

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-54
DA Number	DA20/0041
LGA	Penrith
Proposed Development	Demolition of Existing Structures and Construction of a Residential Flat Building Development Containing 44 x Affordable and Social Housing Units, Basement Parking and Associated Works
Street Address	14-18 Phillip Street, St Marys
Applicant/Owner	Growthbuilt Pty Ltd
Date of DA lodgement	24 January 2020
Number of Submissions	0
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	CIV > \$5 million (crown development)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Building Sustainability Index) 2004 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • Penrith Local Environmental Plan 2010 (Amendment 4) • Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Landscape plans • Civil Plans • Waste Management Plan • Clause 4.6 Request • Traffic Report • Access Report • Strata Plans
Clause 4.6 requests	The development standard the clause 4.6 application relates to is the height of building control under Penrith Local Environmental Plan 2010.
Summary of key submissions	NA
Report prepared by	Jane Hetherington
Report date	6/07/2020

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

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

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (\$7.24)?

No

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

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

SWCPP Ref. No.:	PPSSWC-54
DA No.:	DA20/0041
PROPOSED DEVELOPMENT:	Demolition of Existing Structures and Construction of a Residential Flat Building Development Containing 44 x Affordable and Social Housing Units, Basement Parking and Associated Works - Lot 32 DP 35970, Lot 33 DP 35970, Lot 34 DP 35970, 14 Phillip Street, ST MARYS NSW 2760 16 Phillip Street, ST MARYS NSW 2760 18 Phillip Street, ST MARYS NSW 2760
APPLICANT:	Growthbuilt Pty Ltd
REPORT BY:	Jane Hetherington, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from NSW Land & Housing Corporation c/ Growthbuilt Pty Ltd for the demolition of existing structures and construction of a residential flat building containing 44 affordable and social housing units, basement parking and associated works and strata subdivision.

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

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

The development application has been advertised in a local newspaper and notified to all adjoining and adjacent property owners. No submissions were received in response.

The proposed development is Crown Development as the applicant is NSW Land & Housing Corporation which is a statutory state government authority. Applicants for Crown Developments are exempted from the requirements to obtain Construction and Occupation Certificates. In accordance with Section 4.33(1)(b) of the *Environmental Planning and Assessment Act 1979*, draft conditions of consent (as documented in this report) were forwarded to the applicant for consideration. At the time of the report, a final response to the draft conditions has not been provided, but is being pursued.

Key issues identified for the proposed development:

Building Separation

A variation to the Apartment Design Guideline (ADG) minimum building separation control is sought. While the ADG requires a minimum setback of 6m for habitable rooms, the proposal provides a setback of approximately 3.5m to the eastern boundary. This issue was raised with Council's Urban Design Review Panel who confirmed that the reduced setback is supportable as it does not result in any adverse privacy issues, overshadowing or

visual impacts. The living room windows along the eastern elevation are narrow sources of daylight and ventilation and have fixed screens and the bedroom windows are tall and narrow and orientated perpendicular to the boundary. In terms of visual impact the reduced setback would not accentuate scale which has a overall width of 20m; is articulated by the 3m wide central stair well; and moderated effectively by light coloured metal cladding for the top most storeys. In addition, the landscape plan provides for landscaping along the boundary line.

A variation to this control is also supported as Phillip Street is likely to be a main through fare, linking St Marys retail centre and interchange with Glossop Street. The setbacks are appropriate in defining the street edge and providing a strong and simple architecture form that is setting, establishing and responding to the desired character. Further, given the established subdivision pattern, properties along Phillip Street are likely to develop in the same way continuing the strong edge down to the retail centre.

Given the above, the non-compliance with the ADG minimum building separation control is supportable.

Waste Management

The development does not provide waste infrastructure in accordance with the requirements of Penrith Development Control Plan (DCP) 2014. A chute system has not been incorporated, as chutes are not permitted under NSW Land & Housing Corporation guidelines and policies for safety reasons. Instead residents will directly access the waste rooms to dispose of waste and recycling. Given the scale of the development and that the waste rooms are easily accessible from the lifts, this is considered to be an acceptable solution in this instance. Council's DCP also specifies that 'reverse manoeuvres proposed within an active carriageway are not permitted'. While the application originally included a separate waste collection area along the southern boundary, this arrangement was not supported by Council UDRP as it reduced the landscaped setback, common open space area and resulted in amenity issues. As such, this element was deleted and waste trucks are required to enter the basement and perform a reversing manoeuvre in the car park. On balance, this arrangement is a better outcome for the site. A condition of consent is recommended to ensure traffic control technologies are incorporated to reduce any potential conflict between service vehicles and pedestrians or cars.

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

Site & Surrounds

Properties of the site

The subject site is legally described as Lots 32, 33 & 34 in DP 35970, otherwise known as 14, 16 & 18 Phillip Street, St Marys. The site is located on the south east corner of the Phillip Street and Lethbridge Street intersection. It has an area of 1,928.5m², with a 51m frontage to Phillip Street and a 28m frontage to Lethbridge Street. 16 Phillip Street is currently occupied by a single storey dwelling while, 14 and 18 Phillip Street are currently vacant. The site contains 14 trees and has a fall of approximately 5m to the north-west.

The site is generally surrounded by low-density residential dwellings, with a high density residential development located to the north of the site, on the opposite side of Phillip Street. St Marys Town Centre and retail precinct is located approximately 200m west of the subject site. The St Marys railway station is located approximately 400m west of the site.

Site constraints

- Existing trees on site;
- Orientation of the site;
- Cross fall of approximately 5m.

History

Prior to lodgement, the applicant attended a pre-lodgement meeting with Council officers on the 19 September 2019 (PL19/0062) and attended a Urban Design Review Panel meeting on the 18 September 2019 (UDRP19/0007).

