STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED RESIDENTIAL FLAT BUILDING

Nos. 41 - 43 Barber Avenue, Penrith

Prepared for:
Simon Elias

Prepared by:
Bob Tillott & Associates Pty Ltd
Consultant Urban Planners
151 Panorama Avenue
Charmhaven NSW 2263
Mobile: 0412 909 000
E-mail: tillottbob@bigpond.com
ACN No. 68 107 529 180
ABN No. 107 529 180

For submission to:
Penrith City Council

Date: 31 March 2015
Ref: 472/15

CONTENTS

Endorsed:

…….

Bob Tillott
(Director - Bob Tillott & Associates Pty Ltd)

EXECUTIVE SUMMARY

This application proposes, subsequent to demolition of existing buildings, and removal of the existing trees identified for removal on the Demolition Plan, the erection of a residential flat building containing 53 units as follows:

- 5 x 1 bedroom units;
- 6 x 1 bedroom + study units;
- 33 x 2 bedroom units; and
- 9 x 2 bedroom + study units.

together with 58 off-street car parking spaces (53 resident and 5 visitor), at a site located at Nos 41-43 Barber Avenue, Penrith.

The proposal has been examined against:

- Environmental Planning & Assessment Act 1979;
- State Environmental Plan No. 55 – Remediation of land;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- Penrith Local Environmental Plan 2010 (Amendment No. 4); and
- Penrith Development Control Plan 2014.

Subject to provided justification, compliance has been achieved to the relevant provisions of the statutory plans.

The design utilises good ESD principles and excellent levels of solar access and flow through ventilation have been achieved to all dwellings.

The subject site is located within reasonable walking distance to Kingswood Railway Station, and associated local commercial and shopping area. This will permit residents easy access to the range of commercial and retail facilities available locally, as well as regionally through the Greater Sydney rail network.

The subject site is one of the first sites in the immediate area to be redeveloped, in accordance with the R4 High Density Residential zoning that applies to the locality. The proposed development it is based upon the current statutory controls, and the proposed design presents a high quality development, that readily forms part of the existing residential precinct, whilst displaying good urban design qualities.

The proposal has been designed to complement the existing streetscape, as well as the likely future streetscape flowing from the recently commenced statutory plans (LEP Amendment No. 4) affecting the Penrith local government area.
No issues have been identified in preparation of this statement that possibly could cause the application to fail.

1.0 INTRODUCTION

1.1 Purpose of this Statement of Environmental Effects

Bob Tillott & Associates Pty Ltd has been retained by Simon Elias to prepare a Statement of Environmental Effects (SEE), to accompany a Development Application to be lodged with Penrith City Council seeking development consent, subsequent to demolition of existing buildings, and removal of the existing trees identified for removal on the Demolition Plan, the erection of a residential flat building containing 53 units as follows:

- 5 x 1 bedroom units;
- 6 x 1 bedroom + study units;
- 33 x 2 bedroom units; and
- 9 x 2 bedroom + study units.

together with 58 off-street car parking spaces (53 resident and 5 visitor), at a site located at No. 41-43 Barber Avenue, Penrith.

This report is intended to assist Council's consideration and determination of the application by providing full details of the proposed development and its implications. The required Statement of Environmental Effects provides an assessment of the proposal against the heads of consideration under Section 79C of the Environmental Planning and Assessment Amendment Act 1979.

This report is based upon an inspection of the site, pre-lodgement advice from Council dated 24 February 2015, and a series of architectural drawings dated 17 March 2015 (Issue A), and bearing the project number 27-14-15 prepared by JS Architects Pty Ltd.

Additional supporting information is:

- Arboricultural Impact Assessment;
- Landscape Drawing; and
- Traffic Impact Report.

This SEE, which forms part of the DA:

- describes the site of the proposed development;
- describes the proposed development;
- describes the relationship between this development application and other developments in the area;
- describes the nature of surrounding lands and their relationship to the site;
- describes the statutory planning framework within which the DA will be assessed;
- examines the environmental effects of the proposal in light of all key issues and relevant heads of consideration;

- explains the means by which the proposed development complies with relevant controls applying to the site and also provides adequate and proper justification for any variation or non-compliance with controls or standards applying to Penrith; and
- describes the measures to be taken to protect the environment.

1.2 General Description of the locality

The land to which this SEE relates is located on the northern side of Barber Avenue, between Colless Street and Parker Street, Penrith.

The proposal is described in detail in Section 3.

1.3 Matters addressed in this SEE

The matters, which have been addressed in this, SEE include:

- Environmental Planning & Assessment Act 1979;
- State Environmental Plan No. 55 – Remediation of land;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- Draft amendments to State Environmental Planning Policy No. 65 that were exhibited during October 2014;
- Penrith Local Environmental Plan 2010 (Amendment No. 4); and
- Penrith Development Control Plan 2014.
- The potential environmental impacts of the proposed development; and
- The steps to be taken to protect the environment and to mitigate the impact of the development.

1.4 Consent Authority

Penrith City Council is the consent authority for the subject development application.

2.0 SITE DETAILS

2.1 Land to which this SEE relates

The land to which this SEE relates is located on the northern side of Barber Avenue, between Colless Street and Parker Street, Penrith.

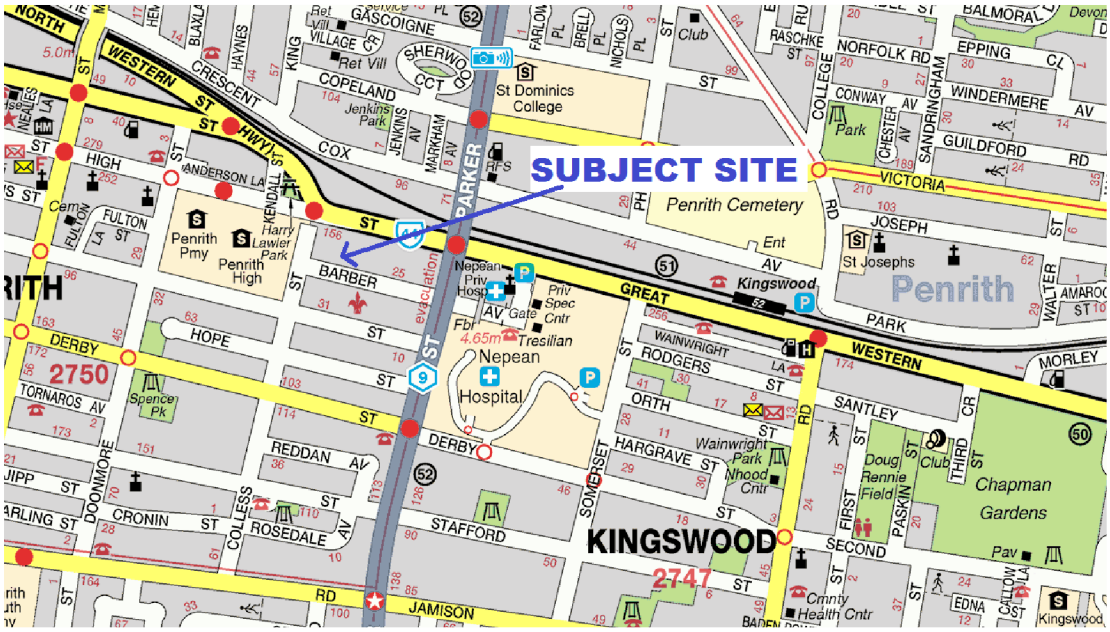
The site is identified as Lots 30 and 31, Sec 20, DP 2296 and is known as No 41-43 Barber Avenue, Penrith.

The site is regular in shape, with a frontage of 33.60 metres to Barber Avenue, a depth of 50.29 metres, and a rear boundary of 33.60 metres.

The site has an area of 1686.0m².

The site presently contains two (2) single storey dwelling-houses various out-buildings and a swimming pool.

The following map provides location of the subject site.



The following aerial photograph identifies the subject site:

Source: Google Earth

2.2 Site Context

The site is located in the dormitory suburb of Penrith. The subject site is located on the northern side of Barber Avenue, within an existing residential precinct, and between Colless Street and Parker Street, Penrith

The site is surrounded by a variety of residential development. In immediate proximity to the subject site a free-standing dwelling-houses, however, further to the east is a variety of villa and multi-dwelling developments. The Barber Avenue streetscape in proximity to the subject site, contains various types of mature trees growing in the road reservation.

Due to the site being located a reasonable walking distance to Kingswood Railway Station, as well as the associated commercial/retail facilities, it is quite possible that residents of the development could carry out their normal day to day activities, with only minimal need to resort to a motor vehicle.

2.3 Site History

No relevant applications.

2.4 Existing land uses

The site presently contains two (2) single storey dwelling-house and out-buildings and a swimming pool.

