

JRPP Number	2015SYW040
DA number	DA15/0163
Capital Investment Value	\$55,472,476
Assessing Officer	Belinda Borg - Senior Environmental Planner
Local Government	Penrith City Council
Proposed Development	Stage 1 Construction of 4 x Residential Flat Buildings (138 Residential Apartments), 1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments), Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal.
Property Description	Lot 3989 DP 1190132 Lot 3991 DP 1190132
Property Address	Lot 3989 Lakeside Parade Jordan Springs Lot 3991 Jordan Springs Boulevard Jordan Springs
Owner:	C I D Group Pty Ltd
Applicant:	Synergy Development Group
Date Received	24 February 2015
Type of Development	Nominated Integrated Development
Recommendation	Approval, subject to conditions

Assessment Report and Recommendation

Executive Summary

On 24 February 2015 Council received a Development Application which involves the Stage 1 Construction of 4 x Residential Flat Buildings (138 Residential Apartments), 1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments), Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal on Lot 3989 Lakeside Parade & Lot 3991 Jordan Springs Boulevard, Jordan Springs.

The proposed development has a 'capital investment value' (CIV) of \$55,472,476 million. Given that the CIV is in excess of \$20 million, the proposed development is to be determined by the Joint Regional Planning Panel (JRPP) – Sydney West pursuant to Section 23G and Schedule 4A (3) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The subject site is located within the Urban zone under Sydney Regional Environmental Plan No. 30 – St Marys. The proposed residential flat building and

mixed-use development can be defined as “housing” and “retail or commercial” which are permissible with development consent.

This application has been referred externally to NSW Rural Fire Service (RFS) and the Roads and Maritime Services (RMS). These authorities did not raise any objections to the proposal and issued their General Terms of Approval and/or concurrence.

In accordance with Clause 44 of SREP, National Parks and Wildlife Services have also been consulted and have provided advice and recommendations in relation to the proposed development.

The subject application was placed on public exhibition and notified to adjoining property owners from 16 March 2015 to 16 April 2015. No submissions were received in response to the notification of the application.

This application is supported by various documents including a Species Impact Statement (SIS). A review of the SIS in relation to the Cumberland Plain Recovery Plan concluded that the proposed subdivision would not have a significant impact on Cumberland Plain Woodland (CPW) within the development site. In accordance with the NSW *Threatened Species Conservation Act 1995 (TSC Act)*, Council can form an opinion that this application does not require concurrence from the Director General of the NSW Office of Environment and Heritage.

The application has been assessed with respect to the *Threatened Species Conservation Act, 1995 (TSC Act)*, *Section 23G and Section 79C of the Environmental Planning and Assessment Act, 1979 (EP&A Act)* and the *Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)*. Having regard to the relevant statutory provisions, the report recommends the JRPP grants consent to the proposal subject to the imposition of conditions of development consent.

Background

The St Marys Release Area forms part the former St Marys ADI (Australian Defence Industries) site, with the balance of the site contained in the Blacktown LGA. The St Marys ADI site was endorsed by the NSW Government for inclusion on the Urban Development Program (UDP) in 1993.

On 19 January 2001, Sydney Regional Environmental Plan No. 30 – St Marys (SREP 30) was gazetted. SREP 30 rezoned 1,535 hectares of land on the site to permit a range of urban uses and a large area of regional parkland. The overall site comprises six development precincts including the Western Precinct (Jordan Springs), Central Precinct and South Dunheved Precinct in the Penrith LGA and the Eastern Precinct, Ropes Creek Precinct and North Dunheved Precinct in the Blacktown LGA.

On 29 September 2006, the Minister for Planning declared the Western Precinct to be a “release area” under the provisions of SREP 30. A Precinct Plan for the Western Precinct (WPP) and an accompanying Development Control Strategy (DCS) have subsequently been prepared to guide the future development of the Western Precinct. The WPP and DCS were adopted by Council at its Ordinary Meeting on 23 March 2009. The adopted WPP and DCS, function as Development Control Plan (DCP), are the basis of development assessment for the precinct.

Council's records show that the applicant did not attend a pre-lodgement meeting.

Site and Surrounds

The site is located to the eastern side of Lakeside Parade and the western side of Jordan Springs Boulevard and is currently occupied by an at-grade car park area and temporary stormwater drainage basin, which are to be removed as a part of the proposal.

Lot 3991 has a land area of 3.633 hectares with Lot 3989 having a lot area of 5.26m². The site falls about 7m from northwest to the southeast.

Vehicular access to the site is to be obtained from Jordan Springs Boulevard and Lakeside Parade. There is existing vegetation on the site and within the adjoining Regional Park including Cumberland Plain Woodland, River Flat Eucalyptus Forest, Freshwater Wetlands, Shale Gravel Transition Forest, Cooks River/Castlereagh Ironbark Forest and Alluvial Woodland. The site is also identified as bush fire prone land under Council's Bush Fire Prone Land Map.

To the north, the site is adjacent to retail shops and car parking forming part of the Jordan Springs Village Centre. To the north-east, the site is adjacent to the Village Lake, sales centre and stormwater retention system. Land dedicated to a future drainage channel and Wianamatta Regional Park are located to the south of the site.

Land to the west will form future stages of further development (subject to separate Development Applications).

Proposed Development

The subject Development Application involves the Stage 1 Construction of 4 x Residential Flat Buildings (138 Residential Apartments), 1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments), Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal. The proposal also provides 20 "adaptable" units.

