



20 June 2018

Ms Kathryn Saunders
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Dear Kathryn,

DA18/0264 | RESPONSE TO PRELIMINARY ASSESSMENT

We write in response to Council letters dated 12 April 2018 and 22 May 2018 regarding the preliminary assessment of DA18/0264. This letter provides a response to the matters raised by the Council and is accompanied by revised Architectural Plans prepared by SJB Architects (**Attachment 1**), and additional information to support the proposed development (**Attachments 2 – 18**).

1. AMENDMENT OF DEVELOPMENT APPLICATION

As a result of further refinements to the development and in response to requests for information by the Council, we seek to formally amend the proposed development pursuant to section 55 of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**), as illustrated in the revised Architectural Plans at **Attachment 1**. In summary the proposed changes to the development are:

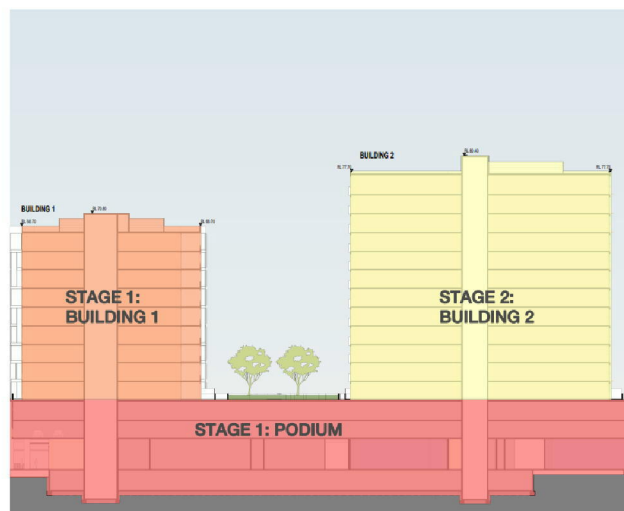
- Revision to the proposed location and alignment of a new road on the site to provide a two-lane road with north and south bound traffic movements as both the interim and final road design on the site that can be readily augmented to a future signalised intersection with High Street.
- Revision of the geometry of the podium, landscape plans, and civil documentation to respond to the revised location and alignment of the new road on the site.
- Change of land use of the ground floor tenancies from retail to commercial and business premises.
- Inclusion of additional end of trip facilities within the ground floor plan for commercial tenants.
- Reduction in car parking spaces within the basement and ground floor to reflect changes in ground floor tenancy commercial classification.
- Revision to the layout of residential storage within car parking areas.
- Revision in waste management methodology, including introduction of a turntable within the ground floor of the development and provision of separate service vehicle entry.
- Rationalisation of the number of service vehicle spaces and car wash spaces.
- Minor changes to the location of skylights and bay windows within apartments.

- Confirm the intention that the proposed development will be constructed in stages, with a requirement for an Occupation Certificate to be issued for the podium, public domain works, and Building 1, prior to the completion of Building 2. The proposed 'staging' for the development is illustrated in the plans included at **Attachment 1**, and as extracted at **Figure 1** below.

Figure 1 – Development Staging Plan



Picture 1 – Development Staging Plan Extract



Picture 2 – Development Staging Section Extract

Source: SJB

We seek Council's agreement to the amendment of the development application (**DA**) under clause 55 of the Regulation and request that assessment of the DA is based on the documents attached to this letter. The revised documentation appended to this letter that formally amends the DA are as follows:

- Attachment 1 – Revised Architectural Plans and SEPP 65 Assessment
- Attachment 2 – Revised Civil Plans
- Attachment 3 – Revised Landscape Plans
- Attachment 4 – View Analysis
- Attachment 5 – PTC Revised Traffic and Parking Assessment
- Attachment 6 – Waste Management Response
- Attachment 7 – Detailed Site Investigation and Additional Contamination Assessment
- Attachment 8 – Revised Stormwater Management Plan and MUSIC Model
- Attachment 9 – Revised BASIX Certificate
- Attachment 10 – Signage Strategy

- Attachment 11 – Department of Planning letter regarding flooding
- Attachment 12 – Revised BCA Statement
- Attachment 13 – Revised Accessibility Statement
- Attachment 14 – Design Excellence Statement
- Attachment 15 – Revised Infrastructure Services Report
- Attachment 16 – Revised Clause 4.6 Variation Request
- Attachment 17 – Perspectives and Reference Images for Pedestrian Link
- Attachment 18 – Revised Fire Engineering Statement

The following table summarises numeric details of the amended application.

Table 1 –Overview of Revised Proposal

Parameter	Proposed
Land Use	<i>'Shop top housing' and 'Retail premises'</i>
Maximum Height	53.1 m (based on RL 80.4m and existing ground of RL 27.3m)
Floor Space Ratio	Total GFA: 17,784.5sqm, including 1,144sqm commercial GFA Site Area: 5,402sqm Total FSR: 3.29:1
Dwelling mix	187 apartments comprising: <ul style="list-style-type: none"> • 63 one-bedroom units (34%) • 103 two-bedroom units (55%) • 21 three-bedroom units (11%)
Communal open space	943sqm and a 95sqm communal room
Car Parking	<ul style="list-style-type: none"> • 208 residential car parking spaces • 38 residential visitor spaces • 6 commercial spaces • 4 service vehicle spaces (with 3 dual function spaces) • 3 car wash spaces

The proposed changes do not increase the impact of the proposal and comprise only minor amendments. As such, it is considered that the revised plans may not need to be re-exhibited, however it may be appropriate for existing submitters to be notified of the amendments to the proposed design.

2. RESPONSE TO COUNCIL RFI

The following section provides a response to each of the Council's requests for additional information.

