

SPECIALIST TOWN PLANNING SERVICES



STATEMENT OF ENVIRONMENTAL EFFECTS

Boarding House Development

76 Hobart Street, St Marys

(Lot 2, DP 514876)

May 2021

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PART A PRELIMINARY

1.1 Introduction

Specialist Town Planning Services (STPS) has been commissioned to review and prepare a statement of environmental effects (SEE) accompanying a Development Application (DA) for the demolition of existing structures and construction of a two storey building to accommodate 16 rooms boarding house plus a manager's accommodation under Affordable Rental Housing SEPP 2009 (ARH SEPP). The proposal offers a low profile development which is compatible with the emerging medium density character of the area and will contribute positively towards revitalization of the area.

This SEE provides:

- A description of the site, locality and broader strategic context;
- A description of the proposed development;
- An assessment of against environmental planning considerations under relevant planning instruments, environmental impacts, site suitability and the public interest; and
- Conclusions on the merits of the proposed development on which the DA can be supported.

This SEE has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and Clause 50 and Part 1 of Schedule 1 of the Environmental Planning and Assessment Regulations 2000 (EP&A Regulation). Assessment against the relevant matters for consideration under Section 4.15(1) of the EP&A Act has also been carried out. Based on the assessment undertaken, the proposal is considered an acceptable form of development for the subject site.

1.2 Format of the Report

This SEE report has several Parts including:

- Part A – Preliminary;
- Part B – Site and Contextual Analysis;
- Part C – Detailed Description of the Proposed Development;
- Part D – Site Preparation;
- Part E – Development Particulars
- Part F – Statutory Planning Framework and Assessment
- Part G – Non Statutory Planning Framework
- Part H – Conclusion

1.3 Pre-lodgement meeting

On 28 January 2021, the applicant met with Council staff to discuss a preliminary design for the proposed development in a pre-lodgement meeting. As a result of the feedback from this meeting the applicant's design team have prepared additional drawings, undertaken additional site investigations and sought independent advice from additional consultants.

A summary of key issues raised and responses is provided in the following table:

Table 1 – Response to Key Issues Raised at Pre-Lodgement Meeting	
Key Issues	Responses
<i>The application will need to address the relevant provisions of Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors of State Environmental Planning Policy (Infrastructure) 2007 in relation to rail noise & excavation.</i>	Noted and appropriately addressed in the body of the report.
<i>Any application for a boarding house must demonstrate compliance with Division 3 Boarding Houses of State Environmental Planning Policy (Affordable Rental Housing) 2009. Of relevance is clauses 27, 29, 30 & 30A.</i>	A detailed assessment against the relevant provisions ARH SEPP is provided in the body of the report. The assessment indicates that the proposal satisfactorily addresses the provisions of ARH SEPP.
<i>The development application must demonstrate compliance with the requirements of Section 5.11 Boarding Houses of Chapter D5 Other Land uses of Penrith development Control plan 2014.</i>	A detailed assessment against the relevant provisions of Penrith Development Control Plan 2014 (PDCP) is provided in the body of the report. The assessment indicates an acceptable level of compliance with the provisions of PDCP.
<i>Compliance with the minimum setbacks is required.</i>	The proposal generally complies with the minimum setback requirements. Adequate planning justification exists where a full compliance is not achieved.
<i>The living areas and private open space areas of the adjoining properties are not compromised as a result of this development.</i>	Shadow diagrams submitted with this development application and commentary in this report demonstrate adequate compliance with solar access rights of adjoining properties.
<i>The common rooms and areas is to afford occupants space for interaction and socialisation between lodgers and so the justification for a variation to aspect is not supported.</i>	The common room size has been increased to 28m ² . This minor variation is considered acceptable as each room is afforded with its own private kitchenet and 5 of the first floor rooms got their own private balconies. The common room is also connected with outdoor communal open space. The proposed common room is considered to offer reasonable amenity for future lodgers.
<i>The laundry being accessed directly off the entrance foyer, how will residents access clothesline facilities and where are these located?</i>	The laundry is relocated into the communal room and has direct access to outside clothes drying area.
<i>Is there any direct access to the rear setback? What is the function of this space and what is its relationship to the communal open space?</i>	The rear setback is part of outdoor common open space and it is directly accessible from

	common room and from ground level parking area.
<i>Is the entrance foyer large enough for occupants to manoeuvre within this area given the proximity of the staircase, front door, laundry, and common room?</i>	The entry foyer has been redesigned with a larger open area and less number of openings.
<i>Is the common room large enough to accommodate suitable range of furniture to serve the needs of the lodgers. A furniture plan shall be submitted demonstrating rooms are able to function for their intended purpose.</i>	As mentioned, the common room is large enough for the lodgers. A furniture layout is provided within the floor plans.
<i>How gross floor areas have been calculated.</i>	A GFA calculation sheet is provided with the architectural plans.
<i>The exposed nature of the carpark is undesirable and likely to impact on the amenity of adjoining properties, both visually and acoustically. If the carpark is enclosed how will the development achieve an appropriate level of ventilation (mechanical or natural) and a suitable level of articulation and presentation.</i>	The carpark is redesigned as an integral part of the building and no longer reads as an exposed carpark. Openings are added along northern and southern elevations that will offer adequate natural light and ventilation without compromising acoustic amenity of adjoining neighbours.
<i>The development must provide an area for bin storage on the ground floor.</i>	A bin storage area is provided at the ground floor level which is located at a convenient and accessible location for all lodgers; without any unreasonable exposure to the street or adjoining neighbours.
<i>Council's DCP controls generally require the first-floor footprint to be smaller than the ground floor footprint as this is a way of ensuring the building mass at the upper level is appropriate.</i>	The amended first floor has a reduced footprint and fully complies with Council's building envelope controls.
<i>The DCP requires the overall building length to be less than 20m, it is noted that the building length is currently about 26m in length.</i>	It is noted. However the subject site has a larger frontage and shallower depth. Strict compliance with this control is not considered reasonable. The proposal has adequate front and side setbacks and overall, it will read as a contemporary two storey medium density residential development.
<i>The proposal must demonstrate that 40% of the site is provided as landscaping. A landscape plan must also accompany the development application.</i>	A landscape plan is submitted with the DA package demonstrating compliance with the minimum landscaped area requirements.
<i>The development application shall be accompanied by a list of materials and finishes.</i>	Noted and provided with the development application. Refer Appendix P.
<i>Bicycle parking should not be provided in the proposed location.</i>	It is noted. The bicycle parking spaces are provided within the rear communal open space and it is considered appropriate.

<i>Vegetation Management</i>	Noted. The trees that can be protected are retained. Replacement trees are proposed throughout the site in lieu of trees that must have to be removed. Refer to landscape plan and Tree inspection report submitted with the development application.
<i>An operating 'Plan of Management' is to be submitted with any development application.</i>	Noted and included with the DA package.
<i>Laundry and Clothesline Guide</i>	Adequate washing and drying facilities are provided.
<i>Noise Impacts</i>	An acoustic report is submitted with the DA package.
<i>Contamination (SEPP 55)</i>	Provisions of SEPP 55 is addressed in the body of the report. The site is considered suitable for the intended use. A Preliminary investigation report is submitted with the development application.
<i>Waste Management</i>	A waste management plans is submitted with the DA package.
<i>Bulky Goods Collection Area</i>	A bulky goods waste collection area is provided within the bin storage area.

PART B SITE & CONTEXTUAL ANALYSIS

2.1 Site Context

The site is located within R3 Medium Density Residential zone under Penrith Local Environmental Plan 2010. In the wider context, St Marys is largely residential on the southern side of railway line and industrial on the northern side of the railway line. The St Marys Railway Station and main town center are within 1km distance from the site. A small recreation belt is located towards east along Hobart Street. The Greater Sydney green corridor is approximately 1.14km further in the eastern direction along Hobart Street. The area can be characterized as undergoing a noticeable gentrification process where older housing stock is giving way to modern two storey medium density development. This is more prevalent along Australia Street while a few examples can also be seen along Hobart Street.

2.2 Site Location and Characteristics

The site is located on the southern side of Hobart Street, close to its intersection with Australia Street. The site has an area of approximately 774m² with a frontage (northern boundary) of 31.39m to Hobart Street, an eastern boundary of 24.89m, a western boundary of 24.39m and a rear (southern) boundary of 31.43m.

The site survey in Appendix A includes a north point which has been used to assist with orientation of all architectural, landscape and engineering drawings in this DA. The site survey includes information about the location of existing services. The site does not have any existing easements. The site survey includes information about the location, height and spread of all established trees on the site and nearby adjoining properties. The species of all trees impacted by the proposal have been assessed in the Tree Inspection Report included in Appendix N. The site survey includes details of existing buildings and structures located on the site, locations of property boundaries and fences, along with pedestrian and vehicles access driveways.

The architectural drawing set includes drawing No. 0005, Issue A, dated 12 May 2021, Site Analysis (refer to Appendix B) which includes details of prevailing winds, solar path, vehicular and pedestrian entry points and other important details of the site.