On the 30 June 2020, the NSW government confirmed the final rail corridors linking the future Western Sydney Airport and Aerotropolis to the Sydney passenger and freight network. Stage 1 includes the Sydney Metro-Western Sydney Airport (formerly the North-South Rail Link) which connects the Aerotropolis with the passenger network at St Marys on the Western line. This new railway connection and St Marys interchange will result in significant changes for the area, given the potential for commercial, residential and retail centres along the proposed rail corridor.

Proposal

The proposed development involves:

- Demolition of existing dwelling, structures and outbuildings at 16 Phillip Street;
- Removal of existing vegetation, including 14 trees;
- Construction of a five (5) storey residential flat building including 44 affordable and social housing dwellings (23 x 1 bedroom and 21 x 2 bedroom);
- Construction of a basement comprising 20 car spaces, 10 bicycle spaces (with four additional spaces on ground floor), waste collection area and services;
- Associated landscaping and civil works; and
- Strata subdivision.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 2.12 – Sydney Western City Planning Panel (SWCPP)

Under Clause 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the consent authority is a regional planning panel for development that is declared by an environmental planning instrument as regionally significant development. Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, specifies that crown development that has a capital investment value (CIV) of more than \$5 million is regionally significant development.

In accordance with 4.5(b) of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal has a CIV of \$14,474,122.

• Section 4.15 - Evaluation

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

Clause 10 Development to which Division applies

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

Clause 13 Floor Space Ratios

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

Clause 14 Standards that cannot be used to refuse consent

Control	Requirement	Proposed	Complies
Site Area	450m ²	1,928.5m ²	Yes

Landscape Area	<ul style="list-style-type: none"> - 35m² of landscaped area per dwelling (if the application is made by a social housing provider); or - 30% of the site area (in any other case). 	Given the application is made by Land & Housing Corporation and the proposal includes 44 dwellings, 1540m ² of landscaping is required. 825m ² of landscaping is provided across the site (or 18.75m ² /dwelling). This is considered satisfactory given that quality landscaping is provided along the street frontages (western and northern boundaries) and the rear boundary.	No - Refer to discussion to the left.
Deep Soil Zones	<ul style="list-style-type: none"> - 15% of the site area; - minimum dimension of 3 metres; and - 2/3 located at the rear of the site. 	620.9m ² (or 32.2%) of the site area is dedicated to deep soil plantings. All areas provide the minimum dimensions apart from that provided along the eastern boundaries. The primary deep soil zones are located along the northern and southern boundaries.	Yes
Solar Access	<ul style="list-style-type: none"> - Living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. 	73% of apartments receive solar access at mid-winter between 9am and 3pm.	Yes
Parking	<p>In the case the application is made by a social housing provider for development on land in an accessible area at least:</p> <ul style="list-style-type: none"> - 0.4 parking spaces for each dwelling containing 1 bedroom; - 0.5 parking spaces for each dwelling containing 2 bedrooms; and - at least 1 parking space for each dwelling containing 3 or more bedrooms. 	The development includes 23 x 1 bedroom units and 21 x 2 bedroom units. Therefore, the development requires the provision of 20 parking spaces (rounded up from 19.7). The proposal provides 20 parking spaces within the basement level.	Yes

Dwelling Size	<p>Each dwelling has a gross floor area of at least:</p> <ul style="list-style-type: none"> - 35m² - bedsitter or studio; - 50m² - 1 bedroom dwelling; - 70m² - 2 bedroom dwelling; - 95m² - 3 or more bedroom dwelling. <p>* Gross floor area does not include any car parking (including any area used for car parking)</p>	<p>The proposal includes 23 x 1 bedroom units and 21 x 2 bedroom units which all comply with the minimum GFA as per Clause 14(2)(b).</p>	Yes
---------------	---	--	-----

Clause 16 Continued application of SEPP 65

An assessment against SEPP 65 is provided later in this report.

Clause 16A Character of local area

On balance, the proposal is compatible within the context and built form envisaged for the locality and the strategic direction of the broader Western City District. While the proposal includes elements (i.e. setbacks to allow for the establishment of canopy trees) which respond to the existing character of the area, the development strongly aligns with the future character of the area. Phillip Street will be a key link to the St Marys interchange and retail centre from Glossop Street, and the architecture, setbacks and landscaping assist in providing a strong edge to this future road corridor. This is consistent with the adjacent RFB development on the northern side of Phillip Street.

Clause 17 Must be used for affordable housing for 10 years

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

Clause 18 Subdivision

Consent is sought for strata subdivision. In accordance with Clause 18 land on which development has been carried out under this Division (Division 1) may be subdivided with consent of the consent authority.

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants. This application is subject to these requirements as it involves the construction of a residential flat building.

BASIX Certificate No. 1054090M was submitted with the development application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort and in this respect, the proposal is satisfactory having regard to the aims of the Policy.

State Environmental Planning Policy No 55—Remediation of Land

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

While a review of Council's records and aerial photography indicates that the site has historically been used for residential purposes, concerns were raised that the site contained asbestos containing materials due to the demolition of dwellings on Lots 32 and 34 (14 and 18 Phillip Street). To address these concerns the applicant submitted Asbestos Removal Clearance Certification, prepared by P.Clifton & Associates. P.Clifton & Associates undertook visual site inspections and excavation test pits to confirm asbestos contaminated concrete and soil was removed following the demolition of the dwellings. The proposal has been reviewed by Council's Environmental Management Team who raise no objection to the application including considerations of SEPP 55 requirements, subject to conditions of consent. Specifically a condition of consent has been included requiring that should any "unexpected finds" occur during the earthworks, that works cease immediately and Council be notified. The condition requires that should any contamination be found and remediation be required that further development consent be sought prior to remediation works commencing.

As such, in accordance with Clause 7(b) of the SEPP 55, it is considered that the site is suitable for the proposed development subject to recommended conditions specifically requiring an unexpected finds protocol.

