause 2.122 – Traffic Generating Development	N/A. The development does not meet the criteria for referral to TfNSW under Schedule 3 of the SEPP.

7.6 STATE ENVIRONMENTAL PLANNING POLICY – BASIX

As the boarding house:

- is to accommodate more than 12 people
- Within a development with more than 300m² in total floor area
- with each dwelling within the development being less than 35m² and
- is not in the form of a residential flat building.

An alternate assessment process for thermal comfort against Section J of the National Construction Code (NCC) – Volume 1 is required.

As such, the boarding house in its current form is to be accompanied with a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. Further, due to the abovementioned requirement, an additional commitment for the development proponent to assess the development against Section J of the NCC is to be included with the application.

A review of the submitted BASIX Certificate and documentation submitted with the application, indicates that the additional commitment for the development against Section J of the NCC has not been undertaken / provided. The BASIX Certificate appears to also have been prepared as a residential flat building. An alternative assessment as a large boarding house has not been completed. As the BASIX Certificate / Section J has not been prepared in accordance with the requirements, the application cannot be considered for approval.

7.7 STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021 – PART 2, DIVISION 2 – BOARDING HOUSES

The relevant matters to be considered under PART 2, Division 2 of the SEPP for the proposed development are outlined below.

Clause	Discussion	Compliance
<p>Clause 23 - Boarding Houses Permitted with Consent</p> <p>(1) Development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument.</p> <p>(2) Development for the purposes of a boarding house must not be carried out on land in Zone R2 Low Density Residential or an equivalent land use zone</p>	<p>The site is zoned R3 Medium Density and boarding houses are permitted in the zone pursuant to PLEP 2023</p> <p>The site is not zoned R2 Low Density</p>	<p>Complies</p> <p>N/A</p>
<p>Clause 24 - Non-discretionary development standards—the Act, s 4.15</p> <p>(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—</p> <p>(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—</p> <p>(i) the maximum permissible floor space ratio for residential accommodation on the land, and</p> <p>(ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,</p> <p>(b) if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,</p> <p>(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,</p>	<p>The proposal is not in the form of a residential flat building.</p> <p>The maximum FSR for a residential accommodation on the subject site is 0.6:1. The proposed development has a FSR of:</p> <p>Ground – 204m² First Floor – 219m² Total GFA = 417m² Site Area = 695.6m² FSR = 0.60:1</p> <p>The minimum landscaping requirement for multi dwelling housing under PDCP 2011 is 40% of the site with minimum 2m dimension. The proposal provides 246m² which is 35% of the site.</p>	<p>N/A</p> <p>Complies</p> <p>Non-compliant</p> <p>Complies</p>

<p>(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,</p> <p>g) for a boarding house containing more than 6 boarding rooms—</p> <p>(i) a total of at least 30m² of communal living area plus at least a further 2m² for each boarding room in excess of 6 boarding rooms, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p> <p>(h) communal open spaces—</p> <p>(i) with a total area of at least 20% of the site area, and</p> <p>(ii) each with minimum dimensions of 3m,</p> <p>(i) if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces—</p> <p>(i) for development on land within an accessible area—0.2 parking spaces for each boarding room,</p> <p>(ii) otherwise—0.5 parking spaces for each boarding room,</p> <p>(j) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.</p>	<p>The development provides 3 hours of solar access to the common living area during mid-winter.</p> <p>1 common living area provided with dimensions more 2m and is 30m². The 'common room' contains a kitchen and dining area.</p> <p>It is noted that the overall floor area of the common room (including kitchen and dining area) is 30m². However, the development proposes 10 rooms and therefore requires an additional 8m² of communal living area not included as part of the development.</p> <p>Communal open space provided to the rear with an area of 100m². The minimum required under this provision is 139.12m².</p> <p>Minimum car parking is pursuant to PDCP 2011 which requires:</p> <p>1 space per 10 boarding rooms; plus 1 space per resident manager / caretaker (where applicable); 1 space for any vehicle operated by the facility; plus 1 motorcycle space per 5 boarding rooms</p> <p>The proposal provides 4 vehicle spaces including 1 accessible space and 2 motorcycle spaces within the basement.</p> <p>There appears to be a surplus of 2 parking spaces in the number of parking spaces provided. The provision of additional car spaces is not required in this instance as the subject site is located within proximity to public transport.</p> <p>As a result, a bigger basement footprint, reduced deep soil opportunities and excessive excavation is required.</p>	<p>Non-compliant</p> <p>Non-compliant</p> <p>Complies</p>
<p>Clause 25 - Standards for boarding houses</p> <p>(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—</p> <p>(a) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m², and</p> <p>(b) no boarding room will be occupied by more than 2 adult residents, and</p> <p>(c) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and</p> <p>(d) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use</p>	<p>No boarding room has an area of more than 25m² excluding bathroom and kitchen facilities.</p> <p>No boarding room will be occupied by more than 2 adult residents.</p> <p>Private bathroom and kitchen are located within each boarding room. Laundry facilities are located on the ground floor.</p> <p>The site is not zoned R2.</p>	<p>Complies.</p> <p>Complies</p> <p>Complies</p> <p>N/A</p>