Currently existing on the site is a single storey dwelling house located towards the south western corner and several ornamental trees along the front and eastern side setback. Refer to Image 1 below:



Image 1 – Subject Site

Adjoining improvements towards east and west are free standing dated dwelling houses with no noticeable architectural significance. Refer to Images 2 and 3 below:



Image 2 – Adjoining dwelling house to the west (corner Hobart Street and Australia Street), 2 Australia Street



Image 3 - Adjoining dwelling house to the east, 75 Hobart Street

Further east at 73 – 74 Hobart Street is a newly constructed two storey town house development. Refer to Image 4 below:



Image 4 – Multi Dwelling Housing at 73 – 74 Hobart Street

Another contemporary 2 storey multi dwelling housing development is located at 66 Hobart Street next to the public open space. Refer to Image 5 below:



Image 5 – Multi dwelling housing at 66 Hobart Street

Across Hobart Street is Sydney Trains assets including Sydney to Blue Mountains main railway line. The Sydney Train's assets are partially shielded by a stand of trees. Refer to Image 6 below:



Image 6 – Sydney Trains asset across Hobart Street

Directly behind the subject site (to the south) is a freestanding dwelling house at No. 4 Australia Street, refer to Image 7 below:



Image 7 – Dwelling house behind the subject site at 4 Australia Street

Existing improvements along Australia Street is an eclectic mix of multi dwelling housing and freestanding dated dwelling houses. The multi dwelling housing is more prevalent along the western side of Australia Street while the western side predominately accommodates single dated dwelling houses. Refer to Image 8 below showing an example of multi dwelling housing along Australia Street.



Image 8– Multi dwelling housing development at 3 – 5 Australia Street.

Please see Image 9 below for site’s aerial context.



Image 9 - Aerial Image of the site – Six Maps

2.3 Zoning Controls

The site is zoned R3 Medium Density Residential under the provisions of Penrith Local Environmental Plan 2010 and is attributed with a maximum permitted building height limit of 8.5m. Council's zoning map extract is provided below as Image 10.

The site and the broader locality is zoned R3 Medium Density Residential under the Penrith Local Environment Plan 2010 that permits multi-dwelling housing, shop top housing and boarding house development among other land uses. 'Boarding Houses' are permissible with consent within the R3 Medium Residential zone with the application made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009.



Image 10 – Zoning map - Source EPlanning Spatial Viewer

2.4 Strategic Planning Context

An analysis of the locality's broader strategic framework has been completed to understand the role that the State Government intends for the Penrith LGA and provides an analysis of the potential future role of the site within this suburb, given its location within proximity to the St Marys Railway Station and commercial centre.

2.4.1 Greater Sydney Region Plan – A Metropolis of Three Cities, March 2018

In March 2018, the Greater Sydney Commission (GSC) released the Greater Sydney Region Plan (GSRP) – A Metropolis of Three Cities. The importance of this region is acknowledged by GSRP as:

“The Western Sydney Airport will be the economic catalyst to transform the Western Parkland City over the next 40 years. It will attract globally significant defence and aerospace activities, and have significant freight and logistics strengths. The development of a new Western Economic Corridor with north-south access for the Western Parkland City and the Western Sydney Airport and Badgerys Creek Aerotropolis at its heart, will agglomerate the economic activities of the city. The established centres of Liverpool, Greater Penrith and Campbelltown-Macarthur will be critical locations for commercial and retail businesses and health, education and other services as the city grows.”

The GSRP notes the population of *Western Parkland City* to grow from 740,000 in 2016 to 1.1 million by 2036, and to well over 1.5 million by 2056. The GSRP further notes, *The Australian and NSW Governments will deliver the first stage of the North South Rail Link from St Marys to the Western Sydney Airport and Badgerys Creek Aerotropolis.*

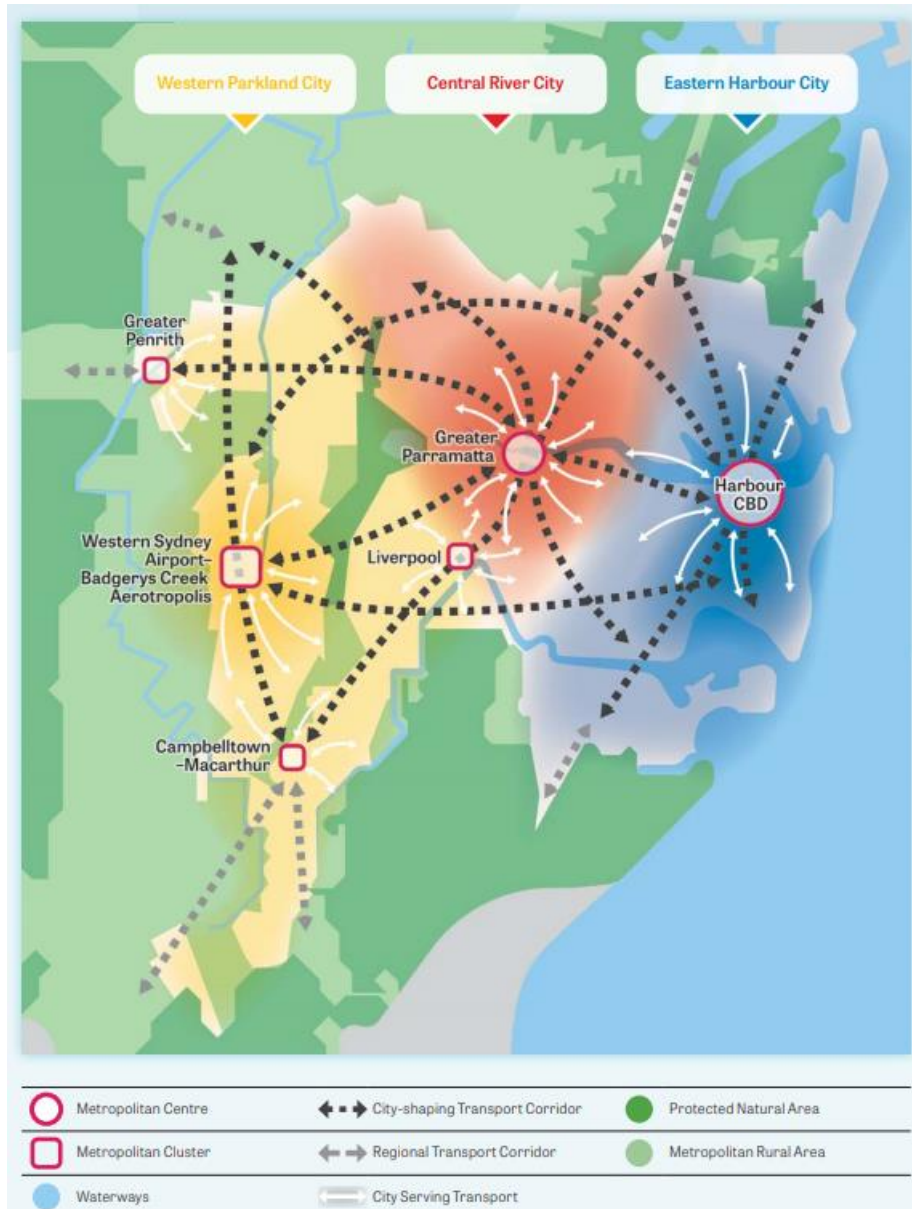


Image 11 – Metropolis of Three Cities – Source GSRP

Objective 10 of The GSRP is about Housing Supply and includes reference to the preparation of Housing Strategies at the right locations with specific reference to boarding houses and other affordable form of housing (highlighted in underlining). The GSRP identifies the following projected housing target for greater Sydney, refer Image 12:

District	0-5 year housing supply target: 2016-2021	20-year strategic housing target: 2016-2036
Central City	53,500	207,500
Eastern City	46,550	157,500
North	25,950	92,000
South	23,250	83,500
Western City	39,850	184,500
Greater Sydney	189,100	725,000

Image 12 – Housing Targets Table of GSRP – p62

The GSRP notes (p64) that, “Housing strategies play an important role in planning for more liveable neighbourhoods and meeting housing demand by responding to:

- **Housing need:** the projected housing need and demographic characteristics of the existing and growing community, including different cultural, socio-economic and age groups and the availability of a range of housing types, tenures and price points.
- **Diversity:** including a mix of dwelling types, a mix of sizes, universal design (refer to Objective 6), seniors and aged-care housing, student accommodation, group homes, and boarding houses.
- **Market preferences:** market demand considerations that drive the take-up of housing, including local housing preferences.
- **Alignment of infrastructure:** opportunities to optimise transport infrastructure enabling access to jobs, health, education and recreation facilities, that align with State and local government infrastructure priorities (refer to ‘More housing in the right locations’).
- **Displacement:** managing potential impacts of growth on existing communities such as displacement by understanding the location and volume of affordable rental housing stock.
- **Amenity:** opportunities that improve amenity including recreation, the public realm, increase walkable and cycle friendly connections to centres (refer to Objective 12).
- **Engagement:** engaging the community on a range of options and neighbourhood priorities that can be integrated with new housing and benefit existing and future communities.
- **Efficiency:** opportunities for innovations in waste management, water and energy provision by determining the nature of growth, location and demand for utilities.”

Zoning of the subject site and the broader locality to R3; its close proximity to transport and commercial hub and permissibility of a range of housing choices including boarding house is considered well aligned to the above objectives. Further the proposed boarding house project on the subject site is a balanced and appropriate response to the above objectives.

2.4.2 Greater Penrith to Eastern Creek Growth Area

Recognising the importance of St Marys within Western Parkland City and the need for further enhanced connectivity; the GSRP notes:

“A growth area connecting the Penrith CBD and St Marys through to the M7 Motorway/Eastern Creek with new mass transit lines has been identified. This provides the opportunity to integrate land use and transport planning at a suitable scale. Growth in appropriate locations can contribute to a connected, vibrant Western Parkland City with more homes, jobs, services and open space.

