

PENRITH CITY COUNCIL

Our Reference: DA20/0148

Contact: Kathryn Saunders

Telephone: +612 4732 8567

4 November 2020

Toga Penrith Developments Pty Ltd
Level 5 45 Jones Street
ULTIMO NSW 2007

Dear Sir/Madam

Development Application No.: DA20/0148

Proposed: Construction of Part 14 Storey, Part 37 Storey Mixed Use Development including One (1) Level of Basement Car Parking, Five (5) Storey Podium Containing Car Parking, Ground Floor Commercial, 356 Residential Apartments, New Public Road & Associated Site Works

Address: 87 - 93 Union Road PENRITH NSW 2750

Reference is made to Council's previous correspondence dated 20 August 2020 and the issued pre-lodgement advice, in which it is identified that Council is unable to support the offer of Community Infrastructure and it is noted that a meeting has been recently attended with Council to discuss the matters raised. As has been requested, a preliminary review of the submitted 6:1 development proposal is included below for your consideration and advice.

A. Planning Matters

1. Design Excellence

(a) It is acknowledged that the Government Architect NSW has issued as design competition waiver and through the Design Integrity Panel (DIP) has agreed that the development - based on the information it was provided, achieves design excellence. Despite this process and the issuance of the waiver, it is not assessed that the development sufficiently demonstrates design excellence and is unsatisfactory having regard to the matters for consideration under clause 8.4 of PLEP.

(b) In relation to the waiver issued for a 6:1 scheme, the submitted documentation does not address how the development proposal aligns with the winning design competition 'master plan' for the site or with the design competition design brief itself. The design of the development has sufficiently departed from the design winning scheme (for a 6:1 outcome), such that the primary matters considered to be demonstrative of design excellence, are no longer assessed to be exhibited.

Additionally, the waiver cites the existence of ground water as reasoning for the DIPs acceptance of the extent of podium parking proposed, this position is somewhat ill-founded in that the development proposal is not accompanied by any evidence confirming that simple and commonly employed design and engineering solutions could not be adopted, allowing for the inclusion of a second level of basement parking.

Current examples of two level basement construction have been approved and have been constructed on sites nearby to the subject site. The possible existence of ground water is not in itself sufficient reasoning for the extent of unsleeved podium parking sought.

(c) The design competition jury's report details that the SJB and Architect Prineas design had demonstrated a preferred scheme. The report includes that the jurors were satisfied that outstanding matters identified as requiring further resolution, could be resolved at detailed design phase, through further consultation with the jurors. The amendments which were undertaken in acknowledgement of the required design resolution, are not represented by the design proposed.

The design competition assessment criteria weighting was heavily focused on urban and architectural design principles, public domain, integration with Penrith city and its environs, and the master plan. The 3:1 and 6:1 winning schemes were designed cognisant of a master plan for the whole site (both lots east and west of John Tipping Grove) and it was not the intention in the grant of a winning scheme, that the proposal would become a part-site, instalment - exclusive of the outcomes anticipated by the winning master planned scheme.

(d) Documentation accompanying the proposal asserts that the design, including the finished levels, pedestrian through link and public domain will be enhanced by the outcomes of later stages, however no detail of those later stages is provided and the design of the development sought does not permit a complementary design which might key into the competition winning master plan concept applicable to a potential future Stage 2.

Further, due to the limited access points along the street frontages which is available for car parking and service entry points for later stages, it cannot be understood that complementary finished floor levels will be achieved along the western elevation of the building.

(e) The most recent waiver issued by the Government Architect NSW is inconsiderate of the winning master plan concept, does not acknowledge the status of any contribution to the amended scheme from Architect Preneas, and does not pursue the absence of a Concept and Staged development over the Lot, being both the east and west parts. Notwithstanding other unresolved issues related to the proposal, Council will be liaising further with regard to the issuance of a waiver for the design and in relation to design excellence with the Government Architect NSW.

(f) It is re-iterated that a concept design is to be provided for the two part lots (east and west). It is not demonstrated that the design of the development on the eastern part lot can achieve the desired urban outcome, in particular that appropriate finished levels which will encourage activation, circulation and pedestrian permeability, and as was envisaged for the site as part of the design competition winning scheme.

A concept or master plan would also provide certainty around achievable gross floor area and FSR which would be informed by site wide considerations of traffic, car parking, pedestrian and service vehicle entry points, and would assist in Council's understanding of any future offer of Community Infrastructure related to the PLEP Key Sites provision.

