

<b>Local Government Area</b>	Penrith City Council
<b>JRPP Reference Numbers</b>	2015SYW195 (DA15/1313) 2015SYW196 (DA15/1314)
<b>DA Numbers</b>	DA15/1313 & DA15/1314
<b>Capital Investment Value</b>	\$32,732,700 (DA15/1313) \$32,996,700 (DA15/1314)
<b>Applicant</b>	Thornton North Penrith Pty Ltd
<b>Property Owner</b>	Landcom trading as UrbanGrowth NSW
<b>Proposed Development</b>	Two (2) x Eleven (11) Storey Residential Flat Buildings each containing 102 Apartments & Basement Car Parking
<b>Property Description</b>	Lots 3006 & 3010 DP 1184498
<b>Property Address</b>	1 & 2 Engineers Place, Penrith
<b>Date Received</b>	5 November 2015
<b>Category of Development</b>	Capital Investment Value > \$20 Million
<b>Assessing Officer</b>	Clare Aslanis, Environmental Planner
<b>Recommendation</b>	Approval

## Assessment Report

### Executive Summary

Penrith City Council is in receipt of two separate Development Applications from Thornton North Penrith Pty Ltd both of which are seeking to construct eleven (11) storey residential flat buildings each containing of 102 apartments and basement car parking.

The applications have been assessed under Penrith Local Environmental Plan 2010. Under this plan the subject sites are zoned B2 Local Centre and the proposed developments are permissible with consent.

The proposed developments both have a capital investment value in excess of \$20 million and the Sydney West Joint Regional Planning Panel therefore has the function of determining the applications in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

The proposals were 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 proposals during the exhibition period from 23 November to 7 December 2015. No submissions were received in response.

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

The proposed developments will substantially contribute to the supply and diversity of housing in Penrith. The sites are part of a master planned estate and are suitable for high density residential apartments. The proposals are therefore in the public interest.

The proposed developments have been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory.

This report recommends that the subject Development Applications be approved subject to the recommended conditions at Appendix 9 and Appendix 10 respectively.

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

- Appendix 1 – Location Plan
- Appendix 2 – Aerial View
- Appendix 3 – Zoning Plan
- Appendix 4 – Architectural & Landscape Plans (DA15/1313)
- Appendix 5 – Architectural & Landscape Plans (DA15/1314)
- Appendix 6 – Design Competition Jury Report
- Appendix 7 – Design Competition Jury Statement
- Appendix 8 – SEPP 65 Checklist
- Appendix 9 – Recommended Conditions of Consent (DA15/1313)
- Appendix 10 – Recommended Conditions of Consent (DA15/1314)

## **Site & Surrounds**

The North Penrith estate (Thornton) 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 (MP10-0075), as modified. A Project Approval for Stage 3A was approved by the Minister for Planning and Infrastructure's delegate on 7 May 2014 which created the subject allotments (Lots 3006 and 3010).

The subject sites are situated within the Thornton village centre. The sites have a frontage to Aviators Way and Smiths Paddock and are divided by Engineers Place. The sites are also bounded by Lord Sheffield Circuit. Both sites are rectangular in shape and each have a land area of 1795m<sup>2</sup>.

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

Refer to Appendix 1 and Appendix 2 for a location plan and aerial view of the subject sites. Refer to Appendix 3 for a zoning plan of the locality.

## **The Proposed Developments**

The Development Applications seek consent for the construction of two (2) x eleven (11) storey residential flat buildings which include:

- 102 apartments per building;

- Underground parking including 99 car spaces per building across two basement levels;
- Ground level perimeter landscaping;
- Provision of vehicle access and associated infrastructure;
- Provision for on-site waste collection including a ground floor waste room and bulky waste storage area for each building; and
- Stormwater drainage works.

Refer to Appendix 4 and Appendix 5 for copies of the architectural and landscape plans for each proposal.

