



CREATIVE **PLANNING** SOLUTIONS

## Statement of Environmental Effects

---

Demolition of the existing dwelling house and associated structures and construction of a permanent group home.



12 Manning Street, Kingswood  
Lot 14 DP 237831

Prepared for: Builtex

CPS Project No: C916

Date: August 2018

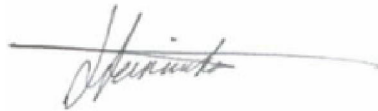
Creative Planning Solutions Pty Limited | PO Box 1074 Broadway NSW 2007  
+61 2 8039 7461 | [info@cpsplanning.com.au](mailto:info@cpsplanning.com.au) | [www.cpsplanning.com.au](http://www.cpsplanning.com.au)  
Creative Planning Solutions Pty Limited – ABN: 70 135 093 926

**Document Control**

Creative Planning Solutions works to a stringent Quality Assurance Program.

If this document has not been signed for review and approval then it is deemed a preliminary draft.

Prepared by:



James Jarimba

Reviewed by:



Daniel Govers

Authorised by:



Daniel Govers

**© Copyright CREATIVE PLANNING SOLUTIONS PTY LIMITED 2018**

This document is copyrighted; reproduction of this document or any part thereof is not permitted without prior written permission of Creative Planning Solutions Pty Limited.

**Disclaimer:**

In preparing this document, Creative Planning Solutions has relied upon information and documents provided by the Client or prepared by other Consultants within their various areas of expertise.

Creative Planning Solutions is unable and does not accept responsibility for any errors or omissions in any of the material provided by other parties.

# Contents

1.0	Introduction .....	4
1.1	Purpose .....	4
2.0	Background .....	5
3.0	The Site .....	6
3.1	Site Description .....	6
3.2	Adjoining Development and Locality .....	9
4.0	Proposed Development .....	11
4.1	Summary of Proposed Group Home .....	11
4.2	Proposed Group Home .....	11
5.0	Zoning and Permissibility .....	15
6.0	Planning Framework .....	16
6.1	State Legislation .....	16
6.1.1	State Environmental Planning Policy (Affordable Rental Housing) 2009 .....	16
6.2	Local Planning Controls .....	22
6.2.1	Penrith Local Environmental Plan 2010 .....	22
6.2.2	Penrith Development Control Plan 2014 .....	28
7.0	Environmental Assessment .....	40
7.1	Environmental Planning Instruments – Section 4.15(1)(a) .....	40
7.2	Any Relevant Draft Environmental Planning Instruments – Section 4.15(1)(a)(i) .....	40
7.3	Any Development Control Plans – Section 4.15(1)(a)(iii) .....	40
7.4	Impact on the Natural and Built Environment – Section 4.15(1)(b) .....	40
7.4.1	Impact on the Natural Environment .....	40
7.4.2	Impact on the Built Environment .....	41
7.4.3	Social and Economic Impacts - Section 4.15(1)(b) .....	41
7.5	Suitability of the site for the development – Section 4.15(1)(c) .....	42
7.6	Public Submissions .....	42
7.7	Public Interest – Section 4.15(1)(e) .....	43
8.0	Conclusion .....	44

## 1.0 Introduction

The Statement of Environmental Effects (Statement) has been prepared to accompany a Development Application (DA) for a permanent group home under the relevant provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* at 12 Manning Street, Kingswood NSW 2747. The development application (DA) proposes the construction of a double storey group home comprising three (3) independent self-contained areas, each containing three (3) bedrooms, integrated carport and installation of new landscaping and fencing.

This DA is being lodged for Penrith City Council's consideration pursuant to Section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP&A Act 1979) by Creative Planning Solutions Pty Limited.

The development application is being lodged pursuant to clause 43(1)(b) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) that allows for permanent group homes to be undertaken with consent in prescribed zones. The subject site is zoned R3 Medium Density Residential under the *Penrith Local Environmental Plan 2010* (PLEP2010). This zone is classified as a prescribed zone under Clause 42(a)(iii) of the ARHSEPP. Group homes are also permitted with consent within this zone under the PLEP2010.

This Statement demonstrates how the proposal meets the definition of a group home in terms of occupants and operation, and, provides an assessment of the proposed development against the relevant provisions of the PLEP2010 and the Penrith Development Control Plan 2014 (PDPC2014).

### 1.1 Purpose

The purpose of this Statement is to outline the development proposal for the subject site, consider any environmental effects that may result from the proposed development and address how such effects can be mitigated.



## 2.0 Background

The proposed permanent group home at 12 Manning Street, Kingswood is a new purpose-built specialist disability home that will be built in the Penrith LGA.

Builtex has approached several disability providers including ABIS (Acquired Brain Injury Services NSW Inc) and NADO (Nepean Area Disabilities Organisation). A disability provider will be allocated upon approval of the subject application.

The home is designed to provide a home like environment, with more privacy, flexibility in daily living and opportunities for increased participation in the local community. The more supportive housing model considers that people with a disability have a right to live in a community and to participate fully in that community.

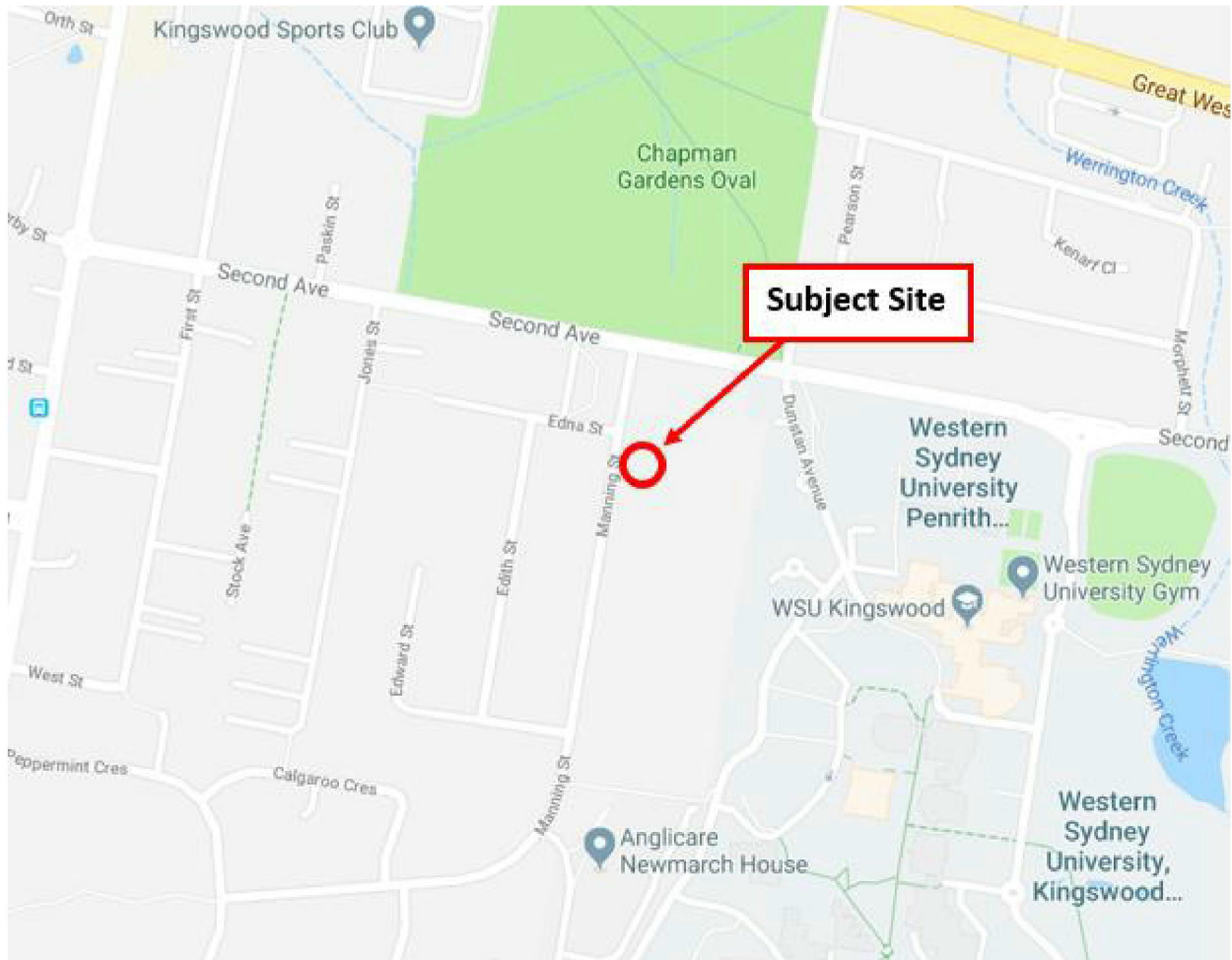
All homes will be designed in accordance with the standards for disability housing set by the NSW Government and the National Disability Insurance Scheme (NDIS).

Group homes provide people with the support they need to increase their independence, achieve personal goals and to live full and productive lives.

## 3.0 The Site

### 3.1 Site Description

The subject site is located in the suburb of Kingswood, approximately 4km east of Penrith City Centre and is within the Penrith Local Government Area (LGA). The subject site is located on the eastern side of Manning Street. Refer to **Figure 1** for a Locality Map of the subject site.



**Figure 1** - Locality Map – 12 Manning Street, Kingswood  
Source: <https://maps.google.com/>

The legal description of the subject land is Lot 14 in Deposited Plan 237831, and is known as 12 Manning Street, Kingswood NSW 2747.

The subject site is regular in shape with a primary street frontage provided to Manning Street. Existing pedestrian and vehicular access is provided from Manning Street.