A first stage of a North South Rail Link, from St Marys to Western Sydney Airport and Badgerys Creek, a potential connection from St Marys to Rouse Hill, intersecting with existing heavy rail corridors, creates opportunities for renewal and revitalisation.” p66.

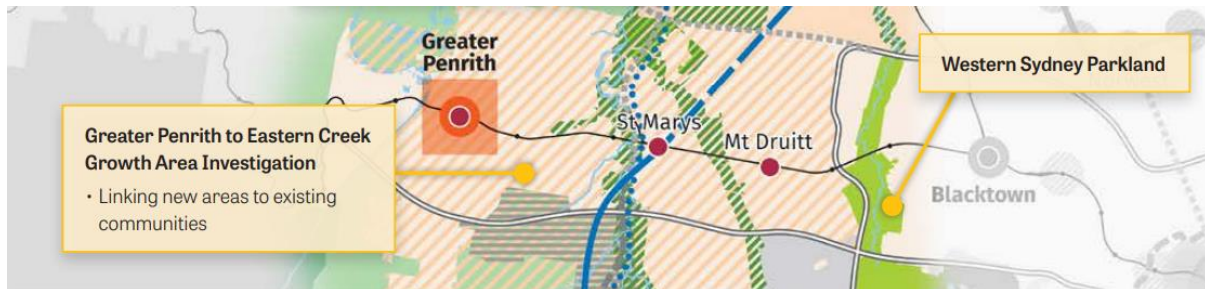


Image 13 – Extract of map for Growth Areas identification of GSRP – p17

The above highlights the importance of subject site and the broader locality of St Marys, among other, for provision of housing choices and housing affordability.

2.4.3 Penrith Local Housing Strategy

In response to GSRP, Penrith Council has released its own *Penrith Local Housing Strategy* (LHS) in September 2019. The LHS under, Penrith’s *Housing Framework Plan* notes, ‘*the Land within 800m to the south of St Mary’s Train Station and/or within the St Mary’s Town Centre boundary as incremental changing areas up to year 2026*’.

Under ‘Housing Diversity’ the LHS notes, ‘*This strategy also identifies opportunities to diversify the housing stock in Penrith to cater for different community groups and housing submarkets such as seniors housing, boarding housing and executive housing.*’

On page 14 the LHS provides the following objectives relating to boarding house development:

‘B14 In recognising boarding houses play an important role in providing suitable accommodation for students and key workers in proximity to Western Sydney University, Nepean Hospital and Metropolitan, Strategic and Key Centres, investigate appropriate locations for boarding houses in conjunction with the preparation of local character statements whilst discouraging clustering.’

It appears that within Penrith LGA, the boarding houses are currently clustered around Western Sydney and Nepean Hospital region. In this regard the LHS notes, ‘*Since 2013, there have been 20 development applications for boarding houses within Kingswood, delivering approximately 360 boarding room*’.

The clustering of boarding houses in any location is not ideal and goes against the LHS objectives and recommendations towards supply of boarding houses. The proposed boarding house is located

within a medium density residential area and our research indicates that there is no clustering of boarding houses in this location.

In summing up the strategic context, it is our view that the proposed boarding house at the subject site is an appropriate response to GSRP and Penrith LHS. It will supply quality affordable housing to key workers near a major transport hub and is also located close to a significant commercial center of St Marys.

PART C PROPOSED DEVELOPMENT

3.1 Overview

The proposal seeks development consent for the construction and use of a two storey boarding house accommodating a total of 16 boarding room and a manager's room. The details of the proposal are as under:

- Demolition of existing structures.
- Removal of 4 trees.
- Ground Floor
 - 2 x accessible single room
 - 1 x manager's room
 - 1 x common room
 - Waste storage room
 - 9 x car parking spaces including 2 x accessible spaces
 - 3 x motor bike spaces
 - 10 bicycle spaces
 - Outdoor clothes drying area
 - Communal open space
- First Floor
 - 14 x single rooms
 - All front rooms have private open space in the form of a balcony.

Each room is provided with its own kitchenette, toilet and shower facilities.

The proposal when completed, will be a purpose built boarding house to provide affordable and flexible rental accommodation to suit a range of potential tenants. The boarding house will accommodate a maximum of 16 lodgers (based on room configuration).

The boarding house has been designed to present as a two storey residential development boasting its own character while ensuring that it is respectful of its current neighbours and that will blend in with the desired future 2 storey medium density built character of the area. It is primarily designed in two identifiable horizontal planes of ground and first floor levels. The ground floor level has well positioned entry foyer with parking and other services appropriately screened for positive impacts on the streetscape. The first floor street facing rooms are provided with balconies that will provide a direct connection with public domain in accordance with CPTED principles. The front setback is landscaped with appropriate planting and pedestrians' paths consistent with any contemporary residential development in the area.

Existing improvements along Hobart Street does not have an identifiable built or streetscape character to follow. The proposed design will set its own character and careful consideration has been given to the scale, size and form of the proposal to the anticipated character of the area. Design consideration has also been given to the residential amenity including aspects such as privacy and solar access for both future residents of the proposal and those of existing surrounding properties.

PART D SITE PREPARATION

4.1 Civil Works

The site is generally level with a gentle slope towards east. There will be minimum cut and fill to support the proposed development.

4.2 Site Contamination

The site has been historically used for residential purposes and a walkover the site did not identify any evidence of contamination. Refer to further discussion under *State Environmental Planning Policy No. 55 – Remediation of Land* in Part F of this report.

4.3 Bush Fire Studies

The subject site is not located within a bush fire control area.

4.4 Flood Studies

The subject site is not affected by any flooding.

4.5 Tree Protection

There are a total to 14 trees located on the site and one on the nature strip along Hobart Street. A detailed tree report is prepared by Treeheaven Envirosapes and is provided at Appendix N of this report.

4.6 Geotechnical Investigation

Geotechnical Consultants Australia Pty Ltd (GCA) were appointed to carry out a detailed geotechnical investigation of the site. Their report is included at Appendix F. The GCA report finds the site suitable for construction of a two story development and includes a series of recommendation to be followed prior to commencing works and during construction works. It is considered that Council will impose those recommendation as conditions of the development consent.

PART E DEVELOPMENT PARTICULARS

5.1 Building Typology

The proposed building will appear as a two storey residential development which is considered to have its own identity and includes architectural features that will be compatible with the desired future character of the area. The main entrance is legible from the public domain and balconies at the first floor level overlook Hobart Street and public footpath. The managers room and main reception area is strategically located close to the main entrance and all facilities are accessible for a person with disability.



Image 14 – Artistic image 1 of the proposed development



Image 15 – Artistic image 2 of the proposed development.

5.2 Typical Layout of Rooms

Each boarding room is self-contained with its own kitchenette, toilet, shower and a sitting area. The first floor rooms, 05, 06, 07, 08 and 09; facing Hobart Street are provided with balconies overlooking Hobart Street. Refer to the following extracts from architectural plans.

5.3 Landscaping

The proposed building will be nestled within extensive landscaped areas and the total landscaped area exceeds the minimum required. A detailed landscape plan with plant species is included at Appendix D.

