

SWCPP Ref. No.:	2019WCI028
DA No.:	DA19/0253
PROPOSED DEVELOPMENT:	Ten (10) Storey Residential Flat Building containing 173 Apartments, part at grade car parking & three (3) levels of Basement Car Parking - Lot 211 DP 1205092,2 Lord Sheffield Circuit, PENRITH NSW 2750
APPLICANT:	Urban Apartments Pty Ltd
REPORT BY:	Gemma Bennett, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from Urban Apartments Pty Ltd for the construction of a 10 storey residential flat building containing 173 units, part at grade car parking and 3 levels of basement car parking at 2 Lord Sheffield Circuit, Penrith. Under the Penrith Local Environmental Plan 2010, the proposal is defined as a residential flat building and is permissible within the B2 Local Centre zone, with the consent of Council.

Key issues identified for the proposed development and site include:

- Building height and consistency with Concept Plan, Penrith Local Environmental Plan 2010 and Development Control Plan 2014;
- Traffic management, parking and pedestrian movements within the area;
- Visual impact of the development;
- Provision of affordable housing units; and
- Overshadowing, solar access and views, related in particular to the development to the south at 39 Lord Sheffield Circuit.

In correspondence dated 8 February 2018, the Government Architect NSW provided in-principle agreement that a design competition under clause 8.4 of the LEP would be waived in this instance. In lieu of the design competition, the proposal has been reviewed by a Design Integrity Panel, with original plans presented to the panel on 25 February 2019 and amended plans submitted to the panel for review on 15 March 2019. The design was found to be generally satisfactory, and it was recommended that a further review be undertaken to ensure that the development proposal incorporated all of the recommendations of the panel. This review was completed by Council's Urban Design Review Panel on 31 July 2019 and confirmed that the submitted design was responsive to the panel recommendations with any outstanding matters able to be actioned via conditions of consent.

The application was notified to adjoining properties, exhibited and advertised between 18 April and 2 May 2019. A total of 5 submissions were received. In early August it was brought to Council's attention that a number of residents in the vicinity of the proposal had not received correspondence from Council during the notification period. A review of Council's records confirmed that there had been an error in the notification process which meant that not all adjoining properties were sent notification letters. As a result, the affected residents were sent a notification letter, requesting that any written submissions be made in relation to the application between 8 August and 22 August 2019. An additional 2 submissions were received during this time. The submissions raised a number of issues, predominantly related to building height, amenity impacts (overshadowing, views, privacy), overpopulation of the estate, and traffic concerns.

In accordance with Section 2.12 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel (SWCPP) is the determining authority for the application. The proposal is regionally significant development under the provisions of the State Environmental Planning Policy (State and Regional Development) 2011 being general development with a capital investment value of more than \$30 million. The Panel was briefed in relation to the application on 17 June 2019.

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

Site & Surrounds

The subject site is described as Lot 211, DP 1205092, No. 2 Lord Sheffield Circuit, Penrith. The site is a rectangular shaped allotment with an area of 3089m² and is located on the northern side of Lord Sheffield Circuit between Radcliffe Place to the east and Combewood Avenue to the west. Fernandez Lane runs along the northern boundary of the site. Penrith Railway Station is located 260m to the south. A park and playground is located 240m to the east of the site at the corner of Lord Sheffield Circuit and Aviators Way.

A six storey residential flat building containing 103 apartments and 2 levels of basement parking was approved on the site on 11 April 2017 (DA16/1053). This application has subsequently been modified twice, the most recent modifications (determined on 13 September 2018) related to internal changes to unit mix, apartment numbers, basement carparking and building services layouts, as well as external changes to windows and balconies, materials and finishes, and the ground floor finished floor level. Excavation at the site has commenced.

A development application (DA19/0237) for the adjoining site, 26 Lord Sheffield Circuit (Lot 210, DP 1205092) was determined at the SWCPP meeting on 19 August 2019. The development consent permits a 10 storey residential flat building containing 141 apartments, 1 commercial premises and 2 levels of basement car parking.

Development in the vicinity predominantly comprises of newly constructed dwellings, townhouses and residential flat buildings. Vacant lots are located to the south of the subject site which have previously been provided with approvals for a 6 storey mixed use building with ground floor retail tenancies and 68 units at 41 Lord Sheffield Circuit (DA16/0412) and a 6 storey mixed use building with ground floor retail tenancies and 58 units at 192 Lord Sheffield Circuit (DA16/0411). These approvals have not been activated.

Three storey terraces are located along Fernandez Lane with frontage to the canal and rear vehicle/garage access to Fernandez Lane.

Proposal

This Development Application seeks consent for the following:

- 173 residential units with the following unit mix –
 - Studios: 31 units
 - 1 bedroom: 79 units
 - 2 bedrooms: 47 units
 - 3 bedrooms: 16 units
- 3 levels of basement car parking and at grade carparking, providing a total of 192 residential parking spaces
- Bicycle hub/communal room in addition to bicycle parking on ground floor
- 5 separate communal open spaces on levels 7 and 8

Background

The NSW Department of Planning and Infrastructure provided for the assessment of a Transitional Part 3A Concept Plan (MP10_0075) and Stage 1A Project Application (MP10_0078) submitted by Urban Growth NSW (formerly Landcom) for a mixed use and residential development relating to a 40 hectare site known as Thornton Estate. A State Significant Site listing for the area was sought concurrently with the applications to enable rezoning of the land.

The Concept Plan included Design Guidelines that described standards for urban design, built form and environmental management for the site. In relation to the subject development application at 2 Lord Sheffield Circuit, the maximum building height proposed was 6 storeys. The Design Guidelines also included street design

and hierarchy, landscape treatments for different types of open space, and public domain materials and treatments. The Stage 1A Project Application included site preparation works, subdivision to create 120 lots and the construction of roads and supporting infrastructure.

The Concept Plan and Stage 1A applications were exhibited between 15 December 2010 and 7 February 2011. During this time, submissions were made by Penrith City Council, other Government agencies and members of the public regarding the potential for greater residential densities in proximity to the railway station and employment centre than what had been proposed in the Concept Plan.

In response to submissions and comments by the Department, the applications were amended in April 2011. A Preferred Project Report and associated maps were submitted by the applicant, proposing 30m building heights in proximity to the railway station, including the subject site at 26 Lord Sheffield Circuit, which was also identified as an 'Opportunity Site' with potential for higher density residential development and/or increased commercial and/or retail floor space. At this time the Design Guidelines within the originally submitted Concept Plan were not amended with respect to building height.

The Concept Plan and Stage 1A applications were approved on 9 November 2011. The North Penrith Concept Plan and Stage 1 Project Application Director-General's Environmental Assessment Report (October 2011) supports the amendments to the original proposal contained within the Preferred Project Report and supplementary materials, and the Preferred Project Report forms part of the approved plans and documentation in Schedule 2, Condition A2 of the consent. The proposed development is found to be consistent with the conditions under Schedule 2. Table 1 below contains a response to relevant matters contained within the Statement of Commitments listed in Schedule 3.