<p>zone—the boarding house will not have more than 12 boarding rooms, and</p> <p>(e) for a boarding house on land in a business zone—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 the use, and</p> <p>(f) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area, and</p> <p>(g) the minimum lot size for the boarding house is not less than—</p> <p>(i) for development on land in Zone R2 Low Density Residential—600m², or</p> <p>(ii) for development on other land—800m².</p> <p>(h) each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following—</p> <p>(i) for a boarding room intended to be used by a single resident—12m²,</p> <p>(ii) otherwise—16m², and</p> <p>(i) the boarding house will include adequate bicycle and motorcycle parking spaces.</p>	<p>The site is not located in a business zone.</p> <p>1 communal living area is provided.</p> <p>The site is not zoned R2.</p> <p>The site is zoned R3 Medium Density, however the site area is only 695.6m². A clause 4.6 variation has been lodged by the applicant and is elsewhere in this report.</p> <p>Each boarding room has more than 16m² in area excluding bathroom and kitchen facilities.</p> <p>The development provides motorcycle and bicycle storage spaces.</p>	<p>N/A</p> <p>Complies</p> <p>Non-compliant</p> <p>Complies</p> <p>Complies</p>
<p>(2) Development consent must not be granted under this Division unless the consent authority considers whether—</p> <p>(a) the design of the boarding house will be compatible with—</p> <p>(i) the desirable elements of the character of the local area, or</p> <p>(ii) for precincts undergoing transition—the desired future character of the precinct, and</p> <p>(b) the front, side and rear setbacks for the boarding house are not less than—</p> <p>(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,</p> <p>(c) if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.</p>	<p>See Character Study below.</p> <p>Min Setbacks per PDCP 2011 Front – Min. 5 – 7m Side – Min. 3m Rear – 15% length of the site (Min. 6.8m)</p> <p>Proposed Front – 11m Side – Min. 2.5m – 2.6m Rear – Min. 6.5m</p> <p>The development is only 2 storeys.</p>	<p>Non-compliant</p> <p>Non-compliant</p> <p>N/A</p>
<p>Clause 26 - Must be used for affordable housing in perpetuity.</p>		

<p>(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity—</p> <p>(a) the boarding house will be used for affordable housing, and</p> <p>(b) the boarding house will be managed by a registered community housing provider.</p> <p>(2) Subsection (1) does not apply to development on land owned by a relevant authority or to a development application made by a public authority.</p>	<p>The application has not indicated this information.</p>	<p>Non-compliant</p>
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<p>Clause 27 - Subdivision of boarding houses not permitted. Development consent must not be granted for the subdivision of a boarding house.</p>	<p>The proposal does not seek approval for subdivision of the development.</p>	<p>Complies</p>
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Clause 25(2)(a) – Compatibility with the Local Area

The SEPP 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 25(2)(a) of the SEPP. In addition the Land and Environment 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:

Part A - 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 figure below.

The local area is indicated in the following map:

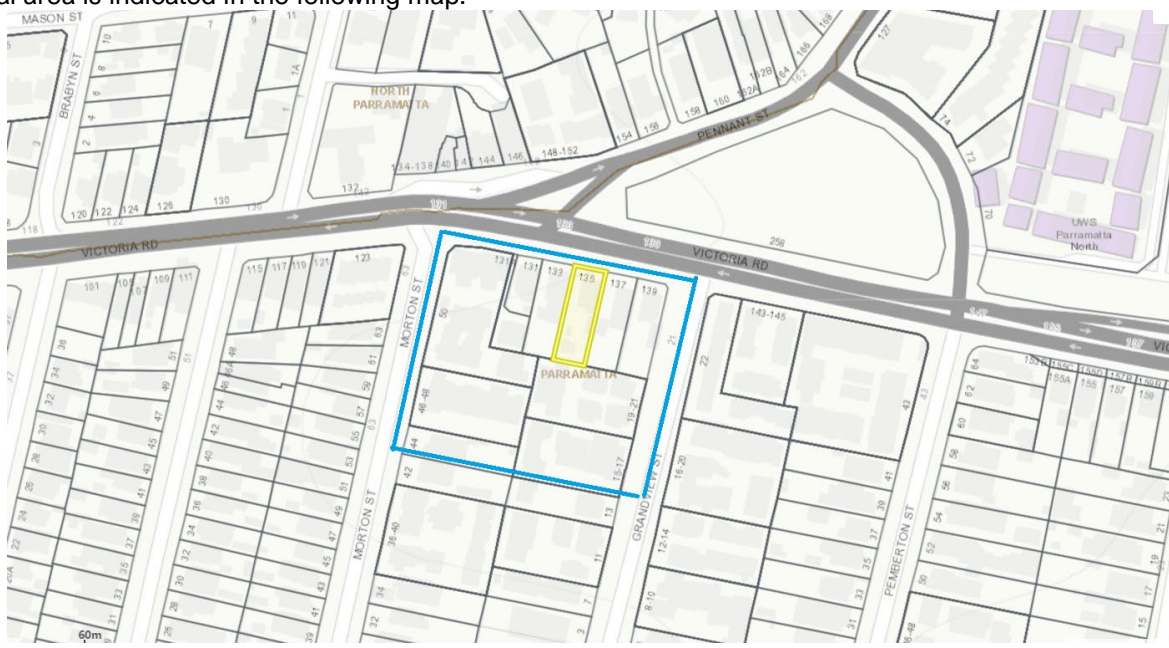


Figure 12: The Local Area (The blue border denotes visual catchment of the site whilst the yellow box denotes subject site)

Part B - Determine the character of the local area.

The existing zoning of the local area is a mix of R2 Low Density Residential with R3 Medium Density Residential at the periphery (interface with Victoria Road)

