

cityscapeplanning+projects

STATEMENT OF ENVIRONMENTAL EFFECTS

**PROPOSED APARTMENTS AND CHILD CARE
CENTRE**

71 PARK AVE, KINGSWOOD

FEBRUARY 2017

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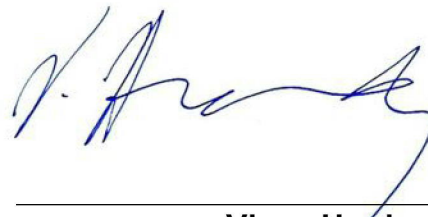
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This report is provided to accompany a Development Application to be lodged on the subject land and is to be used for that purpose solely and for the client exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the Report and upon the information provided by the client.

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1.0 INTRODUCTION

Cityscape Planning + Projects has been engaged to prepare a Statement of Environmental Effects (SEE) to accompany a Development Application (DA) to be submitted on the subject site. Detailed plans and a completed DA form have been provided separately.

The SEE describes the proposed development and subject site and undertakes an assessment of the proposal against the *EP& A Act 1979*, SEPP 65 as well as the aims, objectives and development provisions of Penrith LEP 2010 and its DCP.

It has been compiled, through on ground investigations, research, analysis and discussion with officers of Penrith City Council.

2.0 THE SUBJECT SITE

The subject site is a large irregular shaped parcel located on the northern side of the Park Ave, approximately 100m east of its intersection with Richmond Rd. It is known as 71 park Ave, Kingswood, but represents only part of a lot that has the following real property description:

Lot: 101 DP: 816440

The location of the site is shown at Figure 1 whilst the sites cadastral arrangements and an aerial photo of the site are shown at Figures 2-3.

FIGURE 1: LOCATION OF SITE

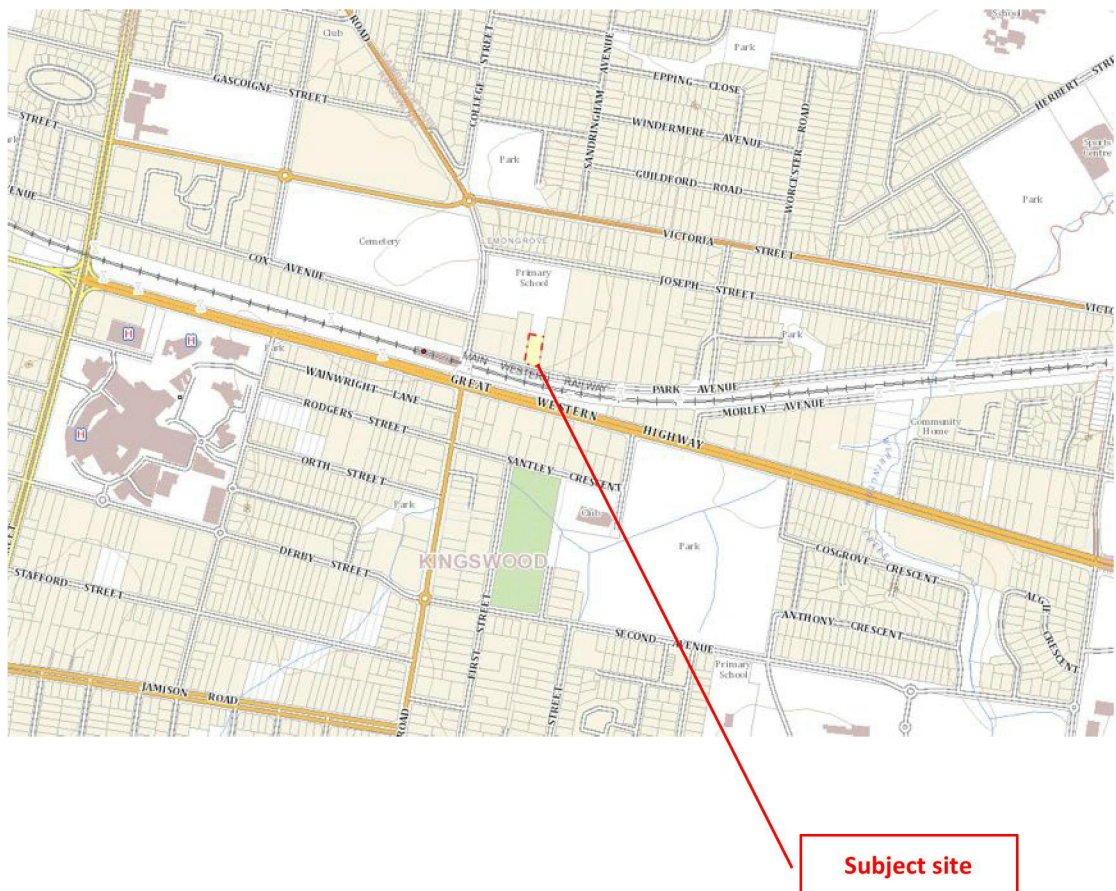


FIGURE 2: SITE CADASTRAL BOUNDARIES



FIGURE 3: AERIAL PHOTO OF SITE



3.0 SITE ANALYSIS

3.1 SITE DIMENSIONS

The site is a large irregular shaped parcel of land with a total area of area of 1960.4m². It has a length of 65.427m along its eastern boundary and a frontage to Park Ave of 30.575m.

3.2 NATURAL ENVIRONMENT

The site is located within an urban environment that has been highly modified over many decades of urban development. Therefore, neither the site nor the local environs accommodated any items of natural or ecological significance.