Table 1: Consistency with Schedule 3, Statement of Commitments, Concept Plan MP10_0075

Subject	Commitment	Comment	Compliance
Traffic and access	A Construction Environmental Management Plan is to be prepared which includes a site-specific construction traffic management plan	No CEMP has been provided. It is recommended that a condition of consent be included in this regard	Able to comply
Flooding	The minimum habitable floor level for the site will be 25.9m AHD, being 0.5m freeboard above 1 in 100 year annual recurrence interval flood event	The proposal has a minimum habitable floor level of 26.95m	Complies

With the approval of the State Significant Site listing, the State Environmental Planning Policy (Major Development) Amendment (North Penrith) 2010 was gazetted on 25 November 2011. This amended the height of building maps contained within Penrith City Centre Local Environmental Plan 2008, including the provision of a maximum 30m building height for 26 Lord Sheffield Circuit. The consolidated Penrith Local Environmental Plan 2010 incorporated this standard.

As part of the suite of amendments accompanying the gazettal of Stage 2 of Council's consolidated Penrith LEP 2010, the height of buildings maps were amended to include a maximum permissible height for the subject site of 32m. The site was also included within Schedule 1 Additional Permitted Uses and is identified under Clause 23 (Lots 210 and 211 of DP 1205092). Clause 23 identifies that additional permitted uses on the site include development for the purposes of exhibition villages, high technology industries, multi-dwelling housing, residential flat buildings and seniors housing.

Urban Growth NSW has worked collaboratively with Council to achieve an appropriate density of development within the estate with a built response reflective of the Concept Plan. Achievable densities and permissible uses as per the Penrith LEP 2010 are supportive of the approved pattern of subdivision and allow a transitional built

form moving from the city centre towards the three/four storey terrace housing fronting the estate canal and towards the lower density housing to the northeast.

In addition to the above, it is noted that the Penrith LEP 2010 makes provision for a greater level of density on the 3 allotments located to the immediate south of the subject lot (41, 192 and 184 Lord Sheffield Circuit). Clause 8.7 Community infrastructure on certain key sites effectively removes the maximum permissible height and FSR expressed for the sites under the LEP maps, and provides for a maximum FSR of 5:1. This is to allow higher density development on certain land in the City Centre where the development includes community infrastructure.

Penrith Development Control Plan 2014

The Design Guidelines contained within the approved Concept Plan were incorporated into Section E11, Part B North Penrith of Penrith Development Control Plan 2014.

It is acknowledged that the development controls, such as those for building height, were not amended to reflect the controls contained within the Concept Plan approval as amended by the Preferred Project Report. Council's City Planning Department have confirmed that the controls will be updated in a future review of the DCP.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- 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 of the Environmental Planning and Assessment Act 1979, the SWCPP is the determining authority for the application. The proposal is regionally significant development under the provisions of the State Environmental Planning Policy (State and Regional Development) 2011 being general development with a capital investment value of more than \$30 million. The applicant has provided a CIV of \$32,951,610 for the development.

The Panel was briefed in relation to the application on 17 June 2019 and as a result, requested a number of matters be specifically addressed in the assessment report, including the following:

- *Important issues which will require further investigation include the impact of the increased envelopes of development on surrounding development (particularly to the south in terms of overshadowing and view loss), as well as impacts on the local road system with require consideration.*
- *The Panel will be interested to see the results of a detailed review of the design against the Apartment Design Guide.*
- *Prior to determination, the Panel would like specific advice as to the relevance of the Masterplan to the development application, and whether any modification to that Masterplan is needed.*
- *Consideration of pedestrian safety and circulation through the precinct including but not limited to pedestrian demand generated from this development should be taken in to account.*

These matters have been addressed in the relevant sections of this assessment report.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

The development incorporates a total of 10 affordable housing units to be managed by a registered community housing provider. The proposed development has been assessed under the requirements of Division 1 In-fill affordable housing and is satisfactory. It is noted that this policy does not affect the application of SEPP 65. An assessment under SEPP 65 has been carried out and the proposal satisfies these requirements.

Consideration has been given to the design of the development and whether it will be compatible with the character of the local area. In this regard, the design of the development is consistent with the envisaged future character of the area and a detailed assessment of this aspect has been provided under Section 4.15 of this report.

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

The SEPP also states that consent must not be granted unless conditions are imposed to the effect that the affordable housing component will be used for the purpose of affordable housing for a period of 10 years and all accommodation will be managed by a registered housing provider. It is noted that applicant has provided evidence of an agreement having been drafted with a local affordable housing provider to be signed on approval of the proposal. Conditions to this effect are recommended to be imposed accordingly.

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

This application is subject to these requirements as it involves residential development. BASIX Certificate No. 760409M_02 was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort. A standard condition of consent is recommended to ensure the commitments in the Certificate are maintained during the life of the proposed development.

State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 of State Environmental Planning Policy (State and Regional Development) 2011 specifies that general development with a capital investment value of more than \$30 million is regionally significant development for the purposes of the Act.

Under the Act, regionally significant development requires consent by a Sydney district or regional planning panel.

State Environmental Planning Policy No 55—Remediation of Land

The proposal has been assessed against the applicable provisions of the State Environmental Planning Policy No. 55 - Remediation of Land and specifically, an assessment has been undertaken of the proposal against the matters for consideration under Clause 7 Contamination and remediation to be considered in determining a development application.

A review of Council's records does not identify that the site is contaminated and given the previous extensive remediation and validation of the estate, no further investigation is required. The proposal satisfies the requirements of the Policy and Council is satisfied that the land concerned, is suitable for the development as proposed.

It is noted that the major projects approval MP10-0075 included conditions related to the preparation of Construction Environmental Management Plans related to the former use of the site as defence land and the protocols related to discovery of unexploded ordinances and unexpected finds. In this respect, conditions of consent are recommended to require the proponent to comply with the conditions of consent of the major projects approval MP10-0075 and in particular the Statement of Commitments included within Schedule 3 of MP10-0075.

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 as the development has been reviewed twice by a Design Integrity Panel and once by Council's Urban Design Review Panel. Both Panels found the proposal to be of high quality and representative of the principles contained within SEPP 65. In addition, the applicant has demonstrated compliance with the principles as detailed by the comprehensive SEPP 65 Report, prepared by DKO Architecture, provided with the application.

Table 2 below provides an assessment against the applicable provisions of the accompanying Apartment Design Guide (ADG).

