



**TOGA PENRITH DEVELOPMENTS PTY LTD VS PENRITH CITY COUNCIL
LAND AND ENVIRONMENT COURT OF NSW PROCEEDINGS NO. 2021/126870
634-638 HIGH STREET AND 87-91 UNION ROAD, PENRITH**

**AMENDED PLANS OF PROPOSED DEVELOPMENT AND SUPPLEMENTARY INFORMATION
SUBMITTED ON BEHALF OF TOGA PENRITH DEVELOPMENTS PTY LTD**

Overview

The development application subject to these proceedings is amended by way of changes detailed below:

- a) Podium - reduction in the scale of the podium from 5 storeys to 4 storeys in the middle section and 2 storeys at the northern and southern ends; decrease in the number of car parking spaces provided within the podium; increased 'sleeving' of car parking provided in the podium with apartments; and enhanced articulation.
- b) Basement - increased basement car parking from 1 to 3 levels.
- c) Ground level - enhanced activation of the ground floor through relocation of the through site pedestrian link, redistributing and enlarging commercial floorspace, providing stepped sitting edges to the western colonnade facing John Tipping Grove, and increased landscaping.
- d) Levels 1 to 3 – increased activation and connection to ground level through additional apartments and enhanced design of communal open space area.
- e) Level 4 (previously level 5) – pool and communal open space reconfigured.
- f) Towers - reduction in the height of Tower 2 from 37 to 35 storeys, reduction in height of Tower 1 from 14 storeys to 13 storeys, and redesign to increase building articulation.

Reflecting the above, the formal description of the development for which consent is sought is amended as follows:

DA20/0148 seeks consent for a mixed-use development comprising two towers of 35 and 13 storeys located above a part 4 and part 2 storey podium providing 357 residential dwellings with ground level commercial tenancies, 3 levels of basement car parking, a new public road and associated site works on the land at 634-638 High Street and 87-93 Union Road, Penrith NSW.

The following documents are attached supporting the amended development proposal:

Document	Consultant	Attachment
Community Infrastructure Offer	Toga	A
Development Application Architectural Plans and SEPP 65 summary	SJB Architects	B
Landscaping Plans and design statement	Black Beetle	C
Civil Engineering Plans and Report	RBG	D
Design Integrity Advice	Government Architect	E
Traffic and Parking Assessment and Swept Path Analysis	PTC and Stantec	F

Accessibility Assessment	Accessible Building Solutions	G
ESD Report	EMF Griffiths	H
BCA Compliance	McKenzie Group	I
Reflectivity Report	CPP	J
Wind Impact Assessment	CPP	K
Waste Management Plan	Waste Audit	L
Contamination Report	Douglas Partners	M
Flood Impact Report	Cardno	N
Geotechnical Report	Douglas Partners	O
Stormwater Management Report	Robert Bird Group	P
Water Sensitive Urban Design and Report	Robert Bird Group	Q
Hydraulic Infrastructure Report	JHA Services	R
Electrical Services Report	JHA Services	S
Fire Engineering Statement	GHD	T
Acoustic Report	Acoustic Logic	U
QS Report	WT Partnership	V

Numeric summary

Key metrics of the amended development are summarised below:

Element	Metric
Site area	5,407m ²
GFA	<ul style="list-style-type: none"> • Total – 32,428m² • Residential – 31,392 • Commercial – 1,036m²
FSR	6.0:1
Max building height	<ul style="list-style-type: none"> • Tower 1 - RL 74.05 • Tower 2 – RL 142.55
Residential apartments	<ul style="list-style-type: none"> • Total - 357 • Tower 1 – 87 • Tower 2 – 270

	<ul style="list-style-type: none"> • 1 Bedroom – 110 (31%) • 2 Bedroom – 209 (59%) • 3 Bedroom – 38 (11%)
Communal open space	983m2
Car parking	<ul style="list-style-type: none"> • Total – 406 • Residential apartments – 334 • Visitor – 51 • Service - 9 • Car wash – 2 • Commercial – 10

Description of Supplementary information

Details of supplementary information submitted in support of the amended DA are detailed below:

A. Community infrastructure Offer

A revised Community Infrastructure Offer dated 7 October 2021 supporting the amended DA has been prepared by Toga.