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

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

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

Table 2: Assessment Against the Apartment Design Guide (ADG)			
Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.
3B-1	Buildings to address street frontages.	The north elevation adequately addresses Phillip Street. The common entry and foyer areas are of an appropriate design and location. Direct sight-lines to letterboxes, lift lobby and the communal open space is provided.	Yes.

3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to receive compliant levels of solar access.	Refer discussion under Parts 3D and 4A.	N/A.
	Solar access to living spaces and POS of neighbours to be considered.	Given the orientation of the site, the development results in significantly increased overshadowing when compared with single storey detached dwellings. However, the rear setback has been maximised to maintain mid-winter to the south neighbours. The shadow diagrams show that the adjoining properties each receive three hours mid-winter sun living rooms windows, balconies and private open spaces.	Yes.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	Acceptable levels of solar access is achieved between the primary daylight hours at the winter solstice. An increase in building separation is not required.	Yes.
3C-1	Courtyard apartments should have direct street access.	The ground floor apartments do not have direct access to the street, which is due to the topography of the site and the provision of landscaping making it unfeasible.	No - minor variation considered supportable.
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	The ground floor apartments along the street frontages include terraces predominantly at street level. This will assist in promoting activity along the streets and contribute to the safety of the public domain.	Yes.
	Upper level balconies and windows to overlook the street.	The majority of apartments are provided with balconies and living areas overlooking Phillip Street or Lethbridge Street.	Yes.
	Length of solid walls should be limited along street frontages.	All walls facing the street are articulated with balconies and window openings. Retaining walls are screened behind landscaping which will provide a visual barrier.	Yes.
	Opportunity for concealment to be minimised.	Entryways are wide, straight and located to reduce opportunity for crime and concealment.	Yes.
3C-2	Ramping for accessibility should be minimised.	The building entry is located close to grade and ramping gradients do not exceed 1:20.	Yes.

3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	574m ² of COS is proposed to be provided at the north-west corner and along the southern boundary which complies with the ADG requirement for 25% of site (or 482m ²) to be provided as COS.	Yes.
3D-4	Boundaries should be clearly defined between public open space and private areas.	The private open space areas of the development are clearly defined by the use of landscaping, walls, fencing and paving elements.	Yes.
3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 3m.	32% of the site is provided as deep soil which complies with the ADG minimum requirement of 7%.	Yes.
3F-1	Minimum required separation distances from buildings to the side and rear boundaries: 1-4 Storeys – 6m habitable and 3m for non-habitable. 5-8 storeys – 9m habitable and 4.5m for non-habitable.	A variation to the separation distance control is sought. The subject site adjoins single storey dwellings to the south and east. While the setback to the southern boundary exceeds this control (being 6.1m), the setback to the eastern boundary does not comply being approximately 3.5m. Despite this non-compliance, the proposal is not considered to result in any adverse privacy issues for the surrounding locality. The windows along the eastern elevation are small. The living room windows along the eastern elevation are narrow sources of daylight and ventilation and have fixed screens and the bedroom windows are tall and narrow and orientated perpendicular to the boundary. In addition, the landscape plan provides for landscaping along the boundary line.	No - See discussion to the left.
3G-1	Building entries to be clearly identifiable.	A single building entry is proposed, which is identifiable from Phillip Street.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entryways to the lobbies are visible from Phillip Street.	Yes.
	Steps and ramps to be integrated into the overall building and landscape design.	The ramp at the front door is integrated into the entry sequence and surrounding landscape.	Yes.
3H-1	Carpark access should be integrated with the building's overall façade.	The car parking is adequately integrated into the design with the car park entry (off Lethbridge Street) setback from the building façade.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for drivers and pedestrians at the street frontage. A condition of consent is also recommended in this regard.	Yes. Condition recommended.

	Garbage collection, loading and servicing areas are screened.	The waste collection, loading and servicing areas are contained within the basement.	Yes.
3J-1	For sites located within 800m of a railway station, car parking rates are set by the RMS (formerly RTA) Guide to Traffic Generating Developments document.	The site is located approximately 400m from St Marys Railway Station. Parking has been provided in accordance with the requirements of SEPP (Affordable Rental Housing) 2009 which this application is proposed under.	Yes.
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	Secure bicycle storage is provided within the basement for 10 bicycles.	Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lobby areas are clearly defined and appropriately located with sufficient safe manoeuvring areas provided.	Yes.
	Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas, and car wash bays can be accessed without crossing car parking spaces.	The basement areas are provided with bicycle parking and garbage rooms that are accessed from common areas and do not rely on access through parking spaces.	Yes.
3J-6	Positive street address and active frontages to be provided at ground floor.	Wide and direct pedestrian access pathways are provided to the communal entries and lift lobby areas via Phillip Street and internal common open space areas.	Yes.
4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted documentation confirms that 73% of apartments are provided with compliant levels of solar access.	Yes.
4A-3	Sun shading devices are to be utilised.	Shading devices, screens and hoods are provided on all windows.	Yes.
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	Submitted documentation confirms that 66% or 29 of the 44 apartments receive natural cross flow ventilation.	Yes.

4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for a minimum of 2.7m measured from finished floor to finished ceiling level.	Yes.
4D-1	<p>Apartments are to have the following min. internal floor areas:</p> <p>1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm</p> <p>Additional bedroom areas increase minimum area by 5sqm.</p>	All units comply.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	All units comply.	Yes
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply.	Yes
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply.	Yes
4E-1	<p>All units to have the following primary balcony areas:</p> <p>1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)</p>	All units comply.	Yes.
4E-3	Downpipes and balcony drainage are integrated with the overall facade and building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	A condition of consent is recommended in this regard.	Yes. Condition recommended.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	Natural light is provided to all circulation space.	Yes.