Table 2: 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 within the SEPP 65 Report 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.	Each elevation adequately addresses the street frontages. Direct access is provided to the majority of ground floor apartments. The common entry and foyer areas are of an appropriate design and location.	Yes

3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer discussion under Parts 3D and 4A.	n/a
	Solar access to living spaces and POS of neighbours to be considered.	Additional overshadowing attributed to the development will predominantly fall toward Lord Sheffield Circuit to the south and south-west of the site with shadows falling to the west between 1pm and sunset. Solar analyses have been provided to model the comparative impacts of the approved 6 storey development and the subject 8-10 storey proposal on the development to the south west at 39 Lord Sheffield Circuit (DA503 and DA504). The plans indicate that while the proposal does impact on the provision of solar access to the communal open spaces of 39 Lord Sheffield Circuit, 50% sunlight is maintained for more than 2 hours on the winter solstice. In terms of solar access to units, comparisons of the solar access to units at 39 Lord Sheffield Circuit have been provided (Plans DA502, DA505, DA506 and DA507). The plans indicate that while additional shadows are cast over the ground to third floors between 9am and 11am by the subject proposal, after 11am the overshadowing is largely similar to that of the previously approved development, predominantly affecting the ground and first floors. In addition, the number of units at 39 Lord Sheffield Circuit achieving a minimum 2 hours of sunlight will not be impacted by the increased height of the proposal.	Yes
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access are achieved between the primary daylight hours at the winter solstice. An increase in building separation is not required.	Yes
3C-1	Courtyard apartments should have direct street access.	All ground floor apartments are provided with private access to either Lord Sheffield Circuit, Radcliffe Place or Combewood Avenue.	Yes

	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	Ground floor units have finished floor levels relative to the street and are provided with landscaped areas and fencing to protect unit privacy and allow for opportunities for passive surveillance.	Yes
	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. Some more substantial areas of solid brick walls are located adjacent to the waste collection area. However as these face towards Fernandez Lane, which is used for garage access for the townhouses fronting the canal and servicing only, it is considered appropriate.	Yes
	Opportunity for concealment to be minimised.	Entryways are wide, straight and located to reduce opportunity for crime and concealment.	Yes
3C-2	Ramping for accessibility should be minimised.	Ramping is proposed relative to the street.	Yes
3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	The ADG requirement for 25% of site (or 772m ²) to be provided as COS. 852m ² (or 27.6%) of COS is proposed to be provided within five separate spaces on the 7th and 8th floors. The provided plans have been reviewed and identify that adequate solar access is provided to the communal open space (see DA607) in compliance with the ADG requirements.	Yes
3D-4	Boundaries should be clearly defined between public open space and private areas.	The private open space areas of the development are clearly defined by the use of landscaping, walls, fencing and paving elements.	Yes

3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 6m	646m ² (20%) of the site is provided as deep soil which complies with the ADG minimum requirement of 7%. While the width of the deep soil does not meet the 6m minimum required, the ADG provides further design guidance on high density areas and city centres where the requirements may not be able to be met. It is considered that the additional planting on structures provided as part of the proposal in terms of the green walls and rooftop open spaces meet the objective to allow for healthy plant growth, improve amenity and promote water and air quality management. Conditions of consent are recommended with regard to maintenance of the green wall.	Partial non-compliance but considered acceptable in this instance. Conditions recommended.
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 9+ storeys - 12m habitable to habitable and 6m for non-habitable	The development complies with the guideline separation distances as provided by the ADG. Sufficient separation is provided to all elevations as the proposal is surrounded by roads on each elevation.	Yes
3G-1	Building entries to be clearly identifiable.	Lobby entryways from Lord Sheffield Circuit are articulated with landscaping and high quality materials and finishes. Mail boxes are located within lobbies which are accessible and paved to the street front.	Yes
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entryways are visible from the surrounding streets and communal open spaces.	Yes
	Steps and ramps to be integrated into the overall building and landscape design.	Steps and ramps are integrated into the design.	Yes

3H-1	Carpark access should be integrated with the building's overall façade.	The car parking is adequately integrated into the design of the site with access along the northern elevation off Fernandez Lane. The car park entry is setback from the building façade to the rear of the bicycle hub. Landscaping is provided around the vehicle entryway.	Yes
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage.	Yes
	Garbage collection, loading and servicing areas are screened.	The separate waste collection area entry is located along the eastern elevation from Radcliffe Place with drive through diagonal exit via the northern elevation via Fernandez Lane.	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.	Refer discussion under Penrith DCP 2014.	n/a
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	Secure bicycle and motorcycle parking is proposed within the ground floor and basement of the building for the future residents, and a bicycle hub is incorporated into the ground floor which provides end of trip facilities for residents.	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 manoeuvring areas provided. The eastern lobby is provided with a reception area and seating.	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 ground floor and basement car parking areas are provided with bicycle parking and building manager amenities that are accessed from common areas and do not rely on access through parking spaces. Service rooms are co-located with access stairs and lifts.	Yes
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 areas via the surrounding streets and internal common open space areas.	Yes

4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter. A maximum of 15% of apartments to receive no direct sunlight between 9am and 3pm mid-winter.	Submitted documentation confirms that 126 (72.8%) apartments are provided with compliant levels of solar access. Plans have indicated that 25 (14.5%) of units do not receive any direct sunlight. However while units 7.06 and 7.11 have been shown as receiving less than 2 hours sunlight, from the solar access diagrams presented it appears that they would receive no sunlight. If so, this would mean that 15.6% of units receive no direct sunlight. The variation is considered minor and overall the development is responsive to the constraints presented by the long, narrow layout of the site with predominantly north facing and cross through apartments provided which is an acceptable design solution.	Yes No, but considered acceptable in this instance
4A-3	Sun shading devices are to be utilised.	Balconies are proposed to be covered by the levels over. Submitted elevations include sun shading devices and louvers.	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 and a review of the provided plans confirms that 61% of apartments 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, 3.3m for ground and first floor of mixed use areas.	The proposal is for a minimum of 2.7m measured from finished floor to ceiling heights in the residential levels.	Yes
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50m² 2 bed – 70m² 3 bed – 90m² Additional bathroom areas increase minimum area by 5m².	All proposed apartment sizes comply with the ADG requirements.	Yes
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply with this requirement.	Yes

4D-3	Master bedrooms to be 10m ² and other rooms 9m ²	All units comply with this requirement.	Yes
	Bedrooms to have a minimum dimension of 3m.	All units comply.	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 – 8m ² (2m deep) 2 bed – 10m ² (2m deep) 3 bed – 12m ² (2.4m deep) Ground level units 15m ² and minimum depth of 3m	All units meet the minimum area required and provide a usable balcony space for future occupants.	Yes
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 with the basement carpark.	Yes

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: 31 x studio apartments (18%) 79 x 1 bedroom apartments (46%) 47 x 2 bedroom apartments (27%) 16 x 3 bedroom apartments (9%) 0 x 4 bedroom apartments	Yes
4L-1	Direct street access should be provided to ground floor apartments.	Complies.	Yes
4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal was subject to two reviews by a Design Integrity Panel prior to lodgement and one final review by Council's Urban Design Review Panel during the assessment process. This is further discussed in reference to LEP clause 8.4 Design Excellence. The design was supported. Varied façade materials and colours are provided to each tower break up the bulk of the building and provide elements of contrast. Additional landscaping treatments have been incorporated including a green façade along the southern elevation.	Yes
4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted landscape plan indicates a selection of trees, shrubs and ground covers appropriate for the site. Conditions of consent are recommended with regard to landscape maintenance and the requirement for the green wall planting details to undergo a peer review to ensure selected species, soil depths and irrigation requirements are met to ensure the green façade is sustainable.	Yes. Conditions recommended.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	10% of units are required to be provided as adaptable, which equates to 18 units (rounded up from 17.3). The plans indicate 18 units are to be provided as adaptable. This may be appropriately conditioned with any consent granted. 18 accessible carparking spaces are provided.	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 Council's internal 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.	Yes
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The waste collection area located with entry from Radcliffe Place and exit to the north along Fernandez Lane. The design is considered to be adequate and has the ability to accommodate the number of bins required to service the site and manoeuvring area. Conditions of consent have been recommended.	Yes

