



# MEMORANDUM

Reference: **DA21/0788**

To: Penrith Local Planning Panel

From: Donna Clarke - Consultant Planner

Date: 22 February 2022

Subject: Demolition of Existing Structures & Construction of Seven (7) Storey Mixed Use Development including Ground & First Floor Commercial Tenancies, Boarding House including 96 Boarding Rooms & Manager's Room & Two (2) Levels of Basement Car Parking at 2a Bringelly Road & 31 Santley Crescent, Kingswood

I refer to the subject development proposal and the related assessment report that is scheduled for consideration by the Penrith Local Planning Panel on 23 February 2022.

This memorandum provides a response to questions from the Local Planning Panel ahead of the upcoming Local Planning Panel meeting.

Item	Response
1. Confirm a cl 4.6 contravention request is required for the height non-compliance noting the applicants justification and reference to case law.	<p>The height of the building has been considered to be unacceptable, exceeding the standard height provisions of 18m with uncertainty as to whether the proposal satisfies the required floor to ceiling heights to qualify for the bonus height provisions, being an extra 20% or 21.6m.</p> <p>As part of the assessment of the application, it has been deemed that a Clause 4.6 variation request is required as the height control is a development standard pursuant to PLEP 2010, and a clause 4.6 request to vary the standard has not been submitted.</p> <p>The applicant has addressed the absence of the 4.6 request within the Statement of Environmental Effects by suggesting that a clause 4.6 request to vary the development standard is not warranted or required on the basis of Clause 29 of SEPP (Affordable Rental Housing) 2009 which prevents refusal of the application when certain requirements are met, including height.</p>

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		<p>It must be noted however that this clause is only pertinent where the development is compliant with a height of building standard.</p> <p>As outlined within the assessment report, the development is non-compliant with the height of building standard within the PLEP 2010. Further there is no numerical standard in the SEPP instrument relating specifically to maximum building height that would take precedent over the LEP provision (which is relevant in the event of an inconsistency). The LEP height control is a development standard which must be considered as the SEPP does not override it with a different control.</p> <p>Given the views formed as outlined above and in the assessment report coupled with numerous inadequacies of the application, Legal advice as to whether a Clause 4.6 Variation request is required was not deemed necessary.</p>
2.	<p>Clarify the difference in position between the applicant and Council regarding the compliance of motorcycle parking – 19 appears to comply? Also clarify proposed and required bicycle parking</p>	<p>Clause 30 of SEPP (Affordable Rental Housing) 2009 requires 1 motorcycle space per 5 boarding rooms.</p> <p>Clause 25(2) of SEPP (Housing) requires 1 motorcycle space per 5 boarding rooms.</p> <p>The proposal is for 96 boarding rooms, which requires 19.2 motorcycle spaces. 19 spaces are proposed.</p> <p>Typically deficiency in parking numbers is rounded up to the whole number which is the methodology that has been applied to this assessment.</p> <p>It is however noted that in isolation, the deficiency of 0.2 spaces (rounded to 1) could be supportable were the application recommended for approval.</p>

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<p>3.</p>	<p>The Traffic Report does not mention the operation of the proposed car lift, re cycle time/capacity and any queuing analysis (and B2 seems large to be serviced by one lift). Has any info on this been supplied or requested?</p>	<p>As the application was deemed non supportable upon lodgement and initial assessment, requests for further and additional information have not been made of the applicant as the application has been assessed and reported for determination by way of refusal.</p> <p>Numerous concerns have been identified with the overall development as part of the assessment, which would necessitate a complete redesign and resubmission of a new application and updated plans and documentation. This includes redesign of the basement arrangements and traffic generation rates as a consequence of addressing other matters relating to yield, bulk and scale.</p> <p>The applicant attended a Pre-lodgement meeting with Council and was advised that the proposal is not supportable, the design departs radically from the planning provisions and a Development Application should not be lodged. Refer to the accompanying Pre-lodgement notes.</p> <p>The comments concerning deficiencies within the Traffic Report are noted and agreed and would warrant address and basement redesign if the assessment of the application was to proceed as opposed to being refused.</p>
<p>4.</p>	<p>The issue of social impacts and excessive boarding houses – it is raised as a concern in the report but not a clear recommended reason for refusal (unless “changing nature of the area” in Reason 9 is intended to encapsulate this) – Please clarify including any learnings from recent or past court proceedings?</p>	<p>The recent Land &amp; Environment Court cases related primarily to land in low density areas as suburban infill, which differs from the subject site which is in Kingswood Town Centre.</p> <p>There is a concern raised in the report regarding the excessive number of boarding houses in the area and the corresponding impacts from that which includes a change to the character of the area, as well as potential social and safety impacts.</p>