The development details are as follows:

- Four (4) residential flat buildings containing 138 residential apartments;
- One (1) mixed use building containing 614m² ground floor commercial, retail and business premises with shop top housing above, to include 63 residential apartments;
- Car parking for 371 vehicles in two (2) level basements below each building footprint;
- Associated entry roads, stormwater, services and infrastructure;
- Public Domain and landscape works, including 2,400m² of common open space; and
- Site preparation works including tree removal and land forming earth works.

It is noted that subdivision has not been requested as a part of the proposal.

The development does not involve the subdivision of land, therefore a separate Development Application will be required to support the dedication of roads to Council.

The following documents have accompanied the subject application: -

- Architectural Drawings by Mosca Pserras Architects
- Survey Plan by Lawrence Group
- Engineering – Road Layout and Drainage by J.Wyndham Prince
- Stormwater Concept Design by S & G Consulting
- Building Code of Australia by Matt Shuter & Associates
- Landscape Design Package by Clouston Associates
- Statement of Environment Effects by APP Corporation
- Species Impact Statement by Cumberland Ecology
- Architect's Design Statement by Mosca Pserras Architects
- Residential Development Controls Table by APP Corporation
- SEPP 65 Compliance Table by Mosca Pserras Architects
- Bushfire Protection Assessment Ecological Australia
- Transport Impact Assessment by GTA Consultants
- Acoustic Impact Assessment by Acoustic Logic
- Quantity Surveyors Report by Construction Consultants Pty Ltd
- Waste Management Plan by APP Corporation
- Photo Perspectives by APP Corporation
- BASIX Certificate by Aminga Holdings Pty Ltd

Planning Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C of the EP&A Act. The main issues that arose in the assessment related to:

- Provision of common open space area
- Relationship to adjoining development
- Parking, access and loading/unloading
- Waste management and collection.

Section 79C(1)(a)(i) – The Provisions of any Environmental Planning Instrument

Section 23G – Joint Regional Planning Panel (JRPP)

The application has been assessed in accordance with Section 23G of the Environmental Planning and Assessment Act and the application will be determined by the Joint Regional Planning Panel - Sydney West Region for the following reasons:

- It has a Capital Investment Value (CIV) of over \$20 million.

Section 5A – Threatened Species Assessment

The site is situated on land which contains threatened species communities. As such, this application is accompanied by a Species Impact Statement (SIS) prepared by Cumberland Ecology dated February 2015. The SIS was prepared in accordance with the Environmental Planning and Assessment Act, 1979 (EP&A Act), Threatened Species Conservation Act, 1995 (TSC Act) and the Director General's Requirements.

Pursuant to Section 5A of the Environmental Planning and Assessment Act, the consent authority must also take into account whether the proposed development is consistent with the objectives or actions of the Cumberland Plain Recovery Plan in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

The SIS submitted in support of the application that the site contains a combination of Cumberland Plain Woodland (CPW), Shale Gravel Transition Forest and River Flat Eucalypt Forest with CPW being the dominant vegetation community. However the landscape has been extensively altered since European settlement. The proposal will involve clearance of the following vegetation:

Type of Vegetation to be removed	Area in hectares
Mature Cumberland Plain Woodland:	1.75ha
Regenerating Cumberland Plain Woodland (mostly saplings and regrowth):	1.26ha
Low Diversity Derived native Grasslands:	1.86ha.

The following is an assessment of the proposal against the relevant objectives and actions of the CPRP:

Objectives	Comments
1. <i>To build a protected area network, comprising public and private lands, focused on the priority conservation lands.</i>	Complies. The proposed Wianamatta Regional Park has been designated as priority conservation lands and the proposed works will not adversely impact on land zoned for the future Regional Park.
2. <i>To deliver best practice management for threatened species, populations and ecological communities across the Cumberland Plain, with a specific focus on the priority conservation lands and public lands where the primary management objectives are compatible with conservation.</i>	Complies. The proposed Wianamatta Regional Park has been designated as priority conservation lands and the proposed works will not adversely impact on land zoned for the future regional park.
3. <i>To develop an understanding and enhanced awareness in the community of the Cumberland Plain's threatened biodiversity, the best practice standards for its management, and the recovery program.</i>	Complies. The community awareness of the Cumberland Plain's threatened biodiversity is enhanced through the creation of the Regional Park.

Objectives	Comments
4. <i>To increase knowledge of the threats to the survival of the Cumberland Plain's threatened species, populations and ecological communities, and thereby improve capacity to manage these in a strategic and effective manner.</i>	Complies. The identification and protection of the future Regional Park will preserve threatened species and communities in a strategic and effective manner whilst ensuring that potential threats can be managed under the control of NPWS once handed over.

In addition, the following table provides a summary of the general recovery actions that are linked to Penrith City Council and a comment on how each action relates to the current proposal.

Recovery Action	Comments
Action 1.4 Local councils will have regard to the priority conservation lands in identifying areas for inclusion in environmental protection and regional open space zones.	This has been achieved through the making of SREP 30 by the Minister for Planning and the reservation of the proposed Regional Park which has been identified in the CPRP as priority conservation lands.
Action 2.2 Support and promote the adoption of best practice standards for bushland management and restoration (as specified in Appendix No. 2) on public and private lands within the Cumberland Plain	Several management plans including a Weed Management Plan, Feral and Domestic Animal Management Strategy, Bushfire Protection Assessment and an Open Space and Landscape Master Plan were prepared as part of the Precinct Plan and adopted by Council in March 2009. The proposal is consistent with these strategies.
Action 2.5 Local government will manage to best practice standards (as specified in Appendix No. 2) any lands which are under their ownership or for which they have care, control and management, which: <ul style="list-style-type: none"> contain any of the threatened biodiversity listed in Table 1 are located within the priority conservation lands or, if located outside these lands, have conservation as a primary management objective. 	Penrith City Council will not own any land being the subject of this development proposal.

