

8 March 2024

Mr Nicholas Cavallo  
Associate Director  
Knight Frank Town planning  
C/O Penrith Council

Dear Nicholas

## **DEVELOPMENT APPLICATION DA23/0281 – CONSTRUCTION OF A MIXED USE DEVELOPMENT AT 68 - 80 OCONNELL STREET CADDENS**

I refer to the above development and Council's and State Government Agencies additional information letters dated:

- 26 May 2023 from Transport for NSW;
- 2 August 2023 from Penrith Council staff including Technical Information addendum;
- 16 August 2023 from the NSW Rural Fire Service
- 7 November 2023 prepared by Knight Frank Town Planning for Penrith Council;
- 1 December from Transport for NSW.
- 8 December 2023 prepared by Knight Frank Town Planning for Penrith Council.

An initial response to some of the clarifications was provided on 15 September 2023, 7 November 2023 and also in a letter to the Sydney Western City Planning Panel on 12 December 2023.

As a result of the above concerns including about the intensity of the proposal, we have substantially reduced the number of apartments within the site from 564 apartments to 469 apartments. This is a reduction of 95 apartments. The revised development also no longer seeks approval for Building A with other buildings, being F, H and R will be reduced by three full levels.


This letter provides a detailed response to the clarifications requested in the correspondence from Council and the state agencies and is accompanied by the following plans and documents listed in the table overleaf.

Plans/Reports	Prepared by
Revised Architectural Plans	Turner
Revised Urban Design Report	Turner
Revised Civil Plans	Northrop
Revised Civil Report	Northrop
Revised Concept Landscape Plan	Site Image Landscape Architects
Revised Social Impact Assessment	Hill PDA
Revised Biodiversity Assessment Report	Eco Logical Australia
Revised Clause 4.6 Departure Height	Think Planners
Revised Clause 4.6 Departure - Commercial Floor Space	Think Planners
Bushfire Protection Assessment	Eco Logical Australia
Revised Economic Assessment	Atlas Economics
Fauna Management Plan	Eco Logical Australia
Vegetation Management Plan	Eco Logical Australia
Geotechnical Groundwater Letter	EI Australia
Revised Access Report	ABE Consulting
Revised Operational Waste Management Plan	Elephants Foot
Revised Traffic and Parking Assessment	TTPA
Revised Arborist Report	Birds Tree Consulting
Revised Crime Prevention through Environmental Design Report	Barker Ryan Stewart
Revised BCA Report	Ventura Building Surveyors
Revised Basix Certificates	SLR
Revised Acoustic Report	Stantec

In addition to this a Section 4.55 modification has been uploaded to the NSW planning portal to seek to modify DA 17/0995 to address concerns about a concept approval.

## 1. REVISED DEVELOPMENT DESCRIPTION

The revised Development Application seeks to undertake demolition, tree removal, the relocation of car parking spaces, and construction of a staged Mixed Use



Development comprising 5 retail premises and 469 residential apartments within 18 buildings at 68 -80 O'Connell Street, Caddens.

The development incorporates part of the Caddens Corner shopping Centre current at grade carpark and the Development is proposed to be constructed in four stages as follows:

**Stage 1:** Road Construction, Bulk Earthworks on this portion of the site and the construction of Buildings , B, C, H, J that are located in the north western corner of the site and contains 103 (previously 145) apartments comprising:

- 7 x 1br
- 53 x 2br
- 41 x 3br
- 2 x 4br

This stage is provided with 174 carparking spaces comprising 167 resident and 7 visitor spaces within basement carparks.

**Stage 2:** Bulk Earthworks on this portion of the site and the construction of Buildings D, E, F, G that are located in the northern portion of the site and contains 115 (previously 134) apartments comprising:

- 13 x 1br
- 45 x 2br
- 51 x 3br
- 6 x 4br

This stage is provided with 202 carparking spaces comprising 195 resident and 7 visitor spaces within basement carparks.

**Stage 3:** Bulk Earthworks on this portion of the site and the construction of Buildings K, L, M and N that present to both O'Connell Street and the new internal road of the site and contains 112 dwellings comprising:

- 6 x 1br
- 77 x 2br
- 29 x 3br

This stage is provided with 180 carparking spaces comprising 173 resident and 7 visitor spaces within basement carparks.

**Stage 4:** Relocation of at grade parking spaces for the Caddens Corner shopping Centre, Bulk Earthworks on this portion of the site and the construction of Buildings P, Q, R,S,T and U on the western portion of the site that contains 5 retail shops with 1,415m2 of retail floor area that presents to a new internal open air plaza and contains 139 apartments (previously 173) comprising:

- 13 x 1br
- 88 x 2br
- 35 x 3br
- 3x 4br

This stage is provided with 260 residential carparking spaces comprising 225 resident and 35 visitor spaces within basement carparks. This stage of the development provides also provides 501 retail spaces comprising:

## 2. 2 AUGUST 2023 COUNCIL LETTER

Council's initial letter requesting clarification on the project was dated 2 August 2023. Some of the clarifications requested in this correspondence was addressed in a response provided to Council on 15 September 2023. Others are addressed in this resubmission.

The following table details how the proposal has responded to the clarifications requested in this letter:

Council Clarification	Applicants Response
<p><b>Proposed Density and Existing Infrastructure</b></p> <p>Council's letter indicates that a Social Impact Assessment should be submitted to assist with demonstrating that the existing infrastructure and facilitates within the precinct can support the proposed population that will arise from this development.</p>	<p>A Social Impact Assessment was prepared for the development by Hill PDA and submitted on 15 September 2023.</p> <p>Council has reviewed this SIA and commentary on the feedback is provided later in this letter. it is also noted that a revised SIA accompanies this resubmission.</p>
<p><b>Open Space Provision</b></p> <p>Council's letter requests justification in the Social Impact Assessment that sufficient open space will be available to future residents and states in part that:</p> <p><i>In Particular, the quantum of open space required to support the proposed density is unknown.</i></p>	<p>A Social Impact Assessment was prepared for the development by Hill PDA and submitted on 15 September 2023.</p> <p>Council has reviewed this SIA and commentary on the feedback is provided later in this letter. it is also noted that a revised SIA accompanies this resubmission.</p>

## Building A

Council's letter states in part that:

*There are also concerns raised with the location of Building A in its entirety, and as outlined in the attached correspondence, Building A should be deleted from the proposal and consideration given to its replacement open space that would complement and respect the adjacent endangered ecological community that must be protected and not relied upon for passive open space use*

As requested, the proposal has been refined and Building A which was a four storey building containing 20 apartments has been deleted from the complex.

The area previously containing Building A is now proposed to be a recreational space for future residents and the surrounding community. A landscape plan that illustrates this accompanies this initial submission and proposes embellishment including a BBQ, children's play area, children's playground, kick around space, outdoor gymnasium and passive sitting areas.

Given the above, this issue is considered to be satisfactorily addressed.

## Community Facility

Council's letter indicates that the Werrington Enterprise Living and Learning Contribution Plan proposes a community facility within the precinct and that this is not addressed in this application

Development Application DA17/0995 approved space for a community facility within the Caddens Shopping Centre that forms part of this site. The shopping centre has been constructed but the community tenancy that has an area of 498m<sup>2</sup> remain vacant.

Condition 85 of this development consent states in part:

*The use of the multi-purpose community facility space as nominated on the approved plans shall be available to Council (or as otherwise advised by Council) subject to future agreement/negotiation with the developer or landowner.*

It is understood that Penrith Council does not wish to occupy this tenancy as a community facility. (If this is not the case our client is willing to recommence discussions immediately about this)

## Permissibility

Council's letter raises concern that the application relies in part upon the 20m 'rubber band' zone stretch clause provided within clause 5.3 of the LEP to provide residential flat buildings within the E1 portion of the site and that some of these buildings are located beyond 20m and accordingly need to be defined as shop top housing developments to be permissible.

It is acknowledged that the as lodged development application sought to provide residential flat buildings within the portion of the site that is zoned E1 beyond the 20m limit and also that buildings Q and P within the E1 zoned portion of the site didn't meet the definition of shop top housing.

The proposal has been refined to ensure that the development provides shop top housing on land zoned E1 that is not within 20m of land zoned R4. And in this regards buildings Q and P are now proposed to contain commercial premises at

Objectives of zone.

Council's letter noted that that requirements of clause 5.3 to address the objectives of the E1 Local Centre and R4 had not been addressed adequately in the submitted SEE.

ground level. The revised architectural plans illustrate this.

The letter response of 15 September 2023 clearly outlined how the development is consistent with the objectives of both zones. This again occurs within the LEP discussion of this letter.

### Building Height

Council's letter requests that additional visual analysis be provided to assist with the consideration of the proposed heights of the building within this complex.

As requested, a visual analysis including a white Model is currently in the process of being prepared by the Urbaine Design Group and will be submitted to Council for its consideration.

A view analysis from Urbaine Design was provided for the as lodged scheme on 7 November 2023.

It is noted that as a result of concerns about the proposed height of some buildings in the complex that we have substantially reduce the number of apartments within the site from 564 apartments to 469 apartments. This is a reduction of 95 apartments. The revised development also no longer seeks approval for Building A with other buildings, being F, H and R being reduced by three full levels.

A revised visual analysis prepared by Turner accompanies this resubmission.

In conjunction with this a revised clause 4.6 departure has been prepared for the revised architectural plans that further justifies the departure to the height control utilising the view analysis and additional detailing of the extent of the proposed height departure to habitable floorspace. It is noted that the height departure is predominantly a result of the excavated nature of the site that facilitated its former use as a drive in movie theatre. This development fills the site to connect to the existing local road network.

### Cumberland Plain Woodland

Council's letter raises concern that the proposed use of part of the identified Cumberland Plain Woodland area as a nature recreation zone may result in undesirable activities that could impact on the community such as bike riding or firewood collection. Council's letter also suggests that given the loss of access to this public open space, that building A should be deleted to increase recreational opportunities on the site.

Given this concern the development has been refined with the Cumberland Plain Woodland recreational area, no longer proposed to have public access and Building A has been deleted to increase recreational opportunities on the site.

Given the above, this issue is considered to be satisfactorily addressed

## Traffic

Council's letter requests that a response be provided to the clarifications required by Transport for NSW on the development including why modelling wasn't undertaken on the intersection of Caddens Road and Gipps Street.

A revised traffic report was provided to Council in November 20023. In December 2023 TFNSW raised concern that the revised information had not satisfactorily addressed these concerns.

This is discussed later in this response.

## Concept Approval

Council's letter raises concern that DA17/0995 that approved a shopping centre on the site as well as a residential flat building may have been a concept approval and given this and that this development application is 'inconsistent with it' in accordance with clause 4.24 of the EPA.

A detailed review of DA/17/0995 has revealed that it was not likely to be a concept approval for the future redevelopment of the at grade carpark with the SEE submitted with it clearly stating it wasn't for a concept approval, no assessment conducted of building envelopes, potential GFA, building heights and parking generation as part of the assessment of this application.

It is acknowledged that that the development consent notice references a concept stage 2 development for retail and commercial premises and references an urban design report prepared by Roberts Day that references some pad Mixed Use sites.

Given the confusion within DA17/00995 a Section 4.55 modification has been uploaded to the planning portal to resolve this issue.

In additional to the letter that identified the above key clarifications a technical addendum was attached to the letter that predominately requested clarification from internal referrals.

The following table details how the proposal has responded to the clarifications requested in this technical addendum:

Council Clarification	Applicants Response
<b>Planning</b> a) The 2m high retaining wall along the eastern boundary is an undesirable interface with the adjoining land, which is zoned RE1 Public Recreation. Retaining walls are to be a maximum height of 1m and setback to allow for landscaping.	The design has been refined with the retaining wall reduced to 1m in height to provide an improved interface with the future park.

b) The application is silent on if the open spaces (i.e. public plaza, pocket parks, riparian area and open links) are proposed to be dedicated to Council.	The parks are proposed to be kept in private ownership that will ensure they are maintained by the future owners of the properties.
c) This proposal does not address the provision of affordable housing. As per 'Penrith Local Housing Strategy', affordable rental housing should be delivered as part of medium and high-density housing schemes with established and emerging centres within the Penrith LGA.	The development does not seek to provide affordable housing in accordance with the provisions of the Housing SEPP. Noting that the precinct is dominated currently by detached dwellings the provision of apartments with a range of bedrooms will assist with providing more affordable rental and housing options for potential residents in the precinct in an area close to facilities and educational opportunities.
d) The SOEE states that 50% of the principal COS receives 2 hours of sunlight between 9am and 3pm, this is currently unclear as no shadow diagrams have been provided.	Shadow diagrams accompany this resubmission that confirms that >50% of the common open space area receives 2 hours of solar access in winter.
e) A table of compliance against the provisions of the Apartment Design Guideline (ADG) is to be provided, with particular attention to the solar access and privacy considerations.	A revised table of compliance with ADG provisions is provided later in this letter.
f) Internal access from the basement to townhouses (i.e. P307) is not always provided, which restricts access for waste disposal and car parking.	The design has been refined and internal access is provided from all townhouse style apartments with basements.
g) The townhouses facing O'Connell Street have very large basement storage rooms which generally have no windows. The purpose of these rooms is to be clarified.	The rooms are intended to be utilised for the storage of household goods and facilitate the storage of household goods including spare furniture, bicycles etc.
h) The development application includes both RFB's and townhouses. The parking provisions have been provided at the DCP parking rate for RFB developments noting 2-bedroom townhouses require 1.5 spaces as opposed to 1 space for RFB's.	<p>Multi- Dwelling house is defined by Penrith LEP as being: <i>multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.</i></p> <p>As the town houses are accessed from a corridor rather than ground level, they don't satisfy this definition and are appropriately defined as two storey apartments.</p>
i) The relocation of the existing Caddens Corner at grade carpark to the basement levels within Stage 4 relies on the provision of 38 parking spaces on street. It is unclear if the 'on street' is referring to at grade alongside the private access road within the site fronting the existing shopping center or within Corr Road.	The revised proposal provides 20 new spaces within the internal road network. These spaces are not intended to be provided on either O'Connell Street or Corr Road.

j) The setback distance between the proposed townhouses and RFBs on their either side along O'Connell Street (E-W) is unclear. It should be ensured that this complies with the minimum building separation requirements.	As outlined above the 'townhouses' are considered to be appropriately defined as RFB's. Building Separation is discussed in the ADG section of this letter.
k) The proposed scheme shows a fence between buildings L and M, along O'Connell Street (EW). This space between the buildings should ideally be opened up for public access (i.e., the fence removed), to allow improved permeability and physical and visual connection for pedestrians from Fouad Way and O'Connell Street (E-W) through the site to the green open space located further north.	The design has been refined but given the topography, pedestrian access has not been provided in this area.
l) The proposed scheme does not respond to/provide connection to Third Avenue on the east of the site. It is unclear why the proposed new north-south street along the eastern boundary of the site does not connect with Third Avenue.	Third Avenue is located on private land and appears to be currently located on land zoned RE1 Public Recreation. Given this and as part of the future redevelopment of this land, there is opportunity for a road and pedestrian connection into Corr Road to facilitate improved permeability through the site.