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

- Statement of Environmental Effects prepared by Urbis
- Architectural Plans prepared by Group GSA Architects
- Landscape Plans prepared by Urbis
- Concept Stormwater Plans prepared by Group GSA Architects and IGS
- BCA Capability Report prepared by Blackett Maguire and Goldsmith
- Traffic and Parking Statement prepared by Parsons Brinckerhoff
- SEPP 65 Design Verification Statement prepared by Group GSA Architects
- BASIX Certificates prepared by IGS
- Geotechnical Investigation prepared by Geotechnique
- Contamination Report prepared by Geotechnique
- Acoustic Assessment prepared by IGS
- Waste Management Plan prepared by Elephants Foot
- Access Capability Statement prepared by BCA Logic
- Fire Safety Statement prepared by Affinity Fire Engineering

## **Planning Assessment**

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

### **1. Section 23G – Joint Regional Planning Panels**

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

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

#### ***Penrith Local Environmental Plan 2010***

The subject sites are zoned B2 Local Centre under Penrith Local Environmental Plan 2010. Under this plan, residential flat buildings are not permitted in the B2 zone however they are permitted under Schedule 1, Clause 23 as an additional permitted use on the

subject sites.

#### *Clause 4.3 - Height of Buildings*

The proposed developments exceed the applicable maximum height control of 32m with 35.2m proposed in each case. This 10% height exceedance is permitted via Clause 8.4(5) of the LEP as an architectural design competition was held in relation to the proposed developments.

#### *Clause 8.4 - Design Excellence*

As mentioned above, the design competition jury determined that the proposed developments exhibit design excellence in accordance with Clause 8.4 of the LEP. Refer to Appendix 6 for a copy of the Design Competition Jury Report which details the architectural design competition process and details the design elements of the subject proposals and how these elements achieve a high standard of urban design and architectural design. Refer to Appendix 7 for a copy of the Design Competition Jury Statement which provides a final review of the proposed development concepts as lodged for the subject Development Applications and concludes that design excellence has been achieved.

As previously noted, the proposed developments exceed the applicable maximum height control of 32m with 35.2m proposed in each case. This 10% height exceedance is permitted via Clause 8.4(5) of the LEP as an architectural design competition was held in relation to the proposed developments. In addition, concurrence to the 10% height exceedance is required from the NSW Department of Planning and Environment in accordance with Clause 8.4(5)(b) of the LEP. This concurrence has been sought and is expected to be provided prior to determination of the applications.

#### ***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development***

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of apartment development. The SEPP contains nine design quality principles which form the basis for achieving good design and provide a guide for evaluating the merits of development proposals. The accompanying Apartment Design Guide (ADG) provides additional detail for applying the design quality principles contained in SEPP 65.

The proposals satisfy the requirements of SEPP 65 and meet the objectives of the ADG. A detailed assessment against the SEPP 65 provisions is provided at Appendix 8.

The Development Applications have been accompanied by a design verification statement prepared by Group GSA Architects verifying that they have directed and designed the proposals and that the design quality principles set out in Part 2 of the SEPP have been achieved for the developments.

#### ***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 development proposals.

BASIX Certificate Nos 671687\_02 and 673563M were submitted with the Development Applications 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 the consent authority to consider, prior to determination, whether contamination may be present and if present, whether the land is suitable (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

The North Penrith site has been subject to extensive contamination investigations and where necessary remediation works between 1992 and 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 re-development 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 overall site under the *Contaminated Land Management Act 1997*. The overall site has been validated for a variety of land uses including high density residential development.

The subject applications were accompanied by a Contamination Assessment update to assess the current condition of the development sites. The site inspection carried out by the consultant found that there was no visual signs of contamination however a mobile shed (site office) and container were noted to be located on site. Sixteen soil samples were taken with the majority of samples testing below the relevant health and environmental criteria. The only exceptions were for two soil samples where asbestos was present. These samples were located adjacent to the mobile shed.

The Contamination Assessment update advises that the asbestos affected soil on the site cannot be considered Excavated Natural Material (ENM) or General Solid Waste because of the asbestos content and that it cannot be retained on site. The assessment concludes that *"the site can be made suitable for the proposed high density residential use with minimal opportunities for soil access subject to the removal of the fill contaminated/potentially contaminated with asbestos"*. In turn, it can be concluded that the land is not currently suitable for the proposed development and remediation works are required.

A remediation action plan and validation report for the remediation works will be required. The validation report will need to certify that the remediation works have been carried out in accordance with the approved remediation action plan, relevant NSW Environment Protection Authority requirements and Penrith Development Control Plan 2014. Due to location of the affected area, this requirement will only need to be imposed as a condition of consent for DA15/1314.