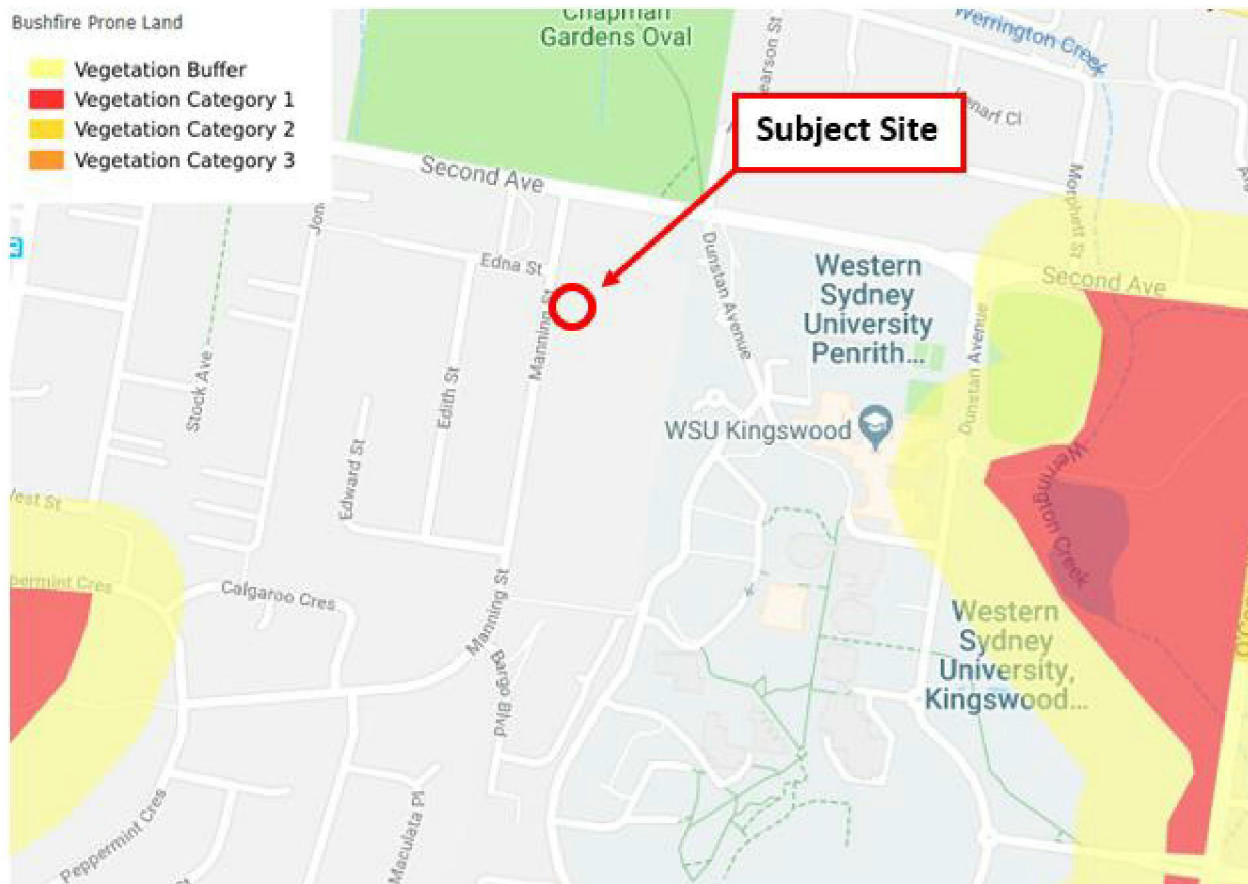
The subject site has a site area of 557.4m<sup>2</sup> and a street frontage of 15.24m to Manning Street (Source: Detail Survey).

A review of the Detail Survey indicates that the subject site experiences a fall from east to west of approximately of 2.5m.

The subject site does not contain an item of environmental heritage and is not within a conservation area as confirmed by Council Mapping. Council mapping also identifies that the subject site is not mapped as bushfire prone land (**Figure 2**) nor is it affected by flood planning controls.

Manning Street is an unclassified, bitumen sealed road with formed kerb and gutter in front of the subject site. On-street parking is available on either side of the subject street.

Refer to **Figure 3** for an Aerial Photograph of the subject site and **Figure 4** for a street view perspective.



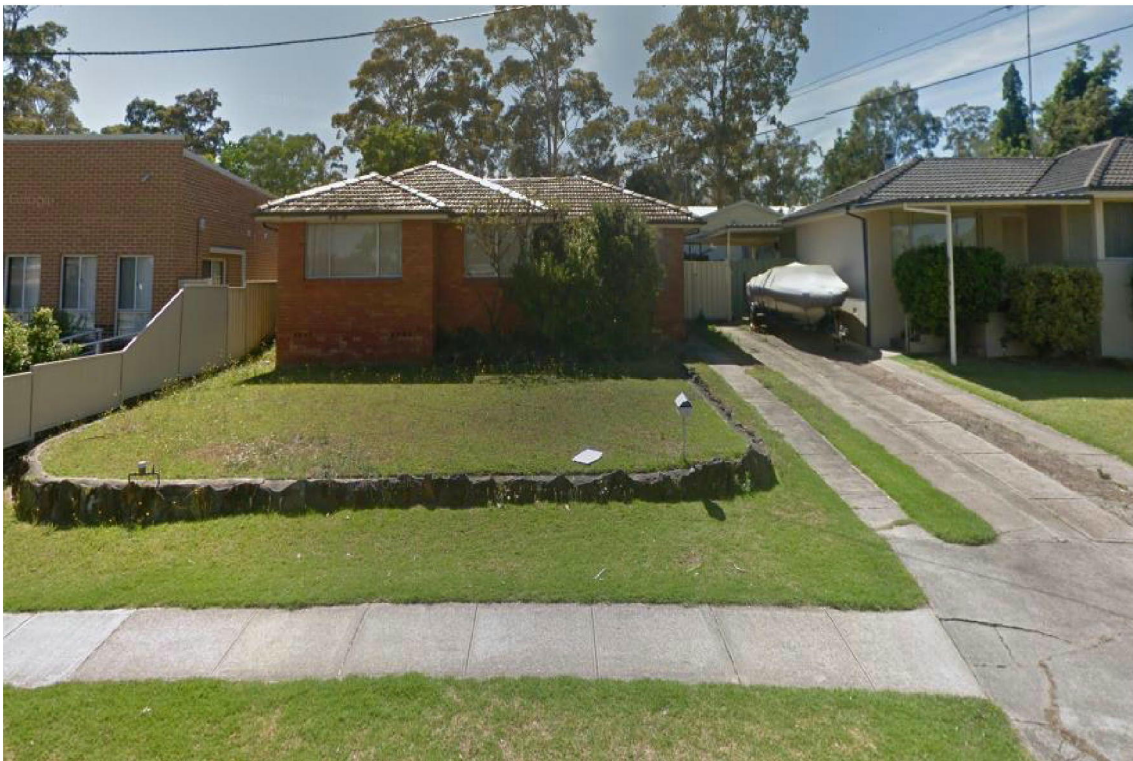
**Figure 2** – Location of the Subject Site within the Bushfire Prone Land Categories.

Source: <https://www.planningportal.nsw.gov.au>





**Figure 3 - Aerial Photograph of Subject Site**  
Source: <https://maps.google.com/>



**Figure 4 – View of the Subject Site from Manning Street**  
Source: <https://maps.google.com/>

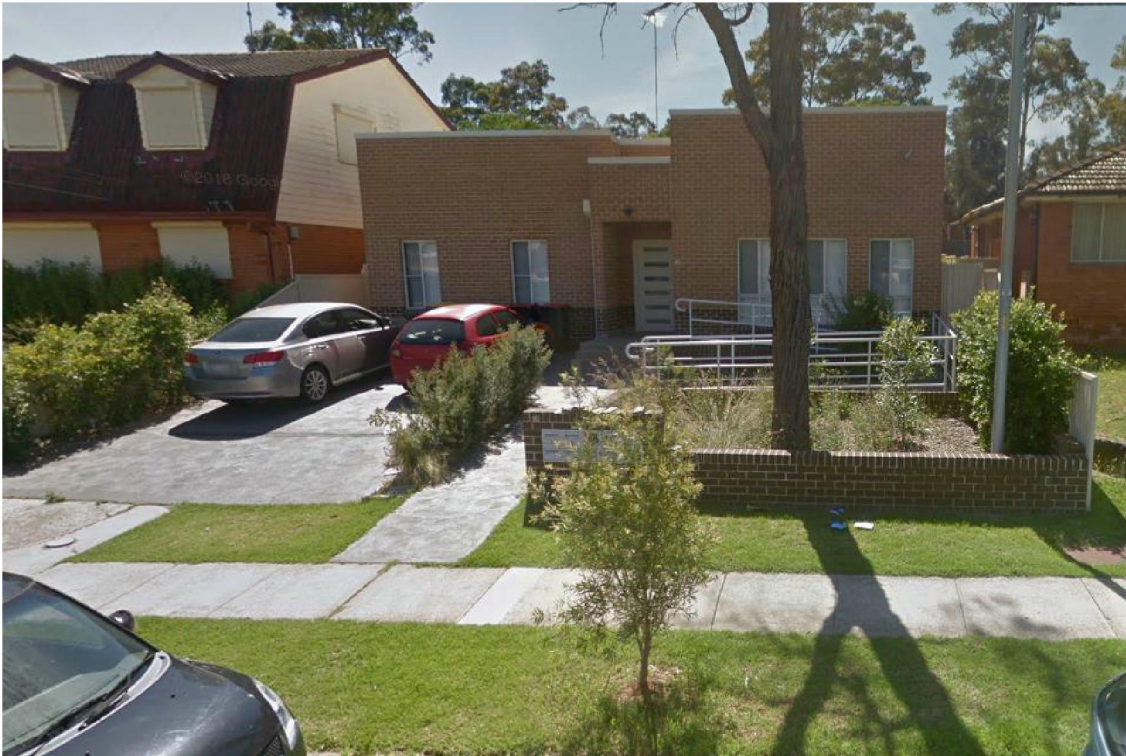


### 3.2 Adjoining Development and Locality

The site is located within an established residential area characterised predominantly by low to medium density residential developments, consisting of single and two storey detached dwellings with multi-dwelling housing located further afield.

The adjoining allotments to the north and south of the site is 10 and 14 Manning Street which comprise of single storey boarding house and detached dwelling house respectively (**Figure 5** and **6**). To the east of the subject site is adjoining allotment 46-54 Second Avenue which contains Kingswood Public School.

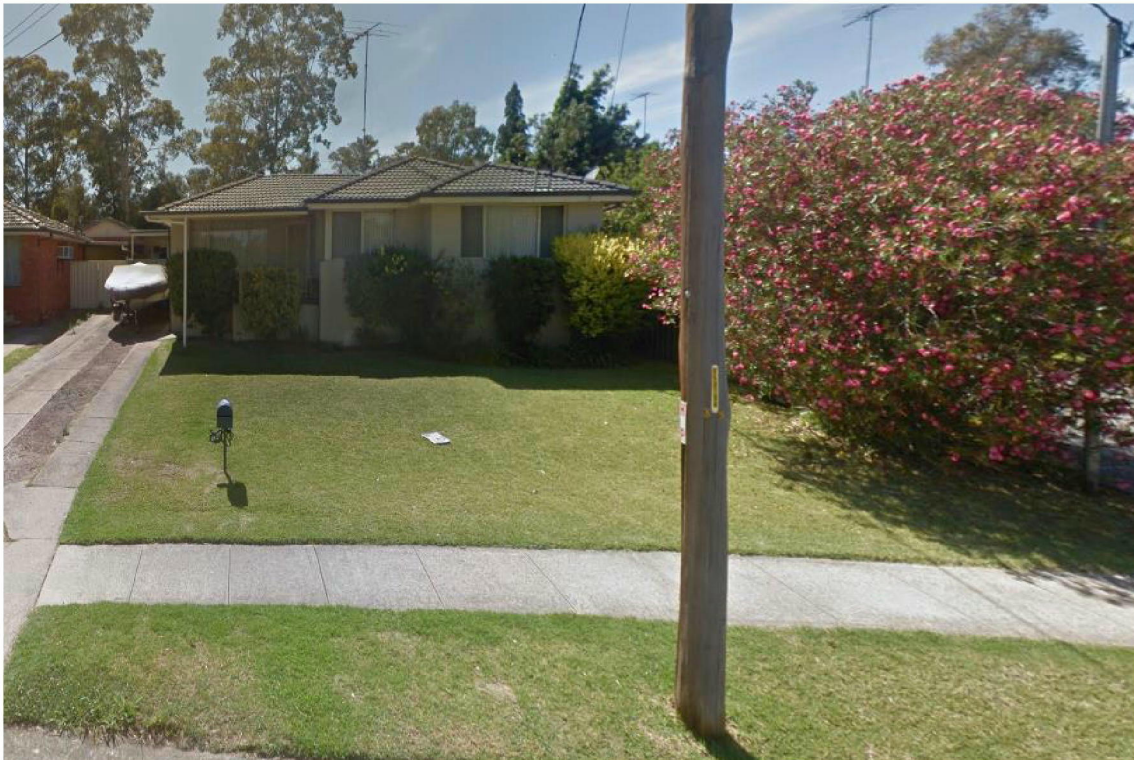
To the west of the subject site on the opposite side of Manning Street is 17 Manning Street which contains a one storey dwelling house located on a corner allotment (**Figure 7**).



