

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-13 – Penrith
DA Number	DA19/0499
LGA	Penrith City Council
Proposed Development	4-Storey Affordable Housing Residential Flat Building Comprising 21 Apartments with Basement Parking for 10 Cars and associated works
Street Address	23, 25 Lethbridge Street, St Marys NSW
Applicant/Owner	Applicant: Tom Zeaiter Constructions and Morson Group Owner: NSW Land and Housing Corporation
Date of DA lodgement	30 July 2019
Total number of Submissions Number of Unique Objections	Total of 4x submissions received (all unique)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The proposal is Crown Development and has a capital investment value in excess of \$5 million.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> State Environmental Planning Policy (Affordable Rental Housing) 2009 State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development State Environmental Planning Policy No. 55 (Remediation of Land) Penrith Local Environmental Plan 2010; and Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> Architectural Drawings, Revision Q dated 21 August 2020 Landscape Plan Revision C dated 21 August 2020 Concept Stormwater Plans Revision D dated 20 May 2020 Access Report, prepared by Vista Access Architects Revision D dated 17 August 2020 Noise Impact Assessment Report (Report R190220R1 Rev 0) prepared by Rodney Stevens Acoustics and dated 26 May 2019
Clause 4.6 requests	Not applicable.
Summary of key submissions	<ul style="list-style-type: none"> traffic and parking concerns character of development overshadowing impacts privacy impacts
Report prepared by	Lucy Goldstein
Report date	8 September 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

SWCPP Ref. No.:	PPSSWC-13
DA No.:	DA19/0499
PROPOSED DEVELOPMENT:	4-Storey Affordable Housing Residential Flat Building Comprising 21x Apartments, with Basement Parking for 10x Cars and associated works - Lot 71 DP 505166, Lot 72 DP 505166, 23 Lethbridge Street, ST MARYS NSW 2760 25 Lethbridge Street, ST MARYS NSW 2760
APPLICANT:	Nsw Land & Housing Corporation C/O Tom Zeaiter Constructions & Morson Group
REPORT BY:	Lucy Goldstein, Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Crown Development Application from NSW Land & Housing Corporation c/ Morson Group for the construction of a 4-Storey Affordable Residential Flat Building containing 21x units, basement car parking and associated works at 23,25 Lethbridge Street, St Marys.

Under Penrith Local Environmental Plan 2010, the subject site is zoned R4 High Density Residential. The proposal is defined as a 'residential flat building' which is a permissible land use in the R4 zone subject to Council consent. The application is made pursuant to the State Environmental Planning Policy (Affordable Rental Housing) 2009.

In accordance with Clause 4.5(b) of the Environmental Planning and Assessment Act 1979 and Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal is Crown Development and has a capital investment value in excess of \$5 million.

The Development Application has been advertised in a local newspaper and notified to all adjoining and adjacent property owners. Council received 4x submissions. The matters raised in the submissions received have formed part of the assessment of the application.

In accordance with Section 4.33(1)(b) of the Environmental Planning and Assessment Act 1979, draft conditions of consent are to be forwarded to the applicant for their consideration and approval, prior to determining the application.

Key issues identified for the proposed development:

Urban Design

The proposal has been reviewed on multiple occasions by Council's Urban Design Review Panel. During this process, Council's external Urban Design Consultant raised several concerns with the proposal. Noting the majority of design issues raised stem from the proposed basement design, which protrudes resulting in a raised podium level. The key design concerns raised include the development's relationship to the street in terms of building setbacks, built form outcome and amenity impacts on adjoining properties as a result of the raised basement level, breach of the maximum building height control, provision and quality of Communal Open Space area, and internal amenity of units on ground floor facing Lethbridge Street (particularly Unit 003) due to

its subterranean nature.

In response to the urban design matters raised, the proposal has undergone considerable design amendments. In this regard, the building setbacks to Lethbridge Street have been increased to a minimum 6m (at ground and upper levels), with encroachment of balconies that have a setback of 5.7m. The building setbacks to Blair Avenue has been increased to minimum 6m, with encroachment of balconies that have a setback of 5.7m, and encroachment of two terraces at ground floor which provide 5m setback. The overall dwelling yield has been reduced from 26x units as originally lodged, to 21x units. As a result, the building height has been reduced from 5-storey to 4-storey and the current proposal is compliant with the maximum building height control. The basement footprint has also been reduced to provide greater deep soil landscaping area along Blair Avenue frontage (5m wide). The proposal provides substantial landscaping along both street frontages.

Finished Floor Levels (Subterranean Unit)

The ADG recommends that ground floor units be a maximum 1m above street level. Unit 003 facing Lethbridge Street has a finished floor level of RL 46.2 and the associated terrace has a finished floor level of RL 46.6. Street level (Lethbridge St) has an RL of 48.33. As such, there is a level difference of approximately 2.1m between street level and Unit 003. Throughout the assessment process, and as raised by Council's Urban Design Review Panel, the sunken nature of this unit results in poor internal amenity for Unit 003, and a poor presentation to the street. However, the level difference between the finished floor levels is a result of the design of the basement, which in this instance cannot be avoided. The proposal has also been amended to relocate the terrace for Unit 003 to the southern elevation (rather than the eastern elevation which is most affected by slope). This means that the Unit has a southern aspect, and will not look onto the terraced landscaping along the eastern elevation, providing better amenity. In terms of streetscape impacts, highlight windows have been provided on the ground floor units facing Lethbridge Street to provide an address to the street. Dense landscaping is provided along this street frontage to soften the presentation of the development.

Provision of Communal Open Space (COS)

The ADG requires 25% of a site to be provided as COS. The proposed COS area is 39sqm, representing 3% of the total site area, and resulting in a significant shortfall. In this regard, the proposal has been considered on merit. In considering the constraints of the site in terms of lot depth, width and topography, it is considered that achieving a compliant amount of COS area is unattainable on the site. Noting that the COS area is south facing and will receive poor solar access, being affected by overshadowing. To compensate, the proposal provides greater passive communal spaces, comprising of substantially landscaped areas along both street frontages and side boundaries. The proposal exceeds the amount of deep soil areas required (being 18% of the site), providing opportunity for canopy trees on the site to contribute to the overall amenity of the development.

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 recommended conditions.

Site & Surrounds

The subject site comprises two lots legally described as Lot 71 and Lot 72 in DP 505166, commonly known as 23 and 25 Lethbridge Street St Marys NSW.

The site is located at the corner of Lethbridge Street and Blair Avenue. The site has a total land area of 1328sqm with a dual frontage to Lethbridge Street and Blair Avenue. The site is currently vacant land.

Surrounding Development:

Immediately adjoining the site to the north, south, and west are single storey cottages. The broader surrounding area is currently in transition and consists of predominately low density (single dwellings) to medium density (dual occupancy, townhouses) development.

The site is situated approximately 500m walking distance from the St Marys Town Centre, which provides a broad range of commercial, retail, and food and drink businesses.

Public Transport Connections:

The site is in close proximity to existing public transport services. The site is within 800m walking distance of St Marys Railway Station, and is within 350m walking distance from a bus stop on Phillip Street (Bus stop ID 2760174).

