

JRPP Ref. No.:	2015SYW019
DA No.:	DA15/0026
APPLICANT:	Stimson & Baker Planning
PROPERTY OWNER:	Landcom trading as UrbanGrowth NSW
PROPOSED DEVELOPMENT:	Mixed Use Development including 1 Ground Floor Commercial/Retail Tenancy, 268 Residential Apartments & Associated Car Parking, Landscaping & Drainage Works
PROPERTY ADDRESS:	1-39 Lord Sheffield Circuit, Penrith
PROPERTY DESCRIPTION:	Lot 3105 DP 1184499
DATE RECEIVED:	16 January 2015
ASSESSING OFFICER:	Kate Smith, Senior Environmental Planner
CATEGORY OF DEVELOPMENT:	Capital Investment Value > \$20 Million = \$70.6 Million

Assessment Report

Executive Summary

Penrith City Council is in receipt of a Development Application from Stimson & Baker Planning for a nine (9) storey Mixed Use Development at 1-39 Lord Sheffield Drive, Penrith

The application has been assessed under Penrith City Centre Local Environmental Plan 2008. Under this plan the site is zoned B2 Local centre and the proposed development is permitted in the zone. The development seeks a variation to the maximum height of building control which is recommended to be supported in this instance.

The proposed development has a capital investment value in excess of \$20 million and 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.

The application has been advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. One submission was received in response. The submission expressed overall concern that the proposal does not adequately address the potential heritage related impacts on the Museum of Fire (former Penrith Power Station). The concerns raised in the submission have been addressed as part of this assessment and it is unlikely that the proposed development will adversely impact the heritage significance of the item.

An assessment of the proposed development under the provisions of the Environmental Planning and Assessment Act 1979 has been undertaken and the following key issues have emerged as a result of this assessment process:

- Urban design;
- Street activation;
- Setback to the adjoining commuter car park; and
- Potential heritage impacts.

These matters are discussed in detail in this report.

The proposed development satisfies the relevant provisions of the environmental planning instruments and development control plan applicable to the subject site and is unlikely to have a negative impact on the surrounding environment. The proposed development will provide 268 apartments including 134 affordable housing units. The development contributes towards achieving high density housing as envisaged by the current planning controls. The site is suitable for the proposed development and the proposal is in the public interest.

This report recommends that the application be approved subject to the recommended conditions at Appendix 1.

There are 10 appendices to this report, as detailed below.

- Appendix 1 – Recommended conditions of consent
- Appendix 2 – Location plan and aerial view
- Appendix 3 – Architectural plans
- Appendix 4 – Landscape plans
- Appendix 5 – Zoning map
- Appendix 6 – State Environmental Planning Policy No. 1 submission
- Appendix 7 – State Environmental Planning Policy No. 65 assessment
- Appendix 8 – Roads and Maritime Service response
- Appendix 9 – Heritage perspective plans
- Appendix 10 – Key vistas map

Background

Pre-Lodgement/Urban Design Review Advice

Prior to the submission of the Development Application, several meetings were held with the applicant and Council staff to discuss the proposal.

1. Urban Design Review Panel Meeting held on 17 September 2014;
2. Pre-lodgement Meeting held on 19 November 2015.

The key issues identified during these initial design meetings and during the assessment of the original concept related to the urban design merit of the proposal, bulk and scale of the building, the need to achieve compliance with SEPP 65 in relation to solar access and building separation. Concerns were also raised in relation to the distribution of affordable housing across the development, which originally clustered all affordable housing together.

A new architect was engaged and a revised concept for the entire site was submitted to Council on 17 November 2015. The current revised application submitted to Council has been prepared with regard to the matters raised during the assessment process and provides a suitable outcome for the site.

The revised concept involves a complete re-design of the built form, an overall reduction in the number of units from 302 units to 268 units and the inclusion of a basement car park. The development maximises its northern orientation through the use of U-shaped buildings. The affordable housing component (134 units) will be distributed evenly throughout the entire development.

Previous Approvals

The estate was created through the North Penrith Concept Plan (MP 10-0075) approved by the Minister for Planning and Infrastructure on 9 November 2011. The Assessment Report for the North Penrith Concept Plan stated that the proposed zoning and height controls for the site were provided to facilitate higher levels of development should it become viable in the future.

