



Statement of Environmental Effects

Proposed Serviced Apartments

21-25 Woodriff Street, Penrith

October 2016

Astina Group



Stimson & Baker Planning
ACN: 167 096 371
ABN: 34 824 672 534

Suite 5,
488 High Street
Penrith NSW 2750

P 02 4731 2730
F 02 4731 2370

www.stimsonandbaker.com.au

This submission has been prepared by



Warwick Stimson MPlA CPP
Director



Author	Version	Date
WS	Draft	111016
WS	Final	131016

This report dated October 2016 is provided to 'the client' exclusively. No liability is extended for any other use or to any other party. Whilst the report is derived in part from our knowledge and expertise, it is based on the conditions prevailing at the time of the report and upon the information provided by the client.

© Stimson & Baker Planning, 2016

Table of Contents

1	INTRODUCTION	1
1.1	Overview	1
1.2	Report Structure	1
1.3	Introduction to Client	2
1.4	History of the Application	3
1.5	Supporting Documentation	4
1.6	Legislation, Environmental Planning Instruments and Policies to be considered	4
1.7	Consent Authority	5
2	THE SITE AND SURROUNDS	6
2.1	The Subject Site and Surrounds	6
2.2	Existing Development	8
3	DEVELOPMENT PROPOSAL	9
3.1	Objectives of the Proposal	9
3.2	Details of the Proposal	9
3.3	Numerical Overview	14
4	STATUTORY CONTEXT	15
4.1	State Environmental Planning Policy No 55 – Remediation of Land	15
4.2	State Environmental Planning Policy No 64 – Advertising and Signage	15
4.3	Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River	15
4.4	State Environmental Planning Policy 65 - Design Quality of Residential Flat Development & Residential Flat Design Code	16
4.5	Penrith Local Environmental Plan 2010	17
4.6	Penrith Development Control Plan 2014	28
5	SECTION 79C ASSESSMENT	36
5.1	Section 79C(1)(a)(i) – Any Environmental Planning Instruments	36
5.2	Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument	36
5.3	Section 79C(1)(a)(iii) – Any Development Control Plan	36
5.4	Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f	36
5.5	Section 79C(1)(a)(iv) – The Regulations	36
5.6	Section 79C(1)(b) – The Likely Impacts of the Development	37
5.7	Section 79C(1)(c) – The Suitability of the Site	40
5.8	Section 79C(1)(d) – Any Submission Made	40
5.9	Section 79C(1)(e) – The Public Interest	40
6	CONCLUSION AND RECOMMENDATION	41

1 Introduction

1.1 Overview

Stimson and Baker Planning has been engaged by Astina Group to prepare a Statement of Environmental Effects in relation to a proposed serviced apartment building on the property known as 21-25 Woodriff Street, Penrith.

The proposed development includes the clearing of the site, removal of trees, excavation and the construction of a building to be used as serviced apartments. This application also includes temporary access arrangements to the Judges Place car park throughout the duration of construction (during which time the existing car park access from Woodriff Street is proposed to be temporarily closed).

The site is zoned *B4 Mixed Use* under *Penrith Local Environmental Plan 2010* with the proposal being permissible with consent.

The proposal is defined as *development* in Section 4 of the *Environmental Planning and Assessment Act 1979* (EPA Act). Section 76A of the EPA Act stipulates that the development must not be carried out on the subject site until consent has been obtained. Furthermore, the application does not trigger any of the 'integrated development' provisions of the Act and so no third party approvals are required.

This report describes the proposed development and subject site in detail and undertakes an assessment of the proposal against the relevant aims, objectives and development provisions of Council's LEP and DCP, and Section 79C(1) of the EPA Act.

1.2 Report Structure

This Statement of Environmental Effects is structured as follows:

- Section 1: Introduction – provides an overview of the proposal, planning history for the site and background to the application.
- Section 2: The Site and Surrounds – provides an analysis of the subject site, development within the locality and a consideration of the local and regional context.
- Section 3: Development Proposal – provides a detailed description of the proposed development and its characteristics.
- Section 4: Statutory Context – provides for consideration of the proposal against the specific planning instruments and policies that are applicable.
- Section 5: Section 79C Assessment – provides an assessment against section 79C of the EPA Act.

- Section 6: Conclusion and Recommendation – summarises the report and presents a recommendation.