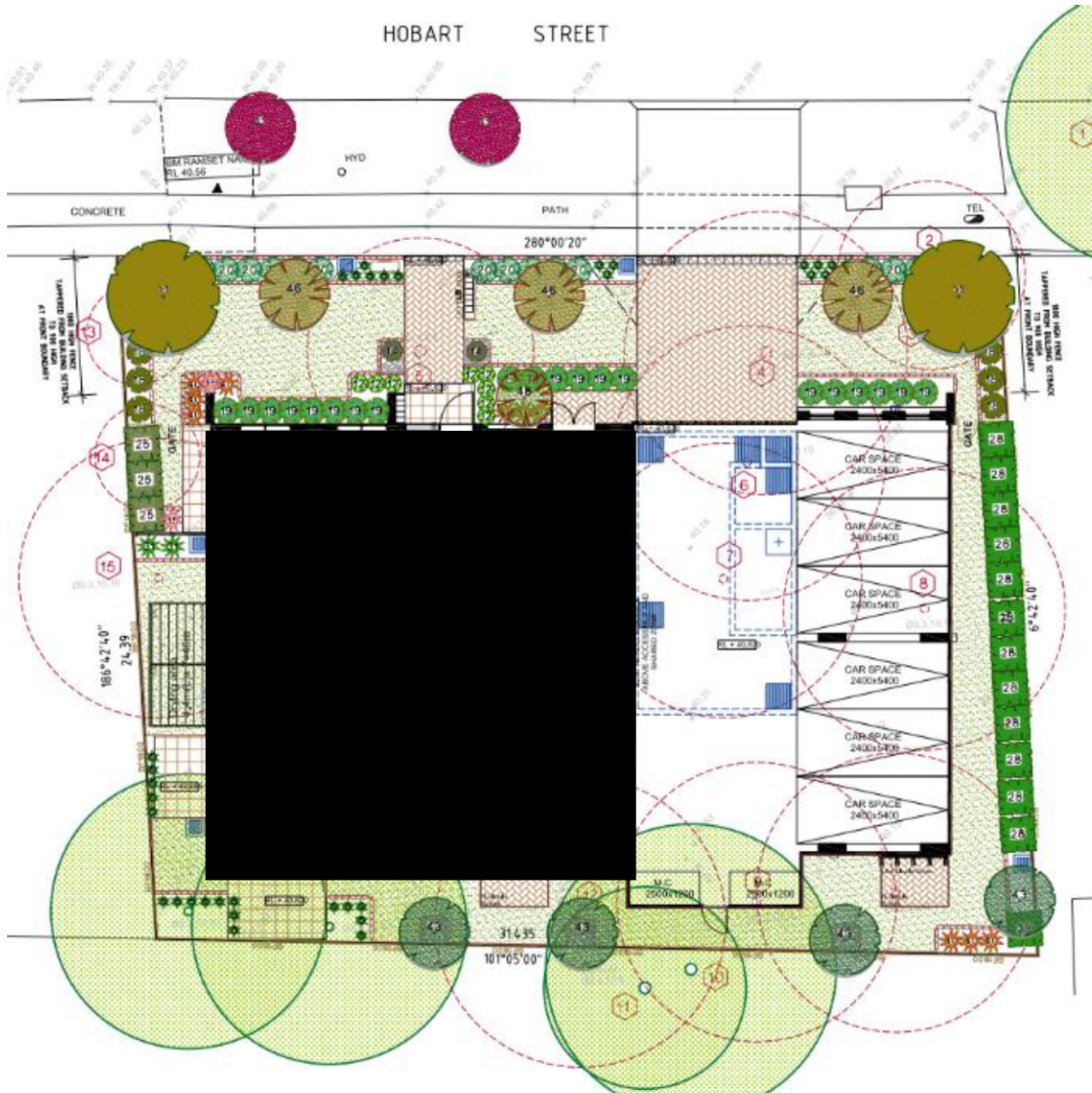


Image 18 – Landscape Plan – Extract from Concept Landscape Plan, DWG # 21054 DA, Rev A, dated 10 May 2021.

5.4 Signage

No signage is proposed.

5.5 Operational Details

A detailed Plan of Management (POM) is prepared and included at Appendix M. The POM details all anticipated activities of the proposed boarding house and reflects the prescribed requirements of the Penrith Development Control Plan 2014 and comments provided within pre lodgment advisory notes, as applicable.

PART F STATUTORY PLANNING FRAMEWORK

6.1 Overview

This Part of the SEE assesses and responds to the legislative and policy requirements for the project in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act). The statutory planning framework relevant to the preparation of the SEE includes:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *Sydney Regional Environmental Plan (SREP) No. 20 - Hawkesbury Nepean River*
- *Draft Housing Diversity State Environmental Planning Policy*
- *Penrith Local Environmental Plan 2010 (PLEP)*

6.2 Environmental Planning & Assessment Act 1979

6.2.1 Section 4.15(1) of the EP&A Act

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in Table 2 below.

Table 2: Section 4.15 (1)(A) Considerations	
Section 4.15(1)(a)(i) any environmental planning instrument, and	Refer to Part F of this report.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	Draft Housing Diversity State Environmental Planning Policy is considered as part of this assessment. We are not aware of any other draft instrument.
Section 4.15(1)(a)(iii) any development control plan, and	Penrith Development Control Plan 2014 (PDCP). The PDCP translates key objectives and policies of PLEP 2010 for orderly development of the site. The general controls in Volume 1, as they apply to the proposal and as provided within the PLEP 2010 will remain applicable to the Site. An assessment against the relevant provisions of the PDCP are provided in Part F.

Section 4.15(1)(a)(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	No planning agreement applies to the Site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	Refer to Section F of this SEE.
Section 4.15(1)(b)-(c)	Discussed throughout this SEE.
Section 4.15(1)(d)-(e)	It is considered that Council will notify the application to the public. As demonstrated throughout this report, the proposal is considered in the public interest.

6.2.2 Section 4.46 of the EP&A Act – Integrated Development

Section 4.46 of the EP&A Act defines ‘integrated development’ as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The proposed development will not trigger any concurrence from state agencies as nominated under Section 4.46 of EP&A Act.

6.3 Environmental Planning & Assessment Regulation 2000

The Proposal is prepared in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). Clause 50 and Part 1 of Schedule 1 of the EP&A Regulation stipulates how a DA must be “made”. The DA package satisfy the relevant criteria of the Regulations.

6.4 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) aims to facilitate the effective delivery of infrastructure across the state.

Clause 45 of SEPP Infrastructure has been considered in preparing this application as under:

- (1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following*
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) development carried out*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*
 - (c) installation of a swimming pool any part of which is*

- (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or*
- (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,*
- (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.*
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must*
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

In view of the existing electricity distribution network in the vicinity of the site; Council is expected to refer the development application to the relevant energy providers.

Clause 87 of SEPP Infrastructure has been considered in preparing this application as under:

An acoustic report is submitted with the development application providing evidence on compliance with the prescribed noise criteria. In view of the proximity of railway line; Council is expected to refer the development application to Sydney Trains for concurrence.

6.5 State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. The Department of Planning publication “Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land” provides advice on the process of determination as to whether a site is contaminated. In this regard, Section 2.2 of the Guidelines states:

When carrying out planning functions under the EP & A Act, a planning authority must consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination.

When an authority carries out a planning function, the history of the land use needs to be considered as an indicator of potential contamination. Where there is no reason to suspect contamination after acting substantially in accordance with these Guidelines, the proposal may be processed in the usual way.

The Guidelines continue at Section 3.2.1 by stating that:

The potential for contamination is often linked to past uses of land and a good early indicator of possible uses is land zoning. Contamination is more likely to have occurred if the land is currently, or was previously, zoned for industrial, agricultural or defense purposes.

Geotechnical Consultants Australia Pty Ltd (GCA) were engaged to carry out a preliminary assessment of the site. GCA in their report dated 22 March 2021 concluded that:

“GCA considers that the potential for significant contamination of soil and groundwater within the site to be low. Therefore, we find that the site is suitable for the proposed development and land use, providing the recommendations in Section 12 below are implemented during the Construction Certificate (CC) stage.”

The GCA included a series of recommendation prior to and during construction activities. It is considered that Council will impose those recommendation as conditions of consent. GCA’s full report is included at Appendix K.

6.6 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 was gazetted on 1 July 2004 and created the requirement for a statewide building sustainability index, which seeks to encourage sustainable residential development. This policy aims to ensure consistency in the implementation of the BASIX scheme throughout the State.

In accordance with the requirements of this SEPP, each application for residential development must be accompanied by a list of commitments made by the applicant as to the manner in which the development will be carried out, to become conditional upon the development consent. A BASIX Certificate prepared in accordance with the legislation is included at Appendix C.

6.7 State Environmental Planning Policy (Affordable Rental Housing SEPP) 2009 (ARH SEPP)

The aims of ARH SEPP are:

- (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 proposed development satisfies the aims of ARH SEPP as it will:

- Facilitate the delivery of new affordable accommodation, within an accessible location and within proximity to transport and employment opportunities;

- Provide residential accommodation consistent with the medium density zone objectives; and
- Facilitate the revitalisation of the local area in accordance with the strategic directions of GSRP and Penrith LHS.

Division 3 of the ARH SEPP provides specific provisions for boarding house development. A detailed assessment against the relevant provisions of ARH SEPP is provided in Table 3 below:

Compliance Table Affordable Rental Housing SEPP 2009

Table 3: ARH SEPP Compliance Table		
26 Land to which Division applies	Zone R3 Medium Density Residential	Yes
27 Development to which Division applies (1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses. (2) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area. (3) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	The subject site is located within R3 Medium Density Residential zone and this clause is not applicable.	N/A
28 Development may be carried out with consent Development to which this Division applies may be carried out with consent.	This development application formally seeks Council’s consent for the erection of a boarding house.	Yes
29 Standards that cannot be used to refuse consent (1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and	There is no maximum floor space ratio applicable to the subject site under the provisions of Penrith Local Environmental Plan 2010 (PLEP).	N/A

<p><i>scale of the buildings when expressed as a floor space ratio are not more than—.....</i></p> <p>(2) <i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—</i></p> <p>(a) building height <i>if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,</i></p> <p>(b) landscaped area <i>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</i></p> <p>(c) Solar access <i>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p> <p>(d) Private Open Space <i>if at least the following private open space areas are provided (other than the front setback area)</i></p> <p>(i) <i>one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</i></p> <p>(ii) <i>if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,</i></p> <p>(e) parking <i>if</i></p>	<p>Under the provisions of Clause 4.3 of PLEP 2010, a maximum building height of 8.5m is applicable to the subject site. The proposal complies with the maximum building height standard.</p> <p>There is no consistent front setback and its landscape treatment along Hobart Street. The proposal includes an average 5.77m landscape strip within the front setback which is comparable with the most recent development at 73-74 Hobart Street and other recent town house development along Australia Street.</p> <p>The proposal includes a communal living room at the ground floor level with a western opening that will receive 3 hours of sunlight from 12:00pm until 3:00pm.</p> <p>A landscaped area measuring 119m² is provided as an extension of the common room.</p> <p>The manager’s room is provided with a private open space measuring 11m² and complies with the minimum 2.5m dimension.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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<p><i>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</i></p> <p>(f) accommodation size <i>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least</i></p> <p><i>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</i></p> <p><i>(ii) 16 square metres in any other case.</i></p> <p><i>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</i></p>	<p>The proposal with 16 boarding rooms and a manager’s accommodation will require a total of 9 parking spaces. Those are provided at the ground floor level. This complies with ARH SEPP parking requirements.</p> <p>Each room complies with the minimum area requirements. Refer to GFA calculation sheet in Appendix B.</p> <p>Each room is provided with its own private kitchen and bathroom facilities.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>30 Standards for boarding houses</p> <p><i>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</i></p> <p><i>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</i></p> <p><i>(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,</i></p> <p><i>(c) no boarding room will be occupied by more than 2 adult lodgers,</i></p> <p><i>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</i></p> <p><i>(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,</i></p> <p><i>(f) (Repealed)</i></p>	<p>The proposed boarding house has 17 rooms, including manager’s room. A common room is provided.</p> <p>None of the proposed rooms exceeds the maximum size limit. Refer to GFA calculation sheet in Appendix B.</p> <p>Only single rooms are provided. Each room is provided with its own private bathroom and kitchen facilities.</p> <p>While the maximum capacity is less than 20 lodgers; an onsite manager’s accommodation is provided.</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>

