



Minto Planning Services

Town Planning Consultants

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

**PROPOSED MIXED USE BOARDING HOUSE DEVELOPMENT
PURSUANT TO SEPP (AFFORDABLE RENTAL HOUSING) 2009**

31 SANTLEY CRESCENT & 2A BRINGELLY ROAD, KINGSWOOD

**On behalf of
Dana Bina P/L & Midpoint Investments P/L**

October 2021

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PROPOSED MIXED USE BOARDING HOUSE DEVELOPMENT PURSUANT TO SEPP (AFFORDABLE RENTAL HOUSING) 2009

31 Santley Crescent & 2A Bringelly Road, Kingswood

Prepared under instructions from

Gus Fares Architects



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1. INTRODUCTION

This Statement of Environmental Effects accompanies a Development Application lodged on behalf of Dana Bina P/L & Midpoint Investments P/L. The proposal seeks approval for the construction of a mixed use boarding house development comprising ground and first floor commercial premises and a 96 room boarding house and basement parking upon land at 31 Santley Crescent & 2A Bringelly Road, Kingswood.

The subject application is made pursuant to the provisions of both the Penrith Local Environmental Plan and State Environmental Planning Policy (Affordable Rental Housing) 2009 and which apply to the subject land.

For the purposes of this assessment the following documents are considered to be relevant to this proposal:

- *Environmental Planning & Assessment Act 1979*
- *State Environmental Planning Policy No 55 - Remediation of Land*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *Penrith Local Environmental Plan 2010*
- *Penrith Development Control Plan 2014*

Additional information to support this application includes:

- Survey Plan prepared by Sydney Registered Surveyors, Ref. No. 2676 Stantley, Sheet 1 of 1, Amendment B and dated 21/12/2020.
- Architectural Plans and Shadow Diagrams prepared by Gus Fares Architects, Drawing No. A000 to A302, Issue A and dated Oct 2021.
- Architectural and Urban Planning Statement prepared by Gus Fares Architects P/L and dated 21/10/2021.
- Landscape Plans prepared by Conzept Landscape Architects, Drawing No. LPDA22-116, Pages 1 to 4, Revision B and dated 22/10/21.
- Stormwater Management Plans prepared by Capital Engineering Consultants P/L, Project No. SW21299, Drawing No's SWDP001 to SWDP030, Revision A and dated 21/10/2021.
- Traffic Impact Assessment Report prepared by PDC Consultants, Ref. No. 0444r01v01, Version 01 and dated 14/10/2021.
- Acoustic Report prepared by Koikas Acoustics P/L, Project No. 5052, Version 1 and dated 11/10/2021.
- Geotechnical Report prepared by Geotechnical Consultants Australia Pty Ltd, Report No. G21551-1 and dated 29/09/2021.
- Preliminary Site Investigation Report prepared by Geotechnical Consultants Australia, Report No. E21185-1 and dated 23/09/2021.
- Access Report and Design Certificate prepared by Vista Access Architects P/L, Ref No. 21335, Issue A and dated 21/10/2021.

- BCA Report prepared by Michael Wynn-Jones & Associates, Reference No. Santley (31) 21 Oct 2021 and dated 21/10/2021.
- BASIX Certificate No. 1244577M and dated 21/10/21.
- Plan of Management prepared by Gus Fares Architects P/L, Issue A and dated 5/10/2021.
- Social Impact Assessment prepared by Chapman Planning P/L and dated 10/10/2021.
- Waste Management Plan prepared by Dickens Solutions, Reference No. 21196 and dated 21/10/2021.
- Quantity Surveyors Cost Report prepared by Construction Consultants, Job Code Q21C124 and dated 27/09/2021.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. It provides an assessment of the proposed development against the heads of consideration as set out in Section 4.15 of the Environmental Planning and Assessment Act 1979.

As a result of that assessment, it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

2. THE SITE

The subject site comprises 2 parcels of land known as 31 Santley Crescent and 2A Bringelly Road, Kingswood.

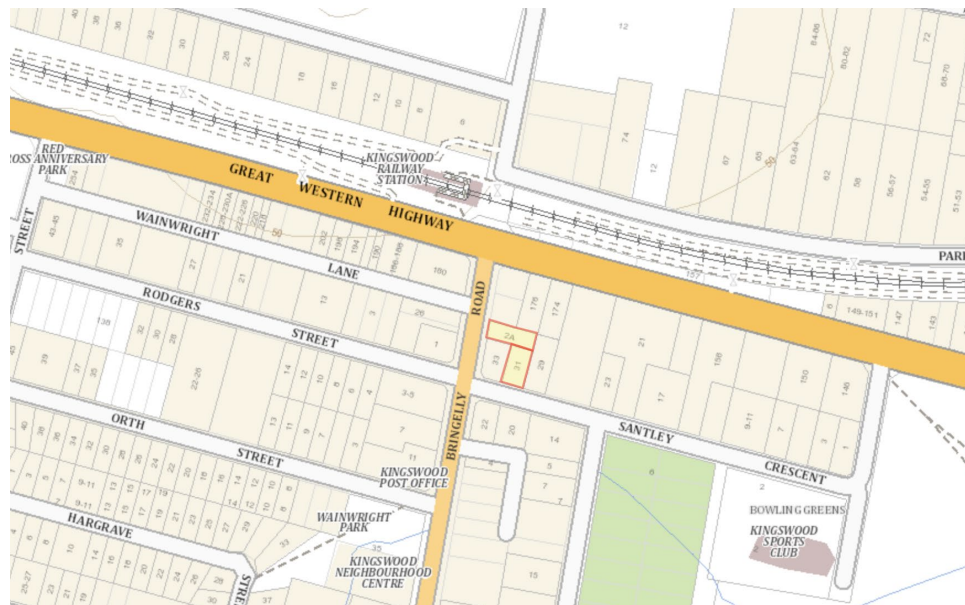
A full description of the development site is detailed below:

Land parcel	Property description	Site area
31 Santley Crescent	Lot 5 in DP 215200	693.6m ² (by survey)
2A Bringelly Road	Lot 3 in DP 215200	690.8m ² (by survey)

The subject site once consolidated will result in an irregular shaped allotment with a site area of 1,384.4m².

The development site will have a frontage to Santley Crescent of 20.115m and a frontage of 15.849m to Bringelly Road. The Santley Crescent frontage will provide vehicular access to the site.

The site location is depicted in the following street map extract.



Site Location Map

The subject site is a gently sloping allotment having a minor fall from the north west boundary along Bringelly Road (RL 45.31) through to the front south east corner in Santley Crescent (RL 43.26). The total fall over the site is 2.05m. It is understood that currently all collected surface water is dealt with on-site and drained both to the easement located in the north eastern rear portion of the site and to the street drainage system in Santley Crescent.

Existing development currently located upon the property comprises the following:

31 Santley Crescent, Kingswood

Currently erected upon this property is a single storey brick dwelling house with tiled roof. The dwelling is located towards the southern portion on the site and slightly towards the eastern side boundary.

Vehicular access to the property is via a single driveway located in the south eastern corner and enters from Santley Crescent.

The existing dwelling house is not heritage listed and is not considered to have any heritage significance which would prevent its proposed demolition.

2A Bringelly Road, Kingswood

Currently erected upon this property is a single storey fibro dwelling house with a metal roof and a detached fibro garage. The dwelling is located towards the western portion on the site and slightly towards the southern side boundary. The detached garage is located to the rear of the dwelling within the north eastern portion.

Vehicular access to the property is via a single width gravel and concrete driveway accessed from Bringelly Road.

The existing dwelling house is not heritage listed and is not considered to have any heritage significance which would prevent its proposed demolition.

An easement for drainage, 1.0m wide, is identified within the north eastern corner of the site.

Infrastructure located adjacent to the frontages of the site includes a concrete pedestrian pathway, streetlights and drainage and infrastructure pits.