1.3 Introduction to Client

For our client Astina Group, an established operator of accommodation in Penrith city, the subject site represents an outstanding opportunity to consolidate and build on its existing operations, and to produce a first class facility for the City. It is in this context that Astina first approached the Council about acquiring the site.

Astina was established in 1999 just in time for the Sydney Olympics. It commenced with a few small town houses in Robert St, Penrith to then expand in to a total of 9 apartments throughout Penrith over a 10 year period. It was managed by the owner and an office staff member, with 5 cleaning staff. The business grew at a steady pace with modest earnings and occupancy rates.

Under current management, in the last five years Astina have achieved

- Expansion from 9 to 60 apartments (27 to 134 bedrooms)
- Over 7,000 bookings
- Averaged occupancy rate of 79.9% since July 2009
- Acquired 3 main complex's
- Created an additional 12 jobs in the local economy
- Relocated to a larger office onsite at one of our properties
- Injected over \$200,000 of spending to local retailers such as *The Good Guys Penrith*

For the existing operations Astina's main customer base would fall into the categorized below:

- Hospital – working and visiting
- Sporting – rowing, canoeing, football, netball, dragon boating, golf
- Corporate – usually working on specific projects
- University – students and lecturers/ Professors
- Insurance – accommodating for injuries/ loss
- Visiting family/ holidaying - Often guests stay when wanting to visiting both Sydney city and the Blue Mountains

The proposed development has been considered carefully and is submitted as an exceptional opportunity for Council to partner a proponent who is capable, has the capacity, and recognises the opportunities that lie within the Penrith CBD and beyond. It is sympathetic to the planning and building controls that relate to the site, is proposed in a central part of the Penrith CBD that is, in our clients view, an ideal location, and represents what we believe is an appropriate use for the site.

1.4 History of the Application

This application has been the subject of an exhaustive acquisition and urban design process that has resulted in an exceptional development outcome on the site.

In terms of the development's history, the following is noted:

- May 2014 – Stimson & Baker Planning write to Council advising of Astina's interest in 21-25 Woodriff Street.
- July 2014 – Stimson & Baker Planning provide a submission to Council in response to a call for Expressions of Interest (EOI) in the development of the site.
- November 2014 – After being successful in the EOI, Council issued a 'Request for Proposal' (RFP) to Astina.
- February 2015 – Council resolve to accept the Proposal and proceed with sale of site to Astina.
- April 2015 – Council issue Draft Contracts.
- April 2015 – February 2016 – Numerous design meetings with Council, including attending Council's Urban Design Review Panel (discussed below) in the lead up to contracts being exchanged.

As noted, the application has been the subject of numerous pre DA and Urban Design Review Panel Meetings, the salient issues raised in each being discussed below.

1.4.1 Urban Design Review Panel Meeting

An Urban Design Review Panel Meeting (UDRP) was held with Council originally on 15 October 2014 (UDRP14/0023). Comments received at that meeting were quite positive, particularly around the overall presentation of the scheme, the amenity of units, strong design features and the mix and configuration of apartments.

A further developed scheme was presented to the Council in May 2016 with a range of design amendments. In summary, these amendments were considered to result in an inferior development outcome compared with the original scheme.

The scheme was further amended to reflect more the original layout on the site and was presented to Council in July 2016. The response was positive concluding the scheme could achieve design excellence, subject to recommended amendments. These comments have now formed the basis of an application to the NSW Government Architect for a waiver to the Design Competition requirements of the Penrith LEP. That application is currently being considered.

1.4.2 Pre-lodgement Meeting

The proposal was discussed originally at a pre-lodgement meeting held with relevant officers in November 2014 (PL14/0104) where a range of issues were discussed. Documentation requirements for a development application were also detailed.

Further meetings have since been held to discuss specific site related issues, such as traffic movement, temporary closure of the Judges Place car park entrance, waste collection, and urban design.

Key issues raised in the pre DA meeting that have been considered in the application include:

- Design Excellence
- Building height variation
- Contamination
- Waste Management
- Signage
- Landscape Design
- Engineering and overland flow issues
- Traffic management and flow in the locality
- Public health matters

1.5 Supporting Documentation

The proposal is accompanied by the following documentation:

Documentation	Prepared By
Architectural drawings	Morson Group
Engineering & Stormwater	Donovan Associates
Survey Plan	Richard Hogan & Co
Landscape Concept Plan	Concept Landscape Architects
Traffic Impact Assessment	Thompson Stanbury Associates
Access Report	Funktion
Energy Efficiency Evaluation	Partners Energy
Waste Management Plan	Elephants Foot Waste Compactors Pty Ltd

1.6 Legislation, Environmental Planning Instruments and Policies to be considered

- *Penrith Local Environmental Plan 2010.*
- *Penrith Development Control Plan 2014.*
- *State Environmental Planning Policy No 55 – Remediation of Land.*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development.*

1.7 Consent Authority

Given that Penrith City Council has an interest in the subject site (agreement to sell to Astina Group), the consent authority for the application will be the Joint Regional Planning Panel or its equivalent.