## 2. Engineering

### General

a) The subdivision plan shall be amended to clearly identify the future public roads noting the proposed subdivision plan details the roads within private property. The proposed boundary adjustment does not accommodate the dedication of the public roads noting revised Lot 2 will be subdivided into 3 child lots due to the road alignment.	The application no longer seeks approval for subdivision that will occur via a separate application. It is intended that the two new roads will eventually be public roads.
b) The civil plans detail a temporary construction sediment basin within stage 4 as required during the construction of the future roads as part of stage 1. The future road and sediment basin are located within the existing Caddens Corner car park. The application shall clearly identify the timing of each stage and when the existing carpark will be occupied to accommodate each stage of construction.	Each stage of the works includes large basement excavations in excess of the required sediment basin volume. It is expected that these excavations will have more than adequate volume to capture sediment in accordance with the provided sediment basin calculations.
c) The proposed retaining walls are supporting the proposed public roads. The subdivision plan shall detail appropriately sized easements for support adjoining the proposed retaining walls.	The proposed retaining walls have been located such that the zone of influence is located outside the road carriageway. As such no easements are required.
d) The proposed retaining wall material shall be confirmed on the plans. The public roads shall be located outside of the zone of influence of the retaining walls. The road carriageway from back of kerb shall be located outside of the zone of	

influence of the retaining wall assuming a 45 degree angle from the footing of the wall to the finished surface level.

e) The road cross sections shall detail the proposed retaining walls along the eastern boundary of the site and along the Cumberland Plain Woodland to confirm the retaining wall interface.

f) The Geotechnical Investigation report identifies that groundwater was encountered above the bulk excavation level for the proposed development at various locations across the site.

The report proposes to utilise a 'sump and pump' system to be implemented throughout construction and as a permanent solution for the future buildings to discharge to the stormwater drainage network. The extraction of groundwater for the life of the development is not supported. All basement structures shall be waterproofed or tanked for the anticipated life of the development in accordance with Penrith City Council's Development Control Plan, 2014 and Stormwater Drainage Specification for Building Developments. Waterproofing of below ground levels shall be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent future inundation.

g) The civil plans shall clearly demonstrate the OSD tanks are accessible from the public road at ground level. All required access points shall be provided in common areas and outside of private courtyards with a minimum of 2 grated access points at opposite sides of the tank being provided in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and AS2865. The sealed access lids are not supported.

h) A stormwater concept plan shall be included for the stormwater management of the proposed buildings across the site. The plans shall include details of the basement drainage and pump out systems and surface inlet pits throughout the common areas. The plans shall detail the stormwater concept up to and including the OSD system.

a) The alignment of stormwater line 15/06-15/07 shall be relocated out of the road carriageway. Additional pits shall be provided around the 90 degree bend to relocate the

Within the revised Civil package, road cross sections added for the eastern boundary and Cumberland Plain Woodland to show the interface.

A further Geotechnical review has been conducted and indicates in part that the basements should be able to be managed by a conventional drained basement design.

All OSD's have been removed except under Building U. The access hatches for this building are clearly shown on drawing DAC3001 and sit outside the building area (publicly accessible).

Basement and podium drainage has been added to the civil plans. Additional plans have been included in the revised set detailing basement drainage.

Alignment adjusted to remove out of the road carriageway as much as possible via an extra pit.

stormwater infrastructure generally under the kerb alignment due to future maintenance concerns with the proposed pipe location.	
b) A PDF copy of the DRAINS output shall be submitted in support of the application demonstrating the 1% AEP flows are wholly contained within the road carriageway and the V x D product does not exceed 0.4 to provide flood safe access for the proposed subdivision.	Provided
c) The proposed weep holes within the OSD shall be removed and the tank/discharge control pit appropriately benched due to the clayey soils within the Penrith LGA. The OSD shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments standard drawing SD30001.	Provided
d) The minimum volume of the OSD tanks listed on the civil plans differ to the minimum required volume listed in the Civil Engineering Report. The OSD shall be sized in accordance with the civil engineering report ensuring any rainwater tank and WSUD chamber capacity is excluded from the OSD storage volume in accordance with Penrith City Council's Stormwater Drainage Specification for Building Works. Traffic, Parking & Access	Volumes are now consistent between report and drawings. Rainwater tank and WSUD volumes are not included in OSD volume.
e) A Stage 2 Road Safety Audit shall be submitted in support of the application.	A stage 2 Road Safety Audit is currently being prepared and will be submitted under separate cover.
f) A 1.5m footpath shall be provided along the northern side of O'Connell Street (East-West) for the full frontage of the development. The footpath shall be detailed on all plan sets for consistency.	The revised plans illustrate a footpath along O'Connell Street.
g) The civil plans shall detail the proposed intersection of the new road with O'Connell Street (East-West).	Provided
h) The proposed indented parking bays and tree pits within the parking lane are not supported.	The revised plans have removed the indented parking bays and tree pits.
The extension of Corr Road shall be consistent with the existing Corr road layout. The verge and carriageway widths shall be consistent with Collector Road 1 in accordance with Penrith City Council's DCP part E1 - Caddens. The new 'circuit' road shall have verge and carriageway widths consistent with the Local Road layout detailed in the Penrith City Council DCP part E1 - Caddens.	The extension of Corrs Road has been provided as an Avenue in accordance with figure E1.6 of the DCP.

i) The Statement of Environmental Effects and Traffic Impact Assessment detail a different distribution of the proposed apartment sizes. The reports shall be consistent with each other. Section 7 of the Traffic Impact Assessment details the calculation of required parking in accordance with Penrith City Council's Development Control Plan, 2014 however the calculated required parking spaces for Stage 1 are not consistent with the DCP parking rates i.e Stage 1 proposes 57 x 3 bedroom apartments requiring 114 parking spaces however only 106 spaces are proposed. The Stage 1 calculations shall be checked to ensure compliance with Penrith City Council's DCP and plans updated accordingly.	Co-ordinated
j) The application shall address the offset of the existing 444 parking spaces during construction noting the current required parking to service Caddens Corner will be removed until the replacement basement parking is completed and operational.	This issue is still being addressed by the design team and will be submitted under separate cover.
k) All residential parking spaces shall have a minimum width of 2.5m to allow for full opening of all doors in accordance with Penrith City Council's DCP and AS2890.1. The plans shall be amended accordingly.	Provided
l) The swept paths of the waste collection vehicles detail reverse manoeuvre's and 3 point turn exit manoeuvre within the basement carparking areas which is not supported by Council.	A turn table has been provided to assist with garbage truck manoeuvring where a 3 point turn was previously required,
m) The summit change in grade for Stage 1 Ramp 1 shall not exceed 12.5% in accordance with AS2890.1. The basement access shall be amended accordingly.	Provided
n) Swept paths shall be provided for all basement ramps demonstrating a B85 vehicle can pass a B99 vehicle in accordance with AS2890.	Provided
o) The width of the basement ramps shall be clearly confirmed on the plans demonstrating two way traffic movements in accordance with AS2890.	Provided
p) The aisle widths within the retail basement parking areas shall have a minimum width of 6.6m in accordance with User Class 3A in accordance with AS2890.1. The plans shall be updated accordingly.	Provided
q) A 300mm clearance from end parking spaces directly adjoining the basement walls shall be confirmed on the plans in accordance with AS2890.1.	Provided

r) A minimum 1m wide blind aisle extension shall be detailed on the plans in accordance with AS2890.1.	Provided
s) The headroom clearance for any vehicular path of travel to or from any accessible parking space shall be a minimum 2.3m in accordance with AS2890.1. Multiple ramps are detailed with a headroom clearance of 2.25m and shall be amended accordingly.	Provided  Provided
t) A retail visitor parking space and retail parking space is detailed on the Architectural plans with different parking space widths. All retail parking spaces shall conform to User Class 3A in accordance with AS2890.1. The plans shall be updated accordingly and the retail visitor space detail removed from the plan set for clarity.	
u) The architectural basement plans detail possible support columns within and conflicting with proposed parking spaces. It is understood the final location of structural supports within the buildings is subject to structural engineering design however the columns shall be shown indicatively to not conflict with parking spaces.	Preliminary details provided
v) The road verge shall have a crossfall of 4% and the footpath shall have a crossfall of 2% in accordance with Penrith City Council's Engineering Construction Specification for Civil Works. The vehicle crossovers within the road verge shall be consistent with Council's verge profile. All basement access driveways shall be amended accordingly noting the crest of the basement access shall be a minimum 0.3m above the top of kerb level.	Road cross sections have been adjusted to be consistent with the specified layouts.
w) The basement access driveways into stages 1 & 2 shall be detailed as standard Penrith City Council vehicle crossovers on the civil plans. The detailed access arrangement is not supported for the proposed RFB's.	Provided
x) Given the restricted sightlines, safety concerns are raised with the four-way intersection at O'Connell Street (south) and the proposed Avenue. A road safety audit is to be submitted that includes a review of this intersection.	The revised traffic report discusses this.
y) The road safety audit is also required to demonstrate there is no adverse impact on the adjoining road network associated with the proposal.	A stage 2 Road Safety Audit is currently being prepared and will be submitted under separate cover.
z) Based on 0.4v tph for an apartment, the traffic generated by the residential component will be 225 vehicle trips during peak hour. In the traffic report, the traffic generated by	Noted

residential component has been estimated as 132 vehicle trips during peak hour.	
aa) Proposed car park for Stage 4: There will be conflict between motorists entering / exiting from the ground floor car park and heavy vehicles exiting / entering the car park. Information shall be provided how the conflict will be addressed.	The revised traffic report discusses this concern.
<b>Water Sensitive Urban Design</b>	
a) A Stormwater management report supported with MUSIC Modelling should be prepared to demonstrate that the post development (i.e., additional works including additional hardstand and buildings etc.,) has a neutral or beneficial effect on receiving waterways as compared to the existing / predeveloped site (i.e., previously approved structures). The strategy must include additional information on what conservation measures and irrigation uses (e.g., demands etc.,) are proposed as well as outline what treatment measures are required to comply with the SEPP Biodiversity and Conservation) 2021 Chapter 6 Water Catchments, Division 2 Controls on development generally Section 6.6 Water quality.	Provided
b) An electronic version of the MUSIC model should be submitted. This should be prepared to demonstrate pre and post development scenarios and satisfy the requirements of the SEPP (Biodiversity and Conservation) water management requirements. This should demonstrate that the post developed scenario has a neutral or beneficial effect on the quality of water being discharged as well as information to demonstrate that the amount of run-off is as close to the pre-developed scenario as possible.	Provided
c) The locations of all rainwater tanks and associated filter chambers should not be located under any private buildings / courtyards etc.. All required access points shall be provided in common areas and outside of private courtyards.	All OSD's have been removed except under Building U. The access hatches for this building are clearly shown on drawing DAC3001 and sit outside the building area (publicly accessible).
d) With respect to the proposed treatment measures, given the scale of the development it is also suggested that the treatment of stormwater is achieved through the installation of vegetated systems (e.g., rain gardens distributed throughout the development and landscaping).	Raingardens have been included adjacent to roadways

e) A detailed design drawing of the kerb arrangement for the street trees needs to be provided for Council's consideration / approval.	Provided
f) An updated concept stormwater plans that address the above points.	Provided
g) A site-specific operation and maintenance manual shall also be submitted in support of the application. This needs to be prepared in accordance with Council's WSUD Technical Guidelines. In preparing the supporting information, the proponent is advised to refer to Council's WSUD Technical Guidelines. The guidelines were prepared to outline how to comply with the requirements of Council's WSUD policy and outline Council's requirements in relation to the contents of a WSUD Strategy and detail required for concept designs to be lodged with the development application. The guidelines refer to resources which guide the development of suitable plans for submission with a development application.	An operational and maintenance plans is appropriately provided as part of the detailed construction certificate documentation. A plan can be prepared following the detailed design of all WSUD elements within the site and a condition of consent could reinforce this.
<b>Biodiversity</b>	
a) The Arboricultural Development Impact Assessment has not assessed all of the trees within the development site. All trees within and adjacent to the development area to be assessed.	A revised arborist report accompanies this resubmission.
b) Hollow-bearing trees were identified within the Poplar trees. Retention of these trees should be considered and incorporated into the development.	Retention of these trees is not feasible but the Vegetation management plan that accompanies this resubmission outlines how these trees can be offset.
c) Individual Cumberland Plain Woodland trees should be retained and incorporated into the development.	Refer VMP.
d) Where impacts to Cumberland Plain Woodland/ native vegetation identified on the Biodiversity Values Map have not been avoided the BDAR is required to be amended to address the following comments. I. The Biodiversity Development Assessment report (BDAR) is dated 17 February 2023. The application was submitted/ lodged on the 14 April 2023. The BDAR has therefore not been certified with fourteen days of the application being lodged as required under section 6.15(1) of the Biodiversity Conservation Act 2016. This is required to ensure the currency of information in the BAR and adequacy of the assessment. II. The BDAR has not considered the impacts associated with the bushfire protection	A revised BDAR accompanies this resubmission.  It is noted that this is primarily due to the Portal Process. A revised BDAR accompanies this resubmission  A revised Bushfire report accompanies this resubmission that confirms that an APZ is not

measures outlined in the Bushfire Protection Assessment prepared by Eco Logical Australia dated 17 February 2023 which identifies an Asset Protection Zone within the patch of Cumberland Plain Woodland.	required to be provided within the CPW given the extensive clearing of the site to the north.
III. In Appendix B under Table 43 on page 89 there appears to be a formatting or other issue with a table that has been included in the report. In the heading it states 'Structure (Total cover %) but it has random letters and some numbers provided. This needs to be amended.	Revised
IV. Figure 20: Impacts requiring offset have not mapped the Poplar trees.	Revised
V. Regarding the threatened flora Caladenia tessellata further information / evidence that the site is too degraded for this species to occur is required to support the reason to exclude this species from further assessment. Based on the vegetation integrity score and presence of native species in the understory the condition of the patch is not as degraded (except for the ongoing mowing that has prevent regeneration of species). Could this species be present but not detected during this survey due to mowing? If the site represents potential habitat, then this species is required to be retained and assessed.	Considered
VI. To ensure that Council can review all relevant information the BDAR is to include all relevant BAM calculator reports including (but not limited to) predicted ecosystem and species credit species reports produced by the BAM-C Calculator.	Provided

### Waste Management

a) The Operational Waste Management Plan does not calculate the bins required per number of units being serviced by each chute.	The revised plan contains this information.
b) The Operational Waste Management Plan is required to demonstrate how units access waste services/ chutes. Specifically, those units/ townhouses with street frontage and no access to the internal corridors/ chute systems near the liftwells. (eg. 4 units in building C, 4 units in building D and 4 units in building E do not have reasonable access to waste and recycling chutes; In Building K, 2 units at ground level do not have access to waste and recycling chutes and 3 townhouses that front O'Connell Street do not have reasonable	Outlined in section 5.2 of the revised report.

access to waste and recycling chutes; In Building L, 3 units at ground level do not have access to waste and recycling chutes and 3 townhouses that front O'Connell Street do not have reasonable access to waste and recycling chutes; Duplexes between Buildings K & L, Buildings M & N and Buildings P & Q do not have reasonable access to waste and recycling chutes;	
c) Kerbside services for townhouses are not supported. Access to waste services within the development is required.	Provided
d) Building A does not have onsite collection. Council does not support bulk bin collection at kerbside or movement of bins by a caretaker across the road from Building A to CDHJ.	Building A has been removed from the scheme.
e) Council does not support the use of bin tug devices on general access ramps for residential vehicles. Noted for Building A plans.	Building A has been removed from the scheme.
f) Truck turn around bays have reversing manoeuvres in active carriageways which are not supported.	Turn tables have been provided where required to prevent this occurring.
g) For all loading bays, swept paths are to demonstrate the requirements for Councils low entry waste vehicle with all required clearances (reference 2.3.1 of the Residential Flat Building Development Waste Management Guidelines).	Provided
h) Along the route for the waste collection vehicles within the basement, unobstructed heights of 3.5m must be demonstrated including ramps (reference 2.3.1 of the Residential Flat Building Development Waste Management Guidelines).	Provided
i) Bulky Goods Collection Rooms must be calculated per building so as to suit access by residents. Eg. For Building A, with 23 units accessing the utilities, the calculation is $(23 \times 8) / 52$ ; so that 4m <sup>2</sup> is required for the Bulky Goods Collection Room for that Building.	Refer updated Waste report
j) Bulky Goods Collection Rooms are to be adjacent to the loading area. Should interim bulky goods collection rooms be located in the basement for the convenience of residents, responsibilities of the caretakers to move bulky goods on a weekly basis from the interim rooms to the collection room are to be written in to the Operational Waste Management Plan.	Refer updated Waste report
k) A structural engineer's report is required to be submitted accompanying the Waste	Capable of being conditioned

Management Plan. The report is to confirm all infrastructure used for vehicle ingress and egress movements can support the vehicle's 'gross weight' consistent with Council's heavy rigid waste collection vehicles outlined in section 2.2.

l) Waste and Recycling Generation Rates for Commercial and Retail units are inconsistent with Councils Guidelines. Please use Council generation rates or provide justification for generation rates used. Café (300L/100m2 floor area/day), Café with pre-packaged food (150L/100m2 floor area/day), Retail no-food (50L/100m2 floor area/day), Commercial office (10L/100m2 floor area/day).