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		<p>Refusal Point 9 is designed to be all encompassing however is recommended this reason for refusal be further modified to state the following:-</p> <p><i>“9. The application is not satisfactory for the purpose of Section 4.15(1)(d) and 4.15(e) of the Environmental Planning and Assessment Act 1979 due to matters raised in submissions and the public interest with respect to impacts of the development on residential amenity, local character, changing nature of the area, social cohesion and privacy.</i></p>
5.	<p>Further information on isolation – does the adjoining site not comply with key LEP/DCP controls to enable its redevelopment? What is the indicative separation between buildings in the applicant’s indicative massing and has it assumed a certain FSR? This issue is cited as a concern in the report but not in reasons.</p>	<p>The adjoining site at No. 33 Santley Crescent has the following key controls:</p> <ul style="list-style-type: none"> <li>• Zoned B4</li> <li>• Minimum lot size 800m<sup>2</sup> (note marginally below currently)</li> <li>• FSR 3:1 max</li> <li>• Height 18m max (permitted bonus subject to floor to ceiling distance)</li> <li>• Active frontage</li> </ul> <p>The Architectural Plans include an indicative envelope for redevelopment of No.33. That envelope appears to assume the bonus height provisions are achieved. The 3d views are not easily interpreted with accuracy regarding height, FSR or setbacks and no details of likely use.</p> <p>The proposed setbacks or separation between buildings is dependent upon the nature of the proposed building on No. 33. A cursory review appears to indicate that the upper floors of the subject development have not provided a suitable separation, with an increased side setback to No. 33 likely to be necessary (in particular upper floors), which places the burden onto No. 33 for the extra separation as part of a future</p>



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		<p>redevelopment. The lower levels are also marginally below 3m in part.</p> <p>Should a residential component be proposed, separation is required in accordance with the Apartment Design Guideline, which will also place the burden on No. 33 to achieve appropriate separation in particular on the upper levels.</p> <p>Condition 3 (final point) was to capture this issue when referring to the “<i>transition between zones and to adjoining development</i>”.</p>
6.	Was the applicant advised of concerns and given an opportunity to respond?	<p>The applicant attended a Pre-lodgement meeting with Council and was advised that the proposal is not supportable, the design departs too radically from the planning provisions and a Development Application should not be lodged. Refer to the accompanying Pre-lodgement notes. The feedback has not been sufficiently responded to in the preparation and lodgment of the DA as lodged resulting in the progression to refuse the development application.</p> <p>After lodgement of the DA, the applicant was not afforded the opportunity to respond given the substantial issues identified and complete re-design required, which would necessitate a new Development Application being pursued.</p>

Donna Clarke  
**Consultant Planner**



Our Ref: PL21/0052  
Contact: Kathryn Saunders  
Telephone: (02) 4732 8567

18 October 2021

Gus Fares  
67 Prestige Avenue  
BELLA VISTA NSW 2153

Dear Gus,

**Pre-Lodgement Advice - Proposed 7 Storey Mixed Use Development - Commercial Premises and Boarding House at 2a Bringelly Road and 31 Santley Crescent, Kingswood (Lots 3 & 5 DP 215200)**

Thank you for taking part in Council's pre-lodgement meeting on 10 August 2021. The meeting was useful for Council in gaining an understanding of your proposal.

Unfortunately, the proposal is not supportable, and you are advised not to lodge a development application for the proposal.

The design of the development departs too radically from the applicable controls and objectives applying to the site, including those of State Environmental Planning Policy (Affordable Rental Housing) 2009, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014 which includes controls and objectives applicable to the Kingswood Health and Education Precinct.

The attached advice is provided for your information and review.

Information given by the pre-lodgement panel does not constitute a formal development assessment of your proposal.

The pre-lodgement panel has endeavoured to provide information which will enable you to identify issues that must be addressed in any future development application for a similar proposal. The onus remains on the applicant to ensure that all relevant controls and issues are considered prior to the submission of any future application.

If we can help you any further regarding the attached advice, please feel free to contact me on (02) 4732 8567.

Yours sincerely

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Kathryn Saunders  
**Principal Planner**

## PRE-LODGEMENT ADVICE

**Proposal:** Demolition of all structures on the site, tree removal and the construction of a seven-storey mixed use development comprising of commercial and boarding house uses with two basement parking levels with vehicular access from Santley Crescent.