However, the site does still accommodate several, large and mature trees and also slopes up and away from the street. The change in the sites grade represents approximately 5m. Contour plans are shown on the accompanying plans. Images of the site are provided at Figures 4-5.

3.3 BUILT ENVIRONMENT

The site sits within an urban environment that is characterised by medium density scaled residential development. However, it also does adjoin a large primary school to its rear and is located in close proximity to the Kingswood CBD. The area is also currently going through urban renewal and as such experiencing significant changes to the urban environment and built forms.

FIGURE 4-5: PHOTOS OF SITE



3.4 EXISTING DEVELOPMENT

The site is currently vacant and free of any form of development or land use.

3.5 TRANSPORT AND CONNECTIVITY

The site enjoys excellent access to the metropolitan rail network being located approximately 100m to the east of Kingswood Rail Station.

This proximity is evident in Figure 3.

The sites location adjacent to the Great Western Highway also presents an excellent opportunity to access the regional road network and the local bus services.

Accordingly, the area is considered to have excellent access to public transport services.

Park Ave provides a wide and straight road corridor that provides excellent and safe vehicle access. An image of that corridor is provided at Figure 6.

FIGURE 6: EXISTING DWELLINGS ON SITE



4.0 DEVELOPMENT PROPOSAL

The development seeks council consent to the construction of a new six-storey development comprising a child-care-centre on part of the ground floor and apartments across the balance of ground floor and upper floors.

The development provides a total of 50 apartments, with the following split of bedroom size types:

- Studio – 1 (2%)
- 1 Bedroom – 3 (6%)
- 2 Bedroom – 44 (88%)
- 3 Bedroom – 2 (4%)

The Child Care Centre occupies 420m² of floor space on the ground floor and will accommodate 90 children across the various age groups:

- 2-3 year old: 20
- 3-5 year old : 70
- Staff required: 11

Outdoor play areas for the child-care-centre are provided at the ground floor and rooftop areas.

A communal open space area is also provided for residents on the rooftop. This roof-top also provides the bedrooms for the corresponding apartments (Units 40-41) located on the level below

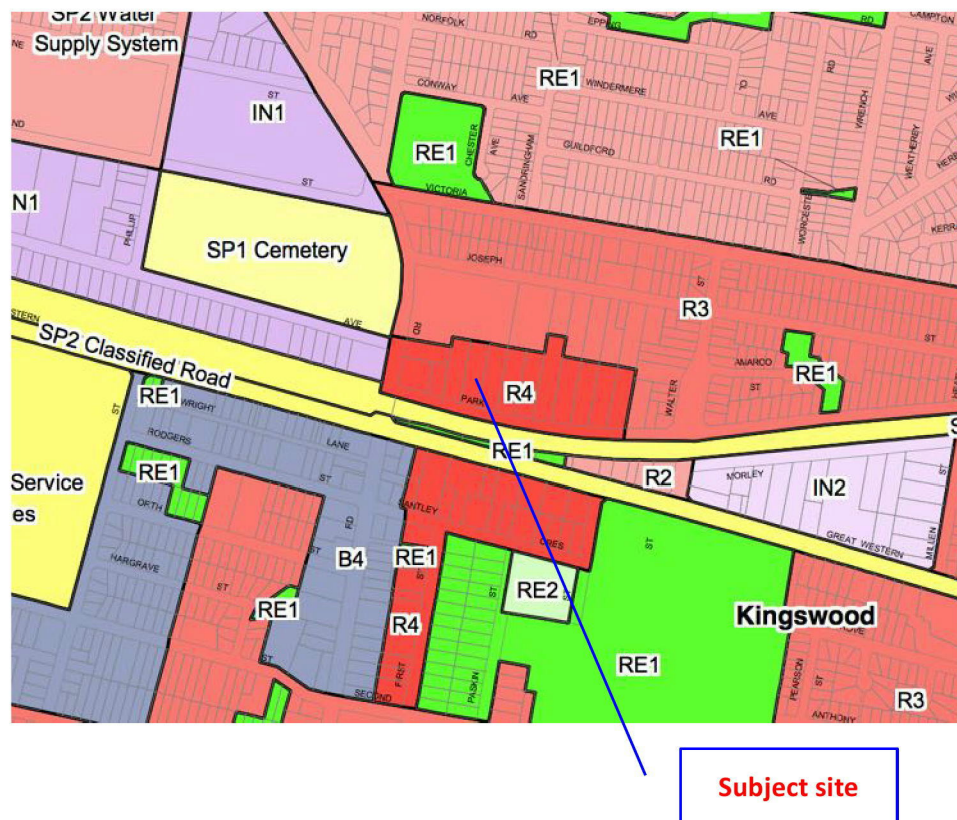
Car parking for 66 vehicles is provided in two basement levels.

5.0 STATUTORY SITUATION

5.1 PERMISSIBILITY IN ZONE

The site is zoned **R4 High Density Residential** pursuant to Penrith LEP 2010. An extract of the relevant zoning plan is provided at Figure 7.

FIG 7: EXTRACT OF ZONING PLAN



The land use table to this zone identifies both 'residential accommodation' and Child care centres as permissible land uses in the zone.

The following relevant definitions from the dictionary to the LEP are relevant and provided below:

Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following:

- (a) attached dwellings,*
- (b) boarding houses,*
- (c) dual occupancies,*
- (d) dwelling houses,*
- (e) group homes,*
- (f) hostels,*
- (g) multi dwelling housing,*
- (h) residential flat buildings,***
- (i) rural workers' dwellings,*
- (j) secondary dwellings,*
- (k) semi-detached dwellings,*
- (l) seniors housing,*
- (m) shop top housing,*

but does not include tourist and visitor accommodation or caravan parks.