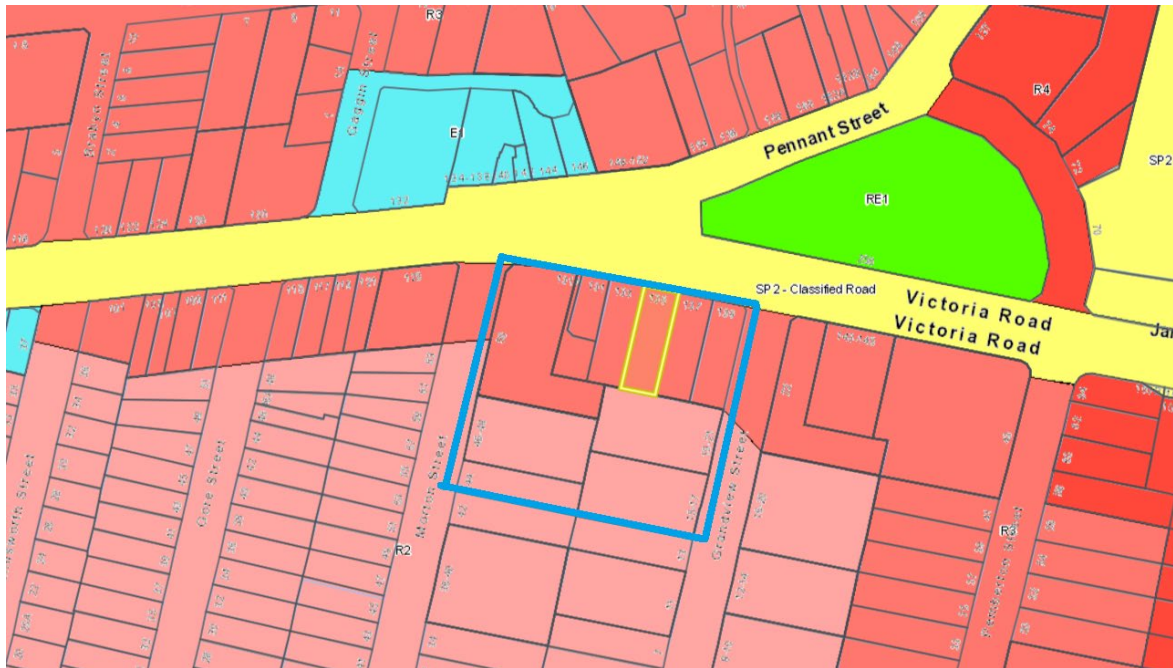


Figure 13: The Zoning of the Local Area (The blue border denotes visual catchment of the site whilst the yellow box denotes subject site)



Figure 14: FSR Map (The blue border denotes visual catchment of the site whilst the yellow box denotes subject site)



Figure 15: Building Height Map (The blue border denotes visual catchment of the site whilst the yellow box denotes subject site)

The height limit in the local area is 9 metres and 11m with an FSR of 0.6:1 and 0.5:1

The predominant built form within the Local Area comprises:

- 1 storey detached residential dwelling, landscaped front setbacks with ancillary structures to the rear.
- 2 storey multi dwelling developments with articulated first floor levels, a pitched roof, landscaped front setbacks, and at-grade garages. These developments are also located on sites where more than one allotment has been amalgamated and achieves the minimum 24m frontage width.
- The development density of the Local area is consistent with the zoning, FSR and height controls applicable for their respective sites.
- Whilst the density is compliant and consistent with the planning controls and of the existing development in the area, the built form is not considered to be compatible with the local area. The development has been designed with extensive, and unrelieved elevations to accommodate boarding rooms with living areas on the first floor. This results in undue amenity impacts on adjoining developments.
- The development also proposes basement parking which is not a common form of parking within the local area.

Part C - Determine if development is compatible with character of the local area.

Compatibility within the urban environment is an issue that has been given detailed consideration by the Land and Environment Court. In the decision of Project Ventures Development Pty Limited and Pittwater Council, the Senior Commissioner of the Court was asked to consider the process of deciding whether a building is compatible with its surroundings. This led to the development of a Planning Principle that planners could refer to as a guide on this particular issue.

The planning principle states there are two important aspects of compatibility that need to be satisfied:

- *Are the proposal's physical impacts on surrounding development acceptable?*

The physical impacts include constraints on the development potential of surrounding sites. Physical impacts generally include privacy, overshadowing, visual bulk and compatibility in the streetscape.

In terms of the physical impacts of the development:

- The development does not comply with the side setbacks, open space, deep soil and landscaping requirements for developments in a R3 zone.
- The development is designed with unrelieved elevations that extend beyond existing building envelopes which result in undue privacy impacts on adjoining developments.
- The excessive front setback is inconsistent with the prevailing street setbacks of existing developments and those envisaged in the local area.

- The streetscape presentation which consists of minimal landscaping, excessive ramping and a driveway is inconsistent with the existing and future development envisaged for the local area.
- *Is the proposal's appearance in harmony with the building's around it and the character of the street?*

The design of the proposed boarding house is informed by its site area which results in a poorly articulated development. The amenity of adjoining developments is compromised by the lack of side setbacks/building separation, and which exacerbates the bulk of the development when viewed from neighbouring properties. The streetscape presentation is also compromised due to the poorly designed built form. As such, the development is not considered to be in harmony with the nearby buildings and character of the street. Given this, the proposal cannot be supported.

8. Parramatta Local Environmental Plan 2023

The relevant matters considered under the PLEP 2023 for the proposed development are outlined below:

Clause 1.2 Aims of the Plan

2) *The particular aims of this Plan are as follows—*

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to protect and enhance the identity, diversity and viability of Parramatta City Centre and recognise its role in the Central River City of the Six Cities Region,*
- (b) *to create an integrated, balanced and sustainable environment that contributes to environmental, economic, social and physical wellbeing,*
- (c) *to identify, conserve and promote the City of Parramatta's natural and cultural heritage,*
- (d) *to protect and enhance the natural environment, including urban tree canopy cover and areas of remnant bushland,*
- (e) *to ensure development occurs in a way that protects, conserves and enhances natural resources, including waterways, riparian land, surface and groundwater quality and flows and dependent ecosystems,*
- (f) *to encourage ecologically sustainable development,*
- (g) *to minimise risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by restricting development in sensitive areas,*
- (h) *to improve public access along waterways if the access does not adversely impact the natural value of the waterways,*
- (i) *to improve public access to, and within, the City of Parramatta and facilitate the use of public transport, walking and cycling,*
- (j) *to encourage a range of development to meet the needs of existing and future residents, workers and visitors,*
- (k) *to enhance the amenity and characteristics of established residential areas,*
- (l) *to retain the predominant role of industrial areas,*
- (m) *to ensure development does not detract from the economic viability of commercial centres,*
- (n) *to ensure development does not detract from the operation of local or regional road systems.*

For reasons stated throughout this report, it is considered that the development does not satisfactorily meet the aims of the plan. In particular, the proposal does not encourage a range of development that accommodates the needs of the existing and future residents, workers and visitors of Parramatta. As such, the proposal will be recommended for refusal.

Clause 2.3 Zone objectives and Land Use Table

The aims and objectives for the R3 zone in Clause 2.3 – Zone Objectives are as follows:

- 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.
- To provide opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.
- To provide a range of community facilities that serve the needs of people who live in, work in and visit residential neighbourhoods.

