JRPP Ref. No.	2014SYW142
Application No.	DA14/1209
Applicant	Southern Cross Care (NSW & ACT)
Property Owner	Urban Growth NSW
Proposed Development	Seniors Housing Development comprising 100 Residential Aged Care Units, 48 Independent Living Units & Associated facilities
Property Address	72 - 84 Empire Circuit, Penrith
Property Description	Lot 2034 DP 1181618
Date Received	29/09/2014
Assessing Officer	Clare Aslanis
Category of Development	Capital Investment Value > $20 Million = $ 43,082,900

Executive Summary

Penrith City Council is in receipt of a Development Application (DA) from Southern Cross Care for the construction of a Seniors Housing development comprising of 100 Residential Aged Care Units, 48 Independent Living Units and associated facilities at 72-84 Empire Circuit, Penrith. Southern Cross Care provides aged care services and seniors accommodation.

The subject site is zoned R1 General Residential under Penrith Local Environmental Plan (LEP) 2010. The proposed seniors housing and ancillary uses are a permissible form of development with consent in the R1 zone. It should be noted, however, that the proposal has been assessed against the provisions of the Penrith City Centre LEP 2008 which applied to the land at the time of DA lodgement. This is in accordance with Clause 1.8A (savings provision relating to development applications) of Penrith LEP 2010. Amendment No. 4 to Penrith LEP 2010 commenced on 25 February 2015 and under the amendment the subject site remains zoned R1 General Residential.

The proposed development has a capital investment value in excess of $20 million. As such, the Sydney West Joint Regional Planning Panel has the function of determining the application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

In accordance with Section 2.7 (Notification and Advertising) of Penrith Development Control Plan 2006, the proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. A total of 181 property owners and occupiers were notified in the surrounding area. The public exhibition period for the proposal was from 13 October to 27 October 2014 and five submissions were received in response.

An assessment of the proposed development under Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal has been found to be satisfactory, subject to site remediation works recommended to be required as a deferred commencement condition of consent.

The following key issues have emerged as a result of this assessment process:

- Context and Setting
- Urban Design
- Access, Parking and Traffic

These matters are discussed in detail in this report.

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment. The site is suitable for the proposed development, and the proposal is in the public interest. The proposed development seeks to provide residential accommodation for seniors and aged care as well as employment opportunities and related community facilities. The proposal is therefore worthy of support.

There are seven appendices to this report, as detailed below.

- Appendix No. 1 – Location Plan
- Appendix No. 2 – Aerial View of Site
- Appendix No. 3 – Site Plan, Elevations, Perspectives and Landscape Concept Plan
- Appendix No. 4 – Zoning Plan
- Appendix No. 5 – State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Checklist
- Appendix No. 6 – State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development Checklist
- Appendix No. 7 – Recommended Conditions of Consent

Background

The site was created through the North Penrith Concept Plan (MP 10-0075) and Stage 1 Project approvals as well as State Significant Development Consent No. 5243 (Stage 2A).