Vegetation located upon the site is generally comprised of grasses and small shrubs together with some trees. It is considered that the proposal will not result in any unreasonable tree impacts.



The subject property as viewed from Santley Crescent



The subject property as viewed from Bringelly Road



An aerial view of the subject site

3. THE SURROUNDING ENVIRONMENT

The subject site has a frontage to both Santley Crescent and Bringelly Road, Kingswood. Surrounding properties comprise of a combination of commercial premises together with high density residential uses comprising of multi dwelling housing and residential flat buildings. The existing built forms are of varying ages and support a range of building typologies.

Properties which front the Bringelly Road portion of the site are zoned B4 - Mixed Use (consistent with the subject site) and support a range of shop top housing developments of varying ages together with commercial uses. Properties which front Santley Crescent to the east of the site are zoned R4 - High Density Residential and support a range of multi-dwelling and residential flat buildings typically two and three storeys in height.

The adjoining property at No. 33 Santley Crescent currently supports a single storey brick building with a tile roof. The building is currently utilised as a medical centre known as the 'Marie Stopes Penrith Day Surgery'. An open on grade parking area adjoins the Santley crescent boundary of the subject site.

The subject site is located within the vicinity of a number of bus services and the Kingswood railway station.

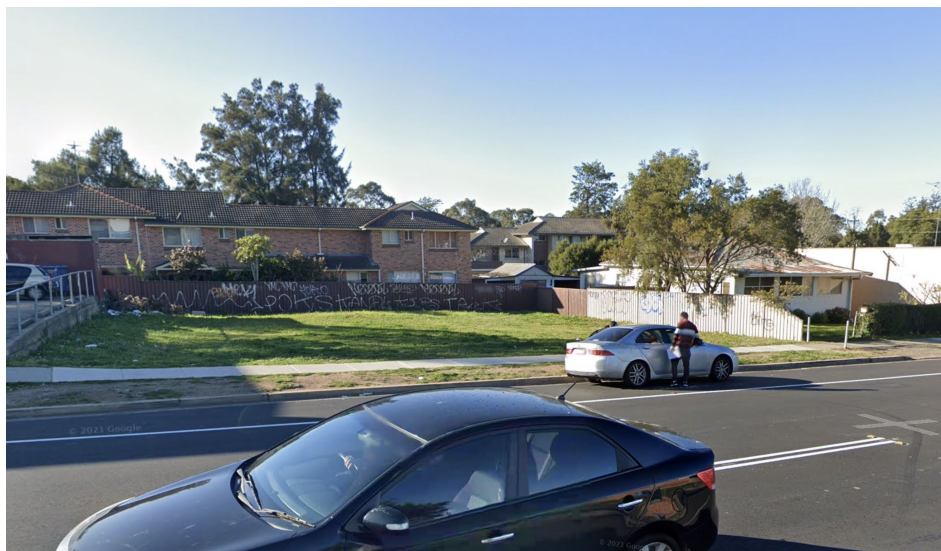
The relationship of the subject property to the adjoining properties and surrounding locality is depicted in the following photographs.



The adjoining property (33 Santley Crescent) as viewed from the street.



The adjoining property (29 Santley Crescent) as viewed from the street.



The site and adjoining vacant property (2 Bringelly Road) as viewed from the street



An aerial view of the subject site and surrounding locality

4. THE PROPOSAL

The proposal seeks approval for the demolition of the existing structures followed by the construction of a new mixed use development upon the subject site. The building will comprise 96 boarding rooms (including caretakers' room) and common spaces for residents pursuant to SEPP (Affordable Rental Housing) 2009 together with six commercial spaces pursuant to the Penrith Local Environmental Plan 2010.

The proposal seeks to demolish the sites existing structures and construct a seven-storey boarding house with two levels of basement carparking. The proposed six commercial spaces are located on the ground and first floor and accessed via the Bringelly Road frontage and entrance.

Building Configuration

The building configuration of the proposed mixed-use building is to comprise of the following:

- Basement 2: Car lift, vehicular parking for 31 cars (boarding house) and 12 motorcycles, 3 services rooms, 9 storage cages, stairs and lifts.
- Basement 1: Car lift, vehicular parking for 14 cars (3 for boarding house including 2 disabled space, 2 car shares spaces and 9 commercial spaces including 1 disabled space), 7 motorcycle spaces and 21 bicycle spaces, commercial and boarding room bin storage room, boarding room bin storage room, bulk waste storage, truck area, stairs and lifts.
- Ground Floor: 2 commercial tenancies, 2 lobbies and lifts, fire corridor, 2 platform lifts, bathroom facilities, 3 storage areas, 2 pedestrian access points, services room, waste chute, letter boxes, boarding house common room, managers office, communal living room, communal laundry, 6 boarding rooms (each with kitchenette and bathroom) and caretakers' room and open space.
- Level 1: 4 commercial tenancies, bathroom facilities, 14 boarding rooms (each with a kitchenette and bathroom) and stairs & lifts.
- Level 2: 17 boarding rooms (each with a kitchenette and bathroom) and stairs & lifts.
- Levels 3 & 4: 17 boarding rooms (each with a kitchenette and bathroom), cleaners room and stairs & lifts.

- Level 5: 14 boarding rooms (each with a kitchenette and bathroom), roof terrace and stairs & lift.
- Level 6: 11 boarding rooms (each with a kitchenette and bathroom), services room and stairs & lifts.

The proposed rooms are proposed to be capable of being occupied by up to 2 persons. As previously identified each room will contain its own ensuite and kitchenette and will have a floor area excluding the bathroom and kitchen of a minimum of 16m² for a two person rooms. No boarding room has an area greater than the maximum permitted 25m².

A proposed communal room which is located on the ground floor will be available for use for small gatherings. A communal area of open space is located adjacent to the communal room. A secondary meeting room is located adjacent to the Santley Crescent entrance and is also available for resident use.

External Finishes

The proposed development is considered to be of a modern high-quality architectural design comprising of significant articulation and modulation and includes a combination of building finishes including rendered and painted surfaces and timber look and painted cladding. It is considered that these elements in combination will provide for a high-quality visual outcome for the site.

Setbacks

The proposal is provided with the following setbacks

- Front Setback (Bringelly Road):**
- 0m to basement
 - 4m to external wall of the building.

- Front Setback (Santley Crescent):**
- 3.995m to basement
 - 4.295m to external wall of the ground floor.

- Western Side Setback:**
- 0m to basement, ground, first floor and second floor
 - Setback ranging from 2.935m for third floor to sixth floor
 - Setback ranging from 0m to 3.0m for Level 1 and 2.

- Eastern Side Setback:**
- 1.0m to basement
 - 3.0m to ground floor.

- Southern Side Setback:**
- 0m to basement, ground and first floor.
 - 3.0m to levels two through six.
- Rear Setback:**
- Setback ranging from 0m to 3m to basement
 - Setback ranging from 0m to 5.195m to ground floor.
 - Setback ranging from 3m to 5.130m to upper floors.

The proposed setbacks are considered to be responsive to the setbacks provided to surrounding and adjoining development and are generally consistent with those required for a mixed use development within the B4 - Mixed Use Zone.

Vehicular Access

Vehicular access to the proposed basement is to be via a new driveway and crossing located in the south eastern corner of the site and will be accessed via Santley Crescent. The driveway leads to Basement Level 1 whilst a mechanical car lift provides access between Basement Level 1 and Basement Level 2. The basement has been configured so as to allow all vehicles to enter and exit the site in a forward direction. The two levels of basement provide parking for 45 cars (including 3 accessible spaces and 2 carshare spaces). In addition, the basement provides parking for 19 motorcycles and 21 bicycles.

The design of the basement has been reviewed by PDC Consultants and is considered to comply with the relevant Australian Standards.

Disability Access

The proposal is provided with a series of internal passenger lifts and platform lifts.

