

SWCPP Ref. No.:	2018SWT005
DA No.:	DA18/0264
PROPOSED DEVELOPMENT:	Construction of a Part Twelve (12) Storey & Part Fifteen (15) Storey Mixed Use Development including Basement, Podium Level 1 & Level 2 Car Parking, Ground Floor Business and Commercial Uses, 187 Residential Apartments & Construction and Dedication of a Public Road, Stormwater Drainage, Civil and Public Domain Works & Landscaping - Lot 300 DP 1243401,87 - 93 Union Road, PENRITH NSW 2750
APPLICANT:	Toga Penrith Developments C/- Urbis
REPORT BY:	Kathryn Saunders, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Proposal

Council is in receipt of a development application which seeks consent for the construction of a mixed use development including shared basement car parking, ground floor parking, business and commercial tenancies, shared Level 1 and 2 podium car parking and two residential towers of 12 and 15 storeys containing a total of 187 residential apartments. The proposal includes construction and dedication of a new two lane road spanning north-south adjacent to the eastern property boundary, an arcade/pedestrian link providing access between John Tipping Grove and the new road and public domain, drainage and landscaping works.

The development is defined as *residential flat building*, *commercial premises* and *shop top housing* under Penrith Local Environmental Plan 2010 (PLEP) and is permissible with consent within the B4 Mixed Use zone.

The development application was notified to nearby and adjoining residents and property owners, exhibited and advertised between 3 April and 3 May 2018. Four submissions were received. The objection submitted by the owner of the vacant allotment at 614-632 High Street, which is located immediately adjacent to the north-eastern boundary of the subject site, has formally withdrawn their submission. The matters raised in the remaining three submissions are addressed within this report and are related to view loss, traffic and congestion impacts, impacts on increased use of Union Lane, narrow width and lack of pedestrian paving in the Lane, health impacts, population densities, impacts on city skyline of the proposal, cultural and historical significance, height.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal is recommended for approval, subject to the recommended conditions of consent.

Lot Consolidation

The development site as identified in the application was originally comprised of three allotments which were legally described as Lot 1 in DP 544302 and Lots 1 and 2 in DP 1202310. Since the lodgement of the application the three allotments, as well as allotments located on the western side of John Tipping Grove, known as Lot 3 in DP 242506, Lot 12 and 13 in DP 717196 and Lot 36 in DP 731213, have been amalgamated. The proposed development is now located on the eastern portion of land legally described as Lot 300 in DP 1243401 which has a total site area of 12,030sqm. John Tipping Grove which is a gazetted public road, spans north-south through the centre of the Lot.

The development for which consent is being sought is wholly located on the eastern Part Lot 300 in DP 1243401, which has an area of 5402.1sqm and is bounded by High Street to the north, Union Road to the south and John Tipping Grove to the west. This Part Lot is referred to as 'The Site' hereafter. No works are proposed over the western Part Lot 300 in DP 1243401 to the west of John Tipping Grove. For the purposes of calculation FSR the site area is taken to be eastern Part Lot 300 in DP 1243401 which has an area of 5402.1 resulting in a proposed FSR of 3.28:1.

Architectural Design Competition and Planning Proposal

The proposal was the subject of an architectural design competition where schemes for both a 3:1 and a 6:1 FSR were presented relating to a development over two stages positioned on both the eastern and western Part Lots. At the time of the architectural design competition, a planning proposal which would allow a maximum FSR of 6:1 on the allotment (by virtue of Clause 8.7 Community Infrastructure on Certain Key Sites) was being considered by the Department of Planning and Environment (DPE) although it had not been gazetted at the time of the lodgement of this development application.

The above mentioned planning proposal was gazetted in December 2018 allowing a maximum FSR of 6:1 on the allotment which is identified as being key site 3 and 10 on Council's LEP maps, subject to the provisions of Clause 8.7 which require a proportionate component of *community infrastructure*. Notwithstanding the above, the development application was not amended to have regard to the Key Sites provision and does not propose any community infrastructure component (as defined in the clause) thereby the proposal is not seeking to rely on the 6:1 FSR potential. The proposal for an FSR of 3.28:1 complies with the maximum permissible FSR identified under clause 4.4 which includes the potential for a floor space ratio of 3:1 and the additional 0.3:1 FSR achievable for developments that have successfully undergone an architectural design competition.

Height Non-compliance

The maximum permissible height for the site is identified in Council's LEP mapping as being 24m. The proposal for a maximum height of 52.80m or RL 80.10m AHD for Building 2 and a maximum height of 43.25m or RL 70.50m AHD is a variation which is accompanied by a written request to vary the Height of Buildings development standard under clause 4.6 of PLEP. The extent of the variance is calculated to be 28.8m for Building 2 (fronting High Street) and 19.25m for Building 1 (fronting Union Road). The applicant has provided legal advice prepared by The Hon. Malcolm Craig QC, with regard to the extent of variation sought under clause 4.6 of PLEP.

Design Excellence

The design of the building, building surrounds and elevations, including change of uses proposed at the ground floor have been the subject of amendments since the application was lodged. Council raised matters with the applicant and the Competition Jury related to negative impacts these changes may have on design excellence, public domain, ground floor amenity, the presentation of the development to the street and the ability of the development to provide adequately connected, high amenity and activated street frontages. The Competition Jury (Design Integrity Review Panel) was re engaged to review the design and provide advice and direction with regard to these matters.

The Design Integrity Panel (DIRP) most recently met in February and provided in cover letter dated 15 February 2019, their endorsement of the amended design as it relates to design excellence and the winning scheme presented to the Competition Jury prior to the lodgement of the development application. The Panel's endorsement of the amended design is subject to a set of required amendments which are listed within the DIRP correspondence which include:

- (i) Provision of a site plan which includes updated floor, pavement and planter boxes levels,
- (iii) Provision of an annotated plan demonstrating how ground floor tenancies may be converted to food and drink premises;
- (iv) Amendments to all podium elevations and sections to be consistent with details depicted by 3D images presented to the DIRP including providing shop-front style panels to the High Street elevation and a simplified

design for the western side elevation,

(v) Provision of larger scaled sections describing podium elevations, materials, finishes, details of public art and or illumination for the High Street elevation and special lighting for entrances to the building and arcades in order to promote wayfinding; and

(vi) Extension of the common recreation rooms on level 3.

Amended plans addressing the above design alterations required by the DIRP have not been received. The DIRP design amendments and additional amendments sought via recommended conditions of consent, resulting from Council's own assessment, will necessitate changes to architectural, civil, public domain and landscape plans however, it is considered that this can be addressed prior to the issue of any Construction Certificate. As such, detailed conditions of consent are recommended which require the submission to Council and approval of, a full set of amended architectural, landscape, civil, stormwater and public domain plans that reflect the above recommendations, and that correlate with each other, prior to the issue of a Construction Certificate.

Site History - Related Applications

Development application no. DA18/0654 was approved in December 2018. The consent approved the demolition of existing structures, site remediation, removal of underground storage tanks and early works, select tree removal and activities related to Aboriginal cultural heritage on the eastern part lot (the Site).

Site & Surrounds

The proposed development is located wholly on the eastern Part Lot legally of land described as Lot 300 in DP 1243401 which has a total site area of 1.203 ha. The lot is split by John Tipping Grove which spans north-south and is a two lane local road with on street parking, ending in a cul-de-sac to the north. Part Lot east (to which the proposal relates is 5402.1sqm in area and Part Lot west is 6617.8sqms in area.

The Lot is bound by High Street to the north, Union Road to the south and Mulgoa Road to the west and is currently occupied by a property sales office and car yard which are located on the western part lot (western side of John Tipping Grove). The Part Lot located to the east of John Tipping Grove is largely vacant except for a single story older style building with frontage to High Street, which is currently being used as a shop, however was historically a petrol station. The Lot shares its most south-eastern boundary with an 8 storey residential flat building which has centrally located open space and a built to boundary western elevation.

The site is approximately 680m south-west of Penrith Railway Station and is approximately 700m east of the Nepean River. Development in the vicinity includes a vacant site to the east and on the western side of Mulgoa Road, residential uses to the south and south-east and commercial uses to the east and north-east towards the Penrith City Centre.

The site is relatively flat with little significant vegetation contained within the site.

Related Applications

Development application DA18/0654 relates to the site and approved the demolition of existing structures, select tree removal, site establishment works and activities related to heritage archaeology and services and remediation works including removal of underground petrol storage tanks.

Proposal

The mixed use development comprises the following:

- A 15 storey mixed use building with frontage to High Street and John Tipping Grove containing ground floor commercial and business floor area and 106 residential apartments;
- A 12 storey mixed use building with frontage to Union Road and John Tipping Grove containing ground floor commercial floor area and 81 residential apartments;
- One level of shared basement car parking for 51 vehicles comprising 34 visitor spaces and 17 residential spaces (inc. 4 accessible and 5 tandem spaces);
- Shared ground floor parking comprising 6 commercial spaces, a car wash space, 2 x shared visitor/service spaces, 2 x bicycle parking spaces, end of trip facilities and waste bay including a vehicle turntable, residential lobby areas and commercial and business tenancies with a floor area of 1075sqm's.
- Shared level 1 and level 2 podium car parking for 191 vehicles including 15 accessible and 5 tandem spaces;
- Shared level 3 communal open space, indoor communal room and gym;
- Construction and dedication of a new two lane road spanning between Union Road and High Street with an interim one lane connection to the existing round-a-bout;
- A ground floor arcade/pedestrian link spanning east-west between John Tipping Grove and Union Lane; and
- Stormwater drainage, civil, landscaping and public domain works.

The application as lodged included the demolition of all structures on the site, removal of trees and underground fuel storage tanks, soil remediation works, deviation of a Sydney Water sewer pipeline and excavation and potential salvage works and investigations related to Aboriginal cultural heritage and archaeology. These elements have been removed from the proposal and were the subject of a separate development application under DA18/0654, which was approved by Council in December 2018, subject to conditions.

Amended architectural plans for the mixed use proposal were received 26 June 2018 and 21 November 2018. Amendments included:

- reduced basement floor and reduction of basement car parking from 88 spaces to 51,
- relocating of commercial car parking to ground floor,
- change of ground floor use from retail to commercial and deletion of terrace dining,
- amendments to the arcade/pedestrian link,
- amendments to the colonnade to both buildings,
- alterations to stairs and ramps along the frontage,
- deletion of bike room and visitor bike racks,
- deletion of grease arrestor, relocating of basement services to ground floor and substation from inside the building to the street,
- reduction in podium parking from 199 spaces to 191,
- changes to waste bay and proposal for a vehicle turntable,
- setback of building 1 to eastern podium deleted, and
- changes to all facades and landscaping.

Ground floor plans have been further amended as follows:

- reduced finished floor level (FFL) of the ground floor by 0.3m,
- accommodation of a 3.8m wide verge along the western side of the proposed new road as required by Council,
- addition of three on street car parking spaces along the new road,
- relocate section of glazing along the eastern elevation,
- amendments to Union Road lobby entry, OSD tank and colonnade area.
- alterations to stairs and ramps to accommodate the reduction in ground level FFL.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

In accordance with Section 2.12 and Section 2.15 of the Environmental Planning and Assessment Act 1979 and the application will be determined by the Sydney Western City Planning Panel as the development has a proposal has a Capital Investment Value (CIV) of greater than \$30 million.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

Roads Act 1993

The development proposal is not identified as being integrated development under Division 4.8 of the Regulations and as per Section 138 of the Roads Act 1993 in that the development does not include works in or adjacent to a classified road. No connections to a classified road are proposed.

The proposal is identified as traffic generating development within Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 as the proposal includes car parking for 50 or more cars and is within 90 metres of a road that connects to a classified road, being Mulgoa Road. The proposal is also identified as traffic generating development as it includes the construction of 75 dwellings or more and proposes shops at ground floor with a GFA of greater than 500sqms.

In this respect, the proposal was referred to the RMS for their review. Initially, the RMS raised matters related to the interim connection, current Jane Street and Mulgoa Road upgrade works and pedestrian safety impacts and requested further information related to the final signalised intersection (not forming part of this development application). S

Several meetings were attended with Council, the RMS and the applicant and additional information was provided. The RMS issued correspondence dated 14 February stating the RMS does not support the installation of traffic signals in place of the existing roundabout at this time however, will support the proposed layout for future traffic signals (as provided by the applicant) when the warrants are met and note that in future, traffic movements will be restricted to left-in and left-out only at the intersection of Mulgoa Road and Union Road which will have an impact on accessibility to the proposed development.

Water Management Act 2000

The submitted Report on Geotechnical Investigation prepared by Douglas Partners, dated March 2018, Revision 1 (16 March 2018) states under section 7.4 that:

"Based on the groundwater levels (6-7m depth) measured during the investigation, bulk excavation for a single basement level will be above the measured water table at the time of the investigation. There is potential for groundwater levels to rise by at least 3m during and following prolonged heavy rainfall and this should be considered. The need to tank the basement will be dependant on discussions with the NSW Department of Primary Industries Water (DPIW) and the long term groundwater monitoring results".

As it is not determined if the proposed development is integrated development under Part 3 Approvals, Sections 89, 90 and 91 of the Water Management Act 2000, a condition of consent is recommended to be imposed requiring the applicant to seek advice from the DPIW prior to the issue of a Construction Certificate noting that it does not preclude a Controlled Activity permit being pursued where deemed necessary by the Department.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

An assessment has been undertaken of the application against relevant criteria within State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The application is accompanied by a list of commitments with the submitted BASIX Certificate, as to the manner in which the development will be carried out and the carrying out of residential development pursuant to the recommended development consent or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

State Environmental Planning Policy (Infrastructure) 2007

The development proposal has been assessed against the applicable clauses of State Environmental Planning Policy (Infrastructure) 2007 [I SEPP] and is found to be satisfactory. Details of the assessment against particular clauses are provided below.

Clause 101 - Development with frontage to classified road

Clause 101 of the I SEPP relates to development with frontage to a classified road and states that the consent authority *must not* grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land,*
- and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Works proposed will involve trucks and construction vehicles entering and leaving the site during construction and will also involve activities that may create dust. Tree removal activities may include use of the road reserve for short periods of time. Impacts related to the above works and related activities can be adequately managed via conditions of consent. Related development application DA18/0654 which approved site establishment and early works as well as remediation and demolition works (approved in December 2018) was submitted with a Demolition Management Plan prepared by RSA Civil which outlined the demolition schedule and included a site overview plan which identifies site approach and departure routes which were considered generally acceptable, subject to conditions.

The activities proposed at the site are not in conflict with the objectives of clause 101 in that works will not compromise the effective and ongoing operation of the classified road and will not result in negative impacts related to dust or emissions emanating from the site that cannot be mitigated through the imposition of standard conditions of consent.

Notwithstanding the above, a condition of consent is recommended to require the submission of a construction traffic management plan (CTMP) to be endorsed by Council prior to the commencement of works. Standard conditions are also recommended related to erosion and sediment control and control of dust and mud from construction activities.

Clause 102 - Impact of road noise or vibration on non-road development

The clause has been considered in the assessment of the development proposal. Clause 102(2) states that prior to determining a development application to which this clause applies, *the consent authority must take into consideration* any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette. Clause 102(3) states that the consent authority must not grant development consent for the purposes of residential accommodation unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The application was submitted with an acoustic report prepared by Acoustic Logic, dated 22 February 2018, revision 1 which has been prepared in consideration of the NSW Department of Planning's Development Near Rail Corridors and Busy Roads - Interim Guidelines document. The report has been reviewed by Council's Environmental Management unit and is considered to be acceptable and compliant with the applicable criteria, subject to a condition requiring that the development comply with the recommendations of the report and that the above mentioned LAeq levels are not exceeded.