**Figure 5** – 10 Manning Street.

Source: <https://maps.google.com/>





**Figure 6 – 14 Manning Street.**  
Source: <https://maps.google.com/>



**Figure 7 – 17 Manning Street.**  
Source: <https://maps.google.com/>

## 4.0 Proposed Development

### 4.1 Summary of Proposed Group Home

The development proposal includes a demolition of the existing dwelling house and associated structures, construction of a double level group home comprising of three (3) independent self-contained areas each containing three (3) bedrooms, integrated carport, and installation of new landscaping and fencing.

The proposed group home is consistent with the residential use of the site and will operate at a domestic scale, much the same as a dwelling house land use.

The main features of the group home are summarised as follows:

- Construction of a double storey group home comprising of three (3) independent self-contained areas, each with three (3) bedrooms, communal area, living areas, kitchens, seven (7) bathrooms, WC, laundry, and staff office. The proposed building will be constructed of two (2) types of face brick and rendered brick. The roof will be constructed of metal sheeting.
- Provision of an integrated carport and vehicular and pedestrian access to the site.
- Provision of new fencing.
- Provision of paved and landscaped private open space areas.
- Appropriate landscaping and extensive planting throughout the site.

The finished floor levels, ridge heights and overall heights of the development will be as follows:

**Table 1 Finished floor levels / ridge heights / overall heights of dwelling**

Finished Floor Level (RL)	Ridge Height (RL)	Max Height from EGL (m)
44.17m	52.440m	(52.440 – 44.75) = 7.69m

The proposed group home will have an internal ceiling height of 2.7m.

The group home will be designed specifically for the proposed use and to:

- facilitate safe, equitable and dignified access for people have a disability;
- provide both private and interactive spaces for home occupants; and
- provide a home environment.

The services of a qualified access consultant have been engaged throughout the design process to ensure that the resultant design is both functional and sensitive to the needs of the clients who will occupy the group home.

The proposed group home has been designed to meet the relevant provisions of the Building Code of Australia (BCA).

### 4.2 Proposed Group Home

#### *Floor area*



The Floor Area of the group home is approximately 461.69m<sup>2</sup>.

### ***Site planning***

It is noted that the siting of the proposed development generally addresses the following criteria:

- to create a group home which addresses Manning Street;
- to provide vehicular access from Manning Street;
- to optimise solar exposure;
- to provide useable open space directly accessible from the internal living area; and
- to minimise privacy and overlooking impacts to adjoining properties.

The proposed internal living areas will receive good solar access and private open space areas will also receive adequate access to sunlight due to their orientation.

A variety of external materials and finishes and architectural elements have been incorporated in the proposed group home to create interest in the streetscape appearance of the development. The layout and height of the proposed development is at a residential scale compatible with immediately adjoining and surrounding residential development, which predominantly comprises medium density residential development.

The proposed development represents a modern, high quality design that is consistent with development in Kingswood and the wider Penrith Local Government Area.

### ***Design and streetscape***

The proposed development consists of a double storey group home building. The siting of the proposed group home takes into consideration the orientation of the site, minimising any potential privacy and overshadowing impacts on adjoining properties and within the site, and will provide appropriate solar access to internal living areas and private open space.

The proposed group home will address the street frontage of the property and will have an entry identified by a front porch/patio and front door facing Manning Street.

### ***Levels***

A review of the Detail Survey indicates that the subject site experiences a steady fall from east to west across the site of approximately of 2.5m.

As demonstrated by the Architectural Plans, cut to a maximum level of approximately 2.0m is proposed within the south-eastern of the site due to the nature of the proposal for level access. Within the group home building itself a maximum level of cut of approximately 1.60m is proposed within the living / dining room of 'U01'.

As a result of the cut, retaining walls are proposed adjacent of the rear boundary and are approximately 1.85m in height.

### ***Building materials and construction***

The proposed development will be of steel or timber framed construction on concrete slabs and footings designed to engineer's details. The external walls of the proposed group home will be constructed in face brick in 'Pearl Grey' colour. The roof will be constructed of metal sheeting in the colour of 'Wallaby'. Specific details of the proposed external materials and finishes are shown on the architectural plans.

### ***Landscaping***

Landscaping will be carried out to complement the scale of the proposed development. A variety of landscape plantings are proposed to soften the visual dominance of the group home and enhance the appearance of the site. The landscaped area consists of new plantings consisting of a mixture of shrubs, grasses and trees. More appropriate landscaping and trees will be planted as part of the proposal.

It is noted that the landscaping scheme proposes vegetation types that will blend the development into the streetscape, improve privacy and minimise overlooking onto adjoining properties. It is considered that the proposed landscape treatment will soften the appearance of the proposed development and will contribute to the streetscape. The landscape design is also intended to enhance the internal amenity of the proposed development for residents.

### ***Private open space***

The group home building will be provided with one (1) principal private open space area with direct access from the ground floor communal living area that will receive excellent solar access. The principal private open space areas have been designed to serve as an extension of the dwelling for passive outdoor purposes.

Whilst the design of the group home facilitates the engagement of residents as part of a 'family' or group of non-related individuals, it also allows the individuals to have some amenity and privacy within each self-contained area when they choose via the small patio's/balconies proposed.

### ***Pedestrian, vehicular access and car parking***

The group home will be provided with a vehicle layback and crossover to the Manning Street frontage accessing the attached carport in association with the group home building that comprises two (2) parking spaces, one (1) being an accessible space. One (1) additional car parking space is available in front of the carport.

The provision of three (3) car parking spaces is sufficient for the operation of the group home. Residents of the group home are persons with a disability that do not own or utilise a car, commonly there are one or two staff in the home at times when all residents are present, and, visitor parking is not anticipated to be high. Accordingly, all parking demand generated from the proposed group home development is expected to be contained on the subject site. It is noted that the PDCP2014 allows for tandem parking along a driveway.

A pedestrian pathway will provide pedestrian access to the front of the group home directly from Manning Street.

Vehicles will be able to enter the site in a forward direction however vehicles will be required to reverse into Manning Street. This is considered safe given the site location and inconsistent vehicular movements of the surrounding dwellings.

### ***Stormwater drainage***

A Stormwater Drainage Plan has been prepared in accordance with Council specifications. Refer to the Stormwater Drainage Plan which accompanies this application

### ***Fencing***

The development proposes new 1.8m Colorbond fence along the rear and side boundaries behind the building line. Fencing to a maximum height of approximately 1.50m has been proposed forward of the front building line and is constructed of brick piers with horizontal metal pickets. Internal fencing is also proposed. Refer to the Architectural Plans for more details.

### ***Site facilities***

The following ancillary facilities will be provided on the site:

- Waste / recycling bins will be stored in bin storage areas within the southern side setback.
- The group home staff will be responsible for placing all bins on the kerbside for collection by Council waste contractors on collection days.



## 5.0 Zoning and Permissibility

The site is zoned R3 Medium Density Residential under the *Penrith Local Environmental Plan 2010 (PLEP2010)*. The proposed development is defined as 'group home' under the provisions of *PLEP2010* and is permissible with Council's consent in the R3 zone.

The relevant objectives of the R3 – Medium Density Residential zone are as follows:

- *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 proposed development is consistent with the above objectives. The proposed group home provides specialist disability housing to meet the needs of the local community. The proposed development has the appearance of a double storey detached dwelling house, which is consistent with the low to medium density character of the local area. Furthermore, the group home will be sympathetic to the surrounding built and natural environment as the design and siting of the home respects the amenity of neighbouring properties and maintains the quality of the surrounding built and natural environment.

Clause 43 (1) (b) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* allows for development for the purpose of a permanent group home on land in a prescribed zone to be carried out with consent. The subject site zoned R3 – Medium Density Residential under the *PLEP2010* is land which is classified as a prescribed zone pursuant to Clause 42 (1) (a) (iii) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*. Section 6.2.1 of this SEE further demonstrates compliance with the relevant provisions of Division 7 of ARH SEPP and how the proposal meets the key components of the 'permanent group home' definition.

## 6.0 Planning Framework

The provisions and development standards under the following environmental planning instruments and development control plan are applicable to the proposed development:

### 6.1 State Legislation

#### 6.1.1 State Environmental Planning Policy (Affordable Rental Housing) 2009

The development application is being lodged pursuant to Clause 43 (1) (b) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* that allows for permanent group homes to be undertaken with consent in prescribed zones.

The subject site is zoned R3 – Medium Density Residential under the provisions of the *Penrith Local Environmental Plan 2010*. This is land which is classified as a prescribed zone pursuant to Clause 42 (1) (a) (iii) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) as it is within a R3 Medium Density Residential zone.

Clause 42 of the ARHSEPP states:

*prescribed zone means:*

(a) any of the following land use zones or a land use zone that is equivalent to any of those zones:

(i) Zone R1 General Residential,

(ii) Zone R2 Low Density Residential,

**(iii) Zone R3 Medium Density Residential,**

(iv) Zone R4 High Density Residential,

(v) Zone B4 Mixed Use,

(vi) Zone SP1 Special Activities,

(vii) Zone SP2 Infrastructure, and

(b) any other zone in which development for the purpose of dwellings, dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.

The definition of a permanent group home is also established under Clause 42 of the ARHSEPP.

**permanent group home** means a dwelling:

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide permanent household accommodation for people with a disability or people who are socially disadvantaged,

but does not include development to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

There are four (4) key aspects to confirm the proposal meets the definition of a permanent group home. These are the four (4) essential characteristics established under the McAuley case that were also held up by the Association for Better Living and Education Inc v Wyong Shire Council case (and based on other case law) and include:

1. Is the Development a Dwelling?

This advice primarily references the case of *McAuley v Northern Region Joint Regional Planning Panel* [2013] NSWLEC 125. The key outcome of this case was how the meaning of 'dwelling' should be considered in the context of a group home (transitional group home).

In the judgement of McAuley, Craig J said that the meaning of 'dwelling' in the definition of group home "is qualified by the provisions in paragraphs (a) and (b) of the definition which determine both the manner of its occupation as a building and the purpose of its use".

The Court found that a "common sense" approach to the word "dwelling" in the definition of "transitional group home", required its defined meaning be modified to operate harmoniously with the defined expression of which "dwelling" was but an element. The purpose of the development was not a dwelling considered in isolation, but rather a "dwelling" constrained by and having the characteristics of the elements which the definition of a "transitional group home" required i.e. paragraphs (a) and (b). It is noted that the structure of the definition of a transitional group home to a permanent group home are very similar. Therefore, this approach can be applied to a permanent group home as well.

The McAuley case essentially changed the interpretation of the word 'dwelling' for the purpose of the definition of a group home in the ARH SEPP.