4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m ³ 2 bed – 6m ³ 3 bed – 10m ³ With 50% of the above to be provided within the Units.	All units comply.	Yes.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The unit mix is proposed as follows: 23 x 1 bedroom apartments (57.5%) 21 x 2 bedroom apartments (52.5%) The application was accompanied by a Access Report confirming that the five (5) adaptable units can comply with the spatial requirements of AS 4299 for Adaptable Housing. Adaptable apartments are to be allocated an accessible car parking space. It is noted that 5 accessible car parking spaces for residents are proposed within the basement.	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	Due to the landscaped setback that is generously planted and the natural topography of the site direct access to the ground floor apartments is unable to be provided.	No - minor variation considered supportable.
4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal was subject to a review by Council's Urban Design Review Panel. Varying ground and upper level elements are provided to break up the bulk of the building and provide elements of contrast.	Yes.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted landscape plan prepared by Sydney Design Collective indicates a selection of trees, shrubs and ground covers appropriate for the site. Conditions of consent are recommended with regard to landscape maintenance.	Yes.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	Five (5) units are provided as adaptable which equates to 11% complying with Council's policy.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.	All habitable rooms are provided with appropriate levels of natural light. Apartment depths and open floor plan arrangements allow light into kitchens, dining and living areas.	Yes.

4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	The proposed development can comply with Council's WSUD Policy requirements with the use of enviropods and stormfilter cartridges and water conservation managed with the installation of rainwater tanks.	Yes.
4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan has been submitted.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	The waste collection area is located within the basement. Council's waste department have confirmed that the design is adequate and has the ability to accommodate the number of bins required to service the site and manoeuvring area.	Yes.

Penrith Urban Design Review Panel

The application was reviewed by Council's Urban Design Review Panel (UDRP) on a number of occasions. The first review took place in September 2019, prior to DA lodgement. During this initial review concerns were raised regarding the developments bulk and scale; quality of the common open space areas; streetscape presentation; compatibility with character of local area; and residential amenity. In response to these comments the applicant amended the proposal and a second review was undertaken in March 2020 after the DA was lodged. Council's UDRP confirmed that the DA plans have responded positively to the UDRP recommendations and now demonstrate a high degree of compatibility with character of the local area; common areas provide a high standard of amenity; and apartment layouts generally achieve high levels of residential amenity. The proposal is therefore supportable from a urban design perspective.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by Sydney Regional Environmental Plan No.11 - Penrith Lakes Scheme. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The application was accompanied by a Stormwater Management & Water Sensitive Urban Design Report, prepared by van der Meer and dated 27 May 2020. The objective of the report was to provide stormwater controls that ensure the development does not adversely impact on the quantity or quality of stormwater flows within, adjacent and downstream of the site. The report details that existing stormwater drainage within the site will be replaced with a pit and pipe network, connecting to an existing Council pit present on Lethbridge Street. Stormwater run-off from the development is proposed via stormwater drainage pipes to a detention tank where the water will be appropriately treated in accordance with Council's WSUD policies before being discharged to the street drainage system. The proposed water quality control measures include filter cartridges, enviropods and rainwater tanks. In addition, during construction soil and erosion controls measures will be installed to ensure sediment as a result of the development is not deposited to the stormwater system.

Council's Development Engineers have reviewed the application and subject to recommended conditions, have no objection to this aspect of the proposal.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies - See discussion
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies

Clause 2.3 Permissibility

The subject site is zoned R4 High Density Residential under the provisions of Penrith Local Environmental Plan 2010. The proposal is a *residential flat building* (type of *residential accommodation*) and is a permissible land use in the zone, subject to Council consent.

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

In accordance with Clause 4.1A, within the R4 High Density Residential Zone, a lot is to have a minimum area of 800m² for Residential Flat Building development. The subject site complies with this requirement with an area of 1927m².

Clause 4.3 Height of buildings

In accordance with Clause 4.3 of Penrith LEP 2010, the maximum height of any building permitted on the subject site is 15 metres. The proposal has a maximum building height 16.15m relative to natural ground level which equates to a 7.6% departure to the 15m height limit applying to the site.

Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the LEP specifies that consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument. However, Clause 4.6(3) states that:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

Further, Clause 4.6(4) states that: Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Secretary has been obtained.*

Clause 4.3(2) Height of Buildings specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. The Height of Buildings Map sets out a maximum height of 15m as applying to the subject site. The proposal has a maximum building height of 16.15m relative to natural ground level which equates to a 7.6% departure to the 15m maximum height applying to the site.

In accordance with Clause 4.6, the development application was lodged with a written request to vary the maximum height of building control of 15m. The Clause 4.6 variation submission has been prepared and responds to the case of *Four2Five Pty v Ashfield Council* [2015] NSWLEC 90 as well as the 'five part test' established in *Wehbe v Pittwater Council* [2007] NSWLEC 827. The applicant's response to the matters listed in Clause 4.6(3) and (4) are discussed below in turn:

The Development Standard is Unreasonable or Unnecessary

The Clause 4.6 submission specifies that the objectives of the height of buildings development standard are achieved notwithstanding the proposed variation as follows:

- *"The proposal is consistent with the existing character of the locality and the desired future character of the immediate area as stipulated by the applicable planning controls and the bulk and scale of existing residential flat buildings in the locality.*
- *The overall built form, including the building height, is carefully considered and is not incongruous with the locality and a number of multi-storey residential flat buildings opposite and in proximity to the site. The non-compliance with the development standard mostly relates to non-habitable space which includes roof structures such as a lift overrun and maintenance access. Where habitable space exceeds the height standard, its bulk is mitigated through staggered setbacks from the northern boundary and light materially.*
- *Despite varying the development standard, the clerestory windows and lift overrun (except a minor portion on the south elevation) are not visible from the street.*
- *The site and surrounding development benefit from views of the Blue Mountains located to the west. While the proposal causes minor view loss for the properties to the south, it is not the non-compliant portions of the building which cause this loss. A compliant building at 15m would result in the same view loss.*
- *The proposed contravention does not result in adverse acoustic or privacy impacts. This variation is centrally located on the roof where it is located on the outer edge, no windows are situated at the contravention and do not facilitate opportunities for overlooking or accentuate noise generation from apartments. The clerestory windows are provided to enhance solar access and due to their location cause no privacy impacts for neighbouring properties.*
- *The non-compliant portion of the lift overrun results in a very minor shadow cast at 9am onto Lethbridge Street. The minor shadow onto 4 Champness Crescent occurring at 12pm falls onto the side boundary and this area constitutes an access path along the side of the house and not private open space. No shadows are cast by the non-compliant height plane at 3pm.*
- *The proposed contravention does not cause any impact by the way of heritage.*
- *The overall built form (including the height) of the proposal has been carefully designed to enhance residential amenity to and from the building, minimise the bulk and scale effects of the proposal and provide an attractive and carefully articulated building.*
- *When viewed from the streetscape below and adjoining roads, the proposed building reads as well-defined and an appropriately scaled residential building, which is compatible with its locality and adjoining development.*
- *The building transitions from a five (5) storey development at the east of the site to a four (4) storey*