**Address:** 2a Bringelly Road and 31 Santley Crescent, Kingswood  
Lots 3 & 5 DP 215200

### **Attendees:**

#### ***Proponent***

Gus Fares – Gus Fares Architects  
Sam Li  
Andrew Minto  
Graham McKees  
Rashid Bhuiyan

#### ***Penrith City Council***

Kathryn Saunders – Principal Planner  
Abby Younan – Planning Administration Officer  
Stephen Masters – Senior Development Engineer  
Kablan Mowad – Senior Traffic Engineer  
Michael Middleton – Team Leader Environmental Health  
Craig Squires – Building Certification and Fire Safety Coordinator  
Joshua Romeo – Senior Waste Planning Officer

**Zoning:** B4 Mixed Use under Penrith LEP 2010

### **Site Constraints:**

- The site comprises two narrow allotments each with limited frontage to differing streets.
- The site is located adjacent to a R4 High Density Residential zone and in this respect the design needs to respond to the interface with this zone.
- Site isolation impacts related to 29 and 33 Santley Crescent will need to be addressed.
- The mixed-use nature of the proposal will require careful consideration of waste storage and collection, street front presentation, local character and internal amenity.

## **RELEVANT EPIs POLICIES AND GUIDELINES**

- Environmental Planning and Assessment Regulation 2000,
- Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River (No. 2 - 1997)
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Penrith Local Environmental Plan 2010
- Penrith Development Control Plan 2014

## **Draft or Proposed Plans and Polices for Consideration**

- EIE Housing SEPP
- EIE Design and Place SEPP
- Draft Environment SEPP
- Draft Contaminated Land SEPP

## **Other Guidelines and Polices**

- Government Architect NSW – Greener Places, Better Placed, Connecting with Country, Movement and Place and Sydney Green Grid documents.
- Council's Cooling the City Strategy
- Council's Kingswood Public Domain Manual

## **KEY ISSUES AND OUTCOMES**

Any future scheme for the site is to address the following issues.

### **1. Planning Matters**

#### **(a) General**

The design of the development is unsupportable in terms of its design quality, site suitability, servicing, impact on streetscape and local character, internal and external amenity and owing to its departure from the objectives and controls of the local plans and polices and, those of the Kingswood Health and Education Precinct and Kingswood Public Domain Manual.

The design of the development does not appropriately respond to the proposed building's interface with potential residential development to the east within the R4 High Density Residential zone and it is not demonstrated that the lot/site configuration is suitable for the density proposed. The development of the site will likely isolate no. 33 and no. 29 Santley Crescent and inadequate regard is had to the impact of the proposed development on existing development and the future development potential of these lots.

The design of the development does not suitably address the street frontages. The Bringelly Road frontage is obstructed by deep landscaped planters which will inhibit activation and the commercial tenancy areas are limited in area. The



potential location of required fire hydrant booster set(s) and a pad mounted electrical substation is not nominated for the Bringelly Road or Santley Crescent frontages and if required, would further impact streetscape quality.

**(b) Penrith Local Environmental Plan 2010**

The subject site is zoned B4 Mixed use under PLEP. The strategic intent behind the extent of the B4 zoning on the eastern side of Bringelly Road is in part, to allow for and encourage the provision of active street frontages to Bringelly Road and its street corner intersections, and to ensure orderly lot amalgamation can occur and when undertaken the resultant sites are capable of their full development potential, whilst allowing compliance with the provisions of the applicable planning controls.

The applicable controls for the site are aimed at retaining active uses fronting Bringelly Road and encouraging high quality developments which will contribute to an uplift in streetscape character and local amenity.

Plans submitted for review indicate that side elevations are unarticulated with sections built to boundary. The design does not interface with the streetscape well in that awning heights are too high, sitting above second floor (approximately 7.69m above finished floor of ground level) and the frontages are either dominated by hard stand and services or landscape planters which will inhibit activation.

The basement entry which is open to the west, the services loading bay, entry ramping and fire stairs will dominate the frontage along Santley Crescent and are considered to be detracting elements.

The proposed 'cross over' boarding rooms include upper level bedrooms at 'mezzanine' level. These will have low amenity owing to the minimal floor to ceiling heights, limited outlook, poor privacy and security outcomes and boundary interface arrangements.

It is unclear if boarding room no. 54 is part of boarding room no. 51.

It is for the above reasons that the proposal is considered to be contrary to the aims of PLEP, in particular those related to orderly and economic development, the promotion of development that is consistent with Council's vision for Penrith, namely, a strong commitment to sustainable development, healthy and safe communities and in relation to safeguarding residential amenity.

**Clause 4.3 - Height of Buildings**

The clause identifies a maximum building height of 18m for the site. It is estimated that the maximum height of building would be approximately between 22m and 24m. The SEE states that a maximum height of 22.5m is proposed. The north elevation indicates a maximum height of 22.9m, and it is then unclear if ground floor finished level along Bringelly Road is subterranean (-400mm).

If a height bonus under Clause 7.11 was applied, the maximum applicable height for the development would be 21.6m (18m + 20%).