Clause 104 - Traffic generating development

This clause applies to proposal as it is identified in Schedule 3 of the Policy as traffic generating development. The site is located within 90m of a classified road and has 50 or more car parking spaces and 75 or more dwellings. Clause 104(3) states that before determining a development application for development to which this clause applies, the consent authority must:

- (a) *give written notice of the application to RMS within 7 days after the application is made, and*
- (b) *take into consideration:*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given, and*
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

The development application was referred to the Roads and Maritime Services (RMS) for their assessment and several meetings were held with the RMS, Council and the applicant. Matters for further resolution were provided to the applicant and included the following:

- That the interim arrangement of the new road connection to the existing round-a-bout be supportive of the final fully signalised intersection with little augmentation required.
- That the design of the fully signalised intersection be known such that Council is satisfied that the position of the kerb proposed along the western side of the new road (as part of this development application) is acceptable in its location, supportive of the final signalised intersection and will not be required to be relocated. It was raised with the applicant that this is essential, in that post development, there will be little ability for this kerb to be repositioned if required by the RMS to facilitate the final intersection noting that the adjacent site is privately owned.
- That sufficient information be provided to the RMS with regard to the final fully signalised intersection and that their in principle support be provided for its future installation.
- The applicant was also advised to seek support from the adjacent land owner to the east with regard to the need for partial road development on their land, in support of a final signalised intersection.

The consent authority can be satisfied that the above matters have been satisfactorily resolved and that the development as proposed is compliant with the requirements of clause 104 of the ISEPP in that:

- The RMS provided advice in correspondence dated 14 February 2018 with the following summarised comments for Council's consideration in assessing the development application:

1. The RMS do not support the replacement of the existing roundabout with traffic control signals (TCS) at present. However, RMS will support the attached layout [indicating a fully signalised intersection] for any future TCS at this location when/if the warrants for installing TCS were met.
2. If the future TCS at this location impacts on the performance of the TCS at the intersection of Mulgoa Road and High Street, then the RMS will not allow the right turn movements from High Street into the development.
3. In future, traffic movements will be restricted to left-in and left-out only at the intersection of Mulgoa Road and Union Street. This will have impact on the accessibility to the proposed development.

- Council's Traffic and development engineers have assessed the proposed development and identify that their initial concerns related to traffic generation and roadway construction and design have been sufficiently addressed and subject to the imposition of their recommended conditions of consent, is supportable, and

- The applicant and Council have met with the owner for the adjacent site to the east, who has formally withdrawn their objection to the development and acknowledges that the proposal for future TCS in the proposed location relies on a portion of their land being dedicated for future roadway.

Although timing of the future TCS at the intersection of High Street and the new north-south road is not known at this stage, it is expected that the warrants for these signals will be met through the redevelopment of the land identified as Stage 2 located on the western side of John Tipping Grove.

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development is identified as being Regionally significant development in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2010 as the proposal is General development and has a Capital Investment Value (CIV) of greater than \$30 million.

In accordance with the Section 2.15 of the Act the Sydney Western City Planning Panel is the consent authority for the development proposal.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 Contamination and remediation to be considered in determining development application

Clause 7 of the Policy stipulates that a consent authority must not consent to the carrying out of any development on land unless: Clause 7 of the Policy stipulates that a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Development application DA18/0654 was approved by Council in December of 2018 and included remediation works and the removal of underground fuel storage tanks. The approved Remediation Action Plan (RAP) was reviewed and it is considered that after remediation has been undertaken, the site will be suitable for the works as described in this development proposal. No further remediation works are proposed as part of the subject proposal.

Conditions of consent are recommended to require the submission of a Validation Certificate confirming that the approved remediation works have been undertaken in accordance with the approved RAP, that all works have been completed and that adequate documentation is to be provided to Council confirming that the site has been made suitable for the proposed use under DA18/0264. This is required to occur prior to the issue of any Construction Certificate as part of this development application.

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

An assessment has been undertaken of the proposal against the relevant criteria within the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development and the proposal is found to be satisfactory, subject to recommended conditions of consent. The proposal is considered to be acceptable when assessed against the nine Design Quality Principles of Schedule 1.

The table below provides an assessment against the applicable provisions of the accompanying Apartment Design Guide (ADG).

Table 1: Assessment Against the Apartment Design Guide (ADG)			
Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.

3B-1	Buildings to address street frontages and streetscapes and optimise solar access.	Each elevation adequately addresses the street frontages. Direct access is provided to the retail/business tenancies at ground floor to both High Street and to the pedestrian link. The common entry and foyer areas are of an appropriate design and location, and are direct and open to the street. Conditions are recommended with regard to the requirement of the DRP. Refer to the Executive Summary within this report.	Yes. Conditions recommended.
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer to discussion under Parts 3D and 4A.	Yes.

Solar access to living spaces and POS of neighbours to be considered.	The proposed development results in some overshadowing impacts to surrounding development. However, this is mitigated through the proposed building design and is appropriate for the site within the city centre context. The residential flat building at 86 Union Road will achieve the required solar access for 2 hours to the northern facade from 1:00pm to 3:00pm. The residential flat building at 4 John Tipping Grove will achieve the required solar access for 2 hours to the northern facade from 1:00pm to 3:00pm. The residential flat building at 8 John Tipping Grove will achieve solar access for 5 hours to the northern facade from 10:00am to 3:00pm. The residential villas at 82-84 Union Road will achieve solar access for approximately 2 hours to the northern facade. However, the western facade will achieve direct solar access at 10:00am-11:00am and 1:00pm and 3:00pm.	Yes.
If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access is achieved between the primary daylight hours during the winter solstice. An increase in building separation is not required.	Yes.

3C-1	Courtyard apartments should have direct street access.	The proposal is for a mixed use development with retail/business tenancies located on the ground floor. No ground floor and courtyard apartments are proposed.	N/A
	Upper level balconies and windows to overlook the street.	All apartments are provided with an outlook over the surrounding streets.	Yes.
	Length of solid walls should be limited along street frontages.	Walls are adequately landscaped and articulated. No large expanses of blank wall are proposed. Walls adjacent to the service and back of house areas are adequately articulated.	Yes.
	Opportunity for concealment to be minimized and differentiated to improve legibility.	Entryways are wide, straight and located to reduce opportunity for crime and concealment.	Yes.
3C-2	Ramping for accessibility should be minimised.	Ramping at street level is minimised.	Yes.
3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	The proposed communal open space equates to 30% of the reduced site area. Approximately 1,198sqm of common open space is provided on Level 3. In addition, the proposal includes the provision of a 3.7m wide pedestrian link. A condition is recommended to increase the pedestrian link width to a minimum of 4m to comply with the DCP requirement. A condition of consent related to compliance with the DRP review is also recommended and relates to amendments to covered COS at L3.	Yes. Conditions recommended.
	Achieve a minimum of 50% direct sunlight to the principal useable part of the communal space for a minimum of 2 hours between 9am and 3pm on 21 June.	The proposed development achieves more than 50% of direct sunlight to the principal useable part of the communal open space during the winter solstice.	Yes.

3D-2	Communal open space designed to allow for a range of activities, be attractive and inviting.	A substantial communal space area has been provided with various landscaped break-out and seating areas, as well as a BBQ area.	Yes.
3D-4	Boundaries should be clearly defined between public open space and private areas.	Given the commercial elements on the ground floor and pedestrian paths, all private areas are located above or separated from public areas. Ground floor lobby entries include secure access to residents only. Boundaries along the western and southern side will be raised and treated with planting and a balustrade with ramping and stairs to the commercial space for equitable access. The eastern side will be provided with graded footpath access.	Yes.
3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. Minimum dimension of 3m.	The subject site is exempt from the provision of deep soil as per Section E11.2.7 of the DCP which identifies the site may have 100% site cover and 0% of deep soil. Notwithstanding this, the proposal includes 7.1% of deep soil zones at ground level and are co-located with public domain landscaping.	N/A

3F-1	Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows: 1-4 Storeys – 6m habitable to habitable and 3m for non-habitable. 5-8 storeys – 9m habitable to habitable and 4.5m for non-habitable.	Refer to the discussion provided for Clause 8.5 Building Separation of the PLEP 2010 within this report. There are minor non-compliances with regard to the building separation distances however, this is not considered to apply to the development given its scale, city centre location and mixed use nature.	No. Justification provided.
3G-1	Building entries to be clearly identifiable and address public domain.	Lobby entryways are articulated with high quality materials and finishes. Mail boxes may be co-located adjacent to the entry point. The entries are accessible and are placed to the street frontage and provided with adequate security.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entry ways are visible from the street and public domain.	Yes.
	Steps and ramps to be integrated into the overall building and landscape design.	Steps and ramps are not required at the ground floor.	N/A
3H-1	Carpark access should be integrated with the building's overall façade.	The car parking entry is adequately integrated into the design of the site and building.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage through selected landscape species and architectural design.	Yes.
	Garbage collection, loading and servicing areas are screened.	The waste collection area is provided entirely within the building.	Yes.
	Traffic calming devices such as changes in paving material or textures should be used where appropriate.	Differing materials are proposed between the pedestrian areas and the proposed waste bay. Bollards are provided to control vehicle movements.	Yes.

3J-1	The site is located within 800m of a railway station and as such car parking rates are set by the RMS (formerly RTA) Guide to Traffic Generating Developments document.	The site is not applicable to this guideline.	N/A
3J-2	Secure undercover parking should be provided for bicycles, motorbikes and scooters.	Secure bicycle parking is proposed within the basement of the building.	Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lobby areas are clearly defined and appropriately located with sufficient safe maneuvering areas provided.	Yes.
	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas, and car wash bays can be accessed without crossing car parking spaces.	The basement areas are provided with storage cages, bicycle parking and building manager amenities that are accessed from common areas or pathways. A condition of consent is recommended to ensure that access to storage cages is not to be restricted by vehicles.	Yes. Conditions recommended.
3J-6	Positive street address and active frontages to be provided at ground floor.	Wide and direct pedestrian access pathways are provided to the communal entries and lift lobby area via the surrounding streets and internal common open space areas. Car parking is adequately screened within the architecture and design of the building.	Yes.
Part 4	Required	Discussion	Complies

4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9.00am and 3.00pm mid-winter.	Submitted documentation confirms that 72% of apartments are provided with compliant levels (2 hours) of solar access to living and balcony areas. 13.4% of apartments achieve no direct sunlight between 9:00am and 3:00pm during the winter solstice which is permitted by the ADG.	Yes.
4A-3	Sun shading devices are to be utilised.	Balconies are proposed to be covered by the levels over. A number of design features have also been incorporated to meet the requirements of the BCA and to achieve BASIX compliance.	Yes.
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	Submitted documentation confirms that 67% of units located within the first nine storeys of the development receive natural cross flow ventilation.	Yes.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for a minimum of 2.7 measured from finished floor to ceiling level for habitable rooms, and 2.4m for non-habitable rooms.	Yes.
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Additional bathroom areas increase minimum area by 5sqm's.	All proposed units achieve the minimum areas: 1 bed = 50-55sqm 2 bed = 70-80sqm 3 bed = 95-100sqm.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply with this control.	Yes.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units are acceptable in regards to this control.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units are acceptable in regards to this control.	Yes.
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply.	Yes.

4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	All units are acceptable having regard to this control. Minor departures from the design guidance rate are proposed. However, the non-compliances (0.5-0.8sqm) to the private open space balconies of the 2-bedroom units are negligible numeric non-compliances not affecting the usability of the balconies.	No. Justification provided.
4E-3	Downpipes and balcony drainage are integrated with the overall facade and building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	Natural light is provided to the central lobby and lift core circulation spaces.	Yes.
4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m ³ 2 bed – 6m ³ 3 bed – 10m ³ With 50% of the above to be provided within the Units.	Adequate storage is provided within each unit in addition to storage cages located within the basement carpark.	Yes.
4J-2	Noise shielding or attenuation techniques for building design, construction and choice of materials are used to mitigate noise transmission.	A condition of consent is recommended to ensure that the surface of the elevated car park is of a matte or rough finish (not smooth or gloss) to reduce acoustic impacts.	Yes. Condition recommended.

4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. Unit mix is proposed as follows: 63 x 1 bedroom apartments (25%) 103 x 2 bedroom apartments (72.91%) 21 x 3 bedroom apartments (2.1%) Total = 187 units. A condition of consent is recommended to require at least 10% of apartments (18) are to be constructed as adaptable in accordance with the Australian Standards. Adaptable apartments are allocated an accessible car parking space. It is noted that 18 accessible car parking spaces for residents are proposed.	Yes.
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4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The development proposal triggered the requirement under PLEP to enter into an Architectural Design Competition. The proposed development was subject of a Design Integrity Review overseen by the Design Excellence Competition Jury. In a letter dated 15 February 2019, the Panel members endorsed the amended development proposal subject to further design amendments and additional information being provided. Subject to these amendments, the proposal is considered to demonstrate design excellence and is considered appropriate in design relative to the context of the site. Elevations and selected materials are of general high quality. The development also responds to the human scale.	Yes. Condition recommended.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted concept landscape design report and associated plans prepared by Arcadia indicated a selection of trees, shrubs and ground covers appropriate for the site. Conditions of consent are recommended with regard to landscape implementation and maintenance.	Yes.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	The development proposes a total of 18 adaptable units. A condition requiring compliance with levels and standards of adaptable housing is recommended.	Yes. Condition recommended.

4S	Mixed use development should be concentrated around public transport and centres.	The subject site is located within the Penrith City Centre and within close proximity to the Penrith Railway Station.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.	All habitable rooms are provided with appropriate levels of natural light. Apartment depths and open floor plan arrangements allow light into kitchens, dining and living areas.	Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	The application has been referred to a range of internal Council Departments including Council's Environmental Waterways Unit with no objections raised. WSUD measures have also been considered at the major projects approval stage.	Yes.
4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted and is considered acceptable.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The waste collection area is located at ground floor and considered to generally comply with the requirements. However, conditions of consent are recommended to require the ground floor layout of the waste area be amended and re-submitted for approval.	Yes. Conditions recommended.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the development proposal against the relevant criteria within Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) [SREP] and the application is considered satisfactory, subject to the recommended conditions of consent.

The development proposal was assessed specifically against the general planning considerations, specific planning policies and recommended strategies. Details of particular clauses are discussed below.

Clause 6 of the Policy lists specific planning policies and recommended strategies for the plan and includes (5) Cultural heritage. The Policy, with regard to cultural heritage states that:

The importance of the river in contributing to the significance of items and places of cultural heritage significance should be recognised, and these items and places should be protected and sensitively managed and, if appropriate, enhanced.

Strategies of the policy with regard to cultural heritage include the following:

- (a) Encourage development which facilitates the conservation of heritage items if it does not detract from the significance of the items.*
- (b) Protect Aboriginal sites and places of significance.*
- (c) Consider an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance.*
- (d) Consider the extent to which heritage items (either identified in other environmental planning instruments affecting the subject land or listed in Schedule 2) derive their heritage significance from the river.*

The development application was amended to remove works related to Aboriginal cultural heritage investigations as these were included in related development application no. DA18/0654 which was approved in December 2018. Conditions of consent were recommended related to finalising the approved Aboriginal Archaeological Report, complying with the recommendations of that report and liaising with the Office of Environment and Heritage.

Clause 11 of the Policy confirms that consent is required for remediation of contaminated land under this Policy. Refer to additional discussion under State Environmental Planning Policy No. 55 - Remediation of Land.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 4.5 Calculation of floor space ratio and site area	Complies
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	N/A
Clause 7.3 Development on natural resources sensitive land	N/A
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	N/A
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	Complies - See discussion
Clause 7.12 Maximum gross floor area of commercial premises	N/A
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	N/A
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Does not comply - See discussion
Clause 8.5 Building separation	Complies - See discussion
Clause 8.6 Serviced apartments	N/A

Clause 4.3 Height of buildings

Clause 4.3 (Height of buildings) of PLEP states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings (HOB) Map. The Height of Buildings Map identifies a maximum height of 24m for the subject site. The proposal is as follows:

- Building 2 (fronting High Street) - RL80.10m AHD or 52.8m (being 28.8m above the 24m HOB standard), and
- Building 1 (fronting Union Road) - RL70.50m AHD or 43.25m (being 19.25m above the 24m HOB standard).

and in this respect, the proposed development does not comply with the HOB development standard.