The provision of the proposed lifts will ensure that disabled persons access is provided throughout the development and to all common facilities associated with the proposal including the basement, communal living room and communal outdoor open space together with the six accessible units.

Vista Access Architects have prepared an Access Report to demonstrate compliance with the provisions of the Disability (Access to Premises) Standard 2010 as well as the provisions of the relevant Australian Standards and BCA.

Stormwater Disposal

The proposal also provides for stormwater to be collected in pits and directed to the existing drainage pipe within the 1m wide drainage easement which is located in the rear corner of the site and to the street in Santley Crescent via an on-site stormwater detention system. Retained water is to be used for garden watering and toilet flushing in accordance with the requirements of the accompanying BASIX Certificate.

Waste Management

The development will provide the following waste storage facilities in Basement Level 1:

Communal Waste Room:	4 x 1100L mobile bins (waste) 4 x 1100L mobile bins (recycling)
Commercial Waste Room:	2 x 1100L mobile bins (waste) 1 x 1100L mobile bins (recycling)

A private contractor will be engaged to collect the boarding house waste and recycling twice per week and the commercial bins once per week.

A Waste Management Plan has been prepared by Dickens Solutions which details estimated volumes, collection of waste and movement and transportation of bins.

Development Data

The development indices associated with the proposal are detailed below:

Site Area	1,384.4m ²
Gross Floor Area	4,083m ²
Floor Space Ratio	2.95:1

5. ZONING AND DEVELOPMENT CONTROLS

The proposed development is identified as development permissible with the consent of the Council under the provisions of the Environmental Planning and Assessment Act 1979 and the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

The following is an assessment of the proposal against the relevant provisions of the Act, the SEPP and the relevant planning instruments and policies of Penrith City Council.

5.1 State Environmental Planning Policy No 55 - Remediation of Land

A Stage 1 Preliminary Site Investigation was carried out by Geotechnical Consultants Australia, in accordance with the following objectives:

- *Assess the potential for contamination to be present at the site, arising from past and present land use activities;*
- *Provide advice on whether the site is suitable, in the context of land contamination, for the proposed land use scenario; and*
- *Provide recommendations for supplementary investigations, contamination management, or remedial works.*

An extract from the conclusion of their report is provided below and which it is considered demonstrates compliance with the requirements of SEPP 55.

Based on the site investigation and analytical results, GCA considers that the potential for significant contamination of soil and groundwater to be low. Therefore, GCA finds that the site is suitable for the proposed development, providing that the recommendations within Section 14 below are implemented.

It is therefore considered that the subject site is suitable for residential use and complies with the requirements of SEPP No. 55.

5.2 State Environmental Planning Policy (Affordable Rental Housing) 2009

The Affordable Rental Housing SEPP came into effect in 2009 and seeks to encourage the provision of Affordable Rental Housing including Boarding Houses.

The aims of the SEPP are as follows:

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

The proposal seeks to rely upon the provisions of Division 3 of the SEPP and which relates to Boarding Houses.

The following is an assessment of the proposal against the applicable provisions of the SEPP.

Division 3 - Boarding Houses

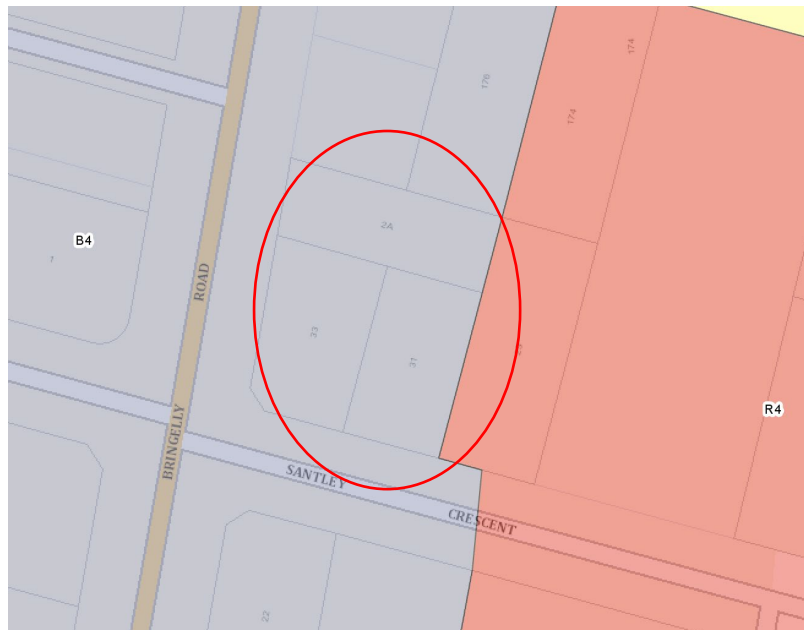
Clause 26 - Land to which Division Applies

Clause 26 states that this Division applies to any land within any of the following land use zones or equivalent land use zones:

- a) Zone R1 - General Residential*
- b) Zone R2 - Low Density Residential*
- c) Zone R3 - Medium Density Residential*
- d) Zone B4 - Mixed Use*
- e) Zone B1 - Neighbourhood Centre*
- f) Zone B2 - Local Centre*
- g) Zone B4 - Mixed Use*

The subject site is zoned B4 - Mixed Use under the Penrith Local Environmental Plan 2010.

On the basis of the above the proposal is considered to satisfy the requirements of Clause 26 and is therefore a permissible use upon the subject site.



Extract of Council Zoning Map

Clause 27 - Development to which Division applies

The subject site is zoned B4 - Mixed Use under the provisions of the Penrith Local Environmental Plan 2010 and as such the proposal is not subject to the provisions of Clause 27.

Clause 28 - Development may be carried out with Consent

In accordance with this section of the SEPP the Consent of Council is sought for the proposed development.

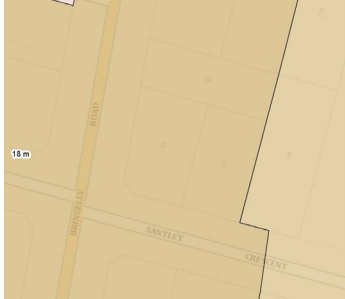
Clause 29 - Standards that Cannot be Used to Refuse Consent

Clause 29 provides standards that cannot be used to refuse an application. The standards are not required to be achieved in all cases but rather they provide thresholds that, if met, cannot be used as reasons to refuse an application. The proposal seeks a variation to the height and parking standards applicable to the site and the proposal.

The proposal complies in all other respects.

The following is an assessment of the proposal against the requirements of this section of the SEPP.

Clause	Requirement	Proposal	Compliance
<p>Clause 29 1(c)</p>	<p>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—</p> <p>(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or</p> <p>(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.</p> <div data-bbox="432 1375 759 1659" data-label="Image"> </div> <p data-bbox="427 1659 764 1715">Extract from Council Floor Space Map</p>	<p>Residential flat buildings are permissible in the B4 zone.</p> <p>The land does not contain a heritage item.</p> <p>The existing maximum floor space ratio is 3:1 plus a 20% bonus is permitted.</p> <p>The proposed FSR is 2.95:1</p>	<p>Complies.</p>
<p>Clause 29(2)(a) - Building Height</p>	<p>Maximum building height as permitted under another environmental planning instrument. The maximum height of a building permissible upon the land under the Penrith LEP 2010 is 18m. Pursuant to Clause 7.11</p>	<p>As detailed on the architectural plans the building has a maximum height of approximately 22.035m.</p>	<p>See comments below.</p>