2.5 Traffic and Transport Connections

The subject site is located within reasonable walking distance to Kingswood Railway Station, and the ability to connect to the Sydney Rail network.

The site has ready access to local and arterial roads in the locality, including Great Western Highway and M4 Motorway.

2.6 Existing utility services

The site is well serviced by a complete range of utility services, including water, sewerage, electricity, natural gas and telecommunication services.

Preliminary consultation with relevant utility authorities has failed to identify any impediment to the provision of services required for the subject building.

2.7 Surrounding Environment

The subject site, whilst in the residential precinct of the dormitory suburb of Kingswood, it is located reasonably close to the local, commercial, retail and service facilities of the Kingswood local centre, and associated railway station. Nepean Hospital is in close proximity to the east.

The form of buildings that surround the site is varied, although they mostly consist of one and two storey dwellings. However, further to the east there a numerous villa and multi-dwelling housing developments. The following photographs, detail the existing buildings and development in the locality.

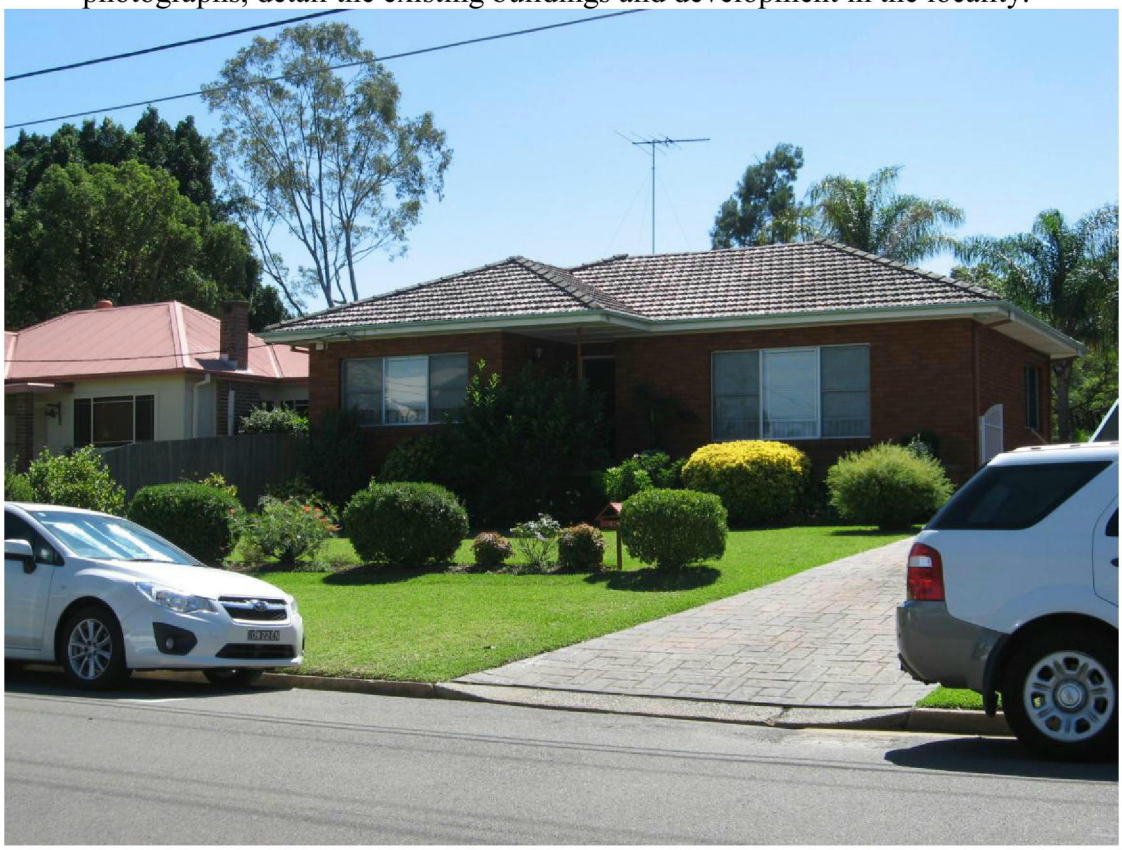


Photo No. 1: No. 41 Barber Avenue, being part of the subject site.

Photo No. 2: No. 43 Barber Avenue, being part of the subject site.

Photo No. 3: Residential development to west of subject site.

Photo No. 4: Existing street planting in the Barber Avenue reservation.

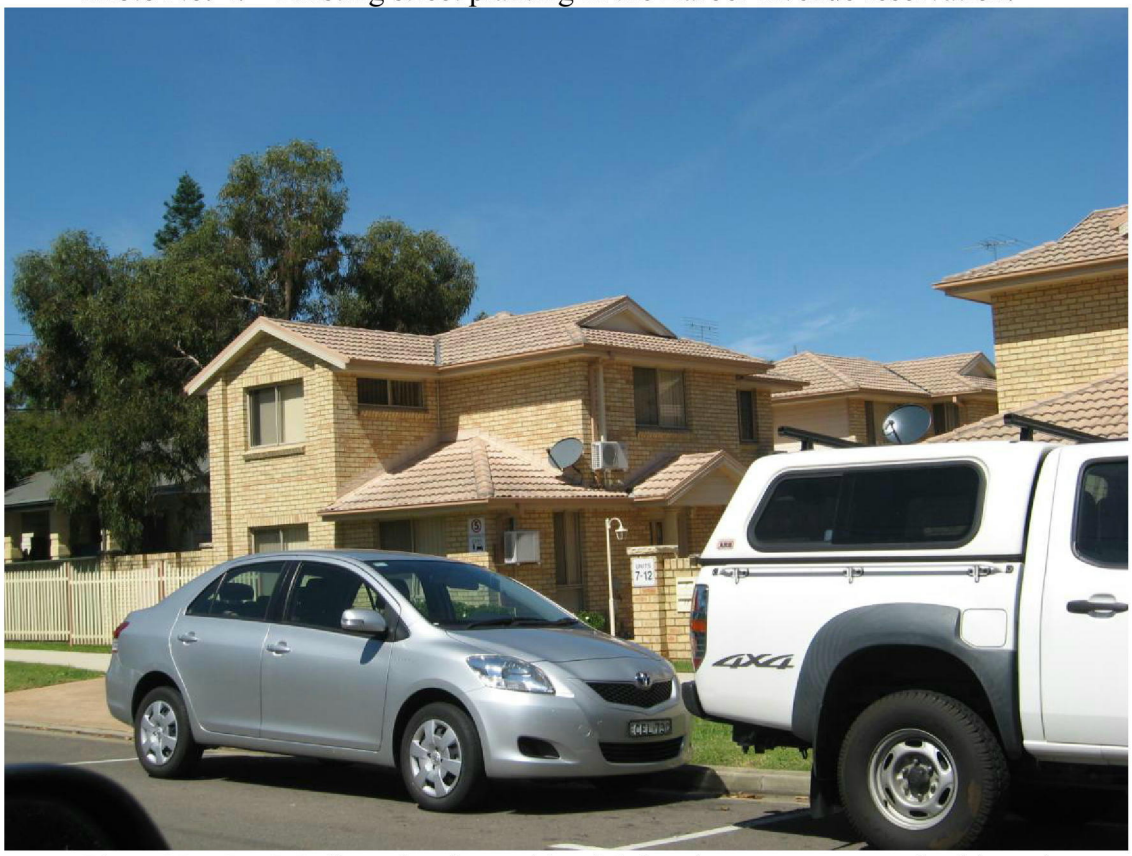


Photo No. 5: Medium density residential development to east of subject site.

3.0 THE PROPOSAL

3.1 Development for which consent is sought

The development for which consent is sought involves, subsequent to demolition of existing buildings, and removal of the existing trees identified for removal on the Demolition Plan, the erection of a residential flat building containing 53 units as follows:

- 5 x 1 bedroom units;
- 6 x 1 bedroom + study units;
- 33 x 2 bedroom units; and
- 9 x 2 bedroom + study units.

together with 58 off-street car parking spaces (53 resident and 5 visitor), at a site located at No. 41-43 Barber Avenue, Penrith.

This report is based upon an inspection of the site, pre-lodgement advice from Council dated 24 February 2015, and a series of architectural drawings dated 17 March 2015 (Issue A), and bearing the project number 27-14-15 prepared by JS Architects Pty Ltd.

The project architect has produced the following artist's impressions of the proposal:

The proposed development involves the removal of identified trees, and the carrying out of landscaping in accordance with the submitted Landscape Plan. Removal of the identified existing trees, will only take place when the trees are not being used for nesting purposes.

3.2 Waste Management Plan

A Waste Management Plan, which addresses both the construction and post construction phases of the development will be submitted to the Council.