B. Architectural plans

Amended architectural plans and an accompanying SEPP 65 assessment have been prepared by SJB Architects.

C. Landscaping Plans

Amended landscaping design plans and an accompanying Design Statement have been prepared by Black Beetle.

D. Civil Engineering Plans

Amended Civil Engineering Plans, report and MUSIC modelling have been prepared by Robert Bird Group.

E. Design Integrity

A letter dated 28 September 2021 has been provided from Mr Dillon Kombumerri from the Government Architect NSW Office as Chair of Design Integrity Panel Chair confirming (with reference to a concept sketch provided by Toga, also enclosed in Attachment E), *'the amendments offer significant improvements which respond directly to design excellence considerations outlined in our previous letter 11th May 2021, and should moderate or eliminate residual concerns expressed by Council.'*

The letter references additional possible design refinement to the eastern elevation which have been addressed in the amended plans.

F. Traffic and parking

A Traffic Impact Assessment of the amended DA dated 5 October 2021 and accompanying vehicle Swept Path Analysis Plans, have been prepared by PTC. The conclusions of this assessment are as follows:

- *'The existing road network is generally operating within capacity, with some congestion however for right turn movements at intersections along High Street and along Mulgoa Road. Alternative modes of travel are well catered for, with bus and train services providing regular public transport throughout the greater Sydney region;*
- *In accordance with the TfNSW Guide and the DCP, the proposal is required to provide a minimum total of 310 parking spaces;*
- *In accordance with the NSW Planning Guidelines for Walking & Cycling, bicycle parking must be provided within the range of 93-148 spaces. The proposal will need to comply with this requirement. Residential bicycle parking will be predominantly provided for within the allocated storage lockers, which will be appropriately designed to accommodate bicycles;*
- *A loading bay within the ground floor loading dock has been provided that is capable of accommodating a 10.5m long Council refuse vehicle. A turntable has been proposed within the loading dock to allow the*

refuse vehicle to enter and exit the site in a forward direction. This is considered appropriate for the development;

- *Based on the proposed parking provisions and commercial floor area, the anticipated traffic generations of the proposal have been estimated in reference to the RMS Technical Direction 2013/04. A potential traffic generation of 158 trips are anticipated in the AM and PM peaks;*
- *A future road network model has been analysed using SIDRA, applying the proposed traffic volumes to the background traffic of the local road network and incorporating the traffic generation associated with the Urban Apartments development for a robust cumulative analysis. In summary, the model indicates that the proposal will be accommodated within the road network and will result in some manageable increase to the delays at some intersections; and*
- *A design review of the architectural plans has been undertaken, with reference to the AS2890 series. This review determined that the design is capable of complying with the relevant standards, which will need to be demonstrated fully prior to Construction Certification.*

In light of the above, the proposal is considered appropriate in the context of traffic and parking, and as such, is endorsed by ptc'. (Page 43)

G. Accessibility assessment

A report dated 30 September 2021 confirming compliance of the amended development application against relevant considerations relating to access for people with a disability has been prepared by Accessible Building Solutions. This report concludes as follows:

'On the basis of the above assessment, I am satisfied that the proposal can achieve compliance with the access provisions of the BCA, SEPP 65 and the essential requirements of AS4299 –Adaptable Housing.' (Page 15).

H. ESD

A report dated 30 September 2021 has been prepared by EMF Griffiths which outlines the amended DA's commitment to the principles of ESD and demonstrates compliance with Clause 7.4 Sustainable Development of the Penrith Local Environmental Plan.