A written request to vary the development standard under Clause 4.6 of PLEP would be required to accompany any future application for the height proposed, however it is not recommended that a DA be lodged for the reasons herein and you are advised that it would be unlikely that a written request seeking consent for the height proposed, could be supported. Refer below in relation to Clause 7.11 of PLEP.

The design of any development on the site shall have regard to the adjacent zoning and its maximum height of 15m under PLEP.

#### Clause 4.4 - Floor Space Ratio

PLEP identifies a maximum floor space ratio (FSR) for the site of 3:1 (refer also to discussion under SEPP ARH).

#### Clause 7.4 - Sustainable Development

Any future application shall address the principles of sustainable development listed under the clause. It is recommended that a development of the scale proposed be lodged with an Environmentally Sustainable Design (ESD) report.

#### Clause 7.8 - Active Street Frontages

This clause applies to the Bringelly Road frontage of the site and is to be addressed in any future application.

#### Clause 7.11 - Penrith Health and Education Precinct

Although the submitted plans indicate that the ceiling height of both the ground and first floors may be capable of being equal to or greater than 3.5m, this is based on a 200mm slab. You are advised that the height clearance of 3.5m must be based on a 300mm slab to allow for set downs and services.

In addition, it is not entirely clear if the proposed 'mezzanine' level will be considered as a 'storey' and thus the clause will apply to the level titled 'mezzanine'.

In this case, the objectives of this clause would not be met by the design of the proposed development. It is raised that regardless as to whether the 'mezzanine' is considered to be a storey, the design of the building's ground and first floor plates will inhibit the ability of the development to achieve the objectives of the clause.

Objectives of the clause include (a) *to encourage a built form that is suitable for both residential and health services facilities*; and (b) *to encourage adaptive reuse of residential buildings for health services facilities in the Penrith Health and Education Precinct where the residential use within the building ceases in the future*.

The floor area of the 'mezzanine' level of the development is limited to the upper level bedrooms of seven 'cross over' boarding rooms which provide between 9sqm and 10sqm for floor area each and which are reliant on the ground floor to

enable their use (access and egress). The total floor area of this mezzanine appears to be 64sqm with most of the 'mezzanine' level proposed as void space.

The proposal to introduce a mezzanine between levels ground and one, which is not readily adaptable for the purposes of the application of the clause, is not supported. It is for the above reasons that it is not understood how the development can benefit from any height bonus available under Clause 7.11.

**(c) State Environmental Planning Policy (Affordable Rental Housing) 2009**

Division 3 Boarding houses applies to the proposal. In relation to Clause 29(1)(c), it is noted that the Policy states that *'a consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than – (c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—*

...

*(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*

The PLEP Floor Space Ratio Map identifies a FSR of 3:1 for the site. Plans accompanying any future development are to demonstrate compliance with the maximum FSR applicable to the site. Plans are to be provided which indicate gross floor area calculated in accordance with the definition of gross floor area under PLEP.

The development is to be compliant with the non-refusable standards expressed under Clause 29 of the Policy, in particular the matters referred to under sub-clause (2). It is not understood from a review of the submitted plans how the development would achieve compliance with 2(b), (c) and (e).

In relation to car parking, it is unclear from a review of the basement plans how many car spaces are proposed and which ones are dedicated for each use. It appears that 35 car parking spaces are proposed in total. This does not comply with the rate set under Clause 29 and will not be supported.

For 97 boarding rooms, a minimum of 49 car spaces are required with one space dedicated for the boarding house manager. A minimum of 10% of these spaces will be required to be constructed as accessible car parking spaces. In addition, a minimum of 2 services spaces will be required to be provided.

Car parking for commercial and retail floor space is detailed in Section C10 of the Penrith DCP. The DCP provides a rate of 1 car space for each 40sqm of business and office floor area and 1 space per 40sqm for neighbourhood and specialty retail shops. Car parking for the retail or commercial component is to be provided in addition to residential car parking and is to be nominated on plans.

In relation to residential amenity and operational needs, it is considered that a boarding house of the scale proposed would require secondary additional common living room(s), a dedicated cleaner's room and a separate manager's office with access from the lobby.

Laundry facilities would need to be expanded and drying areas would need to be nominated on plans.

As per the requirements of Clause 30 of the Policy, 20 bicycle and 20 motorcycle spaces are also to be provided for the proposed 97 rooms.

Having regard to Clause 30A of the Policy, it is for the reasons stated under 1(a) and (b) above, that the proposed development is not considered to be compatible with the character of the area.

**(d) Penrith DCP 2014**

Any future application will need to demonstrate a high level of compliance and alignment with the relevant sections of the DCP. In particular, Section E12 Penrith Health & Education Precinct.