<p>(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,</p> <p>(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.</p>	<p>The proposal will require a total of 3 motorcycle spaces. It includes 3 motorcycle parking spaces and complies with the requirements.</p>	<p>Yes</p>
<p>30A Character of local area 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.</p>	<p>A character assessment is provided in the following section.</p>	<p>Yes</p>

6.7.1 Compatibility of the proposed boarding house with the character of the local area

The existing character of the locality is predominately residential with 1 and two storey dwelling houses of varying age. Largely there is no distinguishable architectural style or era associated with the existing housing stock. Along Hobart Street the existing character is mostly dated freestanding dwelling houses interspersed by a couple of contemporary multi dwelling housing development. Given the age of current housing stock in the locality a key consideration in the current circumstance is the desired future character of the area. As addressed, the site is zoned R3 Medium Density Residential under the Penrith LEP 2010 and boarding houses and multi-unit housing are permissible on the site and in the surrounding locality.

In accordance with the strategic directions of GSRP and Penrith LHS, renewal of established residential estate is inevitable and potential residential redevelopment pattern and form is heavily dictated by historical subdivision patterns, which will dictate the shape and form of residential areas. The subject lot is of insufficient depth to accommodate multi dwelling housing development and as such the proposed boarding housing is considered most efficient use of an established parcel of urban land.

In consideration of the likely future character of this local area and anticipated building forms, the current proposal will be entirely consistent with the future character of the locality as envisaged under the controls contained within the Penrith LEP 2010 and visions of Penrith LHS and GSRP. Further, with a two storey built form, it will not be out of context with the existing established character.

This SEE has considered the test for the meaning of ‘compatibility’ within the ARH SEPP set out in Project Venture Developments v Pittwater Council [2005] NSWLEC 191 at [22]-[24], as applied in Epping Property Developments Pty Ltd v Parramatta City Council [2017] NSWLEC 1095 at [87].

The compatibility test provides as follows:

[22] There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

[23] It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.

[24] Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.

Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

Is the proposal's appearance in harmony with the buildings around it and the character of the street?

In addressing what development is deemed 'compatible', the following should be considered:

1. *What is 'compatible': Compatibility is different from sameness or likeness. Compatibility means being able to exist together in harmony. It is generally accepted that building can exist together in harmony without having the same density, scale and appearance.*

While the proposed boarding house has a different typology, and in the absence of any discernible built character, presents a character of its own compared to surrounding development; it is still a form of residential development with comparable density, bulk and landscape setting. It is considered that the proposed development can exist with the surrounding development in harmony without having the same appearance. The proposal has been designed to provide adequate setback and separation from the adjoining properties to maintain their amenity and privacy. Its simple building form and choice of material will further ensure for the proposal to become more compatible with the emerging desired future character of the area.

2. *Need to reproduce urban environments: Is the existing environment desirable and would reproducing similar development to achieve "compatibility" or compliance with the development control plan control represent the best urban design outcome for the site compared to the proposed development?*

As mentioned elsewhere in this SEE, the immediate area predominately presents older housing stock of single and two storey dwellings. Built form and streetscape analysis does not identify any identifiable built character. It is therefore our view that reproducing a similar built form is:

a) not practical and

b) it will not result in most efficient use of an established urban land.

The proposal generally complies with all existing building envelope criteria resulting in a compatible built form which would not distract from the desired future character of the area. Accordingly, by demonstrating design excellence and aligning with the vision of Penrith LHS and strategic directions of GSRP, the proposal is considered to present an acceptable urban design outcome for the site in comparison to merely reproducing similar development currently occurring in the general locality.

3. *Physical and visual impact: Where compatibility between a building and its surround is desirable, it needs to be determined whether the proposal's physical impact on the surrounding development is acceptable; and whether the proposal's appearance is in harmony with the building around it and character of the street.*

As demonstrated throughout this SEE, the proposal is not anticipated to result in any adverse physical or visual impacts on the surrounding development. As addressed in Point 1 above, the proposal will provide a built form which is consistent with the existing built form adjoining the site. The proposed building envelope has also been carefully developed to be conducive to the residential environment in close proximity to the site. Therefore, the proposal will not result in any unacceptable physical or visual impacts on the surrounding development and is deemed to be in harmony with the surrounding area and the character of the locality. Refer to Appendices I and P for photo montages and details of colour and material finishes.

6.8 Sydney Regional Environmental Plan (SREP) No. 20 - Hawkesbury Nepean River

The proposal has been extensively reviewed by stormwater and drainage engineers. It is considered that stormwater can be adequately conveyed to the existing street network. Appropriate erosion and sediment controls can be implemented through construction and it is anticipated that conditions of consent will reinforce this. A concept stormwater plan is submitted with the development application and it is included at Appendix O.

6.9 Draft Housing Diversity – State Environmental Planning Policy

The proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) has been prepared by Department of Planning, Industry and Environment (DPIE). The draft Housing Diversity SEPP has been introduced by DPIE as part of the NSW Government response to COVID-19, to accelerate projects that support employment and economic development. DPIE has indicated that *'as NSW recovers from COVID -19 it will be important to ensure that the planning policies that support construction jobs, including for housing construction jobs are fit for purpose'*.

The Housing Diversity SEPP seeks to consolidate several existing housing related SEPPs and make several amendments to the existing development controls of these SEPPs. The amendments relate to several affordable housing types such as Boarding Houses. The SEPP seeks to provide separate requirements for certain housing delivered by private developers and those for community housing providers and NSW Land and Housing Corporation. Currently there are three State Environmental Planning Policies (SEPPs) that relate to the delivery of affordable housing. These include:

- State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70).

- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP).
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

6.9.1 Amendments to Boarding House Controls

Amendments are proposed to the existing boarding house controls. The most substantial changes include boarding houses being split into two types of land use definitions that includes a “Boarding House” if they are operated by a community housing provider or “Co-Living” if privately run. The other change includes the removal of boarding houses as a mandatory permissible land use in the R2 zone. Some other important changes to boarding house development are as under:

- ‘Boarding Houses’ now must be managed by a Community Housing Provider (CHP) otherwise they will be known as ‘Co-Living’.
- Co-living is mandatory where RFB’s are permitted.
- Co-Living needs to comply with Council LEP for height and FSR.
- Co living Parking is 0.5 spaces per room.

A range of other amendments are proposed in the Draft Housing Diversity SEPP. These include two new land use definitions for ‘build to rent’ and ‘student accommodation’. Other amendments include changes to group homes, seniors housing and developments that Land & Housing Corporation propose.

The proposed development remains consistent with the Draft Housing Diversity SEPP as it would continue to comply with permissibility, height and parking rates.

6.10 Penrith Local Environmental Plan 2010

The Penrith Local Environmental Plan 2010 (PLEP 2010) is the primary environmental planning instrument (EPI) that applies to the Site. The aims of PLEP 2010 are as under:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,*
- (b) to promote development that is consistent with the Council’s vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,*
- (c) to accommodate and support Penrith’s future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith’s communities and safeguard residential amenity,*
- (d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and*

skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,

- (e) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,*
- (f) to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,*
- (g) to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,*
- (h) to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.*

The proposal is generally considered consistent with the aim of PLEP 2010 as it provides orderly development of an existing residential lot offering affordable housing choices at a location close to all basic needs for an urban environment.

The relevant provisions of PLEP 2010 as they relate to the proposed development and the site are considered below:

6.10.1 Zoning

The site is zoned R3 Medium Density Residential under PLEP 2010 as shown at image 10 above.

The objectives of R3 zone are as under:

- To provide for the housing needs of the community within a medium density residential environment.*
- To provide a variety of housing types within a medium density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To provide for a concentration of housing with access to services and facilities.*
- To enhance the essential character and identity of established residential areas.*
- To ensure that a high level of residential amenity is achieved and maintained.*
- To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposal is consistent with the R3 zone objectives for the following reasons, as further detailed throughout the SEE:

- The proposal will provide high quality affordable accommodation with retail/ commercial services available in proximity;

- The proposal will provide affordable residential accommodation that is well-integrated with the existing and proposed local land uses;
- Through the incorporation of high-quality urban design, the proposed development will positively contribute towards revitalization of the area;
- The proposal has provided adequate setbacks and building separation from the adjoining residential properties to the south, east and west;
- The proposed development is considerate to the intentions of the medium density residential zone;
- The proposed boarding house has been designed to facilitate passive surveillance to overlook the public domain area of Hobart Street and railway infrastructure across Hobart Street.

6.10.2 Permissibility

The proposed development is permitted under the provisions of R3 zoning. A boarding house is defined as:

- boarding house** means a building that—
- (a) is wholly or partly let in lodgings, and
 - (b) provides lodgers with a principal place of residence for 3 months or more, and
 - (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
 - (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,

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

Note—

Boarding houses are a type of residential accommodation—see the definition of that term in this Dictionary.

The proposed development is seeking approval for a boarding house development. The proposed development as boarding house is permitted on the site with consent.