Conditions of the Concept Plan Approval required the subject site be nominated as a residential flat development site as well as an opportunity site within the Village Centre precinct. This was to encourage higher densities in this location and a mix of uses that achieve high levels of activity and pedestrian movement and are appropriate within 400m of a railway station.

The above controls have been incorporated into the current Local Environmental Plan and Development Control Plan.

Site and Surrounds

The North Penrith estate 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 site was created through the North Penrith Concept Plan (MP 10-0075), as modified. A Project Approval for Stage 3B was approved by the Minister for Planning and Infrastructure's delegate on 28 June 2013, which created the primary allotment (Lot 3105) and included bulk earthworks, remediation, roads and infrastructure.

The subject site is located in the south-western corner of the estate. The site has three road frontages being Lord Sheffield Circuit, Combewood Avenue and Dunshea Street. The site also adjoins the North Penrith Commuter car park to the south. The site is orientated in an east-west direction and is 6370m² in size. The site is currently vacant. Refer to Appendix 2 for a location plan and aerial view of the site.

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 Proposed Development

The proposed development seeks consent for the construction of a nine (9) storey mixed use development which includes the following aspects:

- 268 units across three buildings which sit on a ground floor level podium, including 134 affordable housing units (10 x social & 124 affordable) distributed evenly throughout the development;
- One (1) commercial/retail tenancy at ground level (111 m²);
- 270 car parking spaces across two levels (Ground & Basement 1), including 26 accessible car parking spaces;
- Landscaped courtyards and common open space areas (at ground and first floor level);
- Provision for onsite waste collection including a waste chute system with 5 waste rooms, one centralised collection room and bulky waste storage area; and
- Detailed drainage design for the site.

Refer to Appendix 3 and Appendix 4 for copies of the architectural plans and landscape

plans detailing the proposed works.

The following plans and documents have been submitted to accompany the Development Application:

- Statement of Environmental Effects prepared by Stimson & Baker Planning
- Architectural Plans prepared by Roberson + Marks
- Landscape Plans prepared by Turf
- Concept Stormwater Plans prepared by Meinhardt & Australia Pty Ltd
- BCA Capability prepared by VIC Lilli & Partners Consulting
- Traffic Impact Statement prepared by Varga Traffic Planning Pty Ltd
- SEPP 65 Design Verification Statement prepared by Brian Mann
- BASIX Certificate (No. 682153M_02) prepared by Windtech Consultants
- Geotechnical Investigation prepared by STS Geo Environmental
- Geotechnical Investigation prepared by AMEC Testing Services Pty Ltd
- Contamination Report prepared by Trace Environmental
- Acoustic Assessment prepared by SLR Global Environmental Solutions
- Waste Management Plan prepared by Waste Audit and Consultancy Services
- Access Capability Statement prepared by Design Confidence

Planning Assessment

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

1. Section 23G – Joint Regional Planning Panels

Under Section 23G of the Act, a regional panel is taken to be the Council whose functions are conferred on a regional panel, if the development is of a class or description set out in Schedule 4A.

The proposed development has a capital investment value (CIV) of over \$70 million. As such the proposed development exceeds the threshold requirements of item 3, development with a CIV over \$20 million, and item 6, development for the purposed of affordable housing with a CIV over \$5 million. The Sydney West Joint Regional Planning Panel therefore has the function of determining the subject Development Application in accordance with Section 23G of the Act.

Council officers met with the panel in March and October 2015 to present and brief the panel members on the Development Application ahead of the panel's determination of the application.

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

Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 2010 (Amendment No.4) came into effect on 25 February 2015. Under the savings provision of Clause 1.8A of this plan, if the application was made before the commencement of the plan and a determination has not been made, then the application is to be assessed as if this plan had not yet commenced. As such, the proposal has been assessed under the provisions of Penrith City Centre Local Environmental Plan 2008 which applied at the time of lodgement.

Penrith City Centre Local Environmental Plan 2008

The subject site is zoned B2 Local Centre under Penrith City Centre Local Environmental Plan (LEP) 2008. Under this plan, Residential Flat Buildings and Commercial Premises are both permitted in the B2 zone (refer to zoning plan at Appendix 5).

Clause 30 Ecologically sustainable development

Clause 30 requires the consent authority to have regard to the principles of ecologically sustainable development as they relate to the proposal based on a 'whole of building' approach. The development incorporates environmentally sensitive building design measures including passive ventilation, sufficient solar access and shading, efficient glazing, energy efficient lighting and plumbing appliances. A BASIX Certificate has been issued for the proposed development and identifies a range of sustainability features.