Chapter E12 includes objectives and controls which guide development of the precinct and which are aimed at protecting and enhancing the public domain, and the promotion of high-quality urban design, architectural excellence and environmental sustainability.

Aims also include to encourage the development of high amenity residential development which prioritises the public domain and which would create an attractive, sustainable and vibrant centre.

Development of the subject site is to comply with the guiding statements of the Commercial Mixed Use Precinct as are set out on page E12-3 of the DCP.

Mixed use development controls are provided under Clause 12.2.1 of the DCP. It is raised for your consideration and action that Clause 12.2.1, C. Controls, requires at (3) that 'where it is proposed to vary the height of building controls to take advantage of the height incentives, applicants are to consult Council early in the design process'. As detailed above, the proposed height is not supported. Controls for mixed use buildings include the requirement to provide 75% commercial frontage, separated service provision such as loading, servicing, lobby areas and lifts, and secure and separated parking for each use. Buildings are also to provide an active ground floor setback zone free of columns, balustrades and other visual barriers. The plans do not indicate compliance with these requirements.

The proposal does not comply with the DCP requirement for a minimum frontage of 24m for mixed use development and is not supported on this ground.

Re-development of sites within the precinct are required to have regard to the Built Form and Other Controls sections of the DCP (Clause 12.3 and

Clause 12.4). As detailed elsewhere in this correspondence, the awning design does not align with the awning controls at Clause 12.4.2.4 of the DCP.

## **2. Environmental Management Matters**

### **(a) Commercial Space**

For use of each tenancy, detailed plans would be required. Plans would need to address BCA and Australian Standards requirements, services connections and any acoustic or health and safety impacts.

### **(b) Plan of Management**

Under Chapter D5, Section 5.11, Boarding Houses of the Penrith Development Control Plan 2014, an operational 'Plan of Management' is to be submitted with any development application to ensure that the development operates with minimal impact on adjoining neighbours and to ensure that the development maintains a high level of amenity for residents.

As a minimum, the Plan of Management is to include details of:

- 24-hour contact details of who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises.
- Any House Rules, including details of how they will be publicised to residents, that cover guest behaviour, activities and noise, visitor policy, and the use of alcohol or drugs and any other relevant rules.
- Plans outlining the occupancy rate for each sleeping room, room furnishings, provisions of communal areas and facilities, and access and facilities for people with a disability.
- Measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of communal open spaces. For boarding houses located within residential areas or where adjoining sites contain residential activities, the use of outdoor communal open space should be restricted to 10pm.
- Waste minimisation, recycling and collection arrangements, including the servicing of 'sharps' and sanitary napkin receptacles.
- Professional cleaning and pest and vermin control arrangements.
- Safety and security measures, including, but not limited to:
  - (i) perimeter lighting;
  - (ii) surveillance or security camera systems;
  - (iii) fencing and secure gates;
  - (iv) room and access key arrangements; and
  - (v) a landline telephone for residents to ring emergency services;
- Internal signage, including:
  - (i) the name and contact number of the property caretaker or manager;

- (ii) emergency contact numbers for essential services;
- (iii) house rules;
- (iv) a copy of the annual fire safety statement and current fire safety schedule;
- and
- (v) floor plans that will be permanently fixed to the inside of the door of each bedroom to indicate the available emergency egress routes from the respective bedroom.

- A complaint register that is available for inspection by Council.
- Records of rent receipts issued to borders and fees for residency.
- A pest management plan that clearly indicates how pest prevention, monitoring, and eradication will be completed. The pest management program shall include, but not be limited to:
  - a pest management program,
  - the frequency of pest service,
  - maintenance and cleaning details and area of service,
  - time/frequency of service,
  - recording of sighting of pests and a response plan, and
  - general reporting and methods of treatment and approved products and chemicals.

Specific consideration in the plan needs to be given to bed bugs, particularly regarding monitoring and a response plan should they be identified. The plan shall clearly indicate how, and in what timeframe, pests can be eradicated and what measures will be put in place to prevent the further harbourage of pests.

- Minimum room furnishings. The Plan of Management should include a minimum room furnishing list and include detail on the condition of furnishing and process of replacing furnishing when required, such as how and when a resident can have a mattress replaced.
- The list might include such things as:
  - bed and bed size, wardrobe, mirror, table and chair, night light;
  - waste container, curtains, phone line, microwave, refrigerator, etc.

A cleaning and sanitation program should be developed including written cleaning schedules and cleaning procedures. The schedule and procedures shall cover all areas external to occupied resident's rooms but should include the room clean when a room is vacated. The following shall also be addresses in the procedures:

- how cleaning and sanitising is conducted,
- frequency of cleaning and sanitising,
- use of chemicals,
- cleaning chemical and sanitising solution strengths,
- record keeping of cleaning and sanitising and signing off on cleaning and sanitising.