building on the west. The height non-compliances are not incongruent with the existing and desired urban form of the area.

- The immediate surrounding locality is in a state of transition, reflecting the R4 high density residential zoning. In this regard, the locality includes high density developments, with a five (5) storey development located to the north of the site at 11-15 Phillip Street. As such, there is little opportunity for the additional height to protrude above the established and anticipated future height for the locality."*

Sufficient Environmental Planning Grounds

- "The proposal represents the orderly and economic redevelopment of the site through the provision of an 100% affordable and social housing development that is well connected to transport and community services and the contravention of the standard does not affect this.*
- The residential flat building, as it varies the development standard, reflects the mass and scale of R4 high density residential development on Phillip Street and in St Marys more widely, and achieves the desired future character of the locality.*
- The location and extent of the contraventions are a consequences of the sloping topography which is a circumstance particular to the site.*
- Because the proposal is for public housing, it is required to be designed to be 100% accessible which prevents the floorplate from being stepped to match the fall of the land, notwithstanding as demonstrated throughout this variation request, that the environmental impacts of the resulting variation are negligible.*
- A completely accessible building is a desirable environmental planning outcome in its own right.*
- A minor variation to the height standard does not occur at the prominent street frontage of Lethbridge Street and only a very small portion of roof area is non-compliant fronting Phillip Street. The visible non-compliance at Phillip Street is setback, adjacent to the recessed part of the building and is minimised through materiality.*
- The proposal respects the topography of the land, falling east to west, and generally complies with the height control at the western end of the building.*
- There are no adverse environmental impacts such as unacceptable additional overshadowing (in fact very minor) or privacy implications as a result of the proposed contravention of the standard.*
- The proposed development satisfies the assumed objectives of the standard and the objectives of the zone.*
- The proposal would result in a better planning outcome than if compliance were achieved, as it allows for the co-ordinate redevelopment of the site and provision of affordable and housing to the service community".*

In response to Clause 4.6(4)(b), the NSW Department for Planning and Environments planning circular, *PS20-002 - Variations to development standards*, outlines Secretary's concurrence may be assumed for applications being considered by a regional planning panel.

In accordance with sub-clause (4), the applicant's objection is well founded and is consistent with the aims of the clause. The objection has adequately addressed the matters prescribed in the LEP, and has demonstrated that full compliance with the maximum building height requirement would be unreasonable and unnecessary in the circumstances of the case. The environmental planning grounds put forward by the applicant are supported in this instance. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Of particular importance is the overarching objective of the standard which is to facilitate development that is of an appropriate built form. The proposed design accommodates a high quality urban design outcome for the site and provides for 100% accessible units.

As a result the proposed variation and associated justification is considered to be reasonable and the variation to the height of building control requirement in the LEP is supportable.

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

Development Control Plan 2014

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

Section 4.15(1)(a)(iv) The provisions of the regulations

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The application was referred to Council's Building Surveyor for assessment with no objections raised, subject to the recommended conditions.

The proposed development complies with the requirements of the Regulations.

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

Context and Setting

Through Council's Urban Design Review Panel (UDRP) process, the development has undergone design amendments. These have resulted in a reduced bulk and scale, improved street presentation and substantial landscaped setbacks. The development of the site will have an impact on the character of the area as the development involves the demolition of an older style dwelling and introduces a five storey residential flat building into the streetscape. Notwithstanding the increase in density, the proposed setbacks, landscaping scheme and external materials and finishes are assessed to be sympathetic to the existing streetscape character and adjacent pattern of development and will not result in negative, unacceptable or unreasonable impacts in the locality.

Traffic, Access and Parking

The application was supported by Traffic and Parking Impact Assessment of High Density Residential Development at 14-18 Phillip Street, St Marys prepared by McLaren Traffic Engineering and dated 14 January 2020. This report provided an assessment of the relevant traffic and parking implications of the proposal.

To assess the impact of the additional traffic flows generated by the proposed development on the operational performance of the adjacent road network, the RMS publication *Guide to Traffic Generating Developments, Section 3 - Land Use Traffic Generation* (October 2002) and the updated traffic generation rates in the RMS Technical Direction (TDT 2013/04a) document was utilised. Application of these rates to the proposed development yields a traffic generation potential of approximately 9 vehicle trips (vph) during the AM commuter peak period and approximately 7 vph during the PM commuter peak period. The report concludes that this increase will not have an adverse effect on any nearby intersections and can be readily accommodated within the existing road network with minimal impacts in terms of traffic flow efficiency, residential amenity and road safety considerations.

All vehicular access is via a two-way driveway from Lethbridge Street into the a basement car park. The basement design will allow vehicles (including Council's 9.7m waste collection truck) to enter and exit the site in a forward direction. Council staff raised concerns that waste vehicles would be required to perform a reversing manoeuvre within the car park. to address this issue, the applicant provided a letter prepared by McLaren Traffic Engineering and dated 18 June 2020. This outlined that the proposed manoeuvring arrangement is satisfactory given that a signal control is being provide; waste collection will occur outside peak vehicular periods; and the reverse is limited to one manoeuvre.

