

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0891
Proposed development:	Demolition of Existing Structures & Construction of Two (2) Storey Specialist Disability Permanent Group Home
Property address:	14 Manning Street, KINGSWOOD NSW 2747
Property description:	Lot 15 DP 237831
Date received:	5 September 2018
Assessing officer	Gemma Bennett
Zoning:	Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 3
Recommendations:	Refuse

Executive Summary

Council is in receipt of a development application for a group home at 14 Manning Street Kingswood. Under State Environmental Planning Policy (Affordable Rental Housing) 2009 the proposal is defined as a 'permanent group home'. The subject site is zoned R3 Medium Density Residential and the proposal is a permissible land use in the zoning with Council consent.

Key issues identified for the proposed development and site include:

- The existing and desired future character of the locality.
- The extent of excavation and retaining walls proposed.
- Non-compliance with applicable landscaped area standards.
- Amenity impacts for adjoining neighbours, including overshadowing and acoustic privacy.
- Proximity to a heritage item and consideration of effects on that item.
- Inadequate management of stormwater and waste on site.
- Matters of public interest raised in submissions received, including parking, traffic and social impact.

The application has been notified to adjoining properties and exhibited between 21 September and 5 October 2019. The application was advertised between 28 September and 19 October 2019 in accordance with relevant legislation. Two submissions were received in response.

This application is to be determined under delegated authority by Council.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for refusal.

Site & Surrounds

Properties of the site

Site area: 556m²

Site dimensions: The site is rectangular in shape, with a street frontage of 15.2m in width and depth of 36.6m.

Grade/slope: The site is mildly sloping with a fall of approximately 2m to the front.

Surrounding area: The pattern of subdivision in Manning Street and surrounds is consistent and lots are predominantly all similarly sized.

Site constraints

Easements: There are no easements or restrictions on the lot.

Flooding: The site is mapped as flood affected.

Bushfire-prone land: The site is not mapped as bushfire prone land.

Existing building and structures: The lot contains an existing single storey dwelling, constructed of rendered brick with a tile roof, and ancillary development including an awning, swimming pool and garage. These are to be demolished as part of the proposal.

History

Previous consents for the site include: a detached steel garage (BA006208); an above ground swimming pool (BA018946).

The applicant did not attend a pre-lodgement meeting or Urban Design Review Panel prior to lodgement.

Proposal

The proposed development involves:

- Demolition of existing dwelling and ancillary structures;
- Construction of two storey group home including 9 bedrooms, 7 bathrooms and 4 kitchens in total, with the following layout:
 - 3 self contained suites, each with 3 bedrooms, 2 bathrooms, combined living and dining room and kitchen facilities;
 - 1 communal suite with communal living and dining room, kitchen, office, bathroom with laundry facility, and communal open space.
 - Carport with 2 covered car parking spaces and one open, stacked space in driveway.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Affordable Rental Housing) 2009

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).

The aims of this Policy are as follows:

- (a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

The most relevant aim of the ARH SEPP is (g) which aims to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation. In this regard, the proposed group home development provides housing accommodation for up to 9 people with moderate to severe disabilities who require support services and supportive accommodation. The development is considered to be consistent with the aims of the ARH SEPP.

Division 7 specifies provisions for group homes including the following:

- Clause 43 Development in prescribed zones - The proposal is located within a prescribed zone and may be carried out with consent under clause.
- Clause 45 Complying development—group homes -The proposal cannot satisfy the development standards for complying development under Schedule 2 and has been submitted as a development application.
- Clause 46 Determination of development applications - (1)(a) specifies that a consent authority must not refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home. The subject proposal is not aligned with a specific community housing or disability services provider, therefore it is not possible to undertake an assessment of the specific community need for the development. The disconnection from any specific community housing or disability services provider also brings the relevance of the submitted Plan of Management into question. However, the provision of disability group homes that support independence, equitable participation and social connections is supported.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal is defined as BASIX affected development under the Environmental Planning and Assessment Regulation 2000.

No BASIX certificate was submitted with the application.