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.5 Additional permitted uses for particular land	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.10 Heritage conservation	N/A
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Part 8 Local provisions Penrith City Centre	Complies
Clause 8.1 Application of Part	Complies
Clause 8.2 Sun access	Complies
Clause 8.3 Minimum building street frontage	N/A
Clause 8.4 Design excellence	Complies - See discussion
Clause 8.5 Building separation	Complies
Clause 8.6 Serviced apartments	N/A
Schedule 1 Additional permitted uses	Complies

Clause 2.3 Permissibility

It is noted that residential flat buildings are prohibited within the B2 Local Centre zone. However, Council's Clause Application Map identifies the site as being subject to Clause 2.5 Additional permitted uses for particular land which, as detailed in Schedule 1, clause 23, permits residential flat buildings on the site.

Clause 7.5 Protection of scenic character and landscape values

The site is identified as land with scenic and landscape values under clause 7.5 of the LEP. The objectives of this clause are as follows:

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*
- (b) to ensure development in these areas is located and designed to minimise its visual impact.*

The building is highly articulated, including recessed upper floors to the eastern and western elevations. This provides relief from the visual impact of bulk and scale that a 10 storey development would otherwise provide. When viewed from the canal, the upper storeys will be visible over the 3 storey townhouse developments to Fernandez Lane, however the height is considered likely to be no more visually intrusive than the 10 storey residential flat building at 1-39 Lord Sheffield Circuit. From Combewood Avenue, the views will be mainly of the western elevation, which is a relatively narrow expanse proposed with darker colours and materials which will assist in minimising visual impact.

It is considered that satisfactory measures have been taken in relation to the design and location of the development to minimise the visual impact of the development from roads and other public places.

Clause 8.4 Design excellence

Clause 8.4 Design Excellence stipulates that development consent must not be granted for development involving the construction of a new building, on land to which this part applies unless, in the opinion of the consent authority, the proposal exhibits design excellence. In deciding whether the proposed exhibits design excellence, the consent authority is to consider the following matters as provided by clause 8.4 of the LEP:

- (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*

Comment: The design was reviewed by a Design Integrity Panel. The panel commented that due to effective articulation, the scale of the proposed buildings would be contextually appropriate, and would provide an appropriate transition between neighbouring three and ten storey developments. The effective articulation also demonstrates a positive response to the desired character illustrations in Part E11 of the DCP. The building contains three tower elements that vary in height and are linked by recessive elements which have lower heights.

- (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,*

Comment: The overall form and external appearance of the building is considered to be of high quality and will not detract from the quality or amenity of the surrounding public domain. At street level, positive contributions to the streetscape and pedestrian activity are achieved by the ground floor layout which includes apartments and a variety of building entrances, together with varied landscape setbacks that are sufficient to accommodate clusters and avenues of trees. Also at street level, pedestrian activity and residential amenity would be protected by the proposed consolidation of vehicle access via Fernandez Lane, which includes drive through waste collection rooms that are integrated effectively with the proposed building forms.

- (c) whether the development will detrimentally impact on view corridors,*

Comment: The proposal will not detrimentally impact on view corridors. The site was identified within the approved master plan and subsequent development control plan and building envelope controls as having high density residential development potential.

- (d) (Repealed)*

- (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.*

Comment: The development is considered to be site responsive, in that all elevations are adequately articulated and provide access to future occupants and visitors to the site in a practical and efficient manner. Street fronts are pedestrian scaled with commercial spaces located in corner positions, contributing to streetscape character and activation. The bulk of the building is broken up by the adoption of inset balconies and externally mounted green facades and architectural design features.

The proposal is contextually appropriate and will be flanked on the south by similarly scaled residential buildings. It is well positioned to take advantage of existing pedestrian pathways and bicycle networks. In terms of responsiveness to ESD principles, the proposal provides for charging stations for electric vehicles in the basement, ample bicycle parking, and is proximal to public transport especially to Penrith railway station and bus interchange. North facing balconies are inset and/or part enclosed, with living room windows on the northern elevation provided with suitable sun shading hoods. It is for the above reasoning that the proposal is considered to exhibit design excellence and satisfies the intent of the Clause.

Clause 8.4(3) of the LEP states:

- (3) Development consent must not be granted for any of the following development on land to which this Part applies unless an architectural design competition has been held in relation to the development:*
- (a) development in respect of a building that is, or will be, greater than 24 metres or 6 storeys (or both) in height,*
- (b) development that has a capital value of more than \$1,000,000 on a key site identified on the Key Sites Map,*
- (c) development for which the applicant has chosen to have an architectural design competition.*

As the development is greater than 24m/6 storeys in height, has CIV of more than \$1,000,000 and is identified as being on a key site on Council's LEP map, a design competition is required. However in compliance with Clause 8.4(4) of the LEP the applicant has provided a written statement from the Government Architect NSW stating that the design competition may be waived conditional upon the establishment of a Design Integrity Panel framework with representation from GA NSW, Penrith Council and an independent representative for the applicant on the Panel. The Design Integrity Panel is to be engaged though initial design, prior to DA lodgement and prior to the issue of any Construction Certificate to ensure that design excellence is not diminished through the assessment and construction processes.

In accordance with the waiver, a Design Integrity Panel was engaged as required. An initial review of the proposal was conducted on 25 February 2019. Subsequently, a number of recommendations and comments were incorporated into an amended set of plans and presented to the panel on 15 March 2019. The panel concluded that whilst some recommendations had not been addressed in the amended plans, that there were no obstacles to further amendments which would fully address the design excellence provisions, and that a further review prior to the completion of Council's report to the SWCPP should occur.

Council's Urban Design Review Panel reviewed the DA plans on 31 July 2019 and concluded that the development proposal submitted was responsive to the comments and recommendations made by the Design Integrity Panel, and furthermore that any outstanding matters could be satisfactorily resolved through conditions should the approval be forthcoming.

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

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
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
D2.6 Non Residential Developments	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 Surveyor for assessment. No objections have been raised with regard to the proposal, subject to recommended conditions of consent.

Further, the development was submitted with an Access Report concluding that the proposal is capable of complying with the applicable provisions of the Building Code of Australia and relevant Australian Standards. The proposed development complies with the applicable requirements of the Regulations.

Clause 92(1)(f) of the Environmental Planning and Assessment Regulation 2000 specifies additional matters that consent authority must consider:

92(1) For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:

(f) in the case of a development application for development for the erection of a building for residential purposes on land in Penrith City Centre, the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre published by the Department of Planning and Environment on 28 June 2019.