Due to reasons stated throughout this report, the proposal is not consistent with these objectives and therefore cannot be considered for approval.

Standards and Provisions	Compliance
Part 4 Principal development standards	
Cl. 4.3 Height of buildings Allowable: Max. 11m	Complies Proposed: 8.17m
Cl. 4.4 Floor space ratio Allowable: 0.6:1 (max. 417.36m ²)	Complies See Housing SEPP assessment.
Part 5 Miscellaneous provisions	
Cl. 5.1A Development on land intended to be acquired for public purposes	The subject site is not subject to land reservation acquisition.
Cl. 5.4 Controls relating to miscellaneous permissible uses	These provisions do not apply to the development proposal.
Cl. 5.6 Architectural roof features	An architectural roof feature is not proposed.
Cl. 5.7 Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.
Cl. 5.10 Heritage conservation	The subject site is not a heritage listed item or is located with proximity to heritage listed items of a conservation area.
Cl. 5.21 Flood Planning	The site is not flood prone.
Part 6 Additional local provisions	
Cl. 6.1 Acid sulfate soils	Yes, the site is identified as containing Class 5 Acid Sulfate Soil. An Acid Sulphate Soils Management Plan is not required to be prepared in this instance.
Cl. 6.2 Earthworks	Due to insufficient information, Council is unable to complete a full and proper assessment of the earthworks proposed. Accordingly, the proposal is not considered to comply with this clause and cannot be considered for approval.
Cl. 6.4 Biodiversity protection	The site is not identified on this map.
Cl. 6.5 Stormwater Management	Due to insufficient information, Council's Development Engineer has not been able to complete the assessment of the proposal. Accordingly, the proposal cannot be supported on the basis that on-site stormwater has not been satisfactorily managed.
Cl. 6.8 Landslide risk	The site is not identified on this map.
Cl.6.13 Design Excellence	The site is not identified on these maps.

8.1 Clause 4.6 Variation Assessment – Minimum Site Area

The proposal seeks approval for variations to the following development standard.

Clause	Clause 25(1)(g)(ii) of Housing SEPP – Minimum lot size for boarding house not in a R2 zone
Standard	800m ²
Proposal	695.6m ²
Variation	104.4m ² variation or 13.05%

Clause 4.6 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

Clause 4.6(1) – Objectives of Clause 4.6

The objectives of clause 4.6 are considered as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

Clause 4.6(2) – Operation of Clause 4.6

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of LEP 2023, or otherwise by any other instrument.

Clause 4.6(3) – The Applicant’s written request 4.6

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has submitted a written request justifying the variation to the minimum allotment size for boarding houses not in a R2 zone development standard. The applicant has provided justification as follows (The full request is included at **Attachment A**):

- *The proposal provides for the housing needs of the community. Specifically, the boarding house meets the needs for residential accommodation in proximity to significant educational establishments, this case being the Western Sydney University Parramatta North and South campus that is more characterised by renters and lodging in accommodation for shorter durations compared to owner occupied dwellings or dwellings rented out by entire families.*
- *The site is considered an optimal location for a boarding house to utilise various local shops, restaurants, take away food and drink premises in the Collett Village Shops as well as public transport in walking distance from the site therefore maximising use of other land uses that provide facilities or services to meet the day to day needs of residents.*
- *The proposed boarding house has been designed to minimise overshadowing adjoining private open space, landscape plans proposed a range of plants, shrubs and trees that aesthetically enhance the amenity of the communal open area as well as provide vegetation screening that prevents overlooking into adjoining private open space. The boarding house has minimal impact on traffic as it requires less car parking on the site that is accessible to public transport. Therefore, the proposal provides ‘opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.’*
- *Accordingly, it is considered that the site may be developed with a variation to the prescribed minimum lot size control, whilst maintaining consistency with the zone objectives of the PLEP 2023*

Clause 4.6(4) – Consent Authority Consideration of Proposed Variation

Clause 4.6(4) outlines that development consent must not be granted for development that contravenes a development standard unless:

- “a) the consent authority is satisfied that:*
 - i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

- ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) *the concurrence of the Secretary has been obtained."*

Unreasonable and Unnecessary

Case law in the NSW Land & Environment Court has considered circumstances in which an exception to a development standard may be well founded. In the case of *Wehbe v Pittwater Council [2007] NSWLEC 827* the presiding Chief Judge outlined the following five (5) circumstances:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

The written request contends that the development is consistent with the standard and zone objectives.

It is noted that neither PLEP 2023 nor Clause 25(1)(g)(ii) of the Housing SEPP – Minimum lot size for boarding house not in a R2 zone contain specific objectives for minimum lot sizes for boarding houses. Notwithstanding, Clause 25(2) – Compatibility with the Local Area of the Housing SEPP requires an assessment of the compatibility of the development on the character of the local area and that such developments are provided with satisfactory boundary and frontage setbacks.

The purpose of Clause 25 would appear to be that a development with a sufficient site area can accommodate satisfactory setbacks and that this would allow adequate building separation, building articulation and provision of landscaping. And as a result, it is envisaged that these developments would then be compatible with the local area character.

Council has provided an assessment pursuant to Clause 25(2) – Compatibility with the Local Area (found above in this report). The design of the development, as informed by the site area, has not demonstrated compatibility with the local area as it has:

- not provided satisfactory side setbacks, resulting in unrelieved elevations and limited building separation,
- not been sited so as not to compromise the rhythm and pattern of development and landscaping which overall results in a poor streetscape presentation.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The applicant does not suggest that the purpose is not relevant to the development.

3. *The underlying objectives or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

The written requests for the variations to the standards do not suggest that the purpose of this standard would be thwarted if compliance was required, but rather the objectives are achieved despite the breach to the development standard.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

The applicant does not challenge the minimum allotment size for boarding houses not in a R2 zone standard has been abandoned.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The written requests do not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

Sufficient Environmental Planning Grounds

The decision in the Land & Environment Court case of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, suggests that 'sufficient environmental planning grounds' for a Clause 4.6 variation is more onerous than compliance with zone and standard objectives. The Commissioner in the case also established that the additional grounds had to be particular to the circumstances of the proposed development, and not merely grounds that would apply to any similar development. Furthermore, the decision in the Land and Environment Court case of *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 established that the focus must be on the aspect of the development that contravenes the development standard, not the development as a whole.