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

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

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

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 run-off from the developments has been designed to drain into the existing drainage network for the estate. Council's Development Engineer has reviewed the applications and subject to recommended conditions relating to stormwater has supported the proposed developments.

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

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

#### ***Penrith Development Control Plan 2014***

The proposed developments are 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 these sites are contained within Section E11, Part B of the DCP.

#### ***Section E11, Part B - North Penrith***

The subject sites are situated within the Thornton village centre. Controls for the village centre seek to facilitate a mix of commercial and residential land uses. The preferred land use map nominates the subject sites as apartment sites. The relevant village centre controls for these sites primarily relate to active street frontage and car parking requirements.

Due to the location of the sites, it is likely that 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 nearby amenities and services. The two levels of basement car parking for each building will be accessed from Lord Sheffield Circuit and landscaping is provided at the basement entrances to minimise the visual impact of these entry/exit points.

An assessment of the proposed developments against other relevant North Penrith development controls is provided below.

*Section E11.8.3.10 - Specific Provisions - Residential Flat Buildings*

<b>Controls</b>	<b>Compliance</b>	<b>Comments</b>
Minimum lot size 650m <sup>2</sup>	Complies	Both sites have a land area of 1795m <sup>2</sup> .
Maximum building height 6 storeys	Does not comply	The proposals provide for eleven storey buildings. The buildings remain compliant with the LEP height provisions and provide for a variety of heights across the village centre.
Maximum car parking rates:  Studio            0.5/dwelling 1-2 bed           1/dwelling 3+ bed            2/dwelling  (visitor parking on street)	Complies	1-2 bed – 1 x 90 = 90 spaces 3 bed – 2 x 12 = 24 spaces Total = 114 spaces (maximum)  The proposals each provide 99 car parking spaces through the basement car parking areas.
Blocks T3-T5		
1) Residential uses at ground floor should be designed as 'live/work' spaces.	Complies	Units 103, 105, 107 and 108 in each building provided with 'live/work' spaces.
2) The residential component is to be consistent with the relevant village centre controls.	Complies	The proposals are compliant as discussed above.

**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 buildings is necessary. The applications were referred to Council's Building Surveyor for assessment and no issues of concern were raised in this regard subject to the imposition of standard conditions of consent.

The proposals were advertised, notified and exhibited from 23 November to 7 December 2015 in accordance with Clause 89(3) of the EP&A Regulation 2000.

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

***Site and Building Design***

The proposed building designs and apartment layouts respond to the sites' aspect and solar orientation. The key views are to Smiths Paddock, the canal and the Blue Mountains with the majority of apartments having direct view to these vantage points. Each floor plate is configured to have three units on the north-western face to maximise the solar amenity of the units with 71% of units achieving two hours solar access.

A detailed assessment of site and building design relative to the requirements of SEPP 65 is provided at Appendix 8.

### ***Traffic Impacts and Waste Management***

The proposed waste management arrangements for the developments will require waste collection vehicles to reverse into the sites from Lord Sheffield Circuit. This arrangement resulted from concerns raised by Council's Traffic Engineer during pre-lodgement discussions that access via Engineers Place would result in the loss of a significant number of on-street car parking spaces to accommodate the turning path of a waste collection vehicle. In addition, Engineers Place will accommodate high numbers of pedestrian movements meaning that the reversing of a garbage vehicle in this context is not desirable.

In relation to the possibility of providing a connected basement servicing both sites to allow waste collection vehicles to enter and exit the sites in a forward direction, it is considered that this option is not desirable for the following reasons:

- This arrangement would require deep voids in the streetscape to accommodate truck access to the basement and is not desirable from an urban design perspective.
- The adjusted basement entry/exit heights would increase the overall height of the buildings and required basement depths.
- The roadway separating the two buildings (Engineers Place) is not owned by the proponent and being a public road there is likely to be land titling and service line clearance constraints associated with providing a connected basement beneath the roadway.
- The at grade waste servicing areas are provided as shared zones which are landscaped in a manner that will enable these areas to be used for other residential and/or servicing activities at times when waste collection vehicles are not accessing the site.