The NSW Government developed an "Adaptive Management Framework" (Framework) to manage flood risk and evacuation constraints in the Penrith City Centre up to and including the Probable Maximum Flood (PMF). The purpose of the Framework is to ensure development within the Penrith City Centre can continue while ensuring the rate of new dwellings does not exceed the ability to safely evacuate the community in the event of a flood event. The Framework identifies the work that will need to be undertaken to identify greater evacuation capacity and emergency management planning in severe to extreme flood events.

On Friday 28 June 2019 the Framework commenced, requiring Council to consider a Development Assessment Guideline when determining a development application for new residential development in Penrith City Centre. As outlined in the Guideline:

- *New residential development in the affected area must be consistent with the Adaptive Management Framework described in this Guideline, particularly the dwelling thresholds set for each stage of the Framework - Stage 1 – 4,050 dwellings; Stage 2 – 6,000 dwellings; Stage 3 – 4,000 dwellings.*
- *To ensure consistency, or in circumstances where Council is concerned these thresholds may be exceeded, Council can consider granting a deferred commencement consent in accordance with the Environmental Planning and Assessment Act 1979 (the Act) and the Regulation. The condition of the deferred commencement consent can require the applicant to seek written confirmation from the Council that dwellings to be constructed are within the applicable threshold stage before the consent can operate.*
- *Modifications to development consents that propose an increase in the number of dwellings also need to be assessed under this Guideline. Modifications are not to be used to exceed the threshold levels, and must not vary provisions or conditions that give effect to or are consistent with Adaptive Management Framework.*
- *Council will be responsible for monitoring dwellings constructed in the affected area and will maintain a register of development consents for the purposes of monitoring the threshold levels. Certifiers will also need to ensure they comply with the requirements of the Act and Regulation when providing copies of their certificates to the Council.*

As one of the first residential development approval within the Penrith City Centre, the subject application is well within the dwelling thresholds for Stage 1. A condition of consent is recommended in this regard.

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

Context and Character

The development of the site will have an immediate impact of the character of the area in that the site is currently vacant and the approval of the development will introduce a 8-10 storey residential apartment development into the streetscape. While so, the proposed setbacks, 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 Village Centre both under the Penrith DCP 2014 and the approved North Penrith Concept Plan (MP10-0075).

Solar Access

The development has been modelled to maintain solar access requirements to the 10 storey residential flat building to the south at 39 Lord Sheffield Circuit, comparable to that of the approved 6 storey development on the subject site (DA16/1053).

Views

The proposal complies with the building height controls applicable to the lot and is a permissible form of development. Residential flat buildings are an anticipated built form for the site which was earmarked as an 'Opportunity Site' under the approved Concept Plan, expected to provide a higher density development in a precinct established in order to supply housing close to the Penrith City Centre.

Traffic and Parking

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 a compliant 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.

Noise and Construction Impacts

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. It is noted that the basement excavation has taken place in accordance with the previous development consent DA16/1053.

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 in relation to Crime Prevention Through Environmental Design and has been found to be compliant. A condition of consent is recommended to ensure the development incorporates relevant specifications into the completed construction.

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

The site is considered to be suitable for the site for following reasons:

- The use is compatible with surrounding and future adjoining land uses;
- The grade and area of the site is capable of providing for, or connecting to the infrastructure required to service and maintain the development;
- The proposal will not result in unacceptable negative environmental impacts in the locality.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents, advertised and was exhibited between 18 April and 2 May 2019. A total of 5 submissions were received in response. In early August it was brought to Council's attention that a number of residents in the vicinity of the proposal had not received correspondence from Council during the notification period. A review of Council's records confirmed that there had been an error in the notification process which meant that not all adjoining properties were sent notification letters. As a result, the affected residents were sent a notification letter, requesting that any written submissions be made in relation to the application between 8 August and 22 August 2019. An additional 2 submissions were received during this time. A summary of the matters raised in the submissions and a response to those matters, is provided below.

Issues raised	Comment
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<i>Building height</i> • Does not provide adequate transition between 3 and 10 storey development • Inconsistent with Masterplan and DCP controls • Urban design inconsistent with surrounding development • Conflicts with vision and planning objectives for the Estate	With an 8 and 10 storey variable height, it is considered that the development does provide a suitable transition in building heights in a location earmarked for higher density development within the North Penrith Concept Plan. The 32m maximum building height permitted under the LEP and increased densities described by the Preferred Project Report, which forms part of the Concept Plan approval documentation, allows consideration of a built form greater than the 6 storeys approved under the existing consent for the site. Commentary in relation to the permissible building heights and consistency with the Concept Plan and DCP have been discussed earlier in this report. In relation to the compatibility of the proposal in terms of urban design, the architectural plans have been reviewed on three separate occasions by Design Integrity and/or Urban Design Panels and found to be satisfactory. The vision for the Estate as stated in Part E11 of the DCP is as follows. <i>The development of North Penrith is to:</i> <i>a) create well-designed spaces that engage and activate its community for living and working;</i> <i>b) provide well-connected linkages, nodes and destinations that integrates with a significant water body;</i> <i>c) create diverse, yet cohesive, housing products that allow capability to ever changing household needs and formations;</i> <i>d) provide a business/employment centre that is complementary and an extension to the Penrith CBD.</i> It is considered that, on balance, the development as proposed fits with the elements described within the vision.
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<i>Amenity impacts</i> • Overshadowing/reduced solar access to Harts Landing • Interrupted views from Harts Landing • Privacy/overlooking to terraces along canal	Detailed solar analyses and overshadowing diagrams have been provided with the application. These demonstrate that the varied heights of the 8 and 10 storey design, combined with the building separation provided by the street, results in the proportion of units receiving the minimum 2 hour solar access required by the ADG remaining as per the 6 storey development previously approved on the site under DA16/1053. In respect of views impacted by the 8-10 storey proposal, the Concept Plan and LEP controls provide an expectation that the site will deliver high density residential development. It is considered reasonable to anticipate a development of the height proposed would be provided on the site. While a 6 storey RFB was approved on the site, the proposal is permissible and is compliant with planning controls. Planning principles in relation to views are established in <i>Tenacity Consulting v Warringah Council</i> [2004] NSWLEC 140. With reference to the four step assessment, the affected views are to the north over the broader Thorton Estate, to the industrial area along Coreen Avenue. These are not considered to be iconic views. Views from living areas will be impacted for some north facing units on levels 7-9, however the proposed development at 2 Lord Sheffield Circuit is articulated in building height such that some units will maintain views. Lastly, the proposed development complies with all relevant planning controls, and therefore the proposal is considered reasonable and acceptable. Building separation distances have been provided to all elevations which comply with the ADG. Views from upper level balconies on the northern elevation will be distant outward views rather than downward and overlooking.
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<i>Overpopulation of Estate</i> • Increased traffic, crime, rubbish, graffiti, noise, pollution • Lack of infrastructure to service community (parks, schools, retail etc) • Oversupply of units resulting in negative impact on property prices	The purpose of the estate is to supply high density residential living in proximity to the City Centre. The Concept Plan and DCP provide dwelling target ranges for sub-precincts within the area to ensure that the minimum of 900 dwellings is achieved for the whole precinct. The existing traffic network is assessed to have the capacity to accommodate the density of development envisaged by the approved concept plan, of which the proposal is compliant with. Noise related to traffic entering and leaving the site is not expected to be beyond that which could be expected or is acceptable, given the zoning of the lot and allowable development densities for the site. The estate provides a large recreational space, and the proposed development, as with other approved and completed residential flat buildings in the locality, provides private and communal open spaces in compliance with the ADG. Penrith Public and High Schools are located 1.1km from the site. Retail shops are available approximately 300m from the site. Additional retail space has been approved at 41 and 192 Lord Sheffield Circuit to the south, with construction yet to commence. In terms of unit supply and impact on property prices, this is a matter for market demand and supply.
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<i>Traffic</i> • Congestion in Fernandez Lane which is very narrow • Street parking under pressure from commuters • Increased conflicts at pedestrian crossings	The width of Fernandez Lane was assessed as part of the Major Projects approval for the subdivision of the Estate by the Department of Planning and Environment. The width of the Lane was considered adequate for its intended use and had taken into consideration the density of development allowable under the master plan. It is expected that the majority of traffic attributed to the proposed development will enter and exit the site via Combewood Avenue and Lord Sheffield Circuit. The selected location of the basement car park has been considered and is assessed to be appropriate given the ample sight distances and efficient access arrangements (double width ramp, recessed security door). Fernandez Lane is a low speed 'service' laneway and it is not expected that significant safety impacts attributed to the proposal, will result. In addition to the above, the development proposal was assessed by Council's Traffic Engineers who have confirmed that the local road network has the capacity to accommodate the expected volume of additional vehicle movements attributed to the proposal.
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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	Not supported
Environmental - Waterways	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	Not supported
Community Safety Officer	No objections - subject to conditions