The written request does not in this instance demonstrate sufficient environmental planning grounds for the Clause 4.6 variation to the **minimum allotment size for boarding houses not in a R3 zone**, for the following reasons:

- The development has not demonstrated that the variation to the site area for boarding houses not in R2 zones will accommodate satisfactory boundary and frontage setbacks.
- As the proposal has not provided appropriate boundary setbacks, this has resulted in insufficient building separation from adjoining developments and is likely to result in undue amenity impacts.
- The lack of side setbacks also reduces opportunities for articulation and relief to the elevations, which result in visual dominance of these features from neighbouring properties.
- The excessive frontage setback has compromised the rhythm and pattern of development and landscaping within the front setback that results in poor streetscape presentation.
- Despite the excessive front setback, the development lacks landscaping within this area which instead is occupied by excessive ramping and driveways, exacerbating the bulk and scale of the development on the streetscape.
- As such, the proposal has not demonstrated that despite the variation to the minimum site area for boarding houses, that it has been designed to be compatible with the local character area.

Public Interest

Clause 4.6(4)(a)(ii) requires that the consent authority be satisfied that the development is in the public interest because it is consistent with the relevant zone objectives. The objectives of the R3 Medium Density Residential zone and planners' assessment is provided below:

R3 Zone Objectives	Comment
<ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a medium density residential environment.</i> 	The variation to the site area has not allowed a development to be designed that would satisfactorily contribute to the housing needs of the community within a medium density residential environment.
<ul style="list-style-type: none"> • <i>To provide a variety of housing types within a medium density residential environment.</i> 	The application in this instance has not demonstrated that a boarding house can be accommodated on the subject site and therefore has not been able to provide housing within a medium density residential environment.
<ul style="list-style-type: none"> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> 	The application is for a boarding house, which is a form of residential accommodation.
<ul style="list-style-type: none"> • <i>To provide opportunities for people to carry out a reasonable range of activities from their homes if the activities will not adversely affect the amenity of the neighbourhood.</i> 	See above. The application does not seek approval for any other activities on the site apart from residential use.
<ul style="list-style-type: none"> • <i>To provide a range of community facilities that serve the needs of people who live in, work in and visit residential neighbourhoods.</i> 	See above.

Concurrence

Assumed concurrence is provided to local planning panels (such as the PLPP) as per NSW Department of Planning Circular 'Variations to development standards' Ref: PS 20-002 dated 5 May 2020. There is no limit to the level of non-compliance for which concurrence can be assumed.

a) Conclusion

In summary, it is considered that the applicant's request to vary the minimum subject size for boarding houses in a R3 zone **should not** be supported for the following reasons:

- The proposal is inconsistent with the purpose of the minimum site area for boarding houses in a non R2 zone standard as it is a development that has not been designed to accommodate adequate setbacks resulting in a built form that is compatible with the local character of the area.
- There are insufficient environmental planning grounds to justify the departure, in particular compliance with the requirements of the Housing SEPP and objectives and controls of Parramatta DCP 2011.

The proposal is not in the public interest and is not consistent with the zone objectives.

9. The Parramatta Development Control Plan 2011

A consideration of the relevant sections of the PDCP 2011 is provided below.

Development Control	Comment	Comply
Part 2 Site Planning		
2.4.1 Views and Vistas	The site is not identified as containing significant views.	Yes
2.4.2 Water Management	Refer to assessment under PLEP 2023.	Yes
2.4.3 Soil Management	Due to insufficient information, Council is unable to complete a full and proper assessment of this control. Accordingly, the proposal cannot be supported.	No
2.4.4 Land Contamination	Refer to Section 7.4 of this report for a detailed discussion.	Yes
2.4.5 Air Quality	Were this application recommended for approval, standard conditions would have been imposed to ensure that the potential for increased air pollution is minimised during construction.	Yes
2.4.6 Development on Sloping Land	The development does not respond to the topography of the site. The building has not been stepped and the supporting documentation / plans have not indicated the required fill and excavation for the development to enable an adequate building platform. As insufficient information has been submitted, the proposal cannot be supported.	No
2.4.7 Biodiversity	Council's Consultant Landscape Architect raised no objections to the removal of four (4) trees subject to appropriate conditions of consent. It is considered that the removal of four (4) trees on site will not have an adverse impact of the ecological, heritage, aesthetic and cultural significance of the area.	Yes
2.4.8 Public Domain	Due to the topography of the site and to achieve the required driveway gradient, excessive ramping from the footpath to the entrance is required to allow access for people with mobility issues. Further, the width and the extent of the driveway dominates the street frontage and public domain. The proposed hard surfaces required within the front setback reduces opportunities for landscaping whilst providing visual cues of transition between the public and private domain.	No
Part 3 Development Principles		
3.2.1 Building Form and Massing	The local character of the area has been established as a mix of low and medium density developments. These developments are further characterised by their articulated built forms, appropriate building separation and provision of on-site landscaping. Whilst the development presents as a 2-storey built form, due to its narrow width and insufficient site area, has designed a development that lacks setbacks, articulation and opportunities for landscaping which is inconsistent with the existing and envisaged built form in the local area.	No