### **(c) Laundry and Clothesline Guide**

Shared (separate) facilities are required unless separate laundry facilities are provided within rooms for all residents. As a guide:

- One 8.5 kg capacity automatic washing machine and one domestic dryer for every 12 residents.
- At least one large laundry tub and one cleaner's sink with running hot and cold water.
- 30m of clothesline is required for every 12 residents in an outdoor area (can be retractable).

Outdoor drying areas should not encroach on the outdoor communal living spaces and required minimum areas.

### **(d) Accessibility**

Consideration needs to be given to accessibility for laundry facilities (clothes drying and washing), mailboxes, amenities, communal areas, waste chutes and car parking access. The design is to consider accessibility requirements and egress in case of fire.

### **(e) Noise Impacts**

An Acoustic Assessment report is required to be submitted with any future development application. The report is to demonstrate that the proposed mixed use development will not have any detrimental and avoidable impact on nearby sensitive receivers.

This report is to be prepared by a suitably qualified acoustic consultant, and is to consider:

- The 'NSW Noise Policy for Industry 2017' in terms of assessing the noise impacts associated with the development, including noise from the indoor and outdoor communal spaces on surrounding properties (including their outdoor spaces), garbage removal, vehicles entering and leaving the site, the car parking spaces, as well as any mechanical plant associated with the development (including air conditioning for individual units and mechanical ventilation for the basement). The report should also provide commentary on the proposed commercial space and loading docks;
- The 'Interim Construction Noise Guideline' in assessing the impacts associated with the construction phase of the development; and
- The AS/NZS 2107:2016 Acoustics – Recommended design sound levels and reverberation times for building interiors in terms of ensuring that internal noise levels can be achieved.

When modelling impacts associated with the use of external common areas, the modelling must be based on:

- 30%-50% of residents using the outdoor area at one time;
- 50% of those residents talking at the same time; and
- Raised voice levels of at least 72-78dB(A) for a single person being used.

Should mitigation measures be necessary, recommendations should be included to this effect. Recommendations and mitigation measures must be shown on all architectural plans.

**(f) Contamination and State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

The site is currently occupied by a number of buildings which are of an age where it is likely that building materials containing asbestos, as well as lead-based paints have been used, indicating a potential for contamination.

Specific documentation will be required outlining how contaminated or hazardous material will be safely handled and disposed of including the licensed contractor's details.

Any future application is to address all relevant requirements under SEPP 55. Council cannot consent to any development unless these requirements have been satisfied and, in this respect the application is to demonstrate that the land is suitable for the proposed uses by the submission of a Phase 1 Preliminary Site Investigation and if required, Phase 2 Detailed Site Investigation (and Remediation Action Plan or other further reports as may be recommended).

All reports need to be completed by an appropriately qualified person(s) or company. An appropriately qualified person(s) is defined as "a person who, in the opinion of the Council, has a demonstrated experience or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies".

In addition, the person(s) or company will be required to have appropriate professional indemnity and public liability insurance.

**(g) Waste Management**

An Operational Waste Management Plan is to be provided addressing waste produced during the demolition, construction and operational phases of the development. It should address waste quantities, storage locations and removal.

Vehicular access for collection also needs to be addressed.

An Operational Waste Management Plan would need to accompany any future application. Waste storage areas are to be nominated on plans and are to be sited and designed so as to minimise nuisance from noise, odour and vermin. Refer also to Section C5 of Penrith Development Control Plan 2014.

**(h) Water Quality**

Any areas provided for waste/bin storage and washing are to be provided with a dedicated area with a floor waste which is connected to sewer. The bin wash area is to be provided with hot and cold and hose.

**(i) Vegetation Management**



Generally, trees greater than 3m in height are protected under Chapter C2 Vegetation Management of the Penrith Development Control Plan 2014. Existing trees are required to be assessed under the context of this section and in accordance with AS 4970 – 2009, Protection of Trees on Development Sites.

It appears that some trees would be removed to cater for the development. In this regard, an inventory of individual trees proposed to be removed and retained will be required to be assessed in accordance with AS 4970 – 2009, Protection of Trees on Development Sites. This will require an Arboricultural Impact Assessment to be provided for the proposed works. The report shall be written by an appropriately qualified AQF (Australian Qualification Framework) Level 5 Arborist and must not contradict any environmental assessment undertaken for the site.

#### **(j) General Environmental Health Impacts**

The environmental impacts associated with the demolition and construction phases of the development will also need to be addressed, such as water quality, noise, dust, air quality and sediment and erosion control. This can be included in the Statement of Environmental Effects.