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land and the application is satisfactory. There is no indication of any contaminating activities having occurred on the subject land, or on lots adjacent to the subject land.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Does not comply - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Does not comply - See discussion
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.10 Heritage conservation	Does not comply - See discussion
Clause 7.1 Earthworks	Does not comply - See discussion
Clause 7.4 Sustainable development	Does not comply - See discussion

Clause 1.2 Aims of the plan

The proposal does not comply with clause 1.2 of Penrith Local Environmental Plan 2010 (the LEP) in regards to the following:

- The development does not safeguard residential amenity due to impacts on overshadowing, acoustic and visual privacy of the adjacent neighbours, and does not provide sufficient amenity for residents of the subject property in that solar access is inadequate.
- The proposal has not demonstrated that it protects or enhances the environmental values and heritage of Penrith, in that an assessment of heritage impact has not been submitted.
- The proposal has not incorporated the principles of sustainable development in that the mandatory commitments to reducing energy and water consumption have not been made, and the extent of earthworks proposed are not site responsive.
- The proposal has not provided for sufficient management of stormwater or waste servicing on the site.

Clause 2.3 Zone objectives

The proposal does not comply with the following R3 zone objectives:

- *To enhance the essential character and identity of established residential areas.*

The established residential area in and around Manning Street is currently characterised by moderately sized single dwellings with landscaped gardens. An existing small retail centre is located approximately 50m to the north west of the subject site, and Kingswood Public School adjoins the rear boundary of the subject site. The locality is transitioning to medium density development with a number of boarding houses approved in the vicinity, particularly towards the southern end of Manning Street. An 8 room boarding house was completed at 10 Manning Street in 2015. A concurrent development application for a two storey, 9 bedroom group home is under assessment at 12 Manning Street. A detached dual occupancy is located to the south at 16 Manning Street.

The subject development does not enhance the character of the area in that the landscaped area provided does not meet the minimum required, therefore limited opportunities for landscaping are available. No planting is proposed in the rear or side setbacks, and little is proposed in the front setback to assist in ameliorating the bulk and scale of the two storey built form. The northern elevation provides an undesirable blank wall presentation, that due to its length and height, is uncharacteristic of the existing development in the vicinity.

- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposal does not provide for sufficient solar access to the subject communal open space, and has not sufficiently demonstrated that the solar access to the living spaces of the adjacent dwellings at 16 Manning Street have been maintained at the minimum standard of 3 hours between 9am and 3pm. In terms of acoustic privacy, insufficient information has been provided to demonstrate that acceptable noise levels will be maintained in relation to the communal open space and mechanical plant and air conditioning at the group home.

- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The desired future character of the area is likely to include medium density development. However this development must be responsive to the constraints of each individual site, provide a high quality built form, demonstrate a positive amenity outcome for occupants and neighbours, and make a positive contribution to the streetscape through landscaping and design. It is considered that the proposal does not sufficiently meet this zone objective.

Clause 5.10 Heritage conservation

The subject site is located immediately adjacent to local heritage item Kingswood Public School (098), 46-54 Second Ave Kingswood. The classroom block and teacher's residence are representative of standard rural school building design and the development of public education in the 1880s.

Penrith Local Environmental Plan 2010 clause 5.10 includes objective (1)(c) *to conserve the heritage significance of heritage items, heritage conservation areas, including associated fabric, settings and views.*

In this regard, clause 5.10(5) Heritage assessment is as follows:

The consent authority may, before granting consent to any development:

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

The proposal is on land within the curtilage of the heritage item and a heritage impact statement was requested to address any impact that the development may have on the significance of the heritage item. The statement has not been submitted. Insufficient information has been received to demonstrate that the development will not adversely impact on the heritage item, including associated setting and views as specified in clause 5.10(1)(c).

Clause 7.1 Earthworks

The relevant objective of clause 7.1(1)(a) is *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

Under clause 7.1(3) before granting development consent for earthworks, the consent authority must consider a number of matters, relevantly including:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

The proposal includes cut at the east of the site to a maximum of 1.9m. The applicant submits that the degree of cut is necessitated by the requirement for a level floor, to provide for accessibility for occupants of the group home. However it is considered that the cut is not site responsive. The significant degree of cut required to accommodate the development demonstrates that the site is unsuitable for the proposed development.