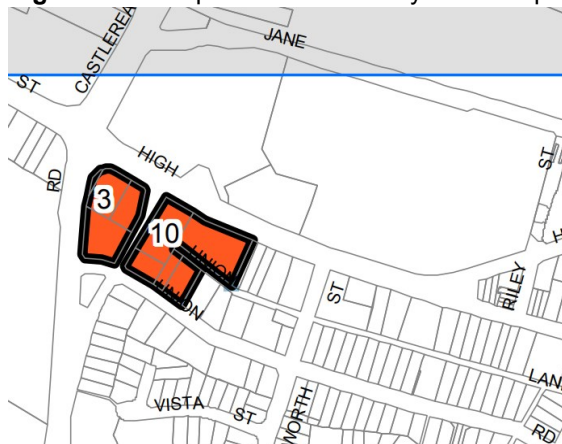
Objectives of the Height of Buildings development standard include:

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) *to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
- (d) *to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

The proposed development is assessed to comply with the above objectives. The proposed height, bulk and scale is considered compatible with the desired future character of the area, in that the development is compliant with the applicable FSR of 3.3:1 under PLEP. Although the applicable height for the site under PLEP is not supportive of a built form such as that proposed within the application, given the area of floor space permissible under PLEP, it is considered that a height compliant design would result in an underdevelopment of the site and may result in a built form that is unable to provide for the level of articulation, modulation or separation anticipated by the DCP City Centre controls, whilst delivering essential local traffic infrastructure, street front activation and connectivity.

Further, the subject site and the adjacent sites to the immediate east (614-632 High Street) and west (Part Lot 300 in DP1243401) are identified within PLEP as being Key Sites to which clause 8.7 (Community infrastructure on certain sites) applies. Clause 8.7 allows higher densities of development on Key Sites within the City Centre where development includes significant *community Infrastructure*. The clause has the effect of allowing an FSR of up to 6:1 on the site and removes the applicable maximum height of building control, subject to the provision of community infrastructure. Under the clause, *community infrastructure* means development for the purposes of recreation areas, recreation facilities (indoor), recreation facilities (outdoor), recreation facilities (major), public car parks or public roads.

Figure 1: Excerpt from PLEP - Key Sites Map



In this respect, the future desired character of the area is likely to be mixed use developments having floor space ratios of up to 6:1 with comparable heights to those proposed.

The proposal for two towers of 12 and 15 storeys separated by 25 metres and a level 3 communal open space area will allow views west through to the blue mountains and reduce the impacts of overshadowing to the south and south-east is assessed as being acceptable having regard to the applicable densities available for the sites and having regard to the site's City Centre location.

Views towards west will be maintained along High Street and Union Road and from certain vantage points to the east, towards west through the separated building forms. Views toward west currently available to residential developments east of the site are partial views over a side boundary and cannot be fully protected throughout the development of sites to the west, which are currently vacant and to which high density controls apply. Submitted hourly shadow diagrams indicate an acceptable level of overshadowing to the east and south-east in particular although it is acknowledged that the impacts are not insignificant, in particular to residential flat buildings and multi dwelling housing development at 85-83, 82-84 and 78-80 Union Road to the immediate south-east and south.

It is noted that the sites located on the southern side of Union Road are zoned R4 High Density Residential and it is likely that these sites may be development for higher densities in the future.

Clause 4.4 Floor Space Ratio

The proposal for an FSR of 3.28:1 complies with the 3:1 FSR permissible under Clause 4.4 of PLEP and the 0.3:1 additional FSR achievable for developments that have undergone an architectural design competition. Refer also to discussion under clause 8.4 Design Excellence of PLEP.

It is noted that since the lodgement of the development application, land to which the development relates and land located on the western side of John Tipping Grove has been amalgamated and are now one allotment known as Lot 300 in DP 1243401 with a total site area of 1.203ha. For the purposes of calculating FSR 'the Site' is taken to be the land east of John Tipping Grove which has a site area of 5402.1sqm and to which the development proposal primarily relates (no works are proposed on the Part Lot west of John Tipping Grove).

As this proposal is for a compliant floor space ratio of 3.28:1 and is accompanied by a written request to vary the Height of Buildings development standard and is not lodged having regard to clause 8.7 (Community infrastructure on certain key sites), floor space which may be available under this clause, subject to provision of community infrastructure, in excess of 3.3:1 is not under consideration although regard can be had to the achievable densities available on adjacent sites and to the desired future character of the area and built form transition.

To avoid uncertainty with regard to the maximum achievable floor space ratio which may apply to the consolidated allotment of up to 6:1, a condition of consent is recommended to require:

- A restriction to be registered on title which has the effect of limiting the maximum FSR located on the western Part Lot to 39,706sqm or 6:1, and
- A restriction to be registered on title which has the effect of limiting the maximum FSR located on the eastern Part Lot to 17,826.92sqm or 3.3:1.

of the subdivision of the allotment into two lots, east and west of John Tipping Grove.

Clause 4.6 Exceptions to development standards

The Height of Buildings Map identifies a maximum height of 24m for the subject site. The proposal is as follows:

- Building 2 (fronting High Street) - RL80.10m AHD or 52.8m (being 28.8m above the 24m HOB standard), and
- Building 1 (fronting Union Road) - RL70.50m AHD or 43.25m (being 19.25m above the 24m HOB

standard).

and in this respect, the proposed development does not comply with the HOB development standard.

Clause 4.6 of PLEP states under 4.6(2) that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. Clause 4.6(3) states that development consent *must not* be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant submitted a written request to vary the HOB control in accordance with the requirements of clause 4.6 of PLEP. The written request was reviewed and was subsequently amended (dated 19 June 2018) to provide additional detail in response to Council's preliminary assessment review. The revised written request to vary the HOB development standard provides the following summarised justification for the contravention as follows:

- Compliance with the development standard is unreasonable in the circumstances of the case as the objectives of the height of buildings development standard are achieved notwithstanding the non-compliance such that requiring compliance with the standard unnecessarily and inappropriately limits the development potential of the site, prevents development on the site that achieves the maximum permissible FSR, and is a hindrance to the development and growth of the Penrith CBD;
- There are sufficient environmental planning grounds to justify contravening the development standard; and
- Notwithstanding the variation to the development standard, the proposed development is in the public interest.

The applicant includes in their written request confirmation that *'the application of clause 4.6 to vary a development standard is not numerically limited and that the consent authority has broad discretion under clause 4.6(2) and 4.6(4)(a)(i) of PLEP to determine variations of any numeric value above a development standard with the concurrence of the Secretary'* (confirmed in Planning Circular PS 17-006) and lists the relevant case law (at the time of submission) and includes *Wehbe v Pittwater Council* [2007], *Four to Five Pty Ltd v Ashfield Council* [2015] and *Zhang and Anor v Council of the City of Ryde* [2016]. The applicant has also provided legal advice dated 21 February from The Hon. Malcolm Craig QC which provides advice as to whether the written request satisfies those matters required to be addressed under clause 4.6 of PLEP and confirms that the written request has done so and that there are no impediments to the consent authority considering the request.

The submitted amended written request pre-dates an amendment to PLEP that identifies the site as Key Site 3 and Key Site 10 in PLEP Maps. Clause 8.7 allows higher densities of development on Key Sites within the City Centre where development includes significant *community Infrastructure*. The clause has the effect of allowing an FSR of up to 6:1 on the site and removes the applicable maximum height of building control, subject to the provision of community infrastructure. Under the clause, *community infrastructure* means development for the purposes of recreation areas, recreation facilities (indoor), recreation facilities (outdoor), recreation facilities (major), public car parks or public roads.

The part of the allotment to which the development proposal relates and the adjacent sites to the immediate east (614-632 High Street) and west (Part Lot 300 in DP1243401) are identified within PLEP as

being Key Sites to which clause 8.7 (Community infrastructure on certain sites) applies. It is anticipated through the applicable controls of the site and sites in the vicinity, that nearby and adjacent development will be of a comparable scale and built form. In the context of these sites, should they be fully developed to the applicable densities, the proposal is considered to be acceptable.

It is agreed, and as stated within the applicant's written request, that there is an existing inconsistency in the applicable LEP height and FSR controls for the site. A development on the allotment would not be able to achieve the applicable maximum FSR of 3:1 whilst complying with the 24m height control. It is also raised that under the controls of the Penrith DCP the site is to provide for a new road along its eastern boundary, further compounding the inability of the site to achieve the level of density anticipated by the applicable FSR control and related DCP controls applicable to the City Centre, such as high quality public domain treatments, pedestrian and vehicle connectivity and activated streets and frontages.

Further, the site is subject to particular environmental constraints unique to a City Centre Key Site. The site is effected by the Possible Maximum Flood (PMF) event which requires particular considerations related to flood resilience and evacuation. The site is also subject to a high water table and combined with the requirement to provide a north-south vehicular link, has a reduced frontage to High Street. Compliance with the maximum achievable densities applicable to the site has resulted in a non-compliance with the applicable HOB development standard. The overall built form is assessed to be acceptable and the proposal is found to respond to view loss, overshadowing and built form transition within the context of the site.

It is considered that the applicant has demonstrated in their written submission that there are sufficient environmental planning grounds to justify contravening the development standard.

Although the proposal does not seek to take advantage of additional FSR of up to 6:1 available under clause 8.7 of PLEP and does not provide community infrastructure (as defined by the clause). The built form transition, building separation and density of the development is supportive of the desired future character of the area and represents a feasible and fair development proposal on the site, supportive of the B4 mixed use zone objectives with due consideration to the constraints of the site.

Clause 4.6(4) states that *'development consent must not be granted for development that contravenes a development standard unless:*

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.'*

An assessment of the applicants written request and the amended written request has been undertaken and it is considered that the matters required to be demonstrated under clause 4.6(3) have been satisfactorily addressed (as detailed above) and that the proposal is not contrary to the public interest as it is consistent with the objectives of the HOB standard (refer discussion under PLEP clause 4.3) and the objectives for development within the B4 Mixed use zone.

Further to the above, an assessment has been carried out with regard to compliance of the proposal having regard to the applicable objectives, aims and controls of Part E11 of Penrith DCP 2014 and in particular those related to the Mixed Use Precinct (western) and the proposal is found to be, on balance acceptable and compliant with key provisions relating to density, connectivity, activation, servicing and overall quality

of design.

Clause 4.6(5) of PLEP states that *'In deciding whether to grant concurrence, the Secretary must consider:*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence'.*

The proposed building heights and extent of non-compliance does not raise any matters of significance for State or regional environmental planning. The proposal is compliant with the applicable FSR expressed for the site within PLEP and is representative of and comparable to a development scheme which may be lodged under clause 8.7 (Community infrastructure on certain key site).

The proposal is acceptable having regard to the public benefit of maintaining the development standard in that the building's scale, design and modulation are site responsive and ensure the delivery of the densities anticipated by the applicable density controls for the site.

Clause 7.4 Sustainable development

In deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development based on a “whole of building” approach by considering each of the following:

- (a) conserving energy and reducing carbon dioxide emissions,*
- (b) embodied energy in materials and building processes,*
- (c) building design and orientation,*
- (d) passive solar design and day lighting,*
- (e) natural ventilation,*
- (f) energy efficiency and conservation,*
- (g) water conservation and water reuse,*
- (h) waste minimisation and recycling,*
- (i) reduction of vehicle dependence,*
- (j) potential for adaptive reuse.*

The development proposal was submitted with a BASIX Certificate and in this respect, is considered to satisfy matters related to conservation of energy and reduction in emissions and the like. The development is compliant with the applicable provisions of SEPP 65 and the Apartment Design Guide as they relate to provision of natural cross flow ventilation and solar access and is also satisfactory having regard to the site's location which is in close proximity to the Penrith CBD and Railway Station which will support reduced reliance on private vehicles and encourage a more sustainable modal split.

With regard to *(j) potential for adaptive reuse*, to facilitate the adaptive reuse of the podium carpark at level 1 for future commercial uses, a condition of consent is recommended to require that the minimum finished floor to underside of ceiling height of this level is to be 3.3m minimum in accordance with the Penrith DCP 2014 controls (section C10). This will also allow the development proposal to better align itself with the guiding aims, objectives and design criteria of the Apartment Design Guide (ADG) as well as the aims, objectives and controls of Section E11 of the Penrith DCP 2014 including:

- The Aims of the ADG (p8) which state that the guide is designed to deliver improved sustainability through 'greater building adaptability and robustness',
- Section 4C Ceiling Heights (p86) of the ADG which states that 'The ground and first floor levels of mixed use apartment buildings should have increased ceiling heights to ensure their longer term adaptability for other uses',
- Objective 4C-1, Design Criteria 1. Minimum ceiling height (p87) of the ADG which requires 3.3m floor to ceiling heights for apartments in mixed use buildings, if located in mixed use areas, and
- Section E11, clause 11.2.6 Mixed Use Buildings, (C)(1) Controls of the DCP, which requires that developments 'provide flexible building layouts which allow greater adaptability of the floor area of, or tenancies on, the first floor of a building above the ground floor' and under (C)(2) states that 'Above ground level, minimum floor to ceiling heights are 3.3m for commercial office'.

Subject to the above recommended condition, the proposal is considered to comply with this clause of PLEP.

Clause 7.8 Active street frontages

Clause 7.8 (Active street frontages) of PLEP states under 7.8(3) that Development consent *must not* be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

The objective of this control is to promote uses that attract pedestrian traffic along certain ground floor street frontages in the B3 Commercial Core and B4 Mixed Use zones.

The clause applies to the subject development as it is located within the B4 Mixed Use zone and is identified as "Active Street Frontage" on the Active Street Frontages Map under PLEP. An amended ground floor plan was received 25 February 2019 indicating that a business tenancy is provided with frontage to High Street at the ground floor and in this regard, the proposal complies with this clause of PLEP.

Clause 8.4 Design excellence

Clause 8.4 Design excellence of PLEP states under 8.4(1) that development consent 'must not be granted for development involving the construction of a new building, or external alterations to an existing building, on land to which this Part applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence'.

In deciding whether development achieves exhibits design excellence, the consent authority must have regard to the following matters:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) whether the development will detrimentally impact on view corridors,*
- (d) whether the development will detrimentally impact on any land identified as "Area 4" on the Height of Buildings Map,*
- (e) how the development will address the following matters:*
 - (i) the suitability of the land for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the relationship of the development with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*
 - (vi) street frontage heights,*
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) the achievement of the principles of ecologically sustainable development,*
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) the impact on, and any proposed improvements to, the public domain.*

An assessment has been undertaken of the development proposal having regard to the above matters for consideration. Particular aspects are detailed below.

- (a) It is considered that a general high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved for the site. Notwithstanding the above, details provided on the submitted façade sections do not confirm if the paint finishes (PF1 through PF6) of the panels on the upper levels of the Building 1 residential tower will all have expressed joints. To ensure paint colours are not simply applied to panels without a high quality interface between each panel and colour, a condition*

of consent is recommended to require the submission of a final materials and finishes schedule which indicates the selected final finishes and confirms in particular, that the painted panels for building 1 (levels 3 and above) are provided with expressed joints separating each colour.

(b) With regard to (a) above, it is considered that the overall form and external appearance of the development will in general, improve the quality and amenity of the public domain. Notwithstanding the above, the proposal for two levels of podium parking with frontage to the surrounding streets is not considered to be appropriate in the context of the site in particular, for building 2 which has frontage to High Street. It is noted that the Office of the Government Architect NSW has issued a letter signed by the Design Integrity Panel, dated 15 February 2019, which requires alterations to the façade of Building 2 as it presents to High Street (amongst other alterations) and it is agreed that these changes as detailed in the photomontages attached to the correspondence depict a more superior outcome.

Conditions of consent are recommended to require amended plans and the requested additional information to be submitted to and be approved by the Manager of Development Services at Penrith City Council, prior to the issue of a Construction Certificate.

(c) It is anticipated that the development of the site will impact views to the west and toward the Blue Mountains. As detailed with Part E11 of the Penrith DCP, although some view loss is expected owing to the applicable controls which allow increased height and floor space ratio's on sites within the City West (Mixed use) precinct, partial westward views are protected by east-west oriented streets. The proposed development also incorporates a lower 12 storey building fronting Union Road and provides generous separation between the two residential cores which reduces impacts on solar access attributed to adjacent sites and allows view through the development to the west.

(d) The development of the site does not impact on any land identified as "Area 4" on the Height of Buildings Map.

(e) The development proposal is considered to adequately address matters related to (i) site suitability, (ii) existing and proposed uses and use mix, (iii) heritage issues and streetscape constraints, (iv) the relationship of the development with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, (v) bulk, massing and modulation of buildings and (vi) street frontage heights.

It is noted that the proposal for a built to boundary setback to High Street up to 12.35m and a residential podium setback above 12.35m of 3.910m, does not comply with the DCP control under Section E11. Figure E11.5 (Street Frontage Height Type) states that the building can be built to boundary along High Street to between 16m (min) and 20m (max) then must be setback 5m. Due to the reference to the maximum building height of 24m, the Figure is taken to apply to development on the site with a compliant height, and does not relate to recent changes to PLEP to allow greater densities on the site under Clause 8.7. Considering the required amendments as per the Design Integrity Panel's correspondence and their endorsement of the design as it relates to design excellence, the DCP non-compliance and street frontage heights design response to High Street is considered acceptable.