Table 4 provides a commentary on development's consistency with the relevant development standards and controls under PLEP 2010.

Table 4: Development Standards of PLEP 2010		
Clause	Comments	Compliance
Clause 2.1 – Zoning	The subject site is zoned R3 medium density residential where boarding houses are permitted.	Yes
Clause 4.1 – Minimum Lot Size	The site is subject to a minimum 400m ² lot size. The site has an area of 774m ² and complies. Refer to Image 19.	Yes
Clause 4.1A – Minimum subdivision lot size	Not applicable	N/A

Clause 4.3 – Height of Buildings	The proposed development complies with maximum 8.5m height standard. Refer to Image 20.	Yes
Clause 4.4 – Floor Space Ratio	No prescribed FSR is applicable to the site.	N/A
Clause 4.6 – Exceptions to development standards	The proposal is not seeking any variation to a development standard.	N/A
Clause 5.10 – Heritage	The site is not identified as a heritage item, located in the vicinity of a heritage item, or located in a heritage conservation area (HCA).	N/A
Clause 7.1 – Earthworks	Minimum cut and fill is proposed. The works are not considered to have any significant environmental or amenity impacts.	Yes
Clause 7.2 – Flood planning	The site is not located within a flood affected area.	N/A
Clause 7.4 – Sustainable development	<p><i>(a) conserving energy and reducing carbon dioxide emissions,</i> <i>(b) embodied energy in materials and building processes,</i> <i>(f) energy efficiency and conservation,</i> <i>(g) water conservation and water reuse,</i></p> <p>A BASIX certificate is provided which demonstrates proposal’s compliance with energy, water and thermal efficiency. The proposal is also considered to comply with Section J of NCC.</p> <p><i>(c) building design and orientation,</i> <i>(d) passive solar design and day lighting,</i> <i>(e) natural ventilation,</i></p> <p>The building is oriented in a north-west to south-east axis. With careful orientation of windows; all rooms and common areas are expected to receive adequate solar access and natural ventilation.</p> <p><i>(h) waste minimisation and recycling,</i></p> <p>A waste management plan is provided at Appendix H</p> <p><i>(i) reduction of vehicle dependence,</i></p> <p>The proposed development is located at short walking distance from the St Marys Railway Station. The bus stop along Phillip Street is 344m from the site and serviced by regular buses as demonstrated in Image 21.</p>	Yes

	<p><i>(j) potential for adaptive reuse.</i></p> <p>Given the current zoning and permitted land uses, there are limited opportunities for any adaptive reuse of the site.</p>	
Clause 7.5 – Scenic character and landscape values.	The subject site is not identified on Scenic and Landscape Values map.	N/A
Clause 7.6 – Salinity	The site is not known to be affected by salinity.	N/A
Clause 7.7 – Servicing	The site is within a well established urban area with all utilities available. It is understood that Council will impose appropriate conditions ensuring clearance from all service providers are obtained prior to issue of any occupation certificate.	Yes

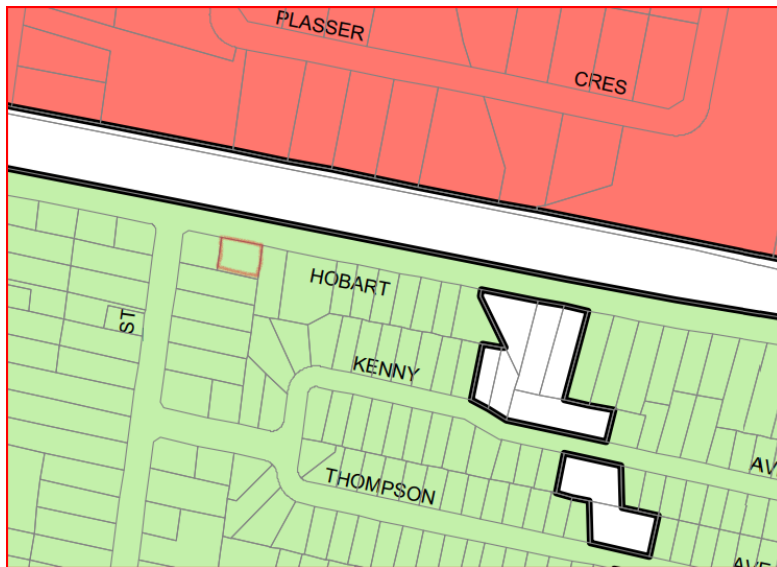


Image 19 - Minimum Lot Size Map 400m² – Penrith LEP 2010.

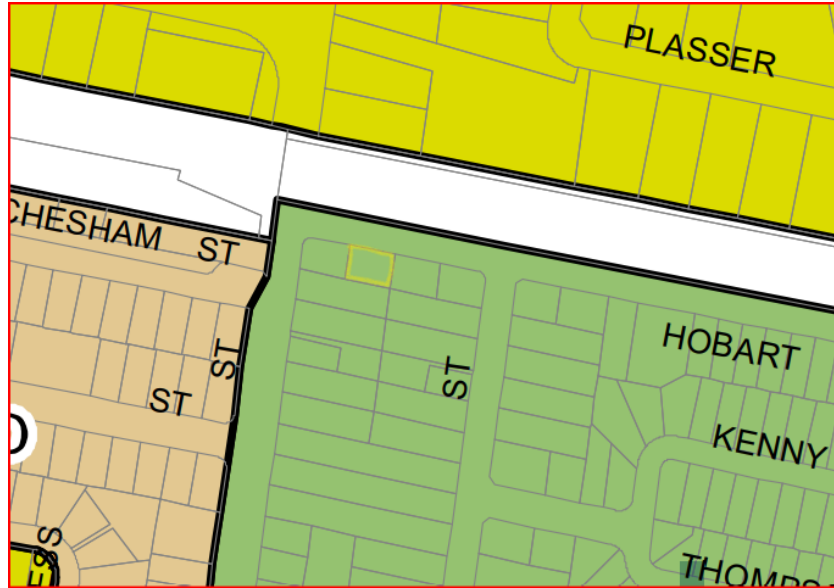


Image 20 – Height Map – 8.5m - Source – Penrith LEP 2010

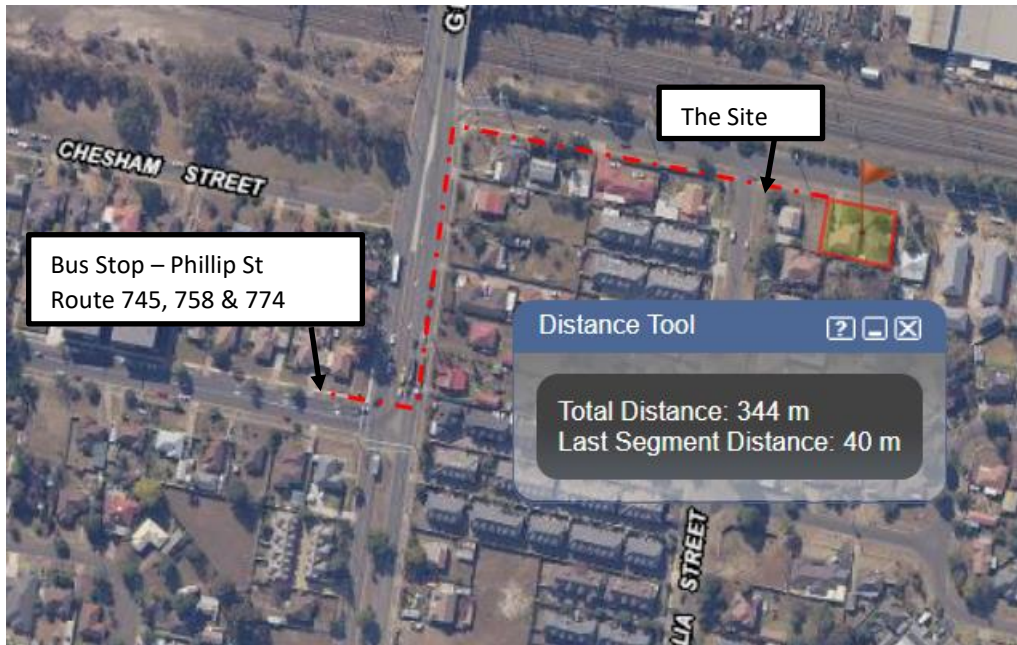


Image 21 – Walking distance to the nearest bus stop along Phillip Street

Part G – NON-STATUTORY PLANNING FRAMEWORK

The following non-statutory development control plan applies to the site and proposed development.