Development Engineer

Council's Development Engineer notes that the stormwater pit adjacent to the basement and Fernandez Lane is indicated at the incorrect level and that the swept paths for vehicular travel cross over some shared zones within basements 1 and 2.

In relation to the stormwater pit, this is a design error that can be corrected on plans to the satisfaction of the certifying authority, and a condition of consent is recommended in this regard.

As the proposal provides 18 additional car parking spaces than required by the DCP controls for Thornton Estate, it is considered reasonable that the conflict with shared zones can be managed by amending the parking layout through the removal of 4 spaces and provision of shared zones in those locations. A condition of consent is recommended.

Traffic Engineer

Council's Traffic Engineer noted that the waste truck would require installation of 'no parking' restrictions on Radcliffe Place to enable entry to the waste bay. This is a condition of the active consent on the property (DA16/1053) and as such is consistent with the existing consent.

Concerns were raised in relation to the shared parking spaces related to accessible parking spaces and non-compliance with the Australian Standard. A condition of consent is recommended in this regard.

Waste Services

Council's Waste Officer notes minor areas of inconsistency with the 'Residential flat building waste management guideline'. These include variations to clearances within and external to the chute room within basement 1, minor variation to the loading bay clearance to the waste truck, minor variation to the width of the access ramp to the car wash bay, and capacity of the waste collection room which requires 20 bins to be stored.

It is considered that these matters are able to be resolved through minor amendments to the submitted plans and a condition of consent is recommended to ensure that prior to the release of the construction certificate, an amended design is submitted and approved by Council in compliance with the waste guideline.

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 and as such, 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.

Section 94 - Developer Contributions Plans

Condition C4 of MP10-0075 (as amended) and Condition B8 of MP10-0078 (as amended) set out the rates for Section 7.11 contributions for residential dwellings within the Thornton Estate, consistent with the Ministerial Cap for Section 7.11 plans. The Conditions state that:

1. *Contributions shall be made payable to Penrith City Council for the purposes of District Open Space Facilities at a rate per dwelling type, as shown below:*

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

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

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

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

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

Based on the above requirements, the following Section 94 contributions for district open space facilities are applicable as indexed to the current quarterly rate:

173 dwellings x \$1,895 = \$327,835.00

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

Conclusion

The proposal has been assessed against the relevant environmental planning instruments and policies, including State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, 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, the Apartment Design Guide, Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014. The proposal is found to satisfy the aims, objectives and provisions of these policies and is acceptable.

The proposal will have a positive 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 the Major Project Approval - North Penrith Concept Plan and Stage 1 Project Approval applicable to the site. The application is therefore worthy of support, subject to the recommended conditions.

Recommendation

1. That DA19/0253 for a 10 Storey Residential Flat Building containing 173 residential units, part at grade car parking and 3 levels of basement car parking at 2 Lord Sheffield Circuit, Penrith, be approved subject to the attached conditions (Development Assessment Report Part B);
2. That those making submissions are notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the plans and documents as listed below and as stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Architectural Plans by DKO Architecture, Project No. 12116, Drawing Series GA Plans Lot 211			
Drawing No	Description	Revision	Date
DA100	Site Plan	A	05/04/2019
DA104	Demolition Plan	A	05/04/2019
DA200	Basement L3 & Basement L2	B	05/07/2019
DA201	Basement L1 & Ground Floor	B	05/07/2019
DA202	Level 1 & Levels 2-6 Typical	A	05/04/2019
DA203	Level 7 & Level 8	A	05/04/2019
DA204	Mezzanine Level & Roof Level	A	05/04/2019
DA205	Adaptable Units	A	05/04/2019
DA206	Adaptable Units	A	05/04/2019
DA207	Adaptable Units	A	05/04/2019
DA208	Liveable Housing Units	A	05/04/2019
DA300	North & East Elevations	A	05/04/2019
DA301	South & West Elevations	A	05/04/2019
DA410	Sections 1 & 2	A	05/04/2019
DA411	Sections 3 & 4	A	05/04/2019
Stormwater Drainage Design by SGC, Project No. 20160273, Lot 211			
SW200	Basement Plan	A	04/04/2019
SW201	Ground Floor Plan - Sheet 1 of 2	A	04/04/2019
SW202	Ground Floor Plan - Sheet 2 of 2	A	04/04/2019
SW300	Details Sheet	A	04/04/2019
SW400	Erosion and Sediment Control Plan and Details	A	04/04/2019

Reports

- Landscape DA Report by Turf Design Studio, dated 05/04/2019
- Waste Management Plan by Dickens Solutions, dated 5 April 2019
- Traffic Assessment by ttm, reference no. 18SYT0155, dated 04/04/2019
- Accessibility Report by Access Link Consulting, Report No. 17-022, dated 05/04/2019
- SEPP 65 Report by DKO, Project No. 12116, dated 26/03/2019
- BASIX Certificate No. 760409M_02, issued 05/08/2019

- 2 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority is to be provided with copy of the registered Title for 10 units which notes that:
- a restriction is registered against the title of the property, in accordance with Section 88E of the Conveyancing Act 1919 requiring that 10 units must be used for the purposes of '*affordable housing*' (as defined by State Environmental Planning Policy (Affordable Rental Housing) 2009, and
 - that the unit must be managed by a 'registered community housing provider' (as defined by the Housing Act 2001), for a minimum period of 10 years from the date of the issue of any **Occupation Certificate**. The name of the authority having the power to release, vary or modify the restriction referred to is to be Penrith City Council.
 - Prior to the occupation of the 10 units, details of the 'Registered Community Housing Provider' managing the affordable housing are to be provided to Penrith City Council.