Notwithstanding the standards for maximum cut contained within the Penrith Development Control Plan 2014 (addressed later in this report), the proposal does not satisfy the objective (1)(a) of the earthworks clause 7.10 in that the proposed cut is likely to have a detrimental impact on neighbouring uses, due to the depth of the cut at the boundary and proximity to dwellings on the north and south. The excavation may result in an undermining of the structural supports of these dwellings. There is potential for the cut to negatively impact on the heritage item which adjoins the subject site on the east, with the location of the cut negating any ability to screen the visual impact of the development through provision of shrub or tree planting.

The depth of the proposed earthworks also results in poor amenity outcomes for the subject development in that the ground floor communal outdoor spaces and dining/lounge rooms located at the rear of the development. As these spaces will be located 1.9m below the ground level, minimal solar access will be available.

No attempt has been made to avoid or minimise the impact of the earthworks.

Clause 7.4 Sustainable development

Clause 7.4 of the LEP includes relevant matters for consideration by the consent authority, such as the following:

- (a) conserving energy and reducing carbon dioxide emissions*
- (c) building design and orientation*
- (d) passive solar design and day lighting*
- (f) energy efficiency and conservation*
- (g) water conservation and water reuse*

The development does not comply with the considerations contained within this clause as the development application was not supported by a BASIX certificate, demonstrating commitments to conservation of energy and water resources. Additionally, the northern elevation of the building includes large expanses of blank walls, with 4 small windows only. This does not respond to the principles of passive solar design and building orientation.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft Environmental Planning Instruments that apply to the proposal.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Does not comply - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Does not comply - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Does not comply - see Appendix - Development Control Plan Compliance
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Does not comply - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Does not comply - see Appendix - Development Control Plan Compliance
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	N/A
D2.1 Single Dwellings	Does not comply - see Appendix - Development Control Plan Compliance
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

Section 79C(1)(a)(iv) The provisions of the regulations

Fire safety

In accordance with Section 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary.

The application has been referred to Council's Building Surveyors for assessment with the following comments being provided:

The classification of the building is 3 and an annual fire safety statement is required to be submitted to Council, dealing with the essential fire safety measures in the building.

Section 79C(1)(b) The likely impacts of the development

Likely impacts of the proposed development as identified throughout the assessment process include:

Natural resources and systems eg. Air, water, soil

The proposal includes 1.9m of excavation at the rear and retaining walls on the property boundaries. This design is not considered to be site responsive and will result in significant soil disturbance. It will likely impact on any planting at the boundaries of adjoining properties.

The proposal does not provide for adequate stormwater or waste management on the site.

The proposal does not meet mandatory sustainability standards to reduce impacts on energy and water consumption.

The character of the place and its local and regional context

The proposal is not consistent with the bulk and scale of other development in the locality in the following respects:

- The building does not meet the front setback standard in accordance with clause D2.1.2 and minimal landscaping is proposed in the front setback, which is inconsistent with the pattern of development in the established residential area.
- The large footprint of the proposal on the relatively small parcel of land results in a development that is uncharacteristic of the scale of development in the locality.

The development is likely to significantly impact the amenity of the area in terms of solar access and acoustic privacy:

- The communal open space of the proposal does not receive the minimum solar access as specified by clause D2.1.6 of the DCP.
- The proposal has not demonstrated that the solar access to living spaces of adjoining development has been maintained in accordance with clause D2.1.6 of the DCP.
- The proposal has not demonstrated that the acoustic privacy of adjoining properties will be satisfactorily maintained in relation to noise generated from communal areas and mechanical equipment.

Heritage conservation

The property is identified as being located adjacent to a listed heritage item. No information has been provided to demonstrate that the proposal has responded to, and will not have adverse impacts on, the heritage significance of that item.

Urban design matters

The northern elevation presents largely as a two storey blank wall with minimal windows. The landscaped area provided does not meet the minimum requirements and does not allow for adequate screening of the development or landscaping to contribute to the streetscape of the locality. No planting is proposed in the rear or sides of the building.