4.0 EXISTING PLANNING CONTROLS

The subject site is affected by the provisions of the Environmental Planning & Assessment Act, 1979 and the following:

- Environmental Planning & Assessment Act 1979;
- State Environmental Plan No. 55 – Remediation of land;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- Draft amendments to State Environmental Planning Policy No. 65 that were exhibited during October 2014;
- Penrith Local Environmental Plan 2010 (Amendment No. 4); and
- Penrith Development Control Plan 2014.

4.1 State Environmental Planning Policy No. 55 – Remediation of Land

The requirement at clause 7 of SEPP No. 55 for Council to be satisfied that the site is suitable, or can be made suitable, to accommodate the proposed development has been considered in the following table:

Matters for consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	Yes
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	Yes
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum reconditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	No
Is the site listed on Council's Contaminated Land database?	No
Is the site subject to EPA clean-up order or other EPA restrictions?	No
Has the site been the subject of known pollution incidents or illegal dumping?	No
Does the site adjoin any contaminated land/previously contaminated land?	No

Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	Yes

Accordingly, Council can be satisfied that the appropriate level of investigation has been carried out, and that the proposed development is considered satisfactory with regard to Clause 7 of SEPP 55. The site is considered suitable to accommodate the proposed multi dwelling housing development without need for remediation.

4.2 State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP);

4.2.1 SEPP policy & Design Principles

State Environmental Planning Policy No. 65 establishes design criteria for the assessment of residential flat developments and for residential components of mixed developments. The primary aim of SEPP 65 is to *"improve the design quality of residential flat development in New South Wales."*

Part 2 of SEPP 65 requires that consideration be given to ten principles. Following is an assessment of the proposed development against these principles. The form of this assessment will be that of comments in respect of the design principles contained in SEPP 65 together with an examination of the proposal in respect of the provisions of the Residential Flat Design Code which flows out of SEPP 65. For ease of understanding, both heads of consideration, that is the SEPP 65 principles and the Design Code, have been combined under the ten SEPP 65 principles.

The subject application includes a Design Verification by the Project Architect, as required by Clause 50 of the Environmental Planning & Assessment Act Regulations 2000, in the following terms:

This is to confirm that Mr Simon Ochudzawa, Chartered Architect, registration number 6865, has designed and is responsible for the design of subject proposed development at 41- 43 Barber Avenue, Penrith. The design meets the design quality principles of Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

Principle 1: Context

Good design responds and contributes to its context.
Responding to context involves identifying the desirable elements of a locations current character or, in the case of precincts undergoing a transition. The desire future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

There are no key natural features in the subject portion of Barber Street, other than pleasing tree planting in road reservation.

The subject site is located within reasonable walking distance to Kingswood Railway Station, and to a lesser degree, can access Penrith Railway Station and supporting facilities, and as such has a transitional character that respects both the regional centre role of the Penrith central business district, and the surrounding high density residential precinct.

The nearby built form is varied, as is the associated land uses. The environs of the subject site have in recent years started to change to reflect the regional role of the nearby suburb of Penrith, and the associated demands that flow from that role. The current R4 – High Density Residential statutory zoning of the site creates a high density residential areas that benefits from nearby facilities, including the Nepean Hospital, Kingswood Railway Station, and the relative close proximity to the regional centre of Penrith. The desired future character of the area will continue to be that of a high residential density area that encourages development along the lines of the proposed development, thus increasing the availability of housing stock in this locality.

The future context will include and contribute, with strong architectural elements, so as to assist in strengthening the future identity to the area together with the nearby Penrith regional centre precinct.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale require a considered response to the scale of the existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

The scale of the development is in accordance with the mandatory provisions of the Penrith LEP 2010 (Amendment No. 4), and the relevant controls contained in the associated DCP. The subject residential flat building addresses the objectives of the R4 - High Density Residential zone, and the design contains elements to preserve the amenity of the adjoining premises, as well as anticipated future adjacent neighbours, with the massing of articulated volume in terms of wall and roof form, within the future height allowances.

Whilst the scale of the development is, in some areas, larger than its immediate current context, because of the application of the current statutory planning controls, it will be a good fit with the context of likely future development, and the desired future character of the area generally.

Principle 3: Built Form

Good design achieves an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of the streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The built form of the proposal is of a building built, in accordance with the high density residential statutory zoning, as well as in height limit contained with LEP 2010.

The proposal follows the built form provided by the existing streetscape, as well as the desired future character of the area, flowing from the zoning objectives for the area, together with the relative LEP & DCP controls. There are no significant views or vistas available to the subject site. There are internal levels of amenity available to each residential unit, together with ground level common open space.

The building form is appropriately articulated, considering the statutory planning controls, through the use of detail elements, a rich palette of materials and colour at the small scale.

The ground level common open space, and private balconies are provided for the residents. The balconies are located adjacent to living spaces to enhance the internal amenity of the development, and assist in articulating the built form.

Principle 4: Density
Good design has a density appropriate for the site and its context, in terms of floor space yields (or number of units or residents.)

Appropriate densities are sustainable or consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of the infrastructure, public transport, community facilities and environmental quality.

Density is predominantly controlled by height and floor space control. In some instances of developments density can be controlled by other factors such as car parking or a landscaped area requirement or boundary setbacks that do not permit maximum floor space ratios to be achieved. The densities are as they are, because of the location of the proposal by being in proximity to the public transport facilities at Kingswood, as well as the nearby Nepean Hospital, and the Penrith Regional centre further to the west. The density of the proposal contributes to the future well being of the immediate high density residential area, as with increases in population, there will be a consequential increase in the number of people that will use the range of available public facilities, including Kingswood Railway Station, and associated bus facilities.

The subject site is part of the locality zoned R4 High Density Residential under the Penrith Local Environmental Plan 2010 (Amendment 4), and as such is appropriate in density for Council's vision for future residential growth in the area.

The building design has appropriately addressed the situation of a residential flat building in an area surrounded by dwellings, whilst at the same time anticipating future adjoining development, and the preservation of future amenity of adjoining residents.

Principle 5: Resource, energy and water efficiency
Good design makes efficient use of natural resources, energy and water throughout its full cycle, including construction.

Sustainability is integral to the design process. Aspects include the demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layout and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

There are statutory measures to regulate resource, energy and water efficiency. These measures have been respected in the conception of the subject design.

The building has been subjected to a BASIX assessment appendix J of the Building Code of Australia and the findings incorporated in the proposal.

The development meets the required solar access guidelines. Drawing 18/24 provides solar access details. 38 units, or 71.69% of the units achieve the required solar access. Cross ventilation is available to 30 units, which represents 56.60% of the total number of units (refer to Drawing 19/24 for details).

The building façade elements are developed by a climate control strategy whereby the east, north and west facades have large windows and balconies for plentiful light, but shaded in the harsher mid-summer sun periods. The western facade particularly minimizes penetration by hot mid-summer afternoon heat.

The strategies for this development are:
- Maximising occupant's access to daylight, ventilation, sun and views.
- Provide maximum possible cross ventilation to apartments.
- Providing wide frontage units to maximise natural light penetration.
- Compliance with BASIX requirements including recycling of rainwater into toilets and washing machines.
- Providing large areas of water detention on site.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustain able system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining domain.

Landscape design builds on the existing sites natural and cultural features in responsible and creative ways. It enhances the developments natural environment al performance by coordinating water and soil management, solar access, micro climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours amenity, and provide for practical establishment and long term management.

The proposed development involves landscaping of 41% of the site (697.03m^2), and this arrangement permits the provision of appropriate outdoor recreation areas for residents.

Due to most of existing trees being located within the footprint of the proposed building, it is necessary to remove this element of the natural environment. However, as detailed on the Landscape Plan there will be a significant level of tree planting as part of the proposal. Further, please refer to submitted Arboricultural Impact Assessment relating to tree removal, tree replacement and tree pruning.

The proposed ground level common open space area is located so as to capture maximum mid-winter solar access. This should result in a pleasing element of natural environment for residents.

The proposed development provides suitable areas of outdoor recreation, in the form of balconies, for the residents on the site, together with the common open space area adjacent to the northern site boundary.

The design provides connectivity between the private open space areas and the residential units, so ensuring that adequate buffer and maximum amenity is offered to the individual dwellings and their occupants.

Principle 7: Amenity
Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degree of mobility.

The units are generally sized to not only maximize amenity, but also to satisfy the varying demand for accommodation in proximity to the regional centre of Penrith. The unit layout and size will suit various sections of the community and its associated needs, particularly couples who are both working, and have no children.

All residential units provide ample bedroom and kitchen storage facilities.

There is appropriate car parking provision in two basements which minimises the impact of the development on the streetscape.