(g) The density proposed as part of the DA maximises all available floor area for the lot under the LEP Key Site provision, yet proposes an interim roadway design which does not address unsafe pedestrian outcomes. Council does not support the installation of pedestrian fencing around the development or along Penrith's High Street as a response. Installation of fencing will negatively impact

on streetscape, local character and will lock away the development from pedestrians, rather than present the development positively to the locality. All fencing proposed is to be shown on a set of civil or architectural plans.

(h) The depth of the proposed floor plates are large and don't taper as the building increases in height. The building design does not ensure that the bulk of the development relates to the scale of the desired future context. Council has endorsed a City Centre Height Strategy document which identifies a 'point tower' approach to the design of tall buildings.

(i) Additional information is required in relation to the recommendations of the submitted Wind Assessment.

B. Traffic, Access and Engineering Matters

(a) As raised in Council's previous correspondence, the approved although yet to be constructed north-south link road in its ultimate configuration is partially located on private land which is in separate ownership. A CI offer toward the completion of an approved, yet to be dedicated roadway and signalised intersection, reliant on land which is not in the applicant's nor Council's ownership, and which is required in an identified capacity, to facilitate the traffic and pedestrian safety requirements of the development proposal, is not in the public interest.

The development proposal must contribute toward the installation of a signalised intersection (at the intersection of the new road and High Street) to the satisfaction of Council and TfNSW, and the design of the development must demonstrate that the area required for the installation of the signalised intersection is provided for, through the provision of intersection overlays and the like. Council will not support interim intersection arrangements or iterations of the final design, based on the scale of the development sought, amongst other matters.

(b) It is not agreed that all traffic generated by the development can be accommodated by the interim traffic arrangements approved under DA18/0264. Issues of traffic generation and pedestrian safety are unsatisfactorily resolved. Refer also to Council's correspondence issued 20 August 2020 and the issued pre-lodgement advice.

C. Penrith Development Control Plan 2014 (DCP)

1. Section E11

(a) Section E11 of the Penrith DCP applies to the development proposal and identifies that the site is located in the City West (Mixed Use) Precinct, one of eight precincts in the Penrith City Centre, each with their own distinct intended characteristics. Clause 11.1.3(5) of the DCP identifies that ...*'there is an opportunity to locate an urban space in this precinct that affords an "eat street" environment with connection to the adjoining civic and cultural precinct'*. Other sections of Part E11 build on this vision through the identification of a desired new lane (Figure E11.18) along the site's eastern boundary. As detailed in Council's previous correspondence, the proposal does not satisfactorily contribute to delivering the precinct's intended infrastructure requirements and is not supported on these grounds.

(b) Detail is to be provided as to how the design of the development will achieve the desired outcomes that are identified for Precinct 1, including how the development contributes to a sustainable form within the City Centre context, including economically. The proponent is encouraged to respond to the original master plan and design documentation and principles which underpinned the Planning Proposal attached to the adoption of the Key Sites provision and explain contextually, how the development keys into the Precinct and City Centre vision, and also how the design represents the architectural design competition winning scheme and how the proposal relates to the master plan (as discussed further above).

(c) It is not agreed that a 5 storey built to boundary podium including 4 storeys of unsleeved car parking, in the proposed location is appropriate. The design of the development has not had adequate regard to the predominant character of High Street, Union Road, or to the character of the immediate surrounds, including the Joan Sutherland PAC and Cultural Precinct opposite and the nearby existing residential apartment buildings, including those located on the southern side of Union Road.

Car parking will be visible through the slatted façade screening and in particular at night, when car parking lighting is on. It is assessed that this will detract from the residential character of the western end of Union Road and from the future streetscape quality of the Precinct, and set an undesirable and poor precedent in the city centre.

(d) Insufficient area is provided at ground floor to accommodate the infrastructure requirements of the density of the development proposed. The applicant is advised to liaise with Council's waste team to ensure the residential storage and collection areas are satisfactory.

(e) The proposal does not comply with the requirement under the relevant Australian Standard for two lane residential entry and exit points to the development and is to be amended to comply.