Site Constraints:

- Topography: the site has a significant slope to the south-west corner (rear), with a total cross fall of approximately 3.8m.
- The site drains to the rear. The proposal includes a drainage easement across adjoining lots (23 Blair Ave and 27 Little Chapel Street) to achieve drainage to Little Chapel Street using natural fall of the land.
- Blair Avenue is narrow (approximately 7.5m wide)
- Site contains existing trees and shrubs, proposed for removal

Proposal

The application seeks development consent for the following works:

- Construction of a 4-storey Residential Flat Building containing 21x affordable and social housing dwellings (comprising 13x 1-bedroom units and 8x 2-bedroom units);
- Construction of a basement including 10x resident car parking spaces, 4x bicycle parking spaces, storage cages for each unit; and waste collection area and services;
- Removal of existing vegetation, including 7 trees, 2x shrubs; and
- Associated landscaping and civil works.

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 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)**

Clause 4.5(b) of the Environmental Planning and Assessment Act 1979 (The Act) states that for development that is declared as regionally significant, the consent authority is a Regional Planning Panel.

The proposal is defined as regionally significant development under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, as the proposal is for Crown Development that has a capital investment value (CIV) of more than \$5 million. It is noted that the landowner of the site is NSW Land and Housing Corporation, and the proposal has a CIV of \$8,108, 274.00

Accordingly, the Sydney Western City Planning Panel (SWCPP) is the determining authority for the proposal, and the application is to be reported to the SWCPP.

- **Section 4.15 - Evaluation**

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

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Affordable Rental Housing) 2009

An assessment has been undertaken of the proposal against relevant criteria within State Environmental Planning Policy (Affordable Rental Housing) 2009 and is provided below:

Clause 10 Development to which Division applies

The development is defined as a residential flat building and is permissible in the R4 Residential (High Density) zone under the provisions of Penrith Local Environmental Plan 2010. The Sydney Region includes the Penrith LGA and the application has demonstrated that the subject site is within an accessible area.

Clause 13 Floor Space Ratios

No FSR is prescribed by the LEP, therefore this clause is not applicable.

Clause 14 Standards that cannot be used to refuse consent

Control	Requirement	Proposed	Complies
Site Area	450sqm	1,328sqm	Yes

Landscape Area	35sqm of landscaped area per dwelling (if the application is made by a social housing provider); or 30% of the site area (in any other case).	<p>The proposal is made on behalf of NSW Land and Housing Corporation (being the landowner of the site). The proposal includes 21x dwellings, and so 735sqm of landscaped area should be provided (35sqm x 21 dwellings). The proposal provides approximately 551sqm of landscaped area, or 41% of the site, inclusive of raised planter beds (36% of the site is landscaped area when excluding raised planter beds).</p> <p>As such the proposal provides a shortfall of landscaped area under the SEPP, noting this provision is not a control, but a standard that cannot be used to refuse consent. Notwithstanding, the proposal has been considered on merit, and the proposal is considered acceptable as the development has been amended to provide greater building setbacks to Lethbridge and Blair Avenue to achieve substantial landscaping within the front setback areas. The proposal also meets the minimum deep soil area requirements under the SEPP to provide canopy trees.</p>	No - Refer to discussion to the left.
Deep Soil Zones	15% of the site area; minimum dimension of 3 metres; and 2/3 located at the rear of the site.	<p>241sqm or 18% of the site area is provided for deep soil plantings, with a minimum dimension of 3m.</p> <p>However, the majority of deep soil area provided is located along the street frontages, and the proposal does not provide 2/3 of deep soil planting at the rear of the site due to the design of the basement. Given the proposal exceeds the amount of deep soil planting area required, and provides substantial landscaping in the front setback areas to contribute to the streetscape, the proposal is considered satisfactory in regards to the provision of deep soil.</p>	Yes
Solar Access	Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	<p>A minimum of 70% of apartments receive 3 hours of direct sunlight to living room and private open space/balcony.</p> <p>14% of apartments for no receive direct sunlight between 9am & 3pm at mid-Winter.</p>	Yes

Parking	<p>In the case the application is made by a social housing provider for development on land in an accessible area at least:</p> <p>0.4 parking spaces for each dwelling containing 1 bedroom; 0.5 parking spaces for each dwelling containing 2 bedrooms; and at least 1 parking space for each dwelling containing 3 or more bedrooms.</p>	<p>The development includes 13x 1-bedroom units and 8x 2-bedroom units. Therefore, using the car parking calculation under the SEPP, the proposal is required to provide 9.2 car parking spaces (rounded to 10). The proposal provides 10x car parking spaces, being compliant with the SEPP.</p>	Yes
Dwelling Size	<p>Each dwelling has a gross floor area of at least:</p> <p>35m² - bedsitter or studio; 50m² - 1 bedroom dwelling; 70m² - 2 bedroom dwelling; 95m² - 3 or more bedroom dwelling.</p> <p>* Gross floor area does not include any car parking (including any area used for car parking)</p>	<p>The proposed dwellings comply with the minimum floor area required, with the 1-bedroom dwellings exceeding 50sqm, and 2-bedroom dwellings exceeding 70sqm.</p>	Yes

Clause 16 Continued application of SEPP 65

The proposal has been assessed against the relevant criteria under SEPP 65, refer to discussion in this report under SEPP 65.

Clause 16A Character of local area

On balance, the proposal is considered compatible with the future character and dwelling density envisioned for the locality. The proposal is compliant with the building height control permitted on the site and provides adequate building setbacks to achieve deep soil landscaping within the front setbacks. The site is in close proximity to the commercial precinct of St Marys and railway station, and so will provide residents with good access to services and public transport.

Clause 17 Must be used for affordable housing for 10 years

Clause 17(1) is not applicable as the site is owned by the Land and Housing Corporation.

Clause 18 Subdivision

The application does not seek consent for strata subdivision of the dwellings.

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 the construction of a residential flat building.

The application was accompanied by a BASIX Certificate (No.1016632M) was submitted with the application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort and in this respect, the proposal is satisfactory having regard to the aims of the Policy. A condition of consent has been imposed requiring the development to comply with the BASIX certificate. It is noted that several design amendments have occurred since lodgement of the application, so a condition of consent has also been imposed requiring an updated BASIX Certificate relating to the amended proposal, to be obtained prior to the commencement of works.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The proposal has been assessed against relevant criteria under SEPP 55, and is found to be satisfactory as summarised below:

- The application was supported by a Preliminary Site Investigation Report (PSI). The report identifies the historical uses of each of the two lots, concluding that the site as a whole has been used for residential purposes since 1961-1964, having been vacant land previous to that time. There is no history of commercial/industrial activities at, or adjoining, the site.
- The PSI includes targeted soil sampling and analysis of the site. The samples analysed show the site to be well within the criteria required by the National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPC 2013) for residential buildings with accessible soil and no asbestos (including fibres) was detected within any of the samples. The PSI also includes an asbestos clearance certificate that was issued upon clearance of the site, post demolition of the houses and sheds.
- The PSI concludes that the site is suitable for the proposed use.
- As a precautionary measure, a condition of consent has been imposed requiring works to cease in the event that any sources of contamination are identified during site excavation works. However, based upon the findings of the PSI, and given that the site has not been filled and has been used for residential purposes only, the likelihood of contamination is considered low.

With consideration to the above, the site is considered suitable for the proposal, meeting the requirements under SEPP 55.

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

The proposal has been assessed against the relevant criteria within the State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development. On balance, the proposal is found to be satisfactory in regards to the relevant criteria of this Policy, subject to recommended conditions of consent.

The proposal is considered to be acceptable when assessed against the nine Design Quality Principles of Schedule 1. In addition, the applicant has demonstrated compliance with the principles as detailed by the 'SEPP 65 Compliance Summary' report (DA002 Revision Q) prepared by Morson Group dated 19 August 2020.

