

STATEMENT OF ENVIRONMENTAL EFFECTS

634-638 HIGH STREET
AND 87-91 UNION ROAD,
PENRITH

24 MARCH 2020
FINAL
PREPARED FOR TOGA PENRITH DEVELOPMENTS PTY LTD

URBIS

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EXECUTIVE SUMMARY

This Statement of Environmental Effects (**SEE**) has been prepared by Urbis Pty Ltd on behalf of TOGA Penrith Developments Pty Ltd in relation to a development application lodged to Penrith City Council which seeks consent for a mixed-use development at 634-638 High Street and 87-91 Union Road, Penrith.

An executive summary of the SEE is provided as follows:

- The proposal seeks development consent for the construction and operation of a mixed-use development generally comprising:
 - One storey basement carpark;
 - Five storey podium comprising ground floor business premises and commercial tenancies, loading dock access, basement car park access, and ancillary areas, and upper podium car parking;
 - A residential building 14 storeys containing 81 apartments (referred to as Building 01) and a residential building of 37 storeys containing 275 apartments (referred to as Building 02);
 - Creation of a new public road and associated public domain works to be dedicated to Council; and
 - Ancillary works including site services, landscaping, and stormwater infrastructure.
- Determination of the application will be by the Sydney Western City Planning Panel as the Capital Investment Value of the project exceeds \$30 million.
- The subject DA is lodged following a recently approved development for the site for a 15-storey mixed use building containing ground floor commercial and business floor area and 187 residential units (DA/2018/0264). The subject proposal is consistent with the original East Side DA with respect to: the levels of excavation required; built form, land uses, articulation, and urban design of the ground floor of the podium; above ground car parking component; delivery of a new public road; retention of communal open space at podium level; and the built form, articulation, design, and configuration of Building 01.
- TOGA has since evolved their development ambitions to align with Council's vision for higher density development as envisaged by an amendment to *Penrith Local Environmental Plan 2010 (PLEP 2010)* which introduced an 'incentives clause' provision to permit increased building heights and floor space where development achieves design excellence and delivers community infrastructure.
- The proposal utilises the incentive bonus provisions of clause 8.7 through the delivery of community infrastructure in the form of a public benefit offer. The community infrastructure is for the delivery of:
 - Construction of a signalised intersection (also described as the 'ultimate intersection') at the intersection of the new north-south road and High Street, subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals.
- Further, the proposed development delivers public benefits and community infrastructure to be delivered in part by the development and in part as works-in-kind as follows:
 - Public domain works in kind (including construction of the new road, civil works required to deliver the new road, services within the boundaries of the site, and provision of temporary road works).
 - Remediation of the site in line with recommendations of the detailed contamination assessment. All land to be dedicated to Council will be remediated where required prior to the dedication.
 - Excision of approximately 1,623 sqm of land area from the site and dedication to Council for the purposes of a new road, footpath, and public domain works.
- The proposal utilises design excellence provisions of PLEP 2010 clause 8.4. The clause provides that the assessment of design excellence is to be subject to an architectural design competition. The original DA for the site was subject to an architectural design competition. The subject proposal relies upon an amended endorsement of design excellence provided by the Design Integrity Review Panel.
- The proposal is assessed against applicable State and local planning policies. It is consistent with the objectives for redevelopment in Penrith CBD and specifically the vision established in the Architectural Design Competition for the original development and winning design by SJB and Architect Prineas.

- The assessment concludes that the proposal represents a design, quality and form consistent with the objectives of relevant State and local planning policies and will have acceptable environmental impacts.
- The residential apartments will offer residents a high standard of internal and external amenity. The apartments achieve a high degree of compliance with the key parameters of the ADG including natural cross ventilation, solar access, building separation, landscaping area and communal open space.
- Having considered all the relevant considerations under section 4.15 of the EP&A Act, we conclude that the proposal represents a sound development outcome that respects and responds appropriately to the prominent site location and the amenity of surrounding developments.
- The proposed development is considered well-worthy of Council support and ultimately approval from the Sydney Western City Planning Panel.

1. INTRODUCTION

1.1. OVERVIEW

This Statement of Environmental Effects (**SEE**) has been prepared by Urbis Pty Ltd on behalf of TOGA Penrith Developments Pty Ltd (**the applicant**). This SEE accompanies a Development Application (**DA**) submitted to Penrith City Council (**Council**) for mixed-use development (**the proposal**) at 634-638 High Street and 87-91 Union Road, Penrith (**the site**). The site is located on the southern side of High Street and is immediately east of John Tipping Grove within the western fringe of the Penrith CBD.

The applicant seeks development consent for the construction and operation of a mixed-use development generally comprising:

- One storey basement carpark;
- Five storey podium comprising ground floor business premises and commercial tenancies, loading dock access, basement car park access, and ancillary areas, and shared Level 01 – 04 upper podium car parking;
- A residential building with a total rise (including podium) of 14 storeys containing 81 apartments (referred to as **Building 01**) and a residential building with a total rise (including podium) of 37 storeys containing 275 apartments (referred to as **Building 02**);
- Creation of a new public road and associated public domain works to be dedicated to Council; and
- Ancillary works including site services, landscaping, and stormwater infrastructure.

The proposal is not a concept or staged development application under Part 4, Division 4.4 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. However, it is envisaged that the proposal will be complemented by a separate DA to be lodged for land on the western side of John Tipping Grove, also owned by the applicant. The proposal for which consent is sought is illustrated in **Figure 1** below.

Figure 1 – Proposed Development



Source: SJB Architects

1.2. CONSENT AUTHORITY

The DA is lodged with Council under Part 4 of the EP&A Act. The QS Report at **Appendix D** calculates the estimated cost of development is \$114,146,844 (plus GST). As the estimated cost of works exceeds \$30 million, the Sydney Western City Planning Panel (**SWCPP**) will be the relevant consent authority for the DA.

1.3. REPORT STRUCTURE

This SEE identifies the site and surrounding locality, describes the proposed development, and provides an assessment against the relevant matters for consideration, pursuant to Section 4.15 of the EP&A Act.

This SEE is structured, as outlined below:

- Section 1: Introduction
- Section 2: Site and Surrounding Context
- Section 3: Background
- Section 4: Proposed Development
- Section 5: Strategic Planning Framework
- Section 6: Statutory Planning Framework
- Section 7: Section 4.15 Assessment
- Section 8: Conclusion

1.4. PROJECT TEAM

This SEE should be read in conjunction with the following plans and specialist reports.

Table 1 – DA Documentation

Document	Consultant	Appendix
Proposed Community Infrastructure Offer	Urbis	A
Design Excellence Endorsement	Design Integrity Review Panel	B
Site Survey	Veris Australia Pty Ltd	C
Quantity Surveyors Statement	Osborne + Song	D
Architectural Plans	SJB Architects	E
Design Integrity Panel Design Evolution Report	SJB Architects	F
Design Verification Statement & SEPP 65 Compliance Assessment	SJB Architects	G
Landscape Design Report and Plans	Black Beetle Pty Ltd	H
Civil Engineering Plans	Robert Bird Group Pty Ltd	I
BASIX Certificate	EMF Griffiths	J
Transport Impact Assessment	Parking and Traffic Consultants	K
Acoustic Report	Acoustic Logic	L
Preliminary Geotechnical Investigation Report	Douglas Partners	M
Detailed Contamination Investigation Statement	Douglas Partners	N
Flood Impact Assessment	Cardno	O
Electrical Infrastructure Report	JHA Consulting Engineers	P
Hydraulic Infrastructure Report	JHA Consulting Engineers	Q
BCA Compliance Report	McKenzie Group	R
Access Statement	Accessible Building Solutions	S
Fire Engineering Assessment	GHD Pty Ltd	T
Waste Management Plan	Waste Audit and Consulting Services	U
Aboriginal Archaeological Assessment	Comber Consulting	V
Qualitative Wind Assessment	Cermak Peterka Petersen	W

Document	Consultant	Appendix
Arboricultural Impact Assessment	Redgum Horticultural	X
Solar Reflectivity Assessment	Cermak Peterka Petersen	Y

2. SITE AND SURROUNDING LOCALITY

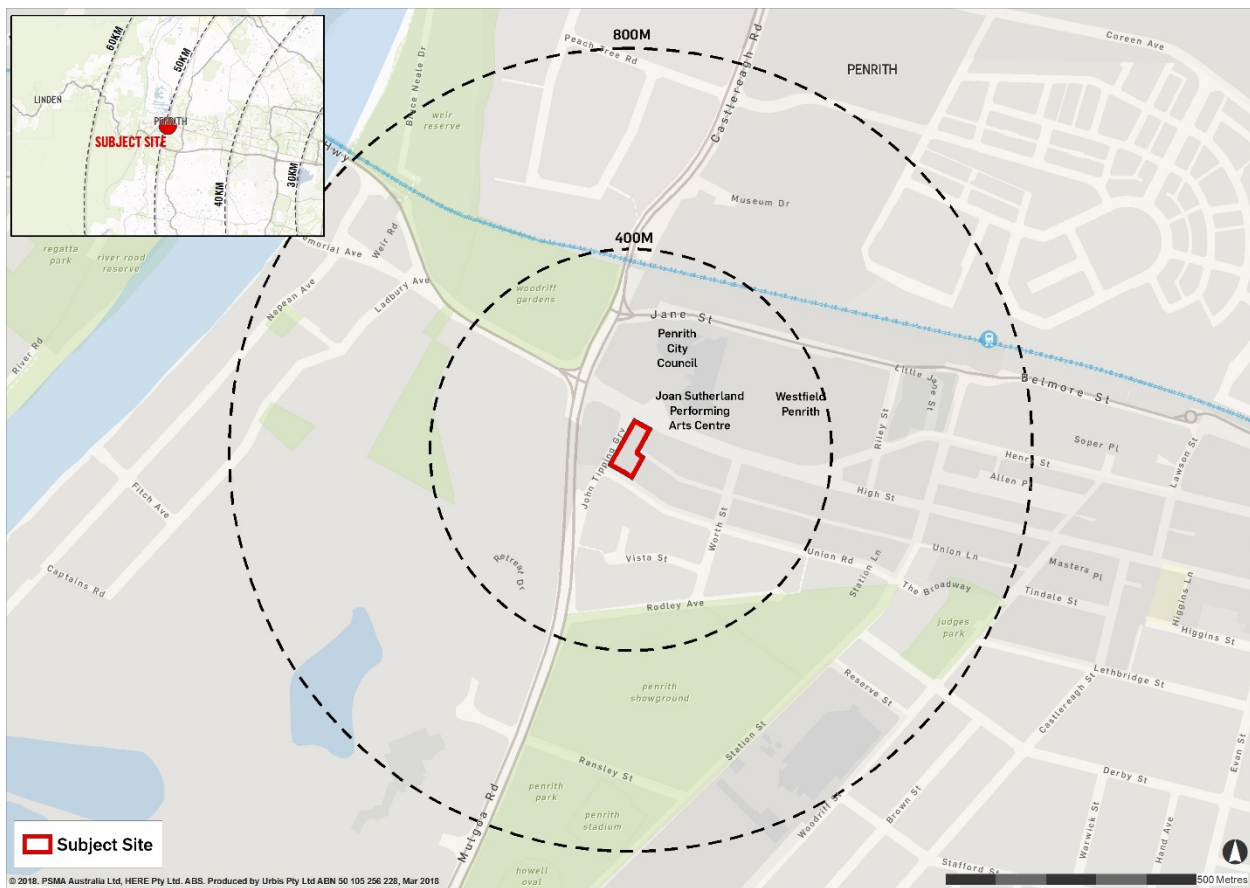
2.1. LOCALITY

The land to which this DA relates is described as 634-638 High Street and 87-91 Union Road, Penrith NSW 2750 (**the site**). The site is located within the west portion of Penrith Central Business District (**CBD**) in the Penrith Local Government Area (**LGA**).

In a broader regional context, Penrith is approximately 32 km west of Parramatta CBD and approximately 54 km west of Sydney CBD. It is geographically well-positioned as one of Sydney's major strategic centres, with proximity to the Blue Mountains to the west, the Hawkesbury to the north, and the Western Sydney Airport growth catchment to the south. Penrith's evolution as a major regional hub brings an opportunity to become Sydney's 'third city', through increased investment, urban amenity and high value social capital.

The location of the site within its broader CBD context is shown in **Figure 2** below. The site is located within the Culture and Civic precinct at the western edge of the CBD and immediately south of the Penrith Civic Centre.

Figure 2 – Site Location Map



Source: Urbis

2.2. SITE DETAILS

The site is legally described as Lot 300 in Deposited Plan (DP) 1243401. This allotment comprises two parcels of land either side of John Tipping Grove (a gazetted public road).

The land to which this DA relates comprises the eastern part of Lot 300 in DP1243401 only. It is envisaged that a separate application will be submitted by the applicant for the western part of Lot 300 in DP124301 at a future date.

The eastern part of Lot 300 in DP1243401 has a total area of 5,407 sqm and has the following frontages to the surrounding public roads:

- 43 metre frontage to High Street;
- 105 metre frontage to John Tipping Grove;
- 56 metre frontage to Union Road; and
- 23 metre frontage to Union Lane.

The site is generally flat with a very slight slope to the west and is situated at an elevation of approximately 27m – 28m AHD. The Site Survey attached at **Appendix C** provides further topographical details.

The site contains minimal vegetation, with low to medium significance. As described in the Arboricultural Impact Assessment (at **Appendix X**), existing trees include a cluster of Box Elder Maples and an Australian Red Cedar. Immediately west of the site, two Dawn Redwoods are located within the John Tipping Grove road reserve, and immediately south east a Queensland Brush Box is located within the Union Road reserve. These existing trees were approved for removal under the earlyworks DA (DA18/0654).

Aerial photography of the site is provided in **Figure 3** below.

Figure 3 – Site Aerial



Source: Urbis

2.3. EXISTING SITE CONDITION

The development site is largely vacant with the exception of one single story building located at the northern portion of the site and a commuter carpark to the south of the site.

A review of land titles and aerial photography indicates that the site was used for residential purposes until 1961, when it was then redeveloped for the purpose of a car yard. A derelict fuel pump (bowser) is located at the northern portion of the site.

Photographs of existing development on the site are provided below.

Figure 4 – Photographs of Existing Development



Picture 1 – Existing hard stand area (looking south)

Source: Urbis



Picture 2 – Existing hard stand area (looking east)

Source: Urbis



Picture 3 – Existing building with old petrol station pump

Source: Urbis



Picture 4 – Existing development (look south west)

Source: Urbis

2.4. SITE HISTORY

Table 2 provides a summary of the site's relevant development application history.

Table 2 – Development History of The Site

DA Reference	Proposal	Determination Status
DA17/1306	Temporary sales and display suite	Approved by Penrith City Council 18 December 2017
DA18/0654	Demolition of existing structures, removal of underground fuel storage tanks, soil remediation works, site establishment works, fencing, site office, earthworks, and tree removal on the eastern part of the lot.	Approved by Penrith City Council 4 December 2018
DA18/0264	Construction of a part-12, part-15 storey mixed use development including basement, podium level 1 and level 2 car parking, ground floor business and commercial uses, 187 residential apartments, construction and dedication of a public road, stormwater drainage, civil and public domain works, and landscaping.	Approved by Sydney Western City Planning Panel 21 October 2019

2.5. SURROUNDING CONTEXT

The site's main frontage is to High Street which acts as a central pedestrian and commuter spine through the CBD. The urban context of the site is predominately low-medium density residential and commercial tenancies. The site is in proximity of tourist attractions, community facilities, public spaces, and employment generating development. The site's immediate surrounding context is further described as below.

North

Directly north of the site is High Street which acts as the central east-west spine through the Penrith CBD. The site is immediately south of the existing Penrith City Council complex including the Penrith City Library, Penrith City Council building, Penrith Civic Centre, and Penrith Tourism Centre.

To the north east of the site is the Joan Sutherland Performing Arts Centre and Westfield Penrith. Westfield Penrith has over 300 speciality stores, plus several large anchor tenants including supermarkets, a cinema complex, and discount department stores. The food and beverage offering at Westfield Penrith functions as a centre of dining, entertainment, and leisure for the Penrith CBD.

East

Directly to the east of the site, north of Union Lane, is a future development site located at 85-101 High Street, Penrith. As outlined within Section 3 of this SEE, the applicant has held pre-lodgement consultation with the owners of this adjacent development site. To the east of the site south of Union Lane is a recently completed eight storey residential flat buildings with ground floor commercial premises.

South

Directly to the south of the site is Union Road and a three-storey residential flat building and low scale (1-2 storey) villa-style housing. Further south is a recently completed six storey residential flat building.

West

Immediately west of the site is John Tipping Grove, a local road owned by the Council which is identified within the planning controls to be closed to traffic in the future, and an existing car sales yard which is under the control of the applicant and will form part of a future development site (not the subject of this DA). Further to the west of the site is Mulgoa Road.

Images of the surrounding context are provided below in **Figure 5**.

Figure 5 – Photography of Surrounding Area



Picture 5 – Adjacent residential development at 83-85 Union Road (looking east)
Source: Urbis



Picture 6 – John Tipping Grove (looking south)
Source: Urbis



Picture 7 – High Street (looking west)
Source: Urbis



Picture 8 – Roundabout north of the site at interface with High Street and Joan Sutherland Performing Arts Centre (looking north east)
Source: Urbis



Picture 9 – Residential building south of Union Street
(looking south east)

Source: GoogleMaps, 2020



Picture 10 – Car and vehicle sales centre west of the site
(looking west)

Source: Urbis

2.6. TRANSPORT NETWORK

The site is primarily serviced by Mulgoa Road, which is a State Road, and High Street, which is classified as a Local Road and forms the northern boundary of the site. Access is also available via Union Road and Union Lane.

The site is geographically well-positioned to many transport options. It is less than 1km from Penrith Rail Station and Penrith Bus Terminal, providing services to the Blue Mountains, Hawkesbury, inner-Sydney, and the surrounding suburbs.

The site is positioned at the juncture of two arterial roads, High Street and Mulgoa/Castlereagh Road. These roads provide east-west and north-south connectivity throughout the Penrith CBD and surrounding suburbs.

3. BACKGROUND

3.1. PLANNING PROPOSAL

The proposed development is informed by a recently made amendment to the *Penrith Local Environmental Plan 2010 (PLEP 2010)* which introduced an 'incentives clause' provision to certain key sites to permit increased building heights and floor space where development exhibits design excellence and community infrastructure is delivered. This amendment was the subject of a planning proposal referred to by the Department of Planning, Industry, and Environment (**Department**) as PLEP 2010 Amendment No 14 & 25.