2 The Site and Surrounds

2.1 The Subject Site and Surrounds

The site is located on the western side of Woodriff Street, on the southern corner of its intersection with Union Lane. The site is irregular in shape with an area of some 2732sqm. Legally described as Lot 101 DP 1031340, the site benefits from two street frontages.



Figure 1 Subject site and surrounds

The site also accommodates a right of carriageway from Woodriff Street providing vehicular access to the Council owned Judges Place carpark. That carpark adjoining the site to the west, is three levels in height. A council at grade carpark is situated to the south of the site.

Topography

The site is relatively level across the entire site.

Vehicular Access

There is direct vehicular access to the site currently from Woodriff Street. The traffic arrangement on Woodriff Street and Union Lane significantly constrain access points into the site.

Pedestrian Access and Public Transport

There is a pedestrian pathway across the frontage of the site on both Woodriff Street and Union Lane.

There are bus stops to the south along Derby Street providing services to Penrith railway station and the wider area.

Utilities and Services

There are existing reticulated sewer, water and electricity services to the site.

Vegetation

Some trees are present on the site, as well as some lower height shrubs. Larger trees are situated on the adjoining Councils carpark site and these are expected to be impacted on as result of this development.

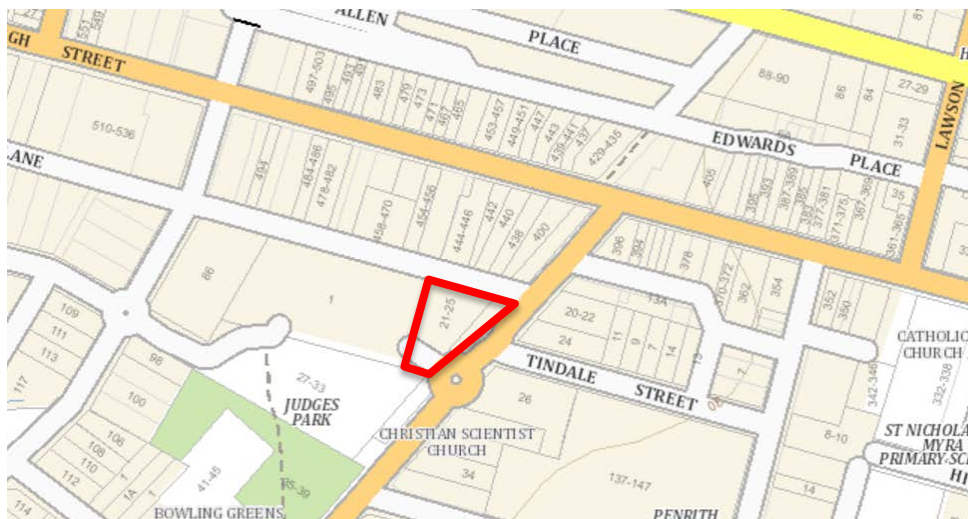


Figure 2 Local cadastre

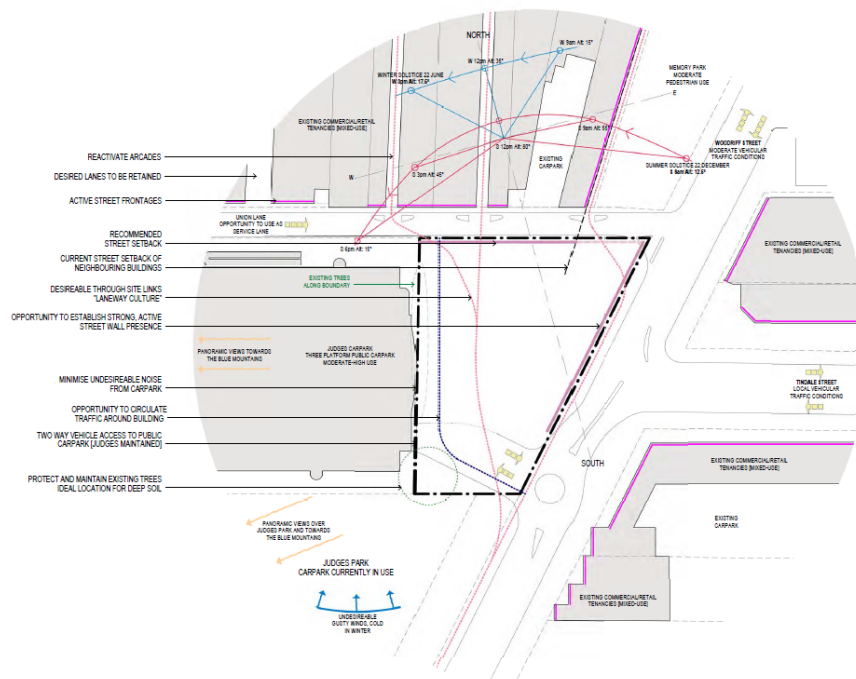


Figure 3 Site Analysis Plan

2.2 Existing Development

The property is vacant but is utilised for car parking. The site has always been identified as being a potential development site (sign erected on the site) and as such, is not considered to be providing long term parking options for the CBD.

3 Development Proposal

3.1 Objectives of the Proposal

This application seeks consent for the serviced apartment building at 21-25 Woodriff Street, Penrith.

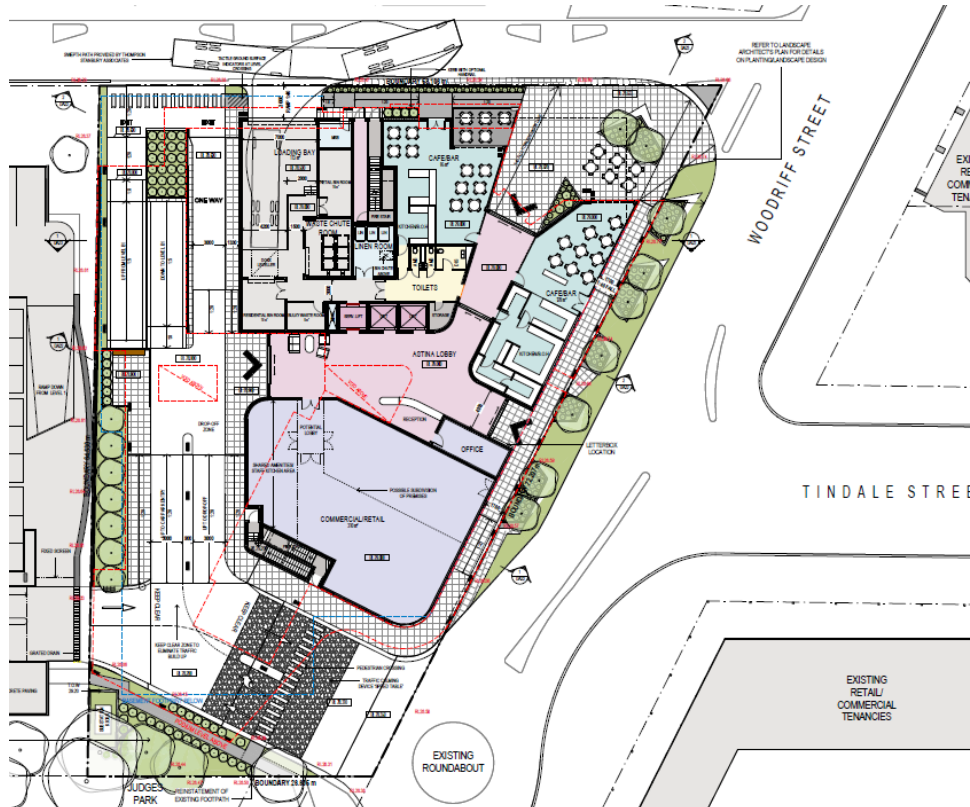


Figure 4: Site Plan (ground floor layout)

3.2 Details of the Proposal

The following detailed elements form the proposed development:

- Construction on an 8 storey building, with a total height of 27.2m. accommodating a total of 58 serviced apartments
- Construction of two basement levels accommodating a total of 107 car spaces.
- A total gross floor area of 8,269 sqm equating to a floor space ratio of 3.03:1.
- The following ground floor tenancy spaces-
 - Café/bar @ 96sqm GFA
 - Café/bar @ 128sqm GFA