Matters related to (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity as they relate to design excellence are acceptable. A Qualitative Wind Assessment for the proposal prepared by Cermak Peterka Petersen (CPP), dated March 2018 was submitted with the application and a condition of consent is recommended to require that the design of the development have regard to the recommendations of the report. A condition of consent is recommended to require the submission of a reflectivity report to ensure that the development will not result in preventable amenity or environmental impacts in the locality.

Subject to conditions related to the requirements of the Design Integrity Panel design excellence endorsement letter (dated 15 February 2019) and conditions related to increasing level 1 floor to ceiling height, the proposal is considered adequate having regard to (viii) the principles of ecological sustainable development and (ix) pedestrian, cycle, vehicular and service access, circulation requirements.

The development proposal is considered satisfactory with regard to (x) (the impact on, and any proposed improvements to the public domain), subject to the condition requiring the submission and approval of a public domain plan confirming the landscape treatment, materials and finishes, public art, lighting and civil works around the development. Notwithstanding the above, the application as lodged proposed services within the basement and within the building at ground floor. Amended plans were lodged which resulted in a reduced basement area and services were related to ground floor and the substation was re-positioned on the street.

In addition, as the development proposal does not comply with Council's DCP controls related to the construction of roads (section C10, clause 10.4 Roads) the proposal was amended to reduce the 3.8m verge width along the southern portion of the eastern boundary to accommodate 3 on street car parking spaces. Whilst the introduction of these three spaces is supported, the reduction in verge width is not and the accumulated amenity and visual impacts of the reduction in verge width and landscaping in this area coupled with the proposal to locate the substation on the street adjacent to the ground floor services area is not supported and is considered to detract from design excellence, to the detriment of the public domain in this location.

In this regard, a condition of consent is recommended to require that the electrical substation be relocated to be within the building.

Clause 8.4(3) states that development consent must not be granted for development in respect of a building that will be, greater than 24 metres or 6 storeys (or both) in height and development that has a capital value of more than \$1,000,000 on a key site identified on the Key Sites Map unless an architectural design competition has been held in relation to the development. The proposal is for a development that exceeds 24m and 6 storeys in height and that has a CIV of more than \$1,000,000 on a key site and as such the proposed was the subject of an architectural design competition. The office of the Government Architect - Design Excellence Competition Jury has provided their letter of endorsement prior to lodgement of the development application (dated 14 March 2018).

Clause 8.4(5) states that development consent may not be granted for the erection of a building that has a floor space ratio of up to 10% greater than that allowed by clause 4.4 or a height of up to 10% greater than that allowed by clause 4.3, unless:

- (a) the design of the building or alteration is the result of an architectural design competition, and*
- (b) the concurrence of the Director-General has been obtained to the development application.*

An architectural design competition has been held related to the proposal and the proposal is for an FSR of 3.28:1, being no greater than 10% more than the maximum permissible FSR allowed for the site under clause 4.4 of PLEP. A written request to vary the maximum permissible height for the site accompanies the application and is discussed elsewhere within this report.

Clause 8.5 Building separation

Clause 8.5 states that buildings on land to which this Part applies must be erected so that the separation distance:

- (a) *from neighbouring buildings, and*
- (b) *between separate parts or other separate raised parts of the same building,*

is not less than that provided for in a development control plan made by the Council. The proposal is assessed to comply with the separation distance requirements of the Penrith DCP 2014 (section E11, clause 11.2.5 boundary setbacks and building separation) as detailed in the table below:

Zone	Building Height and Use	Min. Setback	Proposal	Complies
Mixed Use	Non-residential uses			
	Up to 20m	0m	0m High Street setback for non-residential up to 12.35m.	Yes.
	Residential uses up to 12m			
	Non-habitable rooms	3m	-	Yes.
	Habitable rooms	6m	-	
	Residential uses up to 24m			
	Non-habitable rooms	4.5m	- 3m-4m min. to south & west boundary. - 4.6m min. to east boundary. - 4m min. to north boundary.	As the development shares all four boundaries with a road, minimum separation distances will be achieved between buildings/uses in compliance with the DCP controls.
	Habitable rooms	9m	- 4m min. to south & west boundary. - 4.6m min. to east boundary. - 4m min. to north boundary.	As above.
	Residential above up to 24m			
	Non-habitable rooms	6m	19.77m internally between Buildings 1 and 2	As above.
	Habitable rooms	12m	19.77m internally between Buildings 1 and 2	As above.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

The proposal has been assessed against the applicable provisions of Draft State Environmental Planning Policy No. 55 - Remediation of Land and associated guideline document and is considered to be acceptable. Refer also to discussion under State Environmental Planning Policy No. 55 - Remediation of Land.

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

Development Control Plan 2014

Provision	Compliance
DGP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Does not comply - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Does not comply - see Appendix - Development Control Plan Compliance
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies - see Appendix - Development Control Plan Compliance
D2.6 Non Residential Developments	N/A
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iia) The provisions of any planning agreement

There are no planning agreements in place that apply to this development application.

Section 79C(1)(a)(iv) The provisions of the regulations

In accordance with Section 143 of the Environmental Planning and Assessment 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 standard conditions are recommended.

The proposed development has been notified and exhibited in accordance with the requirements of the Penrith DCP 2014 and is assessed to comply with the applicable requirements of the Regulations.

Section 79C(1)(b)The likely impacts of the development

Context and Character

The development of the site will have an acceptable impact on the character of the area. The site is currently vacant and the approval of the development will introduce a mixed use development into the streetscape. The proposed building facades, uses and street activation, overall design and selected materials are assessed to be sympathetic with the local area and are supportive of the high quality future desired streetscape character anticipated for the Precinct under the Penrith DCP 2014.

Solar Access

The development will have an acceptable level of impact on the amount of solar access attributed to neighbouring sites particularly to the immediate south and south-east. Overshadowing attributed to the proposal will impact predominantly to the south with the shadow tracking across Union Road and the new north-south road and towards the east throughout the day. Importantly the open spaces attributed the neighbouring residential flat building will not be detrimentally impacted. Landscaping along the new road will retain sufficient access to the sun at the winter solstice, to allow for sustainable growth.

Traffic and Parking

Traffic movements and increase in cars entering the site

As a result of the proposal it is expected that there will be an increase in the volume of traffic entering the site, however the development proposes an acceptable car parking rate and is unlikely to impact negatively, to the detriment of the local network. Conditions of consent are recommended with regard to the allocation of car parking spaces and compliance with applicable Australian Standards related to parking, manoeuvring and sight lines and accessible car parking spaces.

As detailed within this report, car parking exit and entry points are to be provided with secure entry and sufficient sightlines to assist in driver awareness. The waste bay will also make use of a vehicle turn table to improve pedestrian safety.

Carpark lighting

It is identified that lighting within the upper level residential car parks may result in negative impacts on the amenity of residential units located on the northern side of the service lane. Impacts of light spill are addressed by the use of small openings, recessed louvres and planting.

Noise and Construction Impacts

Construction noise

Construction at the site will have a temporary affect on the amenity of the area due to noise from construction traffic, equipment and machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and soil and sediment control.

Noise from vehicles

It is identified that screeching noises from the tyres of cars manoeuvring around the elevated carpark may have a negative impact of the amenity of the residential apartments located in the northern side of the service lane (opposite the northern elevation of the proposed development). In this regard, a condition of consent is recommended to ensure that the surface of the carpark floor is a matt or rough finish and is not smooth or gloss.

Social & Socio-Economic Impacts

The development is unlikely to result in any negative social impacts in the area. The proposal has been assessed against the principles and objectives contained within the DCP and is compliant in this regard.

Section 79C(1)(c)The suitability of the site for the development

The site is considered to be suitable for the development proposed, subject to the recommended conditions of consent. The site is identified within PLEP as being subject to specific key provisions supportive of the proposed use and scale of the development. The uses at ground and above are compatible with surrounding and adjoining land uses and the development is able to be serviced and connected to necessary and essential utilities, to the satisfaction of Council.

The proposal has adequately demonstrated that the density of development is compatible with the flood hazard associated with the land, being the Possible Maximum Flood (PMF) and that parking can be accommodated both below and above ground such that the impacts on the surrounding streets is reduced and flood resilience is addressed.

Adequate conditions of consent are recommended to ensure that amendments sought by the Design Integrity Review Panel (Design Excellence Jury) are incorporated into the design and that amended plans are received and approved by Council. Other conditions of consent are considered to be adequate to address areas of non-compliance related to waste management, on street parking provision, public domain treatment and design excellence.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2010, the proposed development was notified to nearby and adjoining properties and residents, advertised and was publically exhibited between 6 April and 6 May 2018. Four submissions were received. One objection was formally withdrawn. A summary of the matters raised in the remaining three submissions and a response to those matters, is provided below.

<i>Issue Raised</i>	<i>Comments</i>
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<i>View Loss</i> <i>- The height of the building will obstruct the view from my property (79-81 Union Road), therefore the height must be reduced by 50% or a differed design is to be adopted to minimise the impacts to the views from 79-81 Union Road.</i>	The residential flat building at 79-81 Union Road is located approximately 50metres to the south-east of the subject site. Currently views from upper level north and west facing apartments of this development are available toward the north and over the vacant site at 614-632 High Street (on the northern side of Union Lane) and towards the north-west over this same vacant Lot and through the adjacent 8 storey residential apartment building at 83-86 Union Road which has a separated building form. 79-81 Union Road benefits from views toward the mountains over the nearby undeveloped sites. Although it is anticipated that apartments within the development at 79-81 Union Road will have view loss and that this view loss is not insignificant, the desired future character of the adjacent sites and of the Precinct is that of high density mixed use developments. As detailed within this report several sites in close proximity to 79-81 Union Road are subject to high density FSR and height controls under PLEP. Further, due to the orientation of 79-81 Union Road and the apartments within the development, it would be unreasonable to restrict development on adjacent sites to protect western views toward the mountains.
<i>Traffic and Congestion Impacts</i> <i>- The roads being Union Road and Union Lane are not big and wide enough to handle 187 apartments and commercial properties. We are talking about in excess of 200 cars coming and leaving that complex daily through small and already heavily congested streets.</i> <i>- The population density as people per hectare will be too high and create even greater congestion on our roads.</i>	The development application was submitted with supportive traffic assessment reports and was reviewed by the RMS and Council's Engineers. The development application includes the proposal to construct and dedicate a new road spanning north-south along the eastern boundary of the site which will assist in distributing traffic across the local network and it is anticipated that the interim road connection to the existing roundabout at High Street will be converted to a signalised intersection, as desired through the Penrith DCP 2014 controls. The proposal including roadway design, is considered to be acceptable subject to the attached conditions.

<i>Health and View Loss</i> <i>- The developer must offer counselling services because of the mental and physiological impacts to all the residents in 79-81 Union Road because of the Monster Building that will gobble up our views.</i>	View loss is discussed above. It is agreed that view loss is undesirable and will impact the residential amenity of adjacent sites, although as detailed within this report, with the exception of height the development proposal is largely compliant with the applicable building controls and impacts are considered acceptable in the context of the site with regard to the applicable built form controls of PLEP and the Penrith DCP. It is also noted that the development is compliant with the applicable FSR under PLEP and additional compliant height may be available under the Key Sites provision of PLEP of up to 6:1.
<i>Union Lane Impacts</i> <i>- The proposal will result in increased pedestrian and car use of Union Lane between Worth Street and the new yet to be constructed street.</i> <i>- Will the council or developer now build a safe pedestrian footpath down Union Lane? Currently the laneway has considerable traffic coming in and out of the laneway servicing the residents and the commercial buildings that use the laneway.</i> <i>- As there is no safe footpath available pedestrians are forced to walk on the roadway and avoid cars as best as possible. Will Union Lane become a one way street? The laneway is too narrow to safely handle the already increased two way traffic.</i> <i>- Exiting through Worth street and turning either left or right is increasingly hazardous during the day.</i>	The development proposal includes significant civil and public domain works including a new north-south road along the eastern boundary of the site. Works include pedestrian pavement and on street car parking along the western boundary of the new road and a pedestrian pavement along the southern section of the eastern side of the new road. It is anticipated that, through development of the adjacent site to the north-east being 614-632 High Street, that further paving connections will be provided along the eastern side of the new road, between Union Lane and High Street. The development proposal includes opening up Union Lane to the new road in compliance with the Penrith DCP. One way exit westbound from Union Lane to the new road will be provided. It is not anticipated that there will be any changes to the current two way configuration of Union Lane. Council may investigate future upgrades or 'shared' areas to improve safety and convenience to users of Union Lane in the future.

<i>Height</i> - <i>This will also destroy the Penrith city skyline.</i> - <i>I would like to request a height restriction that prevents all new buildings from being taller than 6 stories.</i> - <i>We must be able to see the trees above the buildings.</i> <i>This helps aesthetically also</i>	The proposal is compliant with the applicable FSR for the site and densities of development in the vicinity of the site are anticipated, through the applicable planning controls, to be of comparable scale and height. Also refer to discussion under View Loss above.
<i>Heritage and Culture</i> - <i>Our town is a historical place of great significance and perhaps we should place more significance on maintaining our cultural history rather than building all of these trendy, new, fad constructions, like PENWAY</i> - <i>Previously existing orange orchards should be reinstated.</i>	It is agreed that site's in the vicinity of the City Centre will add density to Penrith's centre and change will occur in terms of visual impacts. The development as detailed within the report is assessed as being appropriate having regard to the applicable planning controls. Density is encouraged through the DCP and PLEP controls and objectives within the City Centre close to public transport options whilst providing an appropriate built form transition to lower density areas and areas identified as having particular heritage or cultural significance. The zoning of the land would prohibit the approval of orchards on this site.

A response will be sent to all submitters advising of the recommendation and the proposed meeting date of the Sydney Western City Planning Panel.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections - subject to conditions
Heritage	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Tree Management Officer	No objections - subject to conditions

Waste Services

Amended plans were submitted for Council's assessment following a meeting held with Council's Planning and Waste units. The plans indicate that the site can accommodate the required waste infrastructure and the volume of waste generated by the proposal in a compliant manner. Minor alterations to the ground floor are required to enable manoeuvring of 1100L bins and as such a condition of consent is recommended requiring the submission to Council, of an amended waste layout to be approved prior to the issue of a Construction Certificate.

Section 79C(1)(e)The public interest

The likely impacts of the proposal have been assessed as acceptable or have been addressed by way of recommended conditions of consent. The proposed development will not generate any significant issues of public interest. Matters raised in submissions received have been taken into consideration as part of the assessment of the proposal and are addressed within this report.

The development application is not considered to be in conflict with the key aims, objectives and controls of the applicable planning instruments and guiding documents and the submitted written request to vary the height of building standard, in the context of the site and having regard to the environmental impacts of the development proposed is assessed as being acceptable. In this regard, the proposal can be supported and is recommended for approval, subject to conditions.

Section 94 - Developer Contributions Plans

The following Section 7.11 contributions plans and calculations apply to the proposed development:

Applicable Section 7.11 Contributions Plans					
<i>Penrith City Council - District Open Space Facilities Development Contributions Plan 2007</i>					
Number of Dwellings	x	s7.11 Rate/Qty	-	Credit(s) for Existing	Rate
187	x	Rate = 2	-	0	374
<i>Penrith City Council - Cultural Facilities Development Contributions Plan 2003</i>					
Number of Dwellings	x	Applicable s7.11 rate	-	Credit(s) for Existing	Rate
187	x	Rate = 2.4	-	0	448.8
<i>Penrith City Centre Plan - Civic Improvements Plan 2008</i>					
	x	s7.11 Rate/Qty	-	Credit(s) for Existing	Rate
Commercial	x	758sqm	-	686sqm	72sqm
Retail/Business	x	317sqm	-	0sqm	317sqm
Parking	x	5	-	0sqm	Per space
187 Multiple Dwellings	x	Per unit (indexed)	-	0 Dwellings	Per unit (indexed)

Applicable Contributions Calculations		
Plan	Calculation Rate x Contribution Rate	Sub Total
District Open Space Facilities	374 x \$1,966.00	\$735,284.00
Cultural Facilities	448.8 x \$169.00	\$75,847.00
CIP Commercial	72sqm x 188.00	\$13,536.00
CIP Retail/Business	317 x 108.00	\$34,236.00
CIP Parking	5 x \$32,214.00	\$161,070.00
CIP Multiple Dwellings	187 x \$9,784.00	\$1,829,608.00
	Total	\$2,849,581.00

CIP Parking and Commercial Gross Floor Area (GFA)

Existing GFA and 7 existing car parking spaces are credited toward applicable commercial floor space and parking contributions under the Civic Improvements Plan (CIP) . CIP parking contributions are calculated at the commercial rate of 1 space per 100sqm's for 72sqm's of GFA and at the Retail/Business at a rate of 1 space per 30sqm's for 317sqm's of GFA.