<i>Recovery Action</i>	<i>Comments</i>
Action 3.4 Work collaboratively with local government authorities and other organisations to inform communities about the value and role of remnant vegetation on the Cumberland Plain, the best practice standards for its management, and any opportunities to participate in the recovery program.	Council has adopted a Biodiversity Action Plan that includes education and community involvement programs. It should be noted that this action is not directly related to the determination of this development application.
Action 3.5 Work with Aboriginal communities, landowners, community groups, and students to deliver best practice management in the priority conservation lands, and to identify other opportunities for involvement in the recovery program.	See comments on Action 3.4 above
Action 3.7 Develop interpretive programs for key local reserves that contain examples of the threatened biodiversity addressed in the recovery plan.	See comments on Action 3.4 above
Action 4.3 DECCW will encourage local councils to prepare or review biodiversity strategies to be consistent with the recovery plan that guide protection, management and strategic investment in threatened biodiversity, both within and outside of the priority conservation lands.	See comments on Action 3.4 above
Action 4.4 DECCW will work collaboratively with local councils to enhance the compliance and enforcement program with regard to the unauthorised clearing of bushland on the Cumberland Plain.	See comments on Action 3.4 above

The SIS concluded that the extent of the habitat removal would have minimal impact on the Cumberland Plain Snail and threatened bats and birds as sizable numbers are currently centred in the Regional Park. It is further stated that the removal would have minimal impact within the local context having considered the quality of the CPW occurring on the subject site, and area of CPW to be conserved within the

Regional Park which is of much greater size and quality, being one of the largest areas of CPW remaining.

In view of the above, the proposal is considered to be consistent with the objectives and actions of the CPRP in relation to:

- Contribution to the conservation of high quality biodiversity in the proposed Regional Park;
- Restriction on the clearance of habitat for threatened biodiversity;
- Limitation on the clearance to those with a lower biodiversity value; and
- Adoption of management plans that are consistent with the objectives and requirements of the Recovery Plan for regulating the development.

The proposal is therefore considered to be satisfactory having regard to the key considerations of the Threatened Species Conservation Act 1995.

Section 91 - Integrated Development

Section 91 of the EP&A Act outlines the types of developments deemed to be defined as "Integrated Development". As this development requires concurrence from the NSW Rural Fire Service, Office of Water in accordance with this section of the Act, the following comments are provided:

(a) NSW Rural Fires Services (RFS)

According to Section 91 of the EP&A Act, the proposed subdivision is an integrated development as it requires authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety for the subdivision of land that could lawfully be used for residential or rural residential purposes, or development of land for special fire protection purposes.

RFS issued a Bush Fire Safety Authority on 26 March 2015 raising no objection to the proposal subject to conditions (Refer to Condition 86). A copy of this advice forms Appendix 8.

(b) Office of Water

A "Controlled Activity" approval under the Water Management Act 2000 is required from the NSW Office of Water, as the proposed subdivision includes works within 40m of a watercourse, being the future riparian corridor. The application was referred to the NSW Office of Water and General Terms of Approval were granted on 16 April 2015. A copy of this advice forms Appendix 6.

State Environmental Planning Policy (Infrastructure) 2007

SEPP Infrastructure provides direction for proposed development to be considered by relevant public authorities for those listed in the schedules and any representation required in respect to the proposed development.

According to Schedule 3 of the SEPP, the proposed mixed use development and residential flat buildings containing more than 300 units is required to be referred to the Roads and Maritime Services (RMS) as traffic generating development and as such Clause 104 of the SEPP applies.

While the proposed development consists of 201 units, the proposal is Stage 1 of development within the site, which upon completion could consist of 800+ units.

The RMS raised no objection to the proposal as outlined within their correspondence dated 9 April 2015. A copy of this advice forms Appendix 7.

Sydney Regional Environmental Plan 30 – St Marys

Permissibility

The site is zoned Urban under the provisions of SREP 30. The proposal includes housing and local retail/commercial premises and they are defined as follows:

housing means development of a nature intended to create one or more dwellings, including dwelling houses, dual occupancies, multi-unit housing, housing for older people or people with disabilities, or any combination of them.

local retail or commercial premises means retail or commercial buildings of a scale and nature appropriate to service the needs of people living or working on the land to which this plan applies, and may include but is not limited to things such as supermarkets, newsagencies, butchers', fruit and vegetable or hairdressers' shops, real estate agents' premises, and banks."

Housing and local retail/commercial premises are permitted in the zone with consent.

Aims of REP

The proposal would support the St Marys Environmental Planning Strategy for the sustainable development and management of Jordan Springs and facilitate urban and employment-generating developments that integrate with the surrounding developments to achieve the desirable environmental, social and economic outcomes.

Zone objectives

The proposal is consistent with the zone objectives in relation to:

- The proposed development is primarily used for residential purposes and associated facilities
- Limited commercial areas have been provided within the development and the inclusion of soho units with direct access to the street. The range and scale of the commercial space and home offices are compatible with residential amenity and primarily serve local residents.
- The development site is within close proximity to employment, public transport and services, making it ideal for a higher density form of development, which is specifically identified within the Western Precinct Plan and Development Control Strategy.
- The proposed commercial units and soho units would provide for local retailing and related services with minimal effect on the viability of established Village Centre and promote home based activities with minimal adverse impact on the living environment of neighbours.