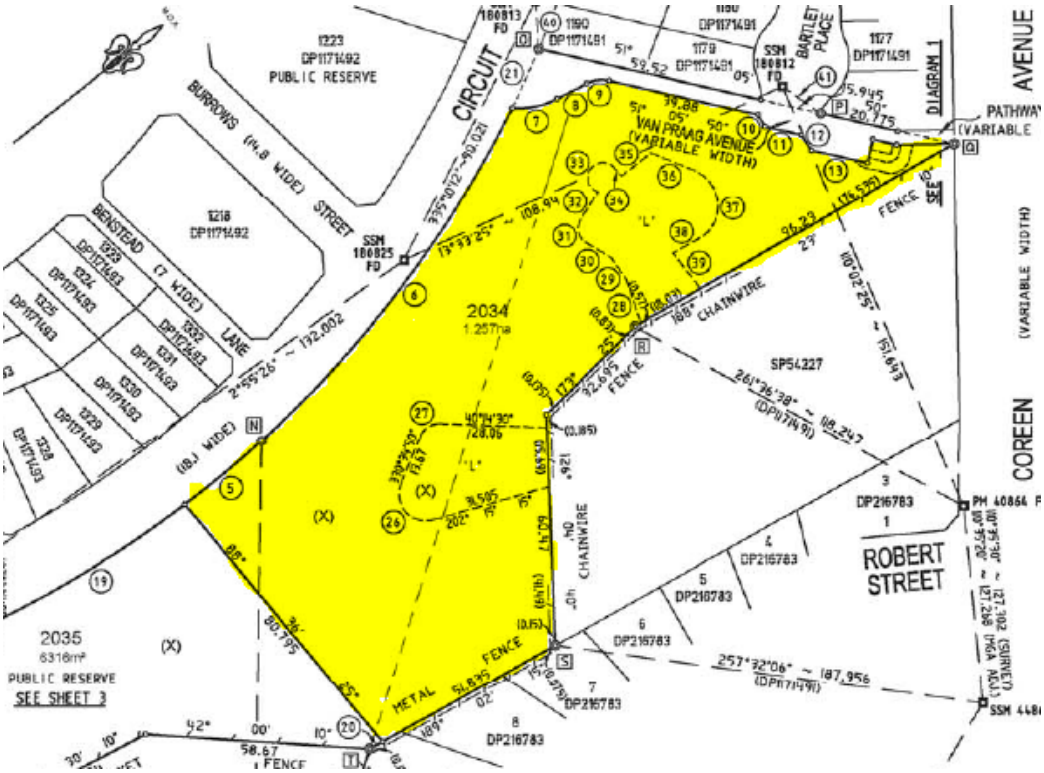
The applicant attended pre-lodgement meetings and Urban Design Review Panel meetings in the lead up to lodgement of the Development Application (DA). The key issues identified by Penrith City Council officers and the Urban Design Review Panel at these meetings have been addressed as part of the DA.

Site and Surrounds

The 40 hectare North Penrith site is centrally located directly adjacent to Penrith Railway Station and immediately to the north of the Penrith City Centre. It is a strategic site, located within the Penrith Regional Centre as identified in the Metropolitan Plan 2036 and North West Draft Subregional Strategy.

The greater locality is characterised by a mixture of residential, industrial and recreational uses. Large industrial activities are located to the north on the opposite side of Coreen Avenue. New industrial development is located immediately to the west of the site with the residential suburb of Penrith located further to the east.

The land subject to this application is located at 72-84 Empire Circuit, Penrith and has an access point from Bartlett Place (refer to the location plan at Appendix No. 1). It is irregular in shape, approximately 1.257 hectares in area and is predominantly orientated in a westerly direction. It contains two areas that are protected by an instrument under Section 88B of the Conveyancing Act 1919 for ecological and archaeological conservation, as marked 'L' in the diagram below (refer to an aerial view of the site at Appendix No. 2).



Proposed Development

The proposed development is comprised of the following aspects (refer to Appendix No. 3 for copies of the site plan, elevations, perspectives and landscape concept plan for the proposal):

- Construction of a three storey building on the southern part of the site to be used as a 100 bed Residential Aged Care Facility
- Construction of four separate three storey buildings on the northern part of the site, comprising of 48 Independent Living Units for seniors
- Construction of a basement car park
- Ground level car parking with loading facilities
- Construction of a Community Centre
- Construction of a Chapel
- Construction of a Café
- Construction of a Village Men's Shed

Operational hours of the community centre, chapel, café and men's shed will generally be 7am to 6pm, Monday to Sunday. These facilities will be ancillary to the seniors housing being provided on the site and will not be standalone facilities.

The following documents have accompanied the Development Application:

- Statement of Environmental Effects – DFP Planning Consultants
- Arboricultural Impact Assessment Report – Arterra
- Stormwater Management Strategy – TTW
- Noise Assessment – Wilkinson Murray
- Statement of Heritage Impact – NBRSP
- Geotechnical Report – Douglas Partners
- Operational Waste Management Plan – UFD
- Construction Waste Management Plan – Southern Cross Care
- ESD Report – Cundall
- Statement of Compliance for Access for People with a Disability – Accessible Building Solutions
- Lighting Design & Services Statement – Wood & Grieve Engineers
- SEPP 65 Design Verification Statement – CFA
- Traffic Impact Assessment – Traffix
- BCA Assessment Report – Vic Lilli & Associates
- National Construction Code Section J1 & J2 Review – Cundall
- Hydraulic & Fire Service Infrastructure Report – Donnelley Simpson Cleary Consulting Engineers
- Report on Detailed Site Investigation for Contamination – Douglas Partners
- Ecological Advice – Travers Bushfire & Ecology
- Evidence of Social Housing Provider Status – McCullough Robertson Lawyers
- Aboriginal Heritage Advice – Mary Dallas Consulting

Planning Assessment

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979, and based on this assessment, the following issues have been identified for further consideration.