- Penrith Development Control Plan 2014

7.1 Penrith Development Control Plan (PDCP 2014)

The site is subject to the provisions of PDCP 2014. The PDCP 2014 is divided into two volumes 1 & 2. Parts A to D provide introduction, principles, city-wide provisions and development controls while Part E provides precinct controls. Part D, Section 5.11 provides specific controls as applicable to Boarding House development. The following tables provide a compliance summary with the relevant provisions:

Table 5: Compliance with General Provisions of the PDCP 2014			
Clause	Control	Comments	Compliance
1.1 Site Planning	1.1.1. Site Analysis	A site analysis has been prepared and is attached as part of the DA package included at Appendix B. The site analysis identifies the key features of the site and surrounds. This analysis informed the design of the proposed building.	Yes
	1.1.2. Scenic and Landscape Values	As mentioned elsewhere in this report, the site is not located within the Scenic and Landscape Values Map under the PLEP 2010.	N/A
1.2 Design Principles	1.2.1 Certification System	N/A	N/A
	1.2.2 Built Form - Energy Efficiency and Conservation	The proposed development maximises solar access to its rooms and communal spaces. The orientation of entry door and windows of each room offer reasonable natural ventilation.	Yes
	1.2.3. Building Form - Height, Bulk and Scale	The proposal has a compliant building envelope, height and landscape area. The proposal is consistent with the existing and desired built character of the area. In the absence of any identifiable character of the area, the proposal has a character of its own. Any overshadowing impacts are minimal and setbacks/building separation are generally acceptable.	Yes
	1.2.4. Responding to the Site’s Topography and Landform	The site is generally level and any cut and fill are minimal with negligible impacts.	Yes

	1.2.5. Safety and Security (Principles of Crime Prevention through Environmental Design)	The proposal includes causal surveillance of Hobart Street through ground floor openings and first floor level balconies. The carpark and side setbacks are secured through security doors. The proposal is considered consistent with the principles of CPTED.	
	1.2.6 Maximising Access and Adaptability	The proposed development is fully accessible for a person with disability. The adaptable rooms, accessible parking and common facilities are located at ground floor level with levelled path of travel. An Access Report prepared by Vista Access Architects is provided with this DA package and included at Appendix J. the report demonstrates compliance with the access requirements.	Yes
C2 Vegetation Management	2.1 Preservation of Trees and Vegetation	<p>The site is not identified as being located within the Natural Resource Sensitive Map under Penrith LEP 2010.</p> <p>The proposal includes removal of a few trees from the subject site which are detailed in the Tree Inspection Report submitted with the DA package and included at Appendix N.</p> <p>A concept landscape plan is also submitted with the development application detailing location and type of tree planting throughout the site and other landscape treatments. The subject site does not contain any significant trees or vegetation.</p>	Yes
	2.2 Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas	Council's mapping details does not identify the subject site within a biodiversity corridor or having any remanent indigenous vegetation.	N/A
	2.3 Bushfire Management	N/A	N/A
C3 Water Management	3.2 Catchment Management and Water Quality	The proposed development is not considered to impact on the water quality of the area. A detailed stormwater management plan is submitted with this development	Yes

		application and included at Appendix O.	
	3.3 Watercourses, Wetlands and Riparian Corridor	The site is not located within proximity to a watercourse, wetland or riparian corridor.	N/A
	3.4. Groundwater	The proposed development with its modest footprint and minimal cut and fill is not considered to impact on the groundwater quality.	Yes
	3.5 Flood Planning	The site is not flood affected.	N/A
	3.6 Stormwater Management and Drainage	A detailed stormwater management plan is submitted with this development application and included at Appendix O.	Yes
	3.8. Rainwater / Storage Tanks	A rainwater tank is not required for the proposed development.	N/A
C4 Land Management	4.1 Site Stability and Earthworks	<p>The proposal seeks minimal cut and fill of the site as per the attached plans. It is considered that the proposed earthworks will have minimal adverse environmental or amenity impacts. The Geotechnical Report submitted with the development application, considers the site suitable for the proposed development.</p> <p>The proposal will not adversely affect or disrupt drainage and flood patterns, flood storage or soil stability in the area.</p>	Yes
	4.3 Erosion and Sedimentation	The proposal seeks minimal cut and fill of the site as per the attached plans. It is considered that the proposed earthworks will have minimal adverse environmental or amenity impact. An Erosion and Sediment Control Plan is attached as part of this application.	Yes
	4.4 Contaminated Lands	The site was previously used for urban purposes. The land is not known to have been used for any purposes that may give rise to the likelihood of contamination. Refer to discussion Under the provisions of SEPP 55 earlier in this report.	Yes
	4.5 Salinity	The site it is not known to be affected by Saline Soils.	N/A
C5 Waste Management	5.1. Waste Management Plans	A Waste Management Plan (WMP) is submitted as part of this application	Yes

		and included at Appendix H. The WMP outlines management of demolition and construction waste. Bin storage area is located at an accessible and enclosed location at ground floor level. Refer to attached Architectural Plans and WMP for details.	
C6 Landscape Design	6.1 Controls	A landscape concept plan accompanies this development application and included at Appendix D. The concept plan details the landscape embellishment works proposed and those works are consistent with landscape works anticipated for other medium density development in the area.	Yes
C7 Cultural and Heritage	7.1. European Heritage	The site is not identified as a heritage item, and it is not located within a heritage conservation area, nor located in the vicinity of a heritage item.	N/A
	7.2 Aboriginal Cultural and Heritage	N/A	N/A
	7.3 Significant Trees and Gardens	The subject site does not contain any trees or gardens that is of cultural, historical, scientific or aesthetic significance.	N/A
C10 Transport, Access and parking	10.2 Traffic Management and Safety	The proposed car parking is located wholly within the subject site at the ground floor level. The entry and exit points and internal circulation are compliant with relevant Australian and Council's standards. It is considered that the vehicular access and exit points are clearly defined and provide for the safe and efficient movement of vehicular traffic on site and entering and exiting the site. A Traffic and Parking Impact Assessment Report prepared by Motion Traffic Engineers is submitted with the development application and included at Appendix G. the report concludes, <i>"There are no traffic engineering reasons why a development consent for the proposed boarding house at 76 Hobart Street in St Marys, should not be granted."</i>	Yes

	10.3 Key Transport Corridors	The subject site is not located within a key transport corridor.	N/A
	10.5 Parking, Access and Driveways	Proposed car parking, entry/exit and internal circulation are compliant with Council's and relevant Australian Standards.	Yes

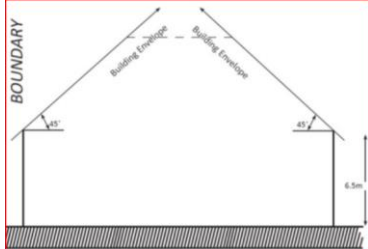
The following table provides an assessment against the Boarding House provisions of Section D5 of PDCP 2014:

Table 6: Compliance with Boarding House Provisions of the PDCP 2014			
Clause	Control	Comments	Compliance
B. Objectives	<p><i>a) To ensure that boarding houses fit the local character or desired future local character of the area.</i></p> <p><i>b) To minimise negative impacts on neighbourhood amenity.</i></p> <p><i>c) To ensure boarding house premises are designed to be safe and accessible.</i></p> <p><i>d) To respond to increasing neighbourhood densities resulting from boarding house development.</i></p> <p><i>e) To ensure that boarding houses operate in a manner which maintains a high level of amenity, health and safety for residents.</i></p>	<p>The proposal is compatible with the objectives of boarding house development in the following ways:</p> <ul style="list-style-type: none"> • The proposal complies with the height and building envelope controls, resulting in a compatible built form with minimal impacts on the amenity of the neighbourhood. • The internal layout is simple and legible and public private areas are well defined; offering a safe living environment for future residents. • The proposal will not result in an intensified form of residential development. 	Yes
1. Local Character	Boarding house development applications shall be accompanied by detailed site analyses to assist with the determination of local character.	Refer to earlier discuss on site and contextual analysis as well as character analysis.	Yes
	A neighbourhood analysis must be completed to identify the desired future character of the neighbourhood. It is	As discussed earlier, the proposal is consistent with the desired medium density character of the area.	Yes

	recommended that community consultation be undertaken as part of the analysis to determine aspirations for the future character.	Community consultation prior to lodgment of a small-scale boarding house development is not considered necessary. It is understood that Council would have gone through the community consultation process to establish the desired future character of the area prior to opting for R3 medium density residential zone for this area. Further, it is noted that Council will carry out a community consultation during the assessment of this development application.	
	Key elements that contribute to consideration of local and neighbourhood character include: <ul style="list-style-type: none"> - Surrounding land uses - Social and Historic Context - Scale - Built Form - Natural Environment - Density - Amenity - Safety and Security - Social dimensions and housing affordability - Aesthetics 	Noted. Refer to character analysis under Section F of this report. As discussed, the proposal is consistent with the emerging desired character of the area.	Yes
2. Built Form, Street Impact and Appearance	The entrance to the boarding house must be in a prominent position addressing the street.	The main pedestrian and vehicular entrances are off Hobart Street and are in a prominent position.	Yes
	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.	The proposed boarding house will cast additional shadows to the adjoining development to the rear at No. 4 Australia Street. The shadow diagrams, drawing No. 0011, dated 12 May 2021 indicates that No. 4 Australia Street will continue to receive minimum 3 hours of sunlight during mid winter.	Yes