This section provides a summary of the planning proposal insofar as it applies to the proposed development.

In April 2016, following receipt of three separate site-specific planning proposals, Penrith City Council resolved to prepare a planning proposal to introduce an incentives clause applying to certain 'key sites' identified in the PLEP 2010. The subject site is identified within key site 10. The objective of the planning proposal was to coordinate the growth of the Penrith CBD and ensure the delivery of material public benefits.

The planning proposal sought to insert clause 8.7 into PLEP 2010 to allow development with a floor space ratio (**FSR**) of up to 6:1 on key site 10, and key site 3 adjacent to the site, where the development is the subject of an Architectural Design Competition and delivers agreed public benefits. To attain an FSR of up to 6:1 on the site, the insertion of clause 8.7 would remove the application of clause 4.3, clause 4.4, and clause 8.4(5) of PLEP 2010 from development on the site. Upon gazettal of the planning proposal, development subject to the requirements of clause 8.7 would have no relevant height control stipulated within PLEP 2010.

On 14 April 2016, as delegate of the Greater Sydney Commission, the Department issued a Gateway Determination to the planning proposal. The planning proposal was publicly exhibited between 9 May to 6 June 2016. Following exhibition, it was recommended that no changes be made to the planning proposal.

As part of the Gateway Determination, Council was required to prepare a public benefit policy to inform the planning proposal. Therefore, the planning proposal was exhibited with 'public benefit policy principles' to provide certainty to the community and developers regarding proposed public benefit provision. Following exhibition of the planning proposal, Council resolved to exhibit the draft policy.

Through the drafting and exhibition of the public benefit policy, the description of 'public benefit' was amended to 'community infrastructure' as consistent with similar provisions in other statutory planning instruments. Community infrastructure referred to development for the purposes of recreation areas, recreation facilities (indoor), recreation facilities (outdoor), recreation areas (major), public car parks or public roads. Community infrastructure is to be provided on the development site to which the clause relates.

On 25 July 2016, Council resolved to endorse the planning proposal as exhibited and to request the Minister for Planning to make the amendment in accordance with the provisions of the EP&A Act. Accordingly, the planning proposal was returned to the Department for assessment and legal drafting on 28 September 2016.

On 21 June 2017 the Department wrote to Council advising that as a result of preliminary investigation into Penrith CBD flood evacuation, key sites 1, 2, 3, 5, 9 and 10 were to be deferred due to potential flooding and evacuation risks on these key sites.

On 23 June 2017, PLEP 2010 Amendment No 14 was gazetted and clause 8.7 was inserted into PLEP 2010. This clause provides an incentives clause to enable additional FSR controls for development on five key sites (excluding key site 10) within the Penrith City Centre in return for public benefit.

PLEP Amendment No 14 deferred consideration of the remaining six key sites (including key site 10) due to the unresolved flooding and evacuation issues. These issues were resolved and subject to a follow up amendment referred to as PLEP Amendment No 25. This amendment sought to apply the 'incentives clause' to the remaining six key sites and permit increased building heights and floor space where development exhibits design excellence and community infrastructure is delivered. Accordingly, PLEP Amendment No 25 was made and published on the NSW legislation website on 20 December 2018.

The subject DA relies upon the provisions of clause 8.7 in PLEP 2010 in relation to development on land identified as key site 10.

3.2. COMPETITIVE DESIGN PROCESS

In accordance with clause 8.4 of PLEP 2010, an architectural design competition was held to inform the original East Side DA. The architectural design competition applied to the site and the adjacent land ('key site 3') comprising 640-652 High Street, Penrith.

The applicant invited three competitor teams to participate in the architectural design competition over a period of six weeks. The three participating competitor teams were:

- SJB with Architect Prineas;
- Kann Finch with Urban Possible; and
- RotheLowman with Baber Studio.

The design competition was undertaken in accordance with a Design Excellence Competition Brief (dated September 2017). In November 2017, the appointed Competition Jury concluded that, based on detailed consideration of each of the schemes, the SJB and Architect Prineas scheme achieved the highest level of consistency with the Design Brief and was the scheme most capable of achieving design excellence.

Key design elements identified as contributing to the success of the winning scheme included:

- The number of tower elements were reduced and setback from the podium to "open" the public domain space in the centre of the site.
- The podium edge to the central public space was articulated to mimic the effects of erosion taken from the Blue Mountains with the material from this represented at ground level.
- The towers at the western edge could be staged and then linked to produce a single built form element.
- The facade detailing particularly to the western (Mulgoa Road frontage) presented a well-considered quality elevation (relevant for 'key site 3').
- The massing represented the best outcome for the site context.

Following the receipt of pre-lodgement advice from Council that necessitated design changes, and through the preparation of separate DAs for the subject site (the eastern portion) and 'key site 3' (the western portion), changes were required to the winning scheme prior to lodgement of the original DA. As such, the appointed Jury of the architectural design competition was involved in four design review presentations with the applicant and winning design architect prior to the finalisation of the scheme for the original development.

On 14 March 2018, the applicant received a letter signed by the appointed Competition Jury endorsing the proposed development, as amended, for the site. This letter was lodged with the original East Side DA.

Subsequent to the lodgement of the DA on 16 March 2018, the proposal was subject to amendments in relation to urban design details, building surroundings, elevations, and ground floor uses. Council raised concern to the applicant and Competition Jury regarding the potential negative impacts of the amendments on design excellence, public domain, ground floor amenity, presentation to the street, and the ability of the development to achieve adequately connected, high amenity and activated street frontages. The Jury of the Competition was re-engaged to review the amended design and to provide advice and direction.

The Competition Jury, now referred to as the Design Integrity Review Panel (**DIRP**), met in February 2019 and, in a letter dated 15 February 2019, provided their endorsement of the amended design as it relates to design excellence and the winning scheme presented to the Competition Jury prior to the lodgement of the DA. The Panel's endorsement of the amended design was subject to a set of requirements which included:

- Provision of a site plan which includes updated floor, pavement and planter boxes levels;
- Provision of an annotated plan demonstrating how ground floor tenancies may be converted to food and drink premises;
- Amendments to all podium elevations and sections to be consistent with details depicted by 3D images presented to the DIRP including providing shopfront style panels to the High Street elevation and a simplified design for the western side elevation;

- Provision of larger scaled sections describing podium elevations, materials, finishes, details of public art and or illumination for the High Street elevation and special lighting for entrances to the building and arcades in order to promote wayfinding; and
- Extension of the common recreation rooms on level 3.

At the time of the assessment of the original DA, amended plans addressing the above requirements had not been provided. The DIRP design amendments and additional requirements necessitated changes to architectural, civil, public domain, and landscape plans; these amendments were sought via recommended conditions of consent to the notice of determination of DA18/0264 (dated 22 October 2019) (see below).

3.3. EARLY WORKS DA

On 18 December 2018 Penrith City Council approved an early works development application (DA18/0654) on the site. The granted development consent for:

Demolition of existing structures, removal of underground fuel storage tanks, soil remediation works, site establishment works, fencing, site office, earthworks, and tree removal on the eastern part of the lot.

As such, demolition, tree removal, site establishment works, and remediation works have already been approved under DA18/0654. Any reference to these items within this SEE is for abundant caution that all works are captured within a relevant approval and all impacts associated with the development have been considered.

3.4. ORIGINAL EAST SIDE DEVELOPMENT

The subject DA is lodged following a recently approved development application for the site (**the original East Side DA**) (Reference: DA/2018/0264). This section provides a summary of this approved development.

On 16 March 2018, TOGA Penrith Developments Pty Ltd lodged a DA to Council seeking consent for a mixed use development on the east side of Part Lot 300 DP 1243401. The development did not include any works on the west side of Part Lot 300 in DP 1243401 (west of John Tipping Grove). The DA proposed:

- A 15-storey mixed use building with frontage to High Street and John Tipping Grove containing ground floor commercial and business floor area and 106 residential apartments;
- A 12-storey mixed use building with frontage to Union Road and John Tipping Grove containing ground floor commercial floor area and 81 residential apartments;
- One level of shared basement car parking for 51 vehicles comprising 34 visitor spaces and 17 residential spaces (including 4 accessible spaces and 5 tandem spaces);
- Shared ground floor parking comprising 6 commercial spaces, a car wash space, 2 x shared visitor/service spaces, 2 x bicycle parking spaces, end of trip facilities and waste bay, residential lobby areas, and commercial and business tenancies with a floor area of 1075 sqm.
- Shared level 1 and level 2 podium car parking for 191 vehicles including 15 accessible and 5 tandem spaces;
- Shared level 3 communal open space, indoor communal room and gym;
- Construction and dedication to Council of a new two lane road spanning between Union Road and High Street with an interim one lane connection to the existing roundabout;
- A ground floor arcade/pedestrian link between John Tipping Grove and Union Lane; and
- Stormwater drainage, civil, landscaping and public domain works.

The original East Side development is illustrated in **Figure 6** below.

Figure 6 – Original East Side Development



Source: SJB Architects

The estimated Capital Investment Value of the original East Side DA exceeded \$30 million (including GST); therefore it was regionally significant development. The relevant consent authority, the Sydney Western City Planning Panel (**SWCPP**), approved the original DA on 21 October 2019 (reference: 2018SWT005 DA).

Key planning matters considered in the assessment of the original East Side DA are summarised below.

- **Lot Consolidation** – At the time of lodging the original East Side DA, the development site comprised three allotments legally described as Lot 1 in DP 544302 and Lots 1 and 2 in DP 1202310. Since the lodgement of the DA, the three allotments and allotments located on the western side of John Tipping Grove (Lot 3 in DP 242506, Lot 12 and 13 in DP 717196, and Lot 36 in DP 731213) were amalgamated. The land to which the original development related was the eastern portion of the amalgamated lot legally described as Lot 300 in DP 1243401 (with a total site area of 12,030sqm). John Tipping Grove is a gazetted public road which spans north-south through the centre of Lot 300 in DP 1243401.
- **Planning Proposal and Architectural Design Competition** – The original proposal was the subject of an architectural design competition where schemes with a 3.3:1 and a 6:1 FSR were presented relating to development over two stages on both the eastern and western parts of the amalgamated lot (Lot 300 in DP 1243401). At the time of the architectural design competition, the planning proposal to insert the incentives clause applying to certain 'key sites' was under consideration by the Department and had not yet been gazetted. The original East Side DA did not have regard to draft clause 8.7 as the development did not propose any incentive floor space above that permitted for the site in PLEP 2010 (being 3.3:1).
- **Building Height Non-Compliance** – The maximum permissible building height for the site under PLEP 2010 clause 4.3 was 24 metres. The maximum building height of the proposal was 53.1 metres at the top of the lift core to Building 02 and 43.1 metres at the top of the lift core to Building 01. The extent of variance was calculated to be 29.1 metres for Building 02 and 19.1 metres for Building 01. Accordingly the DA was supported by a request to vary the building height control under PLEP 2010 clause 4.6. This was supplemented by legal advice prepared by The Hon. Malcolm Craig QC, with regard to the extent of variation. Notwithstanding, under the advisement of the SWCPP, the original East Side DA was updated to provide an assessment of the proposed development under draft clause 8.7 of PLEP 2010. This assessment found that the quantum of community infrastructure proposed to be delivered on the site exceeded that which would be required under the Community Infrastructure Contributions Plan.

- **Gross Floor Area** – The original DA proposed a total gross floor area (**GFA**) of 17,729.8 sqm. This resulted in an FSR of 1.47:1 across the consolidated site area (12,027 sqm) and 3.28:1 across the land to which the development related, being the eastern part of Lot 300 in DP 1243401 (5,402.1 sqm). The proposal utilised the 3:1 base FSR development standard, plus an additional 0.3:1 FSR for development that had been subject to an architectural design competition (pursuant to PLEP 2010 clause 4.4).

The subject proposal is generally consistent with the original East Side DA.

3.5. PRE-LODGE MENT CONSULTATION

A formal pre-lodgement meeting was held at Council offices on 24 February 2020. This was attended by senior Council staff and representatives of Toga and the project team (including the architect, planning consultant, and traffic consultant). On 9 March 2020, Toga received Council's pre-lodgement advice.

The following table summarises the key matters discussed in the pre-lodgement meeting and provides a detailed response to the matters raised in Council's pre-lodgement advice (dated 9 March 2020).

Table 3 – Pre-Lodgement Meeting Response

Matter	Response
1. PLANNING	
(a) Concept and Stage 1 Development	
<ul style="list-style-type: none"> • Recommend that a Concept and Stage 1 development proposal be lodged for the development site. • No transference of floor space between Key Sites 3 and 10, above and beyond the maximum FSR permissible for the development of each site is permissible. 	<p>The subject DA is lodged following a recent approval for a 15-storey mixed use development (DA/2018/0264). The proposal is generally consistent with this approved DA in relation to: built form, land uses, building articulation, and urban design of the podium and Building 01; delivery of a new public road and public benefits; and communal open space.</p> <p>The subject proposal is consistent with the development principles of the approved DA; for this reason a concept DA is not required. Notwithstanding, there is no statutory obligation for TOGA to submit a concept development application for the proposal.</p> <p>The subject proposal relies on the permissible FSR to Key Site 10 only; it does not seek or rely on the transfer of FSR between the Key Sites.</p>
(b) John Tipping Grove	
<ul style="list-style-type: none"> • Council will not take on ownership or maintenance of an asset which is significantly constrained, or which is found to be economically burdensome. • Liaise with Council's development services team prior to confirming designs that rely on John Tipping Grove as a contribution to any CI Offer. • Should development of the western part Lot be proposed under clause 8.7 of PLEP, Community Infrastructure must clearly demonstrate the nature and value of the CI to the City Centre in accordance with the requirements of the CI Policy. 	<p>The community infrastructure offer is for payment for or the construction of a signalised intersection (referred to as the 'ultimate intersection') at the intersection of the new north-south road and High Street. The community infrastructure offer does not relate to any works on John Tipping Grove.</p>

Matter	Response
<p>(c) Design Competition</p> <ul style="list-style-type: none"> It is understood that the GAO has, through a Design Review Panel (DRP), reviewed the current proposal for the eastern part lot and will be issuing correspondence confirming that the architecture is satisfactory and that an Architectural Design Competition is not required. Any correspondence issued by the GAO is to make reference to the revision and date of the endorsed package of plans and documents. Development of the western part Lot must address the requirements of clause 8.4 of PLEP. 	<p>As detailed in Section 3.3 of this SEE, an architectural design competition was held to inform the development of Key Sites 3 and 10, with a 3:1 and 6:1 FSR scheme presented.</p> <p>In November 2017, the appointed Competition Jury, now referred to as the Design Integrity Review Panel (DIRP), concluded that the SJB and Architect Prineas scheme achieved the highest level of consistency with the Design Brief and was most capable of achieving design excellence. On 15 February 2019, the Competition Jury provided endorsement of the proposal as it related to design excellence and the winning scheme prior to lodgement of the original DA for the 15-storey mixed use building (DA/2018/0264) (approved on 22 October 2019).</p> <p>Since the approval of the original DA, TOGA has refined the development plans for the site to respond to and better align with Council's vision for high density development, as envisaged by clause 8.7 of PLEP 2010.</p> <p>The subject DA requires amended endorsement of design. Accordingly, a letter signed by an appointed representative of the DIRP endorsing the subject proposal is provided at Appendix B.</p>
<p>(d) Community Infrastructure – Clause 8.7 of PLEP</p> <p>The CI offer largely retains on infrastructure and roadworks provided for under DA18/0264, and is identified as:</p> <ul style="list-style-type: none"> Land dedication, Roadworks construction costs, and An offer to construct an interim signalised intersection, or should various factors prohibit its delivery, a default arrangement for a monetary contribution towards the construction the same signalised intersection, to replace the existing High Street roundabout. <p>The following matters related to this component of the CI offer are raised for your consideration:</p> <ol style="list-style-type: none"> Development at the site of the scale and nature proposed will not be adequately serviced by the provision of the interim signalised intersection proposed in place of the existing High Street roundabout. Council has detailed its opposition to an interim signalised intersection and have clearly communicated that this will not be accepted due to the detrimental 	<p>The proposed 'community infrastructure' offer is detailed in a letter submitted to Penrith City Council (at Appendix A). The offer is made in accordance with Council's <i>Community Infrastructure Policy</i> (adopted on 30 April 2018).</p> <p>The 'community infrastructure' offer is for payment for or construction of a signalised intersection (the 'ultimate intersection') at the intersection of the new north-south road and High Street, subject to agreement on construction details, timing, landowners' consent, and RMS and other authority approvals.</p> <p>The proposal delivers additional public benefits and community infrastructure as works-in-kind:</p> <ul style="list-style-type: none"> Public domain works in kind (including construction of the new road, civil works required to deliver the new road, services

Matter	Response
<p>impacts on the nearby intersections of High Street, Mulgoa Road and Great Western Highway, and High and Worth Streets, and on queue lengths backing up into the new DCP road, as well as on the ability to adequately respond to pedestrian safety, without impacting vehicle servicing.</p> <p>(iii) The inclusion in the CI Offer of a cash payment towards the interim intersection construction, should the interim signalised intersection not be achievable on various grounds, is not supported for the reasons established above.</p>	<p>within the boundaries of the site, and provision of temporary road works).</p> <ul style="list-style-type: none"> Dedication to Council of 1,623 sqm of land for the purposes of a new road, footpath, and public domain works. <p>The proposal's compliance with PLEP clause 8.7(5) is detailed in Section 6.4.3 of this SEE.</p>
<p>(e) Podium and Site Suitability</p> <ul style="list-style-type: none"> The proposal for a 5-storey podium comprising primarily of car parking is not supported and is contrary to the B4 Mixed use zone objectives. The podium does not acceptably relate to the adjoining land uses within the zone or those within the adjoining R4 High Density Residential zone to the south. The sheer wall heights of the podium are not representative of the future desired character of the Precinct or its interface with adjacent land uses and zones. The ability of Key Site 3 to achieve a density of development up to 6:1 is subject to a consent, which must include the provision of Community Infrastructure. 	<p>The 5-storey podium provides compliant car parking provision for the residential land uses. The circumstances of the development necessitate the provision of above ground car parking to satisfy required residential car parking rates and avoid high ground water levels observed 6m below the existing ground level.</p> <p>The 17.85 metre wall height of the podium is compliant with the DCP High Street podium height (within a 5 storey built form). The form and use of the podium is compatible with the existing and desired future character of the city centre.</p> <p>As such, the subject proposal has received design excellence endorsement by the DIRP.</p>
<p>(f) General Landscape</p> <ul style="list-style-type: none"> Landscape screening is to be provided to the southern elevation of Unit B501 adjacent to the communal open space area and privacy is to be adequately addressed. The landscaped communal open space is to consider areas for children and families such as a sandpit area and/or synthetic turf area with sun shading, movable seating, periphery circular paved area etc. The landscaping package of documentation is to fully detail the sustainability of the location, soil volumes and the viability of planting on structure. 	<p>As detailed on the landscape plans (at Appendix H), dense landscaping is provided to separate the southern side of Apartment B501 from the communal open space.</p> <p>The communal open space situated at the Level 05 podium contains an outdoor decked terrace with integrated bench seating (and pergola cover), an outdoor swimming pool, expansive seating areas landscaped lawn area, landscape planters, outdoor barbeque/sink facilities, and a path network. These cater for a variety of activities suitable for families and children.</p>
<p>(g) Design General</p> <ul style="list-style-type: none"> A second level of basement parking is to be provided and the podium reduced to a maximum of 3 storeys. The depth of each mixed use building does not appear to sufficiently transition from deeper commercial and 	<p>The proposed architectural design responds to these matters in the following regards:</p> <ul style="list-style-type: none"> The 5-storey podium provides compliant car parking provision for the residential uses. The circumstances of the development