- The location and design of the development includes appropriate buffer zones to the adjacent Regional Park.

Clause 20 - Development consent restrictions

As stated earlier in the report, a Precinct Plan for the Western Precinct (WPP) and an accompanying Development Control Strategy (DCS) have been prepared and adopted by Council at its Ordinary Meeting on 23 March 2009 to guide the future development of the Western Precinct.

Council in the course of assessment, has taken into consideration the precinct plan and development control strategy for the Western Precinct and is satisfied that the proposal has demonstrated:

- consistency with the terms of the planning agreement
- the performance objectives and the zone objectives and other requirements prescribed by the REP can be achieved
- development control strategies contained in the environmental planning strategy has been considered in the planning and design of the proposal.

Clause 27 - Open space and recreation

The original proposal included the provision common open space surrounding a number of the buildings and the provision of a central park area that was to be dedicated to Council. However, the DCS does not require the provision of such a park in this location and as it does not meet the minimum land requirements of 0.5 hectares required under the DCS for such a pocket park. The applicant was therefore advised that Council would not support the dedication of the Central Park.

The assessment of the proposal also revealed that the development proposal did not achieve the required common open space areas, as required under State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings.

The applicant responded by detailing that the Central Park would be retained as a common open space for the proposed development and will not be dedicated to Council as a public park.

A condition therefore has been recommended for the submission of a revised landscape plan prepared by a suitably qualified consultant, detailing the improvement of common open space surrounding the mixed use building/ residential flat buildings, embellishment of the Central Park area and the provision of fencing, including security measures to the Central Park area to differentiate this common open space from that of public open space.

It is important to note that the Central Park does not offset the payment of Section 94 contributions to Local and District Open Space, which will be discussed later in the report.

Clause 28 - Watercycle

The applicant has submitted stormwater concept plans including sediment and erosion control measures with this application. Council's Development Engineer have not raised any objections to the proposal and recommended conditions to be imposed in the consent.

The proposal will achieve the following requirements in relation to water cycle as a result of recommended conditions of consent:

- minimise the impact upon water quality during and following construction,
- provide stormwater management measures to minimise any adverse impact upon the water quality in South Creek and Hawkesbury-Nepean catchments.
- minimise water usage on and the importation of potable water
- design and implement the development to ensure there is no significant increase in the water table level and salinity impacts.
- collect gross pollutants to ensure there is no increase in sediment/litter entering the creeks.

Clause 31 - Urban form

The proposal consists of a mix of commercial units, soho units and residential units that will integrate with the surrounding residential developments and retail development to the north. The proposal will provide a diverse range of housing types, in close proximity to services and facilities, to meet different needs including the provision of adaptable units.

The ground floor commercial units and soho units provide a transition from the Village Centre located to the north of the site to smaller scale non-residential activities that would have minimal impact on the amenity of the residential components. These small scale non-residential uses would provide surveillance and thereby enhance the safety of the locality.

The location of the commercial floor area within the building will frame Lakeside Parade in relation to the provision of a Village Centre without adversely impacting on the commercial core of Jordan Springs.

Clause 32 - Employment and business development

The commercial units with a total floor space of 615.79m² (ranging from 65m² to 243m²) are minor in terms of their scale and operation. They are provided to meet local retail and commercial needs and would not impact on the viability of the established regional and district retail/commercial centres. They would have minimal impact on the amenity of future occupants of the residence above.

The soho units comprising 15m² of office floor space provides live/work accommodation to future occupants and the opportunity to operate minor scale non-residential activities (home business) from these premises.

Clause 33 - Housing

The proposal providing a mix of residential apartments has demonstrated that the objective of improving housing choice and diversity in housing choice can be achieved.

Clause 34 - Energy efficiency

The applicant has submitted a BASIX Certificate incorporating energy, water and thermal comfort commitments. Council is satisfied that the proposal has adopted the principles of energy efficiency and best practice for energy management in the design of the building.

Clause 47 - Demolition

Demolition of the existing carpark will be granted as a part of this development proposal. No other structures are located on the site that require demolition.

Clause 51 - Salinity and highly erodible soils

A salinity assessment has been undertaken as part of the Western Precinct Plan. The recommendations arising from this assessment are recommended to be conditioned to ensure that the key requirements of the SREP are complied with.

Clause 59 - Retail and commercial development restricted

A maximum 7500m² of commercial floor space applies to the Western Precinct. This applies to proposed clubs, fast food take-away restaurants, hotels, local retail or commercial buildings, medical centres and restaurants.

Existing retail and commercial floor space within the Village Centre include the following:

- Woolworths neighbouring centre – approximately 6100m² of retail/ commercial floor area.
- Medical centre – 1221m²
- Retail tenancy – 188m²
- Pharmacy – 322m².

The floor space within the Western Precinct is 7831m², with the proposed development increasing the commercial floor area to 8457m². In view of the nature and scale of the office floor space nominated for the soho suites, Council has not included it as commercial floor space.

The SREP also outlines the cap on commercial floor area does not *apply if the consent authority is satisfied that, after the proposed development is carried out, the total gross floor area (including the gross floor area of all other buildings used for retailing in the locality) will not be greater than the total required to reasonably service the local residential community and workforce.*

The intended lot yield and associated population of Jordan Springs exceeds the expected projections outlined within SREP and DCS, therefore the additional retail and commercial floor area is warrant to support the additional population of Jordan Springs.