In relation to road safety concerns regarding waste collection vehicles reversing into the sites from Lord Sheffield Circuit, the following is noted:

- The reversing movement of a waste collection vehicle is estimated to occur two times per week for each site and the vehicle in each case will be able to exit the sites in a forward direction.
- It is expected that each reversing movement will take no more 15 seconds. Given the anticipated low number of vehicle and pedestrian movements along Lord Sheffield Circuit, the impact of a 15 second reversing movement is considered minor.
- A high level of amenity is provided through landscaping and pedestrian walkways in Engineers Place which is likely to take the majority of pedestrian activity and reduce the number of people using pathways along Lord Sheffield Circuit.

Council's Traffic Engineer has advised that the proposed waste servicing provisions are satisfactory from a traffic impact perspective and are unlikely to result in any significant negative impacts.

### ***Noise Impacts***

Given the sites are in proximity of the western rail corridor, it was requested that the applicant address any potential noise impacts which may arise from the developments' location. A Noise Impact Assessment prepared by IGS was submitted with the applications assessing the noise and vibration levels generated by the western railway line. This assessment also addressed traffic noise generated by the road network surrounding the sites.



The Noise Impact Assessment recommends a number of building construction requirements to assist in minimising noise and vibration impacts on future tenants within the proposed residential flat buildings. Council's Environment Officer reviewed the assessment and is satisfied that it sufficiently addresses potential noise impacts with the recommendations of the assessment being required as conditions of consent.

### ***Social and Economic Impacts***

The developments will result in positive social and economic outcomes for the immediate and wider community. The proposed developments will contribute to the supply and diversity of housing in Penrith and will provide a high level of amenity.

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

The applications have demonstrated that the proposed developments are suitable for the respective sites. There are no significant natural or built environment constraints that will hinder the proposed developments and appropriate measures can be employed to mitigate any potential impacts. The sites are considered suitable for the proposed developments due to their accessible location which will maximise the use of public transport and other utilities and services within the Thornton village centre precinct.

The sites are subject to a Concept Plan approval which identifies the sites as being suitable for high density residential development. The developments will contribute to achieving this strategic vision.

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

### ***Public Submissions***

The proposals were 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 proposals during the exhibition period from 23 November to 7 December 2015. No submissions were received in response.

### ***External Referral Comments***

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

<b><i>Referrals</i></b>	<b><i>Comments</i></b>
NSW Police	CPTED recommendations provided and addressed via recommended conditions from Council's Community Safety Officer.
Sydney Water	Supported, subject to condition for Section 73 Compliance Certificate.

### ***Internal Referral Comments***

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

<b><i>Referrals</i></b>	<b><i>Comments</i></b>
Building Surveyor	Supported, subject to conditions.
Development Engineer	Supported, subject to conditions.

Traffic Engineer	Supported, subject to conditions.
Waste Officer	Supported, subject to conditions.
Environment Officer	Supported, subject to conditions.
Waterways Officer	Supported, subject to conditions.
Community Safety Officer	Supported, subject to conditions.

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

The proposals are unlikely to raise any significant issues of public interest. The sites are suitable for the proposed developments. The proposed developments are permissible with consent and meet the aims and objectives of the relevant environmental planning instruments.

The developments are of a good architectural design and will increase the supply and diversity of housing in Penrith. The location of the developments will ensure that future occupants will have access to a range of services located within the estate and in 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 for the sites consistent with the \$20,000 Ministerial cap for Section 94 plans. The conditions state 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.*

<b>Development Type</b>	<b>Contribution</b>
<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 requirements, the following Section 94 contributions for district open space facilities are applicable:

- DA15/1313 – 102 dwellings x \$1,791 = \$182,682

- DA15/1314 – 102 dwellings x \$1,791 = \$182,682

Recommended conditions of consent will require the payment of these contributions prior to the issue of a Construction Certificate.

## **Conclusion**

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

The proposed developments will substantially contribute to the supply and diversity of housing in Penrith. The sites are part of a master planned estate and are suitable for high density residential apartments. The proposals are therefore in the public interest.

The proposed developments have been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 and have been found to be satisfactory. The proposals are therefore recommended for approval subject to recommended conditions of consent.

## **Recommendation**

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1. That DA15/1313 for an Eleven (11) Storey Residential Flat Building containing 102 Apartments & Basement Car Parking at 2 Engineers Place, Penrith be approved subject to the recommended conditions at Appendix 9.
2. That DA15/1314 for an Eleven (11) Storey Residential Flat Building containing 102 Apartments & Basement Car Parking at 1 Engineers Place, Penrith be approved subject to the recommended conditions at Appendix 10.