Advisory notes:

(i) Under State Environmental Planning Policy (Affordable Rental Housing) 2009 a 'Registered Community Housing Provider' is defined as an entity that provides community housing.

(ii) State Environmental Planning Policy (Affordable Rental Housing) 2009 defines affordable housing as follows:

Affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

(iii) Evidence that that 10 units are being utilised for the purposes of affordable housing, in accordance with the above requirements, must be retained by the owner of the property and made available for Council inspection upon request.

- 3 The development is to comply with the applicable conditions of consent of the Major Projects Approval No. MP10-0075 and the Statement of Commitments included within Schedule 3 of MP10-0075, in particular, those related to site contamination, unexpected finds and the discovery of unexploded ordinance.
- 4 In accordance with the Schedule 3 of the Statement of Commitments attached to the Major Projects Approval No. MP10-0075, evidence of the preparation of a Transport Access Guide document, that is to be made available to residents of the development, is to be provided to the Principal Certifying Authority **prior to the issue of the Occupation Certificate**.
- 5 **Prior to the issue of the Construction Certificate**, the architectural Construction Certificate documentation, including a Final Schedule of Materials and Finishes with façade sections at a scale of 1:50 (in accordance with Schedule 1, 2(5)(f) of the Environmental Planning and Assessment Regulation 2000) is to be provided to Council's Urban Design Review Panel for review and endorsement in order to ensure that the design quality of the approved plans is maintained.

A copy of the endorsement letter is to be provided to the Principal Certifying Authority.

- 6 Prior to the issue of an Occupation Certificate the Principal Certifying Authority is to ensure that all street trees have been adequately protected throughout the site preparation and construction phases of the development and are present and in good health. Dead, dying or damaged street trees are to be replaced like-for-like with a mature species.

- 7 The 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 1989.
- {Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as a carport, garage, shed, rural shed, swimming pool and the like}.
- 8 All civil engineering construction works shall be carried out substantially in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specifications for Civil Works.
- 9 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 10 A separate development application for the erection of any sign or advertising structure, other than an advertisement listed as exempt development under the State Environmental Planning Policy (Exempt and Complying Developments Code) 2008, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014
- 11 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 12 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 13 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 14 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.
- 15 **Prior to the issue of a Construction Certificate**, a detailed Water Management Strategy is to be submitted which includes details on how the central wetland and central water feature will be protected from pollutants and sediment arising during the building and construction stages.
- 16 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall ensure the proposed development is compatible with the BASIX Certificate and the water efficiency recommendations included in the North Penrith Stages 2B - 3B Water Cycle Management Strategy Report, prepared by J. Wyndham Prince, reference 9470Rpt1B dated 17 October 2012.

- 17 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 for all entries to the buildings including the car park.
- Australian Standard 220 – door and window locks must be installed in all dwellings.
- 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.
- Mailboxes must be secure with no front flap lock that can be easily broken. They should be positioned within the building façade with access from within a secure (resident only) area.

Entrances

- All entrances must be clearly signed and easily identifiable for users.
- Signage should be displayed near the entrances reminding residents to not prop the doors open or let people in without access provisions.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- 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.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Environmental Matters

- 18 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 19 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 20 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.

- 21 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.

- 22 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.

- 23 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.

24 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Development Control Plan 2014 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."}

25 **Prior to the issue of the Construction Certificate**, acoustic and vibration certification is to be prepared by a suitably qualified consultant which demonstrates that the waste collection area is suitably attenuated to ensure that noise impacts on adjacent and upper level units are minimised and are of an acceptable level. All recommendations of the report/certification are to be incorporated into the design of the development.

- 26 Should any "unexpected finds" occur during site excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council notified. Any such "unexpected finds" shall be 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 No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 27 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to ensure that all areas provided for bin washing and car washing are to be appropriately bunded and are to be provided with a floor waste, connected to the sewer. At no time is wastewater from these washing areas to enter the stormwater drainage system.

- 28 **Prior to the issue of a Construction Certificate**, the following waste management requirements must indicated on plans and approved by Council:

- Within the loading bay, 0.5m unobstructed clearance is required from all obstructions for the vehicle's ingress and egress manoeuvres.
- Waste trucks must be able to be wholly contained within the building's built form and enclosed.
- The access corridor from the loading bay must be a minimum of 1.8m wide with a maximum gradient of 1:24.
- The waste collection room is to be large enough to accommodate the entire fleet of bins (22 x 1100L bins) plus 0.2m between bins to allow adequate manoeuvrability. The room is to be fully enclosed, walled and not permit through access to other on-site waste infrastructure. Separate unobstructed access is required.
- The waste chute room located in basement 1 will need to incorporate minimum 0.9m clearance around the linear or circular carousel system to allow for maneuverability and system maintenance. The pylon adjacent to the accessible parking of the central and northern chute rooms restricts bin access. A minimum 1.8m clearance is required.
- The access ramp to the bulky goods room must be 1.8m wide to permit unobstructed access.
- All on-site waste collection infrastructure, doors and access points (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room, Hoist and Loading bay) are to be locked through Council's Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Guideline' document.
- All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.

29 **Prior to the issue of an Occupation Certificate** the following is to be submitted to and approved by Penrith City Council:

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.
Note: By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.
- Councils Waste and Resource Recovery Department to conduct a site inspection to ensure all on-site infrastructure has been provided to permit a safe and efficient waste collection service.

BCA Issues

30 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.

31 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.

32 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.

33 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

34 A minimum of 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**.

35 In the event that a hydrant booster is necessary to service the development, the booster shall be integrated into the design of the development. **Prior to the issue of a Construction Certificate**, Council shall be consulted regarding the proposed location of the booster, as the location of the booster may impact on other services and buildings, driveway or landscape design. Confirmation will also be required with regard to any heat shield or other such structures required.

Utility Services

36 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 any Occupation Certificate**.

37 **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 pad mounted substation is necessary to service the development, Penrith City Council must 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.

38 **Prior to the issue of the Occupation 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.

39 In the event that a hydrant booster is necessary to service the development, the booster shall be integrated into the design of the building. **Prior to the issue of a Construction Certificate**, Penrith City Council must be consulted over the proposed location of the booster as the location of the booster may impact on other services and building, driveway or landscape design already approved by Council. Confirmation is required with regard to any heat shield or other such structures required.

Construction

40 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.

41 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.

42 Construction 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.

- 43 **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.

- 44 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.

Roads Act Requirements

- 45 All vehicles are to enter and exit the site in a forward direction.
- 46 The subleasing of car parking spaces is not permitted by this consent, and all car parking spaces are to be linemarked and dedicated for the parking of vehicles only and not to be used for storage of materials/products/waste materials/etc.

Engineering

- 47 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.

- 48 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.

- 49 **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** as applicable.

- 50 The stormwater management system shall be provided generally in accordance with the stormwater plan set prepared by SGC Pty Ltd, Project number 20160290, drawings SW101-SW400, Issue A, dated 26/3/2019.