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 application, which 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.	<p>The development addresses both street frontages. The main entrance addresses Blair Avenue, with a secondary frontage provided along Lethbridge Street.</p> <p>Direct access to the ground floor units 001 and 002 are provided.</p> <p>The common entry and foyer areas are of an appropriate design and location, noting the main corridor at ground floor level provides a generous entrance (being 2.7m wide).</p>	Yes
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	<p>The supporting shadow diagrams demonstrate that:</p> <ul style="list-style-type: none"> 81% of units achieve solar access to living rooms and private open space/balconies, complying with the ADG. The COS is south facing, and will be significantly overshadowed by the building. As a result, the COS area does not achieve compliant solar access requirements under the ADG. In this instance, this non-compliance is considered acceptable, as the COS has been designed to specifically suit the nature of the development. In this regard, for safety and amenity reasons, the proposal provides greater amounts of passive communal areas (landscaping), rather than active COS areas. 	<p>Yes</p> <p>Non-compliant with COS requirements. Acceptable in this instance. Refer to discussion to the left.</p>

	Solar access to living spaces and POS of neighbours to be considered.	<p>The supporting Shadow Diagrams demonstrate that the proposal will not result in unreasonable overshadowing impacts on the living spaces and POS areas of adjoining properties.</p> <p>The adjoining property most affected by overshadowing by the development is expected to be 27 Lethbridge Street. However, the proposal maintains solar access to 50% of the POS of this property between 9am and 3pm mid-Winter.</p>	Yes
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	n/a	n/a
3C-1	Courtyard apartments should have direct street access.	All ground floor units provide direct street access, with the exception of Unit 103.	Yes- with the exception of 1x unit.
	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.	<p>The ADG recommends that ground floor units be a maximum 1m above street level.</p> <p>Unit 003 facing Lethbridge Street has a finished floor level of RL 46.2 and the associated terrace has a finished floor level of RL 46.6. Street level (Lethbridge St) has an RL of 48.33. As such, there is a level difference of approximately 2.1m between street level and Unit 003.</p> <p>Throughout the assessment process, and as raised by Council's Urban Design Review Panel, the sunken nature of this unit results in poor internal amenity for Unit 003, and a poor presentation to the street. However, the level difference between the finished floor levels is a result of the design of the basement, which in this instance cannot be avoided. The proposal has also been amended to relocate the terrace for Unit 003 to the southern elevation (rather than the eastern elevation which is most affected by slope). This means that the Unit has a southern aspect, and will not look onto the terraced landscaping along the eastern elevation, providing better amenity.</p> <p>In terms of streetscape impacts, highlight windows have been provided on the ground floor units facing Lethbridge Street to provide an address to the street. Dense landscaping is provided along this street frontage to soften the presentation of the development.</p>	Non-compliant, specifically the units fronting Lethbridge St. Accepted in this instance. Refer to discussion to the left.

	Upper level balconies and windows to overlook the street.	<p>Balconies are predominately located on the northern and eastern elevations overlooking the street.</p> <p>No balconies are provided on the western elevation (rear of the building) so as to avoid overlooking of the adjoining property.</p> <p>Three balconies associated with Unit 106, 206, 306 are located on the southern elevation, which face an adjoining property. However, the position of these balconies are unlikely to cause adverse privacy impacts, as sufficient building separation of 7.8m has been provided, and the balconies include privacy screens to minimise opportunity for overlooking.</p> <p>The corner balconies on the south-eastern, and north-western corners of the building have potential for overlooking adjoining properties, noting these balconies are setback a minimum 5.7m-6.0m from the side boundaries. However, the proposal has addressed this concern through the inclusion of full length privacy screen on the corner balconies to minimise overlooking of adjoining properties. The main aspect of these balconies is onto the street.</p>	Yes
	Length of solid walls should be limited along street frontages.	The development addresses both street frontages, and does not present large areas of solid wall to the street, with the exception of the basement entrance on Blair Avenue. However, due to the depth of the site the basement entrance cannot be further lowered to reduce the amount of protruding wall.	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.	<p>The ADG requirement for 25% of the site to be provided as COS. The designated COS area is 39sqm, representing 3% of the total site area, and resulting in a significant shortfall.</p> <p>In this regard, the proposal has been considered on merit. In considering the site constraints in terms of lot depth and width, and the sloping nature of the site, it is considered that achieving a compliant amount of COS area is unattainable on the site. To compensate, the proposal focuses on providing more passive communal spaces, largely comprising of the landscaped areas in the front and side setbacks. Noting the proposal exceeds the amount of deep soil areas required (providing 18% of the site), providing opportunity for canopy trees on the site.</p> <p>Given the nature of the development, the proposal on balance is considered acceptable.</p>	Non-compliant. Shortfall accepted in this instance. Refer to discussion to the left.
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	The proposal provides 18.1% of the site as deep soil planting area, when calculating areas that have a minimum dimension of 6m.	Yes
3F-1	<p>Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows:</p> <p>1-4 Storeys: 6m habitable to habitable and 3m for non-habitable</p>	<p>The proposal is non-compliant with the building separation controls:</p> <ul style="list-style-type: none"> Northern elevation (street frontage): provides a varying setback between 5.7m to 6.5m from balconies to the boundary Eastern Elevation (street frontage): provides a varying setback between 5.7m to 6.2m from balconies to the boundary Western elevation: provides a varying setback from 5.7m to 6.2m from balconies to the boundary. Southern elevation: provides minimum setback of 5.7m from balconies to the boundary on upper floors. Ground floor Unit (003) provides 6.3m separation from living windows to boundary, and 2.2m from ground floor terrace to boundary, with screening landscaping along the side fence. 	Non-compliant. Refer to discussion to the left.
3G-1	Building entries to be clearly identifiable.	Main entrance on Blair Avenue is clearly identifiable.	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. Clear sight lines to be provided for drivers and pedestrians. Garbage collection, loading and servicing areas are screened.	Onsite waste collection provided within the basement. Due to the sloping nature of the site, and lot depth, the basement cannot be further lowered to reduce protrusion. A condition of consent has been imposed requiring sight lines to be maintained.	Yes
3J-1	The site is located within 800m of a railway station and as such car parking rates are set by the RMS (formerly RTA) Guide to Traffic Generating Developments document.	The proposal provides 10x onsite car parking spaces within a basement, complying with the car parking rate required under the SEPP Affordable Rental Housing.	n/a
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	The proposal provides 4x bicycle parking spaces within the basement.	Yes
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	The lift area is clearly visible, and includes seating area on upper floors. At ground floor, the lobby area has direct connection to the COS.	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 bins are located in a waste room within the basement. To access the waste room, residents are required to walk from the lift across the basement, potentially crossing car parking spaces. A condition of consent has been imposed requiring clear pedestrian pathway to be identified to ensure safe access to the waste room.	Non-compliant, acceptable subject to conditions of consent. Refer to discussion to the left.