A Construction Waste Management Plan is required to accompany any future development application.

A Sediment and Erosion Management Plan is required for all development applications where excavation and soil disturbance is proposed.

### **3. Development Engineering Matters**

#### **(a) General**

Council's engineering requirements for subdivisions and developments, including policies and specifications listed herein, can be located on Council's website at the following link:

<https://www.penrithcity.nsw.gov.au/building-development/development/engineering-requirements-for-development-subdivision>

All engineering works must be designed and constructed in accordance with Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Council's Engineering Construction Specification for Civil Works.

A detailed survey of the site, including Council's verge area and the adjoining properties and surrounds, shall be submitted with any future application. All plans for the site shall have levels and details to AHD.

#### **(b) Stormwater**

Stormwater drainage for the site must be in accordance with the following:

- Penrith Development Control Plan 2014,
- Stormwater Drainage Specification for Building Developments, and
- Council's Water Sensitive Urban Design Policy and Technical Guidelines.

Further, a stormwater concept plan, accompanied by a supporting report and calculations shall be submitted any future application. The concept stormwater plan shall be accompanied by a completed 'Checklist for Stormwater Concept Plans' as per Appendix A, of Council's Stormwater Drainage Specification for Building Developments.

Any future development application shall demonstrate that downstream stormwater systems have adequate capacity to accommodate stormwater flows generated from the development. This may require the provision of on-site detention to reduce stormwater flows or upgrade of stormwater infrastructure to increase capacity.

In addition to the above, a Water Sensitive Urban Design (WSUD) strategy is required to be provided for the site. Any on-site detention system or water quality system must be within common property and is to be accessible from the street without going through dwellings or private courtyards.

A water sensitive urban design strategy prepared by a suitably qualified person is to accompany any future application at the site. The strategy shall address water conservation, water quality, water quantity, and operation and maintenance. The application shall include MUSIC modelling (\*.sqz file) demonstrating compliance with Council's adopted Water Sensitive Urban Design Policy and Technical Guidelines. Any basement pump-out system shall be designed to AS 3500.

#### **(c) Local Overland Flow Flooding**

Council's records show that the lots are not affected by local overland flow flooding from the local catchment for the 1% AEP flood event. The development shall however, cater for existing sheet flows from the adjoining properties to the north.

The development shall not have an adverse impact on adjoining properties through the concentration, diversion or concentration of stormwater flows.

The design for any future development of the site that proposes basement parking with access from Santley Crescent, shall ensure that the basement access ramp shall be 300mm above the top of kerb level in Santley Crescent.

#### **(d) Traffic**

The width of the proposed basement access ramp off Santley Crescent along with the widths of the internal basement ramps in the submitted plans do not comply with Figure 2.8 of AS 2890.1. A fully dimensioned car parking plan would be required for any future development proposal. The plan would need to demonstrate that basement access ramps grades and widths, car parking bays, car parking aisles and manoeuvring details comply with AS 2890, Parts 1, 2 & 6 and Penrith Development Control Plan 2014.

#### **(e) External Works**

A development of the scale proposed is required to upgrade the verge area (public domain) for the site's frontages and in particular to Bringelly Road, in accordance with Council's 'Kingswood Public Domain Manual'. A link to the manual is provided below:

The following external works are also to be addressed in any future development of the site:

- Any driveway crossover shall be at a minimum of 1m clearance from any public utility service lid, power / light pole or stormwater kerb inlet pit and lintel. The driveway shall also be located a minimum of 1.5m from any street tree. Utility services may be required to be relocated to accommodate the crossover. The applicant is to contact the utility service provider to obtain requirements.
- The development will be required to relocate and underground the existing overhead power lines and telecommunications cables for the frontage of the development site in Santley Crescent and Bringelly Road.

**(f) Earthworks**

- No retaining walls or filling will be permitted for the development which will impede, divert or concentrate stormwater runoff passing through the site.
- Earthworks and retaining walls must comply with Penrith Development Control Plan 2014.
- Any future application is to be supported by a geotechnical report prepared by a suitably qualified person for the basement car parking areas and shall address, but not be limited to ground water movement, salinity, contamination and potential damage to adjoining public and private infrastructure during construction.

**4. Traffic Engineering Matters**

The proposal is not supported on traffic and parking grounds. Insufficient parking is provided for the development. The provision of off-street vehicle parking spaces must be provided in accordance with the applicable rates of Council's DCP and SEPP ARH.

The following information would need to be addressed and/or provided with any future application:

- A Traffic and Parking Assessment prepared by a suitably qualified traffic practitioner in accordance with the RTA's (now TfNSW) Guide to Traffic Generating Development 2002.
- Details of loading (deliveries and garbage collection) must be addressed, and detailed plans or reports are to accompany any future proposal.