- Commercial floor space @ 319sqm GFA
- Ground Floor (level 1) uses including-
 - Reception and back of house areas
 - At grade waste room, incorporating a comprehensive chute system through the building
 - Linen room and loading bay
 - Porte cochere facilitating drop off and pick up areas for guests vehicles
 - Open landscaped entry plaza
- Levels 2-7 containing typically a number of serviced apartments, back of house and service rooms.
- Level 8 accommodating-
 - Conference room
 - Gymnasium
 - Guest lounge
 - Roof top swimming pool
 - BBQ/ Recreation area
- Level 2 podium area comprising a formal landscaped communal area.

Of importance, is the retention of the existing vehicle access across the southern part of the site from Woodriff Street to the Judges Place carpark.

Design Principles

The proposal has been the subject of exhaustive urban design analysis which has resulted in a superior development outcome. The accompanying architectural design statement describes the philosophy behind the design.



Figure 5 Perspective from Memory Park

Land Uses

The proposal being serviced apartments is permissible under the LEP.

Access and Internal Circulation

Vehicular access is provided to the site via the existing right of carriageway between Woodriff Street and the Judges Place car park. The roundabout is proposed to be retained. Vehicles transporting guests to Astina will utilise this right of carriageway, and turn north into the porte cochere, or onto the entry ramp to the basement. Both the porte cochere and the basement will egress onto Union Lane. No vehicular access can be achieved into the development directly from Woodriff Street due to the geometry of the Tindale Street intersection and travel distances between that and the Union Lane intersection. Delivery vehicles and waste collection vehicles will access the site utilising a reverse movement from Union Lane.

Pedestrian access will be available through the building (controlled access for guests) and along the Union Lane and Woodriff Street frontages.

Accessible requirements in accordance with the provisions of the Disability (Access to Premises) Standard 2010 have been incorporated into the design of the building. An access report is appended to this report.

The proposal provides for accessible toilet facilities within the development.

Traffic and Parking Provision

A Traffic and Parking Impact Assessment accompanies the application.

Parking is provided at an appropriate rate for the land uses proposed and this is detailed in the accompanying traffic report. The layout of the proposal is considered to provide safe and efficient vehicle movements.



Figure 6 Perspective from Tindale Street

Landscaping and Open Space

A Landscape Plan accompanies the application and demonstrates high quality landscaping outcomes on the podium level. It is also noted that the proposed development includes high quality treatment of external public spaces on the ground floor adjacent to Memory Park.

Management, Hours of Operation and Employee Numbers

It is expected there will be a small number of managers on site at any one time (2-3 expected) and that cleaning staff will be onsite when required.

The operation of the serviced apartments will be 24/7, with check-ins expected in the afternoon and check-outs expected in the mornings.

Any future use of ground floor tenancies is expected to be the subject of future and separate development applications.

Stormwater Drainage

A stormwater drainage concept plan accompanies the application and demonstrates compliance with Council's controls.

Further information is appended to this report in regards to the stormwater management on the site. MUSIC modelling has been carried out and accompanies the application.

Utilities

The site will be appropriately serviced to accommodate the proposed use. Some utility upgrades are likely to be required and will be confirmed with the relevant service authority.

Waste Management Strategy

A comprehensive waste report accompanies the application detailing the approach to waste management on the site.

Contamination

Through the process of acquiring the site, the issue of contamination has been considered and the relevant remediation plan accompanies this application.

National Construction Code Compliance

All works will be carried and comply with the National Construction Code (now incorporating the BCA). A Construction Certificate will be required in relation to the proposal and it is expected that Council will require matters relating to NCC compliance.

Tree Removal

All trees on the site will be removed as a result of this development. Furthermore, trees on the adjoining Council land are expected to be impacted. It is noted that full site coverage is anticipated in the Council planning controls for CBD development.

Construction Requirements

The construction of this development will require the temporary (12 month) closure of the existing right of carriageway. Temporary alternate access will be provided through the existing carpark to the south of the subject site, and through the southern elevation of the Judges Place car park. Works proposed to accommodate these arrangements are detailed in the accompanying plans.

3.3 Numerical Overview

A numerical overview of the proposed development is provided in the following table.