	<p>of the PLEP the maximum building height can exceed 18m by up to 20% being a maximum of 21.6m.</p>  <p>Extract of Council Height Map</p>		
<p>Clause 29(2)(b) - Landscaped Area</p>	<p>The landscape treatment of the front setback area is to be compatible with the streetscape in which the building is located.</p>	<p>Landscaping is not required to be incorporated into the front setback within the B4 - Mixed Use zone. Landscaping within the front setback area to Santley Crescent is considered to be compatible with the streetscape.</p>	<p>Complies</p>
<p>Clause 29(2)(c) - Solar Access</p>	<p>Minimum of 3 hours solar access to at least one communal living room.</p>	<p>The proposed communal living area are located on the ground floor will achieve 3 hours direct sunlight.</p>	<p>Complies</p>
<p>Clause 29(2)(d) - Private Open Space</p>	<p>1. One area for lodgers having a min. area of 20m² and a min. dimension of 3m.</p>	<p>The proposal is provided with a communal open space area which is accessible from ground floor and which has an area of approximately 86m² and which</p>	<p>Complies</p>

	<p>2. One area for caretaker having a min. area of 8m² and a min. dimension of 2.5m.</p>	<p>complies with the minimum requirements of the SEPP.</p> <p>The proposed caretaker's room (Managers Room) is provided with a courtyard area having an area of 10m² and which complies with the minimum requirements of the SEPP.</p>	
<p>Clause 29(2)(e) - Parking</p>	<p>For development not carried out by or on behalf of a social housing provider at least 0.5 spaces for each room and not more than 1 space for each employee.</p>	<p>The proposal provides for a total of 96 boarding rooms excluding the caretakers room. This equates to a minimum of 48 spaces. The proposal provides for 36 car parking spaces including 2 disabled persons car spaces and 2 carshare spaces associated with the boarding house.</p>	<p>See comments below.</p>
<p>Clause 29(2)(f) - Accommodation Size</p>	<p>Each boarding room is to have a gross floor area (excl. any kitchen or bathroom) of at least:</p> <ol style="list-style-type: none"> 1. 12m² - single room 2. 16m² - in any other case. 	<p>The proposal provides for 96 rooms capable of being occupied by up to two persons. Each of these rooms complies with the minimum area requirements.</p>	<p>Complies.</p>

Building Height

The proposal exceeds the Building Height provisions of the LEP.

Relevant to this issue are a number of recent decisions of the Land & Environment Court of NSW. Whilst the cases have largely referred to matters under SEPP (Housing for Older People or People with a Disability) 2004 they are relevant in that both instruments contain similarly worded provisions in relation to building Height.

In these matters Building height is referred to by the Land & Environment Court as 'do not refuse provisions' whereby consent cannot be refused whereby compliance is achieved.

In circumstances where compliance has not been achieved the Court has held that it is open for the consent authority to grant consent where:

1. The aims of the SEPP have been satisfied.
2. That the proposal satisfies Clause 30A of the SEPP, in that it is compatible with the locality.

Specific reference is made to *Parsanejad v Ku-ring-gai Council* [2020] NSWLEC 1130 which states:

This is because irrespective of compliance with a specific "do not refuse" standard, I am satisfied following assessment that the extent, scale and form of development proposed is acceptable on merit.

Importantly, the approach adopted by the Court has held that:

1. Compliance with the requirements of Council's LEP control is not required.
2. A Clause 4.6 submission is not required.

The proposed boarding house is considered to satisfy the aims of the SEPP in that:

- It will facilitate delivery of a new boarding house containing 96 boarding rooms plus 1 caretakers room.
- The proposal seeks to provide for the provision of the proposed boarding rooms by reliance upon height bonuses and in this case, non-discretionary development standards.
- The proposal will not result in the loss of existing affordable rental housing.
- The proposal will support the local business centre by providing affordable rental housing for workers close to places of work, and in particular the local tourism and hospitality industries.

It is also considered that the proposal satisfies Clause 30A of the SEPP based upon the detailed character assessment provided as part of the assessment of Clause 30A, below.

Parking

The proposal provides for 36 car parking spaces (including 2 accessible spaces and 2 carshare spaces) associated with the boarding house within the two basement levels proposed.

Based on the provisions of the SEPP the proposal is required to provide for 48 car parking spaces associated with the boarding house and as such results in a non-compliance.

The minimum parking rate standard is not a mandatory requirement and is not a rate that must be adhered to for all boarding house developments, rather a rate that is considered appropriate to accommodate car parking for boarding house developments regardless of site conditions, nature of use and location. On this basis it is considered that for a boarding house development proposing a rate below the SEPP provisions a merit-based assessment of the site should be undertaken.

A detailed justification is provided in the Traffic Impact Assessment Report accompanying this application.

That report within its conclusion, in part states that:

The proposed boarding house component of the development requires 48 car spaces under the SEPP ARH 2009. In response, the development provides a total of 31 car parking spaces including two (2) spaces for car share vehicles. Research obtained by car share provider suggests that each car share vehicle can replace up to 12 private cars, which would result in an effective parking provision of some 55 car parking spaces for the boarding house component of the development. The parking provision would ensure that compliance is effectively achieved with the SEPP ARH 2009. Additionally, several justifications are provided within Section 4.1.2.

On this basis it is considered that the aims of the SEPP have been satisfied and that the proposed car parking is acceptable in the circumstances of this case.

Clause 30 - Standards for Boarding Houses

Clause 30(1) states that a consent authority must not consent to development to which this division applies unless it is satisfied of each of the following.

The following is an assessment of the proposal against each of the nominated standards.

- (a) *if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,*

Comment

The proposal contains a total of 96 boarding rooms plus 1 caretakers' room and provides for 2 communal rooms in accordance with this requirement together with an area of communal open space.

The proposed communal living rooms are considered to be sized commensurate with the number of boarding rooms.

- (b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,*

Comment

The maximum individual room size less bathroom and kitchen areas proposed by the development is 25m² which complies with the requirements of this provision.

- (c) *no boarding room will be occupied by more than 2 adult lodgers,*

Comment

The maximum proposed occupancy for any room is 2 adult lodgers as detailed within the accompanying Plan of Management and which complies with the requirements of this provision.

- (d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,*

Comment

The proposal provides for a kitchen and bathroom within each boarding room.

- (e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,*

Comment

The proposal proposes a maximum population of 184 persons and accordingly provides for an on-site boarding house manager/caretaker in accordance with the requirements of this provision.

- (f) *Repealed*

- (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,*

Comment

The subject site is zoned B4 - Mixed Use under the provisions of the Penrith Local Environmental Plan 2010 with residential accommodation permitted with consent. The proposal provides for a combination of ground floor commercial and residential uses.

- (h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

Comment

The proposal provides for a total of 96 boarding rooms plus 1 caretakers room which equates to 19 motorcycle spaces and 19 bicycle spaces. The proposal provides for 19 motorbike parking spaces in accordance with this requirement together with a bicycle spaces capable of storing up to 21 bicycles. The proposal therefore complies with the requirements of this provision.

Clause 30A - Character of Local Area

Clause 30A of the SEPP states that:

A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

In responding to this requirement it is submitted that in determining compatibility that consistent with the approach adopted by the Land & Environment Court in *Project Venture Management v Pittwater Council NSWLEC 191* that compatibility in terms of character is not about sameness but rather is about the ability for development to exist in harmony.

The site is identified as being located in the 'Commercial Mixed Use' precinct within the Hospital Precinct Character Area located in Kingswood.

An excerpt from the DCP provides the following description of the locality:

This precinct includes the existing shopping strip located adjacent to the Great Western Highway, Wainwright Lane located to the south and the northern end of Bringelly Road. The location of the existing retail strip adjacent to the Great Western Highway offers businesses high visibility as well as strong public transport linkages as a result of the proximity to the Kingswood Railway station. There are existing pedestrian linkages from the station to the Nepean Hospital which will be reinforced to ensure pedestrian safety and comfort. Additional linkages will be encouraged to provide a more direct route for pedestrians and cyclists.

Development in this area will be required to respond to potential impacts to amenity caused by the proximity to major transport corridors through building design, layout and materials. Mixed use developments will provide active ground floor uses and high quality building and public domain design outcomes to create a comfortable pedestrian environment that reduces the noise and traffic impacts. The ground floor tenancies will accommodate retail businesses. The lot orientation of this area may require applicants to demonstrate adequate solar access can be provided to the public domain. Consistent landscape treatment will be provided along the Great Western Highway.