Additionally, the location of the development being within 200m of the Penrith Train Station provides access to a range of transport options reducing car dependence. The development is also within 300m of Westfield's Penrith Plaza and the Penrith City Centre which offers retail and commercial services, recreational facilities, community services and a range of health service facilities, again reducing car dependence.

The proposed measures incorporated into the building design satisfy the requirements of this clause.

Clause 38 Development in proximity of a rail corridor

This clause applies to development within 60m of an operating rail corridor. The proposed development is over 150m away from the rail corridor to the south and as such this clause is not applicable to the subject application. Notwithstanding, an acoustic report has accompanied the development application. The findings of the report are discussed under Section 79C(1)(b) of this report in relation to the likely impacts of the development.

51 Height of buildings

The maximum height of building for the subject site is 30m. The actual building has a maximum height of 32.12m. This variation is to be considered under State Environmental Planning Policy No. 1 – Exception to development standards, as discussed below.

State Environmental Planning Policy No. 1 – Exception to Development Standards

The applicant seeks a variation to the provisions relating to the maximum building height of 30m under Clause 21 of LEP 2008. The development proposes a building height of 32.12m, equating to a 7% variation to the development standard.

Council's requirement relating to the maximum building height is a development standard and therefore an objection under State Environmental Planning Policy No. 1 objection (SEPP 1) can be considered.

SEPP 1 aims to allow flexibility in the application of development standards where strict compliance with those standards would in any particular case be unreasonable or unnecessary.

In accordance with Clause 6, the applicant has put forward the following key points to demonstrate that compliance with the development standard is unreasonable and unnecessary, and the basis for which there are sufficient environmental planning grounds to justify contravening the development standard:

- *The current Environmental Planning Instrument applying to the land increases the*

height limit to 32m. If the application was lodged using the current planning controls the development would only contravene the maximum height of building control by 120mm.

- In terms of any potential privacy impact, disruption of views or loss of solar access it is noted that the site adjoins the commuter car park to the south. To the south east the land is zoned for a future car park and to the south west is the Museum of Fire. Given there are no residential land uses or active public areas (such as parks and the like) that may be affected by the buildings height, the impacts are minimal.*
- The development is consistent with the emerging character of the Village Centre and is of a similar scale to other approved developments in the immediate locality.*
- The overarching objectives of the control are to facilitate development that is of an appropriate built form. The proposed design accommodates increased building utility, for example, the provision of onsite waste collection which has resulted in increased floor to ceiling heights for the ground floor. This improves efficiencies across the site without compromising amenity or architecture of the built form.*

A copy of the applicant full submission is provided at Appendix 6.

In accordance with Clause 7 of SEPP 1, the applicant's objection is well founded and is consistent with the aims of the policy. The objection has adequately addressed the matters prescribed in the SEPP, and has demonstrated that full compliance with the maximum building height requirement would be unreasonable and unnecessary in the circumstances of the case. The environmental planning grounds put forward by the applicant are supported in this instance. Of particular importance is the development's compliance with the current height controls for the site.

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. 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.

A comprehensive review of SEPP 65 has just been completed which has resulted in amendments to the SEPP and a new *Apartment Design Guide*. The amending SEPP was published on 19 June 2015 with the date of commencement being 17 July 2015. Consistent with the transitional provisions outlined in Clause 31, this development application will be determined as if the amendment had not commenced as the development application was lodged prior to the date of publication on the NSW legislation website.

The proposed development is consistent with the aims and objectives of SEPP 65. The Development Application is accompanied by a design verification statement prepared by Brian Mann (Registered Architect), verifying that he has directed and designed the proposal, and that the design quality principles set out in Part 2 of SEPP 65 are achieved for the development.

An assessment has been undertaken of the proposed development in relation to the ten design quality principles and the related Residential Flat Design Code (Flat Code). The proposal is in accordance with these provisions and a detailed assessment can be found at Appendix No. 7.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The development incorporates a total of 134 affordable housing units to be managed by a registered community housing provider. The proposed development has been assessed under the requirements of Division 1 In-fill affordable housing and is satisfactory.

It is noted that this policy does not affect the application of SEPP 65. An assessment under SEPP 65 has been carried out and the proposal satisfies these requirements.