	<p>The lack of setbacks, articulation and landscaping has also exacerbated the perception of development mass on the streetscape presentation.</p> <p>Accordingly, the building form and mass is incompatible with the character and spatial characteristics of the locality.</p>	
3.2.2 Building Façade and Articulation	The proposal does not incorporate adequate articulation, materials, or fenestrations in the composition of the facades and therefore does not break up the visual scale and bulk of the development or the perception of building mass.	No
3.2.3 Roof Design	A skillion roof design is inconsistent with the roof patterns of the existing development. A skillion roof design in this instance also highlights the bulk and scale of the development from the pedestrian level.	No
3.2.5 Streetscape	<p>The proposed development is incompatible with the existing and future character of the locality.</p> <p>The presentation of the development on Victoria Road is predominantly occupied by ramps and the driveway with limited landscaping within the front setback. The front setback is also considered excessive and disrupts the rhythm and pattern of development and landscaping when viewed from the streetscape. In this regard, the proposal does not positively contribute to the streetscape.</p>	No
3.2.6 Fences	A front fence is not proposed.	N/A
3.1.3: Building Height Maximum: 11m / 2 storeys & attic	Proposed: 8.17m / 2 storeys	Yes
3.1.3 Floor Space Ratio	Refer to assessment under Housing SEPP	Yes
3.1.3: Minimum Site Frontage Minimum: 24m	<p>Proposed: 15.24m</p> <p>The site-specific issues arising from the insufficient site area is further compounded by the non-compliant site frontage. Accordingly, a boarding house is not considered to be suitable on the subject site.</p>	No
3.1.3: Front Setback Minimum between 5m – 9m	<p>Proposed: 11m</p> <p>As stated throughout this report, the excessive front setback disrupts the rhythm and pattern of development and landscaping along Victoria Road. Also, despite the excessive front setback, there is limited landscaping and is instead occupied with ramping and the driveway. This compromises the visual cues differentiating between public and private domain, as well as exacerbating bulk and scale on a pedestrian level.</p>	No
3.1.3: Side Setback Minimum: 3m	<p>Proposed: Min. 2.5m</p> <p>As previously stated, the non-compliant side setbacks reduce building separation between adjoining developments and increasing opportunities for overlooking and acoustic impacts. This is especially concerning given that boarding rooms located on the first floor contain living rooms.</p>	No
3.1.3: Rear Setback Minimum 15% of length of the site (Min. 6.8m)	<p>Provided: Min. 6.5m</p> <p>The variation is a result of prioritising an 11m front setback for the driveway and ramps from the footpath to the entrance. Therefore, the area to the rear cannot accommodate the minimum area required by the Housing SEPP for a communal open space.</p> <p>Further, the length of the development encroaches on the rear setback which increases opportunities for overlooking to the Private Open Space areas on adjoining properties.</p>	No
3.1.3: Landscaped Area Min. 40% of the site (Min. 278.24m ²)	Proposed: 246m ² (35%)	No
3.1.3: Deep Soil Min. 30% of the site with 4m x 4m dimensions (Min. 208.68m ²)	<p>Proposed: 93m² (13.3%)</p> <p>As the basement has not been designed to be within the building footprint, the amount of deep soil zones on the site are limited.</p>	No
3.3.3 Visual and Acoustic Privacy	As stated elsewhere in this report, the development does not provide satisfactory side setbacks and building separation. This has	No

	<p>consequences on the amenity for adjoining developments, particularly as the development encroaches on the rear setback and that living areas are located on the first floor within the boarding rooms.</p> <p>Further, due to the design of the internal floor layout, occupants of the boarding house are required to walk along the side boundaries to access the communal open space to the rear, increasing acoustic impacts along the boundaries of adjoining developments.</p>	
3.3.4 Acoustic Amenity	The site has frontage to Victoria Road which is an arterial road. An Acoustic Report was submitted with the application and reviewed by Council's Environmental Health Officer (Acoustic). Upon review, it was considered that the proposal and its acoustic measures to protect the development from acoustic impacts from Victoria Road are adequate, subject to conditions of consent.	Yes
3.3.5 Solar Access and Cross Ventilation	<p>Concern is raised that the communal open space to the rear of the site does not receive solar access to 50% of its area for 3 hours during the winter solstice.</p> <p>It is also noted that due to the bulk and scale of the development and that it is sited closer to the rear boundary, that the northern elevation of the development to the south will experience a reduction in solar access during the winter solstice that is not envisaged by a compliant development on the site.</p>	No
3.3.6 Water Sensitive Urban Design	Council's Development Engineer has not been able to complete its review and assessment of the development due to insufficient information. Accordingly, the proposal cannot be supported in this regard.	No
3.3.7 Waste Management	Council's Waste Officer reviewed the proposal and upon review, raised no objections to the development. If the application had been recommended for approval, the recommended conditions would have been imposed on the consent.	Yes
3.4.1 Culture and Public Art	<p>An arts plan is not required as the application does not have a CIV of more than \$5,000,000.00 and is not located within:</p> <ul style="list-style-type: none"> - A local town centre - Land zoned B2 Local Centre or B4 Mixed Use - Land with a site area greater than 5000m² 	N/A
3.4.2 Access for People with Disabilities	Council's Universal Access and Design Officer raised concerns with regards to accessibility throughout the development. These issues have not been satisfactorily addressed. Accordingly, Council cannot consider the proposal for approval.	No
3.4.3 Amenities in Buildings Available to the Public	The proposal is not a public building.	N/A
3.4.4 Safety and Security	Passive surveillance from within the development is reduced due to the provision of a services room on the ground floor.	Yes
3.4.5 Housing Diversity and Choice	The proposal is for a boarding house and contains 10 boarding rooms.	Yes
3.5 Heritage	Refer to PLEP 2023 section of this report above.	Yes
3.6.1 Sustainable Transport	As the development is for a childcare centre a car share spaces is not required.	N/A
3.6.2 Parking and Vehicular Access	See Housing SEPP discussion	Yes
3.6.3 Accessibility and Connectivity	Council's Universal Access and Design Officer reviewed the proposal and raised concerns with regards to accessibility throughout the development. Accordingly, the proposal cannot be considered for approval.	No
3.7.1 Residential Subdivision - general	The proposal does not seek approval for subdivision.	Yes
3.7.2 Site Consolidation and Development on Isolated Sites	The proposal does not result in the isolation of any adjoining properties.	N/A