Section 23G – Joint Regional Planning Panels

The proposed development has a capital investment value in excess of $20 million. Under Section 23G and Schedule 4A of the Environmental Planning and Assessment Act 1979, a regional panel has the function of determining applications for development proposals which have a capital investment value in excess of $20 million. The Sydney West Joint Regional Planning Panel therefore has the function of determining the subject Development Application.

Section 79C(1)(a)(i) – Any Environmental Planning Instrument

Penrith City Centre Local Environmental Plan 2008

Part 7 – North Penrith Site

Clause 50 – Zone Objectives and Land Use Table

The subject site is zoned R1 General Residential and “residential accommodation” is permitted with Council consent (refer to the zoning plan at Appendix No. 4). The proposal is consistent with the objectives of the R1 zone.

Clause 51 – Height of Buildings

The maximum building height for the site is 12m. The height of the proposed development is 12m and is therefore compliant.

Penrith Local Environmental Plan 2010 (Amendment No. 4)

Amendment No. 4 to Penrith LEP 2010 commenced on 25 February 2015 and under the amendment the subject site remains zoned R1 General Residential. In accordance with Clause 1.8A (savings provision relating to development applications) of Penrith LEP 2010, the proposal has been assessed against the provisions of the Penrith City Centre LEP 2008 which applied to the land at the time of DA lodgement.

In any case, however, it should be noted that the proposal is consistent with the provisions of Penrith Local Environmental Plan 2010.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The development is proposed under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, which applies to the subject land by virtue of Clause 4(1)(a)(ii) as development for the purpose of residential flat buildings is permitted within the R1 General Residential zone under Penrith City Centre Local Environmental Plan 2008. Pursuant to Clause 16 of the SEPP, development for seniors housing may be carried out with consent on any land to which the SEPP applies.

The development is categorised as “self-contained dwellings”, more specifically “in-fill self-care housing” with a portion of the development being categorised as a “residential care facility”.

The proposal is in accordance with the provisions of the SEPP. Refer to Appendix No. 5 for a complete checklist of compliance with the SEPP provisions.

Clause 26 – Location and Access to Facilities

The site has adequate access to the necessary facilities and services via a public transport bus service. The site is in close proximity to the Penrith rail station and the applicant is proposing a minibus service which will take residents to the station. The development is consistent with the provisions of Clause 26.

Schedule 3 – Accessibility Standards

An Accessibility Report was submitted by the applicant, detailing compliance with the requirements of this schedule.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat buildings of three or more storeys and containing four or more self-contained dwellings. The 48 independent living units are self-contained and therefore require compliance with this policy. SEPP 65 contains ten design quality principles which

form the basis for achieving good design and provide a guide for evaluating the merits of development proposals.

The proposed development is consistent with the aims and objectives of SEPP 65. The accompanying SEPP 65 regulations require the involvement of a qualified designer throughout the design, approval and construction stages. In this regard, the application has been accompanied by a design verification statement from a suitably qualified designer.

An assessment has been undertaken of the proposed development in relation to the ten design quality principles and the related Residential Flat Design Code. The proposal is in accordance with the provisions of the SEPP and the Flat Code. Refer to Appendix No. 6 for details of this assessment.

State Environmental Planning Policy No. 55 – Remediation of Land

The application was accompanied by a Contamination Report which found that remediation works are required to be undertaken on the site, prior to development works commencing, due to the concentration of benzo(a)pyrene and asbestos fragments found in soil samples. Therefore, a separate Development Application will be required to be submitted to Council for approval for the remediation of the land before works can commence. The application for remediation will need to be accompanied by a Remediation Action Plan which responds to the findings of the "Report On Detailed Site Investigation for Contamination, Seniors Housing Development, Lot 2034 Empire Circuit, Penrith" prepared by Douglas Partners and dated August 2014. It is recommended that a deferred commencement condition be imposed to address this matter (refer to recommended Condition 108 at Appendix No. 7).

A Validation Report for the remediation works will be required. The report will need to certify that the remediation works have been carried out in accordance with the approved Remediation Action Plan, relevant NSW Environment Protection Authority requirements and Penrith Development Control Plan 2010. This requirement is also recommended as a deferred commencement condition (refer to recommended Condition 109 at Appendix No. 7).