4A-1	<p>Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.</p> <p>A maximum of 15% of apartments to receive no direct sunlight between 9am and 3pm mid-winter.</p>	<p>81% of apartments receive 2 hours of direct sunlight.</p> <p>14% of apartments do not receive direct sunlight between 9am and 3pm mid Winter.</p>	Yes
4A-3	Sun shading devices are to be utilised.	Sun shading devices provided on windows and balconies.	Yes
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	66% of apartments are cross ventilated.	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 minimum ceilings heights are in accordance with the ADG requirements. Habitable rooms have a minimum ceiling height of 2.7m.	Yes
4D-1	<p>Apartments are to have the following min. internal floor areas:</p> <p>1 bed – 50m²</p> <p>2 bed – 70m²</p> <p>3 bed – 90m²</p> <p>Additional bathroom areas increase minimum area by 5m².</p>	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. All levels provide 4 or less apartments off a circulation core.	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 and configurations. Unit mix is proposed as follows: <ul style="list-style-type: none"> 1-bedroom: 13x units 2-bedroom: 8x units 	Yes
4O-1	Landscape design to be sustainable and enhance environmental performance.		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 3x units. The plans indicate 3x units are to be provided as adaptable. A condition of consent has been imposed to ensure the 3x units identified are provided as adaptable. 3x accessible car parking spaces are provided in the basement.	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 Officer, with no objections raised subject to conditions of consent.	Yes
4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted, and a condition of consent is recommended to ensure compliance.	Yes
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The proposal provides onsite waste collection in the basement. The basement provides a waste collection room to accommodate 6x 660L bins, and a separate bulky waste bay. A waste vehicle bay is provided adjacent to the waste collection room to allow for bins to be directly collected.	Yes

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment.

The application includes water management measures to ensure that the development will not result in adverse impacts to the surrounding waterways. Accordingly, the application was accompanied by Water Sensitive Urban Design (WSUD) documentation and associated MUSIC Modelling. The proposed development will comply with Council's WSUD Policy requirements with the use of 4 * ocean guard filters on each pit and 5*460 Ocean guard (Stormwater 360) storm filter cartridges. Water conservation requirements will be met the use of a 5kL rainwater tank connected for reuse as required by BASIX.

In addition, during construction soil and erosion controls measures will be installed to ensure sediment as a result of the development is not deposited to the stormwater system.

With consideration to the above, the proposal is considered to meet the requirements under SREP 20.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies - See discussion
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A

Clause 2.3 Permissibility

Under Penrith LEP 2010, the subject site is zoned R4 High Density Residential. The proposal is defined as a Residential Flat Building, which is a permissible land use in the zone with Council consent (being a form of "Residential Accommodation").

Clause 2.3 Zone objectives

The proposal is considered to meet the objectives of the R4 High Density Residential zone, specifically:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To encourage the provision of affordable housing.
- To ensure that development reflects the desired future character and dwelling densities of the area.

Clause 2.7 Demolition requires development consent

The site is currently vacant. The previous dwellings and structures on 23 and 25 Lethbridge Street have been demolished under a separate Complying Development Certificate (CDP19/0381). The current application does not seek building demolition works.

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

In accordance with Clause 4.1A, within the R4 High Density Residential Zone, a lot is to have a minimum area of 800sqm for Residential Flat Building development. The subject site complies with this requirement, having a total area of 1,328sqm.

Clause 4.3 Height of buildings

In accordance with Clause 4.3 of Penrith LEP 2010, the maximum height of any building permitted on the subject site is 15m. The proposal is compliant with the maximum building height control, being four-stories and having a building height of 13.5m. The lift overrun has an RL of 59.7, being 810mm below the height limit.

As such, the proposal satisfies the requirements under Clause 4.3 of Penrith LEP 2010.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	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	Does not comply - see Appendix - Development Control Plan Compliance
D2.6 Non Residential Developments	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

Section 4.15(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 was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

Section 4.15(1)(b) The likely impacts of the development

Urban Design

The proposal was reviewed by Council's Urban Design Review Panel (UDRP) in February 2019, and again in June 2020. During the UDRP process, Council's external Urban Design Consultant raised several substantial concerns with the proposal, including:

- Insufficient setbacks to Lethbridge Street and Blair Avenue. Minimum 6m setbacks should be provided. Balconies further encroach setbacks emphasizing bulk of building
- Shortfall of Communal Open Space (COS) area as required by the ADG; and poor design and location of the communal open space (being south facing and unlikely to receive solar access due to overshadowing).
- Extent of footprint of basement beyond building footprint. Basement also encroaches into front setback to Blair Avenue, minimising deep soil planting opportunity in front setback.
- Poor urban design outcome as a result of the protruding basement level. Noting the COS area sits on a podium level, resulting in poor amenity and privacy impacts as a result of the level difference between the COS and adjoining properties.
- Breach of maximum building height control.
- Poor internal amenity of units on ground floor facing Lethbridge Street (particularly unit 003), due to the subterranean nature of the units.
- Non-compliance with ADG building separation requirements for the fifth-storey of the building
- Proposal does not accommodate onsite waste collection;
- The site will be one of the first sites to development and so has a role in setting a precedent or future development

In response to the concerns raised, the development has undergone several design amendments. Notably:

- Building setbacks to Lethbridge Street have been increased to a minimum 6m (at ground and upper levels), with encroachment of balconies that have a setback of 5.7m. The building setbacks to Blair Avenue has been increased to minimum 6m, with encroachment of balconies that have a setback of 5.7m, and encroachment of two terraces at ground floor which provide 5m setback.
- Dwelling yield has been reduced from 26x units as originally lodged, to 21x units. As a result, the building height has been reduced from 5-storey to 4-storey and the proposal as amended is compliant with the maximum building height control.
- Basement footprint has been reduced to provide greater deep soil landscaping area along Blair Avenue frontage (5m wide). The proposal provides substantial landscaping along both street frontages.
- The designated COS area is 39sqm, representing 3% of the total site area. In considering the site constraints in terms of lot depth and width, and the sloping nature of the site, it is considered that achieving a compliant amount of COS area is unattainable on the site. To compensate, the proposal focuses on providing more passive communal spaces, largely comprising of the landscaped areas in the front and side setbacks. Noting the proposal exceeds the amount of deep soil areas required (providing 18% of the site), providing opportunity for canopy trees on the site. Given the nature of the development, the proposal on balance is considered acceptable.
- The proposal as amended accommodates onsite waste collection within the basement, noting Council's Waste Officer raises no objections to the proposal.
- The terrace for Unit 003 has been re-orientated to the southern elevation. This provides better amenity for unit 003, in that the unit does not directly look onto the stepped terracing located along the Lethbridge Street frontage. Providing relief from the subterranean nature of the dwelling on the eastern elevation.

With consideration to the above design amendments, on balance Council staff consider that the amended proposal has largely addressed the concerns raised throughout the UDRP process.

Raised Podium in the Rear Setback

It is acknowledged that the proposed raised podium level located in the rear setback is not a desirable urban design outcome, and is generally not consistent with the aims of Penrith DCP. However, in this instance, the raised podium level is considered acceptable based on the following reasons:

- The podium area is a non-trafficable area and will be landscaped to suitably address the DCP requirements of a green corridor along the rear of a site.
- The development is for the purpose of affordable housing and has been designed so that this area will

not be used undesirably by the occupants.

- The areas around the podium are to be densely landscaped.
- The landscaping and open space areas in combination have been designed to minimise loitering and undesirable activities.
- The re-orientation of unit 003 is more appropriate and has a better relationship to the south-west to avoiding the 'feeling' of a subterranean apartment.
- The balance of social housing vs deep soil landscaping in this instance is a desired planning outcome.
- The podium wall will be screened from adjoining sites by a fencing and landscaping.

Traffic, Access and Parking

Traffic

As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. However, the proposal is not considered to result in adverse traffic impacts, noting the proposal was accompanied by a Traffic Report which demonstrates that the proposal can be accommodated by the local road network.