The site is served by public transport, in that it is a comfortable walk to Kingswood Railway Station. The subject site is in proximity to the nearby Nepean Hospital.

Principle 8: Safety and Security
Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that carter for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

If there is a greater resident population in the Barber Avenue precinct, there will be a corresponding increase in safety, as numbers tend to reduce the chance of crime. That is, there is more of a possibility of witnesses to any crime. The proposal increases the population of the precinct, which increases activity on the street. With future development flowing from the current controls, there will also more residential flats overlooking Barber Avenue, and hence more casual surveillance of the public domain. The exit/entry areas to the building are located away from dark areas, and entry/exit areas are to be brightly lit.

The development provides secure parking for residents, as well as a secure central lobby that access units on the upper floors.

Obscured areas and alcoves have been avoided in the design of the public domain spaces, and the lobby is wide and brightly lit, with the retail area to provide active street frontages.

All common open space areas and pedestrian areas within the site will be well lit, and designed to maximise personal safety and security.

Principle 9: Social dimensions and housing affordability
Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should access housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

The development provides a design for future occupants which aligns with local community demands, that sometimes relates to a working couple who have no children, and seek accommodation close to a regional centre because of their particular lifestyle. Hence the following unit mixture:

- 5 x 1 bedroom units;
- 6 x 1 bedroom + study units;
- 33 x 2 bedroom units; and
- 9 x 2 bedroom + study units.

Principle 10: Aesthetics
Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to the desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

The overall aesthetics of the development are of a high quality. The individual building compliments the existing streetscape, and the design ensures the proposed building will compliment the desired future character of the area, whilst setting a high urban design standard for future nearby development.

The architectural style is contemporary and is consistent with the expectations of the market and is sympathetic to its surroundings and will set a benchmark for future high density residential housing developments in the locality.

4.2.2 Compliance Table relevant to Residential Flat Design Code

Note: The Residential Design Flat Code (RFDC) uses the term "rule of thumb".

A **rule of thumb** is a principle with broad application that is not intended to be strictly accurate or reliable for every situation. It is an easily learned and easily applied procedure for approximately calculating or recalling some value, or for making some determination.

The following table, prepared in consultation with the project architect, is a response to the provisions of the RFDC.

Residential Flat Design Code guide requirement	Designer's response
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	LEP 2010 contains a 18m max height limit. Proposal generally aligns with the 18m height limit.
Test heights against the number of storeys and the minimum ceiling heights required for the desired building use	The ground floor ceiling height is 3.75m. All residential floors have a floor to ceiling height of 2.85m. The proposed ceiling height arrangement aligns with the intended use of the building.
Resolve building depth controls in plan, section and elevation.	The building's width varies between 18m and 27m, and all units have a depth between 8m and 10m. This arrangement ensures good levels of amenity are afforded to residents.
In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	All units have a depth between 8m and 10m, which ensures good levels of residential amenity.
Building separation Five to eight storeys/25 metres - 18 metres between habitable rooms/balconies - 13 metres between habitable/balconies and non-habitable rooms - 9 metres between non-habitable rooms	The proposed development has side and rear boundary setbacks as follows: Side: 3m Rear: 6m If similar development was proposed around the subject site it would result in building separation of 6m to the sides, in lieu of required 18m, and 12m in lieu of 18m to the rear. (See Note 1 for discussion)

Allow zero building separation in appropriate contexts, such as in urban areas between street wall building types (party walls).	Not relevant.
. Design and test building separation controls in plan and section. . Test building separation controls for daylight access to buildings and open spaces. . Building separation controls may be varied in response to site and context constraints. . Developments that propose less than the recommended distances apart must demonstrate that daylight access, urban form and visual and acoustic privacy has been satisfactorily achieved.	Due to the subject site having generally a north-south orientation, 38 of the units will enjoy at least three hours of mid-winter solar access. This equates to 71.69% of the total number of units.
. Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. . Relate setbacks to the area's street hierarchy. . Identify the quality, type and use of gardens and landscaped areas facing the street. . Test street setbacks with building envelopes and street sections. . Test controls for their impact on the scale, proportion and shape of building facades.	Existing streetscape is generally typified by dwelling-houses and a 7m front setback. This does not reflect development under the new R4 High Density Residential zoning. The front setback varies between 5.5m and 8.0m, and side boundary setbacks are minimum of 3m. The rear boundary setback is 6.0m. There is a 18m statutory height limit which has been met. The facades largely impacted by individual balconies. Complies with existing character.
. Relate side setbacks to existing streetscape patterns. . Test side and rear setback with building separation, open	The predominant street setback varies due to allotment shapes and sizes and land uses. The proposal has side boundary setbacks of 3m.

space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil Zones). . Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.	Deep soil landscaping is proposed in front of, and at rear of the building. However the ground floor common open space areas contain sizeable planter boxes, that add to the amenity of these areas. Complies with existing streetscape.
.Floor Space Ratio . Test the desired built form outcome against proposed floor space ratio to ensure consistency with: - building height - building footprint - the three dimensional building envelope - open space requirements.	The LEP does not have relevant floor space ratio controls. The proposal marginally exceeds the 18m maximum height limit contained in the LEP.
Deep Soil Zones . A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	The proposal provides deep soil planting at the front, side and rear of the building, which essentially aligns with the respective setback areas. The subject site is located in an urban environment which has limited ability to sustain water infiltration, in this case due to the basements covering most of the site. Stormwater from the roof is integral to the design and water re-use.
Open Space Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	Common open space provided adjacent to the rear boundary. All ground floor units have their own private open space area in proximity to their living areas. Private open space is provided to each residential flat, either in form of ground level courtyards or balconies on upper floors.

The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m²; the minimum preferred dimension in one direction is 4 metres.	The ground floor apartments have associated private open space areas ranging in area from 20.0m² to 45.36m². All private open space areas have at least one dimension of 4.0m or more.
Planting on Structures In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity.	The proposed development has planter beds in the ground floor courtyards, as well as common open space area.
Stormwater Management	A stormwater management plan is provided.
Safety Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	The proposal is for 53 residential units. No formal study has been prepared. However entry points are high lit, and suitable security cameras will be provided.
Visual Privacy Refer to Building Separation minimum standards (see Building Separation).	As previously discussed, the desired future character of the area is that of a high density residential. The design of the proposed development aligns with future character, and should afford suitable visual privacy to future adjoining units.
Building Entry	Entry points are directly off Barber Avenue, and are not too deep, so the street is still visible from access point.
Apartment Layout **Apartment Mix** . Single-aspect apartments should be limited in depth to 8 metres from a window. . The back of a kitchen should be no more than 8 metres from a window. . The width of cross-over or cross-through apartments over	In respect of daylight and ventilation, 56.6% of the apartments are double aspect. Drawing 19/24 provides details. All kitchens are less than 8m from a window.

15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts. . Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory day lighting and natural ventilation can be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation). . If council chooses to standardize apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability) - 1 bedroom apartment 50m2 - 2 bedroom apartment 70m2 - 3 bedroom apartment 95m2	There is a range in unit area from 47.15m² to 101.9m². Unit sizes are: 1 Bedroom: 47.15m² - 54.3m² 1 Bedroom + study: 61.57m² - 62.86m² 2 Bedroom: 67.0m² - 90.0m² 2 Bedroom + study: 84.19m² - 101.9m²
Balconies . Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind- cannot be satisfactorily mitigated with design solutions. . Require scale plans of balcony with furniture layout to confirm adequate, useable space when an alternate balcony depth is proposed.	All primary balconies are at least 2.0m deep.

Ceiling Heights . The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. - in mixed use buildings: 3.3 metre minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use - in residential flat buildings in mixed use areas: 3.3 metre minimum for ground floor to promote future flexibility of use - in residential flat buildings or other residential floors in mixed use buildings: - in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. - for two storey units, 2.4 metre minimum for second storey if 50 percent or more of the apartment has 2.7 metre minimum ceiling heights - for two-storey units with a two storey void space, 2.4 metre minimum ceiling heights - attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum ceiling slope. . Developments which seek to vary the recommended ceiling heights must demonstrate that apartments will receive satisfactory daylight (eg. shallow apartments with large amount of window area).	The ground floor ceiling height is 2.85m. All residential floors have a floor to ceiling height of 2.85m.

Storage . In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments 6m3 - one-bedroom apartments 6m3 - two-bedroom apartments 8m3 - three plus bedroom apartments 10m3	Domestic storage is provided within each unit.
Acoustic Privacy	Necessary acoustic privacy will be achieved through compliance with the Building Code of Australia. At CC stage complete compliance details will be provided.
Daylight Access . Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable. . Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	71.69%, or 38 units, of the proposed units will receive the identified minimum three hours direct sunlight at mid-winter. There are no units with a sole south-west or south-east aspect.