Further opportunities for additional retail and commercial floor space within Jordan Springs in limited due to the existing development within the Village Centre.

The location and design of the retail and commercial floor area is considered to be appropriate, without detracting from the services offered within the Village Centre.

Clause 60 – Services

Standard condition for obtaining a Section 73 Certificate from Sydney Water and documentary evidence from Integral Energy and telecommunication provider is

recommended to ensure services are available to support future developments on the site.

Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River

Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River (SREP 20) applies to the subject land and requires that the consent authority shall not grant consent unless the development is consistent with any relevant, general and specific aim of SREP 20. The general aims and objectives of the plan are to improve the amenity of the river and protecting the lands within the river valley, including scenic quality.

The following documents are submitted with this application:-

- Stormwater Drainage Plan
- Soil and Water Management Plan.

Council's Development Engineer has reviewed the development proposal and the above documents. Conditions in relation to all aspects of the proposed civil engineering works, including stormwater quality and quantity matters have been recommended.

Subject to compliance with the recommended conditions, the development proposal would have minimal impact on the Hawkesbury-Nepean River system and would comply with the general planning considerations set out in Clause 5 of SREP 20 and the relevant specific planning policies and relevant strategies set out in Clause 6.

State Environmental Planning Policy No.55 (State Environmental Planning Policy 55- Remediation of Land)

The site has been remediated as part of the former ADI site. Validation Reports and Site Audit Statements have been issued. Accordingly, as the site has been remediated and deemed suitable for development, the proposal is satisfactory with respect to SEPP 55.

A Contamination Management Plan (CMP) for the Western Precinct, prepared on the basis of the relevant Site Audit Statement, has already been adopted by Council. A condition is recommended to ensure measures to be undertaken are in accordance with the CMP, should contamination and/or explosive ordinance material be uncovered during the proposed works (Special Condition No. 89).

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

Consistent with the requirements of Clause 30, the development has been assessed with regard to the ten (10) design quality provisions of State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65). The advice of Council's UDRP has been considered and the applicant has amended the design in response to this advice. Further, the application has been assessed with regard to the *Residential Flat Design Code* as referenced in the SEPP.

An assessment of the proposal against the controls of the *Residential Flat Design Code* has been undertaken by Mosca Pserra Architects. The following relevant

issues are noted having regard to the 'Primary Development Control' section of the Code:

Building Separation: The intention of this control is to create a spatial relationship of the buildings and to avoid amenity problems in terms of visual and acoustic privacy and day light access. The requirements are:

up to four storeys/12 metres

- 12 metres between habitable rooms/balconies
- 9 metres between habitable/balconies and non-habitable rooms
- 6 metres between non-habitable rooms

five to eight storeys/up to 25 metres

- 18 metres between habitable rooms/balconies
- 13 metres between habitable rooms/balconies and non-habitable rooms
- 9 metres between non-habitable rooms

nine storeys and above/ over 25 metres

- 24 metres between habitable rooms/balconies
- 18 metres between habitable rooms/balconies and non-habitable rooms
- 12 metres between non-habitable rooms.

Setbacks are staggered and varied throughout the development but do not satisfy these requirements with respect to the building separation. The separation between buildings 2 and 3 varies between 11.7m to 12.6m. The minor nature of this variation does not compromise the presentation of the development, maintains a suitable level of privacy between units and provides an integrated landscape outcome on the site. The variation is therefore supportable.

Soft Soil: A minimum 25% is required. The development provides for a total of 48.8%. Soft soil and deep soil areas have been distributed around the proposed buildings and within the Central Park common open space area.

Communal Open Space: A minimum of between 25% to 30% is required.

The proposed development exceeds the requirements of communal open space through the provision of open space areas adjacent to buildings 3, 4 & 5. In addition, the Central Park (2400m²) will be retained as common open space.

Future stages of development can consider the provision of common open space provided as a part of this proposal, however it does not negate the provision of additional common open space.

Enhancement of the communal open space areas for residents is required to ensure these areas become activated open space areas that attract the occupants of the units to use the spaces created. Additional fencing and security measures will be required to ensure the retention of the Central Park area as common open space for the residents and visitors of the apartments. An appropriate condition has been included requiring the preparation of amended landscape plans. (Refer to Condition 105).

The development satisfies other relevant controls contained within the *Residential Flat Design Code*.

With regard to the design quality principles of SEPP 65, these are addressed as follows:

Context - Careful consideration has been given to ensuring that the development is appropriate for its context and has a suitable relationship with adjoining and nearby development. The retail / commercial design component of the building has been designed with regard to the need to integrate with the existing and future adjoining retail / commercial development. This is achieved through the use of appropriate architectural design elements and forms. A limited building height of 3 – 6 storeys is appropriate given the location of the buildings adjacent to the Village Centre and Village Lake. The development responds appropriately to the current and future aesthetic environment of the area and the development is considered to respond adequately to its context.

Scale – An appropriate scale is achieved through the use of architectural design features and the design of five buildings separated by a pedestrian walkways, local road network and common open space areas. This will assist in reducing the perceived bulk of the development. The development is appropriate in scale and the built form of the development is consistent with that expected to occur in the future.

Built form – The design of the development is appropriate and for its purpose. Public domain is clearly defined, the development positively contributes to the character of the streetscape and adequate internal amenity and outlook is provided.