And

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and*

(b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

(c) a building or place used for home-based child care, or

(d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or

(e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or

(f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or

(g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or

(h) a service that is concerned primarily with the provision of:

(i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or

(ii) private tutoring, or

(i) a school, or

(j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

These definitions are entirely consistent with those provided in the development proposal outlined at Section 4.0 of this report

Accordingly, it can be determined that the development is a permissible land uses in the zone.

5.2 EDUCATION AND CARE SERVICES NATIONAL REGULATIONS

The regulations provide the following spatial requirements for child care centres that must be met:

Clauses 107: at least 3.25m² of unencumbered indoor space must be provided for each child; and

Clauses 108: at least 7.0m² of unencumbered outdoor space must be provided for each child;

The development provides the following rates as demonstrated at Table 1:

TABLE 1: COMPLIANCE WITH NATIONAL REGULATIONS

Spatial requirement	Provided (m ²⁰)	Rate (m ²) @ 90 children	Compliance
Indoor	420	4.66	Yes
Outdoor	630	7	Yes

6.0 PLANNING ASSESSMENT

6.1 THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

6.1.1 SREP 20 – HAWKESBURY NEPEAN RIVER

Sydney Regional Environmental Plan No 20 (SREP 20) is in place to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

It seeks to achieve this by providing a series of strategies and planning controls that all development must be considered against.

The proposed development seeks to manage all waste waters in a suitable manner and is therefore is not in conflict with this objective.

It is considered that any other risks relating to the protection of the Hawkesbury-Nepean River system would be considered and addressed through the implementation of any conditions of consent relating to the production process, and erosion and sediment control, and stormwater runoff mitigation.

6.1.2 SEPP 55 - REMEDIATION OF LAND

The object of this Policy is to provide for a State wide planning approach to the remediation of contaminated land. In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

-
- (a) by specifying when consent is required, and when it is not required, for a remediation work, and
 - (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and
 - (c) by requiring that a remediation work meet certain standards and notification requirements

The site has remained vacant and unutilised been used for many decades as surplus lands to the adjacent school. This previous use does not raise the potential for contamination.

6.1.3 SEPP 2004 – BASIX

BASIX seeks to ensure that new residential dwelling design meets the NSW Government's targets of up to 40% reduction in water consumption and a 35% reduction in greenhouse gas emissions, compared with the average home. The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.

A holistic approach to building sustainability has underpinned the design of the development. As such a range of measures outlined in the accompanying BASIX report reveal that the development will achieve the required water and energy reduction of 40% targets.

6.1.4 SEPP 2007 – INFRASTRUCTURE

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State. The Policy includes a requirement for traffic generating development to be referred to the RMS for consideration and review with regard to its impact upon the regional road network. The SEPP also requires development near road and rail corridors to be assessed with regard to the impact of noise or vibration on that development.

The proposed development is not classified as a Schedule 3 development pursuant to the SEPP and as such does not necessitate referral to the Roads and Maritime Service (RMS).

However the following provisions of the SEPP are relevant:

87 Impact of rail noise or vibration on non-rail development

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

COMMENT:

An assessment of railway vibration levels has been conducted accordance with the Department of Planning guidelines and EPA criteria. Results of this assessment indicate there is a “low probability” of impact.

102 Impact of road noise or vibration on non-road development

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

COMMENT:

An acoustic assessment of the proposed development has been carried out in accordance with the requirements of Penrith City Council DCP.

Construction for glazing, external walls and the roof/ceiling systems have been provided to achieve the required internal noise criteria based on impacts from the road corridor.

6.1.5 PENRITH LEP 2010

PART 2 PERMITTED OR PROHIBITED DEVELOPMENT

2.3 ZONE OBJECTIVES AND LAND USE TABLE

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.***
- To provide a variety of housing types within a high density residential environment.***
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

-
- ***To ensure that a high level of residential amenity is achieved and maintained.***
 - ***To encourage the provision of affordable housing.***
 - ***To ensure that development reflects the desired future character and dwelling densities of the area.***

COMMENT:

The proposed residential element of the development provides for the community's housing needs in an emerging high-density residential environment. It does through providing a mix of bedroom and apartment styles and arrangements inclusive of smaller units that will provides affordable housing options within the building

A high level of residential amenity is provided for in the design of the proposal through the provision of high architectural design, private courtyards, terraces and balconies and common open space

The proposal also includes another land use for a child-care centre. This is considered to be supportive of high-density residential areas, the adjoining school and nearby medical facilities.

PART 4 PRINCIPAL DEVELOPMENT STANDARDS

4.3 Height of buildings

- (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.***

An extract of the LEP map is provided at Figure 8 and demonstrates that the LEP provides a maximum building height of 15m.