Natural Ventilation . Building depths, which support natural ventilation typically range from 10 to 18 metres. . Sixty percent (60%) of residential units should be naturally cross ventilated. . Twenty five percent (25%) of kitchens within a development should have access to natural ventilation. . Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily achieved, particularly in relation to habitable rooms.	The maximum building depth is 26m. All units have a depth between 8m and 10m. 56.6% of the total units (30 units) have cross ventilation. All of the proposed kitchens have access to natural ventilation, usually through a living area.
Energy Efficiency	The proposal complies with BASIX and the BCA.
Vehicle Access Generally limit the width of driveways to a maximum of six metres. Locate vehicle entries away from main pedestrian entries and on secondary frontages.	The vehicular driveway is 6.0m wide, and is located off Barber Avenue, which is the only practical frontage for vehicular access purposes.

4.3 State Environmental Planning Policy No 65 & Residential Flat Design Code - Draft amendments

During October 2014 the Department of Planning & Environment placed upon public exhibition amendments to SEPP 65 and Residential Flat Design Code. The amendments were designed to ensure the policy continued to support good apartment design and housing delivery.

The Department advises that submissions received during the exhibition period are now being considered, and the final form of the SEPP 65 amendment is expected to commence late 2015.

The draft document contains two principal structural changes to SEPP 65 being:

- Reducing the Design Principles from ten to nine; and
- Introduction of the *Apartment Design Guide* to replace the former *Residential Flat Design Code*.

Whilst the Design Principles have been reduced by one, the overall objectives remain fairly similar, and accordingly, consideration is now made of the provisions of the draft *Apartment Design Guide*, relative to the proposed development.

A lot of the *Apartment Design Guide* is relevant to the strategic planning process, where development standards relative to controls that include such areas as height, floor space ratio and the like are being conceived. However, the Guide provides assistance in arriving at alternative design outcomes, particularly where site constraints apply.

Relevant portions of the Guide that actually identify development controls are:

Draft Apartment Design Guide	**Proposed Development**
2E - Building Depth Use maximum apartment building depths of 12-18m when precinct planning and testing development controls to help ensure apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation.	All units have a depth of between 11m and 12m.
2F - Building Separation Minimum separation distances for buildings within a site and between adjoining sites for buildings are: *Up to four storeys (approximately 12m):* • 12m between habitable rooms/balconies • 9m between habitable and non-habitable • 6m between non-habitable *Five to eight storeys (approximately 25m):* • 18m between habitable rooms/balconies • 12m between habitable and non-habitable • 9m between non-habitable rooms	The proposed development has side and rear boundary setbacks as follows: Side: 3m Rear: 6m If similar development was proposed around the subject site it would result in building separation of 6m to the sides, in lieu of required 18m, and 12m in lieu of 18m to the rear.

3B - Orientation Living areas, private open space and communal areas receive solar access in accordance with sections 3D Communal and public open space 1.4 and 3.5, 4L Solar and daylight access 1.4 and 2.1	Due to the subject site having generally a north-south orientation, 38 of the units will enjoy at least three hours of mid-winter solar access. This equates to 71.69% of the total number of units.
Buildings are orientated at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.	The proposed building is orientated at 90 degrees to the side boundaries with neighbouring properties.
A minimum of 4 hours of solar access is retained to solar collectors on neighbouring buildings	No solar collectors have been identified on adjoining dwellings.
3D - Communal & Public Open Space Communal open space has a minimum area equal to 25% of the site.	The proposal contains 58.8m² of common open space. This equates to 3.5% of the subject site.
Communal open space is consolidated into a recognisable and usable area	Common open space is located in one area adjoining the rear boundary.
Communal open space is co-located with deep soil areas.	The Common Open Space generally aligns with deep soil areas.
Solar access is provided to 50% of the principal useable portion of the communal open space for a minimum of 2 hours between 9am and 3pm in mid winter.	Due to the Common Open Space being located adjacent to the site's northern boundary, the proposed development does not impact upon solar access to this area.
Direct, equitable access is provided to communal open space areas from common circulation areas, entries and lobbies.	Direct access is provided from internal circulation areas to common open space area.
Location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts.	The Common Open Space will enjoy good mid-winter solar access due to its location on the northern boundary of the site.

3E - Deep Soil Zones Deep soil zones are located to retain existing significant trees and allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include: • basement and sub basement car park design that does not fully cover the site • use of front and side setbacks • adequate clearance around trees to ensure long term health • co-location with other deep soil areas on adjacent sites	Good deep soil planting areas are provided around the building. As the proposed basements generally align with the building footprint, the maximum amount of deep soil planting has been achieved.
Pedestrian pathways and paving which is specifically designed for tree root growth occupies a maximum of 10% of the deep soil zone.	The driveway and pedestrian paths generally are not located in deep soil planting areas.
3F - Visual Privacy Unimpeded space is provided in front of windows and balconies to ensure visual privacy is achieved. Separation distances from buildings to the side and rear boundaries are: up to 12m (4 storeys) 6m 3m up to 25m (5-8 storeys) 9m 4.5m over 25m (9+ storeys) 12m 6m Separation distances between buildings on the same site are double the above requirement.	The proposed development has side and rear boundary setbacks as follows: Side: 3m Rear: 6m If similar development was proposed around the subject site it would result in building separation of 6m to the sides, in lieu of required 9m to side and rear.
3H - Vehicular Access Car park access is integrated with the building's overall facade, design solutions may include: • the materials and colour palette minimise visibility from the street • security doors or gates at entries that minimise voids in the facade • where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed	Vehicular access is integrated into the building. All car parking is in basements.
Car park entries are located behind the building line.	Car park entry is located behind building line.
Garbage collection, loading and servicing areas are screened.	Garbage bin storage areas are located behind brick screens.

4A - Apartment Mix 1. The apartment mix is appropriate, taking into consideration: • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups	The proposal contains: • 5 x 1 bedroom units; • 6 x 1 bedroom + study units; • 33 x 2 bedroom units; and • 9 x 2 bedroom + study units. This should accommodate the different needs of the local community.
4B - Ground Floor Apartments Privacy and safety is provided without obstructing causal surveillance. Design solutions may include: • elevation of private gardens and terraces above the street level by a maximum of 1m (see Figure 4B.4) • landscaping and private courtyards • window sill heights that minimise sight lines into apartments • integrating balustrades, safety bars or screens with the exterior design	The ground floor units achieve appropriate casual surveillance of the public domain of Barber Avenue.
4Q - Natural Ventilation At least 60% of apartments are naturally cross ventilated	In respect of daylight and ventilation, 56.6% of the apartments are double aspect.
Overall building depth does not exceed 12-18 metres	Overall building width is 26m.
4R - Storage In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: studio apartments 6m3 1 bedroom apartments 6m3 2 bedroom apartments 8m3 3+ bedroom apartments 10m3 with at least 50% located within the apartment	Basement domestic storage is 119.0m³. This equates to 2.25m³ of domestic storage per unit.
4W - Waste Management In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:	Basement domestic storage is 119.0m³. This equates to 2.25m³ of domestic storage per unit.

studio apartments 6m3 1 bedroom apartments 6m3 2 bedroom apartments 8m3 3+ bedroom apartments 10m3 with at least 50% located within the apartment	

It is noted that the proposed development was not designed on the provisions of the draft SEPP, and in particular the Apartment Design Guide, and although as detailed above, there are areas of non-compliance, the subject design generally complies with the intent of the Apartment Design Guide and Penrith DCP.

4.4 Penrith Local Environmental Plan 2010 (Amendment 4) (LEP)

The subject site is zoned R4 – High Density Residential under the Penrith Local Environmental Plan 2010 (Amendment No. 4) (LEP).

The proposal involves the erection of a residential flat building, and as such is classified as "residential flat building", which is defined within the LEP as follows:

residential flat building *means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

"residential flat building" being part of the overall definition of "residential accommodation" is a permissible form of development within the R4 – High Density Residential zone.

The objectives of the R4 – High Density Residential zone within the LEP are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To encourage the provision of affordable housing.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposal has been considered against the above objectives, and on the following basis:

- The proposal is providing a variety of residential accommodation in a high density residential environment;
- Whilst not proposing other services or facilities, the proposal through increased local population in assisting with the viability of nearby services;
- The proposal will assist in maintaining the economic strength of the existing commercial facilities, at both Kingswood and also at the nearby Penrith regional centre, by providing increased residential population near these services and facilities; and
- The proposed development reflects the achieving of a high degree of residential amenity in this locality.

It is considered that no area of non-compliance with the relevant zone objectives has been identified.

Relevant provisions of the LEP are the following clauses:

- 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings; and
- 4.3 Height of buildings

Comment in respect of the above clauses follows.