Refer updated Waste report

m) Review Section 5.2 of the Operational Waste Management Plan in line with residential collection frequencies of 2x weekly for general waste bins and 1x weekly for recycling bins.

Provided

n) For chute rooms requiring more than 2 X 1100L bins per day to address exchange of full bins for empty bins by the caretakers or provide for a longer linear track system or a (circular) bin carousel to allow for automated exchange of full for empty bins for more than 2 bins per day.

Refer updated Waste report

o) Architectural plans do not show the chutes lining up with the linear track systems nor the clearances around the linear track systems. Resubmitted plans showing these features with required clearances around tracks/ carousels is required.

Refer updated Waste report

p) The Chute rooms are required to have dual 180 degree outward opening 1.8m wide doors, that are able to latch open to permit movement of bins. The route between the chute room and bin collection room is to be a minimum of 1.8m wide at all points (including demonstration where cars are parked in all car parking spaces).

Provided

q) Please indicate where all bin tug devices are stored and secured.

Refer updated Waste report

r) Current plans show bins stacked up to 3 deep. Please review design to allow bins to be stacked no deeper than 2 deep. This is contrary to the Operational Waste Management Plan (Section 11).

Refer revised Architectural Plans

s) No taps currently noted on plans. Hot and cold water supply is required for cleaning in each waste storage area and Bin Washing area and Chute Room.	Capable of being conditioned.
t) Service lifts are to fit 2 X 1100L bins to fit in lift at a time. Please confirm this.	Refer revised Architectural Plans
u) Applicant to provide specifications of the Goods lift with plans indicating its position.	Refer revised Architectural Plans
v) Residential bin calculations to be reassessed for each chute system and using 1x1100L bin per 18 units (rounding up) for each stream (waste and recycling) and an additional service bin per chute to remain during the servicing process.	Refer updated Waste report
<b>Landscaping</b>	
a) The application lacks information to undertake a complete assessment. In this regard the following is to be provided/clarified:	The proposal has been refined and additional detail provided.
i. Dimension of deep soil area (both natural and filled material) and on structure planters which are proposed to accommodate trees. However, there appears to be a lack of deep soil across the site.	Provided.
ii. Cross sections are required to understand the relationship between public and private spaces.	Provided
iii. The documentation is unclear on what areas will be publicly vs privately accessible.	Provided.
iv. An explanation of responses to "country" and the culture of First Nations people.	The development retains native vegetation.
v. The proposal mentions the removal of native trees on site, however, it is unclear whether these will be relocated on elsewhere on the onsite.	The trees are proposed to be removed rather than transplanted.
vi. Fencing details are to be provided.	Provided
b) Access to podium landscaped areas between buildings P and N, and buildings M and L is limited, and concerns are raised regarding the ongoing maintenance.	The design has been refined to address this.
c) The landscape plans are inconsistent with civil plans. The landscape plan indicates pedestrian connection into the CWP area from the internal roads, however, the civil plan indicates a 2.5m high retaining wall along this interface.	The plans have been refined and no access is proposed into the CWP area.
d) The treatment of the public plaza appears undercooked and needs to have greater consideration to the principles of place making.	As requested, significant concept refinement and further detail provided to demonstrate significant amenity is provided by the 'Village Green' public plaza. The illustrated landscape response to Council RFI's demonstrates the design detail and thematic content, and also the range of event functional overlay that demonstrate the flexible use and adaptability of the large civic space.

### 3. 7 NOVEMBER 2023 LETTER PREPARED BY KNIGHT FRANK TOWN PLANNING

Knight Frank Town Planning took over the assessment of the application following the departure of Council's original planner. Prior to a meeting with the applicant they prepared a list of issues for discussion.

The following table details how the proposal has responded to the clarifications requested in this letter:

Council Clarification	Applicants Response
<b>Proposed Density and Existing Infrastructure In response to SIA &amp; Infrastructure:</b>	A Social Impact Assessment was prepared for the development by Hill PDA and submitted on 15 September 2023.
Public Transport: No evidence of communication with local bus service provider in relation to provision of adequate bus stop locations and services.	A bus service is provided along the O'Connell street frontage of the site and provides a bus service between Mt Druitt and Penrith. It is not considered that this development will overwhelm the service and TFNSW regularly monitors bus usage to understand when services may need to be altered.
High School: No evidence provided of capacity for additional high school places to be accommodated – SIA indicates consultation with local schools that these schools are at capacity and that further consultation with SINSW occur.	The SIA outlines that the proposal would potentially generate an annual demand for 87 high school places when fully developed and that the nearest high school is not accepting out of area enrolments as it is currently at capacity for most year levels. It is considered that the peak demand for high school students is likely be a number of years after the site is fully developed and that given this and noting that not all high school students would necessarily attend the local government school, that an appropriate mitigation measure is to advise the Department of Education post approval of the number of apartments approved and the likely date for occupation to assist with managing possible demand from the site. It is noted that the Department of Education were consulted as part of the 'upzoning' of the area and that it is common for schools to utilise temporary classrooms to assist with catering for increased demand in new release areas.

LDC & OSHC: Details/ feasibility of how the existing child care centre on-site can be expanded have not been provided. For example, is there adequate space for buildings, outdoor play areas, car parking, etc. Also, no mention of OSHC demand and how that would be accommodated.

The precinct is a release area that is undergoing transition from rural residential properties and surplus educational land to urban development. It is anticipated that private developments will deliver additional childcare facilities in the precinct that will assist in catering for the demand generated from this site and the wider precinct. The SIA indicates that the primary school has the capacity for the additional primary school students from the site and it is considered that the OOSH will have the capacity to cater for additional demand from this development.

Community Facility: SIA indicates that the proposed development will generate a need for approximately 94m<sup>2</sup> floor space towards a community facility in the locality. It mentions proposed 'multi-functional spaces' that would satisfy this need.... where it is it proposed as part of this DA?

Council as part of the Caddens Corner Shopping Centre had the opportunity to 'lease' space from the shopping centre for additional facilities. Council has chosen not to and the submitted SIA addressed this and states:  
*Although a community centre was included in the approved DA for the site, this space is proposed to be converted into a multi-functional community space to be used as a Pilates studio and children's swim school. This would meet the need for community facility as identified by benchmarking, and also meet the objective of introducing a multi-purpose community centre in the WELL Precinct Centre as identified in the WELL DCP.*

It is noted that this development and surrounding developments in the precinct will also be required to pay contributions that will assist Council with managing the additional needs generated by the development.

Open Space:  
The CPW should not be relied-upon as open space provision, given it should be fenced and not accessible. In this regard, the SIA should be reviewed

The SIA specifically addresses this and notes : *These natural areas could provide social benefits to new residents of the proposed development, who would have access to natural areas locally within 800 metres of the site. Additionally, as identified in section 5.2, these natural areas would meet the benchmark identified in the relevant benchmark of providing 1 hectare of natural areas for every 1,000 residents.*

The commentary and calculations under Section 5.2.1 of the SIA should be reviewed having regard to the following:

Viewing of these areas is considered to assist with social wellbeing.

□ There are an additional 19 residential apartments approved and not yet built in a shop-top-housing building as per DA 17/0995.

□ The Parramatta CIS requires: 1ha/1000 people for parks; 1ha/1000 people for sporting open space; and 1ha/1000 people for natural areas and other open space. The SIA does not elaborate on these requirements and seems to rely on existing open space areas off-site for satisfying the open space requirements being generated by the proposed development. In this regard, it is not clear if there is surplus capacity in open space already provided/proposed in area, to accommodate the proposed development, having regard to requirements of existing or approved development in the area. See excerpt from Table of Benchmarks in the CIS.

Council's Contributions Team have reviewed the DA and recently submitted SIA. They have offered the following comments:

*The proposed development will generate an increased demand on public infrastructure and services beyond what is nominated in the WELL Contribution Plan (CP) Schedule of Works. This is particularly relevant to open space infrastructure. The application has not addressed the density increases beyond what was envisioned in the WELL CP, the application proposes a potential increase of 958 residents, which have not been accounted for in the WELL CP's schedule of works.*

*The proposed open space is not deemed satisfactory to support the proposed density increase. It is recommended to review Penrith's Sports and Recreation strategy in order to determine a suitable quantum of additional open space to support the density. If the delivery of the additional open space is sought, a Voluntary Planning Agreement (VPA) will likely be necessary. The VPA will need to be executed prior to the DA determination OR a letter of offer reviewed and accepted by council and then a deferred commencement imposed to ensure legal mechanisms are in place to deliver any necessary infrastructure.*

The SIA has been updated to take into account the reduction of apartments by 95.

The SIA has been updated through reference to the Sport and Recreation Strategy and the WELL contribution plan. Refer to Chapter 3 of the report for an overview of these documents and their relevance to this report.

The proposed open space has been increased through the deletion of Block A.

The SIA has been updated through reference to the Sport and Recreation Strategy and the WELL contribution plan. Refer to Chapter 3 of the report for an overview of these documents and their relevance to this report.

It is noted that this development and surrounding developments in the precinct will also be required to pay contributions that will assist Council with managing the additional needs generated by the development.

The development site is being developed in accordance with the planning controls that envision high density residential housing and shoptop housing in this development. It is not considered that the extent of development warrants the submission of a VPA and that the required contributions will assist with managing the additional demand for services as a result of this development and other developments in the precinct.

Council's Contributions Team will need to engage with Local Infrastructure Working Group to determine if any suggested dedication will be supported.

## Density

The Werrington Enterprise Living and Learning (WELL) Precinct s.94 Contributions Plan notes an expected 'additional' 2,463 dwellings in the Caddens, South Werrington and Werrington Mixed Use Area sub-precincts. How is the proposal consistent with these targets and/or does the proposed increased density on the site exceed this?

The 4 to 9 storey proposal is a major departure from the strategic density allowed under Penrith LEP 2010, which allows a maximum 15m height of building or 4 storeys. As outlined in the 4.6 table, 15 of the now 18 proposed buildings exceed the maximum height development standard, ranging from 0.6-16.1m or a 4-107% variation on parapet heights, with 4 buildings having greater than 50% variation. These heights variations are further exceeded when lift overruns are included (up to 134%).

It is not considered that a contribution plan is an appropriate means to 'regulate' density. Densities can change due to market demand and this is demonstrated by the typical delivery of smaller allotments in release areas due to housing affordability and noting that as the area develops a diverse form of housing supply such as apartments attracts interests from purchasers who wish to live in an accessible area. The planning controls envision high density housing and shoptop housing on this site and the development is delivering a form of development envisioned by these controls.

As a result of concerns expressed around density we have substantially reduced the number of apartments within the site from 564 apartments to 469 apartments. This is a reduction of 95 apartments. The revised development also no longer seeks approval for Building A with other buildings, being F, H and R will be reduced by three full levels. The site has a 15m height limit which would typically equate to at least a 5 storey building. The development has a maximum of 6 storeys due to slope which is consistent with the height envisioned by the planning controls, particularly noting that the development preserves vegetation not intended by the DCP to be preserved.

The revised plans have buildings with a maximum of 6 storeys. The development site has varying topography and contains endangered ecological vegetation communities. Given this and the desire to provide an appropriate urban design response to the site 11 of the 18 buildings vary the 15m height control.

Based on the existing ground levels it is acknowledged that all 18 buildings vary the 15m height control.

While there is no floor space ratio density control under either the LEP or DCP, under the Werrington Enterprise Living and Learning (WELL) Precinct S.94 Development Contributions Plan (CP), Caddens has a planned residential density of 15 dwellings per hectare that the required infrastructure and contributions have been based on. Lots 1 and 2 DP 1268507 have a total area of 8.128 Hectares, which would equate to 122 dwellings anticipated for the site under the WELL CP (the development site is approximately 5.4ha which would equate to 81 dwellings anticipated for that part of the site). The amended DA proposal of 544 dwellings (or 563 dwellings if including the yet to be built shop-top-housing building as per DA 17/0995) across both lots, instead results in 67 dwellings per hectare or 101 dwellings per hectare if just the development site area is included.

The appropriateness of such a significant uplift in density requires a holistic strategic consideration of the broader area, including the future of adjoining Western Sydney University (WSU) lands. This would be more appropriately facilitated via a planning proposal rather than a DA, particularly when other aspects of the LEP's planning controls are also being significantly tested, such as: permissibility; building heights and maximum commercial floor area.

#### **Permissibility**

The letter raises concern about permissibility including that the proposed OSD system for Building N extends beyond the 20m 'stretch' zoning provision and along with the current lack of commercial facilities within other buildings in the E1 zone beyond the 20m boundary make the development prohibited.

#### **Community Facility -condition 85 of development consent**

When utilising a rationalized height version that assumes what the natural ground levels were before the modifications to topography for the drive in movie theatre and later shopping centre carpark, 7 of the 18 buildings have no height encroachments and 13 of the 18 buildings have no habitable floorspace above the 15m height limit. Given the extensive earthworks proposed to connect into the local road network this is an appropriate response to the site.

A revised clause 4.6 departure accompanies this development application.

The proposal has been refined with 95 apartments removed from the scheme. The planning controls and the approved concept scheme envision development for shop top housing and residential flat building and the revised development is largely consistent with the controls noting that a landscaped plaza is proposed and that part of the at grade retail car parking spaces have been placed in a basement.

The preceding comments are relied upon, noting that the development is consistent with the planning controls that apply to the site.

The development has been refined and shop top housing buildings are proposed for the 5 buildings that are not located within 20m of a R4 zone.

All of the provisions of clause 5.3 are addressed further in this letter.

This application does not require an assessment of condition 85 of a previous approval for part of the site.