Access and Parking

Vehicular access to the basement is proposed via an ingress/ egress driveway located on Blair Avenue, within the north-western corner of the site. The basement has been designed to accommodate Council's 9.7m long waste collection vehicle. However, the accompanying swept path plans demonstrate that the movement of the waste collection vehicle into and out of the basement will require the deletion of 4x existing car parking spaces located on the northern side of Blair Avenue, and 2x car parking spaces located on the southern side of Blair Avenue. Council's Traffic Engineer does not support the removal of 6x existing car parking spaces on Blair Avenue. However, on balance the proposed removal of the car parking spaces is considered acceptable in this instance for the following reasons:

- The proposal has been amended to provide onsite waste collection as required by Council's waste policies; and
- The accompanying Traffic and Parking Impact report states that "Observations have indicated that demand for on-street parking is notable to the north of the subject precinct associated with the St Marys Railway Station precinct (to the north of Ross Place and the northern Champness Crescent junction with Lethbridge Street). However, ready capacity has been observed within the immediate vicinity of the site, whereby parking demand was observed to be less than 50% of supply during various weekday business, weekday evening and weekend periods. In this regard, a minimum of 10 unoccupied parking spaces were observed to be available within the immediate vicinity of the subject site. The surrounding public parking infrastructure is therefore considered to be capable of accommodating the proposed loss of six on-street parking associated with the provision of site access and the movement of waste collection vehicles to and from the site, without unreasonably impacting surrounding residential amenity."

The proposal provides 10x onsite resident car parking spaces within a basement, inclusive of 3x accessible car spaces. No visitor car parking is provided. However, the proposal is compliant with the rate of car parking required under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH). In accordance with the SEPP ARH, a consent authority must not refuse consent to development on the grounds of car parking provisions, if the proposal complies with the car parking rate outlined in the SEPP ARH.

Noise Impacts

The application was supported by a Noise Impact Assessment Report (NIA). The NIA states that the required internal noise criteria shall be achieved with standard aluminium window frames and seals with 4mm laminate glass panes (based upon the bedroom floors being fitted with carpet and underlay). Accordingly, conditions of consent have been imposed requiring the development to comply with the recommendations of the NIA.

The NIA states that the mechanical plant has not been confirmed at this stage and recommends that a review of mechanical plant occur at the detailed design stage. This is considered satisfactory as the NIA does state that the noise criteria is likely to be complied with through the use of conventional mechanical plant noise control methods. A condition of consent has been imposed requiring the submission of an acoustic assessment of mechanical plant to Council, prior to the commencement of works.

The NIA also includes a discussion in regard to construction noise and vibration and includes management practices to minimise noise and vibration during the site preparation and construction process, which will be enforced via a condition of consent.

It is noted that Council's Environmental Management Officer reviewed the proposal and supporting NIA, and raised no objections to the proposal subject to conditions.

Accessibility

The application was supported by an Access Report prepared by Vista Access Architects (Revision D dated 17 August 2020). This report outlines that the proposal achieves the spatial requirements to provide access for people with a disability. It also confirms that by compliance with the recommendation of the report, the development complies with the requirements of Access Code of Disability (Access to Premises-Building) Standards 2010, the Disability Access relevant sections of the Building Code of Australia 2019, the requirements of SEPP 65 related to Objective 4Q1 - Livable Housing, and the essential criteria of AS 4299-Adaptable Housing. A condition of consent has been imposed requiring the recommendations of the Access Report to be included in the detailed construction plans for the proposal.

Waste Management

The development proposes on-site collection by Council's waste contractors and incorporates waste infrastructure within the basement. The waste infrastructure includes a bulky waste storage room (6.2m² in area) and sufficient space for the storage of 6x 660L bins (3 x recycling bin and 3 x garbage bins), which complies with the waste generation rates outlined in the DCP.

However, the proposal is non-compliant with Penrith DCP controls relating to waste management, in that the proposal does not provide a waste chute system. The proposal requires residents to directly access bins located within a waste collection room located in the basement. The applicant has advised that chutes are not permitted by Land & Housing Corporation guidelines due to safety reasons. Given the scale of the development, that the bins are located in the basement, and the safety concerns raised by the applicant regarding a chute system, this variation is considered acceptable in this instance. It is noted that as a result of no chute system, Council's Waste Officer raised concerns regarding the safety of residents accessing the bins due to conflict of pedestrian/vehicle movements in the basement. To address these safety concerns, a condition of consent has been imposed requiring mitigation measures be provided, including pedestrian link marking show unobstructed pedestrian access to the bin room.

Tree Removal

The proposal includes the removal of 7x trees and 2x Privet shrubs to facilitate the development. The trees proposed for removal comprise 3x Bottlebrush, 2x Jacaranda, and 1x Crepe myrtle located on the site. 1x tree proposed for removal is located on the Blair Avenue road reserve, outside of the boundaries of the site. This street tree proposed for removal is a Box Elder Maple, and is identified in the accompanying Arborist Report as being in poor health. The report recommends the street tree be removed regardless of the outcome of the proposal. The proposal has been reviewed by Council's Tree Management Officer, and is found to be acceptable, noting that the proposal will result in an increase in vegetation on the site. A condition of consent has been imposed requiring the street tree on Blair Avenue to be replaced.

Section 4.15(1)(c) The suitability of the site for the development

The site is suitable for the following reasons:

- The site is located within close proximity to St Marys Town Centre.
- The site is within close proximity to public transport, with bus stops and St Marys railway station within walking distance.
- The proposal reflects the future desired dwelling density envisioned by the R4 High Density zone.
- The site is able to drain to Council's satisfaction.
- The proposal provides compliant rate of onsite car parking in accordance with the State Environmental Planning Policy (Affordable Rental Housing) 2009.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents.

Council notified forty-eight residences in the area, and the exhibition of the proposal occurred between 16 August 2019 and 30 August 2019. The proposal was also advertised in a local newspaper on 15 August 2019. Council received 4x submissions.

The issues raised in the submissions received have formed part of the assessment of the proposal, and are addressed below:

Issue Raised	Comments
<i>Parking Impacts - increase in parking demand on the street as a result of the proposal. Blair Avenue too narrow to accommodate additional parking</i>	<p>It is acknowledged that the proposal is likely to result in an increase in demand for on street car parking.</p> <p>The proposal provides 10x onsite resident car parking spaces within a basement, inclusive of 3x accessible car spaces. No visitor car parking is provided. However, the proposal is compliant with the rate of car parking required under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH),</p> <p>In accordance with the SEPP ARH, a consent authority must not refuse consent to development on the grounds of car parking provisions, if the proposal complies with the car parking rate outlined in the SEPP ARH.</p> <p>It is also noted that the accompanying Traffic and Parking Assessment report states that "ready capacity (of parking) has been observed within the immediate vicinity of the site, whereby parking demand was observed to be less than 50% of supply during various weekday business, weekday evening and weekend periods." The report concludes that the surrounding public parking infrastructure is considered capable of accommodating the proposal without causing unreasonable impacts on surrounding residential amenity.</p>