The development provides a maximum building height of 16.76m above existing ground level as part of the southern most lift overrun

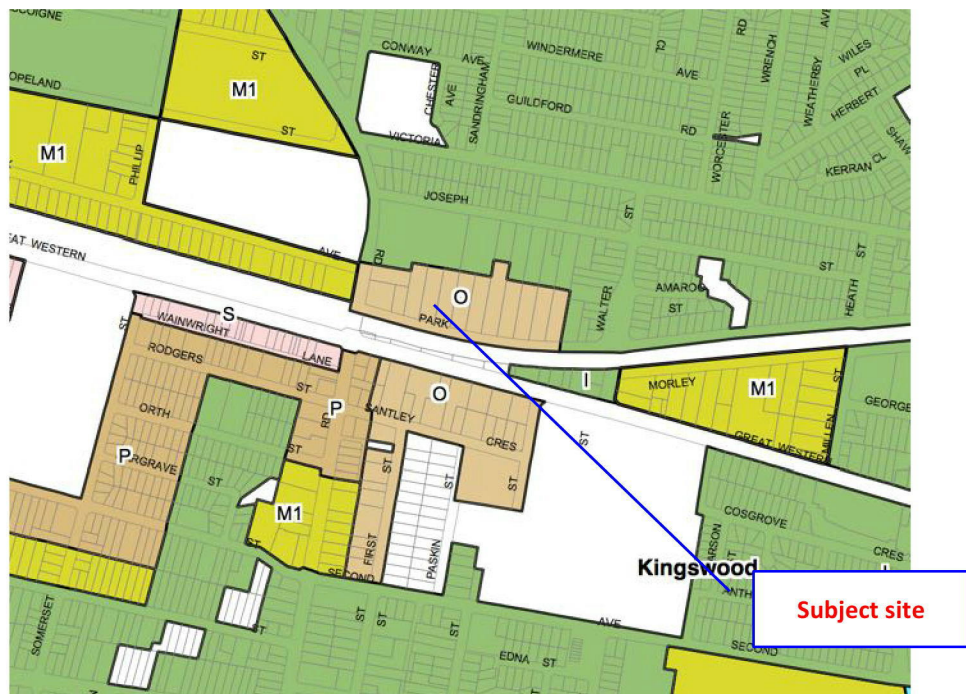
and therefore fails to comply with the relevant development standard.

Clause 4.6 of the LEP allows a variation to development standard and a formal submission pursuant to this clause is provided at section 7 of this report.

FIG 8: EXTRACT OF BUILDING HEIGHT MAP

Height of Buildings Map -
Sheet HOB_013

Maximum Building Height (m)	
A	0
C	5
I	8.5
J	9
K	10
M1	12
M2	12.5
O	15
P	18
Q1	19
Q2	20
R	21
S	24
T	27
U	32
Z	56
AB	80
	Refer to Clause 7.16, 8.2 & 8.4



4.4 Floor space ratio

(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.*

The LEP does not provide a FSR control for the subject site.

Nevertheless, the development provides a FSR of 2.24:1 which is considered to represent an appropriate quantum of GFA for the

site and ensures that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.

PART 7 ADDITIONAL LOCAL PROVISIONS

PROVISION	COMMENT
7.1 Earthworks	Earthworks are required for the basement. The proposal will not have a detrimental effect on neighbouring property or the environment as this is appropriately setback and contained from the property boundaries. Appropriate measures will be put in place to avoid, minimise or mitigate any impacts that may arise.
7.2 Flood planning	The site is not affected by the 1 in 100 year mainstream flood level.
7.4 Sustainable development	The proposal has given consideration to the sustainable development principles referred to in this clause. A BASIX Assessment Report and Water Sensitive Urban Design Strategy accompanies the application.
7.6 Salinity	The proposal is unlikely to have an impact on the salinity processes or salinity likely to impact the development. There is no known salinity on the site.
7.7 Servicing	<p>The proposal will retain all the servicing that occurs on the site and connection to water, sewer and electricity. Upgrades may be required to accommodate the use and this will be confirmed with the relevant agencies prior to construction.</p> <p>Existing infrastructure within the area is considered sufficient to service the proposal in addition to contributions payable for local open space and district facilities.</p>

6.1.6 SEPP 65 – DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT

This Policy aims to improve the design quality of residential flat development in New South Wales by identifying design quality principles as a means of evaluating the merit of residential elements of the proposed development.

The design of the development has undergone assessment and review with inputs and contributions as part of Councils Urban Design Panel.

A design verification statement has been prepared by the architectural firm and accompanies the Development Application. This clearly enunciates the design rationale that has underpinned the development proposal and demonstrates that the identified design principles have been embodied in the development proposal.

An Apartment Design Guide (ADG) has also been adopted as part of SEPP 65 and represents a tool to assist planning and design of apartment developments. Accordingly, an assessment of the development against the objectives and design criteria identified by the ADG also accompanies the development application. However, an overview of the key numeric criteria is provided at Table 2:

The quality of the proposed building design is demonstrated in the photomontage provided at Figure 9.

FIG 9: PHOTOMONTAGE



TABLE 2: KEY NUMERIC DESIGN CRITERIA COMPLIANCE

DESIGN CRITERIA	REQUIRED	PROVIDED
Communal Open Space	25%	The development provides 25.4% (497.3m ²) of communal open space at both ground level and primarily on the roof area.
Deep Soil Landscape	The site has an area of 1960.4m ² , therefore requires 137.2m ² (7%) of deep soil area with a minimum dimension of 3m	The development provides 185.2m ² (9.4%) of deep soil landscape area. This space provides a minimum dimension of 6m on the northern boundary.
Building Separation	Various	Compliance demonstrated as part of the accompanying plans
Solar access to living rooms and POS	Minimum 70% of apartments achieves 2 hour in mid winter Maximum of 15% of apartments receive no direct sunlight	Total of 39 (78%) apartments that achieve the 2 hours or more of solar access, which therefore achieves the relevant Design Criteria. 12% (6 apartments) apartments will receive no direct sunlight between 9AM-3PM
Natural ventilation	Minimum 60% of apartments No apartment has a depth of greater than 18m	66% (33) apartments Complies
Minimum apartment size:		
Studio	35m ²	41 m ²
1 bedroom	50m ²	50 m ²
2 bedroom	70m ²	71 m ²
3 bedroom	90m ²	95 m ²

6.2 THE PROVISIONS OF ANY DRAFT PLANNING INSTRUMENT

The Department of Planning and Environment have recently exhibited a Draft Education and Child Centre SEPP. The aim of this Draft SEPP is to make it easier for child care providers and developers to deliver new early childhood education and care facilities across NSW.