A condition of consent is recommended with regard to the above applicable development contributions.

Conclusion

The proposal has been assessed against the relevant environmental planning instruments and policies, including Penrith LEP 2010 and Penrith DCP 2014, including Part E11- Penrith City Centre. The proposal is found to satisfy the aims and objectives of these policies.

The proposal will have an acceptable impact on the surrounding character of the area and proposes a site responsive design which is compliant with Council's key development standards and as such is not contrary to the public interest. Further, the proposal is found to be consistent with PLEP with regard to the anticipated density and built form transition across the site. The application is worthy of support, subject to the recommended conditions.

Recommendation

1. That DA18/0264 for a part 12, part 15 storey mixed use development at 87-93 Union Road, Penrith, be approved subject to the attached conditions;
2. That the submitted variation to the Height of Building a development standard under PLEP be supported; and
3. That those making submissions are notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the Penrith City Council stamped approved plans and reports, the application form, the BASIX Certificate and any Council stamped approved supporting information and/or reports in support of the development proposal, except as may be amended in red on the stamped approved plans and by the following conditions.
- 2 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority (PCA) is to ensure that the stamped approved plans and documents related to the development are amended to incorporate the design changes listed below under (A) and (B). All effected amended and additional plans resulting from the alterations under (A) and (B) below must be submitted to the Manager of Development Services at Penrith City Council for review and approval **prior to the issue of a Construction Certificate** and a copy of the approved plans are to be provided to the PCA.

(A) Building Design Conditions

1. The design of the development (inclusive of landscaping) is to be modified to reflect the amendments required by the Government Architects Office of New South Wales as described in their letter dated 15 February 2019 signed by Dillon Kombumerri, Bob Nation and Brett Newbold.
2. Ground floor shop front glazing along the High Street frontage for Building 2 is to be repositioned to be setback from the inside face of the colonnade columns by a minimum of 2.5 metres to allow pedestrian circulation around the building under the colonnade and to facilitate adaption overtime.
3. Level 1 podium car parking is to have a minimum floor to ceiling height of 3.3m (finished floor level to underside of ceiling),
4. The bin wash area located adjacent to the vehicle turn table is to be deleted.
5. The six commercial car parking spaces at ground floor are to be relocated to the basement level and a delivery space is to be provided.
6. The ground floor plan is to be revised with regard to the residential and commercial waste storage and manoeuvring areas in consultation with Council.
7. Level 1 and 2 Podium landscaping -
 - (i) The level 2 podium planter box at the north-western corner of building 2 is to be widened as marking in red on the stamped approved plan
 - (ii) The level 1 and 2 podium planter boxes indicated on drawings AR-1-5000, Revision 57, AR-1-5002, Revision 57 and AR-1-5001, Revision 57 are to be shown on amended Podium 1 and 2 floor plans.
8. An updated and amended set of landscape documentation is to be submitted for approval. The documentation is to include details of irrigation and long term maintenance and is to include relevant sections and planter details. Plant species, pot size and planter depths and construction methods are to be nominated.
9. A minimum of three doorways/entry points are to be provided along the commercial glazing providing access to the arcade/pedestrian link.
10. Plans are to be amended such that the arcade/pedestrian link is a minimum of 4m wide for its entire length.

(B) New Road Conditions

1. No approval is granted for the installation of temporary or removable traffic barriers along or adjacent to the new north-south link road as identified in correspondence dated 5 October 2018, prepared by Robert Bird Group (Reference: CW:JC LTR/C 17665C) or as detailed on the civil plans prepared by Robert Bird (identified as Temporary 'F' Type Barrier). The temporary 'F' type barrier is to be replaced with a landscaped blister

island with low height planting to direct traffic to merge into one lane at the round-a-bout entry. 2. Temporary on street parking is to be provided on the eastern side of the new north-south road, north of Union Lane terminating at the landscaped blister island detailed above.

3. Civil plans are to reflect the amended architectural ground floor layout, and any amendments undertaken to the water sensitive urban design (WSUD) strategy including any rain gardens and the on-street car parking spaces indicated along the western side of the new road (south of Union Lane), the addition of the blister island and eastern temporary on-street parking mentioned under (B)1. above, the revised drainage and on-site detention tank arrangements and revised finished floor levels. Amended civil plans are to correlate with architectural, required public domain plans and the WSUD Strategy and modelling.

3. One on-street parking space along the western side of the new road is to be sign posted so as to limit parking to 15 minutes.

Advisory Note:

(i) Penrith City Council reserves the right to request amendments to the submitted documentation which is to be elevated to Construction Certificate and/or For Tender quality.

- 3 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to be provided with a copy of the registered subdivision certificate confirming that

(A) The allotment has been subdivided into two allotments as follows:

(a) The eastern Part Lot 300 in DP 1243401 noted as being 5406.58sqm in area shall be created as one separate allotment bounded by High Street to the north, John Tipping Grove to the west and Union Road to the south, and

(b) The western Part Lot 300 in DP 1243401 noted as being 6617.8sqm in area, shall be one allotment bounded by John Tipping Grove to the east, Mulgoa Road to the west, High Street to the north and Union Road to the south.

A copy of the registered plan of subdivision indicating the above, it to be provided to the Principal Certifying Authority Prior to the issue of a Construction Certificate.

OR

Prior to the issue of a Construction Certificate, the Principal Certifying Authority is to be provided with a copy of the registered 88B instrument attached to the allotment confirming that:

(B) A restriction as to user is to be registered on title indicating that:

(a) The maximum floor space ratio available for the eastern Part Lot 300 in DP 1243401 noted as being 5402.1sqm in area, bounded by High Street to the north, John Tipping Grove to the west and Union Road to the south is 3.3:1, and

(b) The maximum floor space ratio available for the western Part Lot 300 in DP 1243401 noted as being 6617.8sqm in area, bounded by High Street to the north, John Tipping Grove to the east and Union Road to the south and Mulgoa Road to the west is 6:1.

- 4 No signage is to be fixed to the awning fascia. No signage is to be positioned above the awning or to the colonnade brickwork or residential building. All signage is to be located under the awning and is to be 'hamper style' perpendicular to the elevation of the building, to which it is attached.

- 5 Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:
- Name of responsible company and relevant contact details.
 - Dimensions (height, length, etc.)
 - Position and orientation of boom/jib and counter boom/jib
 - Length of time that such a crane or structure will be erected on site.
 - The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

- 6 **Prior to the issue of an Occupation Certificate** and in perpetuity, the development shall comply with the following requirements in relation to waste collection infrastructure:
- (a) The residential bin storage room and bulky waste room will need to be lockable through an abloy key device to restrict access only to the building caretaker/manager and Council's waste collection staff.

Advisory notes:

1. The property owner or agent acting for the owner shall arrange for the commencement of a domestic waste service with Council. The service is to be arranged no earlier than two days **prior to occupancy** and no later than two days after occupancy of the development. All requirements of Council's domestic collection service must be complied with at all times. Please telephone Council on (02) 4732 7615 for the commencement of waste services.
2. Access to the bulky waste room shall be restricted to Council and the building manager and shall be provided with an access doorway with a width of 1.8m minimum. Residents are to arrange access with the building manager for the storage of bulky waste prior to collection.
3. Commercial and residential bin storage and waste areas are to be kept clean and tidy.
4. Commercial waste is not to be placed in residential waste bins. The commercial bin room is to be kept secure and access is to be provided for the commercial tenants only.
5. The residential bin room, bulky waste and chute rooms and the commercial bin room are to be clearly sign posted to ensure waste is not co-mingled.

- 7 A minimum of eighteen (18) apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability and in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6 and shall be evenly distributed throughout the building and not be concentrated in any one area or level.

The Construction Certificate application must be accompanied by certification from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A Compliance Certificate in this regard, shall be provided **prior to the issue of an Occupation Certificate**.

- 8 **Prior to the issue of an Occupation Certificate**, the developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Commercial waste collection at the site will not be undertaken by Penrith City Council. Commercial waste collection is to occur outside of those times when Council is conducting its residential collection for the building. Commercial tenants are to liaise with Council prior to confirming waste contracts for commercial collection to ensure collection times do not clash with Council's residential waste service.

Note:

(a) By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 9 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 10 A Final Schedule of Materials and Finishes is to be submitted to and approved by the Manager Development Services at Penrith City Council prior to the issue of the Construction Certificate. Roof surface material is to be nominated.
- 11 No external roller shutters, bars or similar structures are permitted to be installed on the ground floor glazing of the commercial tenancies.
- 12 The following Crime Prevention Through Environmental Design matters are to be incorporated in the design of the building:
- (a) User/sensor electronic security gates/doors shall be installed at the carpark entrances/exits.
 - (b) Each individual apartment is to be clearly numbered and each level of the building is to be easily identifiable when viewed from the lift.
 - (c) Glazing to the ground floor entry lobby is to be clear and unobscured to allow a view to the street.
 - (d) CCTV is to be installed along the frontage of the site to Lord Sheffield Circuit and along the rear of the site in the location of the ground floor commercial vehicle entry point.

- 13 Car parking and vehicle access points, pedestrian pathways, lobby areas, stairwells, garbage rooms, laneways and pedestrian access routes in outdoor public spaces should be lit to the minimum of Australian Standard 1158 and the following design requirements:

- (a) Lighting is to be consistent in order to reduce the contrast between shadows and illuminated areas.
- (b) Lighting is to be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Advisory Notes:

- Lighting should be directed towards access/egress routes to illuminate potential offenders, rather than towards the building or observation points.
 - Lighting is to take into account vegetation and landscaping that may act as an entrapment point and should be designed to avoid vandalism.
 - Where appropriate movement sensor lighting may be incorporated.
 - Lighting shall be maintained and kept in good working order.
 - Appropriate directional signage is to be installed to assist with way-finding.
 - All surfaces in the car parking areas should be light in colour to reflect as much light as possible.
- 14 **Prior of the issue of a Construction Certificate**, a final Materials and Finishes Schedule is to be submitted to and approved by the Manager of Development Services at Penrith City Council. The following elements are to be clearly noted on the final Materials and Finishes Schedule:
- (a) The upper residential levels of Building 1 must include expressed joints around the painted panels associated with paint finishes noted as PF1, PF2, PF3, PF4, PF5 and PF6.
 - (b) All changes to colours, materials and façade elements required to be undertaken in order to satisfy the requirements of the office of the Government Architect of NSW Design Integrity Review letter dated 15 February 2019 and its attached photomontages (as appended to this consent), are to be detailed in the final schedule.
 - (c) The materials and finishes for the awning proposed along High Street, John Tipping Grove and the new north-south road are to be noted on the final materials and finishes schedule. The schedule is to note that the awning is to be constructed of steel edge expressed frame with concealed drainage and the underside of awning is to be clad aluminium and timber soffit in a warm tone finish (as detailed on plan AR-1-5202 Revision 51).
 - (d) As required by office of the Government Architect of NSW Design Integrity Review letter dated 15 February 2019, larger-scale sections which describe design details of the amended podium elevations including materials and finishes are to be included in the final schedule.
- 15 This building work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the *Home Building Act*.
- 16 All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Engineering Works Development Control Plan and accompanying Guidelines for Engineering Works for Subdivisions and Developments Part 2-Construction.
- 17 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

18 Prior to the occupation of any commercial or business tenancy within the building, a separate development approval is to be obtained from Penrith City Council for the use of each tenancy.

19 Any food or skin penetration business shall not be used or occupied until an Occupation Certificate has been issued.

A satisfactory inspection from an authorised officer of Council's Environmental Health Team is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Team to organise an appointment at least 72 hours prior to the requested inspection time.

20 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

21 The skin penetration business is to be registered with Penrith City Council by completing the "Skin Penetration - Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and commencement of the business.

22 Food businesses are to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.

23 **Prior to the issue of a Construction Certificate**, the applicant shall provide a concept line marking and signage plan to the Manager of Development Services at Penrith City Council. The plan shall include the following:

- (a) All line marking and signage along the new road;
- (b) All directional and parking signage along the new roads modified or required to facilitate the development as approved; and
- (c) The provision of regulatory signage

The final Line Marking and Signage Plan is to be submitted to and approved by Penrith City Council and shall be endorsed by Council's Local Traffic Committee. Please note that the Committee meets monthly. All approved and endorsed signage and line marking is to be undertaken and/or installed, **prior to the issue of an Occupation Certificate.**

24 User/sensor electronic security gates shall be installed at carpark entrance/exits.

25 The surface treatment of all car parking areas is to be a brushed or matte surface to reduce the impact of noise from the turning movements of vehicles.

26 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

27 Automatic Teller Machines are not permitted to be installed into the façade of the building at ground floor.

- 28 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 29 (a) The arcade/pedestrian link spanning between John Tipping Grove and Union Lane is to be open between 7am and 9pm daily (minimum) and is to be provided with CCTV cameras and adequate lighting.
- (b) Security doors are to have clear glazing, allowing views into the link. No approval is granted for gates, shutters or security grills or bars.
- (c) Shopfront/commercial glazing fronting the arcade must not be obscured or otherwise covered for a minimum of 50% of the frontage of each tenancy, along the arcade.

- 30 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to ensure that a set of stamped approved public domain plans and supportive documentation has been prepared for the site and has been reviewed and approved by the Manager of Development Services at Penrith City Council. The submitted public domain documents are to include the following:

Public Domain General

- (a) The documents are to identify the extent of public domain works being undertaken and are to include pavement treatments, street trees and landscape elements, water sensitive urban design (WSUD) elements, lighting locations and any street furniture and public art adjacent to all boundaries of the site, in accordance with the Public Domain Technical Manual (PDTM).
- (b) Documents shall be accompanied by detailed sections through typical and non-typical thresholds and details of landscaping and planters and maintenance and irrigation details are to be provided,
- (c) Details are to be provided as to any interim and final paving finishes proposed,
- (d) All line marking and relevant roadwork and paving details are to be shown and plans are to be consistent with approved stormwater, architectural, landscape and civil plans.
- (e) Union Road is identified as a Type 3 Tertiary Street adjacent to retail/commercial uses, within the PDTM and as such shall be fully paved from built edge to kerb. Opportunities for WSUD may be integrated into the kerb-side edge where pedestrian volumes are low. High Street and John Tipping Grove are identified as a Type 2 Secondary Streets. Paving treatments are detailed within Section 3 of the PTDM and correlate to the street hierarchy type i.e. Type 2 Streets are required to be finished with Type 2 composite concrete pavers, and Type 3 streets are to be finished with Type 3 coloured concrete (CCS "Onyx 21") in grey cement with broom finish.
- (f) Penrith Council utilises 'Eden Outreach' for street lighting as per the PDTM Section 0.6. The final street lighting layout (including location, spacing, LUX and kerb setback) are to be prepared in consultation with Council's City Assets team and Landscape Architect.
- (g) The width of the awning along High Street and John Tipping Grove is to be confirmed with Council's Landscape Architect. The maximum height of the awning along High Street (from finished street pavement level to the underside of awning) is to be 3.2m. Steps for design articulation or to accommodate sloping streets are not to exceed 700mm.

Street Tree Planting

- (h) A minimum of 3 street trees are to be planted along the High Street frontage of the site.
- (i) Street trees are to be planted within the verge along John Tipping Grove at a rate of 1 tree per 10m.
- (j) A minimum of 3 street trees are to be planted along the Union Road frontage of the site.
- (k) All street tree locations, species selection, pot sizes and pavement treatment around the street trees is to be detailed on the public domain plans which are to be prepared in consultation with Council's Landscape Architect.