<i>Traffic and Congestion</i>	As a result of the proposal, it is expected that there will be an increase in the volume of traffic entering and leaving the site. However, the proposal is not considered to result in adverse traffic impacts, noting the proposal was accompanied by a Traffic Report which demonstrates that the proposal can be accommodated by the local road network.
<i>Character of Development - inconsistent with surrounding low density development</i>	<p>The subject site is zoned R4 High Density Residential, and a residential flat building is a permissible land use in the zone with consent. The proposal is consistent with the future desired dwelling densities envisioned by the zone.</p> <p>In terms of building design, the proposal has been amended to provide greater building setbacks from Lethbridge Street and Blair Avenue in response to the surrounding context. The building has also been reduced in height to four-stories to comply with the building height control permitted on the site. Landscaping is provided along the street frontages and side boundaries to assist in integrating the development.</p>
<i>Overshadowing</i>	<p>The proposal was accompanied by Shadow Diagrams that demonstrate that the proposal will not result in unreasonable overshadowing impacts.</p> <p>A submission received raised particular concern regarding overshadowing of 29 Little Chapel Street as a result of the proposal. 29 Little Chapel Street is located the south-west of the development. It is agreed that the proposal is likely to cause overshadowing at 29 Little Chapel Street. However, the Shadow Diagrams show that overshadowing is likely to occur during early morning in Winter, and that by 10am the majority of 29 Little Chapel Street will be unaffected by overshadowing, with the exception of a slither of backyard along the eastern side fence. The Shadow Diagrams show that from 11am onwards during Winter, 29 Little Chapel Street will be unaffected by overshadowing. As such, the proposal does not result in unreasonable overshadowing impacts.</p>

<i>Privacy (Overlooking)</i>	<p>The development adjoins single storey dwellings to the west and south (rear and side), and so the potential for overlooking is acknowledged. However, the the proposed design is considered to minimise opportunities for overlooking, through the inclusion of privacy screens on balconies on the southern elevation, and corner balconies on the north-west corner. No balconies are located on the western elevation. Also, the windows on the southern and western elevations are predominately low activity rooms (bedrooms and bathrooms).</p> <p>As such, the design is not considered to result in unreasonable privacy impacts.</p>
<i>Perceived negative social impacts due to the nature of the development</i>	<p>The proposal serves a need to the community in providing affordable housing dwellings. The proposal has been designed in accordance with Crime Prevention Through Environmental Design (CPTED) principles, including providing passive surveillance of the street, and creating a clearly visible main entrance on Blair Avenue. The proposed outdoor corridor along the southern (side) boundary will be non-trafficable and secured with a locked gate used for maintenance purposes only, to ensure residents do not dwell in this area.</p>

Referrals

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

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

Section 4.15(1)(e)The public interest

The proposed development is considered to be in the public interest, as the proposal will provide additional affordable housing within close proximity to the St Marys Town Centre. The proposal is a permissible land use, and has been designed to reflect the desired dwelling density envisioned by the R4 High Density Residential zone.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Section 7.11 - District Open Space Facilities
- Section 7.11 - Cultural Facilities
- Section 7.11 - Penrith City Local Open Space

The following Section 7.11 calculations apply to the proposed development.

Calculation for a Residential Flat Building

Open Space

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
21	x	2.0	-	6.2	42

City wide

No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
21	x	2.4		6.0	50.4

AMOUNT

S.7.11 Contribution Plan	Contribution Rate x Calculation rate	Total
District Open Space	35.8 x \$2,012.00	\$72,030.00
Local Open Space	35.8 x \$728.00	\$26,063.00
Cultural facilities	44.4 x \$182.00	\$8,081.00
	NET TOTAL	\$106,174.00

Conditions of consent have been imposed applying contributions for the development, as detailed above.

Conclusion

In assessing this application against the relevant environmental planning policies, being:

- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development
- State Environmental Planning Policy No. 55 (Remediation of Land)
- Penrith Local Environmental Plan 2010; and
- Penrith Development Control Plan 2014

The proposal generally satisfies the aims, objectives and provisions of these policies. The proposal is a permissible land use, will provide additional affordable housing dwellings in the St Marys area, and there is unlikely to be negative environmental and social impacts arising from the proposed development.

Accordingly, the application is recommended for approval, subject to the following conditions.

Recommendation

1. That Development Application DA19/0499 for the Construction of a 4-Storey Affordable Housing Residential Flat Building Comprising 21 Apartments, with Basement Parking for 10 Cars at 23, 25 Lethbridge Street St Marys be approved subject to the attached conditions (Development Assessment Report Part B)
2. That those making submissions are notified of the determination.

CONDITIONS

General

- The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, BASIX Certificate No. No.1016632M, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared by	Dated
<i>Multi-Residential Flat Building at 23 25 Lethbridge St St Marys View and Schedule</i>	Sheet DA001 Revision Q	Morson Group	21 August 2020
SEPP 65 Compliance Summary	Sheet DA002 Revision Q	Morson Group	19 August 2020
Demolition & Cut/Fill Plan	Sheet DA003 Revision L	Morson Group	21 August 2020
Site Analysis Plan	Sheet DA004 Revision M	Morson Group	17 August 2020
Ground Floor Plan	Sheet DA005 Revision U	Morson Group	21 August 2020
Typical	Sheet DA006 Revision S	Morson Group	21 August 2020
Roof Floor Plan	Sheet DA007 Revision Q	Morson Group	21 August 2020
Basement	Sheet DA009 Revision R	Morson Group	19 August 2020
Sections	Sheets DA010 to DA012 Revision Q	Morson Group	19 August 2020
Elevations	Sheets DA013 to DA0016, Revision P	Morson Group	21 August 2020
Material Schedule	Sheet DA0017 Revision M	Morson Group	21 August 2020
Visualizations	Sheets DA019 to DA021 Revision M	Morson Group	21 August 2020
Shadow Diagram and Daylight Access	Sheet DA022 Revision M; Sheet DA023 Revision L	Morson Group	17 August 2020

Fire Hydrant Detail and Fence/Podium Detail	Sheets DA028 to DA029 Revision K	Morson Group	17 August 2020
Facade Section	Sheet Z018 Revision J	Morson Group	17 August 2020
Landscape Plan	Project No. 4503c, Revision C	RFA Landscape Architects	21 August 2020
Concept Stormwater Plans	C19081 Sheets SW00 to SW300, Revision D	CAM Consulting	20 May 2020

2 The following lots are to consolidated as one:

- Lot 71 DP 505166
- Lot 72 DP 505166

Written evidence that the request to consolidate the lots has been lodged with NSW Land Registry Services is to be submitted **prior to commencement of works**.

A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to Penrith City Council **prior to completion of the development**.

3 **The development is not to be occupied if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.**

4 Exterior lighting is to be located and directed in such a manner so as not to create a nuisance to surrounding land uses. 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).

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

- 6 **Prior to the commencement of construction**, compliance with AS4253-2019 is to be demonstrated including address of Appendix A – Positioning and Numbering of Mailboxes.
- 7 **Prior to the commencement of the construction works**, the design recommendations of the supporting Access Report, prepared by Vista Access Architects (Revision D, dated 17 August 2020) are to be incorporated into the construction plans. The works shall be certified accordingly by a suitably qualified access consultant prior to the occupation of the dwellings.
- 8 **Prior to commencement of works**, the accompanying BASIX Certificate is to be updated to reflect the stamped approved architectural plans.
- 9 **Prior to the commencement of works**, a Detailed Site-Specific Operation and Maintenance Manual is to be prepared for the stormwater treatment measures.

- 10 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 on the detailed Construction Plans.

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 and balconies.
- 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.
- A monitored back to base alarm system must be installed.
- The mail boxes should be incorporated within the main entry of the building with access for residents from the rear (within a secure building) and with no front flap lock that can be easily broken.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, garage doors 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.