Access, traffic and transportation impacts

The proposed access arrangements and car parking will not be adequate for the development in the following manner:

- Based on the scale and nature of the development proposed, it is considered likely that car parking spaces for multiple carers and visitors will be required in addition to the on-site spaces provided. The pressure on street parking in the vicinity is high due to proximity to Kingswood Primary School and Western Sydney University.

Desired future character of the area

The zoning of the area provides for medium density housing. However the scale of the development proposed is demonstrated to be unsuitable for the site by the range of non-compliances to controls contained within the DCP. Submissions have raised concerns about the cumulative impacts of social housing (boarding houses, group homes) in the Manning Street vicinity.

Stormwater management

The proposal is located within a mandatory OSD area. Plans have not been submitted demonstrating that stormwater management, hydraulic calculations and responsive landscape designs can be provided on the site.

Section 79C(1)(c)The suitability of the site for the development

The site is unsuitable for the following reasons:

- The grade and size of the site is unsuitable for the design proposed, which promotes a high degree of site disturbance and provides a built form out of proportion with the lot size.
- The orientation of the site results in a built form response that, with the limited setbacks provided, promotes overshadowing of neighbouring dwellings.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

Community consultation

In accordance with Appendix F of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified 9 residences in the area and the exhibition period was between 21 September 2019 and 5 October 2019. Council has received two submissions in response.

The application was advertised between 28 September 2019 and 19 October 2019.

Submissions

The following issues were raised in the submissions received and have formed part of the assessment.

Issue Raised	Comments
<i>Inadequate parking provided - only 2 spaces for the development</i>	<p><i>As no specific parking provisions are included for group homes in the DCP, it is noted that using the single dwelling criteria only 2 spaces are required. Similarly, under the Complying Development provisions of SEPP ARH (Schedule 2, clause 16), group homes are required to have a minimum of 2 on site car parking spaces (it is noted that these provisions do not apply for development requiring consent). The applicant provided commentary in their SoEE in relation to the parking provision and stated that due to the residents' disabilities, they will not have cars. One accessible space is provided for the communal vehicle and one for a staff member, with a stacked space available in the driveway.</i></p> <p><i>However, Council's Traffic Engineer considered that a significantly greater number of spaces would be required for a development of the scale proposed to allow for on site parking by multiple carers and visitors for the 9 residents. It was also considered unlikely that the stacked space would be of much benefit at shift changeovers as staff would be more likely to park on the street and not shuffle cars onto the property.</i></p>
<i>Traffic congestion already a problem in the area - particularly at school pick up/drop off times</i>	<p><i>Traffic generated by the development could be accommodated by the road network however based on the likely increase in on street parking, and combination with the concurrent group home application at 12 Manning St (DA18/0892) this has the potential to have flow on issues to traffic congestion in the street.</i></p>

Social impact of proliferation of social housing (boarding houses and group homes) in Manning Street and surrounds

Boarding houses are a separately defined development type that have attracted significant community interest, particularly in Manning Street and surrounds, due the number of applications being received under the SEPP ARH. Council made resolutions at the Policy Review Committee (July 2018) to make representations to the Department of Planning in regards to the SEPP ARH. In addition, the DCP was amended in December 2018 to include specific controls around boarding house developments, and the SEPP ARH (clause 30AA) was amended in 2019 to limit the number of rooms in an R2 zone to 12.

While a social impact assessment in regards to the impact of boarding houses and group homes has not yet been completed, in considering applications for these types of development, Council has a role in assessing contextual fit and local character integration within the existing and desired future development pattern. In reference to the subject development application, the appropriateness of 3 adjacent group homes (10, 12 and 14 Manning Street) and their connection with the desired future character of the locality have been considered. The cumulative impact of 3 group homes is considered likely to alter the established residential character of the neighbourhood, particularly as the design of the subject proposal could be considered more institutional than residential in nature as a result of the scale of the development.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported
Heritage	Not supported
Environmental - Environmental management	Not supported
Environmental - Public Health	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	Not supported
Social Planning	Not supported

Section 79C(1)(e)The public interest

The proposed development is not in the interest of the public for the following reasons:

- The proposal does not meet the zone objectives in regards to enhancing the essential character of established residential areas, ensuring that a high level of residential amenity is maintained, and reflecting the desired future character of the area.
- The proposal has not demonstrated that the site is suitable for the development with respect to achieving satisfactory acoustic privacy for neighbours, or solar access for both residents of the subject site and neighbours.
- The proposal does not demonstrate site responsiveness in building design.
- The submissions received in relation to the proposal have raised concerns about parking and traffic, and the social impact of the development.