Matter	Response
<p>retail uses at the lower levels to narrower building depths for the residential uses at the upper levels.</p> <ul style="list-style-type: none"> • The design of apartment A509 – 1309 is not acceptable when assessed against the Apartment Design Guide (ADG) and Council's plans and policies as they relate to overall layout, amenity and solar access. • Privacy is to be improved for the occupants of Unit A507 (courtyard area) and A506 (bedroom window). • The provision of accessible units shall consider unit mix and the provision of greater choice for the future occupants of adaptable units. • The electrical substations located on the south-eastern elevation are to be relocated into the built form. • Concrete plinths associated with the substations are to be shown if located in landscaped areas. • The location of grease arresters is to consider amenity (small) and streetscape impacts, an alternative location is to be investigated for the grease arrester located near the lobby entry for Tower 2. • Basement parking is not to intrude on the deep soil adjacent to the new DCP road. • Amenities are to be provided for staff of the commercial tenancies of Tower 1, at ground floor within Tower 1. • Bulky waste is not to be accessed through the amenities air lock (Tower 2). • Swept paths are to be provided for vehicle manoeuvres throughout the site including at the Tower 1 vehicle entry point. • Adequate well designed and practically located end of trip facilities are to be provided for staff of the development. • Toilet facilities are to be provided in compliance with the Building Code of Australia including equitable provision of staff accessible amenities. • If construction staging of the development is proposed, staging plans are to be provided and interim interfaces, parking allocation, circulation and access to be detailed. 	<p>necessitate the provision of above ground car parking to satisfy required residential car parking rates and avoid high groundwater levels encountered below existing site levels at an approximate depth of 6.5 to 9 m.</p> <ul style="list-style-type: none"> • Apartment A509-1309 has been approved in the original DA and is ADG compliant. • Landscaping and fencing separates Apartments A5.06 and A5.07 from the communal open space and achieves sufficient visual privacy. • Both grease arrestors are below street level and not visible to the public. The grease arrester under Building 2 can be relocated if the position of the access hatch is not supported (potentially under the loading dock); the location of this grease arrester is proposed to allow easy access by a maintenance vehicle from the new road. • All deep soil landscaping occurs outside the line of the basement. • Public amenities are located directly adjacent to the commercial areas and split according to population. Overflow staff amenities are access directly off the new road as opposed to being accessed from the ground floor car parking area. • Bulky waste has been relocated so that it is access directly from the loading dock. • Swept path diagrams are provided in the Traffic Impact Assessment (at Appendix K). • End of trip facilities are provided for staff of the ground floor retail tenancies. • Construction staging plans and sections are included in the architectural plans (at Appendix E). Construction staging plans can be developed through detailed design. <p>The requirement to provide electronic charge stations is not stipulated in the DCP.</p>
<p>(h) Public Art</p> <ul style="list-style-type: none"> • The development must incorporate elements of public art and public-private art such as significant installations in laneways, lobbies and built into the public domain. 	<p>The proposal provides opportunities for public art and/or illumination along the High Street elevation. These opportunities can be explored through detailed design refinement.</p>

Matter	Response
<p>(i) Integrated Development</p> <ul style="list-style-type: none"> Clarification is to be provided as to whether the development is integrated with NRAR. 	<p>The development is not integrated development, and does not require approval under the Natural Resources Access Regulator (NRAR).</p>
2. ENGINEERING	
<p>(a) General</p> <ul style="list-style-type: none"> Engineering works must be designed and constructed in accordance with Council's <i>Design Guidelines for Engineering Works for Subdivisions and Developments</i> and <i>Engineering Construction Specification for Civil Works</i>. 	<p>Engineering works are designed and can be constructed in accordance with Council's <i>Design Guidelines for Engineering Works for Subdivisions and Developments</i> and <i>Engineering Construction Specification for Civil Works</i>.</p>
<p>(b) Servicing and Roadworks</p> <ul style="list-style-type: none"> All existing overhead utility services for frontage of the site in Union Road are to be relocated underground. The ground floor plan shall show the outline of the basement and the land to be dedicated as public roadway is to be clearly delineated and dimensioned. 	<p>Details of the utility services have been captured in the Level 3 services design package which has been approved by Endeavour Energy.</p> <p>The basement does not encroach onto the future road reserve, as shown in the architectural plans.</p>
<p>(c) Stormwater</p> <ul style="list-style-type: none"> The DA shall be accompanied by a stormwater concept plan, with a supporting report and calculations. MUSIC modelling is to be submitted demonstrating that stormwater discharge from the development is in accordance with Council's <i>Water Sensitive Urban Design Policy</i> and <i>Technical Guidelines</i>. 	<p>The DA is accompanied by a Stormwater Management Report (at Appendix I). This assesses pre- and post-development analysis, describes proposed stormwater drainage works, and provides a summary of the flood mitigation strategy. The Report includes MUSIC modelling.</p>
<p>(d) Local Overland Flows</p> <ul style="list-style-type: none"> The site is partially affected by local overland flow flooding in Union Road. All plans for the site shall have levels and details to AHD and the DA must demonstrate that the development is consistent with DCP controls. The DA must be accompanied by an Overland Flow Flood Report prepared by a suitably qualified and experienced professional. All habitable floor levels shall be a minimum RL 27.85 m AHD (1% AEP water surface level + 0.5m freeboard). The access ramp to the underground basement shall be a minimum RL 27.4m AHD. 	<p>The DA is accompanied by a Flood Impact Assessment (at Appendix O). This assesses flooding within and in the vicinity of the site and the compliance of the development with Council's DCP policies.</p> <p>The proposed finished floor level of 27.85m AHD is appropriate as it is:</p> <ul style="list-style-type: none"> above the minimum flood planning level derived from Council flood maps; provides 430mm freeboard from local flow depths along High St; and, provides a suitable freeboard above the ground surface and top of kerb levels for the New Road adjacent to Union Lane to prevent ingress of stormwater from the road.

Matter	Response
<p>(e) Traffic, Access and Parking</p> <ul style="list-style-type: none"> • The DA must demonstrate that access, car parking and manoeuvring details comply with AS 2890 Parts 1, 2 & 6 and Council's DCP requirements. • The DA shall be supported by turning paths in accordance with AS 2890 clearly demonstrating satisfactory manoeuvring on-site and forward entry and exit to and from the public road. • The DA shall ensure the width of the access driveway is in accordance with AS 2890.1, Table 3.1 and Table 3.2. • Long sections of the access driveways off Union Road and the new road shall be provided demonstrating compliance with AS 2890.1, Section 3.3. • Overhead clearances shall comply with AS 2890.1 & AS 2890.6. Overhead clearances for commercial vehicles and shall be in compliance with AS 2890.2. • Car parking spaces shall be designed in accordance with AS 2890.1. Dimensions for spaces for employees and residents shall be User Class 1A with dimensions for visitor car parking spaces User Class 3A. • Blind aisles extensions for visitor spaces shall comply with AS 2890.1 Figure 2.3. 	<p>The Transport Impact Assessment (at Appendix K) responds to the traffic, access, and parking matters raised by Council in relation to:</p> <ul style="list-style-type: none"> • Vehicle manoeuvring; • Turning paths, • Width of access driveways; • Overhead clearances for commercial vehicles; • Car parking space dimensions; and • Blind aisle extensions for visitor spaces.
<p>(f) Roadworks</p> <p>Development will require the following external road works:</p> <ul style="list-style-type: none"> • Delivery of the new road connection from High Street to Union Road • Replacement of the kerb & gutter and foot path paving for the frontage of the development site in High Street. • Replacement of the kerb & gutter and provision of path paving for the development frontage in Union Road. The intersection with John Tipping Grove shall also be addressed and appropriately augmented. • Replacement of the kerb & gutter and provision of path paving for the frontage to John Tipping Grove. 	<p>The development provides a range of external road and public domain works benefiting the public, including the delivery of:</p> <ul style="list-style-type: none"> • Public domain works in kind including: <ul style="list-style-type: none"> ○ Construction of the new road which lies within the boundaries of the site. ○ Construction of civil works required to deliver the new road including, but not limited to, footpaths, landscape islands, kerb and gutter, asphalt roads, line markings, and road and street signage. ○ Provision of services within the boundaries of the site including cut and demolition of existing hard stand area, excavation, concrete pipework, backfill, connection to existing main, surcharge inlet pits, street lighting to be connected into existing grid in consultation with Council. ○ Provision of temporary road works including retaining walls, where required,

Matter	Response
	<p>between the site and the adjacent land concurrent with the construction of the new road.</p> <ul style="list-style-type: none"> Construction or payment for installation of a signalised intersection (also described as the 'ultimate intersection') at the intersection of the new north-south road and High Street, subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals. <p>Dedication of 1,623sqm of land to Council for the purposes of a new road, footpath, and public domain works.</p>
<p>(g) Earthworks</p> <ul style="list-style-type: none"> No retaining walls or filling is permitted which will impede, divert or concentrate stormwater runoff passing through the site. 	<p>The proposed design does not include any retaining walls or filling that will negatively impede, divert or concentrate stormwater runoff passing through the site.</p>
<p>(h) Subdivision Works and Road Safety</p> <ul style="list-style-type: none"> Any future development application for the proposal is to be accompanied by a subdivision concept plan. Splay corners (minimum of 4m x 4m) are to be provided at the intersections of the new road with High Street and Union Road and dedicated as road at no cost to Council. A Stage 2 Road Safety Audit is to be submitted with the application. 	<p>Details of the splay corners are provided in the accompanying architectural and civil drawings.</p> <p>A Stage 2 Road Safety Audit can be submitted to Council as part of the detailed design process (via a condition of consent).</p>
<p>(i) Works in Kind</p> <ul style="list-style-type: none"> Proposals that incorporate Works in Kind shall detail the proposal as part of the DA which shall be clearly detailed in the Statement of Environmental Effects. 	<p>Section 7.3 of this SEE describes the proposed public benefit offer and community infrastructure to be delivered as works in kind.</p>
3. TRAFFIC	
<p>(a) Modelling, Rates and Pedestrian Safety</p> <ul style="list-style-type: none"> The proposal requires traffic modelling to be undertaken to properly determine performance at relevant intersections pre and post the proposal. Provision of appropriately designed traffic signals and lane configuration at the intersection of High Street and the new link road (to be subsequently submitted by Council to Transport for NSW for assessment). The DA is to address pedestrian safety with regard to the inclusion of pedestrian traffic generation in the intersection modelling provided to Council. 	<p>These matters have been addressed in the Traffic Impact Assessment (at Appendix K).</p>

Matter	Response
<ul style="list-style-type: none"> • Council has adopted a rate for peak vehicle trips per unit/apartment for CBD locations, as per the Penrith CBD Transport Model of 0.33 trips per unit 2017-2026. • In addition, a 2% annual growth forecast rate to be applied over the next 10-year period for assessment purposes. • Include traffic generation for proposed commercial and retail (mixed use) aspects of the development, as per the RMS <i>Guide to Traffic Generating Development</i> and the Penrith DCP 2014. • SIDRA runs will also need to include pedestrian movements (and SIDRA output files are to be included for assessment along with LOS summary sheets). • All car parking spaces are to be nominated for their use (resident, visitor, commercial, service) and are to be dimensioned. Car parking shall comply with the Council's DCP rates and ADG requirements. • Service spaces are to be provided for the development in accordance with best practice. 	
(b) Traffic Control Signal <ul style="list-style-type: none"> • A traffic control signal (TCS) warrant assessment will be required to Council's satisfaction, which will in-turn be referred by Council to Transport for NSW (RMS). 	The Traffic Impact Assessment (at Appendix K) incorporates the traffic signals and pedestrian warrants assessment requested by Council.
4. WASTE	
<ul style="list-style-type: none"> • A comprehensive operational waste management plan is to detail the practical waste manoeuvring requirements of the development. • A single bin service lift is not supported as it cannot practically deliver the level of service required. 	The DA is accompanied by a Waste Management Plan (provided at Appendix U).
(a) Bin Storage and Manoeuvring <p><u>Tower 2</u></p> <ul style="list-style-type: none"> • The basement chute bin storage room should be capable of accommodating 30 x 1100L bins (15 per stream) minimum and 2 x 1100l bins which are to be placed under the chutes on collections days. • Additional area is to be provided to allow for manoeuvring and access. <p><u>Tower 1</u></p> <ul style="list-style-type: none"> • No separated access is provided for the transfer of 1100L bins from the residential chute room to the residential bin store, which is required. 	<p>The bin storage room on basement level under Tower 2 has been provided to store 36 bins (not including the bins on the conveyor). Additional space has been allowed for manoeuvring.</p> <p>The architectural design has been refined to consider these matters. The waste consultant (Waste Audit & Consultancy Services Pty Ltd)</p>

Matter	Response
<ul style="list-style-type: none"> The carting route which passes by a commercial car parking space, is not wide enough to allow a tug device and a 1100L bin to pass. The Tower 1 chute room shall accommodate a minimum of 2 x 1100l bins (one each stream) in addition to two that are provided under the chutes. Two bin tug devices are recommended to be provided, one for each tower. <p><u>Residential Collection Room</u></p> <ul style="list-style-type: none"> The ground floor common residential collection room must be sufficient in area to allow for the temporary storage of 40 x 1100l bins (20 x residual and 20 x recyclable waste) and for practical manoeuvring and access to these bins on the days of collection. 	<p>confirms that the architectural design satisfactorily address Council's comments regarding Tower 01.</p> <p>The waste consultant confirms that design refinement has addressed these matters.</p>
<p>(b) Commercial Waste and Loading</p> <ul style="list-style-type: none"> The access provided from the ground floor commercial carpark, to the commercial waste collection room (33.2sqm) is to be separate from the residential waste store access to prevent cross contamination. A loading dock plan of management is to be submitted with any future development application. Design of the development should consider practicalities for residents, visitors, business and deliveries within the development. No access is provided to the Tower 2 lobby for the commercial tenants, who will be required to leave the building and walk around the outside to access staff bathrooms and the waste storage areas, which are located in Tower 1, or the lobby areas. 	<p>Commercial tenants can access bathrooms located in Tower 2. There was a priority from the DIRP to include the site link, which will require occasional use by staff of the commercial tenancies to access the waste storage area.</p> <p>The Traffic Impact Assessment (at Appendix K) responds to the relevant traffic and access items regarding commercial waste and loading.</p>
<p>(c) Bulky Waste Room</p> <ul style="list-style-type: none"> Access to bulky waste room shall be restricted to the residential building manager (i.e. no commercial waste). Design requirements are outlined in section 3.5.3 of Council's Residential flat building waste management guidelines. The room shall be 54sqm in area. 	<p>Access to bulky waste room can be restricted to residential building manager through an appropriately worded condition of consent.</p> <p>Bulky waste storage area is 55 sqm in area.</p>

The above assessment demonstrates that key items for consideration raised at the pre-DA meeting have been addressed (to the extent relevant) in the subject DA, as evidenced in this SEE and the accompanying architectural, civil, and landscape drawings, and specialist technical consultant reports.

4. PROPOSED DEVELOPMENT

4.1. DEVELOPMENT SUMMARY

The proposed development comprises:

- Construction and operation of a mixed-use building generally comprising:
 - One storey basement carpark;
 - Five storey podium comprising ground floor business premises and commercial tenancies, loading dock access, basement car park access, and ancillary areas, and shared Level 01 – 04 podium car parking;
 - A residential building with a total rise (including podium) of 14 storeys containing 81 apartments (referred to as Building 01) and a residential building with a total rise (including podium) of 37 storeys containing 275 apartments (referred to as Building 02);
- Creation of new public road and public domain works to be dedicated to Council via public benefit offer;
- New landscaping works, including deep soil planting adjacent to the new road, new street tree plantings, and level 05 podium communal open space; and
- Ancillary works including site services, landscaping, and stormwater infrastructure.

Architectural and landscape plans depicting the proposal are provided at **Appendix E** and **H**.

Key numeric aspects of the proposed development are detailed in Table 3 and individual components of the proposed development are described in the following sections.

Table 4 – Numeric Overview of Proposed Development

Parameter	Proposed
Land Use	<p>The development proposes the following land uses:</p> <ul style="list-style-type: none"> • 'Shop top housing'; and • 'Commercial premises'.
Maximum Height	<p>Building 01 – 49.85 m (existing ground level of RL 27.3 m to maximum RL 77.15 m to the top of lift overrun)</p> <p>Building 02 – 121.65 m (existing ground level of RL 27.3 m to maximum RL 148.95 m to the top-most parapet)</p>
Gross Floor Area	<p>Proposed gross floor area (GFA):</p> <ul style="list-style-type: none"> • Building 01 Residential GFA (Ground Level, Levels 05 – 13) – 7,199.8 sqm • Building 02 Residential GFA (Ground Level, and Levels 05 – 36) – 24,103 sqm • Building 01 Commercial GFA (Ground Level) – 230.2 sqm • Building 02 Commercial GFA (Ground Level) – 780.9 sqm <p>Total GFA = 32,314.4 sqm</p>
Floor Space Ratio	<p>Site area: 5,407 sqm (Eastern part of Lot 300 in DP1243401)</p> <p>GFA: 32,314.4 sqm.</p> <p>Total FSR: 5.98:1</p>

Parameter	Proposed
Dwelling Mix	<p>The following apartment unit mix is proposed:</p> <ul style="list-style-type: none"> • 37 x one-bedroom (10.4%) • 77 x one-bedroom + study (21.6%) • 133 x two-bedroom (37.4%) • 68 x two-bedroom + study/media (19.1%) • 41 x three-bedroom (11.5%) <p>Total = 356 apartments</p>
Adaptable Units	36 adaptable units (10.1%)
Liveable Units	36 liveable units (10.1%)
Communal Space	<p>Communal open space: 858 sqm</p> <p>Indoor communal space: 134 sqm</p>
Car Parking	<p>Basement and podium level parking comprises:</p> <ul style="list-style-type: none"> • 342 residential parking spaces (including 36 accessible spaces); • 51 residential visitor spaces (including 1 accessible space); • 40 tandem residential spaces; • 5 commercial parking spaces (including 1 accessible space); • 1 loading space; • 1 service vehicle space; and • 1 car wash bay.