Advisory Notes:

- (i) The public domain plans shall be prepared in consultation with Council's Landscape Architect and works are to be designed in accordance with the Penrith CBD Public Domain Technical Manual (PDTM) and the Public Domain Lighting Policy.
- (ii) The existing conditions along all frontages including John Tipping Grove are to be upgraded as part of the development proposal and plans are to indicate that the overall design quality of the adjacent public domain is elevated.
- (iii) Penrith City Council reserves the right to request amendments to the submitted documentation which is to be elevated to Construction Certificate and/or For Tender quality.

- 31 **Prior to the issue of a Construction Certificate**, a Civil Dilapidation Report is to be prepared and submitted to Penrith City Council. The report shall detail in photographs, the quality of the existing pavement, kerb and gutter, landscaping, street trees and any other civil infrastructure immediately adjacent to the site, likely to be damaged as a result of construction works at the subject site.
- Prior to the issue of an Occupation Certificate**, an addendum to the Dilapidation Report is to be provided to Penrith City Council, which details the same areas surrounding the site and shall identify any areas damaged as a result of construction. All damage is to be reported and rectified to Council's satisfaction prior to the issue of the Occupation Certificate.
- 32 No security shutters, roller doors, bars or the like shall be fitted to the glazing of the ground floor tenancies.
- 33 Ground floor shop front glazing shall not be covered by frosting or otherwise rendered opaque by covering, advertising, stickers, decals or the like for greater than 25% of the glazing attributed to each individual tenancy.
- 34 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to be provided with written confirmation from the NSW Department of Primary Industries confirming that works approved under this consent do not require their advice or a Controlled Activity Approval (CAA). In the event that a CAA is required this is to be obtained prior to the issue of a Construction Certificate and complied with throughout the course of the development.
- 35 **Prior to the issue of a Construction Certificate**, a reflectivity report is to be submitted to and approved by the Manager of Development Services at Penrith City Council.

Advisory note: The construction of the development shall have regard to the recommendations of the approved Qualitative Wind Assessment prepared by Cermak Peterka Petersen (CPP), dated March 2018.

- 36 All roof mounted plant, ducting or services infrastructure shall be screened from view. No approval is granted for the installation of ducting, conduit, plant or services infrastructure on the external facades of the building, unless it is indicated on the stamped approved plans.
- 37 To ensure that Council's residential waste collection service is not interrupted by the use of the shared waste collection area by private waste contractors, delivery vehicles, removalist vehicles and the like, the waste collection area and turntable are to be kept clear during the Council residential collection times.

No use of the waste collection area and turntable is permitted to be undertaken at the time of Council's residential waste collection services (inclusive of services related to recycling, residual, food and bulky waste collection).

Advisory note:

Council's waste collection service requirements and times are subject to change. The building manager (or body corporate/owners corporation) is advised to liaise with Council to ensure the waste collection access and arrangements allow safe, practical and efficient residential waste collection.

- 38 Detailed design plans of any proposed food business or skin penetration business, as defined under the Food Act 2003 or Public Health Act 2010, must be provided to Penrith City Council as part of a separate development application for Council approval.

- 39 **Prior to the issue of a Construction Certificate** the Principal Certifying Authority shall ensure that the stamped approved civil engineering plans include the size and area details of all the raingardens, the location of the Enviropods and the location and size of the rainwater tank.

The PCA is to ensure that all supporting calculations and modelling, including a water sensitive urban design strategy, MUSIC modelling (.sqz file). and all additional supportive documentation has been submitted to and approved by the Manager of Development Services at Penrith City Council, (attention to the Environmental Health and Compliance Unit).

Advisory notes:

- (i) All documentation submitted to Penrith City Council is to demonstrate compliance with Council's Water Sensitive Urban Design Policy and is to correlate with the stamped approved civil plans, architectural plans and stormwater engineering plans.
- (ii) All documentation is to have regard to any amendments resultant from other conditions of this consent.

- 40 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed at all entry points into the buildings.
- Australian Standard 220 – door and window locks must be installed in all dwellings/premises.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Monitored alarms must be installed in all retail and communal public space areas.

Advisory Notes:

- (i) Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- (ii) Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- (iii) Outdoor furniture in the retail and communal areas must be stored away after hours or well secured to minimise opportunities for vandalism and theft.
- (iv) All vegetation throughout the site must be regularly pruned to ensure that sight lines are maintained.

Demolition

- 41 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Heritage/Archaeological relics

- 42 Activities at the site are to have regard to the Aboriginal Archaeological Assessment prepared by Comber Consultants dated March 2018. If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Office of Environment and Heritage.

The applicant is advised that depending on the possible significance of items of cultural significance, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 43 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 44 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 45 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 46 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 47 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 48 **Prior to any Occupation Certificate being issued**, written advice from an appropriately qualified and experienced acoustic consultant must be obtained to confirm that:
1. The recommendations made in the acoustic report prepared by Acoustic Logic, titled *Toga High Street, Penrith, Stage 1 - Development Application Acoustic Report*, dated 22/02/2018, (the approved acoustic report) have been incorporated into the development; and
 2. The development has been constructed to meet the indoor design sound levels in accordance with the approved acoustic report; and
 3. Noise emissions from plant and equipment meet the project noise criteria contained in the approved acoustic report.
- 49 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 50 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

51 **Prior to a Construction Certificate being issued:**

1. Site remediation and validation works are to be completed; and
2. A Validation Report is to be submitted to Penrith City Council; and
3. The report must certify that the remediation works have been carried out in accordance with the Remedial Action Plan approved under development consent no. DA 18/0654, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Development Control Plan 2014; and
4. The Validation Report must state that the site has been made suitable for its proposed use; and
5. Written confirmation must be obtained from Penrith City Council's Environment Team confirming that they are satisfied with the remediation works undertaken, and the conclusions of Validation Report that has been submitted.

Written notification that the site remediation works have been completed is to be submitted to Council **within 30 days of the said works having been completed.**

The Validation Report must be prepared by an appropriately qualified person as defined in the Penrith Development Control Plan 2014.

52 An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) must:

1. Supervise the remediation works.
2. Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
3. Address off site impacts and proposed management strategies where relevant.
4. (after completion of works) Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be **provided with the notice of commencement.**

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 53 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, surface or subsurface asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified.

Any such "unexpected finds" shall be investigated and addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55 - Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

BCA Issues

- 54 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 55 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
-

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 56 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 57 The construction, fit out and finishes of food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.
- 58 Cooling towers and warm water systems are to be registered with Penrith City Council by completing the registration form for regulated systems. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the system.

The occupier of premises at which a water-cooling system or warm-water system is installed must notify Council using the NSW Ministry of Health Notification Form available from www.health.nsw.gov.au:

- a. if the system is installed before he or she becomes the occupier, within one month after he or she becomes the occupier, or
- b. if the system is installed after he or she becomes the occupier, within one month after the system is installed.

The occupier of the premises must notify Council within 7 days of any change of details.

- 59 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems shall be operated and maintained in accordance with the Public Health Act 2010, Public Health Regulation 2012, AS3666.2:2011 *Air-handling and water systems of buildings – Microbial control - Operation and maintenance* and the current edition of the NSW Code of Practice for the Control of Legionnaires Disease

The water-cooling system shall be operated and maintained in accordance with the Public Health Act 2010, Public Health Regulation 2012, AS3666.3:2011 *Air-handling and water systems of buildings – Microbial control – Performance-based maintenance of cooling water systems* and the current edition of the NSW Code of Practice for the Control of Legionnaires Disease.

- 60 Any person carrying out any of the following skin penetration procedures shall ensure that the requirements of the Public Health Act 2010, Public Health Regulation 2012 and the current NSW Health Guidelines on Skin Penetration and Code of Practice are met at all times:
- Tattooing
 - Unregistered acupuncture and dry needling practitioners
 - Ear/Body Piercing
 - Hair Removal
 - Colonic Lavage
 - Cuticle cutting
 - Microdermabrasion
 - Any procedure (whether medical or not) that involves skin penetration and includes any procedure declared by the regulations to be a skin penetration procedure, but does not include:
 - (a) any procedure carried out by a health practitioner registered under the Health Practitioner Regulation National Law, or by a person acting under the direction or supervision of a registered health practitioner, in the course of providing a health service, or
 - (b) any procedure declared by the regulations not to be a skin penetration procedure (i.e. laser hair removal).

- 61 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.
- 62 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems must be installed in accordance with AS/NZS 3666.1:2011 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system. An air-handling system must be fitted with supply air filters.

The regulated system shall be thoroughly flushed before being brought into service and shall be located in a position to ensure that the exhaust discharge from the tower is away from occupied areas, air intake and building openings.

When an air handling, hot water, humidifying, warm water or water cooling system is installed a certificate is to be obtained certifying that the system has been installed in accordance with the Public Health Act 2010, Public Health Regulation 2012 and AS3666.1:2011.

- 63 There must be safe and easy access to a regulated system (as defined in the Public Health Act 2010) for the purpose of the cleaning, inspection and maintenance of the system.
- 64 Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

Utility Services

- 65 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

- 66 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a second pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council. Confirmation is to be provided that a blast wall or other protective structure is/is not required.

- 67 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

- 68 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

69 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

70 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

Engineering

- 71 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 72 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 73 Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Concrete footpaths and or cycleways
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
 - f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

- 74 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for the following works:
- Roadworks within the road reserve of High Street and the new link road
 - Road and drainage works within the road reserve of Union Road and the new link road
 - Roadworks within the road reserve of Union Lane and the new link road
 - Path paving works and public domain works within the road reserve areas of High Street, Union Road, Union Lane and John Tipping Grove.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 75 A Construction Certificate is to be approved by the Certifying Authority for the provision of subdivision works (road, drainage, earthworks associated with the new link road)

A Construction Certificate shall be issued for any subdivision works.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plans prepared by Robert Bird Group, reference number 17665c, drawing number C3-00, revision 11, dated 03-01-2019, and that all engineering road and drainage works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The engineering works may include but are not limited to the following:

- Public and private roads
- Storm water management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

- a) Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 76 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	Carriageway Width	ESA
New Link Road	7m	2 x 10 ⁶

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for Construction Certificate.

- 77 A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety Part 6: Road Safety Audit on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

- 78 The stormwater management system shall be provided generally in accordance with the stamped approved WSUD Strategy, MUSIC modeling and associated concept plan/s.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

- 79 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Robert Bird Group, reference 17665C, drawing No C3-00, revision 11, dated 01-03-2019.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 80 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).
- 81 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 82 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that:
- a) All habitable floor levels are at a minimum of RL 27.85m AHD
 - b) The crest in the access ramp to the basement car park is at a minimum of RL 27.4m AHD.
 - c) All proposed penetrations and access points into the basement carpark area minimum of 0.3m above the top water level adopted for the flooding

Details demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

- 83 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.
- 84 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.
- 85 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for any road and drainage works within Council's road reserve areas of High Street, Union Road and Union Lane.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

- 86 Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended. The development shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming no damage has occurred.
- 87 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of a Construction Certificate.

88 Work on the subdivision shall not commence until:

- a Construction Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

- 89 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 90 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 91 Prior to the issue of a Subdivision Certificate, the Principal Certifying Authority shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.
- 92 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

93 **Prior to the issue of any Occupation Certificate** the Principal Certifying Authority shall ensure that the:

(a) Stormwater management systems (including on-site detention and water sensitive urban design)

(i) Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.

(ii) Have met the design intent with regard to any construction variations to the approved design.

(iii) Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 94 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.
- Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.
- 95 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments policy.
- 96 Prior to the issue of any Occupation Certificate, a 4m x 4m splay corner at the intersection of Union Road and the new link road is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land and Property Information (LPI). The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.
- 97 Prior to the issue of any Occupation Certificate or Subdivision Certificate (whichever occurs first), and installation of regulatory / advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process.
- b) Allow eight (8) weeks for approval by the Local Traffic Committee.
- c) Applicable fees are indicated in Council's adopted Fees and Charges
- 98 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

- 99 Prior to the issue of a Subdivision Certificate, an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site.

The proposed names must be in accordance with Penrith City Council's Street Naming Policy.

Notes:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for advice regarding the application process and applicable fees.
- b) Allow eight (8) weeks for notification, advertising and approval.

- 100 Prior to the issue of the Subdivision Certificate, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council.

The final layer of asphalt on all roads shall not to be placed without the written consent of Penrith City Council (consent will generally be provided when 80% of the housing within the subdivision has been completed).

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 101 Prior to the issue of any Occupation Certificate or a Subdivision Certificate (whichever occurs first), a Maintenance Bond is to be lodged with Penrith City Council for road and drainage works constructed as part of the new link road.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

102 Prior to the issue of a Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:

- a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
- b) The WAE drawings shall clearly indicate the 1% Annual Exceedence Probability flood lines (local and mainstream flooding).
- c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
- d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
- e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
- f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
- g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all residential lots
 - Statement of Compliance
- i) Structural Engineer's construction certification of all structures

103 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

104 Prior to the handover of the assets, Council requires all of the following conditions to be met:

- The WSUD assets / measures are constructed and operate in accordance with the approved design specifications / parameters and any other specific design agreements previously entered into with Council
- The performance of the WSUD measure(s) has been validated, which must include the provision of a Performance Validation Report supporting the performance of the WSUD measure
- Where applicable, the build up of sediment has resulted in no more than a 10% reduction of operational volume
- Asset inspections for defects has been completed and, if any defects are found, rectified to the satisfaction of Council
- The WSUD infrastructure is to the satisfaction of Council, structurally and geotechnically sound (this will require the submission of documents demonstrating that such infrastructure has been certified by suitably qualified persons)
- Design drawings have been supplied in a format acceptable to Council
- Works as Executed (WAE) drawings have been supplied for all infrastructure in a format and level of accuracy acceptable to Council
- Other relevant digital files have been provided (e.g. design drawings, surveys, bathymetry, models etc)
- Landscape designs have been supplied, particularly those detailing the distribution of functional vegetation, i.e. vegetation that plays a role in water quality improvement (clearance certificates from the landscape architect will need to be supplied)
- The condition of the infrastructure associated with the land complies with the approved design specification
- Filter media infiltration rates are within 10% of the rates of the design parameters for the filtration system concerned
- Comprehensive operation and maintenance manuals (including indicative costs) have been provided. The plan should include details on the following
 - i. Site description (area, imperviousness, land use, annual rainfall, topography etc)
 - ii. Site access description
 - iii. Likely pollutant types, sources and estimated loads
 - iv. Locations, types and descriptions of measures proposed
 - v. Operation and maintenance responsibility
 - vi. Inspection methods (including inspection checklists)
 - vii. Maintenance methods (frequency, equipment and personnel requirements);
 - viii. Landscape and weed control requirements
 - ix. Operation and maintenance costs;
 - x. Waste management and disposal options; and
 - xi. Reporting.

105 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

- 106 Handover of assets to Council will not occur until Council is satisfied that they are constructed in with the approved plans, conditions of approval and all certification requirements have been complied with:
1. Vegetated systems (e.g. bioretention measure/s) are required to remain 'on maintenance' for a minimum period of three (3) years or as otherwise approved and a performance-based inspection has been undertaken with Council.
 2. The on-maintenance period for all vegetated systems can be considered as on-maintenance once 90% of dwellings are substantially completed within the development sub-catchment associated with the relevant treatment measure.
 3. Certification is required to be provided for the installation of the filter media to demonstrate that the media complies with the approved specifications. At a minimum compliance is required with the "Guidelines for Soil Filter Media in Bioretention Systems" (Facility for Advancing Water Biofiltration).
 4. Photographs of the construction of the vegetated system are required as part of certification. A minimum of one labelled, date stamped photograph is required to be provided following each of the following construction phases:
 - i. Installation of the overflow pit and bulking out / trimming profiling
 - ii. Installation of under drainage
 - iii. Installation of cleanout points
 - iv. Installation of drainage layer
 - v. Installation of transition layer
 - vi. Installation of filtration media
 - vii. Laying of geofabric protection for build-out phase
 - viii. Laying of turf temporary protection layer
 - ix. Final planting

A licensed surveyor is required to undertake an 'as constructed' survey of the bioretention device elements. The survey data is to demonstrate that design grades and levels have been achieved to the required tolerances. A copy of the survey is required to be lodged as part of the certification.