The basement includes 20 residential car parking spaces including 5 accessible spaces, complying with the requirements of SEPP (Affordable Rental Housing).

The site is located within close proximity to public transport, with a bus stop located approximately 80m east of the site on Phillip Street providing regular services to Penrith City Centre and Mount Druitt. St Marys Railway Station is also approximately 400m west of the site.

Noise Impacts

The application was supported by a Noise Impact Assessment, prepared by Rodney Stevens Acoustics and dated 9 December 2019. The purpose of the report was to establish noise criteria and assess noise impacts in respect to road traffic, mechanical plant and noise and vibration. In order to characterise the existing acoustic environment of the surrounding area, unattended noise monitoring was conducted between Friday 25 October and Friday 1 November 2019. Two noise loggers were set up on site, one on the corner of Phillip Street and Lethbridge Street and one within the rear yard of the site. Based on the data obtained, the proposed development is deemed to comply with the noise criteria contained within State Environmental Planning Policy (Infrastructure) 2007 subject to recommended building treatments. A condition of consent is recommended to ensure that the internal noise criteria is achieved.

The report outlines that the proposed noise generated during construction will be managed by core daytime

construction hours. A condition of consent is recommended to ensure no work occurs outside these house.

Accessibility

An access report prepared by Vista Access Architects accompanied the application. This report outlines that the proposal achieves the spatial requirements to provide access for people with a disability. It also confirm that by compliance with the recommendation of the report, the development complies with the requirements of Access Code of Disability (Access to Premises-Building) Standards 2010, the Disability Access relevant sections of the Building Code of Australia 2019, the requirements of SEPP 65 related to Objective 4Q1 - Livable Housing, and the essential criteria of AS 4299-Adaptable Housing. The recommendations contained in the accessibility report are recommended to be imposed as conditions of consent for inclusion in the detailed construction plans for the proposal.

Waste Management

The application was supported by a Construction and Demolition Waste Management Plan prepared by Elephants Foot and dated 10/12/2019. This plan details the way in which all waste and materials resulting from the demolition, excavation and construction are to be dealt with.

The development proposes on-site collection by Council's waste contractors and incorporates waste infrastructure within the basement. The waste infrastructure includes a bulky waste storage room (7m² in area) and sufficient space for the storage of 44 x 240L bins (22 x recycling bin and 22 x garbage bins), which complies with the waste generation rates outlined in the DCP. While the proposal does not include a chute system (in accordance with Council's DCP), the applicant has advised that chutes are not permitted by Land & Housing Corporation guidelines due to safety reasons. It is proposed that residents would directly access the waste rooms to dispose of their waste/recycling. Given the scale of the development and the location of the lifts/waste rooms, the proposed arrangement is considered satisfactory.

Council's DCP also specifies that 'reverse manoeuvres proposed within an active carriageway are not permitted'. While the application originally included a separate waste collection area along the southern boundary, this arrangement was not supported by Council UDRP as it reduced the landscaped setback, common open space area and resulted in amenity issues. As such, this element was deleted and waste trucks are required to enter the basement and perform a reversing manoeuvre in the car park. On balance, this arrangement is a better outcome for the site. A condition of consent is recommended to ensure traffic control technologies are incorporated to reduce any potential conflict between service vehicles and pedestrians or cars.

Tree Removal

The application was support by Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 9 December 2019. The purpose of the report was to outline the health and condition of the trees located on the subject site and assess the developments impact on trees located on and around the site. The report notes that nineteen (19) trees are located on or within close proximity to the development site and fourteen (14) of which are required to be removed to facilitate the development. Of the fourteen (14) to be removed, two (2) are consider undesirable species that should be removed regardless of any development impacts. There remaining twelve (12) are of fair-good health however are required to be removed given they are located within the building footprint. The application was supported by a Landscape Concept Plan prepared by Sydney Design Collective which shows that the number of replacement plantings exceeds this tree removal.

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

The site is suitable for the following reasons:

- The site is located within close proximity to St Marys Town Centre.
- The site is within close proximity to public transport, with bus stops and St Marys railway station within walking distance.
- The use is compatible with surrounding/adjoining land uses.
- The grade of the site is suitable for the design proposed.
- The site is able to drain to Council's satisfaction.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining owners and occupiers. Council notified sixteen (16) properties in the area and the exhibition period was between 14 February and 28 February 2020. The application was also advertised in a local newspaper on 14 February 2020. No submissions were received in response.

Referrals

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

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

Development Engineer

Council's Development Engineer, requested that parking spaces within the basement be a minimum width of 2.5m to allow full opening of vehicle doors in accordance with Council's DCP. The proposal provides parking spaces with a minimum width of 2.4m complying with the requirements of AS 2890, which is considered acceptable as it reduces the width of the basement and provides more deep soil zones along the western and eastern boundaries.

Traffic Engineer

Council's Traffic Engineer raised concerns that Council's Waste Vehicle is required to perform a reversing manoeuvre within the car park. In response the applicant has provided a letter from McLaren Traffic Engineering dated 18 June 2020 which justified the proposed arrangement on the basis that waste collection will occur outside peak vehicular periods; that a signal control is being provided; and the reverse is limited to one manoeuvre. On balance, this arrangement is acceptable.

Section 4.15(1)(e) The public interest

The proposed development will provide additional affordable housing within close proximity to St Marys railway station and town centre; will revitalise an undeveloped area within St Marys; and will set up a high quality urban outcome for the precinct. Therefore the proposal is considered to be in the public interest.

Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

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

The following Section 7.11 calculations apply to the proposed development.