Consideration has been given to the design of the development and whether it will be compatible with the character of the local area. Given most of the North Penrith estate is currently under construction, the character of the area is largely defined by the controls contained within the North Penrith Design Guidelines. In this regard, the design of the development is consistent with the envisaged future character of the area. A detailed assessment of this aspect has been provided under Section 79C(1)(a)(iii) of this report.

The SEPP provides a number of standards that cannot be used to refuse development consent. This report recommends approval of the subject development application and therefore these standards are not applicable except for the provision of car parking for the development.

The SEPP states that in the case of a development application made by a social housing provider for development on land in an accessible area, at least 0.4 parking spaces are to be provided for each dwelling containing 1 bedroom and at least 0.5 parking spaces for each dwelling containing 2 bedrooms. The proposed development includes 70 x 1 bedroom units and 198 x 2 bedroom units. As such the proposed development generates a total of 127 spaces. The proposed development makes provision for a total of 270 parking spaces, thereby satisfying the car parking requirements.

The SEPP also states that consent must not be granted unless conditions are imposed to the effect that the affordable housing component will be used for the purpose of affordable housing for a period of 10 years and all accommodation will be managed by a registered housing provider. Conditions to this effect are recommended to be imposed accordingly.

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 implemented for the development.

BASIX Certificate No. 682153M_02 was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort. Relevant BASIX commitments have been nominated on the submitted architectural plans.

State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 requires Council to consider, prior to determination, whether contamination may be present and if present the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The North Penrith site has been subject to extensive contamination investigations and where

necessary remediation works from 1992 to 2009. The objectives of the investigation and remediation program were to assess the nature and degree of contamination to allow the remediation of the site to a level where it was suitable for redevelopment for a variety of uses. The Environment Protection Authority (EPA) has been involved throughout this process and an EPA accredited Site Auditor has issued a Site Audit Statement and Report for the site under the *Contaminated Land Management Act 1997*. The site has now been validated for a variety of land uses including high density residential.

The application was accompanied by a 'Review of Site Audit Statement and Site Audit Report' prepared by Trace Environmental. This document contains a review of previous documentation associated with the investigation, remediation and validation of the estate. The document concludes that the site is suitable for the proposed development.

It is noted however that since the completion of the Site Audit Statement and Report in 2009 the site has been subject to earthworks and incidentally used for the storage of equipment and associated machinery in the establishment of the estate. As such, it is recommended that an Unexpected Finds Protocol be followed in the unlikely event that unexpected surface or subsurface impacts/structures are discovered. A condition relating to this matter has been included in the recommended conditions of consent.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997)

Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (No. 2 – 1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme (SREP 11).

Water quality and drainage has been considered for the entire estate with the stormwater network draining to a wetland located near the north-western corner of the estate via a central canal. The canal provides stormwater detention and treatment, while the wetland has the function of regulating outflows from the estate through volume and outlet design.

Stormwater from the development has been designed to drain into the existing drainage network for the estate. Council's Development Engineers have reviewed the application and subject to recommended conditions relating to stormwater support the proposed development.

Details of adequate erosion and sediment control measures to ensure sediment as a result of the development is not deposited in the Hawkesbury-Nepean River via the stormwater system have also been provided and are satisfactory.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 states that any development that meets or exceeds the thresholds in Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. Schedule 3 states that an apartment or residential flat building that has a capacity of 300 or more dwellings with access to any road constitutes "traffic generating development". The original proposal included 302 dwellings and as such the proposal was referred to the RMS for comment. The RMS raised no

objections to the proposal. Given that the application has now been amended reducing the overall number of dwellings to 268 a re-referral to the RMS is not required.

Refer to Appendix 8 for a copy of the RMS response.

3. Section 79C(1)(a)(iii) – Any Development Control Plan

Penrith Development Control Plan 2014

The proposed development is generally in accordance with the relevant city-wide provisions of Penrith Development Control Plan (DCP) 2014. The primary development controls, however, relating to the development of this site are contained within an area specific chapter of the DCP.

Chapter E11 - North Penrith Design Guidelines

Originally, the Design Guidelines formed part of the Concept Plan Approval and were not part of a Development Control Plan. However, these guidelines have since been incorporated into Penrith Development Control Plan 2014 which came into effect on 17 April 2015.