Bringelly Road will provide the second tier of development opportunities south of the primary commercial and retail strip. The reduced building heights and generous pedestrian verges in this part of the precinct will allow for a more human scale streetscape that is supportive of active uses that encourage the community to gather and enjoy the public domain. High order landscaping elements will be incorporated on the Bringelly Road/ Northern Road intersection to create an embellished eastern gateway to the Hospital Precinct.

Bringelly Road is largely developed with medium density residential dwellings in the form of residential flats and two storey townhouses. There is opportunity for this area to adopt a higher density residential form along Rodgers Street and Bringelly Road.

The north western part of the Commercial Precinct offers three frontages to the Great Western Highway, Parker Street and Barber Avenue and is a major gateway site to the whole Hospital Precinct. Development within this part of the precinct will be encouraged to incorporate high quality architectural design standards and landscaping, fitting for its location as the gateway to the Hospital Precinct.

An Architectural and Urban Planning Statement has been prepared by Gus Fares Architects and forms part of the information accompanying the application. It is considered that when read in conjunction with this statement that the proposed development is *capable* of existing in harmony with the surrounding area.

It is my opinion that the proposal does provide for a development which is compatible with the existing and future character of the local area. In this regard the proposal provides for the following:

- Seven storey mixed use building with commercial uses to the ground and first floor with a frontage to Bringelly Road and boarding house development to all levels.
- The building form is consistent with the B4 mixed use zoning and provides for active uses to the ground floor frontage to Bringelly Road.

In addition to the proposed built form it is considered that the proposal will not result in any unreasonable amenity impacts particularly in relation to a loss of privacy or overshadowing.

On the basis of the above it is my opinion that the proposal provides for a design of development which is compatible with the character of the local area in accordance with Clause 30A of the SEPP.

Summary

As can be seen from this assessment the proposal is considered to achieve appropriate compliance with the applicable development controls with any variations being consistent with the outcomes envisaged and permitted by the SEPP.

It is my opinion that the development will still provide for development which is compatible with the existing and desired character of the area.

It is submitted that the proposal will provide for a building form consistent with that anticipated by the controls particularly having regard to its appearance and proposed high quality design.

For all of these reasons it is my opinion that the design of the development is compatible with the character of the local area.

Based upon the above assessment it is my opinion that the proposed boarding house satisfies the requirements of the SEPP (Affordable Rental Housing) 2009.

5.3 State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development

Pursuant to the operation of Clause 4(4) of SEPP No.65, the SEPP does not apply to a boarding house.

It is therefore submitted that the Apartment Design Guide similarly does not apply to the proposed boarding house.

5.4 Penrith Local Environmental Plan 2010

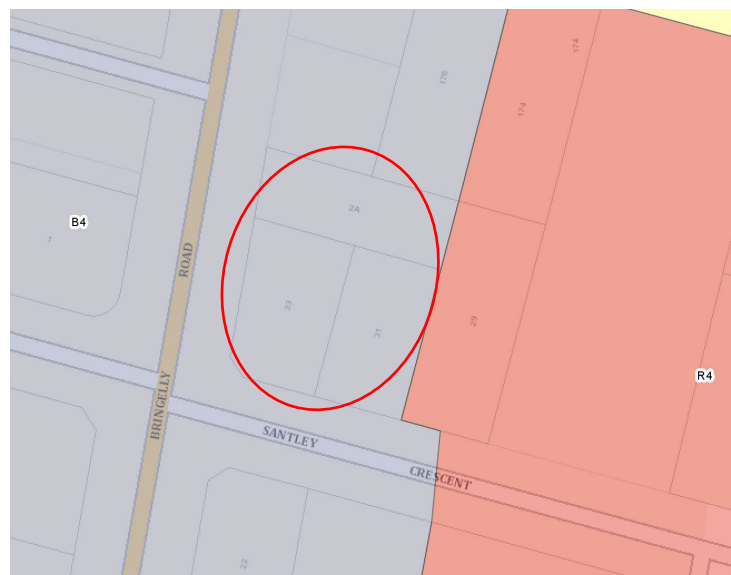
The subject land is zoned B4 - Mixed Use under the provisions of the Penrith Local Environmental Plan 2010.

The objectives for development within the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

Commercial premises and boarding houses are permissible with the consent of Council under the B4 - Mixed Use zone.

Each use proposed within the mixed use development is considered to be consistent with the above objectives.



Extract from Council Zoning Map

The following provisions of the Penrith Local Environmental Plan 2010 are considered to be applicable to the subject site.

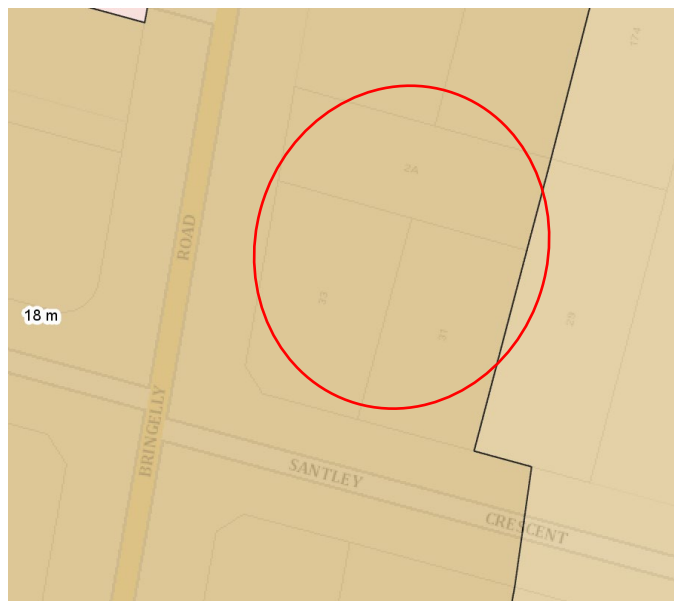
Clause 4.3 - Height of Buildings

The subject site is located within Building Height Area “Q1” and is ordinarily subject to a maximum building height control of 18m.

Pursuant to Clause 7.11 of the LEP the site is located within the Penrith Health & Education Precinct. The clause provides that if the floor to ceiling heights of both the ground and first floor are equal to or greater than 3.5m then the maximum height of the building can exceed the maximum height in Clause 4.3 by up to 20%. Therefore, on this basis the proposal is subject to a maximum height of 21.6m.

The proposal as detailed on the accompanying plans has a maximum height of approximately 22.035m measured to the top of the lift overrun and is therefore inconsistent with this requirement.

In response to this inconsistency reference is made to the applicable 'do not refuse provision' of the SEPP (Clause 29(2)(a)) and which it is submitted prevails over this LEP requirement. Consistent with the recent decisions of the Court it is submitted that a merit assessment is applicable in this instance.

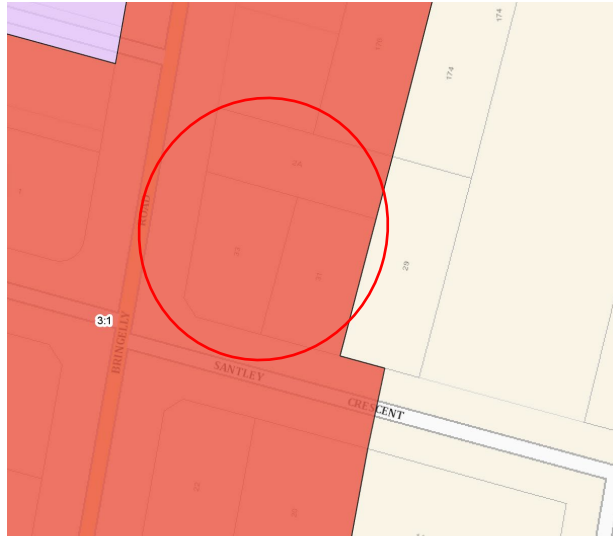


Extract of Council Height of Buildings Map

Clause 4.4 - Floor Space Ratio

The subject site is located within the "V" floor space area zone and as such is ordinarily subject to a maximum FSR of 3:1.