- 11 **Prior to the commencement of works**, a design verification statement from a qualified designer is to be submitted. The design verification statement shall verify that the construction plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

12 All mechanical ventilation equipment, ducts, air conditioner services, excluding provision of air conditioning condensers on balconies, and the like shall be shown on the construction plans as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the building. Any plant or unsightly structures installed on the rooftop must be screen from view.

13 All boundary retaining walls and fencing required by the development are to be constructed at the full cost of the developer. All retaining walls are to be of masonry construction and generally be no taller than 500mm as per Penrith Development Control Plan 2014.

Any fencing forward of the building line is to be a maximum height of 1.2m, or if taller be of see-through construction as per Penrith Development Control Plan 2014.

14 In relation to Unit 003, the terrace wall located on the western elevation is to incorporate an open style design, so as to not present as a solid 2m tall wall, and improve visual amenity. Detail of this is to be included on the construction plans.

Environmental Matters

15 Dust suppression techniques are to be employed during site preparation and construction works, to reduce any potential nuisances to surrounding properties.

16 Erosion and sediment control measures are to be installed prior to the commencement of works on site and shall be maintained throughout the construction phase of the development until all development works, including landscaping, have been completed. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

The erosion and sediment control measures are to be installed and maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

17 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.

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

If the person overseeing the construction works 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.

18 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.

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

Construction waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. 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.

- 20 Noise levels shall not exceed the relevant noise criteria detailed in the Noise Impact Assessment Report (Report R190220R1 Rev 0) prepared by Rodney Stevens Acoustics and dated 26 May 2019. The recommendations provided in the Noise Impact Assessment (Report R190220R1 Rev 0) shall be implemented and incorporated into the design and construction of the development, and **shall be shown on detailed construction plans**.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be prepared **prior to the occupation of the development**.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 21 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

- 22 Construction works are to be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009 and in accordance with the approved Noise Impact Assessment Report (Report R190220R1 Rev 0) prepared by Rodney Stevens Acoustics and dated 26 May 2019.

The recommendations of the approved Noise Impact Assessment Report are to be implemented and adhered to during the construction phase of the development.

Should complaint(s) be received by Council in regard to construction noise and vibration impacts, Council may require that a suitably qualified acoustic consultant be engaged by the applicant/owner to undertake a noise and vibration impact assessment of the construction works to address the concerns of the community.

- 23 **Prior to the commencement of works**, further details on the type and location of all mechanical plant and equipment associated with the development, is to be provided to Council for consideration and approval. Suitable data and information, assessed by a qualified acoustic consultant, is to be supplied to demonstrate that the operation of the mechanical ventilation/air-conditioning equipment will comply with the internal noise criteria required for each of the individual units within the development, as well as complying with the provisions of the Protection of The Environment Operations Act 1997 that apply to the development, in terms of regulating offensive noise. In this regard, the operating noise level of all mechanical ventilation and air-conditioning systems associated with the development as a whole, shall not exceed 5dB(A) above the background noise level when measured at the boundaries between the development and adjoining premises not associated with the development.

Prior to the occupation of the development, a Compliance Certificate is to be obtained. The Compliance Certificate is to be prepared by an appropriately qualified acoustic consultant and is to certify that all plant and equipment has been installed to comply with the above information and the established noise criteria as detailed in the Noise Impact Assessment Report (Report R190220R1 Rev 0) prepared by Rodney Stevens Acoustics and dated 26 May 2019.

Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified. This Compliance Certificate for the mechanical plant and equipment may be included in the Compliance Certificate that is required for the development as a whole with respect to certifying that the building has been constructed to meet the noise criteria established in the Noise Impact Assessment Report R190220R1 Rev 0.

- 24 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 person.

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

Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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 occupation of the development** 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 of the on-site infrastructure to permit a safe and efficient waste collection service.

26 Wastewater from the washing of garbage bins is to be directed to the sewer in accordance with Sydney Water requirements. Wastewater from the washing of garbage bins is not permitted to enter Council's stormwater system.

27 Prior to the commencement of works it must be confirmed that:

- (a) All on-site waste collection infrastructure, doors and access points (Waste Collection Room, Bulky Goods Collection Room, Basement Roller door) are to be locked/accessed through Council's Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.
- (b) All on-site waste collection infrastructure (Waste Collection Room and Bulky Goods Collection Room) 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.
- (c) The waste collection room to provide minimum unobstructed internal dimensions of 7.8m by 3.2m wide to accommodate the full bin allocation in accordance with the 'Residential Flat Building Waste Management Guideline' document.
- (c) The bulky goods collection room to be provided in accordance with section 3.5.3 of the 'Residential Flat Building Waste Management Guideline' document.
- (d) Swept path models of Council's 9.7m HR Waste Collection Vehicle to be provided in accordance with section 2.2.3 of the 'Residential Flat Building Waste Management Guideline' document.
- (e) The south eastern corner of the 'OSD & WSUS' system to be rounded/angled to permit unobstructed sight distances for Council's collection contractors throughout the on-site manoeuvres proposed for Council's HRV.
- (f) 2m service clearances to be provided at the rear of the waste loading bay to permit loading of bins in accordance with section 2.2.4 of the 'Residential Flat Building Waste Management Guideline' document.
- (g) All on-site waste collection infrastructure (Waste Collection Room and Bulky Goods Collection Room) are to provide automatic lighting and mechanical ventilation.
- (h) All on-site waste collection infrastructure (Waste Collection Room and Bulky Goods Collection Room) to incorporate 180-degree, outwards opening, dual, self-closing, sealed doors.
- (i) A 1200mm access pathway is to be outlined on architectural plans showing unobstructed pedestrian movements from the central elevator core to the on-site waste collection infrastructure (waste collection and bulky goods collection rooms) located within basement 1.
- (j) The on-site waste collection infrastructure (Waste Collection Room and Bulky Goods Collection Room) to provide minimum unobstructed internal height clearances of 2600mm free from external services and utilities.

28 Council's bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and upon occupation of the development.

29 No waste water resulting from, or associated with, the basement excavation and construction phase of the development, is permitted to enter Council's stormwater system. All waste water from the site is to be removed by a licensed transporter and disposed of at an Environmental Protection Authority licensed waste facility. All receipts and supporting documentation must be retained in order to verify lawful disposal of waste water and are to be made available to Penrith City Council on request. Should approval be obtained from Sydney Water for the discharge of any waste water from the basement excavation and construction phase of the development, the sewer, evidence and details of this approval are to be submitted to Council prior to the commencement of works.

BCA Issues

30 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.

Utility Services

31 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.

32 **Prior to the commencement of works**, 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.

33 **Prior to commencement of works**, the person overseeing the construction works, shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997:
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

Prior to occupation of the development, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be provided.

Construction

34 Stamped plans, specifications, a copy of the development consent, and any other Certificates to be relied upon are to 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 upon the occupation of the development.

35 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 back filling 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.

36 All external finishes are to be of high quality to reflect the future desired character of the locality. Prior to the commencement of construction, detailed external finishes schedule is to be provided demonstrating high quality finishes.

37 Prior to the occupation of the development, clothes lines are to be provided per unit as shown on the stamped approved plans.

38 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.

Engineering

39 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

40 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**. 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.

Note: Contact Penrith City Council's City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

41 **Prior to the commencement of works**, 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 pram ramps
- 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.