Section 94 - Developer Contributions Plans

As Council has made no resolutions on group homes and Section 7.11 Contributions, no additional Contributions fees are payable.

Conclusion

In assessing this application against the relevant environmental planning policies, being State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy No 55 - Remediation of Land, Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2-1997), Penrith Local Environmental Plan 2010, and Penrith Development Control Plan 2014 the proposal does not satisfy the aims, objectives and provisions of these policies.

In its current form, the proposal will have a negative impact on the surrounding character of the area as the built form and earthworks proposed are inconsistent with the existing and desired future character of the locality.

The proposed design is not site responsive, does not comply with key development standards and is not in the public interest.

Therefore, the application is not worthy of support for the attached reasons.

Recommendation

1. That DA18/0891 for demolition of existing structures and construction of a two storey group home at 14 Manning Street Kingswood, be refused.
2. That those making submissions are notified of the determination.

Refusal

1 [X condition - Refusal condition - BASIX](#)

The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act as the application has not demonstrated compliance with clause 6 of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in that a BASIX certificate has not accompanied the development application.

2 [X Special 02 \(Refusal under Section 79C\(1\)\(a\)\(i\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions:

Penrith Local Environmental Plan 2010

Clause 1.2 Aims of the plan

Clause 2.3 Objectives of the zone

Clause 5.10 Heritage conservation

Clause 7.1 Earthworks

Clause 7.4 Sustainable development

3 [X Special 04 \(Refusal under Section 79C\(1\)\(a\)\(iii\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:

Part B DCP Principles

Part C1 Site Planning and Design Principles

Part C3 Water Management

Part C4 Land Management

Part C5 Waste Management

Part C6 Landscape Design

Part C7 Culture and Heritage

Part D2 Residential Development

4 [X Special 07 \(Refusal under Section 79C\(1\)\(b\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of:

- The application is likely to result in unacceptable site disturbance.
- The bulk and scale of the development is inconsistent with the existing and desired future character of the locality.
- The impacts on the heritage item adjacent to the subject site has not been adequately addressed.
- The application has not demonstrated that the development is suitable in respect to achieving acceptable noise levels.
- The application has not demonstrated that the development provides adequate solar access to the subject and adjacent properties.
- The application has not demonstrated that stormwater and waste will be sufficiently managed on the site.

5 [X Special 08 \(Refusal under Section 79C\(1\)\(c\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as it has not been sufficiently demonstrated that the site is suitable for the proposed development due to its size and proportions, excavation, front setback and potential adverse impacts on surrounding land.

6 [X Special 10 \(Refusal under Section 79C\(1\)\(e\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest.

7 [X Special 9 \(Refusal under Section 79C\(1\)\(d\) of EPA Act 1979\)](#)

The application is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act due to matters raised in submissions which include carparking, traffic and social impact concerns.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning & Design Principles

The proposal does not respond to the general building form principles by demonstrating how the building's height, bulk and scale will avoid or minimise negative impacts on overshadowing and be sufficiently setback from property boundaries. The proposal does not respond to the site's topography and landform as 1.9m cut is proposed at the eastern end of the lot.

C3 Water Management

The subject site is in a location where On Site Detention (OSD) is mandatory for all development types except some minor forms of development, such as single dwellings, dual occupancies and secondary dwellings. Group homes are not separately detailed in the Council's 'Stormwater Drainage Specification for Building Developments' Policy. However, it is considered that as the development is not minor, and of a scale that could constitute multiple attached group homes on the site, that OSD should be applicable and provided. The proposal does not comply.

C4 Land Management

The proposal does not minimise the extent of earthworks to create the building platform and excavation exceeds the 1m limitation indicated in clause 4.1 4a).