Apartment Mix		Parking Schedule		Development Details		
1BR	1	BASEMENT B2		Site Area	2732m ²	
2BR	53	Disabled Car Space	4	Gross Floor Area (GFA)	8391m ²	
3BR	4	Standard Car Space	46	Zoning	B4 Mixed Used	
TOTAL APARTMENTS	58		50		Allowable	Proposed
		BASEMENT B1		Floor Space Ratio (FSR)*	3:1	3.07:1
		Disabled Car Space	4	Building Height*	24	27.4m
		Standard Car Space	46	Total Stories		8
		TOTAL CARSPACES	50			
		TOTAL CARSPACES REQUIRED	84			



Figure 7 Section

4 Statutory Context

The following section provides an assessment of the proposed development against the relevant planning instruments and policies.

4.1 State Environmental Planning Policy No 55 – Remediation of Land

Under Clause 7(1)(A) the consent authority must not consent to a development application unless consideration has been given to whether the land is contaminated. Site investigations have been undertaken and a small amount of contamination has been identified primarily within the car park seal material. A remediation action plan has been provided as a part of this application that will ensure the site can be suitably used for the intended purpose.

4.2 State Environmental Planning Policy No 64 – Advertising and Signage

The pre DA notes nominate an assessment against SEPP 64 being required however there is no advertising signage proposed. A building identification sign 'naming' the building is proposed as indicated on the plans however this is not considered to be 'advertising'. Accordingly, no specific assessment against the SEPP is required. It is however noted that that building identification sign is subtle in its presentation, not that prominent, and well designed into the articulation of the building. It is submitted that it can be supported by Council.

4.3 Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

The aim of SREP 20 is to protect the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Appropriate conditions of consent would normally be applied to any approval to ensure the health of the river system is not compromised by way of sediment or erosion from the works or use.

4.4 State Environmental Planning Policy 65 - Design Quality of Residential Flat Development & Residential Flat Design Code

This policy and the accompanying Apartment Design Guidelines (ADGs) now apply to all relevant development application. It is also noted that the LEP also contained specific requirements relating to serviced apartment developments and the need for them to comply with the requirements of the SEPP. In this regard, this proposal has been assessed against the SEPP and ADGs.

The aims of the policy under Clause 2 are:

- (1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*
- (2) *This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*
- (3) *Improving the design quality of residential apartment development aims:*
 - (a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *by providing sustainable housing in social and environmental terms, and*
 - (ii) *by being a long-term asset to its neighbourhood, and*
 - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
 - (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
 - (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
 - (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
 - (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*
 - (f) *to contribute to the provision of a variety of dwelling types to meet population growth, and*
 - (g) *to support housing affordability, and (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*
- (4) *This Policy aims to provide:*
 - (a) *consistency of policy and mechanisms across the State, and*
 - (b) *a framework for local and regional planning to achieve identified outcomes for specific places.*

This SEPP applies to the proposed development under Clause 4 in that it includes:

- (a) *the erection of a new residential apartment building*
- (b) *is greater than 3 or more storeys and*
- (c) *the building contains at least 4 or more dwellings.*

Schedule 1 sets out the design quality principles which are to be considered in the design of the residential apartment building, the architect has addressed the design principles being:

- Principle 1: Context and neighbourhood character
- Principle 2: Built form and scale
- Principle 3: Density
- Principle 4: Sustainability
- Principle 5: Landscape
- Principle 6: Amenity
- Principle 7: Safety
- Principle 8: Housing Diversity and Social Interaction
- Principle 9: Aesthetics

The accompanying plans outlined how the design principles have been addressed in the final design of the buildings. It is also noted that compliance with SEPP 65 was considered throughout the numerous Urban Design Review Panel meetings held in relation to this proposal.

The SEPP also requires the consent authority to take into consideration the Apartment Design Guidelines. Under Clause 6A where there are inconsistencies between the SEPP and Council's DCP, the SEPP prevails. The application is accompanied by a detailed SEPP 65 Compliance Table found on Sheet DA10 in the set of architectural plans.

4.5 Penrith Local Environmental Plan 2010

The LEP is the primary environmental planning instrument relating to the proposed development. The objectives of the LEP are as follows:

- (a) *to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,*
- (b) *to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,*
- (c) *to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity,*
- (d) *to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,*

- (e) *to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,*
- (f) *to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,*
- (g) *to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,*
- (h) *to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.*

It is submitted that the proposed development is not inconsistent with these objectives.