Parts (a) and (b) of the permanent group home definition include "whether or not those persons are related", and, "that is used to provide permanent household accommodation for people with a disability".

Based on this, a permanent group home may propose a layout different to a typical dwelling house that does not necessarily meet the definition of 'dwelling'. i.e.

*A room or number of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

This is demonstrated by the individual rooms being more equipped than the traditional group home. For example, due to the nature of the proposal accommodating residents that are unrelated and having a disability, the traditional group home design has been modified to provide additional circulation space, privacy, and other facilities for occasions when the resident needs independence or temporary personal care. Hence, there are individual bathrooms and living spaces in each room.

The need for this design and built form is reflected by the planning advice received from the Department of Planning and Environment that states:

*Dear Daniel*

*Thank you for your call earlier today regarding a proposal for a site containing multiple group homes...*



*..... the AHSEPP permits multiple group homes on a site which may be in the form of self-contained dwellings, whether attached or detached and/or connected by internal common circulation spaces or externally via covered walkways. Separate BCA requirements will apply depending on the building classification.*

*The provisions provide for diverse housing outcomes and are intended to provide developers of group homes with certainty while ensuring the amenity of neighbours is maintained.*

*The Department is currently reviewing the AHSEPP group home provisions as part of its SEPP review program.*

*If you would like to discuss further please call Service NSW on 13 77 88 and ask to speak to the Housing Policy Team at the DPE.*

*Dominic Stefan  
Planning Officer  
Housing Policy*

*Level 15, 320 Pitt Street | GPO Box 39 | Sydney NSW 2001  
T 02 8275 1024  
Email: dominic.stefan@planning.nsw.gov.au*

Accordingly, further to the McAuley case, the advice above provides that a group home development allows for multiple individual group homes, all of which are contained within the envelope of a dwelling which has a communal kitchen, communal dining & living area, communal laundry facilities, and communal outdoor space.

As such, the proposed development can arguably be characterised as a dwelling for the purposes of the ARH SEPP and the definition of a group home, despite the fact the proposal presents as a three (3) individual self-contained dwellings.

The findings of the LEC in *Association for Better Living and Education Inc v Wyong Shire Council (2) (2014) NSWLEC 1239* further supports the proposed group home development, in addition to the McAuley case. Paragraph 33 states:

*In short it is a dwelling. However, as anticipated by the whole definition the proposed development cannot be equated with a conventional dwelling occupied by a single family (AWS [21]). It is a kind of dwelling adapted for transitional group home living which by its size necessarily has an institutional character McAuley at [88]. While accepting that the group home is required to comprise a "dwelling", within the meaning of the term in the composite phrase, its meaning is qualified by the provisions of paragraphs (a) and (b) of the definition which determine both the manner of its occupation as a building and the purpose of its use.*

The Court agreed with the applicant's focus on the meaning having regard to the whole definition consistent with the Court's reasoning in McAuley.

Paragraph 62 - 66 further demonstrate support of the proposed form of the development comprising self-contained individual / independent areas:

*After adopting a commonsense approach to the understanding of the word "dwelling" when used in the definition of "transitional group home" in the SEPP it must be modified to operate harmoniously with the defined expression of which "dwelling" is but an element.*

*I believe that the Council's approach to the meaning of the definition is misguided and based on a misunderstanding of the Court's reasoning in McAuley. The focus on two elements of the definition in cl42 of the SEPP namely; "dwelling" and "occupied by persons as a single household" results in an incorrect characterisation of this development. The Council's approach entirely ignores parts of the definition that inform the interpretation of the word "dwelling" as it appears in cl 42.*

*While I accept that the "transitional group home" is required to be a "dwelling" the meaning of that term in the composite phrase is qualified by the provisions of paragraph (a) and (b) of the definition which determine both the manner of its occupation as a building and the purpose of its use. As discussed in McAuley at [65] that purpose is relevantly to provide "temporary accommodation...for drug and rehabilitation purposes", a requirement that could never satisfy the technical meaning of dwelling as discussed in Burwood Municipal Council v Aboriginal Hostels Ltd (1979) 39 LGRA 150*

*When the definition is read as a whole it is apparent that a "transitional group home" anticipated by the SEPP is something different to a conventional dwelling or place of residence. Of necessity it involves an institutional aspect to its form in order to accommodate people on a temporary basis to undertake drug and alcohol rehabilitation: McAuley at [88]. Despite its differences to a conventional dwelling the proposed development will contain a suite of rooms that together are capable of being used as a separate domicile, albeit across a number of buildings. Nothing in the definition of "dwelling" identifies the necessity for the activity to be contained within a single building. The definition under review is directed to a purpose, use of land for the purpose of a "dwelling" can involve more than one building as fulfilling the purpose.*

*In their totality, the suites of rooms proposed in this development contain facilities expected to be found within a dwelling: McAuley at [72] and [77]. Furthermore, the residents and carers will live together as inhabitants of a single household and as a single unit. They will share community of interest in seeking rehabilitation from drugs and alcohol, therapy sessions and supervised group activities, group recreation (Exhibit B pp. 258-263). There are communal living and dining rooms, kitchens and laundry facilities. Relevantly, the design elements discussed in Haddad at [53(a)], [53(b)], [53(c)] and [53 (d)] said to indicate that the development is not a single household are absent in this case. There are no individual kitchens in bedrooms where a meal could be cooked and the occupants will be encouraged to share in chores and be involved in domestic activities as part of their rehabilitation.*

In regards to a potential categorisation as a residential flat building, the key difference between the proposed group home and a residential flat building is that formal and professional supervision & care is not provided to persons with a disability in a residential flat building.

Therefore, the proposed development meets the 'dwelling' part of the definition of a permanent group home under the ARH SEPP.



## 2. Is the Development occupied by persons as a single household?

Meeting the “single household” component of the definition is the second essential characteristic under the McAuley case.

The Blacktown City Council v Haddad case with Pepper J establishes that there were four aspects of the development which led her to conclude that the occupants of the development in question would not occupy the dwelling as a single household.

A comment is provided against each aspect in relation to the proposed group home development at the subject site.

Single Household Aspect est. from Haddad case	Comment
An absence of any area for occupants to recreate or congregate together in a communal living room.	A considerably sized and genuine communal indoor living area is provided on the ground floor of the proposed group home, as well as communal outdoor area, that will enable the socialisation of the occupants with each other and, as a consequence, the tenants living together as a collective unit
Each bedroom would have its own laundry by the provision of a ‘washing machine dryer combo’.	As stated above, none of the individual areas have their own laundry. A communal laundry is provided within the ground floor communal living area that will enable the interaction of the occupants with each other and, as a consequence, the tenants living together as a collective unit.
Individual bedrooms could be used as separate dwellings.	As above, a permanent group home may propose a layout different to a typical dwelling house that does not necessarily meet the definition of ‘dwelling’. This is demonstrated by the individual rooms being more equipped than the traditional group home. For example, due to the nature of the proposal accommodating residents that are unrelated and having a disability, the traditional group home design has been modified to provide additional circulation space, privacy, and other facilities for occasions when the resident needs independence or temporary personal care. Hence, there are individual bathrooms and living spaces in each room. However, within the envelope of the proposed home is a communal kitchen, communal dining & living area, communal laundry facilities, and communal outdoor space. Based on this, there would be an element of

	cohesion between the residents, to the extent that the individual rooms would not be used as separate dwellings.
The term 'a single household' has, a degree of permanence about it and a minimum tenancy of three months was not indicative of persons occupying the dwelling 'as a single household'.	The proposed group home will provide permanent accommodation.

Based on the above table, the proposed group home will be occupied as persons as a single household.

In summary, this is due to:

- a. The lack of laundry facilities to each of the individual rooms.
- b. The commentary provided under (1) i.e. CPS does not consider the individual rooms having their own living and dining areas would restrict the socialisation of the occupants with each other and as a consequence, the tenant will live together as a collective unit to meet the term "single household". The residents would still share common areas such as the ground floor common room, the single ground floor laundry and outdoor private open space area.

The design of the group home facilitates the engagement of residents as part of a 'family' or group of non-related individuals, whilst also allowing the individuals to have complete privacy within their own area when they choose. Examples are:

- Meals and activities, using internal and external common areas, can be taken as groups according to the individual daily routines of the residents. Residents would share common areas such as the ground floor common room, the single ground floor laundry and rear private open space area
- Domestic household chores are shared.
- Household operating costs such as cleaning materials, gas, electricity are shared via a single house operating account.

Based on the above, it has been sufficiently demonstrated that the proposed group home will be occupied as a single household. There would be an element of cohesion between the residents, and a similar level of care / supervision is provided to all residents via the on-site care/supervision.

This consideration is reinforced in the case of *McAuley v Northern Region Joint Regional Planning Panel [2013] NSWLEC 125* where it was also stated in regard to "single household":

*"Such a notion may generally identify a group of people living together as a unit (Oxford English Dictionary, on-line edition) or "the people of a house collectively" (Macquarie Dictionary, on-line edition). An element of cohesion among occupants would generally be an aspect of a "household", particularly in the use and enjoyment of its facilities as a whole".*

And;

*“Moreover, it is implicit in the definition of “transitional group home” that the facility will have an “institutional” aspect to it. This follows from the fact that clients will not be related and that their entitlement to reside in the facility is dependent upon them having a social or physical characteristics that separate them from the norms of society. Inevitably, the provision of facilities necessary to enable those clients to operate as a “single household” may logically cause some of the home facilities .... to differ from those that might be expected in a traditional family house”.*

3. Does the development provide accommodation for people with a disability?

Yes. The proposed development will provide accommodation for residents with disabilities, being the third essential characteristic under the McAuley case.

4. Is the Development a development to which the Seniors Housing SEPP applies?

The proposed group home does not include a development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Accordingly, the proposal meets the four (4) key aspects to confirm the proposal meets the definition of a group home.

### 6.1.2 State Environmental Planning Policy No 55- Remediation of Land

*State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)* applies to the subject development application. Clause 7 (1) (a) of SEPP 55 states that the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if so it is suitable in its current state or after remediation for the proposed development.

A desktop review of the site and relevant planning documentation indicates the subject site has been used for predominantly residential land use and therefore does not give rise to concerns relating to contamination.

As such, it is considered appropriate that the development assessment of the proposal proceed on the subject site.

## 6.2 Local Planning Controls

### 6.2.1 Penrith Local Environmental Plan 2010

The subject site is zoned R3 – Medium Density Residential under the *Penrith Local Environmental Plan 2010* (PLEP2010), as shown by **Figure 8**. Group homes are permitted with consent within the R3 – Medium Density Residential Zone.

The objectives for land within the R3 – Medium Density Residential zone are as follows:

- *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.

As demonstrated in Section 5 of this SEE, the proposed group home development will be consistent with the zoning objectives, in particular, those relating to housing meeting the needs of the community within a medium density residential environment and development that is sympathetic to the built and natural environment.