2.1. FLOOR SPACE RATIO

Council sought clarification of the calculation of gross floor area (**GFA**) as it applies to above ground car parking. Above ground car parking hasn't been included in the total calculation of GFA and floor space ratio (**FSR**) for the following reasons:

- The application complies with the total quantum of car parking spaces required to be provided as outlined in Table C10.2: Car Parking Rates in the Penrith Development Control Plan 2014 (**the DCP**). The car parking requirement is not expressed as a maximum or minimum rate in the DCP, and rather clause 10.5.1(1)(b) states that for any proposed development Council will require the provision of on-site car parking to a standard appropriate to the intensity of the proposed development as set out in Table C10.2 of the DCP. The application satisfies this DCP requirement for the reasons outlined below.
- Within *Penrith Local Environmental Plan 2010 (the LEP)*, the definition of GFA specifically excludes "car parking to meet any requirements of the consent authority (including access to that carparking)". When applying this definition to DAs, any car parking provided in a development above specified maximum car parking numbers required by Council would be calculated as GFA.
- The proposed provision of on-site car parking meets but does not exceed the requirements of the consent authority such that all spaces are correctly excluded from GFA, pursuant to the LEP definition.

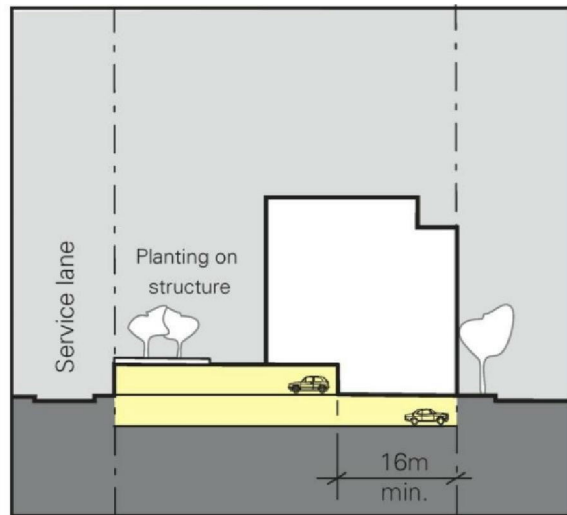
In addition to the above, it is noted that the DCP provides additional guidelines for the *design* of car parking spaces proposed within a development. The DCP design guidelines do not amend the ultimate requirements of the Council to provide a certain number of on-site car parking to a standard appropriate to the intensity of development proposed.

In terms of the design of the above ground car parking spaces proposed, we note that the specific site constraints associated with flooding and ground water conditions inherently requires additional above ground car parking than would otherwise be desired. This design constraint is acknowledged within the planning controls as follows:

- The Penrith City Centre specific section of the DCP (section E11), recognises that the provision of above ground car parking is necessary to respond to both the need for potential flood mitigation and the high-water table evident on some sites (section 11.4.2 of the DCP). As the site is affected by a high-water table and potential flood impacts, basement car parking is limited to only one level consistent with the expectations of section 11.4.2 of the DCP.
- Section 11.4.2 of the DCP makes reference to Figures E11.22 and E11.23 of the DCP as "additional options for car parking at Penrith City Centre". These options illustrate acceptable car parking configurations where more than 25% of car parking is provided above ground. One of these options is extracted at **Figure 2** below, which illustrates a similar interface with a service road and planting on structure above car parking as proposed in the DA.

Figure 2 – Extract of Penrith Development Control Plan 2014 Section 11.4.2

Figure E11.23: Above ground parking may be located adjacent to a lane, as illustrated above, with appropriate screening to reduce the impact on the public domain.



Source: Penrith City Council DCP

- Within the broader Transport, Access and Parking Section of the DCP, it is noted that for residential developments, car parking should be accommodated wholly within a basement parking area unless the applicant can demonstrate that the site's unique conditions prevent the parking from being located in a basement structure. As stated above, the site does not accommodate more than one level of basement car parking due to the high-water table, soil conditions, and potential flooding impacts. As such, the proposal is consistent with the direction of the DCP.
- Further as confirmed in the letter dated 20 December 2017 (**Attachment 11**) the Department of Planning and Environment has noted the site-specific constraints associated with development on the site that necessitates additional design consideration below the Probable Maximum Flood (PMF). Accordingly, the direction is to reduce provision of basement car parking and ground floor habitable rooms in development on properties such as the subject site. Inherently this triggers a requirement for the provision of above ground parking to ensure that safe and accessible parking is provided within the development.

While this section demonstrates that the proposed car parking is not to be calculated as GFA, and that site-specific constraints trigger a requirement for above ground car parking, it is acknowledged that within the broader Transport, Access and Parking Section of the DCP, clause 10.5.1(2)(a) states that up to 25% of the required parking can be provided above ground within development in the mixed-use zone.

The proposed development does not comply with this DCP provision as more than 25% of the required parking is to be provided above ground. However, this is considered acceptable in the circumstances of the site as:

- Providing basement car parking below one basement level is not feasible on the site due to the high-water table, soil conditions, and potential flooding impacts.
- At ground level to the closure of John Tipping Grove, to High Street and Union Road, the proposed ground floor is predominantly screened by active uses.
- Above ground level the car parking on the podium is screened architecturally so that it does not read as a 'car park' from ground level and to ensure a positive interface with the public domain. This matter was considered in detail in the design development with the Design Competition Jury prior to the finalisation of the scheme.
- Sleeving the car park to the north was not considered a good outcome by Council staff and the Design Competition Jury for the site as it disconnected this floor space (whether use as a communal room or apartments) from the remainder of the site.
- Due to the restricted width of the site through the delivery of a new road on the eastern portion of the site, greater sleeving on the western and eastern facades is not practical nor feasible.

Further, in our experience of working with this DCP control on another site in Penrith Local Government Area (DA17/0334), we understand that this control was not intended to restrict a compliant car parking provision from being delivered above ground where site characteristics necessitated it. In this instance the above ground car parking, which was more than 25% of the total car parking delivered on site, was not counted towards the calculation of GFA.

The *Environmental Planning and Assessment Amendment Act 2012 (Act)* clarified the purpose and status of DCPs, being to 'provide guidance' to proponents and Councils in achieves land use zone objectives and facilitating permissible development under an environmental planning instrument. Furthermore, to assist in the assessment of DAs, the Act states that where a proposal does not comply with DCP controls, the consent authority is to be 'flexible in applying those provisions' and allow for 'reasonable alternative solutions' that achieve the objectives of those standards for dealing with that aspect of the development. In our view the SEE, DA, and this response letter provides appropriate justification to allow the Council and the consent authority to approve a reasonable alternative solution to the DCP requirement for up to 25% of the car parking to be provided above ground.