The SEPP therefore proposes the following changes to the planning system:

- Aligning the National Quality Framework for Early Childhood Education and Care Facilities into the NSW planning system;
- Simplifying and streamlining the planning approval process by allowing certain early childhood education and care facilities to be assessed as exempt or complying developments;
- Referring development applications that do not meet key national requirements to the Department of Education early in the assessment process, allowing applicants to make any necessary modifications early in the design process;
- Allowing early childhood education and care facilities to be temporarily relocated (through an exempt development process) in the event of an emergency;
- Amend all Local Environmental Plans to permit centre-based child care in all R2 Low Density Residential and IN2 Light Industrial zones, allowing child care centres in more locations closer to homes and workplaces; and
- Introduce the Child Care Planning Guideline, which contains key national requirements and design guidance for child care facilities.

These changes will not affect the requirement for early childhood education and care providers to apply for a Service Approval to operate a service. In NSW, the Department of Education is the regulatory authority which reviews and approves applications for Service Approvals.

The proposed development is not inconsistent with the Draft SEPP objectives or controls.

In any event the Draft is neither certain or imminent and therefore has only limited relevance in the assessment of the development.

There are no other know Draft Planning Instruments relevant to the site.

6.3 THE PROVISION OF ANY DEVELOPMENT CONTROL PLAN

PENRITH DCP 2014

An assessment against the relevant sections of the DCP is provided below:

C1: SITE PLANNING AND DESIGN PRINCIPLES

A Site Analysis Plan accompanies the application.

The design methodology was discussed with Council at its Urban Design Review Panel and Pre DA meetings. No fundamental objection was raised to the proposed design approach and it is considered that the development provides a

suitable site responsive design.

C2: VEGETATION MANAGEMENT

The development proposes to remove several mature trees at the rear of the site.

An Arboricultural Assessment accompanies the application and justifies the removal and in some instances the replacement of the relevant trees.

A Landscape Concept Plan accompanies the application and provides for a mix of planting to replace any vegetation removed and integrates this with the overall development.

C3. WATER MANAGEMENT

The site is not exposed to any flood hazard, or overland flow and is not located in proximity to any natural watercourse or riparian area.

A stormwater management plan has been prepared and this provides satisfactory outcomes for the management of both stormwater quality and volumes generated by the development.

The management plan also demonstrates achievement of WSUD outcomes required by Council.

C4 LAND MANAGEMENT

Standard construction measures shall be implemented to ensure the site is protected from erosion and sedimentation during that stage of development.

An erosion and sedimentation control plan is provided as part of the development application.

The site presents no current or historical use that presents potential for contamination.

C5.WASTE MANAGEMENT

The development is accompanied by a waste management plan that has three key objectives, as follows:

- **Ensure waste is managed to reduce the amount of waste and recyclables to land fill** by assisting residents to segregate appropriate materials that can be recycled; displaying signage to remind and encourage recycling practices; and through placement of recycling and waste bins in the retail precinct to reinforce these messages.
- **Recover, reuse and recycle** generated waste wherever possible.
- **Compliance** with all relevant codes and policies.

The plan responds to both the residential and child care land use components and seeks to provide facilities that will provide clean and well segregated waste materials. These facilities include waste chutes, compactors, storage rooms, and suitable access for waste collection vehicles.

C6. LANDSCAPE DESIGN

A detailed Landscape Concept Plan accompanies this application. The provisions of SEPP 65 have been considered in respect of the landscaping proposed. The plants that will be used in the landscaping will be varieties that require low levels

of maintenance and are drought resistant to reduce water use within the development.

C7. CULTURE AND HERITAGE

The site is not a heritage item nor does it adjoin or be site in close proximity to any heritage item or conservation area.

C10. TRANSPORT ACCESS AND PARKING

The proposed development is within 800 metres vicinity of Kingswood Railway Station and is therefore subject to SEPP 65 Apartment Design Guide (ADG) with regard to minimum parking rates.

A traffic and parking impact assessment accompanies the development application. This report states that the the proposed development will result in a nominal requirement for 75 car parking spaces; comprising:

- 45 residential car parking spaces
- 10 residential visitor car parking spaces,
- 9 child care car parking spaces, and
- 11 child care staff car parking spaces.

However, it is noted that residential visitor parking demands will typically occur outside of peak pick- up/drop-off periods associated with the child care centre. Therefore, it is proposed to share parking spaces between residential visitors (primarily in the evening and on weekends) with child care centre pick-up / drop-off parking (weekday morning and early evenings). On this basis, a total of up to 66 parking spaces is considered adequate and is therefore proposed.

The moderate increase in traffic volumes as a result of the development will have minimal impact on the surrounding road network. Indeed, an increase of 14 veh/hr on approach to the Parker Street / Copeland Street signals for example equates to a single additional vehicle every 4 minutes.

C12. NOISE AND VIBRATION

The accompanying Acoustic and Vibration report addresses the DCP and concludes it complies with Council's requirements with regard to noise generated by road based traffic, rail services and the child care centres.

C13. INFRASTRUCTURE AND SERVICES

The site is located in an established urban area and as such enjoys access to full suite of urban infrastructure and services including, water, energy utilities, telecommunication.