Clause 4.1A Minimum lot sizes for residential flat development

This clause identifies that the minimum site area for a residential flat building is 800m². The subject site has an area of 1686.0m², and as such complies with the provisions of clause 4.1A.

Clause 4.3 Height of buildings

This clause states:

(1) The objectives of this clause are as follows:
(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,
(c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,
(d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Map identifies a maximum permissible height of 18.0m.

The proposed development has an overall height of between 19.25m and 19.34m, and as such exceeds the 18m statutory height limit. An objection to the 18m standard under clause 4.6 of the LEP follows.

In respect of the objectives of this clause, the following assessment is provided:

(a) The proposed development represents the desired future character of the locality, and although most likely being the first development in this area under the current R4 zoning of the site, aligns with the likely built form desired future character of the area.

(b) The proposed design is not likely to adversely impact upon views, privacy or solar access of the nearby developments.

(c) The proposed development, whilst slightly breaching the relevant statutory height limit, provides a design that is likely to afford high levels of amenity to the future residents, whilst at the same time respecting the amenity of adjoining residents, and not impacting upon any heritage items or heritage conservation areas.

No area of non-compliance with the identified objectives has been identified.

A submission under clause 4.6 of the LEP now follows in respect of the identified 18m height limit.

Clause 4.6 of the LEP states:

4.6 Exceptions to development standards

(1) The objectives of this clause are 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.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) 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 Director-General has been obtained.

This is a submission under clause 4.6 of the LEP.

It is submitted that in the subject case, strict compliance with the 18m height limit is unreasonable and unnecessary, for the following reasons:

(i) One of the objectives to clause 4.3 identifies the need to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity. The breaching of the 18m statutory height limit is caused essentially by the extension of the building walls so as to hide the roof. From an urban design point of view, there is design merit, in the case of flat roof structures, of not being able to view the actual building roof from the public domain. This urban design effect has caused the project architect to continue the building facades beyond the roof area, to effectively hide all roof structures.

(ii) In numerical terms, the approximate 1.25m breaching of the 18m height limit is 6.9% of the standard. It is submitted that this relatively small breaching of the height limit will achieve a better urban design outcome, and a streetscape that is not characterised by the visual impact of roof top structures, hence it is considered to be in the public interest.

Whilst the building height limit of 18 metres will produce a reasonable urban design outcome for the subject site and surrounding R4 zoned land, it is submitted that some flexibility in the building height limit is needed to facilitate innovative building design, which would be in the public interest.

(iii) The proposed development has been designed so as to ensure appropriate privacy provisions are available to adjoining residents, and particularly future residents.

(iv) The proposed development in its current design, is not likely to create any unreasonable loss of solar access to adjoining residents. Given the subject site is north-south orientated, the mid-winter solar access, and consequential shadows, will quickly move across the site. The submitted shadow drawings demonstrate this arrangement.

(v) The subject site does not enjoy any significant view corridors, therefore the proposal is not likely to impact upon the enjoyment of views from adjoining/nearby developments.

(vi) As has been detailed above, the proposed development is consistent with the underlying objectives that are contained in clause 4.3, and as such compliance with the 18m height limit, in respect of the proposed development, is considered to be unnecessary and unreasonable in view of the detailed circumstances, and therefore would not to be in the public interest.

Clause 4.6(4)

These portions of clause 4.6 are procedural matters for action by the consent authority, as well as the Director General. Nevertheless, a few overview comments are provided.

As it has been demonstrated that the proposed development, with an overall height of 19.25/19.34m, will not be out of context with the likely future built form of the locality. Further, there will be no loss of significant views. Accordingly, it is requested that Council exercise its powers under clause 4.6(4) of the LEP and grant development consent to the proposed development as submitted.

4.5 BASIX Certificate

A BASIX (Building Sustainability Index) Certificate is required in respect of the proposed development as per SEPP (Building Sustainability Index: BASIX) 2004.

The necessary BASIX Certificate forms part of this application.

4.6 Penrith Development Control Plan 2014 (DCP)

NOTE: At time of preparation of this Statement, advice from Council was that DCP 2014 was only a few days from commencing. As the application will be assessed under DCP 2014, the following assessment is provided.

The relevant provisions of the DCP are:

DCP provision	Required	Proposed	Comp-liance Yes/No
Volume 1			
C10 Transport, Access and Parking Table C10.2: Car Parking Rates	**Residential** Required car spaces: 1 bed & 2 bed: 53 spaces Visitor: 1 space per 5 units: 11 spaces **TOTAL: 64 spaces** 1 car wash space required. Bicycle spaces in accordance with Australian Standards	A total of 58 car parking spaces are proposed. This comprises: 53 resident spaces 5 visitor spaces No car wash bay is proposed. 13 bicycle storage racks are proposed.	No No Yes
Section 2.5 Residential Flat Building			
2.5.3 The Development Site	1) Determine a minimum lot width for residential flat buildings: a) adopt a minimum lot width of 20m in the R4 High Density Residential zone.	Subject site has a frontage of 33.60m.	Yes
2.5.4 Urban Form	New buildings should show characteristics of traditional suburban development: dwellings oriented to face the street, building forms stepped or	The subject site is in an area recently zoned for high density residential development. Accordingly, it is not possible to utilize all the characteristics of the surrounding single dwellings.	Yes

	articulated, and integrated with the shape of surrounding garden areas.		
2.5.5 Landscaped Area	Minimum of 35% of the site area is to be landscaped. Required: 588m²	Proposed: 697.03m² (41% of site area)	Yes
2.5.6 Front and Rear Setbacks	1) Determine the maximum development footprint for your site:		
	a) adopt a minimum 6 metre rear setback; and	Rear setback is 6.0m.	Yes
	b) adopt a front setback that matches the neighbourhood character.	Proposed front setback varies between 5.5m & 8m. This arrangement generally matches neighbourhood character.	Yes
	2) Within the rear boundary setback: a) there shall be no building encroachments either above or below ground (eaves excepted);	Rear setback has no building encroachment.	Yes
	b) maximise the amount of undisturbed soil, encouraging rapid growth of healthy trees and shrubs;	Deep soil planting areas are proposed around the building, with greater areas available in front and rear setback areas.	Yes
	c) where there are physical encumbrances such as open drains, increase the setback accordingly.	Not Applicable	N/A

	3) Determine an appropriate front setback: a) either average the setbacks of the immediate neighbours; or b) 5.5m minimum whichever is the greater dimension.	The front setback distance of both adjoining dwelling-houses is in the order of 7.0m. To achieve visual interest and urban design merit in the proposed building, a series of varying front setback distances are proposed. The setback is between 5.5m and 8.0m. On a mathematical basis this averages in the order of 7.0m which aligns with existing dwellings.	Yes
2.5.7 Side Setbacks	1) Cut and fill and maximum ground floor heights: a) on sloping sites provide stepping building platforms in line with existing topography with floors no higher than 1 metre above natural ground level; b) restrict cut-and-fill to a maximum of 500mm; and c) provide effective sub-soil drainage. 2) Pitches for main roofs are not to be in excess of 25 degrees in order to reduce the visual scale. 3) Zero setbacks from the side boundary are not permissible, other than awnings to main building entrances.	The proposed development contains two basements, and as such there will be necessary excavation. The basements generally align with the building footprint, and as such there will be deep soil planting areas, where possible, along all boundaries.	Yes
2.5.8 Visual and Acoustic Privacy	1) Demonstrate a package of measures that achieves reasonable visual privacy between adjacent dwellings:	Windows are orientated towards either their ground floor private open space, or respective balconies on the upper floors.	Yes

	a) windows oriented towards their own private garden courtyard; and / or b) at least 9m between any windows that face each other; and / or c) screening measures, including: i) offsetting of windows; or ii) oblique orientation for windows; or iii) external screens to windows; or iv) courtyard walls and pergolas; note that landscaping (other than established trees and shrubs that are proposed to be retained) should not provide the principal means of screening; d) for windows of habitable rooms with a direct outlook onto windows of habitable rooms of adjacent dwellings: i) are offset by a distance sufficient to limit views between windows; or ii) have sill heights of 1.7 m above floor level; or iii) have fixed obscure glazing in any part of the window below 1.7 m.	With only single level dwellings adjoining the subject site, it is not possible to provide comment relevant to adjoining windows, courtyards and the like.	