Further, as outlined in the SEE, the clause 4.6 variation to the maximum height of building standard and this letter, the building scale and form proposed in the DA is compatible with the current and future desired character of the area notwithstanding the provision of above ground car parking.

As such it is our view that car parking proposed above ground that complies with the total required car parking numbers outlined in Table C10.2 of the DCP should not be counted as GFA for the purposes of calculating FSR under the LEP.

2.2. HEIGHT AND DESIGN EXCELLENCE

Council has sought more detail regarding the proposed maximum building height of the proposed development and the achievement of design excellence on the site. Each of these specific points are addressed in the following section.

It is not determined by Council that a better planning outcome has been achieved by the development.

Response: The clause 4.6 variation request to the height of building development standard demonstrates that a better planning outcome is achieved by the development rather than a scheme that complies with the maximum height of building standard. A better planning outcome is achieved as follows:

- The departure to the maximum height of building development standard arises due to the need to reduce the ground level floor plate of the building so as to enable the delivery of a desired new public road through the site. The new public road facilitates improved north-south vehicular connections from High Street to Union Road and provides additional vehicular and pedestrian access from Union Lane. The provision of this new road along with a development that achieves the objectives of the planning proposal is not achievable without a variation to the building height and massing described in detail in clause 4.6 variation submitted with the application.
- By allowing a departure to the maximum height of building development standard, the visual impact of the proposal is mitigated through the provision of direct visual connections from High Street to Union Road, reduced scale of the podium including reduced street frontage heights, and slim line tower forms. Without the departure to the height of building standard, the building would be characterised as a courtyard or podium building, rather than a podium and tower form which inherently results in additional bulk and scale at the lower, pedestrian-scale levels of the development.
- As demonstrated through additional shadow modelling, notwithstanding the non-compliance to the height of building standard, the proposed development has less of an overshadowing impact to the immediately adjacent property to the east than a scheme that complies with the height control (with a commensurate FSR).
- By allowing a departure to the current maximum height of building development standard, the proposed development provides an appropriate balance in bulk and scale anticipated for the locality, consistent with the existing FSR controls and anticipated scale and intensity of development, while proposing a built form that can provide a transition to the desired future character of the locality.
- By allowing a departure to the current maximum height of building development standard, the height of the proposed development provides an appropriate transition in building scale between the existing development to the south and east of the site, and future development to be constructed on the properties to the west and north-east of the site. The future scale of development for these sites are indicated within the studies informing the planning proposal applying to the site, which is a matter for consideration for this DA pursuant to section 4.15(1)(a)(ii) of the EP&A Act.

Without the departure from the height of building development standard, a transition in height and scale from existing development to future development would be more conspicuous as additional height and scale to achieve a 6:1 scheme is proposed on the western portion of the site, compared to an approximate eight storey scheme that would be achieved on the eastern portion of the site.

- By allowing a departure to the current maximum height of building standard, the detailed design of the podium of the building can respond to potential flood planning controls highlighted in the

finalisation of the planning proposal informing Amendment No. 14 to the PLEP 2010. Without the departure to the height of building standard, additional pressure to reduce the ground floor RL to existing ground may result in greater flood risk to the site in the future.

- As documented within the 'alternative' compliant schemes outlined within the clause 4.6 variation request, achieving a development that is approximately commensurate with the existing FSR control results in unacceptable residential amenity impacts including excessive apartment depths and non-compliant solar access and cross ventilation. As such by allowing a departure to the current maximum height of building standard, a superior residential amenity and built form can be achieved on site.

As such, and as described in the clause 4.6 variation to the height of building development standard, a better planning outcome is achieved by the development compared to a compliant height of building standard.

The proposal is excessive in height, bulk and scale relative to the applicable statutory and non-statutory controls.

Response: The applicable statutory controls for the site include consideration of proposed environmental planning instruments that have been the subject of public consultation pursuant to section 4.15(1)(a)(ii) of the EP&A Act.

The proposed development, while complying with the current applicable FSR standard for the site but exceeding the current height of building standard, is of a lower height, bulk, and scale compared to the draft FSR and height of building standards that apply to the site pursuant to draft Amendment No 14 to the Penrith LEP, prepared by Penrith Council. As such, the proposed development is not excessive in height, bulk and scale relative to the full extent of statutory controls for the site. Notably, the DA includes justification for the departure to the existing height of building standard is addressed within the SEE and clause 4.6 variation request included with the DA.

The proposal is consistent with 'non-statutory controls' as outlined within section 5 of the SEE. Specifically, the proposed development contributes to the rejuvenation and growth of Penrith City Centre into a 'metropolitan cluster' within the Western City identified within the Greater Sydney Region Plan by providing employment floor space and new dwellings in close proximity to employment and transport connections. The proposed development improves connectivity within the Penrith City Centre through the provision of a new north-south road connection through the site.

There is no nexus demonstrated between the reason for the variance sought and the outcomes of the proposal.

Response: As outlined within this section, the nexus between the variance sought to the height of building standard and the outcomes of the proposal are:

- The ability to provide a road through the site and achieve a development yield generally consistent with the planning controls.
- The ability to provide a transition in building scale and intensity from the existing planning controls and existing development with the future character of the locality as illustrated and documented within the planning proposal applying to the site and informing Amendment No. 14 to the PLEP 2010.

- The requirement to provide above ground car parking due to the high-water table on the site, and mitigate potential flood impacts.
- The ability to comply with the key numeric requirements of the Apartment Design Guide including apartment depth, solar access, and natural cross ventilation compared to a scheme that complies with the height of building standard (refer to the alternative schemes within the clause 4.6 variation request).

It has not been demonstrated that the development is in the public interest as the proposal is not considered consistent with the objectives of the Height of building development standard, or the objectives of the B4 Mixed Use zone.