In summary, the land is not currently suitable for the development and it requires remediation works to be made suitable. In accordance with the provisions of SEPP 55, it has been demonstrated the site can be made suitable for the proposed development prior to any works proceeding.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This Policy ensures the implementation of the BASIX scheme which encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

BASIX Certificate No. 573193M was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument

Draft Amendment No. 2 to State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The proposal is compliant with the proposed amendments to SEPP 65. In particular, the applicable car parking rates are as follows:

Car Parking Calculations for Draft Amendment No. 2 to SEPP 65		
Apartment Size	**Rate**	**Spaces Required**
1 bedroom	0.4 x 6	2.4
2 bedroom	0.7 x 36	25.2
3 bedroom	1.2 x 6	7.2
Visitors	1 per 10	4.8
TOTAL		**39.6**

The proposal has provided substantially more than the minimum number of on-site car spaces required under Draft Amendment No. 2 to SEPP 65.

Section 79C(1)(a)(iii) The provisions of any development control plan

Penrith Development Control Plan 2006

Section 2.11 – Car Parking

The car parking rate for seniors housing refers to State Environmental Planning Policy (Seniors Living) 2004. As such, the car parking rate in that instrument has been applied and compliance is demonstrated at Appendix No. 5.

Section 6.22 – North Penrith

This section mainly relates the master planning principles for the overall North Penrith site which was resolved through the Concept Plan approved for the estate. The proposal is compliant with the principles of this section.

North Penrith Design Guidelines 2013

The North Penrith Design Guidelines 2013 are a subset of the Concept Plan approval for the overall North Penrith site and are essentially a site specific Development Control Plan. Under the guidelines, the subject site is earmarked for apartment development, as shown over the page.

<u>Above</u>: North Penrith Apartment Sites.

3.11 Specific Provisions - Residential Flat Buildings

Clause	*Control*	*Compliance*	*Comment*
3.11.1	Minimum Lot Size 650m^2	Complies.	Approximately 1.257 hectares.
	Maximum Building height 6 Storeys (except for Block C3 which is 3 storeys)	Complies.	The proposal provides three storey buildings (Block C3).
	Max. car parking rates: Studio 0.5/dwelling 1-2 bed 1/dwelling 3+ bed 2/dwelling (Visitor parking on street)	Does not Comply.	Required: Studio – 0.5 x 100 = 50 spaces 1-2 bed – 1 x 42 = 42 spaces 3 bed – 2 x 6 = 12 spaces Total = 104 spaces The proposal provides 110 car parking spaces through the basement and at grade car parking areas. This exceeds the maximum car parking rate by 6 spaces, however this is considered appropriate due to the nature of the development requiring nursing staff, maintenance staff, administrative staff and the like. This exceedance is considered satisfactory.

Clause	*Control*	*Compliance*	*Comment*
	Car parking to be at grade or within basement levels. At grade / under croft parking is to be visually attractive, accessible to the dwelling entry and incorporate passive surveillance.	Complies.	Underground car parking will incorporate methods of surveillance and be easily accessible to dwelling entries. The location of the car park off Bartlett Place is considered appropriate subject to conditions limiting the hours of use and allocation for staff parking only.
	Min. 10% of units to be in accordance with the Landcom's Universal Housing Guidelines.	Complies.	While only 3 of the independent living units and 5 of the residential aged care units are indicated as being adaptable, it is considered that the apartments generally comply with the universal housing guidelines. The provisions of direct access, space for parking, wide front and internal doors, wide corridors, main facilities on the ground floor, circulation space in living areas, space in bedrooms, bathroom designs for easy and independent access, kitchen space and laundry space have achieved compliance with these guidelines for more than 10% of the dwellings proposed.
	Maximum site coverage: 100% for Blocks A1, A2 and T1 to T5 50% for Block C3	Complies.	Block C3 - 50% (6,274m^2).
	Minimum deep soil zone: 0% for Blocks A1, A2 and T1 to T5 15% for Block C3	Complies	Block C3 - 28%.

Clause	*Control*	*Compliance*	*Comment*
	Minimum communal open space: 0% for Blocks A1, A2 and T1 to T5 20% for Block C3	Complies.	Block C3 - 46% (5,852m^2).

Section 79C(1)(b) – The Likely Impacts of the Development

Context and Setting

The proposal is consistent within the desired and anticipated future character of the locality.

The proposal is compatible with the surrounding and adjacent land uses and will have no major impact on the amenity of the area.