The proposal provides for a total floor area of 4,081m² or 2.95:1 which complies with this requirement.

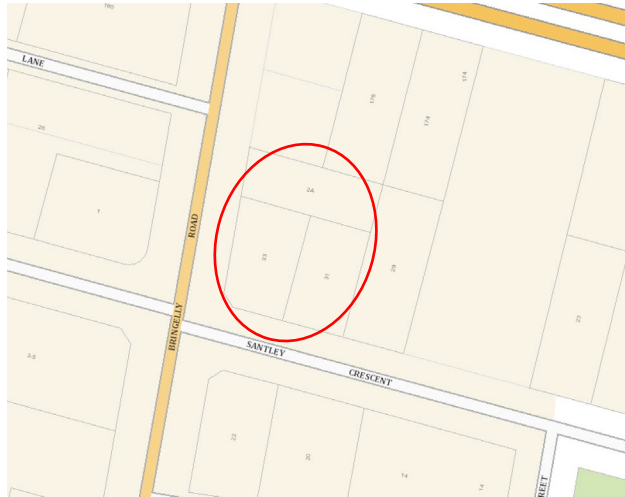


Extract from Council Floor Space Ratio Map

Clause 5.10 - Heritage Conservation

The subject property is not identified as a heritage item and is not located within a Heritage Conservation Area.

On this basis the proposal is considered to satisfy the requirements of Clause 5.10 of the LEP.



Extract from Council's Heritage Map

Clause 7.1 - Earthworks

The proposal seeks approval to excavate the site to provide for two levels of basement parking. A Geotechnical Report has been prepared by Geotechnical Consultants Australia and forms part of the information that accompanies this application.

On this basis the proposal is considered to satisfy the requirements of this Clause of the LEP.

Clause 7.4 - Sustainable Development

The proposed development has regard to the principles of sustainable development and which are based on a “whole of building” approach.

A BASIX Certificate has been issued and forms part of the information accompanying this application. It is considered that the supporting documentation when read in conjunction with this statement demonstrates that sustainable development principles have been incorporated.

Clause 7.8 - Active Street Frontages

The subject site known as 2A Bringelly Road is identified as “active street frontages”. In this regard all premises on the ground floor facing Bringelly Road must be used for the purpose of a business or retail premises.

The Architectural Plans prepared by Gus Fares Architects identifies that the portion of the development facing Bringelly Road consists of commercial premises and satisfies this clause of the LEP.

Clause 7.11 - Penrith Health & Education Precinct

The site is identified as located in the Penrith Health & Education Precinct and is encouraged to utilise a built form that is suitable for both residential and health services facilities. The clause provides that if the floor to ceiling heights of both the ground & first floor are equal or greater than 3.5m then the maximum height of the building can exceed the maximum height in Clause 4.3 by up to 20%.

It is considered that the proposed building having a built form suitable for residential and health services facilities and consisting of a floor to floor height to the ground and first floor of a minimum of 3.7m is consistent with this Clause and is therefore capable of exceeding the maximum height in Clause 4.3 by up to 20%.

Summary

There are no other provisions of the LEP which it is considered are relevant to the proposal.

It is my opinion based upon this assessment that the proposal achieves appropriate compliance with the aims and objectives and the prescriptive requirements of the LEP and is therefore worthy of the support of the Council.

5.5 Penrith Development Control Plan

Council's Development Control Plan applies to all forms of development with Part D5 and E12 being specifically applicable to the proposed development.

An assessment of the proposal against the applicable provisions of the DCP has been undertaken and the following comments are made.

Part C1 - Site Planning and Design Principles

A site analysis plan has been prepared and forms part of the architectural plans accompanying this application. It is considered that this plan in conjunction with the site survey plan and supporting reports when read in conjunction with this Statement of Environmental Effects satisfies the requirements of the Council for a site analysis.

A BASIX Certificate has been prepared in support of the proposal and forms part of the documentation accompanying this application.

The proposal provides for energy conservation measures in accordance with the requirements of BASIX and complies with Section J of the NCC.

Part C2 - Vegetation Management

Vegetation located upon the site is generally comprised of grasses and small shrubs together with some trees. It is considered that the proposal will not result in any unreasonable tree impacts.

Part C3 - Water Management

The subject site is a gently sloping allotment having a minor fall from the north west boundary along Bringelly Road (RL 45.31) through to the front south east corner in Santley Crescent (RL 43.26).

The proposal also provides for stormwater to be collected in pits and directed to the existing drainage pipe within the 1m wide drainage easement which is located in the rear corner of the site and to the street in Santley Crescent via an on-site stormwater detention system. Retained water is to be used for garden watering and toilet flushing in accordance with the requirements of the accompanying BASIX Certificate.

Part C4 - Land Management

Erosion and sedimentation controls are incorporated in the Stormwater Management Plans.

Part C5 - Waste Management

A Waste Management Plan has been prepared in support of the proposal by Dickens Solutions and forms part of the information accompanying this application.

Part C6 - Landscape Design

A Landscape Plan has been prepared by Conzept Landscape Architects and is included as part of the documentation accompanying this application.

Part C10 - Transport, Access and Parking

The accompanying Traffic Impact Assessment Report prepared by PDC Consultants has assessed the vehicular and pedestrian access arrangements, parking provisions, internal circulation and manoeuvrability of the proposal.

Part D5 - Boarding Houses

D5.11 - Boarding Houses		
Section	Control	Proposal
2) Built Form, Street Impact and Appearance	<p>a) The entrance to the boarding house must be in a prominent position addressing the street.</p> <p>b) New boarding houses must not reduce the achievement of access to a minimum of 3 hours sunlight in the main living area and in at least 50% of private open space between 9am and 3pm on 21 June for adjoining properties.</p> <p>c) Boarding houses must be designed to have a sympathetic relationship with adjoining development.</p> <p>d) Proposals must demonstrate that neighbourhood amenity will not be adversely impacted by factors such as noise and privacy.</p> <p>e) There must be no basement encroachments to setbacks either above or below ground.</p>	<p>Complies.</p> <p>Refer to accompanying Shadow Diagrams. Complies.</p> <p>Complies. Refer to accompanying Architectural and Urban Planning Statement prepared by Gus Fares Architects.</p> <p>Refer to Acoustic Report prepared by Koikas Acoustics.</p> <p>Non-compliance. Refer to accompanying</p>


	<p>f) Minimum setbacks for boarding houses in R2 and R3 Zones and residential flat buildings or high density mixed use development are provided in table D5.3. The intent of this control is to ensure consistency with local character by replicating streetscape patterns of buildings and private gardens in established neighbourhoods, which have visual and symbolic richness that are valued by their community</p>	<p>Geotechnical Report and in support of the basement excavation. The site is zoned B4 and is not likely to result in any adverse impacts upon neighbouring properties as a result of the zero setback to the basements.</p> <p>N/A.</p>
<p>3) Compatibility with Streetscape in the Front Setback</p>	<p>In order to be compatible with the streetscape, boarding houses must supply the following elements within the front setback, in addition to complying with other relevant Landscape Design controls in this DCP and Built form, streetscape impact and appearance controls in this section:</p> <p>a) A minimum of 18m² deep soil area must be provided to support larger plants and trees used to soften the form of the building and provide shade. Deep soil areas are to be a minimum width and length of 3m. Deep soil zone may form part of the landscaped area calculation.</p> <p>b) A watering system that does not rely on lodgers to maintain plantings.</p>	<p>Complies. Refer to accompanying Landscape Plans.</p>
<p>4) Tenant Amenity, Safety and Privacy Boarding houses are to maintain a high level of resident amenity, safety and privacy by ensuring:</p>	<p>a) communal spaces including laundry, bathroom, waste facilities, private open space, kitchen and living areas are accessible to all lodgers;</p> <p>b) if over 10 boarding rooms are supplied, 10% of the total number of dwellings (rounded up) must be accessible;</p> <p>f) Communal kitchen facilities must be provided with a minimum area of:</p> <p>a. 7m² for up to 6 lodgers, b. or 11m² for more than 6, up to 12 lodgers. c. A minimum of 15m² will be provided above 12 lodgers, plus 1m² for each additional lodger over 12; or all bedrooms shall contain kitchenette</p>	<p>Refer to accompanying Access Report in support of the proposal.</p> <p>All units are provided with a kitchenette.</p>