Response: The SEE and clause 4.6 variation request included with the DA included a description of how the proposed development is consistent with the objectives of the B4 Mixed Use zone, and how the proposed development achieves the objectives of the height of building development standard.

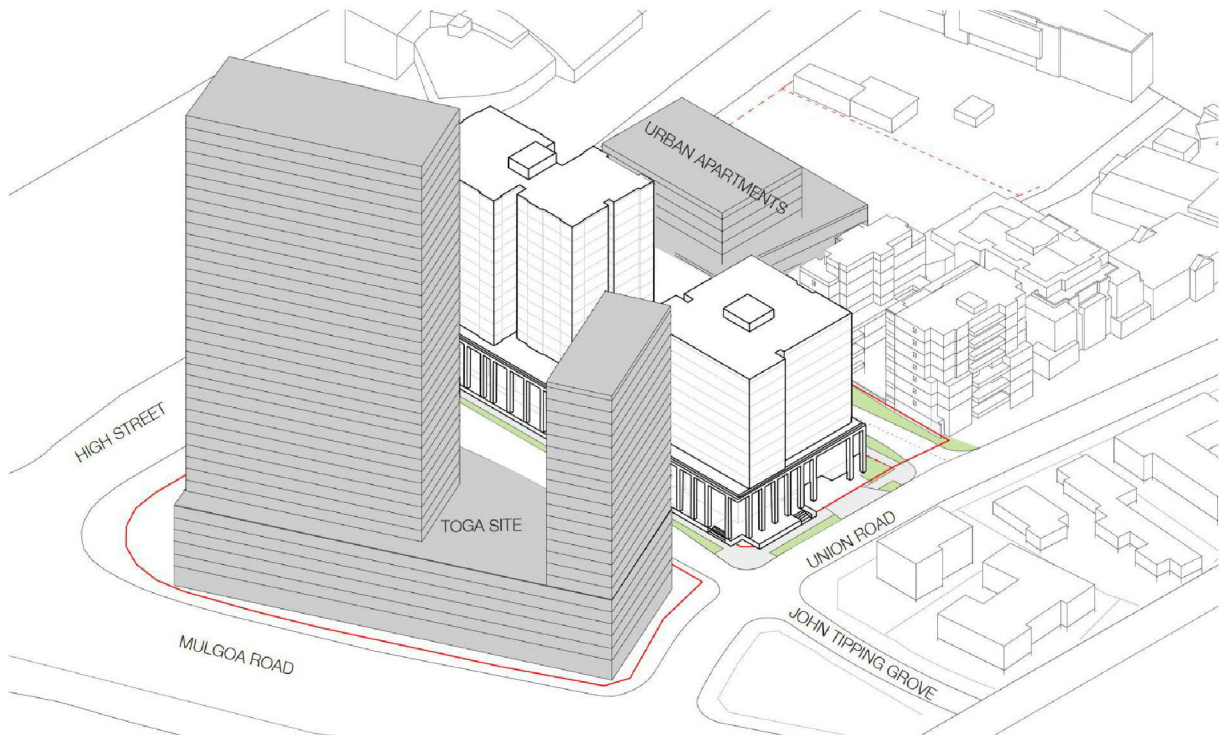
In addition to the description previously provided to Council, this letter includes additional information to demonstrate how the proposal is consistent with the objectives of the B4 Mixed Use zone including:

- A revised road dimension and geometry that improves public amenity by providing direct north-south vehicular and pedestrian connections through the site, and future intersection that can protect existing mature vegetation to the north east of the site at the Joan Sutherland Performing Arts Centre (Refer **Attachments 1-3 and 5**).
- Revision to the nomination of the ground floor commercial tenancies (Refer **Attachment 1**) to suit a wide range of business and office land uses, whilst also ensuring if desired in the future they can be augmented for a wide range of retail tenancies (to be subject to a future DA or modification application).

In addition to the description previously provided to Council, this letter also includes additional information to demonstrate how the proposal achieves the objectives of the height of building development standard including:

- Additional view diagrams illustrating potential impacts of the proposal to key view corridors within Penrith City Centre (Refer **Attachment 4**). The view diagrams clearly demonstrate that the proposed development will have a minor impact and visual presence within view corridors surrounding the site.
- Additional shadow studies comparing the proposed development with a scheme that achieves a generally commensurate FSR that complies with the height control. The additional studies show that for the property to the immediate east of the site, there is a lesser shadow impact than a compliant scheme. Other residential properties in proximity to the site achieve the ADG required two hours solar access in mid-winter notwithstanding the proposed height of buildings.
- The image provided at **Figure 3** illustrates the transition in built form and land use intensity proposed on the site compared to existing development and future development to the west.

Figure 3 – Diagram illustrating transition in built form and land use intensity on site and surrounds



Source: SJB

Meaningful opportunities are not provided to improve public amenity in the locality.

Response: Given the limited scope of the proposed development affecting only a portion of Key Site 10, significant opportunities are provided within the proposed development to improve public amenity in the locality including:

- Delivery of a new road on the site providing north-south vehicular and pedestrian connections.
- Delivery of an east-west pedestrian through-site link through the site to connect development to the east and Union Lane to a future new public plaza at John Tipping Grove to the west of the site.
- Improved passive surveillance of the site and surrounds and increased activation of the precinct compared to the existing development on the site.
- Provision of end of trip facilities and bicycle parking at grade in an accessible location to enhance the attraction of active transport options to and from the site.
- Provision for a revised future intersection of the proposed new road and High Street that can be delivered without removing significant or mature landscaping within the forecourt of the Joan Sutherland Performing Arts Centre (Refer **Attachment 5**).

The proposed buildings are not compatible with the height, bulk and scale of the existing development or the future desired character of the locality.

Response: As outlined within this section the proposed development is considered compatible with the future desired character of the locality as the proposed development provides a transition from existing development and the existing FSR controls and anticipated intensity of development, and the future character of the area illustrated within the planning proposal applying to the site that informs Amendment No. 14 to the PLEP 2010.