A perspective of the proposed development is illustrated in **Figure 7** below.

Figure 7 – Perspective of Proposed Development (West Elevation)



Source: SJB Architects

4.2. EXCAVATION

As detailed in the Geotechnical Assessment at **Appendix M**, the proposal necessitates excavation works for the basement level. The proposed finished floor level is RL 24.4 m AHD for the basement floor slab and the existing surface level is RL 27.5 m AHD. Therefore it is expected that the maximum extent of excavation depth required for the basement floor slab will be 3.5 m (assuming additional excavation of 0.4 m for the concrete slab, drainage etc). The excavation depth is designed to avoid groundwater which is encountered below existing site levels at an approximate depth of 6.5 m to 9 m (between RL 20.5 to RL 18.3 m AHD).

The Geotechnical Assessment describes that excavation is expected to be carried out through shallow filling, natural sands, firm to stiff clays and dense to very dense gravels. Excavated material should be generally removed using conventional earthmoving equipment such as tracked excavators. Large excavators may be required to efficiently remove the gravels, which can be rounded and include cobbles and possible boulders.

As detailed in the civil engineering plans (at **Appendix I**), the proposal requires a total 11,800m³ cut and 50m³ fill. This represents a balance of 11,750m³ cut. Excavated material will be stockpiled on site and assessed for reuse.

4.3. BUILDING DESIGN

The proposed architectural design includes three key elements:

- A five-storey non-residential podium;
- Residential Building 01 fronting Union Road; and
- Residential Building 02 fronting High Street.

The architectural design rationale for each component is described as follows.

Non-Residential Podium

The ground floor of the five-storey podium is designed to provide active frontages to all façades of the building (notably to High Street and John Tipping Grove), a pedestrian link between the new road and the future open space at John Tipping Grove, and a rich materiality at the public domain. The massing and architecture of the podium responds to the local site context and existing scale of development in the locality.

The materiality of the podium includes concrete and masonry colonnades to outdoor seating areas to complement ground floor retail (likely food and drink) premises, concrete columns, prefinished louvres and a steel awning. The design of the podium has also been informed by the need to screen above ground level car parking. The proposal provides variety in the architectural treatment of the podium and includes prefinished louvres screens in addition to landscape planter boxes to screen the naturally ventilated car park.

Planting from the level 5 communal open space is designed to trellis down the façade of the podium as a gesture and connection to the proposed open space at John Tipping Grove. Within the middle of the podium is an east-west pedestrian link connecting the new road to the future public open space at John Tipping Grove. This pedestrian link is accentuated within the podium through dramatic curved cut-outs.

Residential Building 01

The design of residential Building 01 is generally consistent with the original East Side DA. The design of Building 01 above the podium is proposed with panels featuring a subdued, natural palette in a varied and dynamic pattern. Massing is broken down through building indentations and articulation of western corners.

The subject development does not propose any changes to Building 01 as approved in terms of the design principles, building articulation, setbacks, internal design and configuration, or façade treatment. The quantum and mix of residential apartments contained in Building 1 remains unchanged from the original East Side DA (81 units), and the building retains its 9-storey form above the podium. As per the original DA, Building 01 will provide a transition in scale and massing to the existing residential land uses to the south beyond Union Road.

Residential Building 02

The design of residential Building 02 reflects the scale, density, and building form of Council's development ambitions for the site as envisaged in the recently gazetted amendments to PLEP 2010. The proposed design of Building 02 maintains consistency with the original architectural competition design principles and integrates the recommendations of the thermal comfort analysis. This is achieved in the following ways:

- Building 02 consists of a play with solid and glass elements where the solid panels provide a peeling-off effect as the tower rises to accentuate the slenderness of the forms.
- The vertical expression of Building 02 reflects the lower building, with 2-storey high panels that are appropriate to the scale of the building.
- The landscaped podium edge creates a visual connection to the surrounding streetscape.

4.4. GROSS FLOOR AREA / FLOOR SPACE RATIO

Measured in accordance with the relevant LEP definition, the proposal has total GFA of 32,314.4 sqm. Calculated against the site area of 5,406.6 sqm, the proposal has a resultant floor space ratio of 5.98:1.

4.5. BUILDING HEIGHT

The proposal has a maximum building height of RL148.95 metres (AHD) to the top most parapet on Building 02. Measured in accordance with the LEP definition of 'building height' (or 'height of building'), the proposal has a maximum building height of 121.65 metres (based on an existing ground level of RL27.3 metres).

4.6. NEW ROAD AND PUBLIC DOMAIN

The proposal includes the construction of a new road to be dedicated to Council. The new road will run through the east portion of the site, connecting High Street (to the north) and Union Road (to the south). The new road is designed in accordance with the general requirements prescribed in the Penrith Development Control Plan 2014 and the detailed requirements outlined within Council's *Public Domain Technical Manual*.

The configuration and boundary of the new road is located within the subject site.

The delivery of the new road involves the following civil works:

- Construction of two lanes (3.5 metre wide carriageway) providing vehicular access between Union Road and Union Street;
- Construction of one lane (3.5 metre wide carriageway) providing north-bound vehicular access from Union Lane to High Street;
- Seven (7) on-street car parking spaces;
- Minimum 0.82 m wide footpaths along the east and west sides of the new road reserve;
- Street trees in accordance with the Council's *Public Domain Technical Manual*;
- Civil works to connect new road to Union Road and High Street; and
- Associated civil works including but not limited to landscape islands, kerb and gutter, asphalt roads, street lighting connected into existing grid, line markings, painted chevron, and road and street signage.

The construction of the new road will be delivered as part of the public benefit offer (refer to **Section 7.3**).

4.7. TRANSPORT, PARKING, AND ACCESS

4.7.1. Vehicular Access

The proposal has two vehicular access points, with access to the basement car park via a driveway to Union Road, and access to the loading dock and the podium level car park via a driveway to the new road.

4.7.2. Pedestrian Access

Pedestrian access to the development is provided from all street frontages. Pedestrian entrances to the retail tenancies are proposed on all street frontages and through the pedestrian through-site link. Access to the podium level car park and residential accommodation is provided via Union Road and the new public road.

A one metre retaining wall is proposed at the interface of the ground level footpath and John Tipping Grove. This is required to meet the flood planning levels for the adjacent site to the west in the future scenario where the public domain level at John Tipping Grove is raised. When the adjacent development to the west is completed, it is the applicant's objective to provide level access to the revised public domain levels. The proposed design 'future proofs' this interface in the event that development to the west is not pursued by the applicant or any other party or such development is delayed.

4.7.3. Basement and Podium Car Park

The basement and podium level parking areas provide:

- 342 residential parking spaces (including 36 accessible spaces);
- 51 residential visitor spaces (including 1 accessible space);
- 40 tandem residential spaces;

- 5 commercial parking spaces (including 1 accessible space);
- 1 loading space;
- 1 service vehicle space; and
- 1 car wash bay.

Access is assessed in terms of ingress and egress, paths of travel, lifts, stairs, circulation areas, stairways, steps/kerb ramps, walkways, accommodation, parking areas, ground surfaces, and staff facilities.

4.8. STORMWATER DESIGN

Stormwater infrastructure will be constructed as part of the development as detailed in the Stormwater Management Plan and Stormwater Management Details prepared by Robert Bird Group (at **Appendix I**).

4.9. LANDSCAPING

4.9.1. Landscape Concept

The proposal incorporates comprehensive landscaping treatment as detailed in the Landscape Plans prepared Black Beetle (at **Appendix H**). Key components of the landscape design include areas of deep soil planting within the public domain adjacent to the new road (capable of accommodating mature landscaping), bioretention rain gardens, street tree plantings, shrubs, grasses, and groundcovers, garden beds, gardens on structures around the podium perimeter, and communal outdoor open space at Level 05.

4.9.2. Communal Open Space

The communal open space is situated at the Level 05 podium between the two residential towers. The space contains an outdoor decked terrace with integrated bench seating (and pergola cover), an outdoor swimming pool, landscaped lawn area, landscape planters, barbeque/sink facilities, and a path network.

The Level 05 podium has a relationship to the public domain and future public open space at John Tipping Grove through podium landscape treatment on the western façade. Given the harsh solar environment of the western façade, the landscape scheme includes species that can withstand sunlight with the Penrith climate.

Access to the communal open space area will be restricted to residents of the apartments only.

4.9.3. Private Open Space

Each of the proposed residential apartments benefits from external open space. The areas of the balconies are commensurate with the size of the apartments and comply with minimum sizes prescribed in the Apartment Design Guide.

4.9.4. Tree Removal

As detailed in the supporting Arboricultural Impact Assessment prepared by Redgum Horticultural (**Appendix X**), the proposal requires the removal of selected trees within the site and the road reserve.

The removal of these trees has been approved under the early works consent (Reference: DA18/0654) and therefore development consent is not sought for their removal under this application.

Trees to be removed are not worthy of retention and are in a position where they cannot be retained due to the proposed building footprint and associated infrastructure (such as excavation of the basement).

Removed trees will be replaced by tree plantings, shrubs, planters, and vegetation as part of the proposed landscape scheme. Standard tree protection measures will be implemented at construction stages.

4.10. INFRASTRUCTURE AND SITE SERVICES

Services including electricity, telecommunications, gas, water, and sewage infrastructure are available to the site. As detailed in the Hydraulic Infrastructure Report (**Appendix Q**) and Electricity Infrastructure Report (**Appendix P**), existing services will be extended, expanded and augmented as required in order to meet the demands and requirements of the proposed development.

4.11. MATERIALS AND FINISHES

A detailed schedule of proposed external building materials, colours, and finishes is included in the accompanying architectural drawings (**Appendix E**). Selected materials and finishes are summarised as:

- External finishes: solid white balustrades, podium infill panel, vertical upright metal balustrades, metal shading devices, face brick façades, solid panels with applied finish, metal awnings, and metal louvres;
- Glazing system: including dark grey metal framed window systems, mid grey metal framed window systems, mid grey metal framed spandrels with colourback glass, mid grey metal spandrel panels, and white metal spandrel panels; and
- Paint finishes.

4.12. WASTE MANAGEMENT

The accompanying Operational Waste Management Plan prepared by Waste Audit and Consultancy Services (at **Appendix U**) sets out waste management details in relation to the following matters:

- Waste and recycling generation (materials streams and waste generation estimates);
- Waste and recycling storage calculations (for the residential and commercial uses); and
- Waste management systems (for the residential and commercial uses, in relation general waste and recycling storage rooms, chute rooms, bulky waste storage rooms, and bin requirements).

The proposed waste management practices are consistent with Council's Waste Management Guidelines.

4.13. CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposed development has been designed to incorporate the principles of Crime Prevention Through Environmental Design (**CPTED**). The CPTED principles include the following:

Surveillance

- The development has been designed to ensure that the development adheres to the principles of maximising 'eyes on the street' in that:
 - Residential balconies and primary living areas are located and orientated to front street frontages, particularly the balconies fronting the new street and John Tipping Grove;
 - The proposed retail tenancies at street level ensure passive surveillance of the surrounding public domain, particularly at the High Street, John Tipping Grove and new road street frontages and the pedestrian through-site link.
- All street entries have been designed to reduce pedestrian blind spots, providing clear sightlines from the street and into the development and vice versa. Further, all street entries to residential buildings will have appropriate levels of lighting to avoid poorly lit dark spaces.
- Communal open space will have adequate lighting to ensure a safe environment for future occupants.
- The basement car parking level will be adequately lit and signed to ensure safe access.

Access Control

- All pedestrian entrances to the development will be appropriately lit and clearly defined from the street to the lobbies and access lifts. Access into the site will be controlled by electronic pass security devices.
- Access to the communal open space area will be restricted to residents of the development only.
- Access to the upper level podium parking will be controlled by electronic pass security devices and intercom systems linked to the residential apartments.
- The basement will be accessible for visitor and residential parking. To ensure security for residents, the basement includes boom gates or similar.

- The through-site link will have capacity to be secured after operational hours to ensure that it provides a safe location. The space will be controlled by gates after hours to ensure safe access for residents.

Territorial Reinforcement

- The public domain works proposed as part of the development is designed to ensure that the design maintains its integrity and that vandalism is discouraged.
- The pedestrian through-site link is open in design and will be lit to minimise anti-social behaviour in the later hours of the night.

Space Management

- The development will be managed by a strata body. There will be a split between the responsibilities for landscape maintenance obligations between the strata and the individual property owners.
- The development will include vandalism management to ensure the prompt removal of graffiti.

5. STRATEGIC PLANNING CONTEXT

The following strategic planning policies are applicable to the subject site and the proposed development.

Table 5 – Strategic Planning Context

Strategic Planning Document	Comment	Consistency
A Metropolis of Three Cities – the <i>Greater Sydney Region Plan</i>	<p>The <i>Greater Sydney Region Plan</i> is the NSW Government's plan for the Sydney Metropolitan Area over the next 20 years. It includes key directions and actions to encourage the Sydney's continued growth, particularly in Western Sydney.</p> <p>Penrith is identified within the Region Plan as a key metropolitan centre that will be connected to new suburbs and employment areas in and around the future Western Sydney Airport.</p> <p>The proposal will help connect Penrith residents to future employment opportunities through providing high density living within proximity to established transport hubs and the city's commercial core.</p>	Yes
Western City District Plan	<p>The Western City District Plan provides a 20-year plan to manage growth and achieve a 40-year vision, while enhancing Greater Sydney's liveability, productivity, and sustainability into the future.</p> <p>Key objectives of the District Plan include:</p> <ul style="list-style-type: none"> • Responding to plans for the Western Sydney Airport and Badgerys Creek Aerotropolis jobs creation; • Delivering a 30-minute city through major transport initiatives like the North-South Rail connection; • Providing housing supply, affordability, and choice, with access to jobs and services; and • Creating liveable communities. <p>The proposal can make a valuable contribution to the future of Penrith within the Western City District, by providing additional housing and retail floor space, with access to many of the city's jobs and services.</p> <p>The development site is situated in close proximity to the Penrith centre's Culture and Civic precinct, including the Joan Sutherland Performing Arts Centre and Panthers World of Entertainment. These facilities offer aspects of a liveable environment with access for residents to culture and recreation.</p>	Yes

Strategic Planning Document	Comment	Consistency
Draft Penrith Local Strategic Planning Statement	<p>The Draft Penrith Local Strategic Planning Statement (LSPS) identifies Penrith's economic, social and environmental land use needs over the next 20 years.</p> <p>It demonstrates how council's vision aligns with and gives effect to actions of the Greater Sydney Region Plan and the Western City District Plan. It indicates how these actions can be implemented at a local level through new strategic and statutory plans.</p> <p>The proposal aligns with key planning priorities outlined in the draft LSPS, including the following:</p> <ul style="list-style-type: none"> • to provide new homes to meet the diverse needs of the growing community; • to improve the affordability of housing; • to facilitate sustainable housing; and • to ensure social infrastructure meets the changing needs of communities. 	Yes
Economic Strategy Development, Penrith City Council	<p>The Economic Development Strategy (EDS) sets out a strategic framework to support economic growth, foster greater investment, and deliver jobs.</p> <p>Council's goal for Penrith is to achieve an increase in local jobs between 42,000 and 55,000 by 2031. This target will incorporate new jobs in a range of areas from health, education, tourism, arts, and culture and will be complemented by growth in the night-time economy and residential services.</p> <p>The proposal contributes to this target by providing additional high density residential and retail services, increasing investment in the city centre.</p> <p>Penrith is experiencing significant growth across education, health, construction, transport and logistics. Complementing these growth areas is the transformation of the city centre and development of the night time economy, through the EDS and Council's Night Time Economy Strategy.</p> <p>The proposed retail tenancies will contribute to the city centre's growth and night time economy through the provision of food and drink premises.</p> <p>In 2015, under ten per cent of Penrith's population lived within close proximity (800m) of major public transport. The proposal will provide additional high density residential development within a walkable distance of high frequency public transport.</p>	Yes

Strategic Planning Document	Comment	Consistency
Community Strategic Plan 2017, Penrith City Council	<p>The <i>Community Strategic Plan</i> is Council's plan for Penrith for the next 20 years. It reflects the community's vision for Penrith to be a sustainable and prosperous city with a harmony of urban and rural qualities and a strong commitment to environmental protection and enhancement.</p> <p>The proposal is consistent with the following strategies outlined in the Community Strategic Plan:</p> <ul style="list-style-type: none"> • attract investment to grow the economy and increase the range of businesses operating in the region; • facilitate development in the City that considers the current and future needs of our community; • help build resilient, inclusive communities; • facilitate development in the City that considers the current and future needs of our community; • ensure services, facilities and infrastructure meet the changing needs of our City; and • provide parking to meet the needs of the City. 	Yes

6. STATUTORY PLANNING CONTEXT

This section provides an assessment of the environmental impacts of the proposed development to the approved development against the relevant statutory planning framework including Acts, environmental planning instruments, draft environmental planning instruments, and development control plans.

6.1. NATIONAL PARKS AND WILDLIFE ACT 1977

The *National Parks and Wildlife Act 1974 (NPW Act)* provides statutory protection to all Aboriginal sites within New South Wales. Pursuant to Part 6 of the NPW Act, it is an offence to harm or desecrate an Aboriginal object or place without an Aboriginal Heritage Impact Permit (**AHIP**).

An Aboriginal Heritage Information Management System (**AHIMS**) search undertaken indicates that no known Aboriginal sites have been recorded on the site. However, several sites were found within 1.2km of the site. Figure C7.2 of the Penrith Development Control Plan 2014 indicates that the general locality surrounding the site is identified as having the potential to be archaeologically sensitive. Accordingly, the DA is supported by an Aboriginal Archaeological Assessment prepared by Comber Consultants (**Appendix V**).