- 107 (i) All tandem car parking spaces are to be allocated to 3 bedroom apartments only.
(ii) Each residential apartment is to be allocated a minimum of one car parking space within the development.
(iv) All adaptable units are to be allocated with a minimum of one accessible car parking space within the development.
- 108 Subleasing of car parking spaces is not permitted by this Consent.
- 109 All car parking and manoeuvring must be in accordance with AS 2890.1-2004; AS 2890.6-2009. All residential car parking spaces are to be numbered with pavement surface markings, with visitor and accessible spaces clearly marked as such. All car spaces are to be sealed/line-marked and dedicated for the parking of vehicles only and not to be used for storage of materials/products/waste materials/etc.

110 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that plans shall include an indented parking bay for the provision of three (3) drop-off/pick-up parking spaces on the western side of the new link road, south of Union Lane, as shown in SJB Architects plan SK-4004, revision 53, job no: 5754, dated 19 November 2018, with the additional inclusion of one space being a 15-minute parking signposting for the length of one parking bay at this location.

Plans to be provided to Council for approval by the Local Traffic Committee. Please be aware that approval through the Local Traffic Committee will take approximately 8 weeks from the time the above plans are submitted to Council.

111 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the required future Traffic Control Signals footprint (as shown in PTC Traffic Consultants concept design - Drawing No: Int 11B, Project T2-2069, Revision 3, dated 8 August 2018) is not encroached upon by the development.

112 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of approved RMS Type 1 pedestrian fencing at the following locations:

- Approximately 100m of continuous RMS Type 1 pedestrian fencing along the existing central median island on High Street to the immediate west of the existing roundabout linking High Street to the Civic Centre and to the proposed new link road.
- Approximately 160m of continuous RMS Type 1 pedestrian fencing along the existing central median island on High Street to the immediate east of the existing roundabout linking High Street to the Civic Centre and to the proposed new link road.
- On south-western corner of the existing roundabout (linking High Street to the Civic Centre and to the proposed new link road) continuously for no less than a distance of 85m commencing at the southern extremity at a point no less than 12m from the prolongation of the High Street kerb.
- On south-eastern corner of the existing roundabout (linking High Street to the Civic Centre and to the proposed new link road) continuously for no less than a distance of 45m commencing at the southern extremity at a point no less than 12m from the prolongation of the High Street kerb.
- Pedestrian kerb/pram ramps, on the proposed new link road adjacent to the intersection with High Street, are to be set back a minimum distance of 12m from the prolongation of the kerb line.

113 Final plans for signage and linemarking, as well as pedestrian fencing locations, are to be provided to Council for approval by the Local Traffic Committee. Please be aware that approval through the Local Traffic Committee will take approximately 8 weeks from the time the above plans are submitted to Council.

- 114 Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 115 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the design of the new link road incorporates the following requirements:

- The minimum width of the new link road shall be 7m as measured from kerb face to kerb face.
- All paved verge areas located within the proposed road reserve of the new link road shall be a maximum of 2.5% crossfall.
- The kerb inlet pit at the south-west corner of the new link road shall be directly connected into the existing kerb inlet pit within Union Road.
- Drainage of the new link road is to be amended so as the northern section of the road (north of the crest) drains into the existing pit and pipe network in High Street located at the north-west corner of the Stage 1 site. The southern section of the road is to drain into the existing pit and pipe network in Union Road.

Full details are to be submitted with the application for a construction certificate.

Landscaping

- 116 **Prior to the issue of a construction certificate**, the Principal Certifying Authority is to be provided with a copy of the stamped approved landscape and architectural plans. The plans are to have been amended in accordance with the requirements of the Government Architects Office correspondence as referenced in this consent.

All landscape works are to be constructed in accordance with the stamped approved plans Appendix F5, Clause 2.9 of Penrith Council's Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 117 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape architect. Landscaping is to be installed and maintained in accordance with the stamped approved plans.
- 118 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a qualified landscape architect.

(a) Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of any Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

An Occupation Certificate shall not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

(b) Plant Establishment and Maintenance Report

Six months after the issue of any Occupation Certificate, a Plant Establishment and Maintenance Report is to be submitted to Penrith City Council in consultation with the Landscape Architect Supervisor - Design and Projects at Penrith City Council, certifying that the landscape works remain in accordance with the development consent and the plant material is alive and thriving. The report is to be prepared by a qualified Horticulturalist and shall evaluate the success and failure of planter landscaping around the above-ground carpark levels and provide recommendations where necessary to allow the continued health and vitality of the landscaping.

(c) Landscaping Review

A review of the level 1, 2 and 3 landscaping is to be provided to the Manager of Development Services at Penrith City Council, **24 months after the issue of any Occupation Certificate**. The review is to be prepared by a qualified landscaping consultant and is to detail the health and status of all planting and is to provide recommendations if required with regard to the continued success and vitality of the carpark screen planting in particular.

Should the landscaping and planting proposed to screen level 1 and level 2 carpark fails or is unsuccessful such that the design and building façade planting, as approved is not achieved, an alternative landscape species selection or maintenance regime is to be adopted in consultation with Penrith City Council's Landscape Architect.

- 119 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.
- 120 All landscape works are to meet industry best practice and the following relevant Australian Standards:
- AS 4419 Soils for Landscaping and Garden Use,
 - AS 4454 Composts, Soil Conditioners and Mulches, and
 - AS 4373 Pruning of Amenity Trees.
- 121 All street trees are required to be retained and protected throughout construction, in accordance with the minimum tree protection standards prescribed in Part F, Appendix F5 of Penrith Development Control Plan 2014.

- 122 **The Principal Certifying Authority** is to ensure all street trees adjacent the development which have been identified for retention and protection have been retained and are in good health **prior to the issue of any Occupation Certificate**. Where street trees have been damaged or destroyed by construction or site works, the street trees are to be replaced like-for like in consultation with Council, at no cost to Council.

Subdivision

- 123 **Prior to the issue of any Occupation Certificate**, the following land identified on stamped approved plan AR-1-1010 Revision 58 as New Road including 3.8m wide western verge and the eastern verge adjacent the eastern site boundary is to be dedicated free of cost, to Penrith City Council. Upon dedication, the land is vested in Council free of all trusts, obligations, estates, interests, contracts, charges and rates.

- 124 **Prior to the issue of any Occupation Certificate**, the street trees identified on the stamped approved public domain, landscape and architectural plans are to be planted and are to be installed in accordance with Penrith City Council's Development Control Plan 2014 and the applicable provisions of Council's Public Domain Technical Manual.

Before the street trees are planted, approval of the plant species and location of the street trees are to be approved by Penrith City Council (as the relevant Roads Authority). In this regard, please contact Council's Development Services Unit on 4732 7777.

- 125 A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

Development Contributions

- 126 This condition is imposed in accordance with Penrith City Council's Civic Improvements (Contributions) Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,038,450.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The contributions invoice accompanying this consent should accompany the contribution payment. The Contributions Plan for Civic Improvements may be inspected at Council's Civic Centre, 601 High Street, Penrith and is available on Council's website.

- 127 This condition is imposed in accordance with Penrith City Council's Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$75,847.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The contributions invoice accompanying this consent should accompany the contribution payment. The Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith and is available on Council's website.

- 128 This condition is imposed in accordance with Penrith City Council's Contributions Plan for District open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$735,284.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The contributions invoice accompanying this consent should accompany the contribution payment. The Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith and is available on Council's website.

Payment of Fees

- 129 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.

Certification

- 130 A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.
- 131 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 132 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

A revised Waste Management Plan prepared by Waste Audit, dated November 2018 was submitted during the assessment of the application. The Plan was submitted in response to matters raised with regard to compliance with Council's DCP objectives and controls. The waste management plan is considered to be generally acceptable and architectural layouts have been amended to incorporate movement of waste to the basement and ground floor via dual waste chutes to linear carousels and a goods lift was added to assist in separating waste manoeuvring from the residential lifts.

The proposal is generally acceptable having regard to the provisions of Section C5 of the DCP. However, the ground floor layout of the commercial and residential waste areas are assessed as being too small in area to enable adequate manoeuvring of the full fleet of bins at collection times. A condition of consent is recommended to require that the ground floor layout be amended and re-submitted to Council for approval, prior to the issue of a Construction Certificate. This will also enable discussions related to accommodating Council's future smaller waste fleet vehicles (which are currently being secured by Council) which may result in space saving amendments in the waste collection area.

Waste generation for ground floor uses has been calculated using a mix of retail and commercial uses and indicates that 14 x 1100l bins will be required per week for all waste streams. As detailed in the table below, a total of 12 x 1100l bins are proposed to be located within the commercial waste storage area and in this respect, the minimum collection for the commercial waste would need to be twice per week to ensure adequate waste storage is accommodated (although collection may occur more often). Waste collection associated with the commercial and retail tenancies will be subject to arrangements between the tenancies/building management and private waste contractors and is acceptable.

To ensure that Council's residential waste collection service is not interrupted by the use of the shared collection area by private waste contractors, delivery and removalist vehicles and the like, a condition of consent is recommended to require that the waste collection area and turntable are kept clear during the Council residential collection times. Further, a bin wash area is provided in the ground floor and basement chute rooms therefore, no bin wash area is required to be provided within the turn table area. Provision of a bin wash area in this location is also impractical. A condition of consent is recommended to require this to be deleted from the plans.

An assessment of the waste management proposal and generation rates has been undertaken and is included within the table below. Calculations indicate that waste generated by the development is able to be accommodated on the site.

Waste Generation Rates - DCP Compliance Table

Use	Rate – Residual (per day)	Rate –Recycling (per day)	Required (per week)	Proposed
Commercial/Office 758sqm	50l/100sqm	50l/100sqm	5 x 1100l residual 5 x 1100l recyc.	12 x 1100l total
Retail/Business/Café 317sqm	100l/100sqm	100l/100sqm	2 x 1100l residual 2 x 1100l recyc.	

			Total 14 x 1100l	Total 12 x 1100l
	Rate – Residual (per week)	Rate – Recycling (per week)		
Residential 187 Units	18 units/1100l bin = 11 x 1100l Bins	18 units/1100l bin = 11 x 1100l Bins	22 x 1100l	22 x 1100l
Service Bins	4 (1 x 1100l bin under each stream at base of each chute)		4 x 1100l	4 x 1100l
Bulky waste - 28.8sqm room for waste storage	-	-	-	29sqm

The proposal includes dual waste chutes and bulky item storage for each floor of each building, linear carousels at ground and basement, a goods lift from basement to ground floor and adequate area for bulky waste, tug device and service bin storage, compliant with the requirements of the Penrith DCP. Two bin wash areas are provided (one for each building) and waste areas are adequately screened from view and are integrated into the design of the building.

As the discussed above, due to the inadequate area provided for waste manoeuvring at ground floor and due to the amendments of the ground floor arrangement required to satisfy other recommended conditions, a condition of consent is recommended to require that the design of the waste area at ground floor be submitted to, and approved by Council prior to the issue of a Construction Certificate.

C8 Public Domain

The development proposal includes public domain works such as paving, landscaping, lighting, street tree planting, on-street parking, drainage, water sensitive urban design (WSUD) elements and construction and dedication of a new road spanning north-south between Union Road and High Street. Public-private areas such as a covered colonnade around sections of the site and a covered arcade through the centre of the site providing an east-west pedestrian connection from John Tipping Grove through to the new road, adjacent to Union Lane are also proposed. An assessment of these components of the proposal is included below.

Clause 8.1 Pedestrian Amenity

Controls of the clause include that arcades and through site links be a minimum of 4m in width for the full length. Arcade controls also require that arcades be publically accessible thoroughfares for pedestrians during business/trading hours, that they have active frontages on either side for their full length, have access to natural light for at least 30% of the length and where enclosed, have clear glazed entry doors to 50% of the entrance and where security gates are in operation be design to be visually permeable.

The arcade is not compliant with the DCP requirement to have active frontages on either side of its full length and is not a minimum of 4m in width. It is accepted due to the location of the arcade, that it may be adequately activated by the adjacent commercial tenancy and cannot reasonably be activated along the two sides. The arcade is otherwise appropriately located and can provide accessible access through the site and to the colonnade to the north. Subject to the following recommended conditions, the arcade is acceptable:

- To allow for adaption over time and ensure an activated pedestrian link, a minimum of three doorways/entry points are to be provided along the commercial glazing providing access to the arcade.

- Glazing fronting the arcade must not be obscured or otherwise covered and must be clear glazing for a minimum of 50% of the frontage of each tenancy along the arcade,
- Plans are to be amended such that the arcade/pedestrian link is a minimum of 4m wide for its entire length,
- Doors to the arcade are to be clear glazing and are to be open from 7am to 9pm daily (minimum).
- The arcade is to be provided with lighting 24 hours and provided with CCTV cameras.

Clause 8.1(C)(3) states that awnings are to be a minimum of 2.8m where street trees are not required, otherwise a minimum depth of 2.4m and are to have a soffit height of 3.2m minimum. As the final location and species of street trees along the High Street and John Tipping Grove frontages is not known, conditions of consent are recommended to require that the final details of awning width and height and street tree location and species are to be submitted to, and approved by Council prior to the issue of a Construction Certificate.

Clause 8.3 Lighting

Lighting is required to be provided along all new roads, within areas of public domain and at the entrances to buildings. Conditions of consent are recommended with regard to the submission of a public domain set of documentation which includes details of lighting including street lighting.

Clause 8.5 Public Art

The DCP requires that large development with an estimated cost of greater than \$5 million include place making and public art as an integrated approach for public spaces/domain. As the development includes significant public domain works and the works exceed \$30 million in value, a condition of consent is recommended to require the inclusion of public art as part of the details required to be submitted on the public domain plans and the submission of a Place making and Public Art Strategy in accordance with the requirements of the controls of this clause of the DCP. In addition, the DIP has requested details of public art incorporated into the development within their endorsement letter and request for design amendments.

C10 Transport Access and Parking

Clause 10.4 Roads

The DCP requires that all roads must comply with the road configurations set out in Table C10.1 and are applicable to private, community and public roads. The proposed road is identified as being a local road and in this respect, the roadway is to be a minimum of 18.6m (two way) in width overall and is to provide for 2 x 2.5m wide on street parking lanes, 2 x 3m travel lanes and 2 x 3.8m verge width each side.

Although the proposal is for less than the 18.6m wide roadway required by the DCP, clause 10.4(B)(1)(b) states that in special circumstances where it can be clearly demonstrated that the road configurations are not appropriate, then consideration is to be given to provision of two way movement for all vehicle types, verge widths and their ability to accommodate utilities, landscaping and footpaths, provision of on-street parking, turning paths, drainage and life cycle costs.

The proposal for two 3.5m wide lanes south of Union Lane and two 3.3m wide lanes north of Union Lane and one 3.8m wide verge along the western side of the new road is considered to be acceptable by Council's engineers, having regard to the context of the site. It is noted that the verge width is reduced significantly by the proposal to locate on street parking within the verge area at the southern end of the new road, however this is acceptable adjacent to the service areas of Building 1 and will assist in the provision of off street parking in the area.

A condition of consent is recommended to require that one of the three spaces be time limited to be a 15min delivery/pick-up point in support of residential and commercial uses proposed within the area. As not other permanent parking is provided by the development, contrary to the requirements of the DCP, a

condition of consent is also recommended to require the provision of temporary parking along the eastern side of the new road, north of Union Lane and the installation of a landscaped blister in place of the temporary concrete barrier.

Clause 10.5 Parking, Access and Driveways

The DCP requires under clause 10.5.1(C)(1)(d) that for commercial developments providing employment for 20 people or more, bicycle parking is to be provided in secure and accessible locations and supportive change and shower facilities for cyclists are to be provided. The proposal includes end of trip facilities adjacent to the eastern elevation and includes secure parking for two bicycles, two change rooms and a shared WC/shower room. The facilities are not fully detailed and have not considered user comfort or safety. In this respect, a condition of consent is recommended to require details of the end of trip facilities to be submitted for approval, addressing matters relating to user amenity, security and opportunities for passive surveillance to be increased.

A condition of consent is also recommended to require that commercial bicycle parking be provided in compliance with the recommended rates within the NSW Government's Planning guidelines for walking and cycling document as required in Table C10.2 Car Parking Rates of the DCP.