Notwithstanding this, it is noted that Council has not expressed a desire to lease space within the



<p>existing Caddens Shopping Centre and the condition takes this into account including by stating:</p> <div><p>The use of the multi-purpose community facility space as nominated on the approved plans shall be made available to Council (or as otherwise advised by council) subject to future agreement/negotiation with the developer or landowner.</p></div>	
<p><b>Building Height</b></p> <p>Proposed viewpoints for view analysis are generally ok. Additional viewpoints should also be provided from adjoining subdivision to north, as follows:</p>	<p>As outlined previously the height of the complex has been reduced from 9 storeys to a maximum of 6 with 95 apartments removed.</p> <p>A revised view analysis prepared by Turner accompanies this modification.</p> <p>A revised clause 4.6 submission accompanies this application that outlines why it is appropriate to utilise the post earthworks levels or rationalised height when considered the height variation.</p>
<p><b>Commercial Floorspace departure</b></p> <p>The variation request notes that the 10,000m2 GFA cap on commercial premises relates to all the land zoned E1 in the precinct, inclusive of the undeveloped portion of land zoned E1 at 46-66 O'Connell Street.</p> <p>The existing Caddens Corner shopping centre provides approximately 10,127m2 of approved GFA and was subject to a clause 4.6 variation previously. This DA proposes a further 1,087m2 to take it to approximately 11,214m2. In addition, the amended plans are now seeking to add a further 330m2 (or 11,544m2). However, there is no mention of the likely commercial premises GFA that may be sought in the future at the undeveloped portion of the site at 46-66 O'Connell Street. The Clause 4.6 variation statement together with the supporting economic analysis by Atlas Economics should consider and address this in terms of the potential accumulative impact and restrictions for future development on 46-66 O'Connell Street.</p> <p>Given that the proposed development is seeking a significant variation, part of which is being exacerbated in an attempt to resolve a permissibility issue with the development, and potentially impacting the development viability of adjoining lands also subject of the same development standard, suggest that the matter of</p>	<p>A revised clause 4.6 departure to the commercial floorspace cap accompanies this modification.</p> <p>It is based on the current tenancy mix of the centre and excludes some land uses that are not defined as commercial floorspace.</p> <p>It is noted that Council has always envisioned that the cap would be breeched with the original shopping centre breeching it and not taking into account future develop on surrounding sites as well as the DCP envisioning 12,500m2 of floorspace.</p> <p>The objective of the clause is not to hamper commercial businesses in the Penrith CBD and the revised report from Atlas demonstrates that this will not occur, but rather the additional commercial GFA will better supporting existing and future residents in the precinct.</p>

commercial floor area is best addressed via a more holistic strategic planning approach, such as a planning proposal rather than a DA.

**Density, Permissibility, Building Height & Commercial Floor Area Variations – DA vs Planning Proposal**

As noted in the commentary above, the concerns relating to density, permissibility, building height and maximum commercial floor areas are rather complex and have broader planning implications on the locality and other adjoining sites. In some cases, the matters are intertwined and exacerbate the planning implications, such as the matters of permissibility and cap on commercial floor area. For this reason, it is considered that all these matters are best addressed via a more holistic strategic planning approach, such as a planning proposal rather than a DA.

Given these concerns about the intensity of the proposal we have substantially reduce the number of apartments within the site from 564 apartments to 469 apartments. This is a reduction of 95 apartments. The revised development application also no longer seeks approval for Building A with other buildings, being F, H and R being reduced by three full levels.

The site is zoned R4 and E1 and envisages a shop top housing and high density residential development. The development is consistent with these and does not seek approval for a prohibited development of a form of development not envisioned by the planning controls.

Accordingly it is considered that a development application is the appropriate methodology to consider the planning merits of the proposal.

**Concept Approval**

KFTP is of the view that the applicant has not provided sufficient evidence to demonstrate that DA17/0995 does not enjoy 'concept DA' status as per the provisions of Division 4.4 of the Environmental Planning and Assessment Act 1979.

Condition 3 of DA 17/0995, rather than suggesting the DA is not a concept DA, actually appears to confirm its 'staged' concept DA status by requiring separate DAs for future stages – as per the provisions of clause 4.22(4)(a) of the Act.

KFTP is of the view that DA17/0995, including the associated notice of determination, have indicators that suggest that the development consent is that for a 'concept DA' as per the provisions of section 4.22 of the EP & A Act 1979. This has implication for the subject DA23/0281 in that it is not consistent with the concept DA approval – namely, the proposed development on the eastern portion of Lot 1, as per the provision of section 4.24 of the Act. To remedy this, a s4.55(2) modification may be required, however, the threshold test of being 'substantially the same

Whilst there is still doubt as to whether the shopping centre DA is a concept approval a section 4.55 modification accompanies this submission that will remove doubt about this aspect.

development' must also be considered first. In this regard, the threshold test may be challenging to satisfy, whether a modification was sought to make design changes or to remove the references/ mechanisms of the concept DA. We recommend that the applicant obtains independent legal advice on this matter for Council's consideration.

#### **Traffic**

The applicant will need to address these key traffic matters:

Location and alignment of the road connecting to O'Connell Street opposite Starline Drive. Apart from sightline issues, there is concern with its off-set alignment with Starline drive in terms of safety and how this intersection will be treated.

The revised traffic report discusses this.

SIDRA modelling shall be undertaken at the following intersections:  
Caddens Road/Gipps Street; and  
GWH/O'Connell Street/French Street (the modelling to include state significant development on the TAFE NSW site, the proposed development at 46-66 O'Connell Street, Caddens, and DA 21/0369 for Stage 4 French Street Settlers Court).

This revised application is accompanied by SIDRA modelling of the required intersections and takes into account the required developments.

#### **Vegetation Management Plan**

To manage the indirect impacts of the development on the Cumberland Plain

The required Vegetation Management Plan has been prepared by Ecological and accompanies this resubmission.

Woodland a Vegetation Management Plan will be required to accompany the DA, prepared by an ecological consultant or suitably qualified bush regenerator.

#### **Fauna Management Plan**

The site contains grazing habitat for a resident population of Kangaroos and also contains hollow bearing trees. A Fauna Management Plan or referred to as Biodiversity Management Plan should be prepared that will outline how impacts to fauna as a result of the development will be avoided and minimised. This will include addressing or creating a protocol of how to

The required Fauna Management Plan has been prepared by Ecological and accompanies this resubmission.

address scenarios when Kangaroos are present or access the development site, preclearance survey and supervision of the removal of habitat trees.

Significant community concern has been raised in relation to the proposed development's impact on the kangaroo population.

It is recommended that the applicant liaises with the University of Western Sydney to coordinate arrangements for the management of the kangaroo population.

Any proposed Kangaroo management must be informed by research, data and specialised knowledge.

## Trees

Key comments from Council's Tree Management Officer:

Whilst the arborist report has assessed the trees in the CPW area, all impacts have not been assessed. Significant earthworks are proposed on the site which includes the installation of a headwall to a maximum height of 2.3 m (see landscape plan snippet) and/or a batter as shown on the civil plans. Works of this nature will not only affect the root zones of the trees but will change the overland water flow which could affect the long term viability of the stand.

There appears to be a network of "walls" or fencing scattered through the stand of trees... It could be terracing loosely based on contour lines. If it is, or if it is a constructed entity, this is not supported.

Also, the arborist report designates that 3 x *Populus deltoides* (Eastern Cottonwood) can be removed as they are within the proposed development. The biodiversity report states these trees have hollows; therefore, these trees should be considered for retention within the proposed design of the site.

The design has been refined to remove these earthworks from the CPW.

The revised landscape plan removes these terraces.

The development incorporates extensive open space areas including the CPW where trees and vegetation are retained. These trees are located within an area the DCP envisages be redeveloped.

If necessary, these hollows could be removed from the trees and attached to a structure within the open space areas via a condition of consent.

<p>The arborist report does not evaluate all trees on the subject and neighbouring sites and how they may be impacted. In the least, trees (including poplars) that are contained in the clump to the north of the site are to be provided with sufficient setbacks so there is scope for them to grow and thrive into over maturity. Particular attention must be given to changes in water flow that may be caused by the proposed development and how this may impact future growth.</p> <p>As this is a staged development, consideration of the impacts of later stages on existing and proposed plantings also needs to be considered.</p>	<p>A revised arborist report accompanies this resubmission.</p>
<p><b>Integrated Development</b></p> <p>It is noted that the proposed development may be relying on the dewatering of ground water during construction and on-going development. Council's engineers are not supporting this for the life of the development and instead are seeking the basement structures to be water-proofed or tanked. Either way, any dewatering may require an approval under the Water Management Act 2000, thereby triggering the integrated development process. The applicant shall address the need to submit an integrated development application.</p> <p>Under the NSW Planning Scheme applicants can elect into the integrated development regime should they wish. If they don't separate approvals must be obtained before construction commences.</p>	
<p><b>Staging Plan</b> A staging plan should be provided detailing the proposed staging of buildings, roads, civil works, bulk earthworks, landscaping and public open space/parks.</p> <p>Details should provided as to how the required amount of car parking for the existing shopping centre will be maintained to customers and employees during the construction of the proposed development.</p>	<p>A revised staging plan is being prepared and will be submitted under separate cover.</p>
<p><b>Subdivision – Boundary Adjustment</b> Details should be provided justifying/ explaining the proposed boundary adjustment that will result in an irregular subdivision pattern, including lots with split zonings.</p>	<p>The application no longer seeks approval for subdivision and this will occur via a subsequent development application.</p>
<p><b>Precinct Connectivity</b></p>	<p>The eastern boundary that adjoins WSU land is largely zoned RE1 Public Recreation. Given this</p>

<p>Penrith DCP 2014, Part E1 Caddens envisages an area that is well connected, legible and accessible/ permeable, including to the Precinct Centre from the University, TAFE, future employment areas, residential areas, etc. The application should be addressing this, particularly links to the WSU Werrington campus that adjoins the site to the east and the residential subdivision under construction to the north. Details should be provided how physical links (walking tracks, roads, etc) will be facilitated and integrated between the development site and adjoining sites.</p>	<p>and as part of the future redevelopment of this land, there is opportunity for a road and pedestrian connection into Corr Road to facilitate improved permeability through the site.</p> <p>Developments to the north have been approved on the R3 land and do not facilitate road or pedestrian access through to the Caddens Shopping Centre.</p>
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#### 4. 8 DECEMBER NOVEMBER 2023 LETTER PREPARED BY KNIGHT FRANK TOWN PLANNING

Knight Frank Town Planning prepared a further letter on 8 December to clarify positions on previous matters and outlines requirements to advance the assessment of the application.

The following table details how the proposal has responded to the clarifications requested in this letter:

Council Clarification	Applicants Response
<p><b>Proposed Density &amp; Infrastructure</b></p> <p>The 4 to 9 storey proposal is a major departure from the strategic density envisaged under Penrith LEP 2010 (PLEP), which allows a maximum 15m height of building or 4 storeys and up to 5 storeys in some instances. It is also noted that the Urban Design Review Panel (UDRP) has provided advice on the treatment of the interface with adjoining development and sites and what is an appropriate building height transition irrespective of heights permitted under the LEP.</p> <p>While there is no floor space ratio density control under either the PLEP or the Penrith DCP 2014 (DCP), under the Werrington Enterprise Living and Learning (WELL) Precinct S.94 Development Contributions Plan (CP), Caddens has a planned residential density of 15 dwellings per hectare that the required infrastructure and contributions have been based on. Lots 1 and 2 DP 1268507 have a total area of 8.128 Hectares, which would equate to 122 dwellings anticipated for the site under the WELL CP (the development site is approximately</p>	<p>Given these concerns about the intensity of the proposal we have substantially reduce the number of apartments within the site from 564 apartments to 469 apartments. This is a reduction of 95 apartments. The revised development application also no longer seeks approval for Building A with other buildings, being F, H and R will be reduced by three full levels.</p> <p>The site is zoned R4 and E1 and envisages a shoptop housing and high density residential development. The development is consistent with these and does not seek approval for a prohibited development of a form of development not envisioned by the planning controls.</p> <p>Section 94 plans are not the appropriate mechanism to manage density. There are options within LEP's such as FSR, dwelling caps etc to limit density The development will provide residential apartments in an accessible location</p>

5.4ha which would equate to 81 dwellings anticipated for that part of the site). The amended DA proposal of 544 dwellings (or 563 dwellings if including the yet to be built shop-top-housing building as per DA 17/0995) across both lots, instead results in 67 dwellings per hectare or 101 dwellings per hectare if just the development site area is included.

On the matter of the demand for public infrastructure and services generated by the development the submission of a Social Impact Assessment and the DA submission has not satisfactorily quantified the demand and how this can be satisfied. Specifically with regard to public transport, high school capacity, long day care and OSCH, community facility, open space including parks, active and passive open space. Council's Contributions Team have also reviewed the DA and submitted SIA, and made the following comments:

The proposed development will generate an increased demand on public infrastructure and services beyond what is nominated in the WELL Contribution Plan (CP) Schedule of Works. This is particularly relevant to open space infrastructure. The application has not addressed the density increases beyond what was envisioned in the WELL CP, the application proposes a potential increase of 958 residents, which have not been accounted for in the WELL CP's schedule of works.

The proposed open space is not deemed satisfactory to support the proposed density increase. It is recommended to review Penrith's Sports and Recreation strategy in order to determine a suitable quantum of additional open space to support the density.

If the delivery of the additional open space is sought, a Voluntary Planning Agreement (VPA) will likely be necessary. The VPA will need to be executed prior to the DA determination OR a letter of offer reviewed and accepted by council and then a deferred commencement imposed to ensure legal mechanisms are in place to deliver any necessary infrastructure.

The proposed development represents a significant increase upon the expected density that was planned for in this precinct under the planning framework. An increased demand will be generated for public infrastructure above and beyond what has been nominated in Council's

close to educational and employment opportunities.

The revised SIA addresses this and further comments has been provided in this letter.

The development will pay section 7.11 contributions to assist with catering for the additional services that are warranted by this development.

The revised SIA considers the Penrith Sport and Recreation Strategy 2020 and notes that there is sufficient recreational space either existing or planned to cater for future residents.

Contribution Plan and the supporting documentation has failed to demonstrate that there exists sufficient public infrastructure capacity, either existing or planned. For these reasons, it is considered that the proposed development would not satisfy the following matters pursuant to clause 7.7 Servicing of the Penrith LEP 2010. Specifically, Council is not satisfied that the “need for public amenities or public services” has been or will be met.

#### 7.7 Servicing

(1) The objective of this clause is to ensure that development of land to which this Plan applies reflects the availability of services.

(2) Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that—

...

(d) the need for public amenities or public services has been or will be met.

#### 2. Permissibility

A detailed review of the architectural plans reveals that there are components of Buildings E, F and N that are located outside of the allowable 20m flexible zone provisions pursuant to clause 5.3 of the Penrith LEP 2010 and which raises issues with regard to the permissibility of these buildings that the applicant has not sufficiently addressed, nor resolved.

We would note that Buildings P & Q are proposed to be one combined building and retail floorspace included to satisfy the characterisation as ‘shop top housing.’ However, detailed floor plans have yet to be provided which would detail how the characterisation would be satisfied.