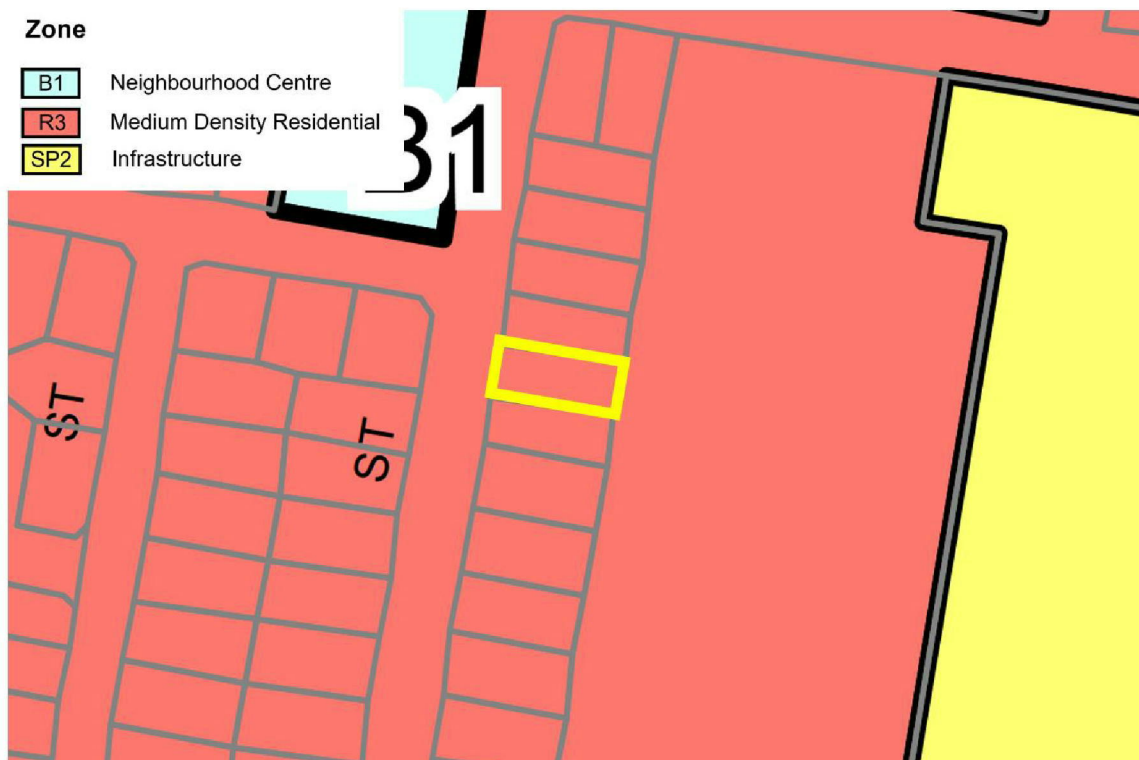


Figure 8 – Zone Map Extract  
 Source: <https://www.legislation.nsw.gov.au>

The proposal demonstrates compliance with the applicable provisions of the *Penrith Local Environmental Plan 2010* in the following table:

Penrith Local Environmental Plan 2010			
Clause	Requirement	Proposed	Complies?
4.3 Height of Buildings	(1) The objectives of this clause are as follows:  (a) to ensure that buildings are compatible	(1) The proposal is meets the objectives of this clause.	Yes

	<p>with the height, bulk and scale of the existing and desired future character of the locality,</p> <p>(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,</p> <p>(c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,</p> <p>(d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map (Refer <b>Figure 10</b> below).</p>	<p>(2) The proposed dwelling house development is two (2) storey in height and is below the 8.5m maximum permitted building height.</p> <p><b>7.69m</b></p> <p>Roof Ridge: RL44.75</p> <p>EGL below: RL52.44</p>	<p>Yes</p>
	 <p><b>Figure 9 – PLEP2010 Maximum Height Map Extract</b> Source: <a href="http://www.legislation.nsw.gov.au">http://www.legislation.nsw.gov.au</a></p>		
<p>4.4 Floor Space Ratio</p>	<p>(1) The objectives of the clause are as follows:</p> <p>(a) to ensure that buildings are compatible</p>	<p>Not applicable; the subject site is not affected by a maximum floor space ratio on</p>	<p>N/A</p>



	<p>with the bulk and scale of the existing and desired future character of the locality,</p> <p>(b) to minimise the adverse impact of development on heritage conservation areas and heritage items,</p> <p>(c) to regulate density of development and generation of vehicular and pedestrian traffic,</p> <p>(d) to provide sufficient floor space for high quality development.</p> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the floor space ratio map.</p>	<p>the floor space ratio map.</p>	
5.10 Heritage Conservation	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to conserve the environmental heritage of Penrith,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance</p> <p>(2) Development consent is required for any of the following:</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged</p>	<p>The subject site adjoins land which contains general heritage item #98 which is Kingswood public school.</p> <p>The proposal will not adversely impact upon the significance of the heritage item, including its associated fabric and setting whilst views to and from the item will be unaltered.</p> <p>The proposal is of a bulk and scale that will ensure the heritage item is not affected.</p>	Yes

<p>or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land:</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p>		
<p>(4) Effect of proposed development on heritage significance</p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>The subject site does not include a heritage item and is not within a Conservation Area.</p>	<p>Yes</p>
<p>(5) Heritage Assessment</p> <p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>Refer to (1)</p>	<p>Yes</p>

	<p>(7) Archaeological sites</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>The site is not an identified archaeological site.</p>	<p>N/A</p>
	<p>(8) Aboriginal places of heritage significance</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>An Aboriginal Heritage Information Management System (AHIMS) search has been undertaken for the subject site via the NSW Office of Environmental and Heritage. The search was undertaken with a buffer of 200m from the subject site. The search revealed that no aboriginal sites are located near the subject site.</p>	<p>N/A</p>



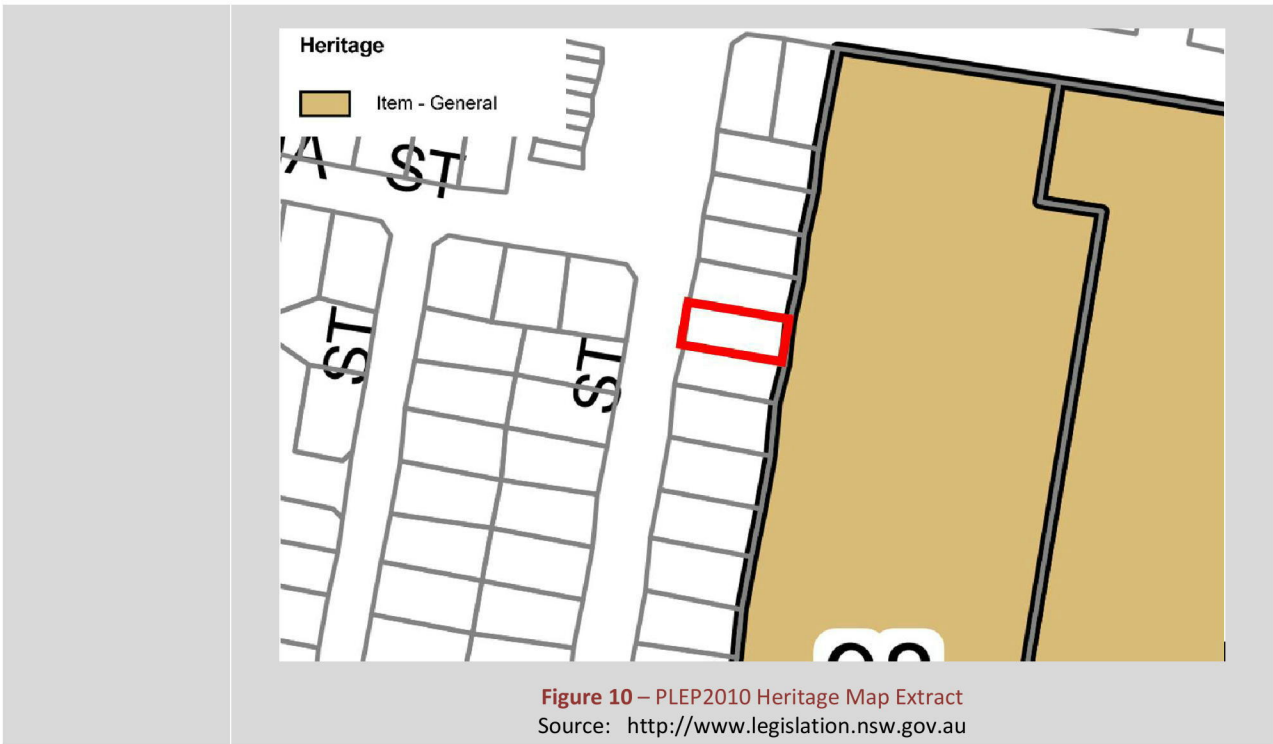


Figure 10 – PLEP2010 Heritage Map Extract  
 Source: <http://www.legislation.nsw.gov.au>

### 6.2.2 Penrith Development Control Plan 2014

An assessment of the proposal under the Penrith Development Control Plan 2014 (PDCP2014) is illustrated in the Table below. The following Sections of PDCP2014 are considered relevant to the proposed development:

Penrith Development Control Plan 2014		
C4 Land Management		
Controls	Proposed	Complies
<b>4.1 Site Stability and Earthworks</b>		
3 Development Application Requirements		
a) Any development application that proposes earthworks and therefore changes to the levels of a site, is required to clearly address the following in the Statement of Environmental Effects or a Geotechnical Report (if required, see 3 b) ): i) The location and extent of the earthworks on the site; ii) Justification for the need to change the land levels in terms of the overall development; iii) Any other impacts from the changed land levels as a consequence of the earthworks.	Noted.	Yes
4 Limitation on Earthworks		
a) Earthworks to create a building platform shall not be undertaken where excavation and/or filling would exceed 1m from the existing natural ground level of the site.	Cut: 1.72m EGL: 45.865 – FFL: 44.145  Measured from the rear of the site at the south-eastern most point of the outdoor dining area directly adjacent the communal living, a variance of	No – Justifiable

	720mm is present. This variance is considered acceptable as a result of the site's natural slope and the need for a group home to have relatively level flooring which best assists the movement of residents.	
	No fill is proposed on site.	
b) On sloping sites, site disturbance is to be minimised by using split level or pier foundation building designs (see Figure C4.1).	Refer above.  Due to the nature of the development as a group home, split level design is not feasible.	No – Justifiable
c) All retaining walls proposed for the site are to be identified in the development application for the proposed development. Retaining walls are to be kept to a minimum to reduce earthworks. Use of materials that complement the natural environment is encouraged.	The proposal includes a retaining wall at the rear of approximately 1.85m. This is considered appropriate due to the sloping nature of the site. Neighbouring allotments contain retaining walls similar in height.  The design of the development has aimed to reduce the impact of an excessively high retaining wall by providing a high level of materiality fenestration, therefore mitigating any visual impacts to the existing natural environment.  Furthermore, the proposed retaining walls will not be visible from the street as they are largely hidden by the dwelling itself.	Yes
d) During any earthworks, any topsoil should be preserved on site for re-use and should be stockpiled and covered to avoid dust or loss of topsoil. Refer to the Landscape Design Section of this Plan for controls on stockpiling topsoil on site.	Noted.	-