D2 RESIDENTIAL DEVELOPMENT

2.5 Residential Flat Buildings

DCP Control	Required	Provided	Comment
2.5.3 Minimum lot width in R4 zone	20m	30.575m	Complies
2.5.5 Landscaped Area in R4 zone	35%	34.9%	The development achieves SEPP 65 landscaping requirements compliance and additional landscaping is provided on roof bringing total to 81.9%
2.5.6 Front and Rear Setbacks			
Rear setback		6m	6m
Front setback		5.5m	5.5m

D5 - OTHER LAND USES	
5.2 Child Care Centres	
CONTROL	COMMENT
<p>2. Location</p> <p>a. Any centre which:</p> <p>i) will cater for in excess of 40 children</p> <p>ii) Does not propose to cater for 0-2 year olds</p> <p>must demonstrate that the service meets unmet need in the community</p> <p>b. Child Care centres shall be located in close proximity to other community activities and facilities.</p> <p>c. Sites shall not rely on direct access from or be located on a designated road.</p> <p>d. Access to the site shall not be located in a cul-de-sac, intersection or minor road unless additional vehicles associated with the child care centre will not create traffic conflict or impact on the amenity of the area</p> <p>e. Not be located within an 85m radius of an existing approved service station or radius specific to an existing/approved flammable storage area under SEPP33.</p> <p>f. Not be located directly opposite a lawful sex services/restricted premises.</p> <p>g. Not be permitted on land where there is an electricity transmission easement, mobile phone tower or similar.</p> <p>h. Not be located on land below the flood planning level and on land that cannot be safely and effectively evacuated during a 1:100 ARI flood</p>	<p>The proposed centre will meet a real and unmet demand for child care within the local community. The new Draft SEPP also introduces provisions that would override any requirement for a centre to demonstrate nay demand.</p> <p>The site is located adjacent to a primary school and only 250m from Kingswood Rail Station and the Kingswood business district.</p> <p>Park St is a local road that provides safe and convenient vehicle access.</p> <p>A traffic impact statement accompanies the development application and demonstrates the ability of the local road network and site to accommodate all vehicular movements without adverse impact.</p> <p>No services stations, restricted premises or easements are located in close proximity to the site.</p> <p>The site is not flood prone.</p>

<p>event.</p>	
<p>3. Design, Scale and Site Frontage</p> <p>a. Scale and character of the development shall be compatible with the surrounding area.</p> <p>b. Take into consideration nearby traffic generators, street design and existing environment for pedestrians and cyclists.</p> <p>c. Be sufficient in area to accommodate the centre and all required parking and traffic manoeuvring</p>	<p>The development forms part of an apartment development that achieves all site, requirements, scale and built character requirements.</p> <p>The centre provides direct and easy pedestrian access from the street.</p> <p>All required parking is located on site in accordance with Councils requirements.</p>
<p>4. Built Form</p> <p>a) Child care centres catering for 15 or more children shall be purpose designed and built, to satisfy the requirements of this section and the requirements of the NSW Department of Community Services. Modifications to existing dwellings will not be supported.</p> <p>b) In residential areas, the built form of the child care centre shall be sympathetic to adjoining development in terms of height, bulk and scale.</p> <p>c) The external façade of the centre shall incorporate building materials and colours that complement the surrounding development. Council discourages the use of bright or garish colours.</p> <p>d) Whilst it is preferable that child care centres are located at ground level, this may not be possible in commercial or industrial areas.</p>	<p>The child care centre forms an integrated element of a larger apartment development and all built form considerations have been addressed in previous sections of this report.</p> <p>This has demonstrated that the built form character of the development responds well to the desired future character of the area.</p> <p>The centre provides a large indoor space as well as both ground level and roof top outdoor play spaces a.</p>

5. Vehicle Access, Circulation and Parking	<p>The development provides all parking and access within the basement.</p> <p>A traffic and parking impact assessment accompanies the development and demonstrates compliance with all relevant requirements.</p>
6. Noise	<p>An acoustical impact assessment accompanies the development and demonstrates that the child care centre causes no adverse noise impacts to adjacent development.</p>
7. Shade	<p>The landscape plan demonstrates that large retractable shading is provided on the roof top play space.</p> <p>Shadow diagrams demonstrate that shading will be provided to the outdoor play space at ground level.</p>
8. Landscaping	<p>A detailed landscape plan accompanies the development application and responds to all matters raised in DCP.</p>

6.4 LIKELY IMPACTS OF THE DEVELOPMENT

6.4.1 IMPACT ON NATURAL ENVIRONMENT

The subject site form part of a larger school site within an established urban area and as such has experienced significant site works as part of previous development over many decades. Accordingly, it accommodates no natural or ecological features of any significance, other than several mature trees.

These trees shall either be retained or replaced as part of the broader landscape plan.

Sustainability has been a fundamental objective of the entire design process and as such a raft of energy and water efficiency measures have been integrated into the development proposal.

The development will achieve all BASIX targets for the residential components.

This demonstrates that the development will present an ecological footprint of a far lesser scale than alternative housing and employment generating developments currently operating within the LGA.

Further, the stormwater management plan ensures no adverse impact is caused to local or broader water quality.

Accordingly, the development can be considered to have no adverse impact upon the natural environment.

6.4.2 IMPACT ON BUILT ENVIRONMENT

The subject site currently is a significantly underutilised parcel of land within close proximity to the Kingswood rail station and business district.

The development proposal represents a significant urban renewal of this area and reflects the desired future character of the not just the site, but its broader environs.

The built form itself provides site planning, massing and building modulation that responds to both the key nature assets of the site and inclusive the sites northern aspect to rear and street address to the south.