Of equal or greater significance are the matters that the consent authority must be satisfied of per sub-clause 4 to enliven the flexible zone provisions:

*(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—*

*(a) the development is not inconsistent with the objectives for development in both zones, and*

The development has been refined and shop top housing buildings are proposed for the 5 buildings that are not located within 20m of a R4 zone.

*(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.*

In its current form the proposal has not adequately addressed the zone objectives, particularly those for the R4 High Density Residential zone which seeks "To ensure that development reflects the desired future character and dwelling densities of the area". Furthermore, the proposal in its current form is not considered to be desirable due to compatible land use planning and particularly matters of infrastructure capacity as detailed in point 1.

As such, it is Council's view that the proposal does not satisfy those provisions and would result in Buildings E, F and N being prohibited within the E1 Local Centre zone irrespective of the 20m provision.

Council's LEP has a cap on commercial floorspace within the Caddens precinct. The provision of additional commercial development on this site would result in an additional breach of this control. Given this it is appropriate to ensure that development in the precinct does not excessively breach the cap and potentially undermine the viability of the Penrith CBD.

It is good town planning practice to activate commercial nodes by providing residential accommodation in close proximity to services. This allows nearby residents to walk to shops. Cafes etc without relying on cars or public transport. The proposed Mixed Use precinct is consent with the DCP and the proximity of the residential component of the development to commercial premises is not considered to result in a loss of amenity to the future residents but rather create a positive experience, by allowing residents easy access to commercial offerings without the need to drive.

#### **Clause 4.6 Variation to Building Height**

The 4 to 9 storey proposal is a major departure from the heights allowed under Penrith LEP 2010, which allows a maximum 15m height of building or 4 storeys. As outlined in the 4.6 table, 15 of the now 18 proposed buildings exceed the maximum height development standard, ranging from 0.6-16.1m or a 4-107% variation on parapet heights, with 4 buildings having greater than 50% variation. These heights variations are further exceeded when lift overruns are included (up to 134%).

It is not considered appropriate or justifiable, to vary the height of building standard to the extent or locations suggested having regard to the requisite tests that must be satisfied under clause 4.6 of the Penrith LEP 2010. There is insufficient evidence that has been provided to support the suggested 'give and take' approach to the distribution of building heights. There has been limited quantitative or qualitative analysis of the benefits of the development to support the variation sought, particularly the provision of open space and green space.

The development site has varying topography and contains endangered ecological vegetation communities. Given this and the desire to provide an appropriate urban design response to the site 11 of the 18 buildings vary the 15m height control.

Based on the existing ground levels it is acknowledged that all 18 buildings vary the 15m height control.

When utilising a rationalized height version that assumes what the natural ground levels were before the modifications to topography for the drive in movie theatre and later shopping centre carpark, 7 of the 18 buildings have no height encroachments and 13 of the 18 buildings have no habitable floorspace above the 15m height limit

A revised clause 4.6 departure accompanies this development application.

It is considered that the DCP test fit scenario that has been presented in the urban design report is not of sufficient detail or rigour as a means of supporting the heights sought in the proposed scheme.

Since the Planning Panel briefing on the 20th of November, the proposal has now been presented to the Urban Design Review Panel (UDRP) noting there has not been an opportunity for the UDRP to comment on the detailed scheme as lodged with Council. As it relates to urban design matters and the building heights sought the UDRP provide the following advice:

- There is insufficient justification and explanation as to the planning grounds that have informed the locations of height exceedance. It must be demonstrated that the resulting development is a more contextually appropriate and responsive outcome than what would be achieved by an otherwise compliant development proposal.
- Insufficient evidence has been provided to demonstrate a bona fide "give and take" approach to the distribution of building height. The development along the north and south edge has insufficiently respected or responded to the significantly lower building forms and typology. To the east, there is no built form that the proposal is responding to, and to the west, is a single storey neighbourhood shopping centre. Reference to the shop top housing as already approved to the south of the shopping centre is lower in scale than what is demonstrated in the current proposal.
- The proposal exceeds the rationalised height plane across the majority of the site, which is already a variation to the correct application of the height of building development standard.

The Panel raised no concerns with the consideration of a rationalised height plane given previous activities on the site, however the suggested further exceedance of the rationalised height plane is unsubstantiated and reinforces that the proposal has not had sufficient regard to the character and context that surrounds it, and the specific objectives that have informed the LEP controls, which establish an expectation for maximum 4 – 5 storey building forms, that must transition in scale to 2 – 3 storey maximum building forms at the boundary interfaces.

- The Applicants view analysis fails to provide meaningful analysis to inform the appropriateness

of the proposed development, with specific regard to the resulting exceedance of the building height limits in the LEP.

The UDRP's advice is in line with position formed to date on the application, with shared concerns regarding the inadequate justification for the variation that has been sought and the absence superior urban design outcomes. As detailed in the UDRP's advice, the analysis that informed the urban design report, the critical site attributes, constraints and required outcomes is not reflected in the development proposal that has advanced to lodgement. That there is a need to better align the outcomes of the Urban Design Study with the proposal submitted without compromised outcomes.

Contrary to the written variation request that has been submitted in support of the proposal, it is also considered that the applicant has not demonstrated that the proposal in its current form is consistent with the objectives of the land use zones E1 Local Centre and R4 High Density Residential. In particular we would note the following objective for the R4 zone which seeks "To ensure that development reflects the desired future character and dwelling densities of the area". Furthermore, the proposal is inconsistent with the objectives of the development standard being varied.

For these reasons, the clause 4.6 variation requested is not able to be supported.

#### **Clause 4.6 Variation to Commercial Floor Area**

The Development Application seeks to further exceed the commercial floor space cap set by cl 7.12 of the PLEP. This further exceedance is being relied on for the purposes of the proposed shop top housing and we note is supported by a cl 4.6 request for a variation and an economic impact assessment by Atlas Economics.

Whilst the Atlas report does consider other centres, the commercial cap as per the clause remains the current policy position of Council. As confirmed by Council's City Planning Department, "given the date of the WELL viability study and no current Council commissioned studies on the precinct it cannot be readily confirmed that the additional retail GFA won't have an unreasonable economic impact on any other local centres.

A revised clause 4.6 submission accompanies this revised DA that further outlines why it is appropriate to vary this control and that the additional commercial floorspace proposed will not undermine the viability of surrounding centres including the Penrith CBD.

Additionally, it also cannot be confirmed that the increased retail GFA is needed/reasonable to meet the demand from the precinct". Accordingly, the only appropriate way in which to consider the appropriateness of the proposed further exceedance of the commercial floor space is by way of a planning proposal allowing a strategic review of economic impacts across the broader commercial centres hierarchy throughout the Penrith LGA. On this basis the cl 4.6 variation cannot currently be supported.

#### **Concept Approval**

Per the briefing of the SWCPP on the 20th of November 2023, Council is awaiting legal advice from the applicant on the matter of the underlying concept approval DA17/0995. As it currently stands, Council has not been provided with sufficient evidence to confirm that DA17/0995 does not enjoy 'concept DA' status within the meaning of Division 4.4 of the EP&A Act 1979. Until legal advice is provided confirming to the satisfaction of Council that DA17/0995 is not a concept DA, it remains our view that the proposed development would be inconsistent with the concept approval DA17/0995 contrary to s4.24(2) of the EP&A Act 1979.

Whilst there is still doubt as to whether the shopping centre DA is a concept approval a section 4.55 modification accompanies this submission that will remove doubt about this aspect.

#### **Precinct Connectivity**

Penrith DCP 2014, Part E1 Caddens envisages an area that is well connected, legible and accessible/ permeable, including to the Precinct Centre from the University, TAFE, future employment areas, residential areas, etc. The application should be addressing this, particularly links to the WSU Werrington campus that adjoins the site to the east and the residential subdivision under construction to the north. Details should be provided how physical links (walking tracks, roads, etc) will be facilitated and integrated between the development site and adjoining sites.

Further to Council's assessment the UDRP provided the following advice on connectivity: Section 2.06 of the Urban Design Report specifically identifies the requirement for pedestrian connectivity, into, out of and within the development. Of critical note is the requirement for connectivity from O'Connell Street that is beyond a singular access point in conjunction with public road intersections. This section specifically identifies requirements for pedestrian connectivity that are not reflected with the proposal and result in poor externalised connections, and poor way

The development facilitates connection to WSU land to the east and in this regard, it is noted that the majority of the adjoining land to the east contains land zoned for open space purposes and that the extension of Corr Road will abut this on its eastern boundary. This will facilitate pedestrian movements towards the shopping centre along the road network.

finding. The result is a “Gated Community.” It was suggested that the removal or relocation of Building P (as per the Urban Design Report) would allow for superior connectivity to O’Connell Street. This would make the site more permeable and help connect it to the surrounding street systems road network.

#### **Traffic impacts**

The application was referred to Transport for NSW (TfNSW) for comment in accordance with s2.122 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. In a letter response dated 1 December 2023, TfNSW have stated that the potential traffic impacts of the development, as raised in their letter dated 26 May 2023, have not been addressed by the supplementary information and that TfNSW therefore does not support the proposal in its current form.

A revised TIA accompanies this revised development application.

#### **Bushfire**

The application is integrated development requiring approval from NSW RFS under s100B of the Rural Fires Act 1993. NSW RFS has reviewed the submissions and in a letter dated 16 August 2023 advise:

The Bushfire Protection Assessment recommends construction of the nineteen residential flat buildings (RFB) conditional on the removal of the bushfire hazard on the adjoining property to the north.

Construction of the RFB’s must consider the vegetation within 140m of the development based on the current bush fire hazard as it is not possible to predict the timeline for construction of the adjoining allotments. Additional information is required to confirm the BAL rating for each of the RFB’s based on the current bush fire hazard.

Once the adjoining land’s are developed and the bush fire hazard is removed and/or reduced the applicant has the ability to seek an amendment to the conditions and reassess the BAL ratings.

The revised application is accompanied by a bushfire report prepared by Ecological Australia that concludes:

*The proposed development has been assessed against the specifications and requirements of Planning for Bush Fire Protection. The main finding of the assessment is that the recent removal of the bushfire hazard on adjoining lands, along with the small onsite remnant being assessed as ‘low-threat vegetation’ and therefore excluded, the development is not bushfire prone. The proposed development is located greater than 140 m from the closest bushfire hazard and is therefore assessed as BAL-Low. This assessment therefore extinguishes the requirements for the provision of any bushfire protection measures.*

Council’s assessment of the application and as supported by the advice provided by the Penrith Urban Design Review Panel detail significant outstanding issues with the application as lodged, which necessitate substantial amendments to the proposal.

This revised application includes substantial amendments including the deletion of Block A and the reduction of apartments by 95.

The detailed technical addendum that accompanies Council’s first RFI letter is

As currently lodged it is recommended that the application be withdrawn to enable your project team time to appropriately respond to the issues raised in the assessment thus far, noting that the focus to date has been on the threshold matters and that there are a range of other more detailed matters that would arise in a detailed assessment.

considered to be a detailed assessment of the 'nuts and bolts' of the application.

## STATE ENVIRONMENTAL PLANNING POLICY HOUSING 2021 –CHAPTER 4 DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT

The development application is accompanied by a revised design verification statement from Brian Fong, a registered architect (NSW 11624) from Turner verifying that they have directed and designed the proposal, and that the design quality principles set out in Part 2 of the SEPP are achieved for the residential flat development.

The table below provides a detailed discussion against the relevant provisions of the Apartment Design Guide. An assessment against the relevant objectives and design guidelines contained in parts 3 and 4 of the Architectural Design Guide can be found below.

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
<b>Part 3 – Siting the Development</b>			
<b>3A Site Analysis</b>	Appendix 1 of the ADG	Provided	Yes
<b>3B Orientation</b>	Building to define the street, by facing it and incorporating direct access from the street	The proposed residential flat building complex and the shoptop housing complex has been designed to address its frontage to internal Streets, with direct access to the majority of buildings provided from the street they front.	Yes
	Where an adjoining building does not currently receive 2 hours of sunlight in midwinter, solar access should not be further reduced by > 20%	Not applicable	N/A
	4 hours of solar access should be retained to solar collectors on neighbouring buildings	Adjoining properties do not contain solar collectors	N/A

<b>3C Public Domain Interface</b>	Terraces, balconies should have direct street entry, where appropriate.	Where appropriate the ground floor units have been provided with direct access from internal streets.	Yes
	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided	Mail boxes are capable of being appropriately located. Complies.	Yes
	Substations, pump rooms, garbage storage rooms and other service rooms should be located in the basement carpark or out of view	Communal bin rooms are located within the basement level and therefore effectively out of view at ground level.	Yes
<b>3D Communal and Public Open Space</b>	<u>Design Criteria:</u>		
	Communal open space has a minimum area equal to 25% of the site	As the site has an area of 54,032m2, the development requires 13,508m2 of communal open space.  The development provides 15,947m2 of Communal Open Space comprising <ul style="list-style-type: none"> <li>• Ground floor and podium level – 14765m2;</li> <li>• Roof top common open space areas -1,82m2</li> </ul> This equates to 29.5% of the site. Complies.	
	50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm	As illustrated on the shadow diagrams 50% The external combined spaces exceed the AD recommend areas and solar access requirements. Appropriate common open space is provided throughout the site.	Yes
	<u>Design Guidelines:</u>		
	Minimum dimension of 3m	Complies	Yes
	Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies	Proposal ensures that direct, equitable access in line with relevant Australian Standard is provided to communal open space areas from common circulation areas, entries and lobbies.	Yes

	Where communal open space cannot be provided at ground level, it should be provided on a podium or roof	Communal open space is provided both at ground level and the rooftop of some buildings	Yes
	Facilities are provided within communal open spaces and common spaces for a range of age groups, incorporating some of the following elements:	The Development provides BBQ's seating areas, paths, dog play area, playgrounds and pergolas within the communal open space areas.	Yes
	seating for individual or groups barbecue areas play equipment or play area swimming pools, gyms, tennis courts or common rooms Communal open space and the public domain should be readily visible from habitable room and private open space areas while maintaining privacy		-
	Public open space should be well connected with public street along at least one edge	The proposed RFB complex has been designed with the orientation of balconies and windows to maximise passive surveillance to the communal open space areas on the ground floor. With the rooftop communal access space being access controlled.	Yes
		Public open space is connected to the street network.	Yes
3E Deep Soil Zones	<u>Design Criteria:</u> A deep soil zone equivalent to 7% of the site area must be provided	Development provides a total of 8,524m <sup>2</sup> or 15.7% of the site area for deep soil zones with minimum dimensions >6m. It is noted that this calculation excludes the Shale Plain Woodlands Area.	Yes
	If the site is between 650m <sup>2</sup> to 1500m <sup>2</sup> then the DSZ must have minimum dimensions of 3m	N/A	N/A