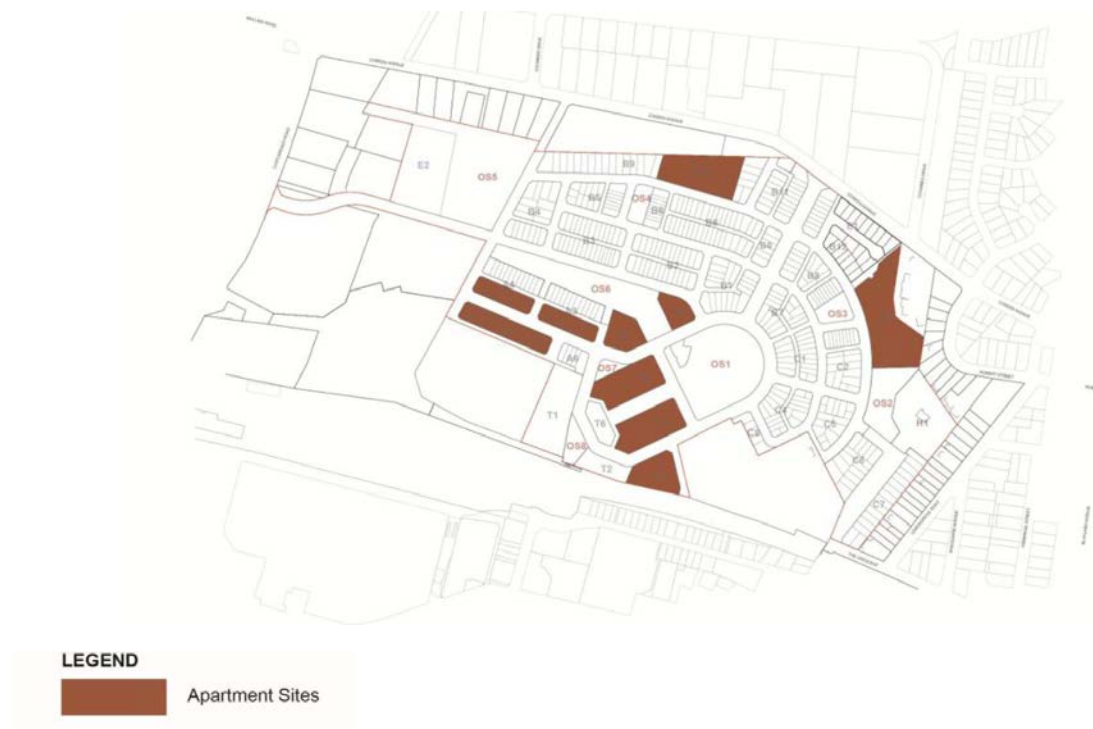
The site is situated within the Village Centre and is nominated as an apartment site (see below image). Controls for the Village Centre facilitate a mix of commercial and residential land uses and establish a preferred land use map (see below image). The proposed development provides a small commercial tenancy at the eastern end of the site closest to other future retail/commercial land uses in the Village Centre. The site is earmarked as an opportunity site that could be developed for commercial land uses in the future should the demand arise.

The relevant Village Centre controls for this site primarily relate to active street frontages and car parking requirements. While more active (commercial and residential) land uses are located at each end of the street elevation, it is acknowledged that the proposed ground floor plan is not ideal as a large proportion of the central street edge contains blank elevations. Despite this, the proposal is considered acceptable given the proximity of development to the train station, village centre and city centre of Penrith. Due to the site's location it is likely there will be a high level of pedestrian activity in and out of the buildings. It is expected that a large proportion of residents will exit the site at ground level and walk or cycle to these services. In addition, two sections of the street elevation have been recessed to provide large courtyard areas in front of the foyer entrances to the building which will provide an area for interaction and a meeting space for residents.

The ground floor car parking is located at the rear of the site and will not be visible from adjoining buildings or the street frontage. While the addition of another basement level would be preferred, the proposal complies with the guidelines and is far superior to the original ground floor concept in which the car parking area addressed the street frontage.

An assessment of the proposed development against the Design Guidelines has been undertaken and on balance the proposal complies with the relevant provisions.

Nominated Apartment Sites



Preferred Land Use Map



4. Section 79C(1)(a)(iv) – The Regulations

In accordance with Section 143 of the Environmental Planning and Assessment (EP&A) Regulation 2000, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application has been referred to Council's Building Surveyors for assessment and no issues of concern have been raised.

The proposal was advertised, notified and exhibited from 2 February to 16 February 2015 in accordance with Clause 89(3) of the EP&A Regulation 2000.