The proposed development is considered compatible with the existing development of the locality as outlined within Section 6.7 of the SEE and as described below:

- The proposal is consistent with the existing land uses on adjoining sites, and will not result in any unacceptable land use conflicts. Operating conditions for the retail tenancies will mitigate any potential conflicts.
- The proposal improves the public domain and results in enhanced public amenity by including active street frontages, casual surveillance of public streets, and an architectural design that achieves design excellence through the completion of an architectural design competition.
- The three-storey podium is consistent with surrounding existing development is illustrated in Figure 9 of the SEE.
- The podium is built to the High Street frontage, providing an active street scape and a commensurate scale to High Street as further east in the Penrith City Centre.
- Tower 2 is proposed closer to the north of the site to provide additional separation between adjacent development sites and alleviates overshadowing impacts.
- A lower podium height compared to a courtyard or podium building is proposed which reduces the perception of scale of the development when viewed from a pedestrian perspective within the public domain.

The development as proposed will have a major impact on the scenic character of the locality. A view analysis is required to be undertaken exploring the impact of the propose high rise development having regard to the context of the site.

Response: Additional views of the proposed development are provided within **Attachment 4** of this letter. The views demonstrate the that impact of the proposal on the scenic character of the locality will be minor.

It is not demonstrated that the proposed heights will provide a high quality urban form and an acceptable transition in built form and land use intensity.

Response: The proposed development has been the subject of a competitive design process pursuant to the Director General's requirements and clause 8.4 of the PLEP 2010. Notably, a design excellence statement addressing each of the relevant matters of clause 8.4 of the PLEP 2010 has been prepared by SJB, the Architects of the proposed development, is provided at **Attachment 14** of this letter. Further, the design competition jury have been retained by the applicant to provide ongoing advice informing and responding to changes to the development necessitated following the completion of the design competition.

The proposed heights of the development will provide a transition in built form between the existing development and the future development to the west of the site. This is demonstrated conceptually within **Figure 2** of this letter, and within the photomontages provided with the DA.

The proposed development provides a transition in land use intensity from the existing development surrounding the site as the proposed 'intensity' of development is restricted to a consistent FSR with the existing planning controls. As such, there is no additional demand for infrastructure or impacts resulting from the development that would not be reasonably anticipated by a compliant 3.3:1 FSR scheme under the existing controls.

The development will not secure the delivery of a north-south vehicular connection between Union Road and High Street, consistent with the DCP.

Response: It is not uncommon, and in fact it is entirely appropriate, within urban renewal areas for the delivery of new public roads to be staged in certain circumstances, with lanes delivered across site boundaries. Sharing responsibility of delivering significant new roads and infrastructure across multiple development sites is common within the Sydney Metropolitan Area, in recognition of the spatial impact the delivery of new roads can have on development sites. Notwithstanding this practice, the proposed development has been amended to deliver a north-south vehicular connection between Union Road and High Street on the site. The alignment of the new road is consistent with the indicative location illustrated within the DCP. The alignment of this road also reflects Council's preferred design of the future signalisation of the intersection of this road with High Street.

The proposed new road on the site, as amended, is documented within the revised plans at **Attachment 1-3**, and assessed within the revised Traffic and Parking Assessment at **Attachment 5**. In summary the proposed new road on the site will function with an acceptable level of service at the intersections of High Street and Union Road.

Should the Council wish to improve the operation of this road and the intersection with High Street, the Council may condition the delivery of a third traffic lane as part of a future development application applying to land adjacent to the site to the east (Lot 10 in Deposited Plan 1162271). However, this additional third traffic lane is not required to service the proposed development as outlined within **Attachment 5**.

The proposal for a three-storey podium accommodating built to boundary car parking fronting each street does not demonstrate compliance with the DCP controls related to site planning or car parking.

Response: As outlined in **Section 2.1** of this letter, we note that the provision of above ground car parking is not Council's preferred outcome as outlined within the DCP. However, a non-compliance with the DCP is proposed due to the site-specific constraints that limit opportunities for basement car parking.

The design of the podium car parking has been architecturally treated and refined through design competition jury review and comments to ensure that the above ground car parking does not have an adverse impact on the public domain. Further, additional sleeving of the above ground car park with communal and residential uses was considered and presented to the Design Competition Jury on multiple occasions and Council on 28 February 2018, however it was determined that additional sleeving with GFA was not the best outcome for the site. As such, whilst it is acknowledged that the provision of the above ground car parking is not preferred for the site, as a reality of site-specific constraints it has been designed to integrate with the overall proposed development and respond to the character of existing development surrounding the site.

The development proposal does not demonstrate compliance can be achieved with regard to the applicable DCP controls relating to traffic, waste management and collection, street activation, and presentation and site context.

Response: As outlined within **Section 2.3** and **2.4** of this letter, the proposed development has been refined within regards to vehicular access and waste management. As outlined in the applicant's presentation to Council on 8 May 2018, the ground floor of the development has been activated as much as feasible, and where the service entrances and infrastructure of the development are required to front the street, the architecture and landscape design of the development has been refined to ensure an attractive and pleasant pedestrian environment is achieved.

2.3. TRAFFIC MANAGEMENT AND ROAD DESIGN

2.3.1. Proposed road design and road alignment

Council has stated that the proposed location of the new road linking Union Road to High Street is not consistent with the indicative location shown in the DCP. We disagree with this statement as the proposed road aligns consistently with that illustrated within Figure E11.26 of the DCP, and which has been confirmed in recent discussions with Council Officers.

It is noted in Council's letter that the delivery of the road is reliant on the future development on the adjacent site to deliver the end road design and the signalised intersection. Council is therefore concerned that the ultimate road design may not be feasible and as such has requested an alternative design is to be provided by the application.