## C10 Transport, Access and Parking

### 10.5 Parking, Access and Driveways

#### 1 Provision of Parking Spaces

a) Parking provided on site is to meet AS 2890 and where appropriate, AS 1428.	Complies.	Yes
b) For any proposed development, Council will require the provision of on-site car parking to a standard appropriate to the intensity of the proposed development as set out in Table C10.2 below.	Noted.	-
f) In the absence of specific requirements relevant to particular developments, the parking requirements in the RTA's "Guide to Traffic Generating Developments" (as updated) and Australian Standard AS 2890.1 and 2 - 2004 should be referred to as a guide. In the absence of all data, the applicant should revert to the use of first principles.	Noted. There are no specific requirements relevant to group home developments. The provision of three (3) car parking spaces is sufficient for the operation of the group home. Residents of the group home are persons with a disability that do not own or utilise a car, commonly there are one or two staff in the home at times when all residents are present, and, visitor parking is not anticipated to be high. Accordingly, all parking demand generated from the proposed group home development is expected to be contained on the subject site. It is noted that the PDGP2014 allows for	-

	tandem parking along a driveway.	
h) Stacked parking will not be permitted for visitor spaces for any development.	Noted.	-
n) For all residential development at least one car parking space for each dwelling shall be covered the second space may be "stacked" or "tandem" or located on a driveway.	The proposal includes two (2) covered car parking spaces and an additional space in tandem located along the driveway.	Yes
<b>Accessible Parking</b>	Complies.	Yes
Accessible car spaces should be in accordance with the Access to Premises Standards, Building Code of Australia and AS2890.		
<b>3 Additional Controls to Residential Development</b>		
a) On-site parking for residential developments, including the residential component in a mixed use development, is to be accommodated wholly in a basement parking area unless the applicant can demonstrate to Council's satisfaction that the site's unique conditions prevent the parking from being located in a basement structure.	<p>The proposed development is for the purpose of a group home. The current conditions satisfy all other relevant parking controls as the group home allows for disabled parking, covered parking and visitor parking.</p> <p>Due to the nature of the development, providing basement parking is not seen as an appropriate parking structure as the specific conditions needed for residents who will reside in the dwelling include level flooring, no split levels and avoidance of unnecessary stairs to allow for efficient manoeuvrability and access to all features of the site.</p>	Yes
b) If on-grade car parking is proposed, the location and adequacy of the parking area must not adversely impact on the amenity of the adjoining neighbourhood. The parking area is to:	The proposed carport and tandem parking space will not have a negative impact on the streetscape.	Yes
i) be located on the side or rear of the site, and is not visible from the street and street frontage;	There is no opportunity to provide side or rear parking as the site is not a corner allotment.	N/A
j) be landscaped or screened so that cars parked in the parking area are not visible from adjoining buildings or the street/ street frontage; and	A large area of landscaping is proposed along either side of the driveway. Also, a roller door is proposed to the carport which will appropriately screen cars parked in the parking area.	Yes
k) allow safe and direct access to the building entry points	The development includes an attractive and safe pedestrian environment by providing a variety of landscaping around driveways, and sufficient driveway widths to allow pedestrians and cars to pass.	Yes
<b>5 Design of Parking and Manoeuvring Areas</b>		
a) Car space dimensions must comply with the relevant Australian Standards.	Complies.	Yes
b) The movement of pedestrians throughout the car park should be clearly delineated and be visible for all users of the car park to minimise conflict with vehicles. The car parking and manoeuvring layout should be in accordance with the provisions of AS 2890.1 - 2004.	Not applicable; no car park proposed.	N/A
c) Provision of parking spaces for disabled persons should be in accordance with the Access to Premises Standards, the Building Code of Australia and AS2890.	Complies.	Yes
d) Council will require all car parking areas to be constructed of hard standing, all weather material, with parking bays and circulation aisles clearly delineated	Hard standing materials along the driveway are proposed.	Yes
f) It will be necessary for the method of treating and	Proposed driveway is buffered with	Yes



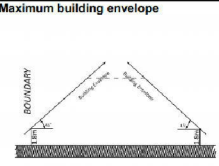
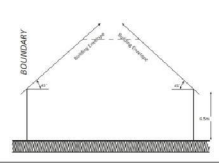
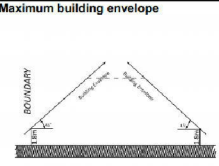
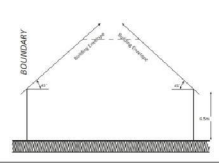
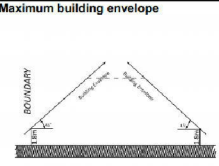
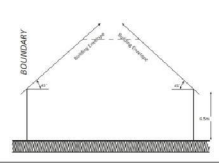
	minimising runoff from parking and access areas to be addressed as part of any development application	landscaping to minimise runoff.	
i)	All vehicles must be able to enter and leave the site in a forward direction without the need to make more than a three point turn.	Vehicles will be able to enter the site in a forward direction but will have to reverse into Manning Street. Given the proposal is for a single dwelling on a street with a low number of vehicle movements, this is considered safe and appropriate.	Yes
j)	Council may require the provision of internal directional signs to assist site visitors in locating parking areas.	Noted.	-
k)	For residential development, other than a single residence, the minimum space width shall provide for full door opening in accordance with Table B1 of AS2890.1 – 2004.	Not applicable; single residence proposed.	N/A
l)	The design of the car park should ensure that passive surveillance is possible and, where appropriate, incorporate active measures such as cameras and security patrols. Car parks should be designed to minimise dark areas through the provision of appropriate lighting.	Not applicable; no car park proposed.	N/A

## D2 Residential Development

### 2.1 Single Dwellings

#### 2.1.2 Setbacks and Building Envelope

1.	The minimum front and side setbacks:		
a)	Front setbacks is the greater of either		
i)	5.5m, or		
ii)	The average of the setbacks of the adjoining properties	The adjoining properties at 10 and 14 Manning Street have front setbacks of 8.30m and 7.75m respectively; an average of 8.03m.	Yes
		The proposed front setback to the main building wall is 7.43m, ensuring compliance and consistency with the streetscape.	
c)	Encroachments to front setbacks are		
i)	Verandahs and pergolas are permitted to encroach 1.5m beyond the setback to the primary street frontage	The front balcony located on the first floor is setback 5.84m from the boundary which is approximately 1.50m from the proposed front building line.	Yes
ii)	Garages, carports and parking spaces, other than stacked parking or driveways, are not permissible within the front setback	The proposed carport is not located within the front setback.	
d)	Side setbacks to external walls should be a minimum of 900mm	A minimum side setback of 900mm is proposed.	Yes
e)	Rear setbacks		
i)	The minimum rear setback for a single storey building (or any single storey component of a building) is 4m	The minimum rear setback to the main building wall of the single storey component is 4.00m.	Yes
ii)	The minimum rear setback for a two storey building (or any two storey component of a building) is 6m.	The minimum rear setback to the main building wall of the second storey component is 6.00m. A very minor encroachment of approximately 0.30m is proposed that is non-consequential to the bulk and scale of the proposal.	Yes
iii)	Minor, partial or point encroachments into the above rear setbacks may be considered on irregular shaped lots	Not applicable.	N/A
iv)	Rear setback areas are to be used predominantly for	The subject site proposes a rear	Yes

<p>the provision of a landscaped area</p> <p>f) Exceptions to rear setbacks - consideration may be given to the erection of a nonhabitable building or structure that does not comply with the minimum setback requirements if it can be demonstrated it will have minimal adverse impact on the subject property or any adjoining property.</p>	<p>setback that is predominantly landscaped.</p> <p>Noted.</p>	<p>-</p>						
<p>2. Building Envelope</p> <p>a) Development is to be contained within the building envelope for the site. As shown in Figure D2.1 below, the building envelope means a height plane over the site at 45° from a specified height above natural ground level at the side boundaries of the site.</p> <p><b>Figure D2.1: The building envelope is measured from natural ground level perpendicular to the side boundary at any given point along the wall.</b></p> <table border="1" data-bbox="284 651 719 1039"> <thead> <tr> <th>Zone</th> <th>Maximum building envelope</th> </tr> </thead> <tbody> <tr> <td>R2 Low Density Residential</td> <td></td> </tr> <tr> <td>R3 Medium Density Residential</td> <td></td> </tr> </tbody> </table> <p>b) Encroachments – consideration may be given to minor encroachments to the building envelope for:</p> <ol style="list-style-type: none"> <li>Eaves and gutters</li> <li>Chimneys and antennas</li> <li>Pergolas, or</li> <li>Where it is demonstrated the encroachment is necessary to improve the design, external appearance or utility of the building and the variation will not impact adversely on the amenity of an adjoining property.</li> </ol>	Zone	Maximum building envelope	R2 Low Density Residential		R3 Medium Density Residential		<p>Complies. All proposed building elements are located within the specified building envelope.</p> <p>Refer above.</p>	<p>Yes</p> <p>-</p>
Zone	Maximum building envelope							
R2 Low Density Residential								
R3 Medium Density Residential								
<p>2.1.3 Development on Sloping Land</p>								
<p>1. Floor levels/building platforms are to be stepped in response to the existing topography of the site.</p>	<p>Not applicable, as the nature of the development for a group home requires level access.</p>	<p>N/A</p>						
<p>2. Excavation or filling for the purpose of erecting a dwelling or ancillary development should not exceed 600mm in depth as measured from natural ground level.</p>	<p>Cut: 1.72m EGL: 45.865 – FFL: 44.145</p> <p>Measured from the rear of the site at the south-eastern most point of the outdoor dining area directly adjacent the communal living, a variance of 720mm is present. This variance is considered acceptable as a result of the site’s natural slope and the need for a group home to have relatively level flooring which best assists the movement of residents.</p>	<p>No – Justifiable</p>						
<p>3. Ground floor levels are to be a maximum of 800mm above natural ground level.</p>	<p>Ground floor levels have not been raised above the existing ground level.</p>	<p>Yes</p>						
<p>4. All retaining walls forward of the garage line must be constructed with masonry materials and finished to complement the house design.</p>	<p>No retaining walls are proposed forward of the garage line.</p>	<p>Yes</p>						
<p>5. With the exception of corner lots, where slopes exceed</p>	<p>The average slope across the subject</p>	<p>Yes</p>						