	<p>facilities with a fridge, adequate cupboards and shelves and a microwave. For fire safety reasons no other cooking appliances are permitted.</p> <p>g) Common rooms must be provided at a minimum rate of 2m² per lodger, or a minimum of 13m² where there are fewer than 6 lodgers. Common rooms do not include circulation space or laundry, bathroom, waste and kitchen facilities.</p>	<p>A communal living room of 86m² and a separate Common Room of 24m² is provided for on the ground floor and complies with this requirement.</p>
<p>5) Visual and Acoustic Amenity Impacts</p>	<p>Boarding houses are to provide:</p> <p>a) bedrooms separate from significant noise sources;</p> <p>b) sound insulation between bedrooms to provide reasonable amenity;</p> <p>c) communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings; and</p> <p>d) screen fencing, plantings, and acoustic barriers in appropriate locations</p>	<p>Refer to Acoustic Report together with Architectural Plans demonstrating compliance with this section of the DCP.</p>
<p>7) Plan of Management</p>	<p>An operating 'Plan of Management' is to be submitted with each development application for a boarding house (including new and existing boarding houses). The Plan of Management is to include, but is not limited to:</p> <p>a. boarding house staffing arrangements, including the location of 24/7 contact details for any on-site manager or resident caretaker, who has overall responsibility for the operation, administration, cleanliness, maintenance and fire safety of the premises;</p> <p>b. house rules and how they will be publicised to residents, including details of:</p> <p>i. guest behaviour;</p> <p>ii. activities and noise;</p> <p>iii. visitor policy;</p> <p>iv. the use of alcohol and/or drugs;</p> <p>v. cleaning of communal spaces following use, and</p> <p>vi. location of smoking area.</p> <p>c. plans outlining the occupancy rate for each sleeping room, room furnishings, provisions of communal areas and facilities, and access and facilities for people with disabilities;</p>	<p>Refer to accompany Plan of Management and Social Impact Assessment.</p>


	<p>d. measures to minimise unreasonable impact to the habitable areas of adjoining properties, including the management of communal open spaces, which, for boarding houses within residential areas or where adjoining sites contain residential activities, should be restricted to 10pm;</p> <p>e. waste minimisation, recycling and collection arrangements are to be identified;</p> <p>f. maintenance strategy including, but not limited to:</p> <ul style="list-style-type: none"> i. monthly gardening and pruning of vegetation; ii. pest management plan; iii. cleaning and sanitation program including end of lease arrangements; iv. quarterly external clean and graffiti removal; v. waste management plan; and vi. indicative arrangements for council officer's 12 month inspection, required under the Boarding House Act 2012. <p>g. internal signage arrangements, including:</p> <ul style="list-style-type: none"> 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; v. floor plans that will be permanently fixed to the inside of the door of each sleeping room which indicate the available emergency egress routes from the respective sleeping room; and vi. information on local social services. <p>h. minimum lease period with conditions including:</p> <ul style="list-style-type: none"> i. resident agreement to comply with boarding house rules; ii. minimum lease period of 3 months; and iii. 6 and 12 month rental terms available. <ul style="list-style-type: none"> i. a social impact assessment; j. a complaint register that is available for inspection by Council; k. indicative arrangements for Council monitoring and review of required management actions; and l. any further relevant considerations. Council may request further information to be provided. 	
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Part E12 - Penrith Health and Education Precinct

E12 - Part A Hospital Precinct		
Section	Control	Proposal
12.2.1 Mixed use development controls	<p>1) Mixed use developments are to provide flexible floor areas and layouts to both the ground and first floor of buildings to accommodate a range of commercial uses.</p> <p>2) Standard floor to ceiling heights apply for mixed-use developments in accordance with the Building Code of Australia and the Residential Flat Design Code. However, where an applicant is seeking to take advantage of the additional building height incentives prescribed by LEP 2010, the following floor to ceiling heights apply: a) 3.5m on the ground and first floor; and b) 2.7m on the upper floors These floor to ceiling heights must be applied to the entire floor in order to be granted the height bonus. To demonstrate that 2.7m floor to ceiling heights can be achieved (allowing for recessed lighting) a minimum floor to floor height of 3.1m is to be provided.</p> <p>3) 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.</p> <p>4) The commercial and residential activities of the building are to have separate service provision, such as loading docks, lobbies and lift access, defined parking areas, garbage storage and servicing.</p> <p>5) Mixed use developments are to provide commercial frontage (retail/business/office premises) as a part of the development as shown in Figure E12.3 for the ground and first floors. Variation may be considered to this control in order to provide adaptable housing.</p> <p>6) The ground floor of a mixed use development is to provide a minimum of 75% commercial frontage.</p> <p>7) A minimum site width of 24m is required for any mixed use development.</p>	<p>Complies</p> <p>Complies.</p> <p>Noted.</p> <p>Complies. Refer to Architectural Plans.</p> <p>Complies. Commercial uses are provided to Bringelly Road frontage to the ground and first floors.</p> <p>Complies in relation to Bringelly Road frontage.</p> <p>Non-compliance. Proposal provides for a frontage to Bringelly Road and Santley Crescent. It is considered</p>

		that when combined the overall width of these frontages satisfies the requirement.								
<p>12.3.1. Street alignment, building height and setbacks</p>	<p>1) Street building alignments are to be provided as specified in Figure E12.4. Figure E12.4 Street setbacks</p>  <p>2) Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible.</p> <p>3) Building height will generally be restricted to a maximum podium height of 2-4 storeys addressing the main streets, with any additional storeys set back.</p> <p>4) Developments located within the Residential Edge Precinct must step down in height and demonstrate that the development does not adversely impact on the adjoining residential area in terms of visual amenity or overshadowing.</p>	<p>Complies with minimum 4m setback to Bringelly Road.</p> <p>Noted.</p> <p>Complies. Upper floors are setback.</p> <p>Refer to Architectural and Urban Planning Statement prepared by Gus Fares Architects</p>								
<p>12.3.3. Boundary setbacks and building separation</p>	<p>1) The minimum side and rear building setbacks for non-residential uses are specified in Table E12.1.</p> <p>Table E12.1 Side and rear setback requirements</p> <table border="1" data-bbox="525 1704 1070 1856"> <thead> <tr> <th>Building height and use</th> <th>Minimum Side and Rear Setback</th> </tr> </thead> <tbody> <tr> <td>Non-residential uses:</td> <td></td> </tr> <tr> <td>- up to 12m</td> <td>0 m</td> </tr> <tr> <td>- 12m to 24m</td> <td>6 m</td> </tr> </tbody> </table> <p>3) Minimum separation distances for buildings within a site and between adjoining sites for buildings are: Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 9m between habitable and non-habitable • 6m between non-habitable 	Building height and use	Minimum Side and Rear Setback	Non-residential uses:		- up to 12m	0 m	- 12m to 24m	6 m	<p>Complies.</p> <p>It is considered that the design of the rooms being</p>
Building height and use	Minimum Side and Rear Setback									
Non-residential uses:										
- up to 12m	0 m									
- 12m to 24m	6 m									