The report demonstrates how the proposed development protects, manages, and enhances natural systems and promotes the efficient use of materials, water, and energy to minimise environmental impacts for the community and the occupants of the project. It illustrates the project's specific energy efficiency initiatives to satisfy the Council's energy efficiency performance requirements for the residential, and commercial components which have been adopted from Section J and BASIX, thereby demonstrating a "best practice" ESD framework. The report confirms that further development and reporting will be undertaken for the subsequent stages.

I. BCA Compliance

A report dated 1 October 2021 confirming compliance of the amended DA against relevant provisions of the Building Code of Australia (BCA) has been prepared by McKenzie Group.

J. Solar Reflectivity

A report dated 1 October 2021 providing an assessment of the potential for the amended development application to produce solar reflectivity impacts on surrounding public roadway locations has been prepared by CPP. The report concludes as follows:

'The proposed High Street Penrith development in Sydney, Australia was assessed to ascertain any potential its facades will produce traffic disability solar reflectivity glare events onto surrounding roadway locations.

At many investigated locations along the adjacent roadways, it is expected the proposed development as currently configured will not produce significant disability glare onto vehicles travelling toward the development, and solar glare detected were within recommended limits. Where higher glare levels were found, recommendations have been provided to mitigate the reflections.' (Page 48)

K. Wind Impact Assessment

A report dated 1 October 2021 providing an assessment of the potential wind impacts of the amended DA has been prepared by CPP. The report concludes as follows

'Cermak Peterka Petersen Pty. Ltd. has provided a qualitative assessment of the impact of Stage 1 of the proposed High Street project on the local wind environment in and around the development site.

Being taller than most surrounding structures, the proposed buildings are exposed to winds from most directions and will moderately influence the local wind environment. Wind conditions around the development are expected to be mostly classified as suitable for pedestrian standing style activities from a Lawson comfort perspective and pass the Lawson distress/safety criterion at most locations. Local mitigation treatment would be recommended for areas intended for outdoor dining activities.

To quantify the wind conditions around the site against the Lawson comfort and safety criterion, a wind-tunnel test would be recommended. This can be conducted during further design stages and can address any further local mitigation for areas in which the intended use may require calmer conditions.' (Page 12)

L. Waste Management

A report dated October 2021 providing an Operational Waste Management Plan for the amended DA has been prepared by Waste Audit and Consultancy Services. This report provides details of operational waste and recycling demands generated by the development, provision of required storage space, waste collection arrangements and ongoing education of tenants and cleaning staff.

M. Site Contamination

A report dated 30 September 2021 providing an updated Due Diligence Contamination assessment reflecting the amended DA has been prepared by Douglas Partners. The report concludes as follows:

'Based on the scope of works undertaken in this due diligence contamination investigation, and the subsequent results, it is considered that there are not likely to be any significant contamination risks to human health or the ecology associated with the site. The site can be made suitable for the proposed development, subject to the following:

- The intrusive investigations undertaken were limited and additional investigations will be required to comply with SEPP55 as part of any future development application. The additional investigations will need to provide additional site coverage for both soils and groundwater, with respect to a proposed development layout, and it would be beneficial to more thoroughly identify the soil waste classifications in areas of proposed bulk excavation;*
- A remediation action plan (RAP) will be required to document the remediation and validation process associated with the two USTs and associated infrastructure, the lead contaminated soil identified in this current investigation, and any other contaminants identified through the additional investigations recommended above. The RAP will also document the management process associated with any retained fill materials, given the reported ecological investigation and screening level exceedances;*
- A pre-demolition hazardous building materials survey must be undertaken prior to demolition of the existing structures and hardstands. Should such materials be identified, the removal must be undertaken by licensed contractors in accordance with the then current legislation;*
- Incorporation of an unexpected finds protocol in the site construction environmental management plan and the RAP; and*
- Validation of any remediation undertaken, culminating in a validation report declaring that the site is suitable for the proposed development.'* (Page 23)

N. Flood impact

A report dated 6 October 2021 providing an assessment of flood impacts relevant to the amended DA has been prepared by Cardno. The conclusion of this assessment is summarised as follows:

'Overland flow flood modelling was undertaken for the 1% Annual Exceedance Probability (AEP) and the Probable Maximum Flood (PMF) event.