In response to Council's comments, the proposed road design has been revised to provide the following characteristics:

- Two lanes provided the full length of the site that facilitate north and south bound traffic movements. While this new road configuration has been achieved, to ensure a safe operable roundabout is maintained at High Street until the intersection is upgraded, the proposed new south bound lane is to be restricted using a temporary 'F' Type Barrier as illustrated in the Civil Plans at **Attachment C**.
- A minimum 1.8m footpath on the western boundary of the new road, with publicly accessible areas increased through the colonnade building design.
- Additional landscaping on the southern portion of the new road adjacent to recently completed development on Union Road;
- Temporary intersection treatment between the new road and the existing roundabout on High Street that is able to be readily augmented to a signalised intersection (not the subject of this DA);
- Retention of the two-way movements from Union Lane with vehicular access to the new road (converting the lane to one-way west bound movements are recommended, however following the upgrade of the High Street roundabout);
- Capacity of the new road to be readily augmented to accommodate a third lane for traffic movements on the land adjacent to the site to the east (Lot 10 in Deposited Plan 1162271), if so required or determined to be necessary by Council in the future.

The revised Traffic and Parking Assessment prepared by PTC at **Attachment 5** demonstrates that the proposed new road location and alignment provides acceptable traffic movements accommodating the increase in traffic generation resulting from the proposed development. The revised Traffic and Parking Assessment notably confirms:

- The maximum traffic movements resulting from the development is 107 and 102 movements in the AM peak and PM peak respectively.
- As a result of the additional traffic movements from the proposed development and the introduction of the new road on the site, the surrounding intersections are likely to retain their current level of service and no notable changes in traffic operation will result following the development.
- The intersection with the proposed new road and High and Union Streets will operate with an A level of service.

Council have further noted that an ultimate road design could result in the removal of trees or reduction in the public space around the Joan Sutherland Performing Arts Centre. The design of the ultimate road configuration has been revised in consultation with Council.

Notwithstanding the above, the signalised intersection with the new road, High Street, and Council's civic centre does not form part of the **DA**. Rather, the documentation within the DA and as subsequently provided to the Council demonstrates that the proposed development does not undermine or put the future delivery of a signalised intersection at High Street at risk. The road design proposed within the DA can rather readily be augmented to fit appropriately within a future signalised intersection and is therefore appropriate to be delivered as part of this DA, being the first DA lodged for the redevelopment of this precinct and 'key site'.

2.3.2. Traffic impacts

Council are not yet satisfied that the proposed road design will effectively management the flow of traffic and provide safety for motorists and pedestrians. Council note that a substantial increase in pedestrian and cycling traffic is also expected to be generated by the development and future development in the vicinity.

Council have therefore requested additional information is provided to confirm that the traffic study, the pedestrian pavements and both interim and ultimate road design has considered the existing queuing at Castlereagh Street/High Street, the Jane Street and Mulgoa Road infrastructure upgrades, bus lanes, median strip locations, pedestrian links, and cycleways.

As outlined within the revised Traffic and Parking Assessment at **Attachment 5**, the traffic assessment has considered the existing queuing at Castlereagh Street/High Street, the Jane Street and Mulgoa Road infrastructure upgrades. Further, the proposed new road design has considered the location of bus lanes, median strip locations, pedestrian links, and cycleways.

As a result of Council's comments, the design of the new road has been revised to provide for greater vehicular movements through the site and a greater pedestrian experience. Notably, the footpath at the north eastern corner of the podium has been increased in width to provide a more comfortable pedestrian arrival experience from the Penrith City Centre. In response to Council's comments on the movement of pedestrians to the site, PTC note:

There are two options for addressing the issue of pedestrians requiring to safely cross High Street (noting that there are currently no facilities for pedestrians):

1. Provide a pedestrian refuge by extending and modifying the existing median island on the eastern approach to the roundabout. This would also require pram ramps and new footpaths connecting to the existing footpaths along the north and south sides of High Street.

2. Install a short section of pedestrian fencing along the south side of High Street from the proposed link road (where it intersects the roundabout) to a point to the east of sufficient distance to encourage pedestrians to use the crossings at the Worth Street intersection.

2.3.3. Other aspects of the proposed road design

Council have raised other minor comments with regards to the proposed road design. Each of these matters are outlined in **Table 2** below.

Table 2 – Response to Council comments on new road design

Council Comment	Applicant Response
The basement car park is not to extent into the area of the future road reserve.	The basement car park has been designed to avoid any projections into the area beneath the future road reserve as shown in the amended plans at Attachment 1 .
The western side of the proposed road does not comply with Council's Engineering requirements for the road typology. Notably pinch points exist where the pavement is reduced such that there is insufficient width provided to accommodate a compliant pavement width.	The new road is designed to meet the relevant standards for a Secondary Road classification as defined in the Penrith Public Domain Manual.
Council have referred the DA to the RMS for review and their concurrence.	Noted.

2.4. OTHER MATTERS

Council have identified that following the resolution of the items above, the applicant will need to address other matters raised by the Council in the preliminary assessment of the DA. Each of these matters are addressed within **Table 3** below.

Table 3 – Response to other matters raised by the Council

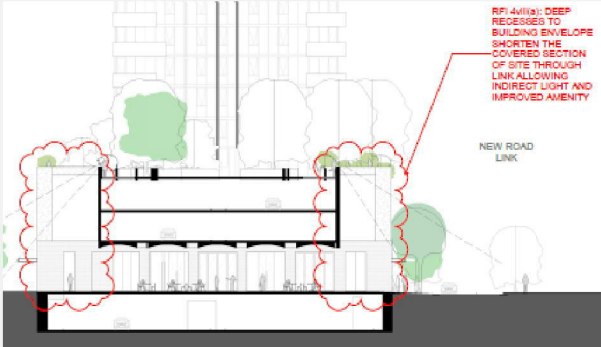
Council Comment	Applicant Response
Parking	
(a) Car wash bays are to be co-located, are to be bunded, provided with a power outlet etc.	<p>The number of car wash bays have been rationalised within the revised Architectural Plans, however they are co-located in response to Council's comments as shown in the amended plans at Attachment 1.</p> <p>The applicant confirms that the detailed aspects of the operation of a car wash bay including a power outlet, hose cock and drain etc can be accommodated.</p>
(b) Plans are to be amended to indicate swept paths. Car parking spaces are to be numbered and marked	Addressed in the amended plans at Attachment 1 .
(c) All directional floor markings and traffic calming devices are to be indicated on the plans, noting the recommendations of the Acoustic Report.	Addressed within the amended plans at Attachment 1 and traffic response provided at Attachment 5 .
(d) The ground floor plan indicates there is insufficient area provided for waste vehicles to enter and manoeuvre within the waste collection room.	<p>This has been addressed within the amended plans at Attachment 1 and Attachment 6.</p> <p>However we note that changes to the ground floor plan also include amendments to other waste management methods such as the introduction of a vehicle turntable.</p>
(e) Plan indicate doors to the bike room open into the path of incoming vehicles.	Submitted plans show doors opening on to footpath not on to the path of oncoming vehicles. Further the bicycle storage room location has been amended to enable safe pedestrian movements.
(f) Manoeuvrability within accessible car spaces and their 'shared zone' is not to be restricted by the location of columns or ramps.	A response provided by Accessible Building Solutions at Attachment 13 illustrates that the proposed accessible car spaces can be accommodated adjacent to 'share zones' with