C5 Waste Management

The proposal includes provision for a waste service typical of single residential dwellings. While group homes are not separately defined in Part C5 of the DCP, the scale of the proposal has been assessed as similar to that of a multi-unit dwelling in terms of waste generation. The proposal does not provide for sufficient waste services as required by Council's 'Multi-unit Dwelling Waste Management Guidelines'.

C6 Landscape design

The proposal does not provide the minimum landscaped area required and therefore opportunity to provide planting to ameliorate the impact of the built form on the streetscape. No planting is proposed in the rear yard or side setbacks, and minimal planting is proposed in the front setback.

C7 Culture and Heritage

The proposal has not been supported by a heritage impact statement in relation to the site adjoining being a heritage item.

C10 Transport, Access and Parking

2 covered and one stacked car parking spaces are provided.

D2 Residential Development

The controls for single dwellings in Part D2, clause 2.1 have been used as a representative guide for assessment of the proposal.

D2.1.2 Setbacks and building envelope

Clause 2.1.2 1a) specifies that front setbacks is the greater of either 5.5m or the average setbacks of the adjoining properties. Verandahs and pergolas are permitted to encroach 1.5m beyond the setback to the primary street frontage. The average setbacks to the front walls of the existing adjacent properties is 8.4m. The proposal includes a front setback of 7.4m with an encroachment of 1.5m of the carport awning.

D2.1.3 Development on sloping land

Clause 2.1.3 contains controls as follows:

2) *Floor levels/building platforms are to be stepped in response to the existing topography of the site.*

3) *Excavation or filling for the purpose of erecting a dwelling or ancillary development should not*

exceed 600mm in depth as measured from natural ground level.

The proposal includes cut at the east of the site to a maximum of 1.9m and the floor level is not stepped in response to the topography of the site.

D2.1.4 Landscaped area

Under clause 2.1.4 1) and 2) the minimum landscaped area to be maintained is 40% in the R3 zone and that calculation of landscaped areas does not include areas less than 2m in width. To comply, the proposal would require 223m² of landscaped area, whereas the plans indicate that only 30% or 194m² is provided.

D2.1.5 Building design/site works

Clause 2.1.5 contains objectives as follows:

- 1) *New buildings should show characteristics of established suburban neighbourhoods with;*
 - b) *building forms that are stepped or articulated,*
 - c) *development that relates to the shape of the surrounding garden areas, and*
 - d) *development that does not detract significantly from the privacy and amenity of existing dwellings and private gardens.*
- 2) *Dwellings should be surrounded by private gardens, their facades should display a variety of materials and shading structures,*
- 4) *Development responds to topography of the site and minimizes site disturbance.*

The proposal is not sufficiently stepped or articulated in that large expanses of wall are presented to the northern elevation with little relief from articulation in materials or design. The site plan demonstrates that the development provides little garden space and the privacy and amenity of the existing dual occupancy dwelling to the south will be detrimentally impacted. The proposal does not respond to the topography of the site as previously discussed.

D2.1.6 Solar planning

Clause 2.1.6 1b) specifies that the proposed development must provide a minimum of 3 hours sunlight to living zones of the dwelling and living zones of the adjoining dwellings between 9am and 3pm on 21 June. Based on the shadow diagrams submitted with the proposal, and the location of living spaces in the dual occupancy dwellings at 16 Manning Street, the application has not adequately demonstrated that the adjacent property maintains 3 hours of solar access during the time period specified.

Clause 2.1.6 1c) specifies that the proposed development must provide a minimum 3 hours sunlight to 40% of the main private open spaces of the dwelling and main private open spaces of adjoining dwellings between 9am and 3pm on 21 June. The shadow diagrams submitted with the proposal indicate that the communal open space at the rear of the group home will be almost completely in shadow between 9am and 3pm.

D2.1.7 Garden design and fences

Clause 2.1.7 contains the following controls:

- 1) *Retaining walls:*
 - a) *generally should be no taller than 600mm;*
 - b) *should be separated from any associated fence by a planter-bed at least 500mm wide, minimising the apparent overall height of fencing.*

In the rear yard, the retaining wall on the south west corner of the lot is located on the boundary, and reaches a height of 1.9m.