	<p>Five to eight storeys (approximately 25m)</p> <ul style="list-style-type: none"> • 12m between habitable and non-habitable • 9m between non-habitable rooms 	<p>orientated to the street and not consisting of windows to the bedroom (1st & 2nd floors) is likely to reduce any adverse impacts on the adjoining properties. The upper floors being 3rd to 6th are further setback to avoid overlooking.</p>									
<p>12.3.4. Site coverage and deep soil zones</p>	<p>1) Open space must be provided equivalent to 25% of the total site area.</p> <p>2) The maximum site cover and minimum deep soil zone for development is specified in Table E12.2:</p> <p>Table E12.2 Maximum site cover and minimum deep soil zone</p> <table border="1"> <thead> <tr> <th>Character Area</th> <th>Maximum Site Cover</th> <th>Minimum Deep Soil Zone (% of Site Area)</th> </tr> </thead> <tbody> <tr> <td>Commercial Mixed Use and Medical Mixed Use</td> <td>75%</td> <td>10%</td> </tr> <tr> <td>Residential Edge</td> <td>50%</td> <td>15%</td> </tr> </tbody> </table> <p>3) The deep soil zone is to be provided in one continuous block. If multiple deep soil zones are provided, they must have a minimum dimension (in any direction) of 6m.</p> <p>6) No structures, works or excavations that may restrict vegetation growth are permitted in deep soil zones (including, but not limited to, car parking, hard paving, patios, decks and drying areas).</p>	Character Area	Maximum Site Cover	Minimum Deep Soil Zone (% of Site Area)	Commercial Mixed Use and Medical Mixed Use	75%	10%	Residential Edge	50%	15%	<p>The proposal provides for communal open space of 104m².</p> <p>Provisions of the SEPP (ARH) in relation to private open space prevail to the extent of the inconsistency.</p> <p>Complies.</p> <p>Generally complies.</p>
Character Area	Maximum Site Cover	Minimum Deep Soil Zone (% of Site Area)									
Commercial Mixed Use and Medical Mixed Use	75%	10%									
Residential Edge	50%	15%									
<p>12.4.1 Public domain</p>	<p>All public domain works within the Hospital Precinct shall be undertaken in accordance with the provisions of Penrith City Council’s “Kingswood Public Domain Manual” (2013) and the other relevant parts of this DCP.</p>	<p>Noted.</p>									
<p>12.4.2.2 Active street frontages and address</p>	<p>1) Active frontage uses are defined as one or a combination of the following, at street level:</p> <p>a) An entrance to retail premises;</p> <p>b) A shop front;</p>	<p>Complies.</p>									

	<p>c) Glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage, to a maximum of 12m frontage; d) A café or restaurant if accompanied by an entry from the street; e) Active office uses, such as a reception, if visible from the street; and f) A public building, if accompanied by an entry.</p> <p>2) Active street fronts are to be located at the ground level of all buildings located in those areas as shown in Figure E12.7.</p> <p>Figure E12.7 Active Street Frontages</p>  <p>3) Ground floor active street frontage uses are to be at the same level as the adjoining footpath and must be directly accessible from the street.</p> <p>5) Street address is defined as entries, lobbies, and habitable rooms with full height to a minimum of 2.1m clear glazing to the street.</p> <p>7) Commercial entries are to be separate to residential entries and are to address the primary street frontage.</p> <p>8) Large developments should provide multiple entrances including an entrance on each street frontage leading to separate cores.</p> <p>9) Residential buildings are to provide not less than 65% of the lot width as street address.</p>	<p>Complies in relation to Bringelly Road. Santley Crescent frontage relates to the entrance to the boarding house component.</p> <p>Complies.</p> <p>Complies.</p> <p>Complies.</p> <p>N/A</p> <p>Complies.</p>
<p>12.4.3 Car Parking</p>	<p>3) Proposals for basement parking areas are to be accompanied with a geotechnical report, prepared by an appropriately qualified professional, and any other supporting information.</p> <p>4) Basement car parking should be located directly under building footprints to maximise opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</p>	<p>Refer to accompanying Geotechnical Report prepared by Geotechnical Consultants Australia.</p> <p>Generally complies.</p>

	7) Car parking layouts are to comply with the relevant Australian Standards.	Refer to the accompanying Traffic Report.
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Conclusion

The proposal is considered to achieve appropriate compliance with the aims and objectives together with the prescriptive requirements of the Penrith Development Control Plan and is therefore worthy of the support of the Council.

6. SECTION 4.15 ASSESSMENT

Environmental Planning Instruments - Section 4.15(1)(a)

The subject site is zoned B4 - Mixed Use under the provisions of the Penrith Local Environmental Plan 2010. The construction of a new commercial & boarding house development upon land within the B4 zone is permissible under both the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Penrith LEP 2010 with the consent of Council.

The proposal has been assessed against the objectives and provisions of the SEPP as detailed within this report and the proposal was found to appropriately satisfy the requirements of that Policy subject to a merit assessment of the 'do not refuse provisions'. The proposal has also been assessed against the applicable requirements of the Council including the LEP and DCP.

Draft Environmental Planning Instruments - Section 4.15(1)(a)(ii)

The Draft SEPP (Housing) 2021 applies to the proposal. The SEPP has recently been publicly exhibited.

Pursuant to Clause 2 of Schedule 6 of the SEPP, the provisions of the Draft SEPP do not apply to a development application made, but not yet determined, on or before the repeal day.

On this basis the Draft SEPP is not applicable to the subject application.

There are no other environmental planning instruments or draft environmental planning instruments, which are applicable to the proposal and which have not been addressed within this report.

Impacts of the Development - Section 4.15(1)(b)

It is not considered that the proposal will result in any unreasonable impacts upon the adjoining properties or the character of the surrounding area beyond that envisaged by the enabling legislation. The proposal involves the construction of a new residential development of a height, bulk and scale which is compatible with the existing and desired character of the surrounding locality.

A detailed Plan of Management has been prepared for the operation and on-going management of the Boarding House. It is considered that compliance with the requirements of that document will assist in ensuring that the proposal does not unreasonably impact upon the amenity of adjoining properties or the locality.

Suitability of the Site - Section 4.15(1)(c)

The construction of a new mixed use building including a commercial & boarding house development upon land zoned B4 under Penrith LEP 2010 is permissible with the consent of Council under the provisions of SEPP (Affordable Rental Housing).

Other factors which demonstrate the site's suitability for such a development include:

1. The site's proximity to public transport.
2. The site's proximity to areas of open space.
3. The proposal's compatibility with existing and proposed use mix the locality.

It is not considered that there will be any adverse impacts as a result of the proposal not contemplated by the enabling legislation and as such the subject site is considered suitable for the proposed development.

Public Interest - Section 4.15(1)(e)

It is my opinion that the proposal is in the public interest as it seeks to provide for a form of housing specifically designed for the Affordable Rental Housing market together with a ground floor and first floor commercial component in a site well suited to this form of development and in a manner which will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding locality.

7. CONCLUSION

The proposed development is development permissible with the consent of the Council under the terms of the Environmental Planning and Assessment Act 1979 and has been assessed against the requirements of Section 4.15 of the Act and SEPP (Affordable Rental Housing) 2009. In this regard it is considered that this Statement of Environmental Effects has demonstrated that the proposal appropriately satisfies the aims and objectives as well as the applicable prescriptive requirements of the above controls.

It is therefore considered that the proposed construction of a new mixed use building to provide for a commercial & boarding house development containing 96 rooms including a caretaker's room and basement car parking upon land at 31 Santley Crescent & 2A Bringelly Road, Kingswood is worthy of the support of Council.

Andrew Minto
Graduate Diploma (Urban & Regional Planning), Associate Diploma (Health & Building Surveying). MPIA.
MINTO PLANNING SERVICES PTY LTD
October 2021