(f) Owing to the accumulation of issues related to vehicle and waste management and maneuverability at ground floor, the unsatisfactory location of services at the street level (including substations and grease traps) and having regard to the DCP requirement for basement parking in the City Centre, it is considered that additional levels of basement parking must be provided - the possible existence of ground water is not adequate reasoning for adoption of a single level of basement parking only, in particular for a density of development which results in a 5 storey podium with 4 levels of built to boundary car parking within the City Centre.

Impacts of potential PMF flooding, resultant evacuation and designing for flood resilience are not adequate reasoning for the extent of podium parking sought and are adequately addressed by the various submitted reports which determine that the residential levels are above the PMF, and sufficient shelter in place options and evacuation routes are available.

2. Other Sections

(a) The design of the end of trip facilities should consider the comments provided below related to bicycle facilities and end of trip facilities:

(i) In accordance with the requirements of Section C10, Chapter 10.7 Bicycle Facilities, developments area to provide bicycle parking in secure and accessible locations and in accordance with AS 2890.3:1993 Bicycle Parking Facilities.

(ii) The bicycle parking is to be co-located with high amenity end of trip facilities, in a brightly lit, ventilated and secure area which is of appropriate amenity as to encourage and support modal shift and the use of bicycles as an alternative to car trips for the retail component of the development.

(iii) End of trip facilities are to be co-located with an adequate number of secure bicycle parking spaces.

(iv) The end of trip facilities are to include male and female toilet, change and shower facilities.

(v) The facilities are to have regard to the design excellence provisions of PLEP and best practice and good design principles.

(vi) The facilities are to be safe, are to consider the principles of crime prevention through environmental design and are to be user friendly and easily cleaned.

(vii) The inclusion of high quality supportive amenities such as lockers, hair dryers, mirrors, benches and shared areas with high visibility to the location surrounds is encouraged.

(viii) You are encouraged to liaise with Council regarding the need for on street and/or public/private bike parking locations. Secure on site bike parking need not be provided in any one consolidated location and should consider the safety and access needs of each user group.

(b) To encourage modal shift and to assist with sustainability and 'future proofing', a proportion (5-10% or greater) of car spaces including those reserved for the use of commercial users are to be provided with access to electronic vehicle charge points and plans are to be annotated. The applicant is encouraged to design the development to allow for the future installation of additional charge points without significant and invasive building alterations. The applicant is encouraged to provide a minimum of one un-allocated 'share car' space located close to the lifts on each parking level.

(c) Clause 11.3.3 Awnings of Part E11 of the DCP requires that the development provide for a continuous street front awning to High Street and that the awning be 2.4-2.8m deep depending on street tree locations, and that the awning have a soffit height of between 3m and 4m and be stepped if required. Awnings are to be low profile with slim vertical fascia of 300mm max. and are to wrap

around corners for a minimum of 6m.

Awnings are to have regard to the design excellence provisions of the LEP and are to be high quality and contain integrated and recessed under awning lighting and provision for 'hamper' style tenant signage opportunities at 6m centres (approx.) or in alignment with approved tenancy layouts.

(d) A concept set of public domain plans are to be provided. The plans are to have regard to Council's Public Domain Technical Manual and you are encouraged to liaise with Council's Landscape Architect, to ensure provision is made for street tree and street lighting in the design of awnings and street furnishings, paving and the like. The public domain set of plans are also to be informed by Civil design and are to include cross section and levels which detail any 'interim' and 'final' public domain or public/private areas around the development.

(e) Chapter C10 of Council's DCP requires that a maximum of 60% of the total number of commercial parking spaces required by a development, other than for service vehicles, car wash bays and parking spaces allocated to people with a disability, are to be provided on site. The balance of the total, required off site will be the subject of a contribution under the Penrith City Civic Improvements Development Contribution Plan or may be the subject of terms set by a Voluntary Planning Agreement. Details of car parking rates and calculations are to be provided with the 60% off site number nominated.

(f) Above ground car parking is not adequately sleeved as is required by the Penrith DCP, and related FSR is not calculated in accordance with the DCP requirements.

D. SEPP 65 and the Apartment Design Guide

(a) Detail is to be provided as to how the privacy and amenity for units in close proximity to the proposed podium pool and communal area will be protected. Toilet and change room amenities are to be provided at the same level as the pool for the use of all residents.