Note: the invert level for the pit in south eastern corner of the ground floor plan is not correct. Please rectify it prior to the issue of Construction Certificate.

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.

- 51 **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).
- 52 **Prior to the issue of the 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 AS2890.1, AS2890.2, AS2890.6 and Council's requirements.
- 53 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.
- 54 **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.
- 55 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.
- The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 56 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.
- The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- 57 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.
- The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

- 58 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 59 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.
- 60 **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.
- 61 **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 and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.
- 62 Existing 4P parking signage on both sides of Radcliffe Place must be replaced with 'No Parking' signage, subject to Local Traffic Committee approval, to facilitate service vehicle turn paths into the site..
- 63 Driveway splays shall not conflict with kerb inlet pits located on Radcliffe Place.
- 64 **Prior to the commencement of any works, and prior to the issue of a Construction Certificate**, the principal certifying authority is to ensure that a letter has been received from the Manager of Development Services, Penrith City Council, attesting that the development is consistent with the Adaptive Management Framework and dwelling thresholds detailed in the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre, published by the Department of Planning and Environment on 28 June 2019, in accordance with clause 92(1)(f) of the Environmental Planning and Assessment Regulation 2000. The abovementioned letter is to be dated no earlier than 3 months prior to the issue of the Construction Certificate or commencement of works.
- 65 Each 1 and 2 bedroom residential apartment is to be allocated a minimum of one car parking space within the development.

Tandem car parking spaces are to be allocated to a single unit to prevent user conflict.

All adaptable units are to be allocated with a minimum of one accessible car parking space within the development.

Landscaping

- 66 All landscape works are to be constructed in accordance with the stamped approved plans, the Landscape DA Report by Turf Design Studio, dated 05/04/2019, and Section C6 Landscape Design of the Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the stamped approved plan, 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.

- 67 The approved landscaping for the site must be constructed by an appropriately qualified and experienced landscape professional.
- 68 The following series of reports relating to landscaping is to be submitted to the nominated consent authority at the appropriate time period as listed below. The reports shall be prepared by an appropriately experienced and qualified landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an 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 should 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 satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

- 69 The green façade/wall is to be constructed and maintained as follows:

(a) Planting beds and soils supporting vegetation associated with the green façade/wall are to be provided with irrigation.

(b) Details of the green façade/wall shall be submitted to an appropriately qualified landscape professional with experience in the design and maintenance of green facades/walls for the purposes of a peer review.

Recommendations of the review shall be adopted and incorporated into the design of the green façade/wall and its maintenance schedule.

A copy of the review with recommendations and any resultant design amendments or inclusions shall be provided to the Principal Certifying Authority, **prior to the issue of a Construction Certificate**.

- 70 All plant material associated with the construction of approved landscaping is to be planted in accordance with Appendix F5, Section 2.9 Landscape Technical Specifications of the Penrith Development Control Plan 2014.

71 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.

72 All street trees including those located along Lord Sheffield Circuit are to be retained and protected throughout the site preparation and construction phases of the development.

Development Contributions

73 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space as required under Major Projects Approval No. MP10-0075. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$327,835.00 is to be paid to Penrith City 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 Section 94 plan and conditions of the Major Projects Approval No. MP10-0075. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule and under major projects approval No. MP10-0075. Council should be contacted prior to payment to ascertain the rate for the current quarterly period.

The Section 94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

The Major Projects Approval No. MP10-0075 may be viewed via the Department of Planning and Environment's Major Projects website <http://majorprojects.planning.nsw.gov.au/>.

Payment of Fees

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

75 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

76 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 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

77 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation 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

C10 Transport, Access and Parking

The development is assessed as compliant with the general objectives of this Section. The car parking rates in Section C10 do not apply to developments within the Thornton Estate. An assessment has been provided under Section E11 Penrith, Part B - North Penrith, which specifically relate to the Thornton Estate of which the proposal is found to be compliant.

E11 Penrith

The proposal has been assessed against the Penrith DCP 2014, in particular Chapter E11, Part B - North Penrith and is found to be acceptable. Compliance with particular sections of the Chapter is detailed below.

Clause 11.8.2.1 Vision

The proposal is assessed to comply with the vision statements expressed within the clause in that the proposal is well designed and will contribute to active spaces within the Estate.

Clause 11.8.3 Residential Development

The dwelling target range for the site is 124-142 dwellings as detailed within Table E11.4 of the DCP. The proposal includes 173 units, which is above the dwelling target range for the site for the site. As with the overall dwelling targets established under the North Penrith Masterplan, these are considered to be minimum targets in an estate that was designed to accommodate high density residential development. This is reflected in the applicable built form controls which facilitate higher density development and the objectives for clause 11.8.3 which include objective 1 as follows:

1) To ensure that a minimum residential density is achieved in the precinct in recognition of its proximity to public transport and the Penrith City Centre.

It is considered that the proposal complies with the objectives of the clause.

Clause 11.8.3.3 Building Envelopes

The proposal complies with the applicable building envelope controls for floor to ceiling height as 2.7m minimum is adopted for the ground floor for the residential units.

Figure E11.37 identifies a maximum 6 storey height limit for the site. This control within the DCP is inconsistent with the approved Masterplan as amended by the Preferred Project report which provides for a 32m building height. Council's City Planning Team have identified this as the subject of a future DCP amendment.

Clause 11.8.3.10 Specific Provisions - Residential Flat Buildings

The DCP states that the following car parking rates override the parking rates outlined within Section C10 Transport, Access and Parking.

Studios - 0.5 x space per dwelling (15.5 spaces)
1-2 Bedrooms - 1 x space per dwelling (126 spaces)
3+ Bedrooms - 2 x spaces per dwelling (32 spaces)
Visitor Parking - On street
Total car parking spaces required = 174 spaces

The proposal for 192 residential car spaces, including 18 accessible spaces and 32 tandem parking spaces, is compliant with the above DCP requirement for residential car parking. A condition of consent is recommended to required that each 1 and 2 bedroom unit is to be allocated one car space and each 3 bedroom unit is to be allocated two car parking spaces.

Blocks A1-A6

The proposal complies with the specific controls relating to Blocks A1 to A6 with the subject site being identified within the DCP as being Block A4. The adequately addresses all street frontages and underground parking is incorporated into the design of the building.

Clause 11.8.4 The Village Centre

The proposed development is consistent with the preferred land uses within the Village Centre as identified in Figure E11.47 of the DCP.

The development is also consistent with the building setbacks and build-to-lines within the Village Centre and proposes a 3m *Generic* build to line along Lord Sheffield Circuit.

The proposal achieves compliance with controls related to the integration of services and plant into the design of the building and the use of high quality materials and finishes on the facades of the building. Access is provided at ground floor to all lobby areas.

Although the DCP guideline rate is for 1 car wash bay for every 50 units and only one is provided, this minor deviation is acceptable given the short term, intermittent nature of the car wash use, the additional number of parking spaces provided over and above the minimum requirement, and that on balance, the development largely complies with the controls and objectives of the DCP and other planning instruments. The location of the development in the Penrith City Centre also provides sufficient access to commercial car wash facilities in close proximity to the subject site.