Clause 10.5.1 Parking

Objectives of the section include to:

- (a) Ensure the provision of an appropriate number of vehicular spaces having regard to the activities present and proposed on the land, the nature of the locality and the intensity of the use,*
- (b) To reduce pedestrian and vehicle conflicts,*
- (c) to facilitate an appropriate level of on-site parking provision to cater for a mix of development types,*
- (d) To minimise the visual impact of on-site parking,*
- (e) To provide adequate space for manoeuvring of vehicles including service vehicles and bikes,*
- (f) To enable the conversion of above ground parking to other future uses, and*
- (g) To support the complementary use and benefit of public transport and non-motorised modes of transport such as bicycles and walking.*

As detailed below under the applicable clause headings, the development is considered to be acceptable having regard to the objectives of this section of the DCP.

The proposed development was the subject of a Design Integrity Review overseen by the Design Excellence Competition Jury. In letter dated 13 February 2019, the Panel members endorsed the amended development proposal subject to design amendments and additional information being provided (as listed in the correspondence).

Subject to these amendments being undertaken, the design of the podium levels is considered to be generally acceptable. Although the podium parking is not sleeved by commercial tenancies or the like, the design of the podium car parking fronting High Street (as will be amended) will have the appearance of upper level commercial as it presents to High Street. Podium parking fronting Union Road to the south, John Tipping Grove to the west and with frontage to the proposed new road to the east is architecturally treated by the use of either planter boxes, solid spandrels or screened (louvres) openings and has been endorsed by the Design Integrity Review panel members as being an acceptable response.

Clause 10.5.1 C Controls (1)(b) requires on-site car parking to be provided in accordance with Table C10.2 Car Parking Rates. As per Table C10.2, the following parking is required to be provided :

Rate	Proposed	Complies
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<u>Residential spaces</u> 1 space per 1 bed unit 1 spaces per 2 bed unit 2 spaces per 3 bed unit 63 x 1 bed = 63 spaces 103 x 2 bed = 103 spaces 21 x 3 bed = 42 Total required = 208	207 Including – 18 Accessible 15 Tandem	Yes.
<u>Visitor</u> 1 space per 5 dwellings $187/5 = 37$	37 Including – 1 accessible	Yes.
<u>Service space</u> 1space per 40 units $187/40 = 4.6$	2 x Shared service/visitor space.	No. Refer discussion below.
<u>Accessible</u> 10% of residential required	18 x Accessible residential 1 x Accessible commercial 1 x Accessible visitor	Yes.
<u>Car wash</u> 1 space per 50 units (max. of 4) = 3.74 (4)	1	No. Refer discussion below.

Table C10.2 Car Parking Rates of the DCP stipulates that for sites within the City Centre, a maximum of 60% of the total number of commercial car parking spaces required by the development, other than service vehicles, car wash bays and parking spaces allocated as accessible spaces are to be provided on site. The balance of the total required number of spaces not provided on the site is then subject to a contribution under the Civic Improvements (development contributions) Plan [CIP] or may be set out within a planning agreement.

As no planning agreement has been entered into, car parking contributions will be calculated based on the maximum 60% provided on site, less any credit for existing spaces. A condition of consent is recommended in this regard.

The proposal for built to boundary podium car parking at levels 1 and 2 does not comply with the DCP requirements under clause 10.5.1(C)(2)(a) which restricts above ground parking to 25% of the required spaces provided where it is at least 16m behind the building alignment fronting the street. The DCP also states that this car parking provision will count toward FSR. The site is identified as being subject to the Possible Maximum Flood (PMF) event and it is proposed that the non-compliance with the above provisions relates to this flood affectation and provides flood resilience. All levels with the exception of ground floor are above the PMF level which is identified as being at RL31.3m AHD.

Clause 10.5.1(C)(3)(a) states that residential parking for mixed use developments is to be accommodated wholly within the basement unless the applicant can demonstrate that the site's unique conditions prevent the parking from being located within the basement.

The applicant identifies that in addition to the site being effected by the PMF, a second basement would sit below the ground water table and would also require the relocating of existing infrastructure (being a mains sewer line). The submitted geotechnical report identifies that the site's basement may be impacted by the level of the ground water table.

Whilst the proposal for built to boundary podium car parking is not preferred the design has been the subject of a review by the NSW Government Architect's Office Design Integrity Panel, who have specifically requested amendments to the design as it presents to High Street and have, subject to these being incorporated endorsed the design as having achieved design excellence. Conditions of consent are recommended to require compliance with the DRP's recommended design change and to allow a minimum 2.8m finished floor to underside of ceiling height to podium levels 1 and 2, to enable future commercial adaption (in accordance with the requirements of clause 10.5.1 of the DCP).

To ensure impacts of lighting and noise from above ground parking conditions

The car parking and vehicle access and manoeuvring arrangements proposed as part of the development proposal are assessed as being capable of complying with the applicable Australian Standards, subject to standard conditions of consents and non-compliance with above ground car parking controls are acceptable for the above reasoning.

D2 Residential Development

The development proposal has been assessed against the relevant provisions of the DCP. Minor non-compliance with regard to setbacks and building separation distance are identified however, these are not considered to apply to the development given its scale, city centre location and as the development mix used rather than pure residential. Refer to discussions under Penrith DCP - Section E11, State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Buildings and assessment under the Apartment Design Guide.

E11 Penrith

The development proposal has been assessed against the applicable provisions of the section and is found to be compliant with the key objectives and controls. Discussion with regard to particular objectives and controls is provided below.

11.1 Preliminary

The subject site is identified as being within the Penrith City Centre on Figure E11.1 and as such section E11 of the DCP applies.

Aims of the section include to contribute to the growth and character of Penrith, deliver balanced social, economic and environmental outcomes, protect and enhance the public domain and to promote high quality urban design and environmental sustainability in the planning, development and management of the City Centre. General objectives also include to encourage development within the Penrith City Centre that gives primacy to the public domain and creates an attractive and vibrant centre and to ensure that development in the City Centre is consistent with the desired future character of each City Centre precinct.

11.1.3 Penrith City Centre Precincts and Character Areas

There are 8 precincts in the City Centre, each with their own distinct characteristics. The subject site is identified as being within the City West (mixed use) Precinct. This precinct comprises the southern side of High Street, between Worth Street and the intersection to Mulgoa Road. The area is identified as being currently underdeveloped, with a number of apartment buildings having been approved behind High Street along Union Road.

The area is identified for redevelopment facilitating a high density residential precinct that will complement and bring additional activity to the adjoining civic and cultural precinct (including the Joan Sutherland Performing Arts Centre and the Penrith Civic Centre and Library and Westfield building). It is noted that the area currently has largely unobstructed views of the Blue Mountains toward the west and

that redevelopment of the area will interrupt these views, although it is acknowledged that glimpses of the mountains will be retained due to the east-west orientation of Union Road and High Street and by the built form of future buildings.

This clause of the DCP highlights that there are opportunities to locate an urban space in this precinct that affords an "eat street" environment with connection to the adjoining civic and cultural precinct.

11.2 Building Form

The development provisions of this clause are identified as being intended to encourage high quality design for buildings in the Penrith City Centre, resulting in a balance between contemporary innovation and creativity and acknowledging the local and essential character of Penrith. The clause identifies that the built forms are to contribute to an attractive public domain in central Penrith.

The form of the development is not contrary to the aims above. Ground floor uses and layouts will enable an acceptable level of connectivity and will allow adaption over time, subject to the recommended conditions including those related to increasing floor to ceiling heights at the Podium level 1 carpark (to facilitate future conversion to commercial) and relocating glazing along the High Street frontage of the site to facilitate user connectivity and adaption overtime.

11.2.1 Introduction

The controls of the section aim to:

- Establish the scale, form and separation of buildings,
- Achieve an attractive and sustainable city,
- Provide strong definition of the public domain with good connections between buildings and the street,
- Ensure consistency with regard to frontages and accessibility and pedestrian comfort,
- Encourage mixed use development with residential components that activate street fronts and maintain good amenity, and
- Provide high quality landscaping, articulation and building finishes.

The development as proposed and subject to the recommended conditions (including those related to the Competition Jury's required design amendments) is considered to comply with the above mentioned aims and objectives. The pedestrian scale at the street level is addressed and materials and finishes are considered high quality. It is recommended that the glazing along High Street be pushed back from the street front to allow circulation around the building under the colonnade and contribute to pedestrian connectivity and the adaptability of tenancies within the development.

11.2.2 Building to Street Alignments and Street Setbacks

Controls of the section related to building form and boundary interface. Figure E11.3 identifies that the site's frontage to High Street is subject to a built to boundary street alignment control and that the site's frontage to Union Road is subject to a 2-3m average front setback. A 0m built to boundary street alignment is proposed to High Street and a 4m setback is proposed to Union Road to the building line which complies with the controls of the clause. Submitted perspectives and view analysis diagram indicate that the separation of the two residential building towers will maintain particular views toward west and the Blue Mountains in accordance with the DCP control at 11.2.2(C)(5).

11.2.3 Street Frontage Heights

The proposed development complies with objectives of the control related to appropriate built form transition, view sharing toward the Blue Mountains and maintaining and providing comfortable, sustainable and high amenity pedestrian zones and public spaces.

The proposal complies with the relevant street frontage heights identified for the site in the DCP to High Street and Union Road. Non-compliance exists with regard to maximum heights and upper level setbacks

although these are considered acceptable having regard to the context of the site and also with regard to the possible maximum density available on the site to the west (known as Stage 2) of up to 6:1 and that of the site to the immediate east under the key sites provision within PLEP.

11.2.4 Building Depth and Bulk

Objectives of the clause are identified as including:

- To promote design and development of sustainable buildings,
- To achieve good internal amenity and minimise the need for artificial heating, cooling and lighting,
- To have usable and pleasant streets and public domain at ground level and to achieve a city skyline sympathetic to the topography and context of the site, and
- To reduce the apparent bulk and scale of buildings through modulating form.

The development proposal is assessed to be acceptable having regard to the above objectives. The width of building 2 is noted as being 33m in length and the western elevation is less articulated in plan (the west elevation is planar in elevation and not stepped vertically), than other elevations however, was assessed as having an appropriate form by the Design Integrity Panel in their recent review of the amended development proposal.

Notwithstanding the above, the development does not comply with the DCP control under 11.2.4(C)(4) in that the DCP requires, for mixed use buildings, that residential uses above 20m in height are to have a maximum floor plate of 750sqm and a maximum depth of 18m. The proposal is for a building depth for buildings 1 and 2 of 32.5m and 24m respectively and for floor plates greater than 750sqm's. Building 2 fronting High Street is modulated in plan to assist in breaking up bulk and submitted calculations indicate acceptable levels of solar access to apartments and with regard to natural cross flow ventilation.

11.2.5 Boundary Setbacks and Building Separation

The development proposal is considered to be acceptable having regard to the applicable boundary setbacks and building separation distances. Refer also to discussion and compliance table under PLEP clause 8.5.

11.2.6 Mixed Use Buildings

The proposal for a floor to ceiling (finished floor to underside of ceiling) height of 3.1m does not comply with the DCP requirement to provide a minimum of 3.3m. To ensure that the development could facilitate the conversion of Podium 1 car parking area (or part thereof) into commercial floor space and adapt to change overtime, a condition is recommended to require that a 3.3m floor to ceiling height is provided.

The development proposal has been modified to indicate that business uses are provided with frontage to High Street and that the majority of ground floor is activated and blank walls are minimised. Notwithstanding the above, a condition of consent is recommended to require that ground floor glazing is not to be fitted with shutters, frosting, excessive advertising, stickering or decals, security rollers or grills or the like.

11.2.7 Site Cover and Deep Soil Zones

The DCP identifies that the site may have 100% site cover and 0% deep soil. Landscaping is proposed at the residential level 3 and along the street front in planters. Planters are also proposed within boxes along the podium carpark elevations.

11.2.8 Landscape Design

Controls of the section include that:

- Commercial and retail developments are to incorporate planting into accessible outdoor spaces, and that
- A long-term landscape concept plan must be provided for all landscaped areas and the plan must

outline how landscaping areas are to be maintained for the life of the development.

A condition of consent is recommended requiring submission of detailed plans and documents which outline works proposed in areas of the public domain adjacent to the site and with regard to the submission of landscape maintenance plans.

11.3 Pedestrian Amenity

Objectives of this section are aimed at encouraging future through site links, ensuring awnings are provided to retail and pedestrianised areas, provision of activated street frontages and mitigating negative impacts on views, pedestrian safety and impacts related to advertising and signage.

11.3.1 Permeability

Controls of the section include to provide through links and connections as identified within Figure E11.18 and to extend existing dead end lanes through to the next street. The proposal complies with the above Figure in that a new north-south roadway is proposed to be constructed and dedicated and includes the proposal to extend the existing dead end lane (Union Lane) so as to link with the new roadway. A pedestrian through site link is also provided east-west through the centre of the development at ground floor. It is noted that gates are proposed on the submitted plans. To ensure that the link is open to the public and provides a connection through to Union Lane, a condition of consent is recommended to require that the link be open daily between 6am and 10pm and that CCTV cameras and lighting are provided.

It is noted that the link is proposed to be less than 4m in width and does not have active frontages on both sides for its full length, plans do not detail the material proposed for the security gates. A condition of consent is recommended to require the security gates to be clear glass/glazing so as to allow views through the link.

11.3.2 Active Street Frontages and Address

The subject development proposes a mixture of commercial and business uses at ground floor. The DCP defines active frontages as one of or a combination of street level retail, shop fronts, glazed entries to commercial and residential lobbies, receptions and entries to public buildings and in this respect the proposal for business uses fronting High Street and commercial uses elsewhere is acceptable.

The DCP states that active frontages are to be at ground floor and are to be at the same level of the adjoining footpath and be directly accessible to the street.

Matters related to the finished floor levels and uses of the ground floor of the development were discussed with the applicant who has amended plans to open up the colonnade along the new north-south roadway by pushing back the glazing and lower the finished floor level by 0.300m. Although the finished floor levels of the development are not at the same level of the pavement adjacent, Council's engineers have confirmed that this is the lowest level the building can be designed to in order to allow adequate drainage for the new road adjacent. The level differences between the FFL of the tenancies fronting High Street and the High Street pavement will vary between 0.630m (at the corner with John Tipping Grove) and 0.450m and will be between 0.450m at the corner of High Street and the new road and 0m, at the entry to the through site link.

The difference in floor levels are acceptable along the new road as the glazing to shop fronts is pushed back to allow pedestrian circulation under the colonnade, level with the FFL of the tenancies and because the differences in levels between the public and private domain are minimal. A similar public/private interface is not provided along the High Street elevation. The level differences between the street and the shops is not conducive to an activated frontage and combined with the proposal for planters along this frontage, will limit future access points, adaptability and restrict pedestrian

accessibility and circulation in conflict with the aims, objectives and controls of the DCP clause. In this regard, a condition is recommended to require that the High Street glazing be relocated a minimum of 2.5m back from the rear face of the colonnade to allow pedestrian circulation under the colonnade at the FFL of the shops.

11.3.3 Awnings

The development proposal is considered to comply with the applicable awning controls, aims and objectives. Conditions of consent are recommended with regard to awning material, street tree locations and maximum height of under awning above the public pavement and to restrict the placement of signage on the awning fascia and above the awning.

11.3.6 Building Exteriors

The proposal is considered to generally comply with the applicable building exterior controls, aims and objectives outlined within the DCP. Balconies are provided for each unit with well articulated facades addressing the street to create visual interest. External walls are proposed to be constructed of high quality and durable materials and finishes. Glazing and other highly reflective finishes are only proposed on the ground floor with a condition of consent recommended to require the High Street glazing be relocated a minimum of 2.5m back from the rear face of the colonnade.

11.4 Access, Parking and Servicing

The proposed development is consistent with the access, parking and servicing controls outlined in the DCP. The proposal allows for safe and accessibility to buildings for all people regardless of age and physical condition whilst also contributing to the public domain interface. The proposal allows for podium level and basement car parking with site services and facilities integrated into the design.

11.6 Controls for residential Development

The development generally complies with the provisions outlined in *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development* (SEPP 65) as previously discussed within this report. A mix of dwelling types and sizes are proposed that have the ability to meet the changing needs of residents over time. A minimum of eighteen (18) adaptable units and associated parking is provided.

11.7.1.1 Precinct 1

The proposal is identified to be located in Precinct 1 which is the area generally bounded by High Street, Mulgoa Road and Union Road. The development complies with the design principles and outcomes outlined in the DCP through the provision of a new road connecting Union Road and High Street and active street frontages which integrates with the public domain interface.