The Aboriginal Archaeological Assessment documents the preliminary site investigation that was undertaken in March 2018. This investigation found that due to limited soil disturbance and the site's proximity to the Hawkesbury/Nepean River area, there was a possibility that subsurface archaeological deposits, and possibly insitu deposits, could exist within the site. As such, bulk excavation associated with development could have the potential to impact on such deposits. The preliminary investigation recommended that Aboriginal consultation be undertaken in accordance with DPIE's *Aboriginal Cultural Heritage Consultation Guidelines 2010*. Once this consultation was completed, Aboriginal archaeological testing was required to determine if any Aboriginal objects were present on the site and, if so, to determine their nature and extent.

Accordingly, Aboriginal consultation was undertaken, following which Aboriginal archaeological testing was completed. The results of the archaeological testing indicated that no Aboriginal objects were located on the site. The Aboriginal Archaeological Assessment concludes that the proposal can proceed without any further testing, salvage, monitoring or assessment. The Assessment concludes that an AHIP is not required.

6.2. WATER MANAGEMENT ACT 2000

The objectives of the *Water Management Act 2000* are to provide for the sustainable and integrated management of the water sources across NSW.

The DA is accompanied by a Geotechnical Report (**Appendix M**). This assesses that groundwater depth on the site is expected to be 6-7m below existing ground level. The development proposes a single level of basement and as such it is not anticipated to impact ground water. Therefore the development will not require approval from the NSW Department of Primary Industries under the *Water Management Act 2000*.

6.3. STATEMENT ENVIRONMENTAL PLANNING POLICIES

6.3.1. State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) provides that a consent authority must not consent to carrying out development on land unless it has considered whether the land is suitable (or can be made suitable) for the purpose for which the development is proposed to be carried out.

A preliminary contamination assessment was undertaken by Douglas Partners. This identified the following potential contaminants on the site:

- Filling and demolition rubble;
- Pollutants associated with the historic land use such as car yard, service centre, vehicle repair workshops, bowzers and possible underground storage tanks;
- Off-site sources from commercial and industrial land uses to the north; and
- Existing buildings on site.

Subsequent to the preliminary contamination assessment, Douglas Partners expanded the scope of the investigation to include a Detailed Contamination Investigation (**DCI**) to satisfy the requirements of SEPP 55 (refer to **Appendix N**). The DCI was informed in part by soil sampling from nine locations across the site.

The DCI concluded as follows:

- There were not visual or olfactory indications of the presence of contaminants in the soils at the bore locations. There were no odours noted in the groundwater monitoring bores during installation.
- It is considered that there are not likely to be any significant contamination risks to human health or the ecology associated with the site.

The DCI included a recommendation that a remediation action plan (**RAP**) is required to document the remediation and validation process associated with the two underground storage tanks and associated infrastructure on site and any other contaminants identified through the additional investigations.

6.3.2. State Environmental Planning Policy (State and Regional Development) 2011

Part 4 of *State Environmental Planning Policy (State and Regional Development) 2011* requires referral to a regional planning panel for “development that has a capital investment value of more than \$30 million”.

The estimated Capital Investment Value of the development is \$114,146,844 (plus GST). Therefore Part 4 of the SEPP applies and the relevant consent authority for the determination of the DA is the SWCPP.

6.3.3. State Environmental Planning Policy (Infrastructure)

The aim of *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)* is to facilitate effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure (such as classified roads) and prescribing consultation requirements for certain development. Mulgoa Road adjoining the site is a state classified road.

The below assesses relevant provisions of the Infrastructure SEPP that apply to the proposed development.

Table 6 – Infrastructure SEPP Assessment

Infrastructure SEPP Clause	Response	Referral Agency
Part 3 – Division 5 Electricity transmission or distribution Subdivision 2 (Development likely to affect an electricity transmission or distribution networks)	The DA is subject to clause 45 of the SEPP as the development is likely to affect an electrical transmission or distribution network. A new electricity substation will be constructed as part of the development.	Ausgrid
Part 3 – Division 17 Roads and traffic Subdivision 2 (Development in or adjacent to road corridors and road reservations) Clause 101 (Development with a frontage to classified road)	The residential accommodation component of the development is required to achieve noise criteria outlined in clause 102 of the SEPP. The Acoustic Assessment at Appendix L assesses noise intrusion impact from traffic noise against clause 102 of the Infrastructure SEPP. It sets out recommended acoustic treatment measures required to achieve compliance with the relevant noise criteria.	-
Part 3 – Division 17 Roads and traffic	Pursuant to Schedule 3 of the SEPP, the proposal is categorised as traffic generating development for the reason that it provides: <ul style="list-style-type: none"> • 200 or more car parking spaces; and 	RMS

Infrastructure SEPP Clause	Response	Referral Agency
Subdivision 2 (Development in or adjacent to road corridors and road reservations)	<ul style="list-style-type: none"> 300 or more dwellings. <p>In accordance with clause 104, the DA will be referred to Roads and Maritime Services.</p>	
Clause 104 (Traffic-Generating development)	<p>The Traffic Impact Assessment (at Appendix K) assesses the level of traffic generation resulting from the development and potential impacts on the surrounding road network.</p>	

6.3.4. Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River (SREP 20) aims to protect the environment of the Hawkesbury/Nepean River area by ensuring that the impacts of future land uses are considered in a regional context. Relevant to the subject proposal, SREP 20 prescribes requirements for the assessment of development in terms of stormwater quality.

The DA is accompanied by a stormwater management and erosion and sediment control plans (at **Appendix I**). The proposal incorporates adequate erosion and sediment control measures to ensure sediment resulting from the development is not deposited into the Hawkesbury/Nepean River system. Furthermore, the proposed development has been designed to comply with the Council's Stormwater Drainage policy.

6.3.5. State Environmental Planning Policy (Building Sustainability Index Basix) 2004

A BASIX Certificate is included at **Appendix J**. The certificate confirms that the proposed development will meet the NSW government's requirements for sustainability. The BASIX assessment indicates that the proposed development achieves the water and thermal performance ratings required.

6.3.6. State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. It applies to land in the City of Penrith and applies to development within the B4 Mixed Use Zone.

The accompanying Arboricultural Impact Assessment prepared by Redgum Horticultural (at **Appendix X**) provides an assessment of existing trees plantings surveyed on the site and within adjoining land. The Assessment contains recommendations for the removal or retention of the surveyed trees.

6.3.7. State Environmental Planning Policy 65 and Apartment Design Guide

State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) (SEPP 65) applies to development for the purposes of a building that comprises three or more storeys and four or more self-contained dwellings.

In determining a development application for residential flat development, a consent authority is to consider:

- (a) *the advice (if any) obtained from the design review panel, and*
- (b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) *the Apartment Design Guide.*

The Design Verification Statement (at **Appendix G**) describes how the proposal satisfies the design quality principles of SEPP 65 and the objectives of Parts 3 and 4 of the Apartment Design Guide (**ADG**).

The proposal complies with key requirements of Parts 3 and 4 of the ADG as outlined in **Table 6** below.

Table 7 – Apartment Design Guide Summary

ADG Objective and Design Criteria	Proposal
<p>Objective 3D-1</p> <p><i>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</i></p> <p>Design criteria</p> <ol style="list-style-type: none"> <i>1. Communal open space has a minimum area equal to 25% of the site.</i> <i>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).</i> 	<p>The proposal delivers 992 sqm communal space on podium level 5. This equates to 26.2% of the developable area of the site, calculated as the total site area (5,407 sqm) minus land dedicated to Council (1,623 sqm) for the new road.</p> <p>The communal open space includes a communal garden which incorporates a variety of different spaces, such as barbeque and sink facilities, lawn area, seating, and swimming pool. Several pergolas provide amenity for shade and privacy.</p> <p>The internal communal facilities at level 5 are collocated with the communal open space, and include a communal room and gym for residents, providing additional recreation facilities.</p> <p>Solar access is provided to 91.6% of the principal area of communal open space for 2 hours or more in mid-winter.</p>
<p>Objective 3E-1</p> <p><i>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</i></p>	<p>The proposal includes 407.4 sqm of deep soil zones. These areas will be incorporated within public domain landscaping.</p>
<p>Objective 3F-1</p> <p><i>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</i></p> <p>Objective 3F-2</p> <p><i>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</i></p>	<p>The proposal has been designed to comply with the various controls for building separation across the site. Specifically:</p> <ul style="list-style-type: none"> A minimum 13.2 m setback is proposed from Building 02 to the eastern site boundary from level 05 and above, complying with the ADG requirements. A minimum 22.1m setback is proposed from Building 01 to the eastern site boundary from Level 05 and above, complying with the ADG requirements. However, it is noted that the existing development adjacent at 87 Union Road is built to the site boundary. The resulting building separation is still considered adequate as the western windows to the existing adjoining residential apartments are secondary only.
<p>Objective 3J-1</p> <p><i>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</i></p>	<p>The ADG provides that development satisfying certain criteria may adopt the minimum car parking requirement for residents and visitors set out in the RMS Guide to Traffic Generating Developments (RMS Guide) 2002, or those prescribed by the relevant Development Control Plan, whichever is less.</p>

ADG Objective and Design Criteria	Proposal
	As detailed in the Traffic Impact Assessment (at Appendix K), the proposal is assessed against car parking requirements of Section 5 of the RMS Guide (for the residential component) and Table C10.2 of the DCP (for the commercial component).
Objective 4A-1 Solar Access <i>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</i>	<p>The proposal achieves 249 apartments (70%) that comply with two hours of direct sunlight to the living room and balcony and/or winter garden between 9:00am and 3:00pm on June 21 (mid-winter). This satisfies the ADG requirement of 70%.</p> <p>Of the total apartments, 7% achieve less than 15 minutes direct sunlight between 9:00am and 3:00pm in mid-winter.</p>
Objective 4B-3 Natural Cross Ventilation <i>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.</i>	<p>40 apartments out of 68 apartments (59%) within the first nine storeys of the development achieve natural cross ventilation. This is generally consistent with the ADG requirement of 60%. The negligible numeric shortfall is not considered material and will have no impact on the overall amenity of the development.</p> <p>Further, as this is a guideline and not a minimum development standard this provision of naturally cross ventilated apartments is supportable.</p>
Objective 4C-1 Floor to Ceiling Heights <i>Ceiling height achieves sufficient natural ventilation and daylight access.</i>	<p>All habitable rooms will have minimum ceiling height of 2.7 metres and non-habitable rooms of 2.4 metres. This complies with ADG requirements.</p> <p>The ceiling height of the ground floor level complies the 3.3m ADG requirement for development in a mixed use building to promote future flexibility of use.</p>
Objective 4D-1 Minimum Apartment Sizes <i>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity.</i>	<p>All units achieve minimum internal area amenity standards and have been designed with a highly functional layout.</p>
Objective 4D-3 Minimum Room Sizes <i>Apartment layouts are designed to accommodate a variety of household activities and needs</i>	<p>All rooms proposed within the development exceed the minimum room areas and dimensions required by the ADG.</p>
Objective 4E-1 Private Open Space <i>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</i>	<p>All apartments include private open space with a minimum area of 8 sqm and all are within 1 sqm of the area required for private open space relevant to the number of bedrooms.</p>

ADG Objective and Design Criteria	Proposal
<p>Objective 4F-1 Core/Circulation</p> <p><i>Common circulation spaces achieve good amenity and properly service the number of apartments</i></p>	<p>The lift cores service a maximum nine apartments per floor in each residential tower. Corridors are not unreasonably long and feature natural light. Building 01 contains a total of 81 units serviced by 2 lifts and Building 02 contains a total of 275 units serviced by 4 lifts. The lifts have been assessed by lift service operators to confirm operational satisfaction.</p>
<p>Objective 4G-1 Storage</p> <p><i>Adequate, well designed storage is provided in each apartment</i></p>	<p>The architectural plans include a storage schedule. The proposal satisfies minimum requirements for storage areas within apartments and the basement.</p>

6.4. PENRITH LOCAL ENVIRONMENTAL PLAN 2010

6.4.1. Zoning, Permissibility, and Objectives

The site is zoned B4 Mixed Use under *Penrith Local Environmental Plan 2010 (PLEP 2010)*.

The proposal is for mixed use development comprising 'shop top housing' and 'retail premises' and 'business premises' (as a form of 'commercial premises'). These uses are permissible with consent in the B4 Zone.

The proposal is consistent with the stated objectives of the B4 Mixed Use Zone in that:

- it integrates a mixture of compatible residential and commercial land uses which are compatible given their complementary functions and are typical of development in the B4 Mixed Use zone.
- it delivers residential and commercial land uses at a highly accessible location within the Penrith CBD that will maximise public transport patronage and encourage walking and cycling through new footpaths, and bicycle parking within the public domain and in a secure location at grade within the development.
- it complements existing land uses on adjoining sites, and will not result in any unacceptable land use conflicts. Operating conditions for the commercial tenancies will mitigate any potential conflicts.
- it creates an opportunity to significantly improve public amenity through a new public road which:
 - enhances local connectivity from south of the site through to the Penrith CBD; and
 - provides more significant landscaping within the public domain than the existing site condition.
- it improves the public domain and results in enhanced public amenity by including active street frontages, casual surveillance of public streets, and an architectural design that achieves design excellence through the completion of an architectural design competition; and
- it delivers residential land uses within a diversity of dwelling types and sizes and a range of retail tenancies that to suit a range of tenants and future operators which will deliver retail sales to the residents of the development and the surrounding locality.

6.4.2. PLEP 2010 Provisions

The following table an assessment of the proposal against relevant provisions and clauses of PLEP 2010.

Table 8 – PLEP 2010 Compliance Assessment

PLEP 2010 Clause	Provision	Proposal	Complies
Clause 4.3 Building Height	24 metres	Maximum building height is 121.65 m (measured from existing ground level at RL 27.3 m to RL148.950 to the top most parapet).	Refer to clause 8.7.
Clause 4.4 Floor Space Ratio	3:1	5.98:1	Refer to clause 8.7.
Clause 5.1 Land Reservation	Council is the relevant authority to acquire part of Union Road adjoining the site (SP2 (Local Road)).	The proposed new road will facilitate a connection to Union Road.	Yes
Clause 5.10 Heritage Conservation	Conserve significance of heritage items and heritage conservation areas.	The site does not contain a heritage item and is not within a heritage conservation area.	N/A

PLEP 2010 Clause	Provision	Proposal	Complies
Clause 7.1 Earthworks	Earthworks must not have a detrimental impact on environmental functions and processes.	The proposal includes a 1 metre retaining wall to John Tipping Grove to accommodate a future raise in ground level to the west of the site; this responds to flood mitigation. The DA is accompanied by an Erosion & Sediment Control Plan (provided at Appendix I).	Yes
Clause 7.2 Flood Planning	Development must seek to minimise and manage flood risk.	Site is not identified as flood planning land on the LEP Map. A Flood Impact Assessment is provided at Appendix O .	Yes
Clause 7.4 Sustainable Development	Development must have regard to the principles of sustainable development.	The BASIX Certificate and the BCA Assessment assess the proposal against relevant provisions of the BCA and Australian Standards. Sustainable design principles are incorporated into the proposal as indicated in the Landscape Plans. As demonstrated in other mixed-use developments within Penrith CBD, the proposal provides a site responsive design with quality solar access and opportunities for natural ventilation. The site is located in close proximity to Penrith Railway Station, a bus interchange, and local bicycle networks.	Yes
Clause 7.7 Servicing	Development is to reflect the availability of services.	Existing services will be extended, expanded and augmented as required to meet the demands and requirements of the proposal.	Yes
Clause 7.8 Active Street Frontages	All premises on the ground floor of the frontage to High Street are to be used for the purposes of business premises or retail premises.	Ground floor level of the frontage to High Street will be used for the purposes of commercial / business premises.	Yes
Clause 8.1 Local Provisions	Part 8 of the LEP applies to land identified as "Penrith City Centre".	The site is located within the Penrith City Centre.	Yes
Clause 8.2 Sun Access	Development must not overshadow a public open space to a greater degree than would result from adherence to the building height control.	Clause 8.2 applies to a small portion of land along John Tipping Grove (beyond Union Road) zoned	Yes

PLEP 2010 Clause	Provision	Proposal	Complies
		RE1 (Public Recreation). This will not be affected by the proposal.	
Clause 8.3 Minimum Building Street Frontage	Land must have at least one street frontage of 20m or more.	The site has frontages of 43m to High Street, 56m to Union Road, 105m to John Tipping Grove, and 23m to Union Lane.	Yes
Clause 8.4 Design Excellence	<p>Consent must not be granted unless the development exhibits design excellence.</p> <p>An architectural design competition is to be held in relation to the following development:</p> <ul style="list-style-type: none"> (a) development greater than 24 metres or 6 storeys (or both) in height, (b) development that has a capital value exceeding \$1,000,000 on a key site, (c) development for which the applicant has chosen to have a competition. <p>Consent may not be granted for development that has an FSR of up to 10% or a height of up to 10%, unless-</p> <ul style="list-style-type: none"> (a) the design of the building is the result of an architectural design competition, and (b) the concurrence of the Director-General has been obtained to the DA. 	<p>The proposed design has resulted from an Architectural Design Competition and is capable of achieving design excellence.</p> <p>The scheme is not reliant upon 10% FSR or 10% height bonus under clause 8.4.</p>	Yes
Clause 8.5 Building Separation	<p>Building separation distance:</p> <ul style="list-style-type: none"> (a) from neighbouring buildings, and (b) between separate parts or other separate raised parts of the same building <p>is not less than prescribed in the DCP.</p>	Refer to discussion below regarding DCP building separation.	No. Clause 8.5 is a local provision and not a variation to a PLEP development standard.
Clause 8.7 Community Infrastructure on Certain Key Sites	The consent authority may consent to development that exceeds the maximum height or the floor space ratio, or both, if the development includes 'community infrastructure'.	<p>The site is within 'Key Site 10'.</p> <p>The proposal utilises clause 8.7 to provide community infrastructure.</p> <p>Refer to Section 6.4.3 below.</p>	Yes
Other LEP Provisions	There are no other LEP provisions in relation lot sizes, additional permitted uses, miscellaneous permissible uses, urban release areas, natural resources sensitivity, scenic and landscape value, or maximum gross floor area of commercial premises.		

6.4.3. PLEP 2010 Clause 8.7

Clause 8.7 applies to land identified as a key site on the PLEP Key Sites Map. The land subject to the DA (being the eastern part of Lot 300 in DP1243401) is identified as part of 'Key Site 10' on the Key Sites Map.