The proposal will have no significant impacts on the natural environment.

Site Design and Internal Design

The site is located with the Thornton/North Penrith subdivision, where demand for residential development is high. The proposal is compatible with the adjoining land uses and the buildings are designed to provide accessible amenities to the future residents, staff and visitors to the site. Communal open spaces are maximised to provide inclusive outdoor areas with high quality landscaping and minimal privacy impacts.

Solar Access

The "rule of thumb" under the *Residential Flat Design Code* is that 70% of apartments (i.e. living rooms and private open space) in a development should receive a minimum of 3 hours direct sunlight between 9am and 3pm during the winter solstice. A total of 77.5% of apartments will receive at least 3 hours of sunlight between 9am and 3pm, which complies with this requirement. In addition, it should be noted that the proposal will not result in excessive overshadowing of adjoining properties.

Accessibility

The proposed development incorporates eight adaptable apartments for people with disabilities. A number of design features have been incorporated into each apartment and other features will be capable of being retrofitted depending on the ultimate user's requirements. Lift access is provided to all levels of the buildings.

The application has been accompanied by an Access and Adaptability Report prepared by Accessible Building Solutions, which provides a review of the proposed development with regard to relevant accessibility requirements and standards. The report concludes that the development can satisfactorily achieve compliance with the access provisions of the BCA and Seniors Living SEPP.

Access, Parking and Traffic

A basement car park is proposed for residents of the independent living units as well as two at grade staff and visitor car parks. The basement provides two entry points from Empire Circuit. One at grade car park is provided with access from Empire Circuit and includes a loading bay and emergency vehicle parking. The second at grade car park is provided off Bartlett Place and will only be available to staff during business hours.

The proposed vehicle access arrangements and car parking on the site will be adequate for the proposal.

The proposal will have no adverse traffic generation impacts on the local road system. Traffic generation is anticipated to be a maximum of 59 vehicular movements per hour during peak periods.

Council's Traffic Engineer has reviewed the proposal with regard to access, parking and traffic considerations and has recommended several conditions to address sightline and other issues.

Social and Economic Impacts

The proposal poses no potential adverse social or economic impacts. The proposed development is in close proximity to services and public transport options, providing the community with an aged care facility and other services to cater for older residents and their families.

Heritage

A local heritage item (Thornton Hall) is located on the adjacent site to the south. Thornton Hall has a large curtilage of trees and shrubs which separate it from adjoining properties. The proposal also provides landscaping to the shared boundary between the sites.

Vegetation

A number of trees on the subject site are located in two areas which are protected by an instrument under Section 88B of the Conveyancing Act 1919 for ecological and archaeological conservation. The trees are proposed to be retained and the buildings have been design to respond to the protection of these trees. Council's Tree Management Officer has recommended a tree management plan be provided to ensure the ongoing health of these vegetated areas and this matter is recommended to be conditioned accordingly refer to recommended Condition 99 at Appendix No. 7).

Waste Management

The basement level of the buildings contains waste storage rooms that will be attended to by caretakers with waste collected by a contracted waste service provider weekly or as needed. The contracted waste management service will manage general residential wastes as well as medical and food wastes.

Section 79C(1)(c) – The Suitability of the Site for the Development

The site attributes are conducive to the development proposal due to the site's size and wide frontage which allows adequate separation between the proposed buildings and existing residents. The proposal has been designed in a manner consistent with the desired and anticipated future character of the locality.

Section 79C(1)(d) – Any Submissions made in relation to the Development

In accordance with Section 2.7 of Penrith Development Control Plan 2006, the proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. A total of 181 property owners and occupiers were notified in the surrounding area.

The public exhibition period for the proposal was from 13 October to 27 October 2014. There were five public submissions received by Council in relation to the proposal from residents adjoining to the rear of the site and residents living on Bartlett Place.

The issues raised are outlined below.

Impact of Excavation on Structures on Adjoining Sites

To address this concern, a condition of consent is recommended requiring a dilapidation report be undertaken prior to the issue of a Construction Certificate (refer to recommended Condition 81 at Appendix No. 7).

Privacy Loss

The proposal is compliant with the SEPP 65 Flat Code and demonstrates appropriate setbacks. Balconies do not face directly to the private open space of any adjacent properties except for several properties to the north, which are separated by Van Praag Avenue (a pedestrian laneway) and landscaping. A condition is recommended requiring balconies adjacent to the northern boundary, facing Van Praag Avenue, to be provided with privacy screening (refer to recommended Condition 12 at Appendix No. 7).