Council Comment	Applicant Response
	columns, provided there is adequate clearance distances as proposed.
(g) All visitor car parking spaces are to be located outside of the secure residential car parking areas.	Visitor parking is provided at the basement level outside the secure residential parking areas as shown in the amended plans at Attachment 1 .
(h) The current location of the resident car park secure roller door prohibits access to the lift core.	Pedestrian access to lift to be provided, this is provided within the revised Architectural Plans at Attachment 1 .
Waste Management	
(a) It is unclear how waste is conveyed from the upper level residential apartments to the basement level for Tower 2.	The revised Waste Management Plan at Attachment 6 clarifies the proposed waste management methodology for Tower 2, with all waste management activity occurring on the ground floor level only.
(b) The location of the waste/retail goods lift is not supported.	The goods lift has been removed within the amended Architectural Plans at Attachment 1 , as supported by the revised Waste Management Plan at Attachment 6 .
(c) Plans are to be amended to indicate how entry into the waste collection room will be restricted to waste collection vehicles only. Commercial waste rooms to be separated from residential waste areas.	The revised Waste Management Plan at Attachment 6 clarifies how the revised ground floor plan separates commercial and residential waste areas.
(d) The DCP states that heavy vehicle entry should be separate from a common entry way. The proposal to combine the entry point is resulting in significant safety issues.	The heavy vehicle service entry point has been separated from the entry to the car park in the amended plans. Landscaping treatment is provided in the street to reinforce the separation and enhance visual appearance as shown in the amended plans at Attachment 1 .

Council Comment	Applicant Response
Environmental Health & Waste Sensitive Urban Design	
(a) Insufficient detail has been provided to demonstrate that the proposed development meets the WSUD Policy requirements.	Section 3.0 of the Stormwater Management Report details the WSUD strategy and treatment Train Performance. Sheet C6-25 denotes the Water Quality Plan and Sheets C6-26 and C6-30 show specific details. Individual reports have been provided to suit Council's requirements as part of the DA.
(b) An electronic MUSIC model is to be submitted.	A MUSIC model is provided in support of the application at Attachment 8 .
(c) Modelling parameters are to be in accordance with the Music Modelling Guidelines.	RBG have incorporated the Music Modelling Guidelines for NSW (eWater User Guide) and the PCC WSUD Technical Guidelines in the WSUD system and MUSIC model in Attachment 8 .
(d) A Draft Operational and Maintenance Plan is requested with regard to the proposed rain gardens.	RBG provided a draft operational and maintenance schedule in Section 3.6 of the Stormwater Management report provided at Appendix D of the SEE submitted with the DA.
(e) All stormwater modelling must take into consideration loads created by the ultimate road layout.	Refer Attachment 8 for revised stormwater modelling and which includes the revised new road location and alignment.
BASIX	
There appear to be errors in the BASIX Certificate	The discrepancies with the figures provided within the BASIX Certificate related to the previous exclusion of the new road area within the total site area. This has been rectified in the revised BASIX Certificate included at Attachment 9 . The BASIX Certificate is also updated to reflect the revised Architectural Plans at Attachment 1 .

Council Comment	Applicant Response
Signage Strategy	
A draft or concept Signage Strategy is to be provided with regard to the retail tenancies and wayfinding requirements across the site.	A concept signage strategy has been prepared by SJB to complement the architecture of the building as illustrated at Attachment 9 .
Storage Cages	
(a) Inaccessible or impractical storage cage locations to be revised.	Addressed within the revised Architectural Plans at Attachment 1 .
(b) The location of 24 storage cages located in the south-east corner of the basement is impractical and it is unclear if adequate manoeuvring area is provided at the entry to allow residents to access when a vehicle is parked adjacent to the entry. Needs to address CPTED.	Storage cages have been relocated to enable suitable access and loading for residents as shown in the amended Plans in Attachment 1 .
Hydrant Booster Valve	
Provision of radiant heat protection will be highly visible and detract from the Union Road streetscape and southern elevation of the building. Details are to be provided to confirm how this will be addressed.	<p>The note regarding the hydrant booster assembly notes only the nature of the non-conformance with AS2419.1 and the BCA. A fire engineered performance solution is to be prepared to address this which will be justified based on a combination of the building being sprinkler protected, and that the actual location will be partly shielded from some openings to do the building geometry and landscape topography. A shield wall 2m to each side and 3m above the couplings, should not be required. This is a common performance solution accepted by Fire Engineers, PCA's and FRNSW.</p> <p>The proposed location will be the subject of a performance solution. This will comply with the BCA by demonstrating compliance with Performance Requirement EP1.3 as follows, confirmed by Olsson Fire:</p>