The objectives of clause 8.7 of PLEP 2010 are stated as follows:

- (a) *to allow higher density development on certain land in the City Centre where the development includes community infrastructure, and*
- (b) *to ensure that the greater densities reflect the desired character of the localities in which they are allowed and minimise adverse impacts on those localities.*

Clause 8.7(3) provides:

- (3) *Despite clauses 4.3, 4.4 and 8.4 (5), the consent authority may consent to development on land to which this clause applies (including the erection of a new building or external alteration to an existing building) that exceeds the maximum height shown for the land on the Height of Buildings Map or the floor space ratio for the land shown on the Floor Space Ratio Map, or both, if the proposed development includes community infrastructure.*

Clause 8.7(4) provides (**our emphasis**):

- (4) *The consent authority must not consent to the erection of a building on land to which this clause applies if the floor space ratio for the building exceeds the following floor space ratio-*
...
(b) *in relation to development on land identified as "Key Site 3" or "**Key Site 10**" – 6:1*

The proposal utilises the provisions of clause 8.7. The DA proposes 'community infrastructure' in the form of construction of a new public road and its dedication to Council and proposes an FSR of 5.98:1.

The proposed 'community infrastructure' is detailed in a proposed public benefit offer submitted to Council, provided at **Appendix A**. The public benefit offer has consideration to Council's *Community Infrastructure Policy - Policy No CEP 001 (the Community Infrastructure Policy)* adopted on 30 April 2018.

Specifically, the proposed 'community infrastructure' in the form of a public benefit offer is for the delivery of:

- Construction of a signalised intersection (also described as the 'ultimate intersection') at the intersection of the new north-south road and High Street, subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals.

Clause 8.7(5) provides:

- (5) *In deciding whether to grant development consent under this clause, the consent authority must have regard to the following—*
 - (a) *the objectives of this clause,*
 - (b) *whether the development exhibits design excellence,*
 - (c) *the nature and value of the community infrastructure to the City Centre.*

The proposed development is compliant with the provisions of Clause 8.7(5) in the following regards:

- The proposal satisfies the objectives of the clause in that:
 - it facilitates high density development on a key site in the City Centre and includes community infrastructure in the form of the construction of a new public road between High Street and Union Road and its subsequent dedication to Penrith City Council; and
 - it reflects the desired character of the western fringe of the CBD (as described in **Section 2**); and
 - it minimises adverse impacts on those localities (as detailed in **Section 8**).
- The development exhibits design excellence as confirmed in the Design Excellence Endorsement issued by the Design Integrity Review Panel (at **Appendix B**); and

- The nature and value of the community infrastructure satisfies the principles of community infrastructure established in Council's *Community Infrastructure Policy* as follows:
 - The signalised intersection on High Street is in the public interest as it contributes to enhancing the capacity of the regional and local road network benefitting the broader community.
 - The signalised intersection on High Street is over and above current development standards and policies relevant to the DA.
 - The signalised intersection benefits to residents, workers and visitors of the broader city centre.
 - The value and benefits of the signalised intersection is achievable, measurable, economically viable and socially and environmentally sustainable.
 - The signalised intersection is consistent with the 'referred Community Infrastructure items' contained in Section 2.5 of Council's *Community Infrastructure Policy*.

Subject to Council agreement, TOGA intends to enter into a Voluntary Planning Agreement (**VPA**) or other legally binding agreement which will:

- Define details of the proposed offer of Community Infrastructure.
- Seek an 'offset' of the total value of contributions payable (i.e. both Community Infrastructure and Section 7.11 contributions) reflecting,
 - (i) the agreed apportioned value of the construction, embellishment and dedication of the new public road and,
 - (ii) in the case of agreement for TOGA to construct the new signalised intersection of the new road north-south road contained in the DA with High Street, any difference in the costs of works above the Community Infrastructure value associated with the DA.

In addition to the above community infrastructure, the proposed development delivers additional public benefits and community infrastructure as works in kind as follows:

- Public domain works in kind (including construction of the new road, civil works required to deliver the new road, services within the boundaries of the site, and provision of temporary road works).
- Remediation of the site in line with recommendations of the detailed contamination assessment. All land to be dedicated to Council will be remediated where required prior to the dedication.
- Excision of approximately 1,623 sqm of land area from the site and dedication to Council for the purposes of a new road, footpath, and public domain works.

6.5. PENRITH DEVELOPMENT CONTROL PLAN 2014

The table below provides a compliance assessment of the proposal against relevant controls and provisions of the Penrith Development Control Plan 2014 (DCP).

Table 9 – DCP Compliance Assessment

Penrith DCP 2014	Provision	Proposal	Complies
PART E – KEY PRECINCTS (E11 PENRITH CITY CENTRE)			
11.2 Building Form			
11.2.2 Building to Street Alignment and Street Setbacks	Buildings along High Street to be built to the street alignment (0m).	Built to the street alignment of High Street at the podium.	Yes
	Buildings along Union Road (rear) to be built at an average 2 – 3m setback.	Building setback between 2 - 4 metres.	Yes
	Where development must be built to the street alignment it must also be built to the side boundaries (0m) where fronting the street (new lane and John Tipping Grove). The minimum height of development built to the side boundary must comply with the minimum street frontage height control.	Building is setback to the new lane and John Tipping Grove (i.e. not built to street alignment) to accommodate pedestrian footpaths and outdoor dining uses.	No. Acceptable on merit.
	Buildings along High Street must demonstrate that views to the Blue Mountains escarpment are maintained.	Views to the Blue Mountains escarpment are visible from High Street, however due to the street alignment any built form will impact these view corridors. As illustrated within the perspectives provided in the architectural design drawings, views towards the west down High Street are still achieved across the public domain, though will be reduced by any compliant development on the site.	Yes
11.2.3 Street Frontage Heights	High Street podium – 16m (minimum) to 20m (maximum) street frontage height.	High Street podium height is 17.85 metres (within 5 storey form).	Yes
	High Street upper levels (above podium) – 5m (minimum) setback.	High Street upper levels (above podium) setback 5.18 metres.	Yes
11.2.4 Building Depth and Bulk	Maximum floorplate of residential (above 20m) in mixed use zone: 750 sqm.	Floor plates of approximately 761 sqm for Building 01 and 766 sqm for Building 02.	No. A marginal exceedance of the DCP control.

Penrith DCP 2014	Provision	Proposal	Complies																														
11.2.5 Boundary Setbacks and Building Separation Mixed Use	No building above 24m is to have a building length in excess of 50m.	The maximum length of Building 02 is approximately 44m.	Yes																														
	Minimum side and rear setback distance from site boundary (Mixed Use).	Proposed minimum side and rear setbacks distances:	No.																														
		<table><tr><th>Use and Height</th><th>Min Setback</th></tr><tr><td colspan="2">Non-residential uses</td></tr><tr><td>Up to 20m</td><td>0 metres</td></tr><tr><td>Above 20m</td><td>N/A</td></tr><tr><td>Above 24m</td><td>N/A</td></tr><tr><td colspan="2">Residential uses up to 12m height</td></tr><tr><td colspan="2">1 – 4 storeys</td></tr><tr><td>Non-habitable rooms</td><td>N/A</td></tr><tr><td>Habitable rooms</td><td>N/A</td></tr><tr><td colspan="2">Residential uses up to 24m height</td></tr><tr><td colspan="2">5 - 8 storeys</td></tr><tr><td></td><td>2.8m (to John Tipping Grove)</td></tr><tr><td>Non-habitable rooms</td><td>2.8m (to John Tipping Grove)</td></tr><tr><td>Habitable rooms</td><td>2.8m (to John Tipping Grove)</td></tr></table>	Use and Height	Min Setback	Non-residential uses		Up to 20m	0 metres	Above 20m	N/A	Above 24m	N/A	Residential uses up to 12m height		1 – 4 storeys		Non-habitable rooms	N/A	Habitable rooms	N/A	Residential uses up to 24m height		5 - 8 storeys			2.8m (to John Tipping Grove)	Non-habitable rooms	2.8m (to John Tipping Grove)	Habitable rooms	2.8m (to John Tipping Grove)	The proposed side and rear setbacks are considered appropriate in that they allow regular floorplates and built form and compliance with ADG separation distances are achieved. Non-complaint setbacks do not result in overshadowing or loss of solar access to adjoining land (side setbacks are to John Tipping Grove and the new road).		
	Use and Height	Min Setback																															
	Non-residential uses																																
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	Above 20m	N/A																															
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Where 0m side and rear boundary setbacks are permissible, and where 0m setbacks cannot be achieved, buildings may be setback from the boundary by at least 5m (to provide																																	

Penrith DCP 2014	Provision	Proposal	Complies
	amenity – sunlight, useable outdoor space, landscaping etc).		
11.2.6 Mixed Use Buildings	Ground floor is to have a minimum floor-to-ceiling height of 3.6m. Above ground level, minimum floor to ceiling heights are 3.6m for public uses and 2.7m for residential.	The floor to floor height of Level 1 is 3.1m to accommodate flexibility in future uses. The proposal can achieve the required minimum floor to ceiling heights.	Yes
	Commercial and residential activities are to have separate service provision.	Separate waste and service areas for commercial and residents are provided.	Yes
	Demarcated residential entries are to be located directly from the public street.	Residential entries on the new road and Union Road are clearly demarcated.	Yes
	Security access is to be provided to all entrances into private areas, including car parks and internal courtyards.	Access control is provided throughout the development.	Yes
	Front buildings onto major streets are to be provide active uses.	Retail is proposed on all street frontages of the development.	Yes
	Blank building walls are to be avoided at ground level.	While servicing is required at the south-eastern portion of the building, the architectural treatment of the building has been careful designed to avoid blank walls and present a strong aesthetic street frontage. On-street parking spaces adjacent to this area which can activate this location.	Yes
11.2.7 Site Cover and Deep Soil Zones (Mixed Use Zones)	Maximum site cover: 100% Minimum Deep Soil Area: 0%	The proposed site coverage is approximately 75%. The proposal provides 407.4 sqm deep soil area (7.54% of total site area).	Yes
11.2.8 Landscape Design	A long-term landscape concept plan is to be prepared in accordance with the Landscape Design Section of the DCP.	The DA is accompanied by landscape plans and a landscape design statement.	Yes
11.3 Pedestrian Amenity			
11.3.1 Permeability	A new through-site link is to be provided between High Street and Union Road.	The proposal includes a new road traversing the site that exceeds a minimum width of 6m.	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	<p>Pedestrian Links: minimum width of 4m.</p> <p>New lanes: minimum width of 6m.</p>	The proposal also includes an east-west pedestrian link through the podium with a minimum width of 4m.	
11.3.2 Active Street Frontages and Address	Active street fronts are to be located at ground level of buildings to High Street.	Retail uses are proposed for the full length of the High Street ground level frontage.	Yes
	Ground floor active frontages are to be at the same level as the adjoining footpath.	The ground floor retail at the new road and High Street is aligned to the footpath however the ground floor is up to 1m higher than the existing John Tipping Grove. This is to ensure the development is consistent with the flood planning requirements of the key site and a long-term scenario where the level of John Tipping Grove is raised. In the interim scenario, ground level outdoor dining and landscaping provide a buffer to this stepping and equitable access is achieved.	Yes
	Residential development is to provide a clear street address and direct pedestrian access off the primary street front.	The proposal includes entrances on all street frontages however residential entrances on the minor streets to ensure retail activation on High Street and adjacent to the new public open space at John Tipping Grove.	Yes
11.3.3 Awnings	Continuous street frontage awnings are to be provided along High Street.	Street awnings are proposed throughout the development.	Yes
	<p>Awnings dimensions should generally be:</p> <ul style="list-style-type: none"> • minimum 8m deep where street trees are not required, otherwise minimum 2.4m deep. • minimum soffit height of 3.2m and maximum of 4m. 	The proposed awnings are designed to comply with Council's requirements.	Yes
	Development is required to wrap awnings around corners for a minimum 6m from where a building is on a street corner.	Awnings are wrapped around the street corners at High Street.	Yes
11.3.4 Vehicle Footpath Crossings	No additional vehicle entry points will be permitted into the parking or service areas of development along High Street.	No vehicle access is proposed along High Street.	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	In all other areas, one vehicle access point only will be generally permitted.	One access is proposed to Union Road and to the new road to separate movements to the upper level car parking and basement car parking.	No. Refer to the Traffic Impact Assessment at Appendix K .
	Vehicle access to be single lane crossing, with maximum 2.7m width over footpaths and perpendicular to kerb alignment.	<p>The proposed width of the vehicular crossovers is minimised to reduce impact on the public domain.</p> <p>The proposal provides three access points:</p> <ul style="list-style-type: none"> • An entry/exit driveway off the proposed link road, serving the podium levels of parking; and • An entry/exit driveway off Union Road, serving the basement level car park. • A dedicated driveway on the proposed link road serving the loading dock. <p>As detailed in the Traffic Impact Assessment, the location of each driveway is on a relatively straight, and level alignment, and as such, sightlines to exiting traffic to through traffic is compliant with AS2890.1. In regard to pedestrian sight lines, pedestrian sight plays of 2m x 2.5m adjacent to the driveways at the property boundary will be kept clear of visual obstructions, as per Figure 3.3 of AS2890.1:2004.</p>	Generally consistent.
11.4 Access, Parking and Servicing			
11.4.1 Pedestrian Access and Mobility	<p>Facilities for persons with a disability must comply with <i>Australian Standard 1428</i>.</p> <p>Barrier free access is to be provided to at least 20% of dwellings and associated common areas.</p>	An Access Assessment has been undertaken for the proposal and is provided at Appendix S .	Yes
11.4.2 On-Site Parking Options	On-site parking is to be accommodated in basement parking.	One level of basement car parking is provided.	No Refer to Section 7.
11.4.3 Site Facilities	Infrastructure required to service the development, including associated cabling, should be located below ground.	Infrastructure provision for the proposed development is detailed in the Electrical Infrastructure Report (at Appendix P) and Hydraulic Report (at Appendix Q).	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	Vehicular access to the loading/unloading area(s) is preferred off rear lanes, side streets and right of ways.	Vehicular access to the loading area is via the proposed new road which is a secondary road.	Yes
11.5 Sustainable Development			
11.5.1 Reflectivity	Visible light reflectivity used on the facades should not exceed 20%.	The proposed façades are capable of compliance (refer to Appendix Y).	Yes
11.5.2 Maximising Liveability and Longevity	Passive and active environmental design features of the design and proposed construction is to achieve ESD criteria.	The proposal has been assessed against and concluded to be compliant with SEPP BASIX (refer Appendix J).	Yes
11.6 Controls for Residential Development			
11.6.1 Housing Choice and Mix	Development containing more than six dwellings is to achieve a mix of living styles, sizes by providing: <ul style="list-style-type: none"> (a) a mix of bed-sitter/studio, one bedroom, two bedroom and three bedroom apartments; (b) bed-sitter and one bedroom apartments must not be greater than 25% and not less than 10% of the total mix of apartments; and (c) two bedroom apartments are not to be more than 65% of the total mix. 	The proposal provides a mix of unit sizes and bedrooms.	Yes
	10% of all dwellings must be designed to be capable of adaptation for disabled or elderly residents.	The proposed development includes 36 adaptable units (10.1%).	Yes
	Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard as accessible car spaces.	Car parking spaces allocated to adaptable dwellings will comply with relevant Australian Standards.	Yes
11.7 Controls for Special Areas			
11.7.1 Precinct Controls Precinct 1 (generally bounded by High Street,	Rationalise the existing pattern of land ownership.	The site is under the control of one applicant. The applicant also owns 'site 3' and this will be subject to a separate DA in the future.	Yes

Penrith DCP 2014	Provision	Proposal	Complies
Mulgoa Road and Union Road)	Relocate redundant public street to provide north-south connectivity and active 'eat street' adjoining the Civic and Cultural Precinct.	The proposed design responds to the likely future development of 'site 3' and John Tipping Grove, by providing an active frontage to John Tipping Grove, a pedestrian link to John Tipping Grove. This new public open space will function as a future 'eat street' for Penrith CBD.	Yes
	Provide high quality and activity public domain interface with new and existing public streets.	Public domain interface with new and existing public streets is a key feature of the design development, as described in the Design Integrity Panel Design Evolution Report (Appendix F).	Yes
	Closure of John Tipping Grove between High Street and Union Road.	The proposal anticipates the Council closure of John Tipping Grove.	Yes
	New public street with direct connection between High Street and Union Road.	The proposed new road connects Union Road and High Street.	Yes
	Replace existing roundabout on High Street with a signalised intersection at junction of High Street and the new street.	The new road has been designed to being capable of featuring in a signalised intersection at High Street. This however is not required by the proposed development.	Yes
	Active frontage/land uses along the new street and High Street.	Active frontages are provided.	Yes
	Building built to the street alignment of the new street.	The building is built to the alignment of High Street and the new road.	Yes
PART D – D2 RESIDENTIAL DEVELOPMENT			
2.5 Residential Flat Buildings			
2.5.4. Urban Form	For dwellings fronting the street, adopt a traditional orientation.	The proposed development addresses all street frontages.	Yes
2.5.9 Solar Planning	Minimum 4 hours sunlight between 9am and 3pm on 21 June to the living zone of each dwelling and adjoining dwellings.	The development achieves these solar access provisions in the ADG.	Yes
	Minimum 3 hours sunlight between 9am and 3pm on 21 June to 40% of the main private open spaces of dwellings and main private open spaces of adjoining dwellings.	The development achieves these solar access provisions in the ADG.	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	Where existing overshadowing reduces sunlight to less than the minimum, development is to not further reduce sunlight by more than 20%.	The proposal results in overshadowing impacts to surrounding development, however this is mitigated through the building design and is appropriate for the site within a CBD context.	Yes
2.5.12 Building Design	Variety in architectural features should be apparent in all visible facades.	The scheme has been assessed as capable of achieving design excellence (refer to DIRP endorsement).	Yes
	Car park basements should rise no higher than 1.5m above ground to provide a minimum 2.2m vehicle vertical clearance.	The proposed basement level does not project higher than 1.5m above ground level and achieves the required minimum clearance heights.	Yes
2.5.13 Energy Efficiency	Dwelling configuration to promote cross-ventilation through: <ul style="list-style-type: none"> (a) corner apartments with two external walls; (b) apartments that sit between two opposite external walls. 	Assessment of the proposal against ADG cross-ventilation requirements is provided in the SEPP Compliance Assessment at Appendix G .	Refer to Appendix G .
	Adopt appropriate orientation for rooms and windows: <ul style="list-style-type: none"> (a) living areas - facing within 30 degrees of solar north is desirable; (b) windows - at least 50% of glazing facing solar north is desirable; unprotected glazing facing east, west or south to be avoided; for every room, windows in two external walls are desirable; (c) where the desired orientation cannot be achieved, higher compliance with other energy efficiency standards shall be achieved. 	Assessment of the proposal against ADG solar access requirements is provided in the SEPP Compliance Assessment at Appendix G .	Refer to Appendix G .
PART C – CITY-WIDE CONTROLS			
C1 Site Planning and Design Principles			
1.2.5. Safety and Security	Development should be accompanied by an analysis against CPTED principles.	The proposal incorporates CPTED principles as described in Section 4 .	Yes
C3 Water Management			