	<p>If over 1500m<sup>2</sup> then min dimensions of 6m</p> <p><u>Design Guidelines:</u> On some sites it may be possible to provide larger deep soil zones: 10% of the site as deep soil on sites with an area of 650m<sup>2</sup>- 1,500m<sup>2</sup> 15% of the site as deep soil on sites greater than 1,500m<sup>2</sup></p>	<p>Minimum dimensions of 6m</p> <p>It is noted that the proposal provides a total of 15.7% of the site area for deep soil zones.</p>	<p>Yes</p> <p>Yes</p>
<b>3F Visual Privacy</b>	<u>Design Criteria:</u>		
<b>Building Separation Up to 4 storeys (up to 12m)</b>	<p>12m between habitable rooms (6m) 6m between non habitable rooms (3m)</p>	<p>The development generally complies with building separation controls, providing a setback of &gt;6m from the primary building line to all site boundaries and the majority of buildings on the site are separated by at least 12m.</p> <p>Where a separation of less than 12m is provided such as between buildings B and C, C and H, D and G, E and F, T and U, privacy measures including highlight windows, angled windows and solid balcony privacy screens are provided.</p>	<p>Yes</p> <p>Minor Variations</p>
<b>18m above 4 storeys</b>	<p>18m between habitable rooms (9m) 12m between non habitable rooms (6m)</p>	<p>The development generally complies with building separation controls, providing a setback of &gt;9m from the primary building line to all site boundaries and the majority of buildings on the site are separated by at least 12m.</p> <p>Where a separation of less than 18m is provided such as between buildings B and C, C and H, D and G, E and F, T and U, privacy measures including highlight windows, angled windows and solid balcony privacy screens are provided.</p>	<p>Yes</p> <p>Minor Variations</p>

<b>3G Pedestrian Access and Entries</b>	Building entries should be clearly identifiable and communal entries should be clearly distinguished from private areas	The proposal provides clearly identifiable entry points to the central cores.	Yes
<b>3H Vehicle Access</b>	Car park access should be integrated with the building's overall façade	Vehicle access points to the basement car parks have been limited and are integrated with the proposed building's overall façade.	Yes
	Car park entry and access should be located on secondary streets or lanes where available	The basement car parks are accessed from the internal road network and not O'Connell Street.	Yes
<b>3J Carparking</b>	<p><u>Design Criteria:</u> Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of:</p> <p>&gt;20 units <u>Metropolitan Sub-Regional Centres:</u> 0.6 spaces per 1 bedroom unit</p> <p>0.9 spaces per 2 bedroom unit</p> <p>1.40 spaces per 3 bedroom unit</p> <p>1 space per 5 units (visitor parking)</p> <p><u>Design Guidelines:</u> Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas</p>	<p>Parking is provided in accordance with the DCP.</p> <p>Bicycle parking spaces are provided within the upper basement level and are secured. Complies.</p>	Yes
<b>Part 4 – Designing the Building</b>			
<b>4A Solar Access</b>	<p><u>Design Criteria:</u></p> <p>Living rooms and private open space of at least 70%</p>		Yes

	of units to receive 2 Hours Solar Access between 9am and 3pm Mid-Winter	385 out of the 469 units or 82% of units achieve the required 2 hours of solar access at mid-winter.	
	A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm Mid-Winter	29 out of 469 units (6%) receive no direct sunlight between 9am and 3pm Mid-Winter. Complies	Yes
<b>4B Natural Ventilation</b>			
	<u>Design Criteria:</u>		
	60% of Units are cross ventilated in a building up to 9 storeys	339 of the 469 units or 72% of units are naturally cross ventilated.	Yes
	Overall width of a cross over or cross through apartment is < 18m	Complies	Yes
	<u>Design Guidelines:</u>		
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	The complex contains a mix of corner apartments, cross through apartments and shallow single aspect apartments.	Yes
<b>4C Ceiling Height</b>			
	<u>Design Criteria:</u>		
	2.7m for habitable and 2.4m for non-habitable.	A minimum floor to ceiling height of 2.7m is provided	Yes
<b>4D Unit Sizes</b>			
	<u>Design Criteria:</u>		
1 bed	50m <sup>2</sup>	All units comply with many units exceeding prescribed minimum apartment size. Where additional bathrooms have been provided unit sizes have been increased by at least 5m <sup>2</sup> .	Yes
2 bed	70m <sup>2</sup>		
3 bed	90m <sup>2</sup>		
<b>+ 5m<sup>2</sup> for each unit with more than 1 bathroom.</b>			
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%	Every habitable room is provided with a window.	Yes

<b>Habitable Room Depths</b>			
<u>Design Guidelines:</u>			
	Limited to 2.5m x Ceiling Height	Despite the noncompliance with objective 4D-2, figure 4D.3 indicates that an 8.1m depth (3 x ceiling height) is okay for open plan apartments.	Yes
<b>Bedroom sizes</b>			
Master	10m <sup>2</sup>	Comply	Yes
Other	9m <sup>2</sup>	Comply	Yes
<b>Living rooms/dining areas have a minimum width of:</b>			
3.6m			
4m	Studio/1 br	Comply	Yes
<b>Open Plan Layouts that include a living, dining room and kitchen.</b>	2br/ 3br	Comply	Yes
	8m to a window	Comply	Yes
<b>4E Private Open Space</b>			
<u>Design Criteria:</u>			
<b>Balcony Sizes</b>			
1 bed	8m <sup>2</sup> & 2m depth	Complies	Yes
2 bed	10m <sup>2</sup> & 2m depth	Complies	Yes
3 bed	12m <sup>2</sup> & 2.4m depth	Complies	Yes
<b>Ground level/ podium apartments</b>			
	15m <sup>2</sup> & 3m depth	Complies	Yes
<b>4F Common Circulation and Spaces</b>			
<u>Design Criteria:</u>			
<b>Common Circulation</b>			
Units per Plate	<u>8 -12 Unit per Plate</u>	Development has a maximum of 10 units on each floor which is serviced by a lift core per level.	Yes
<b>Corridors &gt; 12m</b>			
	<u>Are articulated</u>	Corridors are articulated and have access to natural light.	Yes
<b>4G Storage</b>			
		The proposal provides:	Yes
	1 bed 6m <sup>3</sup>	1 bed: >6m <sup>3</sup>	
	2 bed 8m <sup>3</sup>	2 bed: >8m <sup>3</sup>	
	3 bed 10m <sup>3</sup>	3 bed: >10m <sup>3</sup>	

	Min 50% of required storage is within the apartment	<p>This is provided within the basement/ground floor and within the units themselves, with a minimum of 50% of storage to be provided within each individual unit.</p> <p>The proposed development is considered to offer storage space that aligns with the provisions of the ADG.</p>	
<b>4H Acoustic Privacy</b>	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses	Development has provided adequate separation from neighbouring buildings/properties in-line with 3F Visual Privacy – design criteria above.	Yes
	Windows and door openings are generally orientated away from noise source	Where appropriate windows and door openings are orientated away from noise sources.	Yes
	Noisy areas within buildings including building enters and corridors should be located next to or above each other and quieter areas next to or above quieter areas.	The application is designed to create different 'zones' with more active areas clustered together and more passive areas also clustered together to maximise acoustic privacy and also take advantage of the lot orientation.	Yes
<b>4K Apartment Mix</b>	A variety of apartment types is provided	<p>A diversity of apartments is proposed as follows:</p> <p>39 x 1 bedroom units; 263 x 2 bedroom units; 156 x 3 bedroom units; and 11 x 4 bedroom unit.</p> <p>The proposed unit mix will offer a variety of housing choice.</p> <p>The proposal is designed with a mix of units to provide a variety of housing choices that responds to market demand, the bedroom numbers and size of units are varied that will provide for a range of sizes to meet the needs of occupants and also provide different pricing points for the alternative sizes which will contribute to affordability, noting an increase in the affordable housing units within Ingleburn.</p>	Yes

<b>4M Facades</b>	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale	<p>The proposed facades are well articulated with a mixture of vertical and horizontal features including windows, and projecting balconies.</p> <p>Overall, the proposed facade is considered a quality design outcome that is compatible with other comparable modern RFB within the locality.</p>	Yes
<b>4O Landscape Design</b>			
<b>Site Area</b>			
<b>Between 850 – 1,500m<sup>2</sup></b>	1 large tree or 2 medium trees per 90m <sup>2</sup> of DSZ	N/A	N/A
<b>&gt;1500m<sup>2</sup></b>	1 large tree or 2 medium trees per 80m <sup>2</sup> of DSZ	The landscape plan demonstrates that appropriate landscaping is proposed.	Yes
<b>4Q Universal Design</b>			
<b>20% of the total apartments</b>	Achieve Liveable House Guidelines silver level universal design features	123 of the 469 units or 26 % contain the 7 design measures to achieve a silver level of universal design.	Yes
<b>4U Energy Efficiency</b>			
		The application is accompanied by BASIX certificate indicating energy efficiency for each residential unit provided	Yes
<b>4V Water Management and Conservation</b>			
	Reduce mains consumption and reduce the quantity of storm water runoff.	The application is accompanied by BASIX certificate indicating the water efficiency for each residential unit provided.	Yes
<b>4W Waste Management</b>			
	Supply WMP	Provided	Yes
	Allocate storage area	Appropriate waste storage areas are provided within the basement levels, which are easily accessible and out of view from the residents/public.	Yes
<b>4X Building Maintenance</b>			
	To ensure long life and ease of maintenance for the development.	The proposed material is considered durable which may be easily cleaned.	Yes

## PENRITH LOCAL ENVIRONMENTAL PLAN 2010

As evident in the zoning map extract in figure 1, the subject site is subject to a split zoning with the majority of the site zoned R4 – High Density Residential and the western portion of the site fronting O'Connell Street zoned E1 – Local Centre under the Penrith Local Environmental Plan 2010. '*Residential Flat Buildings*' are permissible with Council consent in the R4 zone and '*Commercial Premises*' and '*Shop top Housing*' are permissible with consent in the E1 zone.

The development also utilises clause 5.3 to 'stretch' the R4 zoning 20m into the E1 zoning to facilitate the construction of parts of the residential flat buildings.

The site will impact upon land mapped under the Biodiversity Values Map and therefore a Biodiversity Development Assessment Report has been prepared and accompanies this application.

It is noted that the subject site is not subject to the biodiversity or riparian overlay under the LEP. The proposed redevelopment of the large site present a unique opportunity to deliver appropriate high density housing and additional commercial premises in Caddens on a vacant and underutilised land parcel situated within close proximity to educational establishments, commercial centres, child care facilities and public transportation.

The prescribed zone objectives are stipulated as:

### **Zone R4 High Density Residential**

#### *1 Objectives of zone*

- 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 enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- To ensure that a high level of residential amenity is achieved and maintained.*
- To encourage the provision of affordable housing.*
- To ensure that development reflects the desired future character and dwelling densities of the area*

## Zone E1 Local Centre

### 1 Objectives of zone

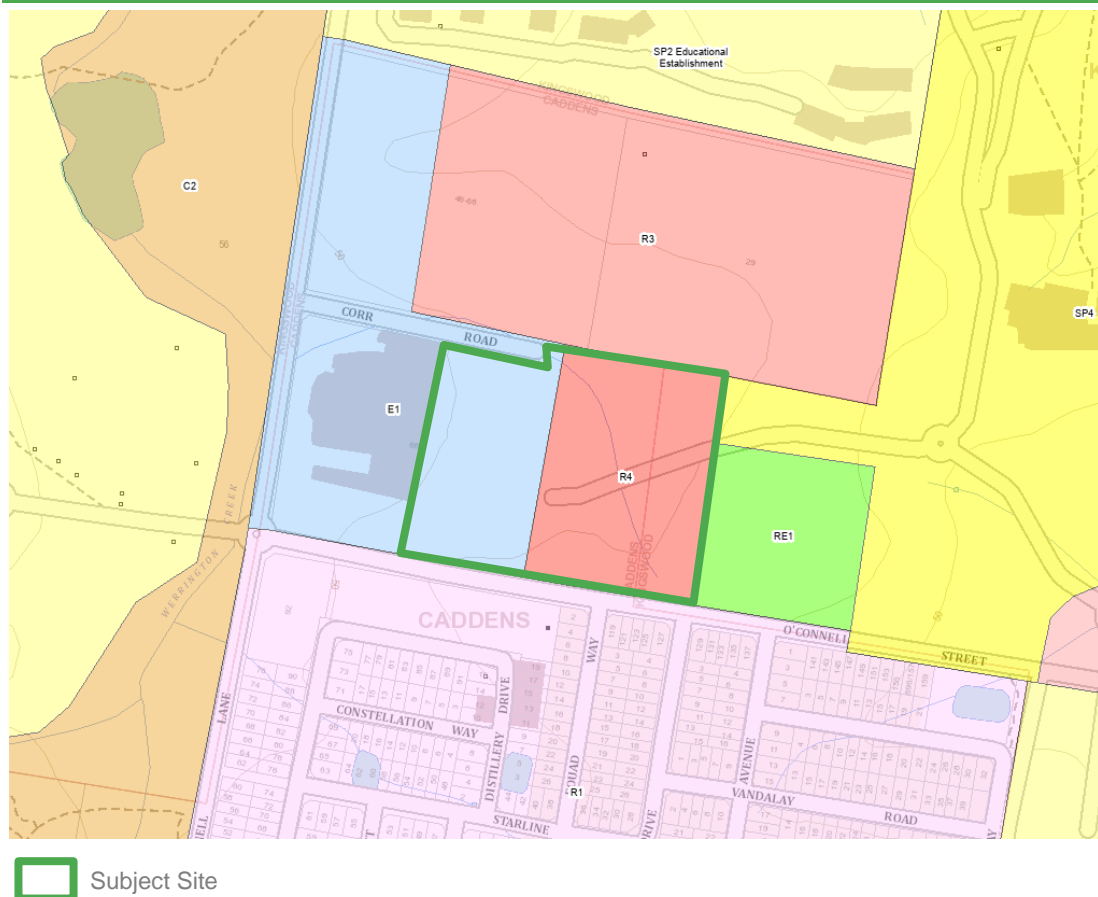
- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To provide retail facilities for the local community commensurate with the centre's role in the local and regional retail hierarchy.
- To create opportunities to improve the public domain and encourage the integration of centres with public transport and pedestrian networks.
- To promote development that is of a size and scale that is appropriate to meet local needs and does not adversely affect the amenity or character of the surrounding residential neighbourhood

The development is consistent with both zone objectives noting that:

- It provides for the housing needs of the community within a high density residential setting;
- It provides a mix of apartment types and a range of different bedrooms to provide a variety of housing types;
- It provides other landuses that meet the day to day needs of residents including the on-site commercial landuses.
- The development is consistent with the desired future character of the area and layout of the complex ensures that a high level of residential amenity will be achieved for future residents;
- The development provides a range of retail, business, entertainment and community uses that will serve the needs of people who live in, work in and visit the local area;
- The development improves the public domain including by providing a plaza that will be a focal point within the Caddens Precinct, and

- The development will provide employment opportunities in an accessible location;

**Figure 1: Zoning Map Sheet (Source: Penrith LEP 2010)**



The table below provides details on the development standards relevant to the current proposal as well as other relevant LEP provisions.