<p>10%, retaining walls may exceed 1m in height for a side boundary and 1.8m in height for a rear boundary, if comprehensive site benching is undertaken at the time of subdivision to produce a whole of site solution</p>	<p>site is approximately 7% whilst the more extreme portion within centre reaches 8.5%.</p> <p>Given the proximity of the slope to that mention in this control, it is considered appropriate to consider</p>											
<p>6. Lots with a side cross slope exceeding 5%, must respond to the slope of the land with either split level, drop edge beam, or bearer and joist design (or a combination of these).</p>	<p>Not applicable; the site does not comprise a side cross slope exceeding 5%.</p>	<p>Yes</p>										
<p>7. Garden retaining walls within lots are not to exceed 0.9m in height. Any remaining slope is to be graded out.</p>	<p>The proposal includes a retaining wall at the rear of approximately 1.85m. This is considered appropriate due to the nature of proposal requiring level access for people with a disability and sloping nature of the site.</p> <p>Neighbouring allotments contain retaining walls similar in height.</p> <p>Furthermore, the proposed retaining walls will not be visible from the street as they are largely hidden by the dwelling itself.</p>	<p>Yes</p>										
<p>8. On lots sloping downhill to the street, dwellings shall be designed and constructed to achieve driveway and access gradients of no greater than 20% slope. This may be achieved by cutting the garage space into the slope within the building footprint. Dwellings should be terraced down the slope with activating features such as decks or balconies facing the street.</p>	<p>The proposed walkway and driveway from Manning Street to the group home have been designed to achieve a maximum slope of 1:20 or 5%.</p>	<p>Yes</p>										
<p><b>2.1.4 Landscaped Area</b></p>												
<p>1. The minimum landscaped area of the site is:</p> <table border="1" data-bbox="220 1216 772 1473"> <thead> <tr> <th>Zone</th> <th>Minimum landscaped area % of the site</th> </tr> </thead> <tbody> <tr> <td>R1 Residential General</td> <td>40</td> </tr> <tr> <td>R2 Low Density Residential</td> <td>50</td> </tr> <tr> <td>R3 Medium Density Residential</td> <td>40</td> </tr> <tr> <td>R4 High Density Residential</td> <td>35</td> </tr> </tbody> </table>	Zone	Minimum landscaped area % of the site	R1 Residential General	40	R2 Low Density Residential	50	R3 Medium Density Residential	40	R4 High Density Residential	35	<p>Based on the above specification, a minimum of 40% or 222.96m<sup>2</sup> of landscaped area is required for the proposed group home.</p> <p>The proposed group home provides for 29.3% or 163.1m<sup>2</sup> of landscaped area, measured throughout the rear, front and side setbacks of the site. This minor non-compliance represents a variance of 59.86m<sup>2</sup>.</p> <p>Given the nature of the proposal that provides permanent accommodation for people with a disability, increased hard stand areas are required such as the front pedestrian pathway, communal facilities, and large carport.</p> <p>It is noted that the CDC provisions for group homes within the ARH SEPP only require a landscaped area of 20% (111.48m<sup>2</sup>); the proposed development far exceeds this at 163.1m<sup>2</sup> or 29.3%. Furthermore, if landscaped areas that are less than 2.0m in width were to be included in the calculation, inclusive of pathways</p>	<p>No – Justifiable</p>
Zone	Minimum landscaped area % of the site											
R1 Residential General	40											
R2 Low Density Residential	50											
R3 Medium Density Residential	40											
R4 High Density Residential	35											



	<p>open to the sky, a landscaped area of approximately 220.90m<sup>2</sup> or 39.63% would be recorded.</p> <p>With the abovementioned considered in conjunction with the general compliance with other controls relating to setbacks, private open space, and, bulk and scale, the proposed variation to landscaped area is considered acceptable and non-consequential. Privacy between the subject site and adjoining dwellings will be maintained due to the more than compliant side setbacks, 1.80m high fencing, and proposed excavation will reduce noise and privacy impacts from the proposal.</p>	
2. Calculation of landscaped area does not include areas of the site; a) Less than 2m in width b) Hard surface areas such as buildings, driveways and paved areas	Noted.	-
3. Calculation of landscaped area may include up to 15m <sup>2</sup> of any verandah, deck or patio that is attached to a dwelling at ground floor level and is associated with a landscaped area that is designated open space for that dwelling	Noted.	-
4. A portion of the landscaped area should be connected to or directly adjacent to a living area of the dwelling.	Rear landscaped areas are located adjacent to the proposed living areas of the dwelling.	Yes
<b>2.1.5 Building Design/Site Works</b>		
1. Articulation a) "Articulate" all building forms and facades: i) stepping floor plans should be capped by a variety of roof forms and pitches; ii) every elevation should incorporate windows; iii) walls should be overhung by shady verandahs, awnings and carports.	<p>The proposal includes various roof formations and pitches.</p> <p>Windows have been included in every elevation.</p> <p>Both the ground and first floor are appropriately articulated through the provision of porticos, balconies, and rear patios.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
2. Bulk and Scale a) Two storey buildings to be designed as a combination of one and two storey elements with a variety of setbacks from boundaries b) External walls are not to be longer than 8m between distinct corners or features such as projecting verandahs and awnings or banks of windows. c) All balconies and decks higher than 800mm above existing ground level shall incorporate privacy measures such as screening or landscape planting.	<p>A variety of one and two storey elements with a variety of setbacks have been incorporated in the proposed group home to create an acceptable bulk and scale.</p> <p>No external walls are longer than 8m between distinct corners or features such as projecting verandahs and awnings or banks of windows.</p> <p>Screening has been provided to decks, windows and balconies between neighbouring buildings that maintains appropriate levels of privacy.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3. Design a) Dwellings should front the street, and display a traditional configuration with:	The proposed group home will address the street frontage of the property and	Yes

<ul style="list-style-type: none"> <li>i) The front door and a window to a habitable room facing the street</li> <li>ii) Garages integrated within the building façade</li> <li>iii) The size of driveways minimised, retaining sufficient area for landscaping of front gardens</li> </ul>	<p>will have an entry identified by a front porch/patio and front door facing Manning Street.</p> <p>The proposed carport has been appropriately integrated into the façade.</p>	
<p>4. Garages</p> <ul style="list-style-type: none"> <li>a) Must be setback at least 1m behind the building line of the dwelling</li> <li>b) The total width of all garage doors facing a primary or secondary road frontage must not exceed;</li> <li>i) If the lot has a width of more than 15m measured at the building line – 6m.</li> </ul>	<p>The proposed carport is setback approximately 1.50m from the first floor balcony, reducing its visual impact on the streetscape.</p> <p>The width of the carport door is 5.00m</p>	<p>Yes</p> <p>Yes</p>
<p>6. Parking</p> <ul style="list-style-type: none"> <li>a) Parking is to be provided at the rate of: <ul style="list-style-type: none"> <li>i) A minimum of one space behind the building alignment</li> <li>ii) Two spaces for each dwelling with two or more bedrooms, at least one of which is located behind the building alignment. Stacked parking is acceptable for additional spaces.</li> </ul> </li> </ul>	<p>The proposed group home provides three (3) car parking spaces including one (1) accessible parking space.</p> <p>Only one (1) tandem parking space is not provided behind the building line.</p>	<p>Yes</p>
<b>2.1.6 Solar Planning</b>		
<p>1. Demonstrate that dwellings meet acceptable solar standards and that existing neighbouring and proposed private open spaces receive adequate solar access:</p> <ul style="list-style-type: none"> <li>a) maximise potential for solar gain by placing windows in all exterior walls that are exposed to northern sun;</li> <li>b) ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to living zones of the dwelling, and the living zones of any adjoining dwellings;</li> <li>c) ensure that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings, and</li> <li>d) where existing overshadowing by buildings and fences reduces sunlight to less than this, sunlight is not further reduced by more than 20%.</li> </ul>	<p>Adequate solar access is achieved in the proposed development due to appropriate window placement, location, and orientation of living &amp; private open space areas.</p> <p>The proposed living zones of the dwelling and adjoining dwellings receive a minimum of 3 hours of solar access between 9am to 3pm on the 21 June.</p> <p>The proposed private open space area of the dwelling and adjoining dwellings receive a minimum of 3 hours of solar access to 40% of the main POS of the dwelling between 9am to 3pm on the 21 June.</p> <p>Refer above.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<b>2.1.7 Garden Design and Fencing</b>		
<p>1. Retaining walls:</p> <ul style="list-style-type: none"> <li>a) generally should be no taller than 600mm;</li> <li>b) should be separated from any associated fence by a planter-bed at least 500mm wide, minimising the apparent overall height of fencing;</li> <li>c) should be separated from any driveway by a landscaped verge at least 500m wide, to prevent impact damage from vehicles.</li> </ul>	<p>The proposal includes a retaining wall at the rear of approximately 1.85m. This is considered appropriate due to the nature of proposal requiring level access for people with a disability and sloping nature of the site.</p> <p>Neighbouring allotments contain retaining walls similar in height.</p> <p>Furthermore, the proposed retaining</p>	<p>No – Justifiable</p>

	walls will not be visible from the street as they are largely hidden by the dwelling itself.	
2. Fencing;		
a) Meets the requirements of the Dividing Fences Act 1991	Complies.	Yes
b) Fences should be generally no taller than 1.8m or up to 2.4m on sloping sites, including the height of any retaining wall.	The proposal includes new 1.8m high Colorbond fencing around the side and rear boundary of the site.	Yes
c) Fences along boundaries forward of the front building alignment should not be taller than 1.2m and consist of see-through construction;	The front fence is high quality constructed of brick with horizontal metal picket sections creating a visually permeable fence to the street.  The brick piers sections of the front fence propose a height of approximately 1.5m. This is largely looked over as the spaced horizontal metal sections which dominate the front fence façade are 900mm in height. However, planting is proposed immediately behind the fence and in sections in front of the fence which will soften the fence and improve the quality of the public domain.	No – Justifiable
d) Fences along shared driveways or fronting a public park should be 1m tall, or if taller, of see-through construction.	The subject site does not front a public park.	N/A
e) Fences in any location that can be seen from the street or fronts a public park frontage should not be constructed of solid metal panels.	The subject site does not propose solid metal pickets.	N/A
f) If frontage is to a noisy thoroughfares solid masonry walls are acceptable to a maximum of 1.8m if corners and planting beds are incorporated every 5m.	The proposal does not front a noisy thoroughfare.	N/A
g) Fencing of a "see-through Construction" includes panels set into a timber frame or between brick piers, where:	Complies.	Yes
h) Any solid base is not taller than 600mm; and	Complies.	Yes
i) Panels are spaced timber pickets or palings, or palisade fencing.	Complies.	Yes
3. The rear boundary setback should provide:		
a) The principal area of private open space;	The proposal consists of a principal private open space area in the rear boundary.	Yes
b) a corridor of habitat, and a green backdrop that is visible from the street;	The proposal includes appropriate landscaping at the rear.	Yes
c) conservation for any existing corridor of mature trees; and/or	No existing corridor of mature trees is located on site.	N/A
d) an interlocking canopy of low to medium-height trees and shrubs; predominantly species indigenous to the soils of Penrith City.	Appropriate landscaping provided.	Yes
4. Planting along side boundaries is to provide small-to medium height canopy trees for sun-shading and privacy separation between neighbouring dwellings and yards;	Not applicable; there is not sufficient room within the side setbacks for planting of trees.	N/A
5. Planting along narrow service areas is to provide feature plantings of ground covers pavers or an alternative water-permeable material such as river pebbles.	The proposal includes the provisions of soft landscaping treatments in the form of glass/turfed areas within the	Yes



	northern and southern side setbacks, which allow for water to penetrate through.	
6. Street frontages are to;		
a) be sympathetic to the natural setting and character in form materials and colour; and	The development will be sympathetic to the surrounding built and natural environment as the design and siting of the home respects the amenity of neighbouring properties and maintains the quality of the surrounding built and natural environment.	Yes
b) incorporate mixed species of trees, shrubs, and accent plantings including flowers, ground covers and turf;	The front setback will be appropriately landscaped with a variety of plant and tree species, ensuring a positive relationship with the streetscape.	Yes
c) along noisy thoroughfares: noise attenuation with an interlocking canopy formed by at least two rows of trees under planted with dense hedges.	Appropriate landscaping has been provided between Manning Street and the dwelling in the form of two (2) trees and eleven (11) other plantings.	Yes
d) maximize natural surveillance from the street to the building and from the building to the street.	The proposed plantings will allow for sufficient surveillance to Manning Street from the dwelling.	Yes

#### Justifications for Identified Non-Compliances

Controls 4a & b located within Section 4.1 of the Penrith Development Control Plan 2014 state that:

- *Earthworks to create a building platform shall not be undertaken where excavation and/or filling would exceed 1m from the existing natural ground level of the site.*
- *On sloping sites, site disturbance is to be minimised by using split level or pier foundation building designs (see Figure C4.1).*

Based on the above specification, a maximum of 1m of cut and fill is required for the proposed group home.