Penrith DCP 2014	Provision	Proposal	Complies
3.2 Catchment Management and Water Quality	Residential flat buildings are required to consider and comply with the following concepts of water sensitive urban design: <ul style="list-style-type: none"> BASIX; Stormwater Quality; and Water Quantity Flow. 	Refer to the BASIX Certificate at Appendix J .	Yes
3.4 Groundwater	Consider impacts on underlying and surrounding groundwater resources and adopt measures to avoid these impacts.	The impact of groundwater has informed the basement design, which has been designed to avoid impacting groundwater and the water table.	Yes
3.6 Stormwater Management and Drainage	Development should consider existing drainage patterns (including localised ponding) and whether it is likely to affect surrounding development.	Stormwater management is designed to reduce impacts on the surrounding development.	Yes
C4 Land Management			
4.3 Erosion and Sedimentation	Development which involves site disturbance must be accompanied by an Erosion and Sediment Control Plan.	Refer to accompanying civil engineering plans at Appendix I .	Yes
4.4 Contamination Lands	Development is to address the potential for the activity to contaminate.	The Contamination Assessment Report (Appendix N) assesses the contamination status of the site.	Yes
C5 Waste Management			
5.1 Waste Management Plan	Submit a Waste Management Plan.	Refer to Appendix U .	Yes
5.2 Development Specific Controls 5.2.2.4 Residential Flat Buildings	Development of three or more storeys is to incorporate a waste chute system.	Garbage chute and recycling chutes will be installed within each building.	Yes
	Adequate and safe access provided for Council's Standard Waste Collection Vehicles and waste collection staff.	The loading dock has been designed for on-site collection.	Yes
	On-site collection is required to service the development.	Refer to the architectural drawings provided at Appendix E .	Yes
	A separate area should be provided for the storage and collection of bulky waste.	A bulky goods storage room is provided at ground level within the development.	Yes

Penrith DCP 2014	Provision	Proposal	Complies
C7 Culture and Heritage			
7.2. Aboriginal Culture and Heritage	For development on land identified as potentially archaeologically sensitive, an archaeological investigation is required.	The DA is supported by an Aboriginal Archaeological Assessment (Appendix V).	Yes
C8 Public Domain			
8.1 Pedestrian Amenity	<p>Lanes are to be designated pedestrian routes that are:</p> <ul style="list-style-type: none"> accessible paths of travel, with a minimum width of 6m for the full length and clear of any obstruction; appropriately lit and sign-posted to indicate the street(s) to which the lane connects. 	<p>The proposed new lane exceeds the minimum 6m width requirement. Detailed design of the new road will include street lighting and sign posts.</p>	Yes
	<p>Arcades are to be an accessible path of travel that:</p> <ul style="list-style-type: none"> Have a minimum width of 4m for the full length, clear of any obstruction, Are direct and publicly accessible thoroughfares for pedestrians during business/trading hours; have active frontages on either side for the full length; Where practicable, have access to natural light for at least 30% of the length; Where enclosed, have clear glazed entry doors to at least 50% of the entrance; Where security gates are in operation, designed to be visually permeable. 	<p>The proposed pedestrian link through the podium is designed to comply with the requirements of an arcade including a minimum width of 4m. It will be accessible during agreed times, provide active frontages to both seating zones and retail entrances, and operate visually permeable security gates.</p>	Yes
8.4 Outdoor Dining and Trading Areas	<p>If the outdoor dining area is located wholly within the development site and:</p> <ul style="list-style-type: none"> The floor area of the outdoor dining area exceeds 30sqm; or 	<p>The proposed outdoor dining does not count as GFA in accordance with the requirements of PLEP 2010, however is designed to function as part of the total floor area of the adjacent food and drink premises. The outdoor dining is proposed on the site as opposed to</p>	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	<ul style="list-style-type: none"> The floor area of the outdoor dining area will be included in the calculation of total floor space for food and drink premises. 	within the public domain ensure that this active frontage can be provided in an interim scenario where the level of John Tipping Grove is retained as existing.	
	The outdoor dining area must be setback a minimum of 2m from the building to provide unobstructed continuous clearance along the building shoreline.	Pedestrian circulation space is provided around and adjacent to the proposed outdoor dining area.	Yes
C10 Transport, Access and Parking			
10.1 Transport and Land Use	A Transport Management and Accessibility Plan will be required.	Refer to Appendix K .	Yes
10.2 Traffic Management and Safety	Major development proposals are to be accompanied by a Traffic Report.	Refer to Appendix K .	Yes
10.4 Roads	Proposed roads must comply with the road configurations and designed as per Council's <i>Engineering Design Guidelines</i> .	The proposed new road through the site has been designed to comply with Council's engineering design guidelines.	Yes
10.5 Parking, Access and Driveways	Parking – Residential Flat Buildings <ul style="list-style-type: none"> 1 space per 1 or 2 bedrooms; 2 spaces per 3 or more bedrooms; 1 space per 40 units for service vehicles; visitor parking is to be provided for developments that have 5 or more dwellings: 1 space per every 5 dwellings, or part thereof; 1 space for car washing for every 50 units, up to a maximum of 4. 	The proposed car parking provision is assessed in the Traffic Impact Assessment at Appendix K .	Yes
	Parking – Commercial <ul style="list-style-type: none"> 1 space per 100sqm of GFA. <p>However, a maximum 60% of the total number of commercial parking spaces required (other than for service vehicles, car washing bays and parking spaces allocated to people</p>	The proposed car parking provision is assessed in the Traffic Impact Assessment at Appendix K .	Yes

Penrith DCP 2014	Provision	Proposal	Complies
	with a disability) are to be provided on-site.		
	Up to 25% of the required parking can be provided above ground, where it is located at least 16 metres behind a building alignment that addresses a public street or public space and/or fronting a service lane with appropriate screening.	The above ground car parking has been screened via a comprehensive architectural and landscape scheme.	Yes
	Any additional parking provided above ground will count towards GFA.	No additional parking above the requirements of Council are proposed. The above ground car parking is in response to the requirement of Council and are not to be counted as GFA in accordance with the definitions provided within PLEP 2010.	Yes
	On-site residential parking is to be accommodated wholly in a basement unless it can be demonstrated that unique conditions prevent the parking from being located in a basement structure.	The proposal includes one level of basement car parking and four levels of above ground car parking. The above ground car parking is required to avoid groundwater at a depth of 6m below existing ground level and the prohibitive costs of pumping ground water.	Yes
C12 Noise and Vibration			
12.1. Road Traffic Noise	Where a site is likely to be affected by unacceptable levels of road traffic noise a Noise Impact Statement prepared by a qualified acoustic consultant is required.	The Acoustic Assessment at Appendix L provides recommendations to ensure that adverse levels of road traffic noise can be mitigated through the building design.	Yes
C13 Infrastructure and Services			
13.2 Utilities and Service Provision	Site analysis is required to address the existing and proposed provision of services/utilities to a property.	Infrastructure services in the locality are capable of accommodating the increased density on the site, with minor augmentation required.	Yes

7. KEY ISSUES

7.1. CONSISTENCY TO APPROVED DEVELOPMENT

As detailed in **Section 3.2** of this SEE, the subject DA is lodged following the original East Side DA (DA/2018/0264) which was approved by the Sydney Western City Planning Panel on 21 October 2019

The subject proposal is generally consistent with the original East Side DA in the following regards:

- Both schemes require excavation to depth of approximately 4 metres to provide for a single level basement car park. Vehicular access to the basement remains from Union Road and the new road.
- The ground floor of the podium is largely unchanged in terms of building articulation, built form, land uses (including business premises, public amenities, back-of-house uses, loading/unloading areas, storage areas, car parking, vehicle access, and residential lobbies), landscaping concepts, public domain treatment, façade materiality, and street activation principles. The subject proposal retains the pedestrian through-site link at street level between the new road and John Tipping Grove.
- Each other podium levels provides car parking for visitors and residents (including accessible spaces).
- The new public road connecting High Street and Union Road retains the same geometry, width, and configuration as previously approved. The road provides two lanes (north and south bound) from Union Road to Union Lane and one lane (north bound) from Union Lane to High Street. Each application requires the same civil works associated with the road including but not limited to landscape islands, kerb and gutter, asphalt roads, street lighting to be connected into existing grid, line markings, and road and street signal.
- The subject proposal retains the general location and configuration of the communal open space at podium level between the residential towers, with minor redesign to introduce a pool and outdoor gym / yoga area for the benefit of residents.
- The subject proposal does not propose any changes to Building 01 in terms of the built form, articulation, setbacks, internal design and configuration, or façade treatment. The quantum and mix of residential apartments contained in Building 01 remains unchanged from the original East Side DA (81 units), and the building retains its 9-storey form above the podium. As per the original DA, Building 01 will provide a transition in scale and massing to the existing residential land uses to the south beyond Union Road.

The intention of the proposal is to redevelop the site in a manner that better aligns with Council's vision and development objectives for an identified key site in the CBD, as envisaged in clause 8.7 of PLEP 2010. The proposal realises Council's vision and development objectives for key site 10 in the following regards:

- It utilises the bonus floor space and building height incentive provisions to facilitate higher density mixed use development on an identified key site in the City Centre.
- The proposal will represent an iconic, landmark building at a key western gateway to the City Centre.
- The provision of housing mix and affordability in Penrith will provide viable alternatives to a housing market which has traditionally been dominated by single dwellings in greenfield settings.
- It will generate significant residential and business activity which in turn will contribute to achieving housing and jobs targets for the CBD as envisaged in the state, regional, and local strategic policy.
- High-amenity housing within the CBD will support existing and forecast retail and commercial businesses in the City Centre and substantially improve the level of activity, vibrancy, and passive surveillance.
- Retail/business uses will activate the City Centre and stimulate Penrith's vision for a night-time economy.
- The public domain and landscape setting will improve local amenity for residents and users of the CBD.
- The new public road between High Street and Union Road, and substantial public domain improvements (including the new through-site link) will improve vehicular and pedestrian connectivity in the CBD.

- The creation of short term employment opportunities during construction and permanent long term employment opportunities through the retail/business uses will provide substantial economic stimulus. Consequential local, population-driven multiplier effects will further catalyse investment.
- The architecture will exhibit design excellence, as endorsed by the Design Integrity Review Panel, thereby providing a positive contribution to urban design outcomes in the City Centre.
- The proposal delivers community infrastructure on and adjacent to the site in accordance with the requirements of clause 8.7 of PLEP 2010 as outlined in **Section 7.3** of this SEE. In summary the proposal is accompanied by an offer to enter into a Public Benefit Offer and ultimate Voluntary Planning Agreement (**VPA**), or other legally binding agreement, to deliver a new north-south road on the site, and construction of a signalised intersection of the new road north-south road contained in the DA with High Street to the value of the contribution required under Council's *Community Infrastructure Policy*. TOGA is prepared to discuss with Council the potential for TOGA to design and construct these works 'in kind' as opposed to a cash payment subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals.

7.2. DESIGN EXCELLENCE 'ENDORSEMENT'

As detailed in **Section 3.3**, an architectural design competition was held to inform the original East Side DA. The competition applied to the site and adjacent land ('key site 3') comprising 640-652 High Street, Penrith.

In November 2017, the appointed Competition Jury concluded that the SJB and Architect Prineas scheme achieved the highest level of consistency with the Design Brief and was the scheme most capable of achieving design excellence. Key design elements identified as contributing to the success of the scheme:

- The number of tower elements were reduced and setback from the podium to "open" the public domain space in the centre of the site.
- The podium edge to the central public space was articulated to mimic the effects of erosion taken from the Blue Mountains with the material from this represented at ground level.
- The towers at the western edge could be staged and then linked to produce a single built form element.
- The facade detailing particularly to the western (Mulgoa Road frontage) presented a well-considered quality elevation (relevant for 'key site 3').
- The massing represented the best outcome for the site context.

Subsequent to the lodgement of the original East Side DA, amendments were required in relation to urban design details, building surroundings, elevations, and ground floor uses. Accordingly, the Jury of the Competition was re-engaged to review the amended design and to provide advice and direction.

In a letter dated 15 February 2019, the Competition Jury, now referred to as the Design Integrity Review Panel (**DIRP**), provided their endorsement of the amended design as it relates to design excellence and the winning scheme presented to the Competition Jury prior to the lodgement of the DA. At the time of the assessment of the original DA, amended plans addressing design amendments required by the DIRP had not been provided. The DIRP design amendments and additional requirements necessitated changes to architectural, civil, public domain, and landscape plans; these amendments were sought via recommended conditions of consent to the notice of determination of DA18/0264 (dated 22 October 2019).

Since the approval of the original East Side DA, TOGA has evolved their ambitions and development objectives for the site to respond to and better align with Council's vision for high density development on the site, as envisaged in clause 8.7 of PLEP 2010. Clause 8.7(5) provides that the consent authority must have regard to whether the development exhibits design excellence prior to determining whether to grant development consent.

Council's design excellence provisions are established in clause 8.4 of PLEP 2010. Specifically, the clause provides that the assessment of design excellence is to be subject to an architectural design competition.

The subject DA requires an amended endorsement of design excellence by the DIRP. Accordingly, a letter signed by an appointed representative DIRP endorsing the subject proposal is provided at **Appendix B**.

The amended endorsement by the DIRP confirms:

- The design quality of the 6:1 FSR concept is superior to the approved 3.3:1 development on the site.
- The proposed five level podium (which contains four above-ground parking levels) is appropriate in the context of a high water table, and due to effective and detailed redesign of the podium facades, would provide appropriate backdrops to surrounding roads and the future open space to the west.
- Increased height of the northern tower would have no adverse visual impacts due to floorplate dimensions and detailed redesign of facades which successfully moderate scale as well as avoiding a bulky or unduly-massive appearance.
- Redesign of facades for the northern tower has achieved a more-coherent architectural relationship with the southern tower, and consequently the two towers sit more-comfortably upon the linear podium.
- Redesign of tower facades also has provided for superior indoor climate comfort which would reduce the amount of energy that is required for summer-time cooling of apartments.
- Redesign of common areas offers a wider range of on-site recreation opportunities and would enhance the potential for social interaction between residents.
- In conjunction with the consolidation of back-of-house and commercial tenancies, the reconfiguration of ground floor lobbies has contributed to better-activated street frontages which effectively disguise potential impacts of above-ground parking.

The concurrence of the Secretary or their delegate must be obtained for the DA under clause 8.4(5)(b) of the PLEP 2010. In deciding whether to give concurrence to the DA, the Secretary must take into account the results of the Architectural Design Competition. In considering concurrence, the Secretary or their delegate may be reasonably satisfied that the design changes made to the scheme since the completion of the Architectural Design Competition in 2017 have been completed as an evolution of the winning design, and further that the design has been through a comprehensive design review process as documented within this letter.

7.3. PUBLIC BENEFIT OFFER

The applicant proposes a public benefit offer that is formulated in accordance with Council's *Community Infrastructure Policy*. The public benefit offer is to be documented within a VPA, through conditions of consent, or other legally binding agreement. Specifically, the public benefit offer is for the delivery of:

- Public domain works in kind including:
 - Construction of the new internal road which lies within the boundaries of the site.
 - Construction of civil works required to deliver the new road including, but not limited to, footpaths, landscape islands, kerb and gutter, asphalt roads, line markings, and road and street signage.
 - Provision of services within the boundaries of the site including cut and demolition of existing hard stand area, excavation, concrete pipework, backfill, connection to existing main, surcharge inlet pits, street lighting to be connected into existing grid in consultation with Council.
 - Provision of temporary road works including retaining walls, where required, between the site and the adjacent land concurrent with the construction of the new road.
- Payment for or construction of a signalised intersection (referred to as the 'ultimate intersection') at the intersection of the new north-south road and High Street, subject to agreement on construction details, timing, landowners' consent, RMS and other authority approvals.
- Remediation of the site in line with recommendations of the detailed contamination assessment. All land to be dedicated to Council will be remediated where required prior to the dedication.
- Excision of approximately 1,623sqm of land area from the site and dedication to Council for the purposes of a new road, footpath, and public domain works.

The community infrastructure offer is detailed in the Proposed Community Infrastructure Offer (**Appendix A**).

The notice of determination to the original DA (DA18/0264) included the following conditions of consent:

- 20. Prior to the issue of a construction certificate or commencement of any works, a Voluntary Planning Agreement is required to be entered into / executed with Penrith City Council, in accordance with the offer made by the applicant pursuant to clause 8.7 of the Penrith Local Environmental Plan 2010.**
- 21 Prior to the issue of any Occupation Certificate or Subdivision Certificate, a reference to the executed Voluntary Planning Agreement must be recorded on the title of the affected allotments.**

It is anticipated that a similarly worded condition of consent could be applied to the subject DA.

7.4. ABOVE GROUND PARKING

The proposal includes four levels of above ground car parking (set above the ground floor). Notwithstanding that above ground parking is typically avoided, the circumstances of the development require above ground car parking in order to meet the required residential car parking rates and to avoid groundwater which was encountered below existing site levels at an approximate depth of 6.5 m to 9 m.

The proposal incorporates the following design elements to mitigate impacts associated with the above ground car parking (including visual, acoustic, and odour impacts):

- High quality architectural screening of the naturally ventilated car parking levels including metal louvres, masonry elements, concrete columns, and natural landscaping.
- The landscaping design achieves a multi-layered experience, which integrates the architectural features of the podium levels with a refined and simple palette of materials and plantings. Planters have been designed to wrap around the building in various arrangements, and include a combination of low shrubs, grasses, and cascading and climbing plants to ensure a varied and softened appearance. The landscape design will provide visual interest and greenery to the building façades.
- Awnings throughout the podium provide separation from the upper level parking to the pedestrian streetscape along High Street, John Tipping Grove, the through-site link, and the new road.
- The massing of the podium is broken down into vertical sections that mimic the depth of residential uses in a shop-top, main street character. The overall podium dimensions are informed by surrounding development to the south to achieve a human scale and transition in building form across the site.
- The ground floor level is highly activated on High Street, the northern portion of the site, and at the corner of John Tipping Grove and Union road. Further activation of individual units within the podium was explored during the pre-DA phase, however it was determined that the amenity of these units was otherwise undermined by this location and a more usable parking floor plate to reduce the height of the podium would result in a better planning outcome.
- As such the provision of above ground car parking is in this instance supportable and results in an appropriate built form outcome.