Penrith Local Environmental Plan 2010– Compliance Table			
Clause	Controls	Comment	Complies
<b>Zoning</b>	R4 High Density Zone – Permitted with Consent	Residential Flat Buildings are permissible with consent within the R4 – High Density Residential Zone.	<b>Yes</b>
	E1 Local Centre Zone	Commercial Premises' and 'Shop top Housing' are permissible with consent in the E1 zone'	<b>Yes</b>

## Part 2 Permitted or Prohibited Development

2.3	Zone Objectives and Land Use Table	The proposal is consistent with the zone objectives of the R4 – High Density and E1 Local Centre Zone and will appropriately fulfil the subject site's zoning potential by facilitating residential development and additional commercial premises in the catchment of public transport and services whilst contributing to range of housing types to suit the needs of residents within Caddens.	Yes
2.6	Subdivision – Consent Requirements	Subdivision of the site into development lots is no longer sought as part of this development application.	N/A
2.7	Demolition Requires Consent	Council consent is sought for the demolition of the existing structures on the site as illustrated on the architectural plans.	Yes

## Part 4 Principal Development Standards

4.1	Minimum Subdivision Lot Size – 800m <sup>2</sup>  <i>(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.</i>	Subdivision is no longer proposed	N/A
4.3	Height of Buildings: 15m	<p>The development site has varying topography and contains endangered ecological vegetation communities. Given this and the desire to provide an appropriate urban design response to the site 11 of the 18 buildings vary the 15m height control.</p> <p>Based on the existing ground levels it is acknowledged that all 18 buildings vary the 15m height control.</p> <p>When utilising a rationalized height version that assumes what the natural ground levels were before the modifications to topography for the drive in movie theatre and later shopping centre carpark, 7 of the 18 buildings</p>	Variation

		<p>have no height encroachments and 13 of the 18 buildings have no habitable floorspace above the 15m height limit</p> <p>A revised clause 4.6 departure accompanies this development application.</p>	
4.4	Floor Space Ratio:	The development site is not subject to FSR controls. Not applicable.	N/A
Part 5 Miscellaneous Provision			
5.3	Development near zone boundaries	<p>(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.</p> <p>(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 20 metres.</p> <p>(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—</p>	<p><b>Yes</b></p> <p>The application seeks to utilise this clause to facilitate the construction of parts of the residential flat building complex within the E1 portion of the site.</p> <p>Given the provisions of clause 7.12 of the LEP and noting that the current approved development exceeds this commercial floorspace cap, the provision of residential flat buildings within the E1 zone reduces the extent of non-compliance with this clause.</p> <p>The development seeks to provides parts of the residential flat buildings up to 20m within the E1 zone. Complies</p> <p>The development seeks approval for both shop top housing developments and a residential flat buildings. The complex has been designed to provide an improved urban design response to the site including an activated public plaza.</p> <p>The development is consistent with both zone objectives as outlined previously in this SEE and there is sufficient infrastructure available to service the complex.</p>

(a) the development is not inconsistent with the objectives for development in both zones, and

With regards to concerns about the proposal not being consistent with the zone objective for the E1 zone the following comments are provided:

(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land

The E1 Local Centre Zoning Objectives are identified as being:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To provide retail facilities for the local community commensurate with the centre's role in the local and regional retail hierarchy.*
- *To create opportunities to improve the public domain and encourage the integration of centres with public transport and pedestrian networks.*
- *To promote development that is of a size and scale that is appropriate to meet local needs and does not adversely affect the amenity or character of the surrounding residential neighbourhood*

The development including the three residential apartment buildings located at least partially within in the E1 zoned portion of

the site are considered to be consistent with the E1 zone objectives as:

- The development currently provides 1,415m<sup>2</sup> of additional retail floor space on the site within five tenancies and an open air plaza that facilitates increased retail offerings on the site, noting that clause 7.12 of the LEP aims to restrict the GFA of commercial premises within the site to a maximum of 10,000m<sup>2</sup>. This application seeks to vary this clause and additional commercial floorspace would further increase this departure;
- The development will provide additional commercial premises and generate on-going employment, both within the new commercial premises and the associated residential apartments;
- It provides for the housing needs of the community within a high density residential setting that will contribute to providing a vibrant town centre;
- It provides a mix of apartment types and a range of different bedrooms to provide a variety of housing types;
- It greatly improves the public domain by replacing at grade parking with retail tenancies and a central plaza that has the opportunity to be focal point for the centre;
- The additional tenancies will not undermine the District shopping facilities provided within the Penrith CBD;
- The development is consistent with the desired future character of the area and layout of the complex ensures that a high level of residential amenity will be achieved for future residents; and

		<ul style="list-style-type: none"> <li>The development provides a range of retail, business, entertainment and community uses that will serve the needs of people who live in, work in and visit the local area;</li> </ul>	
5.10	Heritage Conservation	<p>The site is not identified as a heritage item nor is it located within a heritage conservation area.</p> <p>O'Connell Street separates the site from a local heritage item (I670 – Teacher's residence).</p> <p>The heritage significance comes from the heritage item itself with the current subdivision to have no impact on the heritage significance of the local heritage item. Furthermore, O'Connell Street will provide sufficient separation and existing contemporary building within the university itself and existing bushland providing adequate buffer between the development site and the local heritage item. As such the proposal will have no impact on the heritage significance of local heritage item 670. As a result, the subject site will not be burdened by any heritage restrictions.</p>	N/A
5.21	Flood Planning	The development site is clear of the PMF flood level.	N/A
Part 7 Additional Local provisions			
7.1	Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans. It is considered that the proposed excavation is appropriate, noting that the basement is confined to the building footprint and will have minimal adverse environmental or amenity impact.</p> <p>The proposed earthworks are consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Councils current and proposed planning strategies.</p> <p>It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.</p>	Yes

7.2	Flood Planning	The development site is clear of the PMF flood level.	N/A
7.3	Development on Natural Resources Sensitive Land	<p>The subject site is not identified on the Natural Resource Sensitive Map. Not applicable.</p> <p>It is noted that the development site will impact upon land mapped under the Biodiversity Values Map and therefore a Biodiversity Development Assessment Report has been prepared and accompanies this application.</p>	Yes
7.4	Sustainable Development	<p>The proposal satisfies the LEP in that:</p> <p><i>(a) conserving energy and reducing carbon dioxide emissions,</i></p> <p><i>(b) embodied energy in materials and building processes,</i></p> <p>Proposal incorporates a BASIX certificate relating to energy efficiency.</p> <p><i>(c) building design and orientation,</i></p> <p><i>(d) passive solar design and day lighting,</i></p> <p><i>(e) natural ventilation,</i></p> <p>The majority of units receive good solar access and natural ventilation.</p> <p><i>(f) energy efficiency and conservation,</i></p> <p><i>(g) water conservation and water reuse,</i></p> <p>Proposal incorporates a BASIX certificate relating to energy/water efficiency.</p> <p><i>(h) waste minimisation and recycling,</i></p> <p>Waste management and recycling is addressed through the attached waste management plan.</p> <p><i>(i) reduction of vehicle dependence,</i></p> <p>Proposal is located adjacent to the Caddens Corner Shopping Centre, is within walking distance of tertiary education facilities and within walking distance of bus stops that gives alternative means of transport.</p>	Yes

		<p>(j) <i>potential for adaptive reuse.</i></p> <p>Given the zoning of the site as E1 and R4 there is ample opportunity for adaptive re-use potential on the site.</p>	
7.6	Salinity	Due to the nature and location of the site it is not likely to be affected by Saline Soils.	N/A
7.7	Servicing	The proposal will be serviced by sewer, water, power and telecommunications and conditions imposed accordingly for the required clearance certificates.	Yes
7.8	Active Street Frontages	<p>The E1 portion of the site currently contains an at grade carpark.</p> <p>1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone E1 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use</p> <p>This development replaces this with 5 retail tenancies that address the public plaza and appropriately activate the internal road network.</p>	Yes
7.12	Maximum Gross floor area of commercial premises	<p>Caddens Corner was constructed circa 2020 with an approved retail GFA of 10,127sqm. Upon completion of the Proposal, the Precinct Centre will comprise 12,127sqm of retail floorspace, exceeding the permitted retail GFA by 2,127sqm.</p> <p>The maximum commercial floor area in this precinct is 10,000m2.</p> <p>The DCP for the precinct envisions up to 12500m2 of floorspace to be provided to service the precinct.</p> <p>However, as the proposal exceeds the LEP clause, a clause 4.6 variation accompanies this application that outlines the merits for exceeding the LEP control.</p>	Variation
7.30	Urban Heat	The development incorporate measures that will assist with reducing the urban heat island effect in the precinct including reduced hard surfaces and extensive landscaping to assist with shading.	Yes

## PENRITH DEVELOPMENT CONTROL PLAN 2014

All relevant Council controls have been identified and considered in the following compliance table.

The relevant provisions are provided in the table below

Penrith Development Control Plan 2014 – Compliance Table			
Clause	Controls	Comment	Complies
<b>C1 Site Planning and Design Principles</b>			
1.1	Site Planning	<u>1.1.1 Site Analysis</u> A Site Analysis has been prepared and is attached as part of this application.	Yes
		The site analysis identifies the relevant considerations required by Council and acknowledges the unique opportunities and constraints of the site that have informed the design of the development proposal.  <u>1.1.2 Key Areas with Scenic and Landscape Values</u>  The subject site is not identified as being on Land with Scenic and Landscape Values.	N/A
1.2	Design Principles	<u>1.2.2 Built Form – Energy Efficiency and Conservation</u> The proposed development maximises solar access to units and is designed in a manner that achieves natural light and ventilation, noting compliance with solar access and natural ventilation provisions within the ADG.	Yes
		A BASIX certificate is attached to this statement.  <u>1.2.3 Building Form – Height, Bulk and Scale</u> It is considered that the proposal will result in an appropriate outcome on site that responds to the unique characteristics of the site.	Yes

		<p><u>1.2.4 Responding to the Site's Topography and Landform</u></p> <p>The subject site topography and landform is appropriate and will not impact on the site's ability to accommodate the proposed developments.</p>	Yes
		<p><u>1.2.5 Safety and Security (Principles of Crime Prevention through Environmental Design)</u></p> <p>The proposed development incorporates active façades that will permit casual surveillance to all frontages as well as the common areas of the proposal.</p> <p>The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area.</p> <p>The proposed landscaping and fencing are appropriate when considering CPTED principles and will not permit easy concealment of intruders.</p> <p>The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.</p> <p>This is also addressed in the revised CPTED report that accompanies this application.</p>	Yes
		<p><u>1.2.6 Maximizing Access and Adaptability</u></p> <p>Proposal has been designed to provide access to and from the site for people with mobility issues.</p>	Yes
<b>C2 Vegetation Management</b>			
2.1	Preservation of Trees and Vegetation	<p>The vegetation within the development site has previously been substantially cleared for agricultural and urban purposes including a drive in theatre. The vegetation within the development site was deemed highly disturbed and fragmented.</p>	Yes

		<p>As the proposal will impact upon land mapped under the Biodiversity Values Map, a Biodiversity Development Assessment Report has been prepared and accompanies this application.</p> <p>Measures have been taken to avoid, minimise and mitigate impacts to the vegetation and species habitat present within the development site and methodologies to minimise impacts during construction and operation of the development have been included in the Biodiversity Development Assessment Report.</p> <p>Regenerating Cumberland Plain Woodland present as derived native grassland and scattered shrubs and canopy species have established within the development site.</p> <p>A patch of intact of Cumberland Plain Woodland is located along the northern portion of the development site and is to be retained and subject to weed management in accordance with a Vegetation Management Plan.</p>	
<b>2.2</b>	Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas	The subject site is not identified as being within a Natural Resource Sensitive Land under Penrith LEP 2010. Not applicable.	<b>N/A</b>
<b>2.3</b>	Bushfire Management	This clause is not relevant to the development proposed.	<b>N/A</b>
<b>C3 Water Management</b>			
<b>3.1</b>	Water Conservation	The development application is accompanied by a complying BASIX certificate that outlines how water usage will be minimised.	<b>Yes</b>
<b>3.2</b>	Catchment Management and Water Quality	Appropriate management of the site during the demolition and construction phases will contribute towards protecting the catchments' natural water systems.	<b>Yes</b>

		A Stormwater Management Plan has been prepared and is attached as part of this application.	
<b>3.3</b>	Watercourses, Wetlands and Riparian Corridors	The subject site is not located within proximity to a watercourse, wetland or riparian corridor. Not applicable.	<b>N/A</b>
<b>3.4</b>	Groundwater	<p>The proposed development application is for the construction of a Mixed-Use development complex.</p> <p>It is not considered that the proposal will impede existing ground water flows. It is considered that the risk of site contamination occurring during construction and future use of the site is low. Not applicable.</p>	<b>N/A</b>
<b>3.5</b>	Flood Planning	The subject site is not identified as being flood prone. Not applicable.	<b>N/A</b>
<b>3.6</b>	Stormwater Management and Drainage	<p>The proposed development incorporates Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of stormwater on site and within the area.</p> <p>The proposed development appropriately addresses the unique characteristics of the site and will allow for the efficient management of stormwater.</p> <p>A revised Stormwater Management Plan has been prepared and is attached as part of this application.</p>	<b>Yes</b>
<b>C4 Land Management</b>			
<b>4.1</b>	Site Stability and Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans.</p> <p>It is considered that the proposed excavation will have minimal adverse environmental or amenity impact.</p>	<b>Yes</b>

		<p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>The proposed excavation is consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Councils current and proposed planning strategies.</p> <p>It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.</p>	
4.3	Erosion and Sedimentation	<p>This application seeks Council consent for the excavation of the site as per the attached plans.</p> <p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>An Erosion and Sediment Control Plan is attached as part of this application.</p>	Yes
4.4	Contaminated Lands	<p>The land is not known to have been used for any purposes that may give rise to the likelihood of contamination.</p> <p>If any contaminated material or suspected material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline documents will be undertaken.</p>	N/A
4.5	Salinity	<p>Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not applicable.</p>	N/A

C5 Waste Management			
		<p>A Waste Management Plan is attached as part of this application.</p> <p>Notwithstanding this it is noted that waste is to be appropriately managed during the construction stages of the development.</p> <p>Refer to attached architectural plans for detail.</p>	<b>Yes</b>
C6 Landscape Design			
		<p>A landscape concept plan accompanies this development application.</p> <p>The concept plan details the extensive landscape embellishment works proposed and these works will substantially improve the streetscape presentation of the site as well as softening the proposed built form.</p>	<b>Yes</b>
C7 Culture and Heritage			
<b>7.1</b>	European Heritage	<p>The site is not identified as containing a heritage item, and it is not located within a heritage conservation area.</p> <p>As such, no future heritage consideration is deemed necessary. Commentary on heritage items within the wider vicinity of the site is provided in the LEP section of this report.</p>	<b>N/A</b>
<b>7.3</b>	Significant Trees and Gardens	<p>The subject site does not contain any trees or gardens that is considered to be of cultural, historical, scientific or aesthetic significance. Not relevant.</p>	<b>N/A</b>
C10 Transport, Access and Parking			
<b>10.2</b>	Traffic Management and Safety	<p>It is considered that the vehicular access and exit points to the proposed buildings are clearly defined and provide for the safe and efficient movement of vehicular traffic on site and for entering and exiting the site.</p>	<b>Yes</b>

			<p>The proposed parking areas and ancillary driveways will not contribute to the creation of traffic hazards.</p> <p>The proposal provides for the safe and efficient movement of pedestrian and vehicular traffic within the site and both entering and exiting the site. Vehicle and pedestrian routes are clearly indicated and accessible.</p>	
<b>10.3</b>	Key Transport Corridors		The subject site is not located with a key transport corridor. Not relevant.	<b>N/A</b>
<b>10.5</b>	Parking, Access and Driveways		<p>Refer to discussion in revised Traffic and Parking Report</p> <p>It is therefore concluded that the proposed development will not have any unacceptable parking or loading implications.</p> <p>1 Bed 1 space 2 Bed 1 space 3 &amp; 4 Bed 2 spaces Visitors 1 space per 5 dwellings Car Wash 1 space per 50 dwellings EV Charging 1 space per 100 dwellings</p> <p>Retail: 1 per 30m2</p>	<b>Yes</b>
<b>10.5 (2)</b>	Additional controls for developments within the commercial core and mixed use zones		<p>The site is not zoned commercial core or B4 Mixed Use.</p> <p>Notwithstanding this all residential car parking is provided within the basement levels and the majority of commercial parking is also provided within a basement to maximise the urban design outcomes for the site.</p> <p>a) On-site parking is to be accommodated in basement parking except to the extent provided for below:</p> <p>i) Up to 25% of the required parking can be provided above ground, where: it is located at least 16 metres behind a building alignment that addresses a public street or public space and/or fronting a service lane with appropriate screening (refer to Figure C10.7</p>	<b>Yes.</b>

and C10.8).

ii) Any additional parking provided above ground will count towards gross floor area for the purposes of calculating Floor Space Ratio.