Council Comment	Applicant Response
	<ul style="list-style-type: none"> • The Assessment Method will be absolute and quantitative. • The Acceptance Criteria will be to demonstrate that the radiant heat received at the booster or on approach to the booster, at a height of 1.5 m above grade, is less than 3.5 kW/m² which conservatively comes from the Fire Brigade Intervention Model for extreme conditions. • Method of Analysis: radiant heat calculations has been undertaken based on the size of the fire expected within the building, taking into consideration the number, size, and orientation of unprotected openings near the booster. The results have shown that with the sprinkler protection to the building, the heat radiation received at the hydrant booster would not exceed 3 kW/m² which is usually the acceptance criteria for fire brigade access. And therefore no protection is required for the booster or the adjacent openings for this purpose.
Ground Floor and Public Domain	
<p>(a) The ground floor east/west link is fully enclosed by glazing at each end and due to its length and narrow proportions will not allow adequate solar penetration to contribute amenity of the link for future retail tenancies. The southern elevation of the link is dominated by blank walls and service doors. The connection of the link to the eastern side of the western colonnade is narrow and no clear way to the link will be visible.</p>	<p>Gates are proposed at the end of the east/west link for security for the development. Gates are to be open during commercial operating hours.</p> <p>The northern side of the link will be glazed and the southern wall has been articulated with brick patterns.</p>

Council Comment	Applicant Response
	<p>The design of the proposed through-site link was refined through the design development sessions with the Design Competition Jury prior to the lodgement of the DA. While one side of the link is not activated with commercial premises, the full northern link provides activation to this link, and further the design of the link has been refined to improve solar access to this space as illustrated in the following diagram prepared by SJB. Further, perspectives and reference images for the pedestrian link are provided at Attachment 17.</p> 
<p>(b) To assist in site penetration and access, the lobby area for Tower 2 should be open to John Tipping Grove.</p>	<p>The Tower 2 lobby has been specifically designed to be accessed from the new road as:</p> <ul style="list-style-type: none"> • This provides greater activation of the new road compared to the natural pedestrian attractors of High Street and John Tipping Grove and enhances 'way finding' for visitors to the tower entrance from the street. • Commercial frontages are provided to John Tipping Grove to activate this future public open space. • Providing access to the Tower 2 lobby from the new road provides greater incentives for residents to use the through-site link, activating this space and providing more

Council Comment	Applicant Response
	<p>natural foot traffic to the adjacent commercial tenant.</p> <ul style="list-style-type: none"> Facilitates increased pedestrian movement along the new road, enhancing activation and passive surveillance in the street.
(c) Ground level awnings are to allow adequate clearance to the roadway.	<p>The building is designed with colonnades along the eastern and western site boundaries, providing attractive, weather protected environment for pedestrians while ensuring adequate clearance from roadways and street planning.</p>
(d) Retail tenancies are to be provided with direct entry from the proposed road spanning between Union Road and High Street. Retail tenancies are to be limited in depth and scale and level of adaptation increased to allow for change over time.	<p>Providing commercial tenants access to the new road spanning the full length of Union Road and High Street is not possible on the site due to the service requirements of the development. In activating the new road several actions have occurred:</p> <ul style="list-style-type: none"> Active uses are proposed at the northern end of the new road to provide an active interface with the adjacent development site to the east and to High Street. A new pedestrian link is provided generally aligning with Union Lane to provide additional east-west pedestrian permeability through the site and provide another opportunity for residents of a future development to the east to easily access John Tipping Grove. Landscaping is proposed adjacent to the existing residential development to the east of the site to provide a positive interface with the new road at the southern portion of the site.

Council Comment	Applicant Response
	The ground floor tenancies have been revised to provide a flexible floor plate for multiple commercial uses as illustrated at Attachment 1 .
Apartment Design Guide	
Provide a design verification statement addressing the design excellent provisions in clause 8.4 of the LEP.	A design verification statement prepared by the Design competition winning architects addressing each of the matters listed in clause 8.4(2)(c) is provided at Attachment 14 .
Plans General	
(a) Access to the 'designated retail amenities zone' is to be provided from the lobby on ground floor (Tower 2). This area is to accommodate cyclist change and shower facilities accessible to all retail tenancies.	Additional end of trip facilities for commercial tenants can be accommodated within the ground floor as illustrated in the revised Architectural Plans at Attachment 1 .
(b) The ground floor layout does not correlate with the landscaping plans.	This has been rectified in the revised Landscape Plans at Attachment 3 .
Materials and Finishes	
A materials and finishes board is to be submitted in support of the application.	A materials and finishes schedule is provided at Attachment 1 .
Engineering	
The design and calculations are to consider the fully realised road layout including pit and pipe locations.	The civil designs have been revised and included at Attachment 2 for the new road location and alignment on the site, which has considered all pit and pipe locations.

3. CONCLUSION

This letter provides a response to the matters raised within the preliminary assessment of the DA by Council staff. As a result of the required changes to the scheme from Council's request for additional information, and additional refinements to the scheme, we propose to formally amend the DA with the amended Architectural Plans at **Attachment 1**, pursuant to section 55 of the *Environmental Planning and Assessment Regulation 2000*.

In summary the proposed development, as amended, represents a sound and appropriate development for the site. We trust that the additional information included in this response provides the assessment officer sufficient information to continue their assessment of the DA. For the reasons outlined in the SEE and this additional response, the proposal is in the public interest and should be approved.

Yours sincerely,

A handwritten signature in black ink, appearing to read "A. Ryan", with a stylized flourish at the end.

Ashleigh Ryan
Senior Consultant – Urban Planning

Attachment 1 – Revised Architectural Plans and SEPP 65 Assessment

Attachment 2 – Revised Civil Plans

Attachment 3 – Revised Landscape Plans

Attachment 4 – View Analysis

Attachment 5 – PTC Revised Traffic and Parking Assessment

Attachment 6 – Waste Management Response

Attachment 7 – Detailed Site Investigation and Additional Contamination Assessment

Attachment 8 – Revised Stormwater Management Plan and MUSIC Model

Attachment 9 – Revised BASIX Certificate

Attachment 10 – Signage Strategy

Attachment 11 – Department of Planning letter regarding flooding

Attachment 12 – Revised BCA Statement

Attachment 13 – Revised Accessibility Statement

Attachment 14 – Design Excellence Statement

Attachment 15 – Revised Infrastructure Services Report

Attachment 16 – Revised Clause 4.6 Variation Request

Attachment 17 – Perspectives and Reference Images for Pedestrian Link

Attachment 18 – Revised Fire Engineering Statement