Impact on Views

Direct sightlines are maintained to the Blue Mountains for neighbouring residents and the trees to be retained as per the Section 88B Instrument will ensure that the outlook of these neighbours remains aesthetically pleasing.

Solar Access

All neighbouring properties are able to achieve a minimum of 3 hours sunlight to living areas and private open space during the winter solstice and therefore the development is acceptable.

Height and Scale of Buildings

The development proposes 3 storey buildings with a height of 12m, which complies with the maximum building height control applicable to the site.

Noise Impacts

A seniors living development is unlikely to generate any major noise impacts as it is predominantly of a residential character. Any noise generating activities will be clustered in the middle of the property where they are unlikely to have adverse impacts on the adjoining properties. These activities are also restricted to daytime hours.

A noise assessment report was provided with the application. The applicant has incorporated the recommendations of this report into the development.

Traffic and Parking Impacts

The traffic generated by the development is considered acceptable as indicated by the investigations undertaken by Traffix in their traffic report and as confirmed by Council's Traffic Engineer. The on-site parking arrangements are considered

appropriate as they comply with Seniors Living SEPP provisions. The site is also close to a number of public transport options including Penrith Railway Station.

Setbacks

The building setbacks are compliant with the relevant planning instruments and guidelines, allowing buffer landscaping and minimising overshadowing. Within these setbacks there will be significant landscaping which will create a buffer between the development and existing development on adjoining sites.

Vehicular Access

Pedestrian safety on Van Praag Avenue (a pedestrian laneway) shall be maintained through requiring warning signage either side of the footpath, path logos on the path facing the directions of travel and path edge line marking. The car park accessed off this laneway will be restricted to use by staff only during specified hours.

Section 79C(1)(e) – The Public Interest

The site is suitable for the proposed development. The proposed development is permissible under the site's zoning and the proposal meets the aims and objectives of the relevant environmental planning instruments. The proposed development will improve the overall appearance of the site.

The properties in the immediate vicinity of the site were notified of the proposal. It is unlikely that the proposed development will adversely impact on adjoining properties, subject to recommended conditions of consent.

Referrals

The application was reviewed internally by various departments within Council, as detailed below.

Referral	***Comments***
Building Surveyor	No objections, subject to conditions.
Development Engineer	No objections, subject to conditions.
Heritage Advisor	No objections, subject to conditions.
Social Planner	No objections, subject to conditions.
Tree Management Officer	No objections, subject to conditions.
Landscape Architect	No objections, subject to conditions.
Environmental Management Officer	No objections, subject to conditions.
Waterways Officer	No objections, subject to conditions.
Public Health Officer	No objections, subject to conditions.
Biodiversity Officer	No objections, subject to conditions.
Waste Services Coordinator	No objections, subject to conditions.
Traffic Engineer	No objections, subject to conditions.
Community Safety Officer	No objections, subject to conditions.

Development Contributions

A special rate for development contributions (district open space contribution) was approved as part of the Concept Plan approval for the overall North Penrith site.

Under Section 94E of the Environmental Planning and Assessment Act 1979 the Minister for Planning has given a direction (dated 14 September 2007) to exclude social housing providers, as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 from being required to pay for any public amenities or public services. The applicant has provided written legal advice with the

application regarding the levying of development contributions for the development. Council's own legal advice has concurred with the advice that as a social housing provider, defined under Clause 3 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the applicant should not be subjected to the contributions applicable to the proposal under the Concept Plan approval for the overall North Penrith site.

"Social Housing Provider" includes a number of different types of providers including a 'not-for-profit organisation that is a direct provider of rental housing to tenants. While Southern Cross Care requires an entry payment as well as other fees pertaining to services for high dependency residents, it is viewed that these arrangements do not exclude Southern Cross Care from the definition of a social housing provider. Section 94 contributions are therefore not required to be levied on the proposal.

Conclusion

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment through the appropriate conditioning of the development consent.

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support, subject to the conditions of consent.

Recommendation

1. That DA14/1209 for a Seniors Housing Development comprising 100 Residential Aged Care Units, 48 Independent Living Units & Associated Facilities at 72-84 Empire Circuit, Penrith be approved by way of a deferred commencement determination and subject to the recommended conditions at Appendix No. 7.

2. That those making submissions be notified of the determination.