Notes:

- Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.
- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

42 **Prior to the commencement of works**, it must be confirmed that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of stormwater drainage line in 23 Blair Avenue and 27 Little Chapel Street, St Marys.

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

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

Note: All works associated with the S68 Local Government Act Approval must be completed prior to the occupation of the development.

- 43 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by CAM Consulting, reference number C19081 Sheets SW00 to SW300, revision D, dated 20.05.2020. The OSD must be redesigned to provide a maximum permissible site discharge of 15 L/s.

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

Prior to the commencement of works, it must be confirmed 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.

- 44 **Prior to the commencement of works**, it must be confirmed 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).

- 45 **Prior to the commencement of works**, it must be confirmed that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

- 46 **Prior to the commencement of any works on-site**, a Construction Traffic Management Plan (CTMP) is to be submitted to Council's City Assets Department. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 47 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for works within the Road Reserve.

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

Note:

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

48 **Prior to the commencement of works**, a Geotechnical investigation report and strategy shall be prepared to ensure stability of adjacent 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.

49 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.

50 Prior to the occupation of the development, all existing (aerial) and proposed services relating to the subject development only, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

51 **Prior to the occupation of the development**, it must be confirmed that all works associated with a S138 Roads Act approval and S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

52 **Prior to the occupation of the development**, it must be confirmed that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the construction drawings and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

53 Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management systems shall be in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage Specification 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.

- 54 **Prior to the occupation of the development**, a restriction as to user and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) is to be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F.
- 55 **Prior to commencement of works**, an easement for drainage and overland flow minimum 1.5m wide is to be provided on 23 Blair Avenue and 27 Little Chapel Street St Marys, and evidence of registration of the easement with Land and Property Information (LPI) is to be submitted to Penrith City Council. Easement widths shall be in accordance with Penrith City Council's adopted Design Guidelines.
- 56 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s
- 57 Subleasing of car parking spaces is not permitted by this Consent.
- 58 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 59 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.
- 60 All vehicles are to enter/exit the site in a forward direction.

Landscaping

- 61 All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, prepared by RFA Landscape Architects, Project No. 4503C, dated 21 August 2020 (Revision C), and Chapter C6 Landscape Design of Penrith DCP.

Landscaping shall be maintained:

- in accordance with the 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.

Prior to the commencement of works, the following is to occur:

- the Landscape Plan is to be updated to reflect the planting pot sizes as marked in red on the stamped approved Landscape Plan;
- A qualified landscape professional is to confirm that the selected species proposed along the southern and western boundaries will thrive in shaded conditions.

- 62 **Prior to the occupation of the development**, all landscaping works subject to this consent are to be completed. All landscaping works are to be carried out by a suitably qualified and experienced landscape professional.

- 63 **Upon completion of the landscape works associated with the development and prior to its occupation**, an Implementation Report must be prepared attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

- 64 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.

- 65 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

- 66 The side passage walkway located adjacent to the Communal Open Space (south elevation) is to be used for maintenance purpose only, and is not to be used by residents, so as to minimise amenity impacts on adjoining properties. Similarly, the landscaped area located along the western boundary is to be non-trafficable and act as a passive landscaped area, used for maintenance purposes only.

Prior to completion of works, the following is to be provided so as to minimise amenity impacts on adjoining properties:

- (a) A lockable gate at the entrance of the side walkway on the southern elevation, as marked in red on the stamped approved landscape plan;
- (b) Dense planting along the full length of the retaining wall to the south of the Communal Open Space, as marked in red on the stamped approved landscaped plan, so as to prevent residents climbing on top of the retaining wall and entering the *"raised mound planting"* area; and
- (b) A lockable gate located behind the substation kiosk, so as to restrict access to the stepping stone path that runs along the western boundary as marked in red on the stamped approved landscape plan.

- 67 **Prior to the occupation of the development**, the street tree on Blair Avenue identified for removal (identified as 'Tree 5') is to be replaced with a like-for-like tree. The works are to be carried out in accordance with Penrith City Council's Engineering Works Development Control Plan, the Guidelines for Engineering Works for Subdivisions and Developments Part 1-Design and Part 2-Construction and Penrith City Council's Landscape Development Control Plan.

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

- 68 All landscaping is to be located a minimum of 2.0 metres from any underground services.

Development Contributions

- 69 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$8,081.00 **is to be paid to Council prior to construction of the 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 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 70 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$72,030.00 **is to be paid to Council prior to construction of the 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 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

- 71 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$26,063.00 **is to be paid to Council prior to construction of the 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 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

The development proposes on-site collection by Council's waste contractors and incorporates waste infrastructure within the basement. The waste infrastructure includes a bulky waste storage room (6.2m² in area) and sufficient space for the storage of 6x 660L bins (3 x recycling bin and 3 x garbage bins), which complies with the waste generation rates outlined in the DCP.

The proposal is non-compliant with the following requirements under Chapter C.5 and accompanying *Residential Flat Building Waste Management Guideline*:

- The proposal does not provide waste chute system, as required by the DCP. The proposal requires residents to directly access bins located within a waste collection room located in the basement. The applicant has advised that chutes are not permitted by Land & Housing Corporation guidelines due to safety reasons. Given the scale of the development, that the bins are located in the basement, and the safety concerns raised by the applicant regarding a chute system, this variation is considered acceptable in this instance. It is noted that as a result of no chute system, Council's Waste Officer raised concerns regarding the safety of residents accessing the bins due to conflict of pedestrian/vehicle movements in the basement. To address these safety concerns, a condition of consent has been imposed requiring mitigation measures be provided, including pedestrian link marking show unobstructed pedestrian access to the bin room.

C10 Transport, Access and Parking

The proposal is non-compliant with the car parking requirements under Chapter C.10 of Penrith DCP. Under the DCP, the proposal requires the following on-site parking provision:

Land Use Element	Parking Rate	Required Car Parking Spaces
Residential Flat Buildings	1 space per 1 or 2 bedrooms	21
	2 spaces per 3 or more bedrooms	n/a
	1 space per 40 units for service vehicles	n/a
	Visitor parking: 1 space per 5 dwellings	5
	1 space for car washing for every 50 units	n/a
Total Required		26

The development provides a total of 10x onsite parking spaces within a basement. Notwithstanding this non-compliance, the application has been lodged under the provisions of the SEPP (Affordable Rental Housing) 2009, which prevails in the event of an inconsistency.

D2 Residential Development

D2.5 Residential Flat Buildings

2.5.5 Landscaped Area

Under the DCP, a minimum landscaped area of 35% is to be provided within the R4 High Density Residential zone. The proposal provides approximately 551sqm of landscaped area, or 41% of the site, inclusive of deep soil areas particularly along the Blair Avenue and Lethbridge Street frontage.

2.5.11 Corner Sites and Park Frontages

The DCP specifies that for corner sites a minimum setback to the second street of 5.5m is required (3m setback to verandahs is permitted). The amended proposal provides greater building setbacks to the secondary frontage (Lethbridge) to comply with the DCP. In this regard, the proposal provides a building setback to Lethbridge Street of a minimum 6m (at ground and upper levels). Building setbacks to Blair Avenue has been increased to minimum 5.7m, with encroachment of two terraces at ground floor which provide 5m setback.

2.5.20 Accessibility and Adaptability

The proposal provides greater than 10% of units as adaptable in accordance with the DCP. In this regard, the proposal provides 3x adaptable units (Units 101, 201, 301) providing 14% of the dwellings as adaptable.