The scale of the development together with its mixed use function will ensure that an active street frontage is provided and this provides passive surveillance opportunities to the public domain areas.

Shadow diagrams demonstrate that the development causes limited new shadow and as such does not cause significantly adverse amenity impacts to adjacent development.

The development will attract some additional traffic. The local traffic environment and on-site parking provision is expected to be able to accommodate volumes associated with the proposed use without adverse impact to the local traffic network. This is further demonstrated as part of the accompanying traffic impact assessment.

It is considered that the proposed use will therefore have no adverse impact upon the local built environment and indeed being an urban renewal project has the potential to significantly improve the built environment of the precinct.

6.4.3 ECONOMIC IMPACT

The proposal is considered to have only positive impacts on the local economy and health of the neighbourhood centre through the creation of new employment opportunities during both the construction stage of the entire development and operational stage of the child care centre.

6.4.4 SOCIAL IMPACT

The development seek to provide new diverse and affording housing opportunities by providing studio, 1, 2 and 3 bedroom units that are currently not widely available within the LGA.

It also provides a valuable and much needed new local child care service for the local community.

The development will also improve and enhance public safety in the neighbourhood centre through increase activity and passive surveillance of the public domain.

The proposed development therefore presents positive social impacts.

6.5 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The subject site is a large and under-developed parcel of land within close proximity to major transport nodes and a district business centre.

The site has recently been up-zoned in recognition of its potential to create a valuable new urban renewal opportunity that capitalises on its proximity to transport and the Kingswood business district.

The site is also co-located with a primary school and facilitates shared trips for parents dropping children to both school and child care centres as well as parents drop-off on way to work based commute from Kingswood rail station.

It is therefore considered that the subject site is ideally suited to the proposed development.

6.6 THE PUBLIC INTEREST

The redevelopment of the site provides an important urban renewal opportunity that will provide the following public interest benefits:

- Diverse housing

- Affordable housing
- Accessible housing
- Integration of land use and transport
- Valuable new community service

7.0 REQUEST TO VARY A DEVELOPMENT STANDARD

7.1 INTRODUCTION

This application to vary a development standard has been prepared in accordance with the *Department of Planning & Infrastructure Guide 2011*.

7.2 MATTERS FOR CONSIDERATION

1. WHAT IS THE NAME OF THE ENVIRONMENTAL PLANNING INSTRUMENT THAT APPLIES TO THE LAND?

Penrith Local Environmental Plan (LEP) 2010.

2. WHAT IS THE ZONING OF THE LAND?

The site is zoned part R4 High Density Residential pursuant to Penrith LEP 2010.

3. WHAT ARE THE OBJECTIVES OF THE ZONE?

Zone R4 Residential neighbourhood Centre

1 Objectives of zone

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

**4. WHAT IS THE DEVELOPMENT STANDARD BEING VARIED?
E.G. FSR, HEIGHT, LOT SIZE**

The maximum building height for development.

5. UNDER WHAT CLAUSE IS THE DEVELOPMENT STANDARD LISTED IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

4.3 Height of buildings

6. WHAT ARE THE OBJECTIVES OF THE DEVELOPMENT STANDARD?

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

-
- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
 - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
 - (c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
 - (d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

7. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Maximum building height of 15m.

8. WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN YOUR DEVELOPMENT APPLICATION?

Proposed building height of 16.75m.

9. WHAT IS THE PERCENTAGE VARIATION (BETWEEN YOUR PROPOSAL AND THE ENVIRONMENTAL PLANNING INSTRUMENT)?

The development exceeds the allowable building height by 11.7%.

10. HOW IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THIS PARTICULAR CASE?

It is generally considered that the compliance with a development standard is unreasonable or unnecessary when a development still achieves the underlying of the objectives of the standard despite the non-compliance.

Therefore an assessment of the development against each relevant clause objective is provided below:

4.3 *Height of buildings*

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,***

The desired future character of the area provides for development with a 15m building height. The development provides a building that site within that height limit, other than small sections of the lift overruns and small sections of a retractable shading device frame that both only slightly extend beyond that height control. This is demonstrated at the height plane diagram provided at Figure 10.

The lift over-runs and shading structure will have very limited legibility within the built environment and therefore have limited potential to disrupt or inconsistency with the bulk, scale or character of the locality.