Density – There is no density control except for the commercial floor space under SREP 30. The cumulative commercial floor space is compliant with the maximum commercial floor space stipulated under SREP 30.

Resource, energy and water efficiency - The proposed units meet the relevant environmental amenity requirements in terms of solar access and ventilation. BASIX certification has been provided.

Landscape – A detailed landscape plan accompanies the application. Landscaping will assist with the aesthetic quality of the development. Landscaping is considered adequate given the nature of development proposed and the position of the site within the Jordan Springs Village Centre. Further enhancement of the landscape plan is required to improve the quality of common open space areas.

Amenity – The internal amenity for residents is maintained through the delineation of public domain areas, the provision of outdoor balconies and the opportunity for natural light and ventilation.

Safety and security - Safety and security issues have been adequately addressed by orienting commercial areas towards the street frontages in order to provide adequate passive surveillance. Residential balconies will provide surveillance opportunities at both the front and rear of the development. Details of external lighting, security and CCTV have been provided with the application. Council's Community Safety Officer has completed a CPTED assessment and their recommendations will be incorporated into conditions of consent as appropriate.

Social dimensions and housing affordability - The development optimises the provision of affordable housing in the Penrith area, close to the public transport system, employment opportunities and local facilities. The development proposes a substantial number of one and two bedroom dwelling units.

Aesthetics – The design of the development incorporates a variety of architectural features and external finishes. The perceived bulk and scale of the development has been reduced through the use of these elements. In addition, the design of the development as five separate buildings, separated by a pedestrian walkway, loading areas and local roads that further reduces the bulk and scale of the development. The development has been designed with regard to the existing and likely future adjoining development.

An Architect's Design Statement was provided with the application, prepared by Frank Mosca, Registered Architect of Mosca Pserras Architects. The Statement concludes that the proposal is appropriate to the site and its context.

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

Not Applicable

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

St Marys Central Precinct Plan and Development Control Strategy (CPP and DCS)

The proposed subdivision has demonstrated compliance with the CPP and DCS in relation to

- urban structure and major land uses
- subdivision layout
- conservation of natural values
- water cycle and soils
- sustainability
- infrastructure and services
- street types.

Section 4.3 Future Character Areas

The development proposal is located within the Village Centre. The provision of a mixed use development and residential flat buildings is considered to be consistent with the character areas detailed within the Development Control Strategy.

Based on the various components of the development proposal as discussed in this report, the development proposal is in accordance with the preceding character area visions, subject to the recommended conditions.

Section 4.5 Dwelling Density

The Western Precinct Plan and accompanying Development Control Strategy identify is mixed use development and residential flat buildings being located within Village 1b which has an indicative density target of approximately 200 - 250 dwellings. It is important to note that Stage 1 does not relate to the whole of Village 1b. Future development of the land within Village 1b will be considered in conjunction with the lot yield proposed as a part of this development.

Clause 30(6) of SREP 30 outlines that the overall net neighbourhood density target for the St Marys site is to achieve at least 15 dwellings per hectare. The proposed development will have a dwelling density of 101 dwellings per hectare which exceeds

the requirement of 15 dwellings per hectare, however being a village centre framing main street this density is considered to be suitable and appropriate.

Section 4.7 Access and Movement

The Architectural Plans and Engineering submitted with this application has demonstrated compliance with the CPP and DCS and that the following principles can be achieved:

- Provide a hierarchy of roads that connect to the external road network and the adjoining precincts for access, employment and recreation purposes
- Balance the needs of pedestrians, cyclists, motorist and buses
- Reduce car use and promote public transport patronage.

Primary access to the subdivision will be provided from Jordan Springs Boulevard through a series of new local roads that provide vehicular access points to mixed use development and residential flat buildings.

A separate basement driveway is provided to Buildings 4 & 5 from Lakeside Parade. The road layout will support the proposed development and facilitate the future stages of development within this site.

The proposed access arrangements are considered to be consistent with the SEPP 30 Structure Plan for vehicle access points.

Section 4.9 Landscape and Open Space Network

Soft landscaping is provided in the central park and surrounding the proposed buildings to enhance the landscape quality and stormwater management of the development.

The provision of the Central Park is proposed in addition to private balconies/terraces to meet the outdoor recreation needs of future occupants of the development. The designs of the communal and private open space areas have taken into consideration the privacy and amenity of its occupants and adjoining properties.

Section 4.10 Bushfire Measures

The land in the Western Precinct of the St Marys Release Area is bushfire prone. The application has been accompanied by a Bushfire Protection Assessment prepared by Eco Logical Australia Pty Ltd. The Bushfire Protection Assessment provides a review of the subdivision proposal in relation to the measures contained in the Bushfire Protection Assessment adopted by Council as part of the Western Precinct Plan.

The NSW Rural Fire Service (RFS) has assessed the development proposal and has issued a Bush Fire Safety Authority on 26 March 2015 for the proposal pursuant to the Rural Fires Act 1997, subject to General Terms of Approval (GTAs). The conditions would ensure that the proposed development is compliant with Section 100B of the Rural Fires Act 1997, Clause 44 of the Rural Fires Regulation 2008, and 'Planning for Bushfire Protection 2006' (RFS 2006). A copy of this advice forms Appendix 8.