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

Building Design, Context and Setting

The initial proposal was reviewed by Council's Urban Design Review Panel. The comments received expressed that the development was unsatisfactory on a number of grounds. Of particular concern was the development's non-compliance with solar access and separation requirements and the overall bulk and scale of the buildings.

In the original concept there was a heavy reliance on single aspect units and this led to almost 50% of apartments facing south. The location and configuration of the common open

space areas were also compromised by their southern orientation being completely overshadowed by the built forms. The development did not incorporate appropriate setbacks between buildings which attributed to the development's bulk and scale. The combination of these aspects and others would have resulted in poor amenity outcomes for the future occupants.

Recently a new architect was engaged for the project and the development was redesigned. The new architect has taken an entirely new approach to the built form and maximises the site's northern orientation by utilising two U-shaped buildings. The three separate buildings now comply with separation requirements. The amenity of the common open space areas have been improved by locating these to the north.

The amended plans have sufficiently addressed the previous design concerns and on balance good architectural and amenity outcomes have been achieved for the site. A detailed assessment of these aspects in relation to the developments compliance with SEPP 65 has been undertaken. This assessment can be found at Appendix 7.

Setback to Commuter Car Parking Site

At ground level, the development has a zero lot boundary setback to the adjoining commuter car park site. The proposed development incorporates a small planter box along the entire wall length as well as climbers attached to the building and screen planting above (at first floor level). This treatment will complement the existing 5m wide landscape strip currently in place on the commuter car park site parallel to the shared boundary.

At first floor level and above, the residential component of the development is positioned approximately 3m from the southern boundary. Consultation with Council's Design and Project Manager suggest that in the short term any potential expansion of the existing car park would be further west of the existing 3 level multi-deck car park station. However, in the long term the entire site may be re-developed. See the below image for the current commuter car park configuration.

Given the physical constraints of the development site, being its narrow depth, an increased setback to this elevation would compromise the design quality of the current proposal. The development has been designed on the basis of the current site conditions and the likely impacts are minimal. It is considered that any future amenity impacts associated with the expansion of the northern section of the existing car park will need to be considered during the detailed design phase of any new proposal.



Heritage

The development is in the vicinity of a local heritage item, the Museum of Fire (Former Penrith Power Station). The Museum of Fire is of technological, architectural and historical significance. In terms of its built form the building represents a fine example of post war international style architecture. In particular its folded profile roof was innovative and incorporates an early example of an Australian designed rod-truss.

Concerns have been raised through a submission that the proposed development may impact on the heritage item. In this regard, consideration has been given to matters raised in the Statement of Heritage Impact guideline prepared by the Heritage Office and Department of Urban Affairs & Planning (2002):

Why is the new development required to be adjacent to the heritage item?

The proposed development is situated in the North Penrith Estate. The site is strategically located on the edge of the Village Centre in close proximity to important transport and service centres. The site was envisaged for high density apartment living consistent with the concept plan approval for the site and local planning controls applying to the land.

How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?

The Museum of Fire is situated in the north-east edge of the site with substantial grounds located in front of the south-eastern and south-western elevations. These elevations are considered the most valuable as they showcase the best architectural aspects of the building. The grounds in front of the building have a setback to adjacent boundaries ranging from 70 to 130m as can be seen in the below image.

The development site is separated from the Museum of Fire site by a perimeter road and landscaped setback.



How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects?

The development site may be visible from various points within the Museum of Fire site, however, the visibility of the proposed development from within the Museum of Fire site would only be as you were looking directly east towards the North Penrith estate. At this angle it is likely that other future buildings of a similar height and scale within the estate would also be visible.

Perspective drawings have been submitted with the development application which demonstrate that the proposed development cannot be viewed as you enter the Museum of Fire site.

Further key vistas from within the North Penrith Estate and from Penrith Rail Station towards the Museum of Fire building will not be compromised by the proposed development.

See Appendix 9 and 10 for perspectives and a map showing key views towards the Museum of Fire building.

Will the public, and users of the item, still be able to view and appreciate its significance?

The perspectives submitted demonstrate that the public will still be able to view and appreciate the Museum of Fire building as well as the existing landscape setting in which the building is positioned despite the proposed development being visible from some locations around the Museum of Fire site.

Given the above assessment a heritage impact statement was not warranted. It is considered that the development is unlikely to significantly impact on the Museum of Fire.