Part 5 Other Provisions

<p>5.1 Boarding Houses</p> <p>5.1.1 Development to which this section of the DCP applies</p>	<p>The proposed development is for the construction of a 2-storey boarding house.</p>	<p>Yes</p>
<p>5.1.2 Building Classification</p>	<p>The proposed development is considered a Class 3 Building as it is more than 300m² in floor area and is a residential building which has a common place of long term or transient living for a number of unrelated persons.</p>	<p>Yes</p>
<p>5.1.3 Relationship to DCP to other Planning Instruments</p>	<p>See Housing SEPP assessment.</p>	<p>No</p>
<p>5.1.4 Planning Controls for Boarding Houses</p> <p>Locational Requirements Does the development have reasonable access to retail, community services, recreation, employment and public transport?</p> <p>Site Planning A site analysis is to be submitted.</p> <p>Building Form and Appearance New development shall be consistent with the predominant built form and design elements of the surrounding locality and streetscape.</p> <p>The main entrance of the boarding house should be provided within the front (street) elevation New buildings shall not adversely impact upon solar access of adjoining properties.</p> <p>Building Envelope Controls New boarding houses (including alterations and additions) shall comply with the Preliminary Building Envelope Tables provided in Section 3.1.3 of this DCP for the comparable predominant building type in the relevant zone where the new development is proposed. ie- Developments in R3 zones.</p> <p>Parking Parking – 1 space per 10 rooms plus 1 for manager</p> <p>Operational Management</p>	<p>The proposed boarding house is located opposite local shops and services. The subject site is also within proximity to WSU and Parramatta CBD. The site is also within 400m of a bus stop with regular services to and from the Parramatta Transport Interchange.</p> <p>A site analysis plan is submitted.</p> <p>See Clause 25(2)(a) – Compatibility with the Local Area of the Housing SEPP assessment.</p> <p>The main entrance for the boarding house is provided within the front street elevation.</p> <p>Due to the length and bulk of the development which encroaches on the rear setback, it has impacted on the solar access of the adjoining neighbour to the rear along its northern elevation.</p> <p>See assessment under Section 3.1.3 of this DCP.</p> <p>See Housing SEPP assessment.</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>

<p>A managing agent is to be contactable 24 hours a day, 7 days a week</p>	<p>An Operational Management Plan has been submitted which notes that Room 1 of the development is dedicated to the on-site Manager.</p>	<p>Yes</p>
<p>Internal layout of bedrooms, kitchen/laundry and bathrooms</p>	<p>It is noted however that the OMP does not contain an Evacuation Plan.</p>	<p>No</p>
<p>Minimum Size and Design for Bedrooms</p>	<p>The development is provided with the facilities listed under P.24 of this DCP.</p>	<p>Yes</p>
<p>Minimum requirements for facilities</p>	<p>See Housing SEPP assessment.</p>	<p>Yes</p>
<p>Minimum size and design for internal communal living areas and external recreation areas</p>	<p>The plans do not indicate that a 2.5m (per resident) outdoor clothesline has been provided.</p>	<p>No</p>
<p>Private Open Space If accommodation is provided for an on-site manager, one area of at least 8m² with a minimum dimension of 2.5m is to be provided adjacent to that accommodation, other than in the front setback area.</p>	<p>See Housing SEPP assessment.</p>	<p>No</p>
<p>Acoustic Amenity</p>	<p>This area has not been provided, noting that Room 1 is noted by the OMP as being reserved for the on-site manager.</p>	<p>No</p>
<p>Visual Privacy</p>	<p>See assessment under Section 3.3.4 Acoustic Amenity of this DCP.</p>	<p>Yes</p>
<p>Accessibility Wheelchair accessible / adaptable bedrooms with an ensuite bathroom shall be provided in all new boarding house developments at the rate of 1 per 10 bedrooms.</p>	<p>See assessment under Section 3.3.3 Visual and Acoustic Privacy of this DCP.</p>	<p>No</p>
<p>Sustainability, Energy Efficiency and Solar Access</p>	<p>Room 4 is dedicated as a wheelchair / adaptable accessible room. Lifts are provided for access within the development. Access ramps is provided from the footpath to the entrance and to the common open space to the rear.</p>	<p>Yes</p>
<p>Waste Management</p>	<p>See BASIX SEPP assessment.</p>	<p>Yes</p>
<p>Signage</p>	<p>See assessment under Section 3.3.5 Solar Access and Cross Ventilation of this DCP for solar access compliance.</p>	<p>No</p>
<p>Strata subdivision Strata subdivision of a boarding house is not permitted.</p>	<p>A communal garbage storage area is located within the basement that achieves grade access to the street for collection. A WMP has been submitted which was reviewed by Council's Waste Officer. They raised no objections to the proposal based on waste management subject to conditions.</p>	<p>Yes</p>
	<p>No signage proposed.</p>	<p>N/A</p>
	<p>Strata subdivision is not proposed.</p>	<p>Yes</p>

10. Development Contributions

As this Development Application was lodged on 13 June 2023, the City of Parramatta (Outside of Parramatta) CBD Contributions Plan 2021 applies to the land. If the application had been recommended for approval, a standard condition of consent would have been imposed requiring the contribution to be paid prior to the issue of a Construction Certificate.

11. Bonds

If the application had been recommended for approval, pursuant to Council's Schedule of Fees and Charges, the developer will be obliged to pay Security Bonds to ensure the protection of civil infrastructure located in the public domain adjacent to the site. A standard condition would have been imposed on the consent requiring the Security Bond to be paid prior to the issue of a Construction Certificate.

12. EP&A Regulation 2021

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection would have been addressed by appropriate consent conditions if the application had been recommended for approval.

13. The likely impacts of the development

The assessment demonstrates that the proposal will have significant adverse impacts upon any adjoining properties and the environment through non-compliance with the applicable planning instruments and controls. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report, including built environment impacts such as built form. In the context of the site and the assessments provided by Council's experts, the development is considered unsatisfactory in terms of environmental impacts and cannot be considered for support.

14. Suitability of the Site

As stated throughout this report, a boarding house is unsuitable on the subject site due to the site area and proposed density. The undersized site and the narrow width of the allotment has resulted in a poor design outcome for the streetscape and when viewed from adjoining properties.

The accessibility of the site, traffic and on-site stormwater management have not been adequately addressed to ensure that it does result in adverse impact on the proposed development.