Calculation for Residential Flat Building x 44 Apartments					
<i>Open Space</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
44	x	2	-	9.3	78.7
<i>City wide</i>					
No. of units	x	Rate	-	Credit for existing dwelling/s	Contribution rate
44	x	2.4	-	9	96.6
AMOUNT					
S.7.11 Contribution Plan	Contribution Rate x Calculation rate				Total
District Open Space	78.7 x \$2,024				\$159,289
Local Open Space	78.7 x \$732				\$57,609
Cultural facilities	96.6 x \$180				\$17,388
	NET TOTAL				\$234,286

Conclusion

In assessing this application against the relevant environmental planning policies, in particular the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposal is considered to satisfy the primary aims, objectives and provisions of these policies.

In its current form, the proposal will have an acceptable impact on the surrounding character of the area. The proposed design is considered to be site responsive and is not contrary to the public interest. The application is therefore worthy of support, subject to recommended conditions.

Recommendation

1. That the submitted variation to a development standard under Clause 4.6 of the standard instrument be supported.
2. That DA20/0041 for the demolition of existing structures and construction of a residential flat building development containing affordable and social housing units, basement parking and associated works at 14 - 18 Phillip Street, St Marys be approved subject to the attached conditions within this report.

CONDITIONS

General

- 1 The development must be consistent with the following plans and stamped approved by Council, the application form, the BASIX Certificate No. 1054090M and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Drawing Reference	Prepared By	Dated
Basement Plan	DA.01.01 Rev C	McGregor Westlake Architecture	18/06/2020
Ground Floor Plan	DA.01.02 Rev C	McGregor Westlake Architecture	18/06/2020
Level 1 Plan	DA.01.03 Rev C	McGregor Westlake Architecture	18/06/2020
Level 2 & 3 Plan	DA.01.04 Rev C	McGregor Westlake Architecture	18/06/2020
Level 4 Plan	DA.01.05 Rev C	McGregor Westlake Architecture	18/06/2020
Roof Plan	DA.01.06 Rev C	McGregor Westlake Architecture	18/06/2020
North Elevation	DA.02.01 Rev B	McGregor Westlake Architecture	26/05/2020
West Elevation	DA.02.02 Rev C	McGregor Westlake Architecture	18/06/2020
South Elevation	DA.02.03 Rev C	McGregor Westlake Architecture	18/06/2020
East Elevation	DA.02.04 Rev B	McGregor Westlake Architecture	26/05/2020
Section A	DA.03.01 Rev B	McGregor Westlake Architecture	26/05/2020
Section B	DA.03.02 Rev B	McGregor Westlake Architecture	26/05/2020
Section C	DA.03.03 Rev B	McGregor Westlake Architecture	26/05/2020
External materials and finishes	DA.05.01 Rev A	McGregor Westlake Architecture	09/12/2019
External materials and finishes - 2	DA.05.02 Rev A	McGregor Westlake Architecture	09/12/2019
External materials and finishes - 3	DA.05.03 Rev A	McGregor Westlake Architecture	09/12/2019
Stormwater Concept Plans	SY192-068 DAC011-015 Rev C/D/E	van der Meer Consulting	27/05/2020
Landscape Plans	LA01 - LA08 Rev J	Sydney Design Collective	25/05/2020
Construction and Demolition Waste Management Plan	Rev B	Elephants Foot	10/12/2019
Strata Plan	1901337 (Sheets 1-7)	Ruiyuan Li	26/06/2020

- 2 Lots 32, 33 & 34 in Deposit Plan 35970 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted prior to commencement of works.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to Penrith City Council prior to completion of the development.

- 3 Exterior lighting shall be provided for the development and is to be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 4 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 5 Prior to the commencement of the construction works, the design recommendations of Access Report, prepared by Vista Access Architects, shall be incorporated into the construction plans. The works shall be certified accordingly by a suitably qualified access consultant prior to the occupation of the dwellings.
- 6 **Prior to the commencement of construction works**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 7 **Prior to occupation of the development**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 8 To ensure a high quality finish internal and external of the development site, any retaining walls shall be of solid masonry construction. The surface shall be either rendered to match the external colour schedule or constructed in a face brick finish.
- 9 All fencing required by the development shall be constructed at full cost to the property owner or developer of the site.
- 10 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the construction plans as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the building. Any plant or unsightly structures installed on the rooftop must be screen from view.
- 11 **Prior to construction works**, detailed elevations showing the proposed external building materials and colours are to be submitted to and approved by Council.

- 12 The following community safety and crime prevention through environmental design (CPTED) requirements are to be implemented for the development:

Lighting

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

Basement Car Parking

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

Building Security & Access Control

- Intercom, code or card locks must be installed for all common entries to the building.
- Australian Standard 220 – door and window locks must be installed in all dwellings and to all balcony/terrace doors.
- CCTV is to be provided to cover communal space areas, including at the entrance to the basement car park. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- The seating provided at the rear of the apartment complex, adjacent to some of the rear terraces, must not enable ease of access into the terraces.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained and that trees should not provide access to second story balconies.

Demolition

- 13 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 “The Demolition of Structures”. **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility.

- 14 **Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:
- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
 - The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

- 15 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.

- 16 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

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

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

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

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

Environmental Matters

- 18 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be installed and maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 19 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

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

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

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

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

21 All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

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

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

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

23 The operating noise level of plant and equipment used on-site during construction shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 24 Occupational noise levels within the premises shall not exceed the relevant noise criteria detailed in 'Noise Impact Assessment. Proposed Residential Development. 14-18 Phillips Street, St Marys' prepared by Rodney Stevens Acoustics Pty Ltd dated 9 December 2019 (Ref. R190480R1 Revision 2).

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development.

A certificate is to be obtained from a qualified acoustic consultant certifying that the development has been constructed to meet the noise criteria in accordance with the approved acoustic report.