Section 5B Built Form and Housing

The plan of subdivision and Building Envelope Plan have demonstrated compliance with the CPP and DCS in relation to:

- The commercial unit at ground floor provides a good transition from the town square to the higher density residential units proposed within this development.
- The applicant has incorporated articulation and modulation to the façade and proposes to use a variety of materials to reduce the building bulk.
- The proposal provides additional forms of housing to the existing housing stock within Jordan Springs, which is predominately detached dwellings or integrated housing development.
- The location and scale of the development is appropriate given its proximity to the Village Centre.

Penrith Development Control Plan 2014

The development proposal is in accordance with the relevant provisions of Penrith Development Control Plan 2014. Not all provisions of this DCP are applicable to the Western Precinct due to overriding provisions contained in the Precinct Plan and Development Control Strategy for this precinct. The relevant provisions have previously been considered in this report in discussions relating to the applicable environmental planning instruments.

Section 79C(1)(a)(iia) – The Provisions of any Planning Agreement

Penrith City Council, St Marys Land Limited and Lend Lease Development entered into a Planning Agreement in May 2009. The St Marys Penrith Planning Agreement has made provisions for open space, transport, human services and infrastructure works for the Western and Central Precincts of the St Marys Development Site.

In addition, a State Development Agreement (State Deed) was entered into between the land owner and developer and the NSW Government. The State Deed specifies a series of obligations to be provided including, but not limited to:

- Staged transfer and dedication of 900 ha of land to NPWS as a Regional Park;
- Staged monetary contributions towards capital improvements within the 900 ha Regional Park;
- Monetary contributions towards a Plan of Management for the 900ha Regional Park; and
- Erection of stock proof fencing in stages along the boundaries of the 900 ha Regional Park.

An agreement has also been made between NPWS and Lend Lease with regards to contributions towards various embellishments of the Regional Park. This agreement includes commitments with regards fencing, access, and the Urban-Regional Park interface.

It is noted that the current planning agreements does not extend to third parties such as the developer of the subject site.

Council is currently in negotiations with Lend Lease to review the Planning Agreement due to the dwelling yield for Jordan Springs exceeding the expected density determined under the existing agreement. It is therefore unclear if the dwelling yield on the subject site will be included within any such amended agreement.

Therefore Section 94 contributions have been imposed on the development, unless evidence can be provided detailing that the dwelling yield proposed as a part of the development proposal is included within the St Marys Penrith Planning Agreement.

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

Environmental Planning and Assessment Regulation 2000

Clause 50 of the Regulation provides that a development application for a residential flat development, lodged on or after 1 December, 2003, must be accompanied by a design verification statement from a qualified designer. The application is accompanied by a SEPP 65 Compliance Table and an Architect's Design Statement prepared by Mosca Pserra Architects Pty Ltd.

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

Context and setting

As stated earlier in the report, the site is zoned Urban under SREP 30 and intended to accommodate primarily residential uses with limited no-residential uses such as local retail and commercial uses. The Precinct Plan and Development Control Strategy for the Western Precinct have identified 4 major types of development:

- A Village Centre Character Area comprising a mix of retail, commercial, community, open space and residential uses in the southern part of the precinct
- Residential developments in the remainder of the precinct
- Construction of roads, including external connections to The Northern Road and Ninth Avenue and east to the Central Precinct
- Provision of local open space, riparian corridor and stormwater basins.

The proposed mixed use development and residential flat buildings, located in the Village Centre, is consistent with the desired character identified in the Precinct Plan and Development Control Strategy.

Design

The provision of a quality design development in the Jordan Springs Village Centre will result in a positive aesthetic contribution to the Penrith area. Careful consideration has been given to ensuring that the development is appropriate for its context and has a suitable relationship with adjoining and nearby development. This has been achieved through the design of four towers of varying height, thereby reducing the perceived bulk and scale of the development.

The retail / commercial design component of the building has been designed with regard to the need to integrate with the existing Village Centre by extending the commercial space within Lakeside Parade.

Furthermore, the internal layout of the apartments has been designed to maximise residential amenity.

Access, traffic and transportation impacts

The proposal would have minimal impact on local traffic and parking conditions for the following reasons:

- The proposed driveways location and design comply with Council's requirements.
- Provision of shared basements garages and limited access points to ensure the garage access does not dominate the ground level elements of the site.
- Provision of priority pedestrian zones within the site.
- Provision of shared loading zones for the buildings (subject to conditions of consent).
- Parking is provided for the residential and commercial components in accordance with DCS and Council's parking requirements.
- The additional traffic generated by the proposal would have minimal impact on local traffic conditions.
- Adequate visitor parking is provided within the basement.
- Accessible car parking spaces will be provided within the development and recommended conditions of development will ensure compliance with AS2890.6.

Stormwater

The proposal relies upon the construction of a drainage channel located to the west of the development site and adjacent to the Regional Park. The drainage channel is yet to be approved or constructed, however Council has received a Development Application (DA15/0943) from Lend Lease regarding the construction of the drainage channel. Assessment of this development application is being finalised and determination is imminent.

Social and Economic Impacts

The development will provide positive social and economic impacts. The development provides for additional commercial floor space within Jordan Springs Village Centre.

The proposal would increase the housing choice to satisfy local demands. It is also consistent with the objectives of SREP 30 in relation to achieving a desirable environmental, social and economic outcome.

Waste

Council's Waste Services Coordinator reviewed the proposal and raised issues in relation to waste reduction, provision of an interim storage room for bulky waste and provision of a separate waste storage room for the commercial component.