2.5.9 Solar Planning	Ensuring that the proposed development provides a minimum of 4 hours sunlight between 9am and 3pm on 21 June, to living zones (ie areas other than bedrooms, Penrith Development Control Plan 2014 D2 Residential Development D2 - 66 bathrooms, kitchen and laundry) of each dwelling, and the living zones of any adjoining dwellings; f) Ensuring that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings; g) In situations where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduced sunlight to the specified areas by more than 20%.	The project architect has provided Drawing 18/24 which identifies the units that will receive the required three hours of mid-winter solar access. It is noted that 38 of the proposed 53 units will receive the required mid-winter three hours of solar access. This equates to 71.69% of the total number of units.	Yes

2.5.12 Building Design	1) Development should incorporate a variety of architectural features to minimise the apparent scale and bulk of buildings and to reflect typical features of established cottage developments: a) walls with alignments that step in both plan and section; b) windows and doors inserted into all visible walls; c) a variety of pitched roofs, predominantly hipped. d) lower storeys that project beyond the line of the top storey, and are capped by roofs; or terraces to the upper storey apartments; e) the top storey designed as a "penthouse" with extensive glazing in the form of windows and large doors surrounded by terraces and pergolas; f) a variety of overhangs that cast shadows including: i) roofs with wide eaves; ii) awnings and pergolas; iii) balconies enclosed by corner columns and a variety of balustrades; iv) wide terraces at	As previously discussed, the proposed development is most likely the first residential flat building proposed under the R4 zoning applying to the locality. Accordingly, it is not relevant to prepare the building design based upon the features of the existing single level dwellings, that have dominated the streetscape probably since post World War II. The building design has been based upon more contemporary guidelines, including the *Residential Flat Design Code* that flows out of SEPP 65, together with the Penrith DCP.	

	ground level; g) variation in building materials, for example: i) a "solid" masonry base; ii) intermediate levels that appear lighter: coloured or painted brickwork, with projecting "screens" of balconies that are located in particular at corners of buildings; iii) a lightweight "penthouse" upper storey, capped by overhanging roofs and open pergolas, with terraces and balconies surrounded by open-style balustrades. 2) Variety in architectural features should be apparent in all visible facades including: a) facing the street; b) facing side driveways; and c) facing neighbouring residential properties. 3) Basements for car parks should rise no higher than 1.5m above ground provide a minimum 2.2m vertical clearance for vehicles.	The proposed basements are wholly below natural ground level.	Yes

2.5.13 Energy Efficiency	1) Adopt a configuration for dwellings that promotes cross-ventilation: a) corner apartments with two external walls; b) apartments that sit between two opposite external walls. 2) Adopt an appropriate orientation for rooms and windows: a) living areas - facing within 30 degrees of solar north is desirable; b) windows - at least 50% of glazing facing solar north is desirable; unprotected glazing facing east, west or south shall be avoided; for every room, windows in two external walls are desirable; c) where the desired orientation cannot be achieved, higher compliance with other energy efficiency standards shall be achieved. 3) Provide effective shading from summer sun and employ effective glazing: a) overhanging eaves: at least 450mm wide; b) external, adjustable screening for windows, doors and skylights to habitable rooms;	Refer to BASIX Certificate that forms part of this application. Further, additional detail will be contained in the subsequent Construction Certificate application.	Yes

	c) pergolas over courtyards; d) for any large south-facing window: high performance glass eg. double glazing in thermal break frames; e) windows and doors facing east, south or west: high performance glass eg. double glazing in thermal break frames; f) all windows and external doors: weather-stripping should be used.		
2.5.14 Design of Dwellings and Private Courtyards	A reasonable area of private open space should be provided for each dwelling: a) for dwellings at ground level: [redacted] 20m²; [redacted] ground level; and / or [redacted] higher than 1.5m above ground level; and Penrith Development Control Plan 2014 D2 Residential Development D2 - 70 [redacted]front dwellings: individual entrances to terraces or courtyards from the street; b) for dwellings above ground - balconies that are a minimum of 10m²; c) all required open space should include one area:	The ground level units have private open space areas that vary between 20.0m² and 45.36m². The units located on upper floors, the proposed balcony areas vary between 10.0m² and 18.0m².	Yes Yes

	[redacted] 2.5m by 2.5m; [redacted] outdoor dining; and [redacted] immediately next to, and level with, a living or dining room; and [redacted] area for outdoor clothes drying that is visually-screened to a height of at least 1.5m above floor level; [redacted] should maximise the area available for private courtyards and gardens. 3) Dwellings should have rooms that are planned and oriented: a) to maximise privacy, b) to provide a "green" outlook across open space; c) to facilitate natural ventilation and day lighting.	All private open space areas include an area of 2.5m x 2.5m for outdoor recreation. The private open space areas have direct access from the unit's living area. Outdoor clothes drying facilities are proposed in the common open space area at the rear of the ground floor. The ground floor private open space areas include planter boxes to maximize landscaping of the area.	Yes Yes Yes Yes
2.5.15 Garages	1) Garage and parking areas should be planned to: a) minimise disruption to traditional or established streetscapes by concealing from the street; b) provide flexible accommodation for vehicles, domestic pets, storage, and covered areas for outdoor recreation;	All car parking is located in two basements. The basements are fully below natural ground level. This should preclude any disruption to the streetscape by car parking facilities. Compliance with the relevant Australian Standard concerning vehicular turning circles, is discussed in the Traffic Impact Report.	Yes Yes

	c) minimise transmission of noise to adjoining dwellings; d) provide secure parking; e) allow for maintenance access to rear garden courtyards; and f) provide for effective and healthy landscaping along verges and boundaries. g) permit all turning movements, full opening of vehicle doors as defined by AS 2890.1- 1993; 2) Basements should have: a) a low appearance, rising no higher than 1.5m above ground; b) natural ventilation, either screen walls; or terraced embankments, with each step a maximum of 500mm, and landscaped as part of the side boundary court;		
2.5.16 Garden Design	A. Objective: Gardens should be landscaped according to the function of each area, and should provide a backdrop that is appropriate to each adjacent room.	The submitted Landscape Plan provides details relevant to the function of the open space areas.	Yes
2.5.18 Fences and Retaining Walls	1) Fencing must: a) Be structurally adequate, in accordance with the Building Code of Australia, and	Existing side and rear boundary fences are in good condition and as such are to be retained.	Yes

	meets the *Dividing Fences Act 1991*. b) Be sympathetic to the natural setting and character in form, materials and colour; c) Maximise natural surveillance from the street to the building and from the building to the street. 2) Fences should be no taller than: Penrith Development Control Plan 2014 D2 Residential Development D2 - 73 a) 1.8m generally; and b) 2.4m on sloping sites, including the height of any retaining wall.	No front fence is proposed.	
2.5.19 Safety and Security	1) Encourage a sense of community: a) Each common stairwell should serve no more than 10 dwellings. b) The public street and /or common pathways should be overlooked by: ii) Entrances to dwellings or to ground level terraces; Penrith Development Control Plan 2014 D2 Residential Development D2 - 74 iii) Windows to living rooms, dining rooms and/or kitchens; and iv) Private terraces and balconies c) fences should be designed to facilitate	Each common stairwell serves no more than 6 units. The two units on each floor overlook the public domain of Barber Avenue, as well as the vehicular and pedestrian entry areas for the proposed building. All units fronting Barber Avenue have living room windows directly viewing the public domain.	Yes Yes Yes

	glimpses or filtered views from dwellings and private courts to the street and to driveways. 2) Ensure that at least one continuously-occupied room in each dwelling (a kitchen or living room) overlooks: a) the front street; b) driveways and garage forecourts. 3) Prevent concealment of intruders by: a) uniform lighting levels across common areas such as driveways; b) planning which does not provide hidden recesses; c) along common pathways: selection of appropriate plant species according to height and density.	This ensures that at least one continuously occupied room within the unit facilitates casual surveillance of the public domain. The Construction Certificate application will detail all lighting arrangements. However, uniform continual lighting is proposed of the common areas.	Yes Yes
2.5.20 Accessibility and Adaptability	10% of all dwellings or a minimum one dwelling, whichever is greater, must be designed in accordance with the Australian Adaptable Housing Standard (AS4299-1995), to be capable of adaptation for people with a disability or elderly residents. 4) Where possible, the mandatory adaptable dwellings shall be located on the ground floor.	With 53 units proposed, the minimum required number of units designed to be adaptable for persons with a disability is 5.3 (say 6). Six (6) adaptable units are proposed, being: Ground floor: Units 3 and 7 First floor: Units 1.3 and 1.7 Second floor: Units 2.3 and 2.7 Drawings 20/24 and 21/24 detail the unit layout in a post adaptable format.	Yes

	5) The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS4299- 1995).		
2.5.21 Storage and Services	1) Provide storage for household items: a) at least 10m³ per dwelling; either b) as cupboard space within the dwelling in addition to wardrobes; or c) within a lockable garage, not encroaching upon the parking space; or d) in weather-proof lockers that are not visible from the street. 2) Letter boxes should be provided according to Australia Post specifications: a) adjacent to the front boundary; b) located conveniently for residents entering the site (by car or on foot); c) integrated with the design of landscaped areas, fences and buildings.	Within each basement area there will be 119.0m³ of domestic storage space. This has a total of 238.0m³ of storage space which equates to 4.49m³ per unit. The Ground Floor drawing identifies the location of the letter boxes in a position to be accessed by Australia Post.	No Yes

5.0 SUMMARY AND CONCLUSION

The proposal is a permissible form of development within the R4 - High Density Residential zoning under the Penrith Local Environmental Plan 2010 (Amendment No. 4), and the design has been based on the provisions of Penrith Local Environmental Plan 2010, and Penrith Development Control Plan 2014, together with SEPP 65 and the *Residential Flat Design Code*.