Noise

Given the site is in close proximity to the rail corridor and directly adjoins the commuter car park to the south, it was requested that the applicant address any potential noise impacts that may arise from the development's location. An Acoustic Assessment prepared by SLR Consulting Australia was submitted with the application.

The assessment established appropriate noise criteria for the site and assessed the suitability of the construction materials. The noise levels used in the assessment report are

considered representative of the local area and although peak noise levels haven't been directly addressed in terms of the car park, these would generally be outside sleep disturbance periods. Council's Environmental Management Officer reviewed the assessment and is satisfied that the report addresses potential noise impacts.

Social and Economic Impacts

The development will result in positive social and economic outcomes for the immediate and wider community. The proposed development will assist in providing affordable housing in Penrith. Evolve Housing is a Tier 1 registered community housing provider and has successfully negotiated with Federal and State Governments for the allocation of 134 National Rental Affordability Scheme (NRAS) incentives for the site. This will ensure the delivery of a high quality mixed tenure residential property with a 50% split of affordable housing apartments and private market housing apartments.

Further, UrbanGrowth NSW, the developer of the North Penrith estate, entered into an agreement with the Department of Defence in purchasing the land to deliver a component of the development site as affordable housing. The proposed development will ensure that the developer exceeds these contractual requirements which contributes towards providing affordable housing for Penrith.

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

The application has demonstrated that the proposed development is suitable for the site. There are no significant natural or built environment constraints that will hinder the proposed development and appropriate measures can be employed to mitigate any potential impacts. The site is considered suitable for the proposed development due to its accessible location to maximise the use of public transport and other utilities and services within the proposed village centre precinct.

Further, the site is subject to a Concept Plan Approval which identifies this site as being suitable for higher density development. The development will contribute to achieving the strategic vision for the area.

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

Public Submissions

The application was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 2 February to 16 February 2015.

One submission was received in response. The submission expressed concern that the proposal does not adequately address the potential impacts on a listed heritage item, the Museum of Fire.

The following key issues were raised in the submission and have formed part of the assessment:

Issue Raised	Comment
<i>The height of the proposed building will significantly diminish the built form and scale of the heritage item.</i>	The height of the proposed development is consistent with prescribed height controls for the site and as contained within LEP 2008.
<i>The proximity of the proposed development to the heritage item will have a negative impact on the industrial qualities of the site, which is a direct result of Stimson & Baker failing to consider the heritage implications for listed items within the vicinity of their development.</i>	<p>The development site is situated approximately 75m north-east of the heritage item and is separated from the Museum of Fire site by a perimeter road. Further the proposal has incorporated a landscape setback along the western boundary to assist in moderating the scale of the building along this elevation.</p> <p>The subdivision pattern and road layouts were determined as part of the concept plan approval for the overall site. The curtilage around the Museum of Fire is not compromised by the proposed development.</p>
<i>The position of the proposed development will intrude on the visual setting of the industrial heritage item. Consideration has not been given to the historic vistas that maintain the physical and visual relationship between the listed Penrith Station and the heritage item.</i>	<p>Important visual connections through the estate have been considered as part of the Concept Plan Approval which endorsed the overall subdivision pattern for the estate.</p> <p>Key vistas such as views from the driveway as you enter the museum of fire site and those directly through the commuter car park site will be maintained.</p> <p>The proposed development will not impact on vistas between Penrith Station and the Museum of Fire.</p> <p>See Appendix 10 for key vistas map.</p>
<i>The intended bulk and height of the proposed development will detract from the monolithic nature of the heritage item, particularly on the eastern elevation where the site's landmark aesthetic values will be compromised.</i>	<p>Perspectives submitted demonstrate that the proposed development will not be viewed as you approach the Museum of Fire building from the western driveway entrance off Castlereagh Road.</p> <p>It is acknowledged that from other points around the site, particularly along the eastern boundary of the Museum of Fire site, the proposed building will be in view. However, these views are unavoidable and are not likely to adversely impact on the significance of the building.</p> <p>See Appendix 9 for submitted perspectives.</p>

<p><i>The proposed development does not sufficiently adhere to the established Thornton Master Plan or the North Penrith Design Guidelines (2013). Both published documents indicate that the bulk and scale of high density development would be focused within a central precinct presenting to Penrith Station.</i></p>	<p>The Director General's Assessment Report for the North Penrith Concept Plan and Stage 1 Project Application (MP10-0075 and MP10-0078) stated that the proposed zoning (B2 local centre) and height controls for the site (30m) were provided to facilitate higher levels of development should it become viable in the future.</p> <p>Conditions of the Concept Plan Approval required the subject site be nominated as a residential flat development site as well as an opportunity site within the Village Centre precinct. This was to encourage higher densities in this location.</p> <p>The above controls have been incorporated into the current Local Environmental Plan and Development Control Plan.</p> <p>It is considered that the proposal is consistent with the envisaged density and the current planning policies applying to the land.</p>
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External Referral Comments

The table below summarises the results of external referrals in relation to the proposal.