For the above reasons and those stated throughout this report, the site is not considered to be suitable for the proposed development.

15. Public Consultation

The application was notified and advertised in accordance with the City of Parramatta Consolidated Notification Procedure.

The advertisement ran for a 21-day period between 21 June and 12 July 2023. One (1) unique submission was received during this notification period.

The issues raised within the submission are discussed in the table below.

Issue	Response
Scale and Character	As stated throughout this report, the development has been designed on an undersized lot for boarding houses which exacerbates the proposed scale of the development, resulting in the proposal being uncharacteristic of the local area.
Building separation	Due to the undersized lot and the narrow width of the site, the proposal does not provide complying side setbacks which result in undue amenity impacts on adjoining developments.

Privacy	The development provides boarding rooms with contained living areas and with insufficient side setbacks, this would increase the opportunities for overlooking to adjoining developments.
Overshadowing	Concern is raised that due to the length of the development and that the proposal encroaches on the rear setback that this results in the uncharacteristic loss of solar access to the rear property. The application has not demonstrated that the proposal would result in a similar solar access impacts to adjoining developments as a compliant development.
Acoustic	Similarly, the insufficient boundary setbacks increases and the location of living room components within the boarding rooms is likely to increase the number of residential acoustics to adjoining developments.
Traffic	TfNSW has reviewed the proposal and raised concerns with regards to the ability of vehicles being able to enter and exit the site given its current configuration. This concern has not been addressed and therefore cannot be supported.
Parking	Whilst the number of on-site car parking space has been provided, this has resulted in a basement area that encroaches on the building envelope and therefore reducing the amount of deep soil areas provided on site.
Facilities	It is noted that the submitted plans do not indicate any provisions of an outdoor clothesline which is required by the PDCP 2011.
Air conditioner	It is noted that an AC unit has not been indicated on the plans.
Notification Plans	Due to the residential nature of the development, the internal floor plans of the development was not provided with the notification plans.

16. Public interest

For reasons discussed throughout this report, the proposal would be contrary to the public interest.

17. Conclusion

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls.

Having regard to the assessment of the proposal from a merit perspective, Council officers are not satisfied that the development has been appropriately designed and will provide acceptable levels of amenity for future users. It is considered that the proposal insufficiently minimises adverse impacts on the amenity of neighbouring properties. Hence the development, is inconsistent with the intentions of the relevant planning controls and does not represent a form of development contemplated by the relevant statutory and non-statutory controls applying to the land. The proposal has not demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

For these reasons, it is considered that the proposal is **not** satisfactory having regard to the matters of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is recommended for refusal.

18. Recommendation

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979:

- A. **That** the Parramatta Local Planning Panel, exercising the function of the consent authority, **refuse** development consent to DA/330/2023 for the Demolition of the existing dwelling, tree removal and construction of a two-storey boarding house with basement parking for the following reasons:
1. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 Infrastructure:
 - a) Clause 2.119 – Frontage to a classified road. Insufficient information has been received to allow Transport for NSW to issue concurrence.
 2. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within State Environmental Planning Policy (Housing) 2021 – Part 2, Division 2 – Boarding Houses:
 - a) Clause 24 (2) – Non discretionary standards. The development does not provide the minimum landscaping requirements, communal living area and communal open space.

- b) Clause 25 (1) – Standards for boarding houses – Minimum Lot Size. The subject site does not meet the minimum 800m² land area for boarding houses located in R3 zones.
 - c) Clause 25 (2)(a) – Council does not consider the development to be compatible with the character of the local area and the desired future character of the precinct.
 - d) Clause 25 (2)(b) – Council does not consider that the front, side and rear setbacks of the boarding house are appropriate for the site,
 - e) Clause 26 – Must be used in Perpetuity. Insufficient information has been received with regards to compliance with this clause.
3. The proposal does not exhibit a satisfactory proposal in that insufficient information has been received to comply with the provisions under State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and Section J of the National Construction Code (NCC) – Volume 1.
 4. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Local Environmental Plan 2023:
 - a) Clause 2.1 – the development is inconsistent with the aims of Parramatta Local Environmental Plan 2023
 - b) Clause 2.3 - the development is inconsistent with the zone objectives of the R3 Medium Density Residential zone
 - c) Clause 4.6 - the applicant's written request to vary Clause 25(1) – Minimum allotment size of the Housing SEPP has not adequately addressed the matters required to be demonstrated by Clause 4.6(3).
 - d) Clause 6.2 – Earthworks. Insufficient information has been received to allow assessment of this clause.
 - e) Clause 6.5 – Stormwater Management. Insufficient information has been received to allow assessment of this clause.
 5. The proposal does not exhibit a satisfactory proposal, in that it is inconsistent with the following provisions prescribed within the Parramatta Development Control Plan 2011:
 - a) Section 2.4.3 Soil Management
 - b) Section 2.4.6 Development on Sloping Land
 - c) Section 2.4.8 Public Domain
 - d) Section 3.2.1 Building Form and Massing
 - e) Section 3.2.2 Building Façade and Articulation
 - f) Section 3.2.3 Roof Design
 - g) Section 3.2.5 Streetscape
 - h) Section 3.1.3 Front Setback
 - i) Section 3.1.3 Side Setback
 - j) Section 3.1.3 Rear Setback
 - k) Section 3.1.3: Deep Soil
 - l) Section 3.1.3: Landscape Area
 - m) Section 3.3.3 Visual and Acoustic Privacy
 - n) Section 3.3.5 Solar Access and Cross Ventilation
 - o) Section 3.3.6: Water Sensitive Urban Design
 - p) Section 3.4.2 Access for People with Disabilities
 - q) Section 3.6.3 Accessibility and Connectivity
 - r) Section 5.1 Boarding Houses
 - s) Section 5.1.3 Relationship to DCP to other Planning Instruments
 - t) Section 5.1.4 Planning Controls for Boarding Houses
 6. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for built environment and suitability of the site.
 7. The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts generated by the development due to non-compliances with the applicable planning controls is not beneficial for the local community and as such, is not in the wider public interest.

B. That Council advise those who made a submission of the determination.