The proposed group home provides 1.72m of cut, measured from the rear of the site at the south-eastern most point of the outdoor dining area directly adjacent the communal living area. This non-compliance represents a variance of 720mm.

Nonetheless, this variance is considered acceptable as level flooring is essential for the operation of the group home. Residents of the group home are persons with a disability that struggle with manoeuvrability. Accordingly, proposing split levels has been evaluated as an option to reduce the level of cut. However, this is considered inappropriate as split levels and uneven flooring will hinder the movement of future residents and will provide unsuitable living conditions for persons with a disability.

Control 1 located within Section 2.1.4 of the Penrith Development Control Plan 2014 states that:

- *The minimum landscaped area of the site is 40%*

Based on the above specification, a maximum of 40% or 222.96m<sup>2</sup> of landscaped area is required for the proposed group home.

The proposed group home provides for 29.3% or 163.1m<sup>2</sup> of landscaped area, measured throughout the rear, front and side setbacks of the site. This non-compliance represents a variance of 59.86m<sup>2</sup>.

Given the nature of the proposal that provides permanent accommodation for people with a disability, increased hard stand areas are required such as the front pedestrian pathway, communal facilities, and large carport.

It is noted that the CDC provisions for group homes within the ARH SEPP only require a landscaped area of 20% (111.48m<sup>2</sup>); the proposed development far exceeds this at 163.1m<sup>2</sup> or 29.3%. Furthermore, if landscaped areas that are less than 2.0m in width were to be included in the calculation, inclusive of pathways open to the sky, a landscaped area of approximately 220.90m<sup>2</sup> or 39.63% would be recorded.

With the abovementioned considered in conjunction with the general compliance with other controls relating to setbacks, private open space, and, bulk and scale, the proposed variation to landscaped area is considered acceptable and non-consequential. Privacy between the subject site and adjoining dwellings will be maintained due to the more than compliant side setbacks, 1.80m high fencing, and proposed excavation will reduce noise and privacy impacts from the proposal.

Control 1 located within Section 2.1.7 of the Penrith Development Control Plan 2014 states that:

- *Retaining walls generally should be no taller than 600mm*

Based on the above specification, a maximum height of 600mm on all retaining walls is required for the proposed group home.

The proposed group home provides a 1.85m retaining wall, measured at the rear boundary of the site.

This is considered appropriate due to the nature of proposal requiring level access for people with a disability and sloping nature of the site.

Neighbouring allotments contain retaining walls similar in height.

Furthermore, the proposed retaining walls will not be visible from the street as they are largely hidden by the dwelling itself.

Control 2c & g located within Section 2.1.7 of the Penrith Development Control Plan 2014 state that:

- *Fences along boundaries forward of the front building alignment should not be taller than 1.2m and consist of see-through construction;*
- *Fencing of a "see-through Construction" includes panels set into a timber frame or between brick piers,*

Based on the above specification, a maximum height of 1.2m on front fences is required for the proposed group home.

The proposed group home provides brick pier sections at a height of 1.5m. This non-compliance represents a variance of 300mm.

Nevertheless, this non-compliance is considered acceptable as the front fence is high quality constructed of brick with horizontal metal picket sections creating a visually permeable fence to the street. The brick piers sections of the front fence propose a height of 1.5m. This is largely over looked as the spaced horizontal metal sections which dominate the front fence façade are 900mm in height. Also, planting is proposed immediately behind the fence and in sections in front of the fence which will soften the high brick piers and improve the quality of the public domain.



## 7.0 Environmental Assessment

### 7.1 Environmental Planning Instruments – Section 4.15(1)(a)

The development application is being lodged pursuant to Clause 43 (1) (b) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* that allows for permanent group homes to be undertaken with consent in prescribed zones.

The subject site is zoned R3 Medium Density Residential under the *Penrith Local Environmental Plan 2010*, which is classified as a prescribed zone pursuant to Clause 42 (1) (a) (iii) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

Group homes are a permitted form of development under the PLEP2010 and the proposed group home development is considered to be consistent with the zone objectives.

### 7.2 Any Relevant Draft Environmental Planning Instruments – Section 4.15(1)(a)(i)

There are no relevant Draft Environmental Planning Instruments which relate to this site.

### 7.3 Any Development Control Plans – Section 4.15(1)(a)(iii)

As demonstrated above, the relevant provisions of the Penrith Development Control Plan 2014 have been considered to ensure that the proposed development will be compatible with surrounding uses and will be able to operate with no impact to adjoining properties.

### 7.4 Impact on the Natural and Built Environment – Section 4.15(1)(b)

#### 7.4.1 Impact on the Natural Environment

The proposed development will utilise an established allotment which is provided with existing infrastructure and utility services. As a result, there will be no soil or water impacts.

The proposed development involves the construction of a double storey group home development. The design, location and siting of the development maximises access to natural sunlight and will include appropriate measures to provide efficient consumption of water and energy. Waste minimisation and recycling will be a key goal during the operation of the group home. The proposal will not result in any noise or air pollution during the operation of the group home as it will operate at a domestic scale.

Accordingly, the proposal is unlikely to have any significant impact on the natural environment.

## 7.4.2 Impact on the Built Environment

The proposed development has been designed and sited to respect appropriate setbacks, height, and a bulk and scale that is conducive to the character of the existing streetscape and surrounding area. The group home provides an appropriate level of landscape embellishment to improve the visual appearance to Manning Street.

External walls and facades are well-articulated to provide visual relief to the development and mitigate any visual impacts of solid blank walls from the street as well as adjoining sites. The materials and finishes are high quality in nature and indicative of contemporary architectural design and features.

The provision of landscape treatment have been employed to protect the visual and acoustic amenity for the future residents and neighbouring properties. Therefore, the development does not pose adverse visual or privacy impacts.

As such, the proposal will not have any significant impact on the built environment.

## 7.4.3 Social and Economic Impacts - Section 4.15(1)(b)

### Social Impacts

The proposed group home will enable people with a disability to be accommodated within new, more appropriate contemporary housing aligning with the demand for supported accommodation.

The residents will benefit from the new group home which will allow for increased participation in the local community and provide tailored supportive accommodation with more privacy & flexibility in daily living. The more supportive housing model considers that people with a disability have a right to live in a community, rather than an institution, and to participate fully in that community. Group homes provide people with the support they need to increase their independence, achieve personal goals and to live full and productive lives.

No adverse social impacts are anticipated as a result of the proposed development. The development provides and contributes to diversity in housing choice, as well as housing affordability.

The proposed development will:

- improve the environmental sustainability of housing, particularly through improved energy and water efficiency;
- provide more accessible housing; and
- not have any effect on a locality, place or building having social significance or other special value for present or future generations.

Accordingly, it is not considered there would be any adverse impacts on the localities social significance for present or future generations. In this regard, the proposal is considered to contribute to a positive social impact on the surrounding locality.

### Economic Impacts

No adverse economic impacts are likely to result from the proposed group home development. The proposed development is likely to contribute to a range of economic benefits in the Penrith Local Government Area and surrounding areas through:

- more efficient use of land resources, existing infrastructure and existing services
- employment of construction workers and contractors during the construction phase of the development;
- employment opportunities during the operation of the group home
- on-going consumption from new/additional households
- local sourcing of construction materials
- reduced maintenance costs of the newer housing
- savings associated with improved energy and water efficiency
- Housing residents whom contribute to the consumptions of goods and services within the local economic micro climate and;
- residents will utilise the local shops, assisting the local economy

## 7.5 Suitability of the site for the development – Section 4.15(1)(c)

The proposed Group Home is a permissible land use in the zone and is consistent with the objectives of the R3 zone (Medium Density Residential).

The proposed development makes use of existing land resources and utility infrastructure.

The site is located in a residential locality and maintains a suitable scale. Site characteristics (topography and location) ensure that any adverse impacts can be minimised and controlled. The site is located within proximity to local services including public transport and supporting social and community infrastructure, to allow carers and the residents to utilise such services. The location, siting and planning for the development holds due regard to environmental constraints.

Accordingly, it is considered that the subject site is suitable for the proposed group home development.

## 7.6 Public Submissions

Any public submissions received in response to the development proposal are required to be considered in the light of Section 4.15 of the *Environmental Planning and Assessment Act 1979*, having particular regard to:

- The stated and underlying objectives of the relevant planning controls;
- The specific merits and circumstances that apply to the proposed development and the site;
- The acceptable nature of the likely impacts of the proposal;
- The suitability of the site in accommodating the proposed development; and
- The acceptable nature of the proposal when considering the wider public interest.



## 7.7 Public Interest – Section 4.15(1)(e)

The proposal provides the local area with new social housing infrastructure on a site inherently suitable for such use as it is a permissible form of development under the ARHSEPP and PLEP2010. The proposal will increase the diversity of social housing resources in the in the Penrith Local Government Area.

The proposed group home will accommodate people with a disability in a more appropriate contemporary housing aligning with the demand for supported accommodation. Accordingly, it is providing a service to the broader community, as detailed below:

- Provides shelter, support and care for people with a disability;
- Improves opportunities for people with a disability to remain as independent and healthy as possible;
- Provides for future residents with the support and care provided by a group home, including the provision of staff during the day that allows residents to live with support in residential areas;
- Increases the availability of housing for people with a disability, a key commitment of the NSW government as detailed in the State Plan (2006) and the Sydney Metropolitan Strategy.

## 8.0 Conclusion

The proposed development has been assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. On balance, it is concluded the development is satisfactory and warrants development consent, having regard to the following matters:

- The proposed development is permissible under the ARHSEPP on the subject site. The SEE has demonstrated that there is a community need for the group home pursuant to Clause 46 (1) (a) of the ARHSEPP;
- The proposal is consistent with the relevant aims and objectives of the *Penrith Local Environmental Plan 2010*.
- The proposal is consistent with the R3 – Medium Density Residential zoning of the *Penrith Local Environmental Plan 2010*, as group homes are a permitted form of development, and the R3 zoning objectives.
- The proposal is generally consistent with Council's DCP – the Penrith Development Control Plan 2014. Where departures from the DCP have been identified, these have been departures from the DCP was identified these have been adequately justified in the SEE.
- The group home design will deliver environmentally sustainable development outcomes through the efficient energy consumption of water and electricity and meets the BASIX commitments.
- No unreasonable external impacts will result from the development proposal as far as solar access, privacy and overlooking are concerned, with no impact to streetscape or neighbourhood character.
- Appropriate operational management measures are in place to ensure the intended residents that will occupy the proposed group home are cared for according to their needs, ensuring there is no social impacts on the community during the operation of the group home.
- The proposal makes use of existing infrastructure and resources, and is compatible with the residential character of the locality.
- It is considered there are no matters that warrant refusal of the proposal on the grounds of it being contrary to the public interest.
- The proposed development will provide a range of social benefits to the local community. Refer to Section 6.2.1 which demonstrates the positive social impacts derived from the proposed development.

Accordingly, it is recommended that Penrith City Council support and approves this development application.