Referrals	Comments
Roads and Maritime Services	Satisfactory.
NSW Police	CPTED recommendations provided.
Sydney Water	No comments received.

Internal Referral Comments

The table below summarises the results of internal referrals in relation to the proposal.

Referrals	Comments
Building Surveyor	Supported – subject to conditions.
Development Engineer	Supported – subject to conditions.
Senior Traffic Engineer	Supported – subject to conditions.
Waste Services	<p>Not supported – the redesigned concept did not provide the required room sizes to accommodate the number of bins needed for each chute room. In addition, the development did not provide a collection room or bulky waste service area.</p> <p><u>Comment</u></p> <p>Amendments have been made to the ground floor plans and the plans now provide room sizes sufficient to service</p>

	a total of 29 x 1,100 litre bins as well as a collection room adjacent to the waste turn table. Bulky waste is to be stored within the collection room.
Environmental Management Officer	Supported – subject to conditions.
Community Safety	Supported – subject to conditions.
Heritage	Suggested increased setbacks be applied to the western boundary of the development to moderate the buildings scale. <u>Comment</u> The revised design increased the landscape setback along this portion of the site with additional tree planting incorporated into the landscape design.

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

The proposal is unlikely to raise any significant issues of public interest. The site is suitable for the proposed development. The proposed development is permissible and meets the aims and objectives of the relevant environmental planning instruments.

Specifically, the development is of a good architectural design and will increase the supply and diversity of affordable housing in Penrith. The development's location ensures that the future occupants will have access to a range of services located in the estate and within the Penrith City Centre.

Development Contributions

Condition C4 of MP10-0075 (as amended) and Condition B8 of MP10-0078 (as amended) stipulate the rates for Section 94 contributions on the site and are consistent with the \$20,000 Ministerial cap for Section 94 plans. The condition states that:

1) Contributions shall be made payable to Penrith City Council for the purposes of district open space facilities at a rate per dwelling type as shown below.

Development Type	Contribution
<i>Residential flat building, Multi dwelling housing and Shop-top housing</i>	<i>\$1,566 for each new dwelling</i>
<i>Dwelling houses, Dual occupancies and subdivision</i>	<i>\$2,427.30 for each new dwelling or new lot</i>
<i>Housing for older people</i>	<i>\$1,174.50 for each new dwelling.</i>

2) The contributions are to be paid to Council prior to Construction Certificate being issued for a dwelling,

3) Deferred or periodic payments may be permitted subject to agreement from Council. Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance,

4) If not paid within the current quarterly period, the contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan.

Note: Section 94 Contributions are not required for the community facility or any other non-residential development.

Based on the above information, the following contributions are applicable:

268 dwellings x \$1,786 = \$478,648

A recommended condition of consent will require the payment of this contribution prior to the issue of a Construction Certificate.

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 revised design responds to the concerns raised by Council and has addressed the comments provided by Council's Urban Design Review Panel.

The proposed development is unlikely to result in any unacceptable impact on the surrounding environment. Consideration has been given to the submission relating to potential heritage impacts associated with the Museum of Fire site and it has been determined that the proposed development is unlikely to significantly impact on the heritage item.

The proposed development will substantially contribute to the provision of affordable housing for Penrith. The site is part of a planned estate and is suitable for high density residential apartments.

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 application is therefore recommended for approval subject to recommended conditions of consent.

Recommendation

That:

1. The submitted height standard variation submitted in accordance with the requirements of SEPP 1 be supported.
2. Development Application No. DA15/0026 for Construction of 9 Storey Mixed Use Development including 1 Ground Floor Commercial/Retail Tenancy, 268 Residential Apartments & Associated Car Parking, Landscaping & Drainage Works at 1-39 Lord Sheffield Drive, Penrith be approved subject to the recommended conditions outlined at Appendix. 1.
3. The person who made a submission be notified of the determination.