FIG 10: BUILDING HEIGHT PLANE

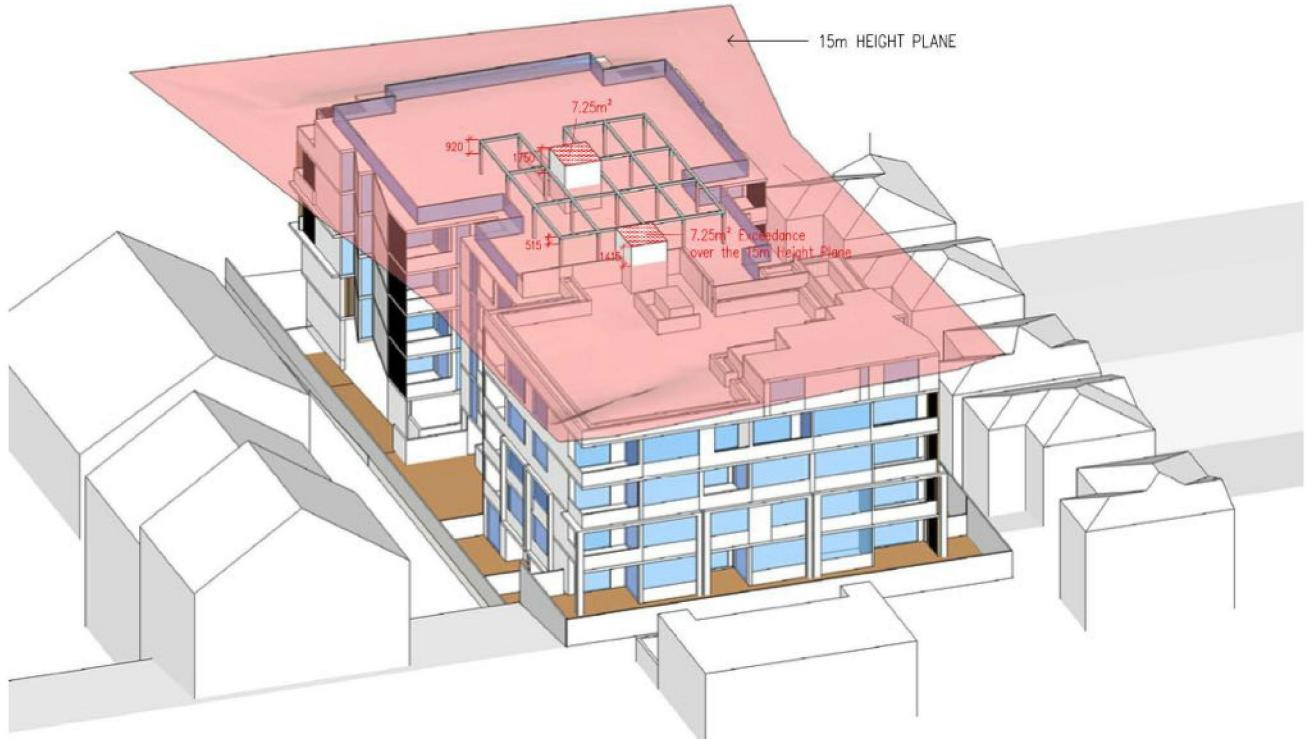


FIG 11: SHADOW DIAGRAMS



(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,

The development is not located in an area that enjoys key views to any important scenic or landscape features.

Further, there is no adjacent development that will have any visibility of the lift over-runs or shade structure so they cannot cause any disruption of views. Similarly, these built feature are of limited volume and therefore present very limited opportunity to provide disruption to view of future development.

The built features also do not provide any habitable floor space and as such can not cause loss of visual privacy.

The shadow diagrams demonstrate that the lift over-runs, don't cast a shadow beyond the roof area of the proposed development. (See Figure 11).

As such they have no potential to cause any adverse solar impact to existing development or any public domain areas.

(c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,

Not relevant as the site is not located within any proximity to heritage items or conservation areas.

(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.

The development typically achieves the building height, other than the lift over-runs and shading structure. These features provide a very limited built volume and therefore will not be legible and can not be expected to provide any contribution to the built character of the local area.

The limited extent of the non-compliance can also not be expected to cause any exceedence of residential density or land use intensity.

11. HOW WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 5(A)(I) AND (II) OF THE ACT.

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979 provide:

The objects of this Act are:

(a) to encourage:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

The subject site does not accommodate any features of natural or ecological significance.

Further, the proposed development seeks to simply make better or more efficient use of a currently underutilised parcel of land.

As such the development represents orderly and economic development of the land and therefore can be considered to be consistent with the object of the Act.

12. IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL? GIVE DETAILS.

No. The development standard is clearly a numerical standard.

13. WOULD STRICT COMPLIANCE WITH THE STANDARD, IN YOUR PARTICULAR CASE, BE UNREASONABLE OR UNNECESSARY? WHY?

Strict compliance with the development standard would demand that an alternate development proposal be advanced that reduces the building height.

However, the proposed non-compliance with the building height is extremely minor and will contribute very limited building volume to the development. In this regard the development provides approximately 12000m³ of development space and only 25m³ of non-complying development space. This represents 0.2% of the total development volume.

Further, the 15m height limit could be reasonably be expected to deliver 5 storey developments and the proposed development does not exceed this expected building scale. Indeed, the non-compliance is only caused by the site topography, which result in a raised ground level at the rear of the site.

In the context of these factors, it is considered that strict compliance with the development standard is both unreasonable an unnecessary in the circumstances of the case.

14. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD? GIVE DETAILS.

Notwithstanding the subject developments non-compliance with the relevant numerical development standards, the development will still meet all the relevant underlying objectives of those standards.

Further, the non-compliance is primarily a result of the sites raised natural ground level at the rear of the site and as such a complying development would require additional excavation of the site.

The proposed development actually seeks to retain the site natural topography at this location and therefore is considered to a better represent a more site responsive development.

In that context, there is considered to be sufficient environmental and planning grounds to justify a contravention of the development standard.

8.0 CONCLUSION

The application seeks council consent to the redevelopment of the site for a new mixed-use outcome.

The development proposal responds to both state and local planning strategies inclusive of the metropolitan strategy, by promoting mixed use development in existing centres and adjacent to public transport nodes and corridors.

The report provides an assessment against the relevant planning instruments and demonstrates general consistency with the aims, objectives and provisions of that statutory planning framework inclusive of Penrith LEP 2010 and SEPP 65 Apartment Design Guide.

A request to vary a development standard is provided in response to a very minor height non-compliance and demonstrates that strict compliance with the standard is unnecessary and unreasonable in the circumstances of the case.

The development, will cause no significantly adverse environmental impact, provides a positive impact upon the built environment and makes an efficient and economic use of existing land and infrastructure.

As such it is considered there is good reason for Council to approve the subject Development Application.