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

- 25 Prior to the occupation of the development it must be confirmed that:

- All on-site waste collection infrastructure, doors and access points (Waste Collection Room, Bulky Goods Collection Room, Loading bay, traffic control system and Roller door) are to locked/accessed through Councils Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Waste Management Guideline' document.
- All on-site waste collection infrastructure (Waste Collection Room, Bulky Goods Collection Room and Loading bay) are provided with wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
- The developer has entered into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage.

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

- Councils Waste and Resource Recovery Department has conducted a site inspection of the on-site infrastructure to permit a safe and efficient waste collection service.

- 26 Councils bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure.
- 27 After the demolition of the dwelling at 16 Phillip Street, St Marys and prior to construction works, a Clearance Certificate must be provided. The Clearance Certificate shall capture the entire development site.
- 28 **Prior to Construction works**, an Unexpected Finds Protocol shall be prepared and implemented during construction works. The Unexpected Finds Protocol shall be prepared by a suitably qualified and experienced person and include a procedure for asbestos containing materials.

BCA Issues

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

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

Utility Services

- 30 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.
- 31 Prior to commencement of works, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

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

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

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

Construction

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

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

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

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

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

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

34 Prior to the commencement of construction works:

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

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

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

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

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

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

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

35 Communal clothes drying facilities are to be provided for the development, positioned and screened in a location not visible by the public.

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

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

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

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

Engineering

- 37 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 38 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 39 Prior to commencement of works, a Section 138 Roads Act applications, including payment of application and inspection fees together with any applicable bonds, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

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

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

Note:

- All works associated with the Roads Act approval must be completed prior to occupation of the development.

- 40 The stormwater management system shall be consistent with plans lodged for development approval, prepared by Van Der Meer Consulting, Project No. SY192-068, listed in the following schedule:

Reference No.	Revision	Date
DAC012	E	27/05/2020
DAC013	E	27/05/2020
DAC014	C	27/05/2020
DAC015	D	27/05/2020

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

Prior to the commencement of works, it must be confirmed that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 41 Prior to the commencement of works it must be confirmed that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 Plumbing and Drainage – Stormwater Drainage.
- 42 Prior to the the commencement of works it must be confirmed that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6.
- 43 Prior to the commencement of any works on-site (including demolition works), a Construction Traffic Management Plan (CTMP) shall be submitted to Council's City Assets Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS). The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Assets Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.
- 44 Prior to the commencement of works, a Geotechnical investigation report and strategy shall be prepared r to ensure stability of adjacent Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended.
- 45 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

- 46 Prior to the occupation of the development, all existing (aerial) and proposed services for the development, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 47 Prior to the occupation of the development, all works associated with a S138 Roads Act approval must have been inspected and signed off by Penrith City Council.
- 48 Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management systems shall be in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage Specification for Building Developments.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue Subdivision (Strata) Certificate.

- 49 Prior to the occupation of the development a restriction as to user and positive covenant relating to the:

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

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specifications for Building Developments.

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

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

- 51 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.
- 52 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 53 All vehicles are to enter/exit the site in a forward direction.
- 54 Subleasing of car parking spaces is not permitted by this Consent.

Landscaping

55 All landscape works are to be constructed in accordance with the stamped approved Landscape Concept Plan, prepared by Sydney Design Collective and dated 25/5/20 and Penrith Council's Development Control Plan.

Landscaping shall be maintained:

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

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

56 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.

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

58 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

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

60 The Trees No. 1, 2, 6, 18 & 19 must be retained and protected in accordance with the recommendations of the Arboricultural Impact Assessment Report, prepared by Jacksons Nature Works and dated 9 December 2019.

Subdivision

61 **Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and two (2) copies of the plan. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to council@penrith.city for approval.

Development Contributions

62 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$17,388 is to be paid to Council prior to Construction (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

63 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$159,289 is to be paid to Council prior to construction (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

64 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$57,609 is to be paid to Council prior to construction (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

- 65 A Strata Certificate shall be obtained from the Principal Certifier prior to lodgement of the strata plan with NSW Land Registry Services. The Strata Certificate will not be issued if any of the conditions in this consent issued for the building on the land are outstanding.
- 66 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a person to oversee that the said works carried out on the site are in accordance with the development consent and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

Compliance with Council's waste management controls are further discussed under the likely impacts section of this report.

C10 Transport, Access and Parking

The proposal requires the following on-site parking provision:

Land Use Element	Parking Rate	Required
Residential Flat Buildings	1 space per 1 or 2 bedrooms	44
	2 spaces per 3 or more bedrooms	NA
	1 space per 40 units for service vehicles	1
	Visitor parking: 1 space per 5 dwellings	9
	1 space for car washing for every 50 units	1
Total Required		55

The development provides a total of 20 parking spaces within the development, which does not comply with the requirements of the DCP. Despite this, the application has been lodged under the provisions of the SEPP (Affordable Rental Housing) 2009, which prevails in the event of an inconsistency.

D2 Residential Development

The proposal has been assessed against the applicable provisions of this section and is found to be generally acceptable. Particular clauses which have provided for non compliances or relevant discussion points are identified below:

2.5.5 Landscaped Area

Under the DCP, a minimum landscaped area of 35% is to be provided within the R4 High Density Residential zone. The proposal provides a landscaped area of 825m² (42.8%) of the site, which include deep soil zones.

2.5.11 Corner Sites and Park Frontages

The DCP specifies that for corner sites a minimum setback to the second street of 5.5m is required (although a 3m setback to verandahs is permitted). The development is oriented towards Phillip Street, with Lethbridge Street the second street frontage. As lodged, the proposal originally included a 3.1m setback to Lethbridge Street. To better align with other developments along Lethbridge Street this has been increased with a 5.5m setback being provided to the south-western corner units. The north-western units are setback 4.2m from Lethbridge Street however this is supportable given the significant setback to Phillip Street at the corner (being 9.7m).

Refer also to building separation discussions under State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

2.5.20 Accessibility and Adaptability

The design of the building has been assessed to comply with the key provisions of this Clause. It is noted that >10% of units are designed as adaptable in accordance with this DCP requirement.