7.5. SOLAR ACCESS

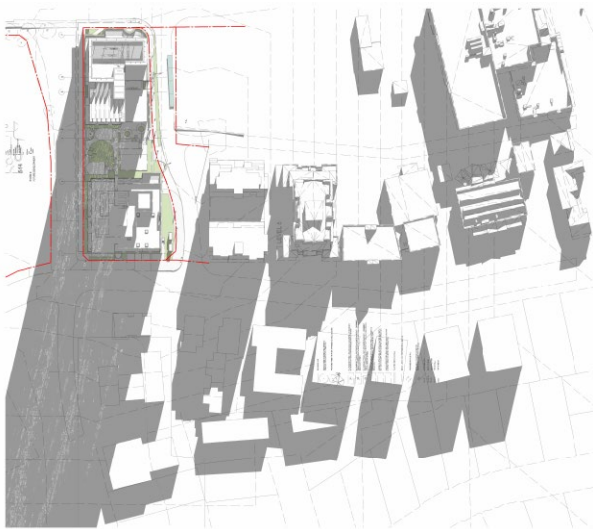
The proposed development responds to the desired future built form of the surrounding context. In particular, the proposal has been designed in accordance with the building separation requirements of the ADG. Notwithstanding, the proposal results in overshadowing impacts to surrounding development. However these overshadowing impacts are mitigated by through the building design and are considered appropriate for the CBD context of the site and the level of solar access achieved to these buildings.

As illustrated in **Figure 8** below, the proposal achieves solar access to the northern façades of the following surrounding residential developments in mid-winter:

- The residential flat building at 86 Union Road will achieve the ADG required solar access for at least 2 hours to the northern façade from 1pm onwards.
- The residential flat building at 4 John Tipping Grove will achieve the ADG required solar access for at least 2 hours to the northern façade from 1pm onwards.

- The residential flat building at 8 John Tipping Grove will achieve solar access for at least 2 hours to the northern façade from 11am.
- The residential villas at 82-84 Union Road will achieve solar access for approximately 2 hours to the northern façade from 9am to 11am; however the western façade of these villas achieves direct solar access from 9am to 11am and from 2pm onwards.
- The existing residential development at 83-85 Union Road (approved in December 2013) will achieve solar access for at least 2 hours to the northern façade from 9 am to 11:30 am mid-winter.

Figure 8 – Proposed Shadow Diagrams in Mid-Winter (Source: SJB Architects)



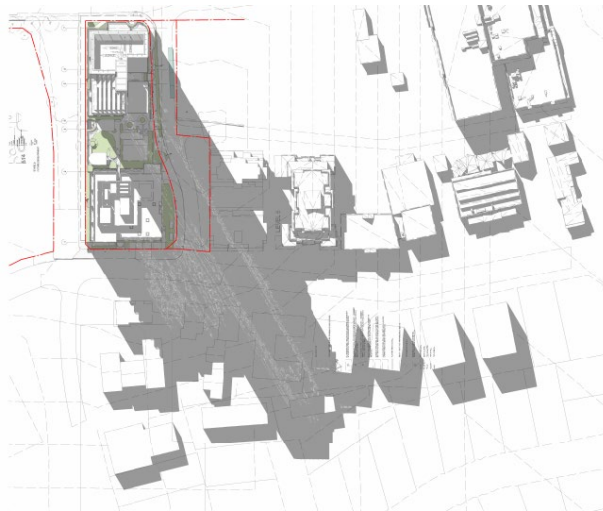
Picture 11 – Mid-Winter 9am



Picture 12 – Mid-Winter 10am



Picture 13 – Mid-Winter 11am



Picture 14 – Mid-Winter 12pm



Picture 15 – Mid-Winter 1pm



Picture 16 – Mid-Winter 2pm

8. ASSESSMENT OF ENVIRONMENTAL EFFECTS

In determining the development application, the consent authority is required to consider the matters listed in Section 4.15 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

Each of the relevant matters for consideration is addressed below.

8.1. SECTION 4.15(1)(A) – STATUTORY PLANNING CONSIDERATIONS

Section 4.15(1)(a) of the Act requires the consent authority, in determining a development application, to take into consideration the following matters as relevant to the development:

“(a) the provisions of –

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),
- (v) (Repealed)

that apply to the land to which the development application relates”

In relation to Section 4.15(1)(a)(i) and (iii), the development has been assessed in accordance with relevant state, regional and local environmental planning instruments and development control plans, as follows:

- *Environmental Planning and Assessment Act 1979*
- *National Parks and Wildlife Act 1974*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index Basix) 2004*
- *State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development)*
- *Penrith Local Environmental Plan 2010*
- *Penrith Development Control Plan 2014*

This SEE demonstrates that the proposed development is generally consistent with the relevant state, regional and local policies and environmental planning instruments and achieves the objectives of relevant provisions. Where the development is not compliant with the relevant statutory provisions, it has been demonstrated that the non-compliant proposal results in a superior outcome than a compliant proposal.

In relation to **Section 4.15(1)(a)(ii)**, there are no draft environmental planning instruments relevant to the site or the proposed development.

In relation to Section 4.15(1)(a)(iiia), TOGA proposes a community infrastructure offer to Council (refer to **Appendix A**).

In relation to Section 4.15(1)(a)(iv), clause 92(1)(f) of the Regulations relevantly provides as follows:

- “(1) For the purposes of section 4.15(1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application –
- ...
- (f) in the case of a development application for development for the erection of a building for residential purposes on land in Penrith City Centre, the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre published by the Department of Planning and Environment on 28 June 2019.”

The DA is accompanied by a Flood Impact Assessment provided at **Appendix O**.

8.2. SECTION 4.15(1)(B) – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACTS

Section 4.15(1)(b) of the Act requires the consent authority to consider:

- “(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”

The relevant matters are addressed below.

8.2.1. Natural Environmental Impacts

The site is highly urbanised, having had an established history of use as a car yard. The proposal will have minimal impact on the natural environment insofar as no significant trees are to be removed and trees which are to be removed will be replaced by new planting as part of a comprehensive landscape scheme.

As detailed in the accompanying Landscape Plans (at **Appendix H**), the comprehensive landscaping design includes deep soil planting opportunities, retention of some existing trees, new tree planting within the public domain, and communal open space at podium level. New landscaping will provide a positive contribution to the streetscape and public domain, particularly along John Tipping Grove and High Street.

The proposal necessitates the removal of selected existing trees and replacement with super advanced specimens. The landscaping design incorporates replacement tree plantings and vegetation species across the site. As detailed in the Arboricultural Impact Assessment (**Appendix X**), the trees identified for removal cannot be retained or relocated due to the proposed building footprints and associated infrastructure, where encroachment will have an adverse impact on its roots and crown for viability and stability.

No threatened species or endangered flora or fauna will be affected by the proposed development and there will be no significant environmental impacts on biodiversity.

8.2.2. Built Environmental Impacts

The site is largely vacant with the exception of one existing single story building. The proposal to deliver a well-modulated 37-storey mixed use development of high quality design and appearance which will have a positive impact on the built environment, in the context of the desired future character of the locality.

The proposed development has been designed to reflect strategic and statutory built environment planning objectives and development standards that apply to the site and the prevailing urban environment. The proposal is consistent with Council's vision for a vibrant high-density development within the Penrith CBD.

The surrounding road network is capable of accommodating the proposed development in terms of parking, traffic movement, and congestion. Only minor augmentation of road intersections will be required.

As detailed in the Hydraulic Infrastructure Report and Electrical Infrastructure Report, existing services will be extended, expanded and augmented to meet the demands and requirements of the development.

Potential built environment impacts including solar access, view sharing, overshadowing, and reflectivity have been mitigated through the considered siting, articulation, and detailed design of the development.

The potential impacts to the built environment as a consequence of the proposal are appropriate in light of the form and density of development envisaged on the site by the relevant statutory planning controls.

8.2.3. Bulk and Scale Impacts

The impact of the proposed bulk and scale on the street level and potential pedestrian amenity impacts have been considered in detail with the 5-storey podium providing a contextually appropriate ground plane that delivers a human scale to the development and massing that relates to the prevailing urban environment.

The podium and siting of the development enhances street activation and pedestrian movement around the site. The proposal facilitates vehicular accessibility and circulation around the local street network.

8.2.4. Visual and View Impacts

The proposed development does not interrupt existing views or vistas to or from the public domain, or from other surrounding buildings to any significant extent. It will have a high quality appearance when viewed from the perspective of Penrith CBD and surrounding vantage points. The architectural plans (at **Appendix E**) contain a visual analysis of the proposed development from selected surrounding vantage points.

8.2.5. Accessibility

The development has been designed to allow ease of access for all residents, staff, and visitors by through the provision of continuous paths of travel, circulation spaces and appropriate gradients. The residential accommodation and commercial tenancies will be accessible via entrances and the public domain at ground floor level, and the main paths of travel will be accessible and continuous throughout.

The Access Statement (at **Appendix S**) assesses access of the development and recommends strategies to maximise reasonable provisions of access for people with disabilities. It concludes that the proposal complies with relevant statutory guidelines, including access provisions of the BCA, The DDA Access To Premises Standard, AS1428 suite of Standards, AS2890.6 (for car parking), AS1735.12 (for lifts), AS4299 (Adaptable Housing), SEPP 65 (Part 4Q), and Council's DCP relating to Access for People with a Disability.

8.2.6. BCA Compatibility

The BCA Assessment provided at **Appendix R** confirms that the proposed development is capable of compliance with the Building Code of Australia (**BCA**) and relevant Australian standards.

8.2.7. Wind Impacts

The Wind Impact Assessment (at **Appendix W**) concludes that whilst the site will be exposed to winds from most directions and will moderately influence the local wind environment, wind conditions satisfy industry-standard Lawson distress/safety criterion and are expected to be suitable for pedestrian activities.

8.2.8. Traffic and Parking Impacts

The Traffic Impact Assessment (at **Appendix K**) assesses the potential impacts of the development relating to traffic movement, congestion, parking, and servicing. The Assessment includes the following conclusions:

- *The existing road network is generally operating within capacity, with some congestion however for right turn movements at intersections along High Street and along Mulgoa Road. Alternative modes of travel are well catered for, with bus and train services providing regular public transport throughout the greater Sydney region;*
- *In accordance with the RMS Guide and the DCP, the proposal is required to provide a minimum total of 312 parking spaces;*
- *In accordance with the NSW Planning Guidelines for Walking & Cycling, bicycle parking must be provided within the range of 93-148 spaces. The proposal will need to comply with this requirement. Residential bicycle parking will be predominantly provided for within the allocated storage lockers, which will be appropriately designed to accommodate bicycles;*
- *A loading bay within the ground floor loading dock has been provided that is capable of accommodating a 10.5m long Council refuse vehicle. A turntable has been proposed within the loading dock to allow the refuse vehicle to enter and exit the site in a forward direction. This is considered appropriate for the development;*
- *Based on the proposed parking provisions and commercial floor area, the anticipated traffic generations of the proposal have been estimated in reference to the RMS Technical Direction 2013/04. A potential traffic generation of 158 trips are anticipated in the AM peak, whilst 154 trips are anticipated in the PM peak;*

- *A future road network model has been analysed using SIDRA, applying the proposed traffic volumes to the background traffic of the local road network and incorporating the traffic generation associated with the Urban Apartments development for a robust cumulative analysis. In summary, the model indicates that the proposal will be accommodated within the road network and will result in some manageable increase to the delays at some intersections; and*
- *A design review of the architectural plans has been undertaken, with reference to the AS2890 series. This review determined that the design is capable of complying with the relevant standards, which will need to be demonstrated fully prior to Construction Certification.*

In light of the above assessment, it is considered that the proposed development will not result in any significant impacts on traffic, congestion, or parking in the locality.

8.2.9. Aboriginal Heritage Impacts

The archaeological investigations detailed in the Aboriginal Archaeological Assessment (at **Appendix V**) conclude that no Aboriginal objects are located on the site. Accordingly, an AHIP is not required and the proposed development can proceed without any further testing, salvage, monitoring or assessment.

8.2.10. Noise Impacts

The Acoustic Assessment (at **Appendix L**) provides an acoustic assessment of potential noise impacts associated with the development. It addresses impacts associated with noise intrusion from High Street (a classified road), surrounding roadways, noise emissions from vehicle access, and noise emissions from mechanical plant. The Assessment recommends acoustic attenuation measures to minimise acoustic amenity impacts of surrounding and future residents of the development. These recommendations are mostly administrative in nature and therefore a condition of consent is invited to this effect.

8.2.11. Social and Economic Impacts

The proposal will deliver diverse social and economic benefits. These can be summarised as follow.

- Many and varied employment opportunities (direct and indirect jobs) will be generated during marketing, construction, fit-out, and operation of the development.
- The inclusion of food and beverage retailing at street level will add to the overall provision within Penrith CBD. The extension of choice will promote greater competition, with possible benefits in terms of more competitive prices and better quality.
- The site is located within Penrith LGA. The 2016 census data indicates that the LGA has an existing household structure comprising the following:
 - Couples with children – 48.8%
 - Couples without children – 30.3%
 - One parent families – 19.3%
 - Other family – 1.5%
- These household demographics suggest that Penrith requires a significant mix of 2+ bedroom units in order to accommodate couples and families, and some 1-bedroom units in order to accommodate remaining single persons. The proposed development will achieve a range of unit typologies and sizes which will improve the supply of housing for residents and families.
- Future residents of the development will benefit from excellent amenity with ready access to public transport, local services and facilities, and employment opportunities.
- Significant public domain works are proposed, including the delivery of a new road which will provide a link from residential development to the south to the Penrith CBD and additional pedestrian links to encourage increased foot traffic through the site and to improve accessibility to John Tipping Grove.
- The proposed development incorporates CPTED principles.

The proposal will provide positive social and economic impacts to the immediate and wider communities.

8.3. SECTION 4.15(1)(C) – SUITABILITY OF THE SITE FOR DEVELOPMENT

Section 4.15(1)(c) of the Act requires the consent authority to consider:

“(c) the suitability of the site for the development”

The site is highly suitable for the proposed mixed use development for the following reasons:

- It is zoned B4 Mixed Use, within which the proposed uses are permissible with consent.
- It is well serviced by public transport, with close proximity to Penrith Railway Station and Penrith CBD.
- It is located between residential localities to the south of the site and commercial and mixed-use buildings to the north east, and therefore well positioned to deliver a new mixed-use development with ground level retail uses and upper level residential apartments.
- Council identifies the site as a ‘key site’ within the CBD, suitable for increased height and density. The site is adjacent to two parcels of land also identified as ‘key sites’ in the PLEP 2010.
- The size and topography of the site is appropriate for the proposed built form of the development.
- It will be connected to all necessary infrastructure and services.

The proposal responds to Government’s objectives to provide new employment floor space within Penrith CBD and deliver more residential dwellings within 30 minutes of employment centres. In this regard, the site is eminently suitable for the proposed development.

8.4. SECTION 4.15(1)(D) – SUBMISSIONS

Section 4.15(1)(d) of the Act requires the consent authority to consider:

“(d) any submissions made in accordance with this Act or the regulations”

Any relevant submissions will need to be considered by the consent authority in the assessment and determination of the development application.

8.5. SECTION 4.15(1)(E) – THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires the consent authority to consider:

“(e) the public interest”

The proposed development is considered in the public interest for the following reasons:

- it provides for the orderly and economic use of the land for permissible uses under the relevant planning instrument and in a form which is cognisant of, and does not impact unreasonably on, surrounding land;
- it achieves compliance with the objectives and development standards of relevant planning controls including the PLEP 2010 and the Penrith DCP.
- it realises the development density potential of the site as envisaged by clause 8.7 of PLEP 2010;
- it delivers a diverse range of housing options within the Penrith LGA at a location that is within walking distance to high frequency public transport, community facilities, and employment opportunities;
- it creates a vibrant, safe, and active place for people to live, work and visit. The development will attract local businesses and generate substantial investment in the local economy;
- it improves connectivity between the western fringe of the city centre and the core CBD area;
- it actively reinvigorates the western end of High Street and encourages people to shop, visit, and work in the area;
- it results in significant public benefit by the delivery of a new road through the site, which would not be able to be achieved within a base compliant building height and floor space ratio;

- it provides a transitional building scale from the existing residential apartment development to the south and east and future high-rise development on land to the west of John Tipping Grove;
- it has been the subject of an architectural design competition and achieves a high standard of architecture and functionality. It delivers a contemporary design which will reinvigorate the streetscape and surrounding area and make a positive contribution to the site and surrounding context; and
- it is compatible with the existing and desired future character of the prevailing city centre locality and does not create any significant adverse impacts on the environment or adjoining properties.

Accordingly, it is considered that the proposed development is in the public interest.

9. CONCLUSION

The development application seeks consent for the construction and operation of a mixed-use development at 634-638 High Street and 87-91 Union Road, Penrith. This SEE has assessed the proposal against relevant provisions of section 4.15 of the EP&A Act.

The compelling reasons why a positive assessment and determination should prevail are as the proposal:

- **The proposal is consistent with State and subregional strategic planning objectives.**
- **The proposal will have a positive effect on the wider of Penrith CBD** through provision of new roads connecting pedestrian linkages and encouraging increased footfall to John Tipping Grove.
- **The proposal satisfies the applicable local and state planning policies.** The proposal meets the objectives and intent of the PLEP 2010 and achieves a high level of consistency with the key planning controls within Penrith Development Control Plan 2014. Where the proposal does not fully comply with a numeric provision, it is considered that the objectives and intent of the numeric provision has been met and therefore achieves compliance.
- **The design responds positively to the site conditions and the surrounding environment.** The proposal was subject to review by the Design Review Jury appointed to assess the original East Side DA to ensure that the new proposal achieves design excellence. The proposal represents the qualities of Design Excellence.

The proposed residential apartments will offer residents a high standard of internal and external amenity. They will achieve a high degree of compliance with the key parameters of the ADG including natural cross ventilation, solar access, building separation, landscaping area, and communal open space.

Having considered all the relevant considerations under section 4.15 of the EP&A Act, we conclude that the proposal represents a sound development outcome that respects and responds to the prominent site location and the amenity of surrounding developments.

The proposed development is considered well-worthy of Council support and ultimately approval from the Sydney Western City Planning Panel.

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