- Heavy vehicle reversing/manoeuvring areas shall be separated from general car park area.
- Commercial and residential parking spaces shall be secure and are to be separated.
- The design of the driveway, internal roadways and ramps, car parking spaces, sight distance and loading areas shall comply with the requirements of Penrith DCP 2014 and Australian Standards (i.e. AS 2890.1 – 2004, AS 2890.2 for large vehicles and AS 2890.6 for accessible spaces).
- All vehicles must be able to enter and exit the site in a forward direction without performing more than a 3-point turn including when all parking spaces are occupied (all manoeuvring shall be contained within the site boundary).
- A swept path analysis showing required clearances shall be provided demonstrating the following:
  - A car can enter and exit the driveway in a forward direction.
  - Details of the road including kerb line, signs, traffic devices, power poles, other structures and neighbouring driveways shall be shown on the plans.
  - A car can pass another car at all passing areas.
  - A car can turn around within the site when all spaces are occupied.
  - A car can enter and exit all constrained spaces with less than a 3-point turn.
  - The largest vehicle (heavy vehicle) can enter the site, manoeuvre into the loading area and exit the site in a forward direction (dimensions of the road width and on-street parking shall be shown on the plans).

## 5. Waste Management Matters

Any future proposal is to demonstrate compliance with Council’s DCP including Part C, Section C5. The current waste collection and storage arrangement is not supported.

Although it is noted that Council is unable to support the proposed development, a list of documentation which would ordinarily be required is provided below for information purposes only.

<b>Documentation to be submitted with Development Application</b>	
<ul style="list-style-type: none"> <li>▪ Survey Plan</li> <li>▪ Site Plan and Site Analysis Plan</li> <li>▪ Statement of Environmental Effects</li> <li>▪ Architectural Plan Set</li> </ul>	<ul style="list-style-type: none"> <li>▪ Stormwater Concept Plan</li> <li>▪ Construction Waste Management Plan</li> <li>▪ Operational Waste Management Plan</li> <li>▪ Water Sensitive Urban Design Strategy and MUSIC Model with .sqz file</li> </ul>

<ul style="list-style-type: none"> <li>▪ Solar Access and Shadow Diagrams</li> <li>▪ Concept Public Domain Plan Set</li> <li>▪ Landscape Plan Set</li> <li>▪ Schedule of External Materials and Finishes</li> <li>▪ Boarding House Plan of Management and House rules</li> <li>▪ Commercial Operational Plan of Management</li> <li>▪ Signage Details and Strategy</li> <li>▪ Acoustic Assessment Report</li> <li>▪ Arboricultural Impact Assessment Report</li> </ul>	<ul style="list-style-type: none"> <li>▪ Contamination Assessment</li> <li>▪ Access Assessment or Statement</li> <li>▪ Building Code of Australia Compliance Report</li> <li>▪ Traffic and Parking Assessment Report with swept paths for waste vehicle and vehicle pinch/passing points.</li> <li>▪ Services Assessment Report</li> <li>▪ ESD Report</li> <li>▪ Geotechnical Report</li> <li>▪ Sediment and Erosion Management Plan</li> <li>▪ 3D electronic model in SketchUp Pro.SKP format</li> </ul>
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All Development Applications must be lodged through the NSW Planning Portal:

<https://www.planningportal.nsw.gov.au/major-projects/services/lodge-application>

Please ensure that all plans and documents submitted illustrate consistent detail.

Please contact Council's Duty Officer on 4732 7991 for any enquiries in relation to lodgement.

### **Electronic Model Requirements**

A copy of a 3D electronic model in SketchUp Pro.SKP format is required to be submitted.

The model should contain sufficient detail to demonstrate the external appearance of the proposed structure. Internal detail is not required. External reference detail such as existing property boundaries should be included to allow this model to be correctly located within Council's existing model.

Please contact Council for assistance regarding alternate file format options if this is required.

### **Sydney Water Services**

For all development proposals within Mulgoa, Wallacia and Londonderry, it is recommended that Sydney Water is contacted to ascertain servicing availability. Please contact Sydney Water's Growth Planning and Development Team on 8849 4649 or email [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au) for this information.

### **Key Land Based Considerations**

Bushfire Prone Land will likely require lodgement of a Bushfire Assessment Report.

Flood Affected Land will require floor levels to Australian Height Datum (AHD).

Impacts to native vegetation (including grassland) will require an assessment under the NSW Biodiversity Offset Scheme and may require a Biodiversity Assessment Report or a Test of Significance.

**Fees**

Please call the Development Services Department Administrative Support Team on 4732 7991 to enquire about fees and charges.