(b) The proposal is required to provide 25% of the site as communal open space (COS), with 50% of this area provided with direct sunlight to the principal usable part for a minimum of 2 hours in mid winter. The proposal for an area of 992sqm is not compliant with this requirement. Additional break out communal open space areas are to be provided at the upper level of each tower, which will also assist in breaking up the large area of the floor plates, reduce overshadowing impacts and open up views towards the west and the Blue Mountains escarpment.

Landscaping of the COS area is to include canopy tree planting. Planters are to enable medium canopy tree growth. Primary COS planters are to be detailed to identify the layers of trees, shrubs and ground covers suitable - with larger scale sections provided.

A communal open space plan is to be provided which accurately indicates the areas utilised to calculate COS. A reduction in COS area will not be supported as local public communal open spaces are not readily and easily accessible from the site owing to the location of arterial roads, and due to the density of residential apartments proposed.

(c) The landscape design is to ensure that the soil depths and volumes for selected plantings are in accordance with the ADG, 4P Planting on structures (Table 5).

(d) Adequate separation is not provided to apartment bedrooms and private open spaces, from gallery entry points and common walkways. Units at podium 5 need to be provided with screening to common areas and the proposed pool. Refer to Objective 3F-2 of the ADG and the related design guidance. Sections through typical interfaces at this level may assist in detailing the design response.

(e) The proposal is in opposition to Objective 3C-2 of the ADG, in particular the design does not reduce the visual prominence of underground car parking vents, and does not locate substations, pump rooms and the like within the basement, or out of view. The proposal includes two electrical substations along the eastern elevation, street front amenities, on site detention tanks and dominant service areas. The design response along the western frontage does not support the anticipated

public open space redevelopment. The design does not promote level street access or minimise the use of blank walls and ground level parking.

(f) The proposal does not adequately respond to the design guidance statements under Objective 3J-5 of the ADG as ground floor parking is not away from the primary street frontage. Further, the proposal does not respond to the design guidance statements under Objective 3J-6 of the ADG in that above ground enclosed parking is not located away from the primary street frontages, is not adequately screened through the use of landscaping which will be effective as a screening method. Podium car parking is not sleeved and in this respect, is not supported at the extent proposed.

E. Public Art and Place Making

(a) Section C8 Public Domain of Council's DCP includes objectives to encourage new developments to facilitate and integrate high quality place making and public art into developments so as to contribute to cultural development of the City. For significant developments with a CIV >\$5 million, developments are to include place making and public art.

A Place Making and Public Art Strategy is required and is to include details of the engagement and commissioning of professional with areas of place making and public art. The areas and conceptual details of the type and location of artworks are to be provided. Public art will be required to be installed prior to the occupation of the development. In preparing the Strategy, regard is to be had of Council's Place Making and Public Art Policy and of the matters detailed in Section C8 of the DCP.

The double height lobby entries are encouraged as an opportunity for the installation of public/private art. The through link may provide art installation opportunities. Public art need not be restricted to private property and you are encouraged to seek opportunities to integrate art into the streetscape. Streetscape elements may include insertions into the pavement, or be incorporated into the building's façade, under awning or into the lighting or public furnishings, suspended above the street, and the like.

F. Engineering and Traffic Matters

(a) The development proposes 356 (81 + 275) new residential apartments and new retail spaces at ground floor and also includes a new east-west pedestrian through link and new north-south roadway with pedestrian pavements. In this regard, the proposal represents a significant generator and attractor of pedestrian traffic and, in the absence of a signalised crossing point in the immediate proximity of the site, the development must address how pedestrian safety will be managed, particularly for north-south pedestrian movements.

The application proposes the installation of pedestrian fencing along High Street. The development must provide for a signalised intersection at the intersection of the new road and High Street (refer to Council's 20 August 2020 and pre-lodgement correspondence), any additional pedestrian fencing is to be nominated on civil and architectural plans.

G. Servicing

(a) The submitted hydraulic infrastructure report indicates that there is insufficient capacity in the existing network to service the needs of the development. Additional information in relation to sewer infrastructure is required to satisfy PLEP clause 7.7.

(b) Inadequate area is provided in the waste storage zones at ground floor to enable the collection of bins, particularly those at the rear of each room.

Council cannot support the application in its current form, and for the reasoning provided in the correspondence issued in relation to the development proposal thus far, and will now work towards completing its assessment of the application.

Should you have any further queries on this matter, please contact me on +612 4732 8567.

Yours sincerely

Kathryn Saunders
Senior Development Assessment Planner