An impact assessment determined that the proposed development represents an opportunity to improve flooding conditions along High Street and Union Road near Mulgoa Road which will be of benefit to the local community with no adverse flood impacts with the exception of localised minor impacts between 2 cm to 5 cm at Union lane and High Street, site frontage. Grading of the New Road would provide a continuous overland flow path and reduce flood levels.

The proposed development would improve the flood immunity of the site compared to existing conditions. Further, the development would provide on-site shelter to minimise the strain on emergency services and roads during flood events.

It is concluded that the proposed development complies with Council requirements as flood levels due to overland flow are not increased by more than 10 cm (0.1m) by the proposed development, as outlined in Section 1.4. The report has also outlined the requirements for building floor levels (typically above RL 27.85m AHD) and Union Rd basement driveway crest level of 27.45m AHD for the Stage 1 development plan.' (Page 26)

O. Geotechnical assessment

A report dated 1 October 2021 providing an assessment of the geotechnical considerations relevant to the amended DA has been prepared by Douglas Partners.

P. Stormwater Management

A report dated 5 October 2021 has been prepared by Robert Bird Group describing the design principles intended for the management of stormwater associated with the amended DA. The design principles reflect relevant Council requirements, best practice principles and guidelines. Flooding and overland flow, general stormwater drainage, on site detention, existing network pipe capacities and water quality have all been assessed and summarised

Q. Water Sensitive Urban Design

A report dated 5 October 2021 has been prepared by Robert Bird Group providing details of the approach to achieving Water Sensitive Urban Design (WSUD) in the amended DA. An accompanying report dated 5 October 2021 has been prepared by Robert Bird Group describes the operations and maintenance schedule associated with the proposed WSUD initiatives.

Both reports have been prepared addressing relevant Council requirements, best practice principles, and guidelines.

R. Hydraulic Infrastructure

A report dated 5 October 2021 providing details of the availability and suitability of gas services, water mains and sewer drainage relevant to the amended DA has been prepared by JHA Services.

S. Electrical services

A report dated 1 October 2021 providing an assessment of the availability of and required design of electricity services for the amended DA has been prepared by JHA Services.

T. Fire Engineering

A report dated 5 October 2021 providing an assessment of fire engineering considerations relevant to the amended DA has been prepared by GHD. This assessment concludes as follows:

'We can confirm that an assessment can be undertaken by an Accredited Fire Engineer in consultation with project stakeholders (including the Authority Having Jurisdiction), to demonstrate that the building will comply with the Performance Requirements of the BCA. This may be via either or a combination of the following:

- Become DtS by way of design development.*
- Comparison to the BCA DtS Provisions.*
- Compliance with the BCA Performance Requirements (absolute assessment).*

It is considered that the preparation of the Performance Solution and corresponding fire safety measures that are likely to be documented therein will not result in any material changes to the building design presented in the architectural drawings reviewed for the planning permit.' (Page 4)

U. Acoustic assessment

A report dated 6 October 2021 providing an acoustic assessment of the amended DA has been prepared by Acoustic Logic. The report concludes as follows:

'This report presents our acoustic assessment for the proposed Stage 1 mixed-use development at 634-638 High Street & 87-91 Union Road, Penrith.

Noise intrusion impact from traffic noise onto the future occupants of the development has been assessed in accordance with State Environment Planning Policy (Infrastructure) and Penrith Council DCP. The acoustic treatments in principle necessary to achieve these guidelines have been set presented within this report.

Noise emission criteria for the development site have been determined based on the site noise logging and NSW EPA Noise Policy for Industry and Protection of the Environmental Operation Act Regulation. These requirements have been presented in Section 5.' (Page 18)

V. QS Report

A QS report reflecting the amended DA dated 5 October 2021 has been prepared by WT Partnership confirming the total costs of the development at \$150,131,300.

John Wynne – Director of Planning

Urbis Pty Ltd

7 October 2021