	Boarding houses must be designed to have a sympathetic relationship with adjoining development.	The proposed boarding house has a compliant building envelop, height and FSR and is compatible with the desired built character of the area. With the generally compliant setbacks and landscape setting the proposal is also compatible with the existing single storey dwelling houses on adjoining properties.	Yes
	Proposals must demonstrate that neighbourhood amenity will not be adversely impacted by factors such as noise and privacy.	The proposed development is not considered to impact on visual privacy of adjoining neighbours. Communal living room and communal open spaces are located at the ground floor level and first floor level balconies are facing the street. As such any visual impact from the proposed development are considered minimal. A Noise Impact Assessment Report prepared by Rodney Stevens Acoustics is submitted with the DA package and included at Appendix L. the acoustic report concludes, <i>"Based on the noise impact study conducted, the proposed development is assessed to comply with Penrith Council noise criteria with recommendations from this report"</i> . It is considered that Council will impose the recommendations of acoustic report on the consent granted.	Yes
	There must be no basement encroachments to setbacks either above or below ground.	N/A	N/A
	Front Setback a) average setbacks of the adjoining neighbours; or	It is difficult to establish the average front setback along this section of Hobart Street considering the adjoining	Yes

	b) a 5.5m minimum setback, whichever is the greater.	dwelling house to the west is facing Australia Street and to the east the existing dwelling house is set deep into the block. The PDCP also requires boarding house in R3 zone to comply with the controls of multi dwelling housing development. The most recent town house development at 73 – 74 Hobart Street has provided a front setback of approximately 5.5m. The proposed boarding house has an average front setback of 5.77m at ground floor level and 6m to the front building line at first floor level. The proposal is compliant with the front setback controls.	
	Side setback 2m along not more than 50% of the building length. The remaining 50% is to achieve a minimum setback of 3m, these areas are to be a minimum of 1.5m wide.	The western side setback is 3.19m along majority of the building line and 2.81m over the remainder of the building line which exceeds the minimum requirements. The eastern side setback is 3.95m along majority of the building and 1.84m along the remainder. While a slight non compliance; the average eastern side setback is 2.9m which is considered acceptable. Refer to discussion at the end of this table that provides planning justification for the variation.	Yes No, but considered acceptable on merits.
	Rear Setback 4m for a single storey building (or any single storey component of a building) 6m for a two storey building (or any two storey component of a building)	The average rear setback at ground floor level is 3.26m and at first floor level the average rear setback is 5.07m. The rear setback is inconsistent with the prescribed rear setback controls mainly due to an unusually wider and	No, but considered acceptable on merits.

		shallower dimensions of the subject lot. Refer to discussion at the end of this table that provides planning justification for the variation.	
	<p>Building Envelope For R3 zone Figure D5.5 provides the following building envelope</p> 	The proposed development is well within the building envelope controls for R3 zone. Refer to Drawing No. 2001, Issue A, dated 12 May 2021.	Yes
	<p>Landscape Area 40% for R3 zoning</p>	With a site area of 773.6m ² a minimum 309.44m ² of landscaped area is required. The proposal has a landscape area of 414m ² as landscaped area equalling 53.5% which well exceeds the minimum requirements.	Yes
	<p>A boarding house proposal of a scale similar to residential flat building should comply with the controls and objectives for residential flat building within this DCP where they are no conflict with the requirements of the SEPP and objectives of the zone.</p>	The proposed boarding house is a different type of residential accommodation however its scale is comparable with a two storey residential flat building. An assessment against some of the relevant controls is provided in the following section.	Yes
	<p>Adopt a minimum lot width of 20m in the R4 High Density Residential zone. A minimum lot frontage of 22 is required for multi dwelling housing in R3 zone.</p>	The subject site has a frontage of 31.3m.	Yes
	<p>Where an adjoining property with a frontage of under 22m is likely to be isolated by a proposed development, applicants should provide documentation demonstrating that a reasonable attempt has been made to purchase and incorporate the isolated site.</p>	The adjoining property to the west No. 2 Australia Street has similar configuration as the subject site and with dual street frontage it is not considered to be isolated. The adjoining property to the east at No. 75 Hobart Street has a frontage less than 22m	Yes

		and this would be isolated as a result of proposed development. Attempts have been made to purchase the site; however at this point in time such attempts are unsuccessful.	
3. Compatibility with streetscape in the front setback	A minimum of 18m ² 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.	The proposal has excessive deep soil area within the front, side and rear setbacks.	Yes
	A watering system that does not rely on lodgers to maintain plantings.	A detailed concept landscape plan is submitted with this development application. Watering details will be provided at the construction certificate stage.	Yes
4. Tenant amenity, safety and privacy	communal spaces including laundry, bathroom, waste facilities, private open space, kitchen and living areas are accessible to all lodgers;	All common facilities are provided at ground level which are fully accessible for all lodgers.	Yes
	If over 10 boarding rooms are supplied, 10% of the total number of dwellings (rounded up) must be accessible;	For 16 room, a total of two accessible rooms will be required. The proposal includes two ground level rooms as accessible.	Yes
	Common rooms must be provided at a minimum rate of 2m ² per lodger, or a minimum of 13m ² where there are fewer than 6 lodgers. Common rooms do not include circulation space or laundry, bathroom, waste and kitchen facilities.	The proposal includes a common room at the ground floor level measuring 28m ² . This slight variation of 4m ² from minimum required size for a common room is considered acceptable on merits. Refer to further discussion at the end of this table.	No, but considered acceptable on merits.
5. Visual and acoustic privacy	Boarding houses are to provide: a) bedrooms separate from significant noise sources;	The proposed design is considered to achieve reasonable acoustic amenity for future lodgers. The proposal is not considered to	Yes

	b) sound insulation between bedrooms to provide reasonable amenity; c) communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings; and d) screen fencing, plantings, and acoustic barriers in appropriate locations.	impact on visual privacy of adjoining neighbours. An acoustic assessment report is submitted with the development application. Appropriate landscaping and acoustic fencing along the rear boundary will be provided.	
6. Location	Boarding house shall not be located in cul-de-sacs.	N/A	N/A
7. Plan of Management		A detailed plan of management is submitted with the development application and included at Appendix M.	

7.1.1 Side Setback

The proposal is compliant with the western side setback while a small section of eastern side setback is less than the minimum required 2m setback. This variation is along the front section of the building and it is not considered to impact on acoustic or visual privacy of adjoining development or overall landscape setting of the development. There are no objectives for the side setback controls under Section D5 of the PDCP; however, the multi dwelling housing section of Residential Development (Section D2) provides the following objective for side setback:

Comply with building envelope controls, minimise disturbance to existing topography and natural soil-profiles, and provide for reasonable landscaped separation between neighbouring buildings.

The proposed side setback is considered consistent with the above objectives for the following reasons:

- The proposal fully complies with the height and building envelope controls as demonstrated throughout the architectural plans;
- Due to negligible cut and fill, there will be no disturbance to the existing topography;
- The landscape plan, submitted with the development application demonstrate adequate landscaping along the side setbacks;
- The variation is minor;
- It is mostly due to slightly odd shape of the lot; and
- It will not cause any adverse environmental impacts on the amenity of adjoining properties.

In view of the above the proposed minor variation to the side setback is considered acceptable.

7.1.2 Rear Setback

The rear setback controls seek 4m for single storey and 6m for the two storey component of a building. The proposal offers average rear setback at ground floor level as 3.26m and at first floor level the average rear setback is 5.07m which is non compliant with the controls.

The purpose for rear setback is largely to create a reasonable separation between buildings to allow for reasonable landscaping, solar access and amenity. There are no objectives for the rear setback controls under Section D5 of the PDCP; however, the multi dwelling housing section of Residential Development (Section D2) provides the following objective for the rear setback:

Setbacks are to reflect the character of established garden suburbs, and provide for development of flora and fauna corridors.

The proposal is considered consistent with the above objective of rear setback for the following reasons:

- The subject site is not located within a standard subdivision pattern to allow for a midblock landscape corridor. The property to the rear faces Australia Street and its side setback forms the rear boundary of the subject site. Regardless, the proposed rear setback is of sufficient width and soil depth to allow for landscaping of this area;
- Due to orientation of the adjoining property to the rear, the proposed development will have minimal impacts on the existing and any future development of this property;
- Any future development of the property to the rear will see a minimum side setback (along the common boundary with the subject site) varying between 2m to 3m. This will result in a reasonable building separation between the proposed and future development of the rear property;
- Any reduction in the building floor plate to achieve compliant rear setback will compromise internal amenity of the boarding house without any significant environmental benefits; and
- A review of shadow analysis demonstrates minimum overshadowing impacts on the adjoining property to the rear.

In view of the above, the proposed rear setback is considered acceptable on merits.

7.1.3 Common Room

The proposal includes a common room at the ground floor level measuring 28m². The proposed boarding house has 16 single rooms that will accommodate a maximum of 16 lodgers. This will need a common room with an area of 32m². This slight variation is considered acceptable as 5 of the first floor rooms have their own private balconies, the common room has well-connected outdoor open spaces and each room has its own kitchen and bathroom facilities. In view of small scale boarding house, the proposed common room is considered to adequately meet the requirements of future lodgers.

PART H – CONCLUSION

8. Conclusion

The purpose of this SEE has been to present the proposed development consisting of a boarding house at 76 Hobart Street, St Marys and to assess its potential impacts having regards to Section 4.15(1) of the EP&A Act. In overview, it is considered that the proposal is a suitable and positive development for the following compelling reasons:

- The proposal facilitates the future development of the site for boarding house use through the provision of affordable worker accommodation and/or student accommodation.
- The proposal will facilitate the delivery of affordable residential accommodation for worker accommodation and/or student accommodation.
- Further to the above, the proposal will result in significant economic benefit deriving from the provision of jobs during the works phases and through supporting longer term employment generation associated with boarding house uses.
- The proposed works are highly compatible with surrounding land uses within the locality and positively contribute to the desired character of the area.
- The proposed boarding house is consistent with:
 - The GSRP and Draft Penrith LHS.
 - The provisions of PLEP 2010 and PDCP 2014, the context of the site and locality, the relevant heads of consideration under Section 4.15(1) of the EP&A Act;
 - The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments; and
 - The pre-lodgement discussions undertaken with Penrith City Council.

The proposed development is permissible within the zone and is compatible with the zone objectives. As stipulated in this SEE, the matters for consideration under Section 4.15(1) of the EP&A Act have been satisfactorily addressed. Considering the benefits of the proposed development and in the absence of any significant environmental impacts, the proposal warrants support by Council and/or Local Planning Panel.