## PENRITH DEVELOPMENT CONTROL PLAN 2014 E1 CADDENS

The development aims to facilitate future residential development that will deliver a diverse range of housing forms and densities to meet the needs of diverse age groups, family types and income levels.

The site is located within the boundaries of the Caddens Precinct, as demonstrated via the Caddens boundary map extract overleaf and the Caddens Structure Plan.

Figure 2: Caddens Boundary Map Extract (Source: Penrith DCP)

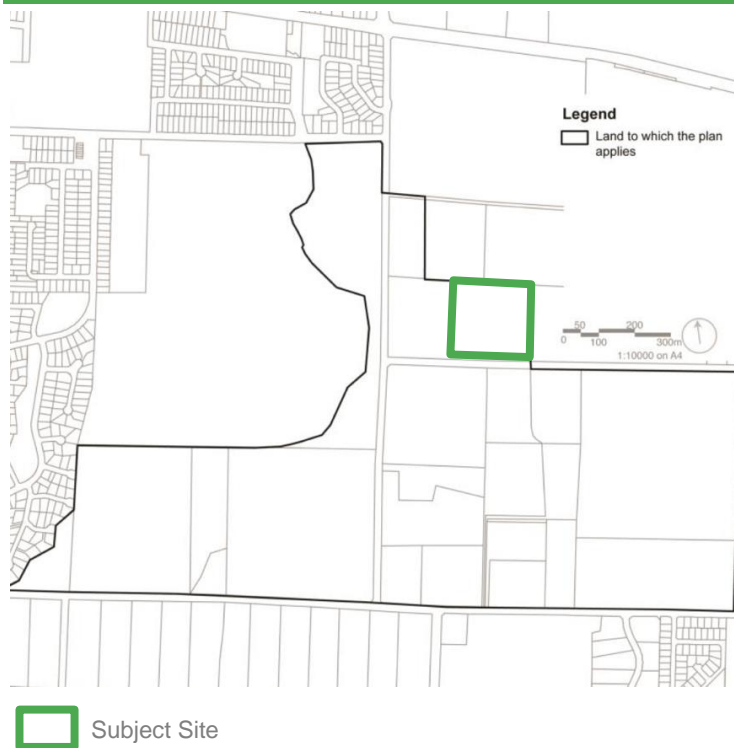


Figure 3: Caddens Structural Plan Map Extract (Source: Penrith DCP)



The table below provides details on the development standards relevant to the current proposal as well as other relevant DCP provisions.

Penrith Development Control Plan 2014 E1 Caddens Compliance Table			
Clause	Controls	Comments	Complies
<b>1.2 Structure Plan</b>			
1.2.1	Urban Structure	The development is consistent with the intent of the structure plan as discussed throughout the previously submitted SEE.	Yes
1.2.2	Character Area Design Principles	<p><u>Precinct Centre</u></p> <p>A portion of the site is located in the Precinct Centre and is consistent with this section of the DCP as:</p> <ul style="list-style-type: none"> <li>• The development replaces an at grade carpark with a landscaped plaza that assists with creating a lively and inviting pedestrian friendly environment;</li> <li>• Reduces conflicts between pedestrians and vehicles by removing roads and providing for separated pedestrian friendly circulation paths within the development;</li> <li>• Incorporates opportunities for passive surveillance with the new commercial tenancies fronting the public plaza and the apartments above overlooking public areas;</li> <li>• The development facilitates working/studying from home with many apartments having study nooks;</li> <li>• The buildings in the E1 portion of the site incorporate awnings over the pedestrian network in front of the plaza;</li> </ul>	Yes
1.2.3	<p>Dwelling Yield and Diversity</p> <p>The DCP indicates that a minimum dwelling yield of 134 dwellings in the portion of the site zoned E1 and a minimum of 102 dwellings in the portion of the site zoned R4.</p>	The development exceeds this minimum DCP control and achieves an overall yield of 469 dwellings.	Yes

Clause	Controls	Comments	Complies
<b>1.3 The Public Domain</b>			
<b>1.3.1</b>	Street Network and Design	<p>The development varies the suggested rectangular road pattern but achieves the principles of the clause as:</p> <ul style="list-style-type: none"> <li>• It establishes a direct and open vehicular and pedestrian network;</li> <li>• Encourages walking and cycling;</li> <li>• Maximises connectivity between open space, residential areas and removes a at grade carpark that acts as a barrier;</li> <li>• Appropriately considers the sites topography and facilitates the retention of Cumberland plain Woodland;</li> <li>• Addresses open space areas and vegetation corridors;</li> <li>• Provides for district views; and</li> <li>• Does not utilise cul-de-sac's.</li> </ul> <p>As outlined on the Civil plan's road widths comply with this section being a 21m wide reserve with 10.5m pavement for The Avenue and 16m wide for all other roads with 8m pavement and 4m verges.</p> <p>The development is to also provide appropriate street trees on all proposed road networks in accordance with the Landscape Plan which accompanies with application.</p>	Variation
<b>1.3.2</b>	<p>Street Furniture and Public Area</p> <p>The provision of street furniture in public spaces must include, as appropriate:</p> <ul style="list-style-type: none"> <li>a) Seats.</li> <li>b) Litter bins.</li> <li>c) Drinking fountains.</li> <li>d) Lighting.</li> <li>e) Information signs.</li> <li>f) Bicycle racks.</li> <li>g) Planter boxes.</li> <li>h) Other items suitable to the function of each public space</li> </ul>	<p>As illustrated on the civil and landscape plans the development incorporates, lighting, seats, bicycle racks and litter bins within public areas of the development.</p>	Yes
<b>1.3.3</b>	Pedestrian and Cycle Network	The development incorporates a pedestrian link along the eastern portion of 'The Avenue' to the future reserve.	Yes

Clause	Controls	Comments	Complies
1.3.4	Public Transport	Not relevant to the current development application.	N/A
1.3.5	Open Space, Environmental Conservation and Landscape Network	<p>The site is not identified by the DCP as containing an environmental conservation area.</p> <p>Notwithstanding this a portion of the northern boundary of the site has been identified as containing remnant Cumberland Plain Woodland. The development facilitates the retention of this Endangered ecological Community and provides a dedicated open space area that will provide a local community focus and will permit both active and passive open space opportunities whilst also conserving valuable Cumberland woodland vegetation.</p> <p>A Landscape Plan, Biodiversity Development Assessment Report and Vegetation Management Plan accompanies this application.</p>	N/A
1.3.6	Biodiversity	<p>The development site is not identified under the Penrith Local Environmental Plan 2010 as containing natural resource sensitive land nor does it contain land with scenic and landscape values.</p> <p>However, the development will deliver a new woodland park which facilitates the retention of identified Cumberland woodland vegetation.</p> <p>As such the dedicated open space area will conserve valuable Cumberland woodland vegetation.</p> <p>It is noted that that a Biodiversity Development Assessment Report accompanies this application.</p>	N/A
1.3.7	Aboriginal and European Heritage	The site is not identified as potentially containing aboriginal archeology and will not unduly impact on the curtilage of identified European Archaeology as previously discussed.	Yes
1.3.8	Bushfire Hazard Management	<p>The development site includes land classified as bush fire prone on the Penrith City Council's bush fire prone land (BFPL) map.</p> <p>A revised Bushfire Protection Assessment prepared by Eco Logical Australia which</p>	Yes

Clause	Controls	Comments	Complies
		<p>accompanies this application has found that the proposed development does not require any mitigational impacts, give the reduction in bushland around the site in recent times.</p> <p>Refer to attached Bushfire Protection Assessment for more detail.</p>	
1.3.9	Water Cycle Management	A Concept Stormwater and Water Quality Management Report has been prepared to and accompanies this application.	Yes
1.3.10	Contamination Management	<p>A Preliminary Site Investigation and Detailed Site Investigation have been undertaken as part of the application.</p> <p>The Detailed Site Investigation has found that the overall objectives are considered to have been met and a suitable understanding of soil conditions and contamination issues at the Site has been established.</p>	Yes
1.3.11	Salinity Management	<p>The 'Salinity Potential in Western Sydney' map indicates that the site lies within a region of low salinity potential.</p> <p>As per the Detailed Site Investigation that accompanies this application, there were no visual indicators of saline soils during the investigation with the site appearing to have good vegetation coverage free of stress.</p>	N/A
<b>1.4 Residential Development</b>			
1.4.1	Subdivision and Neighbourhood Design	Subdivision is not proposed.	N/A
	Minimum lot size for RFB 1000m2 with 30m width		
1.4.2	Streetscape, Feature Element and Roof Design	<p>Although the controls in this section of the DCP relate to dwellings the development is consistent with the objectives as:</p> <ul style="list-style-type: none"> <li>The 19 buildings have been designed to enhance the desired built form of the locality by providing a quality design that fits harmoniously with its surrounds;</li> <li>Provides appropriate natural light and ventilation to future occupants.</li> <li>Clearly delineates between public and private areas of the complex;</li> </ul>	N/A

Clause	Controls	Comments	Complies
		<ul style="list-style-type: none"> <li>Provides a cohesive and attractive streetscape presentation.</li> </ul>	
1.4.3	Dwelling Height, Massing and Siting	<p>The DCP indicates that buildings should be up to 4 storeys in height. As outlined previously the development varies this with the maximum height of buildings being a 6-storey building.</p> <p>The height departure ensures the retention of Cumberland Plain Woodland and results in a superior Urban Design Outcome including the delivery of public plaza that will act as a focal point in the precinct.</p>	Variation
1.4.4	Building Setbacks	<p>The development generally proposes street setbacks of 3m that ensures the buildings present as apartments and shop top housing developments in a garden setting.</p> <p>The development involves the whole of the precinct and ensures that the built form is consistent throughout.</p>	Yes
1.4.5	Development Forms		Yes
	Private Open Space 20m <sup>2</sup> per apartment with min dimension of 2.5m	The development provides private open space in accordance with ADG requirements.	
	Storeys -Max 4	The development varies this as discussed previously in this SEE.	
	Front setback min -3m	The development provides a street setback of 3m.	
	Secondary Setback Min -3m	The development provides a secondary street setback of 3m.	
	Side and Rear setback -in accordance with RFDC	The development provides side and rear setbacks that are consistent with the ADG.	
	Adaptable dwellings -min 10%	The development contains 469 dwellings and provides 57 adaptable dwellings that is equivalent to 12%. Complies	
	To provide visual interests and reduce building bulk, facades are to be articulated (via balconies, blade walls, stepped facades and the like).	Facades are appropriately articulated to reduce the perception of bulk and scale.	

Clause	Controls	Comments	Complies
	Balconies can intrude into the front setback by a maximum of 2m.	Balconies are generally setback in accordance with the street setback of 3m.	
	Buildings with a length greater than 15m are to incorporate multiple entries and circulation cores.	Refer ADG discussion.	
	The design of residential flat buildings and mixed use development must meet the visual and acoustic amenity requirements set out in Part 5.1 of this DCP.	The complex has been appropriately designed to maintain visual and acoustic privacy.	
	Buildings with mixed use development, that is a mix of residential and commercial and/or retail, must incorporate the following: a) retail/commercial uses at ground floor level; b) floor to ceiling heights of at least 3.5m at ground level; c) separate commercial and residential pedestrian access; d) separate provision for commercial and residential waste.	The ground floor of the E1 component of the site contains 5 commercial premises.  The shop top housing portion of the development contains retail premises at ground level. Appropriate floor to ceiling heights are provided.  Separate access is provided to the residential and commercial components. Separate waste rooms are provided.	
<b>1.5 Environmental and Residential Amenity</b>			
		The development appropriately responds to the environmental opportunities on the site and will provide an appropriate level of amenity to future residents.	Yes
<b>1.6 The Precinct Centre</b>			
	The Indicative Concept Plan shown at Figure E1.34 provides an example of how the Precinct Centre might be developed to satisfy controls in this section.		
	Detailed design and planning of the Precinct Centre shall be subject to the formulation of a concept plan as part of a staged development.	The Caddens Corner Shopping Centre has been constructed and this development seeks to introduce a community plaza that will be a focal point into the development.	Yes
	The road layout should generally be rectilinear in pattern with clear and legible street and pedestrian connections to UWS, TAFE and	The road layout has been refined in conjunction with discussions with Council's Design Panel but continues to provide links to adjoining landuses and maximises landscaping throughout.	Variation

Clause	Controls	Comments	Complies
	surrounding residential, employment and open space areas.		
	Development applications for the Precinct Centre are to demonstrate how potential conflicts between uses and activities are to be managed and minimised.	The design appropriately managed conflicts between residential and non-residential uses through vertical separation.	Yes
	Streets are to be activated and, where possible and appropriate, developments are to incorporate active uses at street level.	Streets are appropriately activated and passive surveillance facilitated.	Yes
	Public art is to be incorporated at key focal points to promote community identity.	Public art opportunities are provided within the site.	Yes
	Buildings are generally to be built to the street edge and provide a continuous street frontage and continuous non-glazed awning along the street edge.	The buildings within the E1 provided awnings to assist with weather protection.	Yes
	The total maximum gross floor area for retail and commercial development in the Precinct Centre is 12,500m <sup>2</sup> .	The development proposes 1,415m <sup>2</sup> of commercial floor space. The existing centre has approval for 10,127m <sup>2</sup> which results in 11,210m <sup>2</sup> of approved commercial floorspace in the E1 zoned precinct.	Yes
	The above floor area may only be exceeded if the building and uses relate to activities directly associated with UWS and/or TAFE.		
	No one shop (retail premises) is to be greater than 4,000m <sup>2</sup> .	All 5 premises are less than 4000m <sup>2</sup> .	Yes
	The maximum height of any development in the Precinct Centre is 4 storeys.	The development varies this to deliver a superior urban design outcome as discussed in the attached clause 4.6 departure for height.	Variation
	Where appropriate the design of medium density housing is to incorporate opportunities for home based employment.	Many of the apartments incorporate study nooks to assist with working from home and home based employment.	Yes
	Any supermarket should be located on the southern/wider section of the Precinct Centre and supporting commercial services should be located in the northern section.	The supermarket is existing. Not applicable.	N/A

## CONCLUSION

I trust the above comments, satisfactorily responds to Council 's substantive issues and that any remaining concerns with the project can be conditioned to allow a positive assessment report to be prepared and assist with delivering 469 dwellings that will assist with slightly reducing Australia's current housing supply shortage.

Should you require any further information, I can be contacted on 9687 8899.

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