The proposal is a residential flat development aimed at satisfying the objectives of the R4 zoning, including a local need for accommodation in general proximity to the Kingswood Railway Station and local commercial centre. The subject site is located in an established residential precinct on the northern side of Barber Avenue. The general proximity of Kingswood Railway Station increases the attractiveness of the proposed development, as comfortable access to the main Sydney metropolitan rail network significantly aids in the utilization of non-motor vehicle transport. Also in near proximity is the Nepean Hospital.

No unjustified areas of non-compliance with the relevant LEP has been identified.

The design seeks to provide an aesthetically pleasing development of architectural merit. Careful consideration has been given to the bulk, scale and the relationship of the proposed development, to the existing, and the likely future, Barber Avenue streetscape, as well as the desired future character of the area.

The design objective has been to achieve design elements such as solar penetration to dwelling, useable private open space area, and flow through ventilation. This will result in a movement away from total use of fossil fueled air-conditioning units has caused ESD principles to be regularly addressed in the subject design.

Consideration of the proposal under Penrith DCP 2014 has not identified any reasons that should cause the application to fail. Identified no significant areas of non-compliance have been identified.

The proposed development offers quality affordable dwellings, which compliment the existing streetscape, and the likely future streetscape.

The proposal is not likely to have any adverse impacts in respect of overshadowing of public places or in respect of any nearby developments. No negative social impacts have been identified.

The investigation has not identified any matter, which could be said to require that the development not proceed. On balance, given the constraints of the site, a good planning outcome has been achieved.

6.0 SECTION 79C EVALUATION

1. The provision of any environmental planning instrument – Section 79C(1)(a)(1)

This is application is made under the provisions of the Penrith Local Environmental Plan 2010 (Amendment No. 4).

The proposal is permissible within the R4 - High Density Residential zoning applying to the site under the LEP.

The proposed development exceeds the 18m height limit contained in the LEP. An objection to this development standard under to provisions of LEP clause 4.6 has been provided.

2. any draft environmental planning instrument – Section 79C(1)(a)(ii)

The subject site is affected by the provisions of draft SEPP 65 Amendments. Consideration of this draft plan has been provided.

3. any development control plan – section 79C(1)(a)(iii)

Penrith Development Control Plan 2014 applies to the subject site. The proposal has been found to appropriately comply with the relevant provisions of the DCP.

4. any planning agreement – section 79C(1)(a)(iiia)

nil

5. any matters prescribed by the regulations- Section 79C(a)(iv)

nil

6. the likely impact of the development – Section 79C(1)(b)

Context & setting

The proposed development is most likely the first high density residential flat building in this location under the provisions of the R4 - High Density Residential zoning. Accordingly there will be a visual conflict between the proposal and the existing post World War II dwellings that presently dominate the streetscape. However, the proposal is likely to positively contribute to the future building form of the precinct, whilst at the same time, attempting to minimize any adverse impact upon the amenity of residents in the general area of the site, and particularly adjoining residents.

Access, transport & traffic

The proposed development involves the provision of 58 off-street car parking spaces.

The site is within reasonable walking distance to nearby Kingswood Railway Station and local shopping centre.

A Traffic Impact Assessment forms part of this application.

Public domain

The proposed development should have a positive impact upon the public domain of Barber Avenue, and the design affords good casual surveillance opportunities for this street.

Utilities

Consultation with all utility supply authorities has not revealed any possibility of a shortage of supply for the respective utility. The supply of utilities would not have any impact on the environment or level of utilisation of services in the locality.

Heritage

The subject site does not contain any heritage listed items, or is in the vicinity of a heritage listed item or conservation area.

Other land resources

No impact on rural land, extractive resources or water supply catchments has been identified.

Water

The development will not adversely impact upon the conservation of water resources or the water cycle.

In respect of stormwater drainage collection, a drainage engineer has provided a report and design for the application.

The proposed development is not likely to adversely impact on the water quality of the existing groundwater. It is also proposed that rainwater falling on the dwellings will be captured and re-used, under the BASIX requirements to irrigate the site's landscaping as well as connection to washing machine cold water taps and toilet use.

Soils

The subject site is not affected by slip, subsidence, and erosion, degradation or any other related soil conservation factor.

The site is not contaminated nor is acid sulfate soil.

Air & microclimate

The development will not likely affect the air quality and microclimate conditions of the area. Appropriate air quality controls will be implemented during the construction phase.

The proposal has flow through ventilation to most of the dwellings.

Flora and Fauna

The subject site is not identified to contain ecological communities that would cause the Threatened Species Conservation Act to be evoked.

The subject site is developed and therefore the proposal does not involve disturbance of fauna or the clearance of natural vegetation.

The application is supported by a Arboricultural Impact Assessment prepared by MacKay Tree Management, and dated 16 March 2015. Paragraph 6 of this report contains a series of recommendations. The recommended actions are accepted, although detailed application of the items, will be contained in the Construction Certificate Application.

Waste

The development will provide appropriate best practice facilities for removal of sewage, domestic waste, recycling, and vermin control. Refer to Waste Management Plan, which forms part of this application.

Energy

The construction phase of the development will utilize non-polluting energy sources where possible. All possible building waste will be recycled. The design of the buildings seeks to provide acceptable mid-winter solar penetration for the dwellings, whilst also reducing as much as possible excessive summer solar penetration, which could require increased demand upon air conditioning equipment, and the resulting increased demand for energy, often from a non-renewable source.

Noise and vibration

An Acoustic Report has been provided in respect of noise and vibration from the railway line. No adverse impacts have been identified.

Natural hazards

The site is not flood prone and therefore no natural hazards have been identified.

Technological hazards

None identified. It should be noted that the building will comply with the Building Code of Australia and as such the building fire risk has been minimized.

Safety, security & crime prevention

The design of the development has been planned to exclude any potential areas that could foster criminal activities.

All open space areas such are restricted to only respective dwellings and the residents, thus improving resident safety.

The common open space area can only be accessed by residents of the building.

Social impact in the locality

The proposal would not adversely impact on the social cohesion of the local community. No issues have been identified that would create social changes.

The proposal does not involve social displacement, or any impact on socio-economic groups and the disadvantaged.

Economic impact in the locality

The proposal would generate short-term construction employment, which will assist local building supply and catering businesses.

The proposal is not considered likely to have any adverse impact on property values.

In the longer term the proposed building will create the opportunity for various employment generating and residential uses to occupy the building.

Site design

The proposed development is considered to be sensitive to the local environment conditions. The bulk, scale, mass and footprint is sympathetic to the desired future residential character of the area.

The building complies with the provisions of the Building Code of Australia.

Construction

The site will be made secure during the construction phase.
The construction activities will be contained wholly within the site and should not impact on adjacent premises. The hours of building work set by Council will be respected and this should ensure the amenity of surrounding area is protected.

Cumulative impacts

No cumulative impacts have been identified. Minor local inconvenience may occur during construction phase, but it would be short lived and not produce any on-going impacts.

7. the suitability of the site for the development – section79C(1)(c)

Does the proposal fit in the locality?

The proposal is a high density residential development in general proximity to the Kingswood Railway Station and local commercial centre, and has good public transport services to surrounding localities.

The proposal has been designed to compliment the character locality, both present and particularly, the desired future character of the area.

The proposed design provides adequate and convenient off-street car parking facilities.

There are no hazardous land uses or activities nearby.

Are the site attributes conducive to development?

The site is not subject to any natural hazard. The size and shape of the subject site is conducive to development. The proximity of the site to the nearby various facilities will assist these facilities remain viable.

The site does not possess any critical habitats or threatened species. The site is not agricultural land, and is not affected by mineral or extractive resources.

8. any submissions made in accordance with this Act or the regulations – section 79C(1)(d)

Public submissions or submissions from public authorities.

No submissions have been made.

9. the public interest – section 79C(1)(c)

Federal, State and local government interests and community interests.

Consideration of the proposal throughout this Statement has not identified any adverse public interest issues. It is considered that consent would be in the public interest.