The applicant has revised and resubmitted the proposal by providing separate storage areas for commercial and domestic waste. A separate area is also provided for the storage of bulky waste. However the provision of on-site collection for Buildings 4 & 5 has not been incorporated within the design. A condition is

recommended requiring amended plans to be submitted prior to the issue of a Construction Certificate that ensures the provision of on-site collection which could facilitate on site collection for future stages of the development (Refer to Condition No. 92).

Noise and vibration

Noise generated by the development will predominantly be from the movement of vehicles and the loading and unloading of delivery trucks for the retail / commercial tenancies. An acoustic report to support the proposal has been submitted and reviewed by Council's Senior Environmental Health Officer. Appropriate conditions of consent will ensure that noise impacts from the development do not adversely impact on the amenity of the area.

To maintain the acoustic privacy and amenity of the surrounding developments, the standard condition restricting work hours is recommended.

Utilities/Water and Energy

The standard conditions for obtaining a Section 73 Certificate from Sydney Water and written clearance from Integral Energy and telecommunication providers are recommended.

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

In light of the discussion provided in this report, the site is suitable for the development proposed. The proposed mixed use development is consistent with Council's vision for the area as demonstrated by the provisions of Western Precinct Plan and Development Control Strategy. The development satisfies relevant planning controls, including those pertaining to residential flat development. The site suitability is dependent upon appropriate remediation works being completed in accordance with the provisions of SEPP 55.

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

(a) External Referrals

The following authorities were consulted as per the relevant legislation as follows: -

- NSW Rural Fire Service – *Rural Fires Act 1997*
- NSW Office of Water – *Water Management Act 2000*
- NSW Roads and Maritime Services – State Environmental Planning Policy (Infrastructure) 2007 and Section 138 Roads Act 1993
- National Parks and Wildlife Services – Sydney Regional Environmental Plan No. 30 - St Marys.

Council has received the following in response to the proposal:

- a) Bush Fire Safety Authority dated 26 March 2015 from RFS.
- b) A "Controlled Activity" approval dated 16 April 2015 from Office of Water.
- c) Roads and Maritime Service provided correspondence dated 9 April 2015, outlining no objection to the proposal or providing recommended conditions.
- d) National Parks and Wildlife Service provided correspondence dated 28 October 2015 outlining no objection to the proposal with no recommended conditions.

(b) *Internal Referrals*

The application was referred to the following persons within Council and their comments have formed part of the assessment:

<i>Referral Body</i>	<i>Comments Received</i>
<i>Urban Design Review Panel</i>	Concerns raised in the Urban Design Review Meeting have been addressed through the provision of revised plans and during the assessment of the proposal.
<i>Building Surveyor</i>	No objections raised subject to conditions of development consent.
<i>Development Engineer</i>	No objections raised subject to conditions of development consent.
<i>Traffic Engineer</i>	No objections raised subject to conditions of development consent.
<i>Environmental – Environmental Management</i>	No objections raised subject to conditions of development consent.
<i>Environmental - Biodiversity</i>	No objections raised subject to conditions of development consent.
<i>Landscape Architect</i>	Recommended conditions of consent provided.
<i>Waste Services</i>	Appropriate conditions of consent are recommended to ensure that the development satisfies Council's requirements in this regard.
<i>Community Safety</i>	Appropriate conditions of consent are recommended to ensure that the development satisfies Council's requirements in this regard.

Community Consultation

In accordance with Appendix F4 of Penrith DCP 2014, the original design of the application was placed on public exhibition and notified to adjoining property owners from 16 March 2015 to 16 April 2015. Council has not received any submissions objecting to the proposal.

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

The development is consistent with the overall design vision for Jordan Springs and will make a positive design contribution to the Village Centre. Appropriate consideration has been given to access provision and CEPTED principles in the design of the development.

The proposed development is consistent with the objectives of the EP&A Act in so far as it promotes the co-ordinated and orderly, and economic use and development of the land.

As a result, Council may be satisfied that the development subject to conditions is consistent with the public interest.

Section 94 Contributions

Payment of Section 94 contributions will be required unless evidence can be provided that the expected dwelling yield is encompassed within the St Marys Penrith Planning Agreement. Refer to Condition numbers 82 and 83 for Section 94 Contribution requirements.

Conclusion

The above assessment has demonstrated that the proposal has met the relevant provisions of the following legislation:

- a. Environmental Planning and Assessment Act 1979
- b. Threatened Species Conservation Act 1995
- d. State Environmental Planning Policy No. 55 – Remediation of Land
- e. State Environmental Planning Policy (Infrastructure) 2007
- f. Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River
- g. Sydney Regional Environmental Plan No. 30 – St Marys

The proposed mixed use development and residential flat buildings are consistent with the desired future character as identified in SREP 30 and the Western Precinct Plan.

Furthermore, the development performs adequately in terms of its relationship to the surrounding built and natural environment, particularly in relation to likely impacts upon surrounding properties. Consequently, the proposal is supported from an environmental planning perspective.

After completion of an assessment of the application, it is recommended that the application be approved subject to the imposition of conditions of consent.

RECOMMENDATION

That:

1. The information contained in the report on Development Application No. 15/0163 for the Stage 1 Construction of 4 x Residential Flat Buildings (138 Residential Apartments), 1 x Mixed Use Building (Ground Floor Commercial Floor Space and 63 Residential Apartments), Basement Car Parking, Road Construction, Drainage Works, Public Open Space Provision, Landscape Works, Earthworks and Tree Removal at Lot 3989 Lakeside Parade & Lot 3991 Jordan Springs Boulevard Jordan Springs be supported for approval subject to the conditions in Appendix 1.