The subject site is zoned *B4 Mixed Use* The objectives of the B4 zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The proposed development is consistent with the objectives in that:

- The proposed use is permissible in the zone and will not negatively impact on adjoining land uses. In this regard it is considered compatible.
- The proposal is situated such that it maximizes opportunities for visitors to the city to utilise public transport, or cycle or walk.
- The development includes a high quality response to the public domain. In this regard it is considered to be complementary to Memory Park to the north.
- A mix of uses would arise as a result of this application that would greatly contribute to the vitality of this locality in the Penrith CBD.

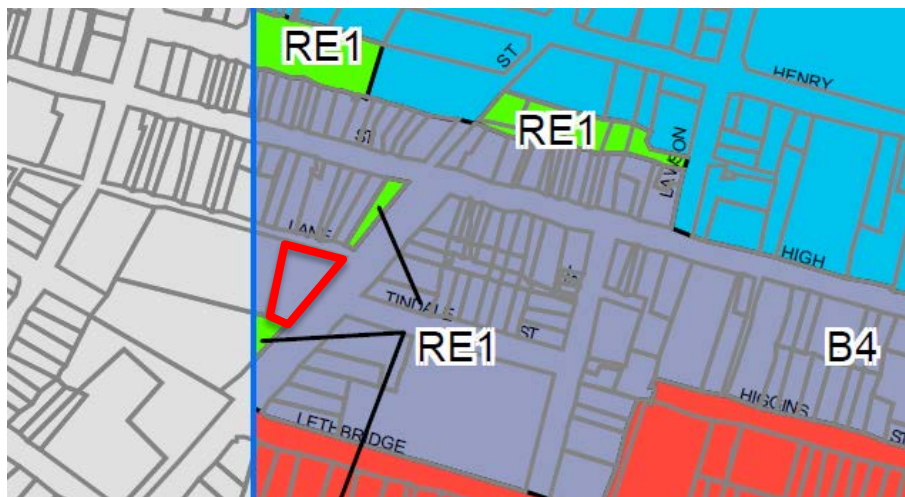


Figure 8 Land zoning

The Land Use Table of the LEP nominates *serviced apartments* as a permissible form of development in the zone. The Dictionary definition of *serviced apartment* is:

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

The following relevant clauses have also been considered in respect of this development proposal.

Part 4 Principal Development Standards:				
Standard	Permitted	Proposed	Comment	
4.1 Minimum subdivision lot size:	N/A	N/A		
4.2 Rural Subdivision:	N/A	N/A		
4.3 Height of Buildings:	24m	27.2m	Refer discussion below	
4.4 Floor Space Ratio	3:1	3.07:1	Refer discussion below	
4.6 Exceptions to development standards			A formal request to vary the above development standards is provided later in this report.	

Variations are sought to two development standards and the formal request to vary them is provided.

Part 5 Miscellaneous Provisions		
Provision	Comment	
5.1 Relevant acquisition authority	N/A	
5.2 Classification and reclassification of public land	N/A	
5.3 Development near zone boundaries	N/A	

5.4	Controls relating to miscellaneous permissible uses	N/A
5.5	Development within the coastal zone	N/A
5.6	Architectural roof features	N/A
5.7	Development below mean high water mark	N/A
5.8	Conversion of fire alarms	N/A
5.9AA	Preservation of trees and vegetation	The planning controls for the CBD contemplate full site coverage. The proposed development will result in removal of all vegetation on the site and formal approval is sought as part of this application.
5.10	Heritage conservation	N/A
5.11	Bush fire hazard reduction	N/A
5.12	Infrastructure development and use of existing buildings of the Crown	N/A
5.13	Eco-tourist facilities	N/A
Part 7 Additional Local Provisions		
Provision		Comment
7.1	Earthworks	N/A
7.2	Flood planning	Matters relating to flooding have been considered in the accompanying development engineering documentation.
7.3	Development on natural resources sensitive land	N/A
7.4	Sustainable Development	N/A
7.5	Protection of scenic character and landscape values	N/A
7.6	Salinity	N/A
7.7	Servicing	The site is appropriately serviced to accommodate the proposal.
7.8	Active street frontages	Active street frontages have been provided where required. Uses including café/bars, as well as commercial premises, will activate publicly used areas and achieve the objectives of the control.
7.9	Development of land in flight path of proposed Second Sydney Airport	N/A
7.10	Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
7.11	Penrith Health and Education Precinct	N/A
7.12	Maximum gross floor area of commercial premises	N/A
7.13	Exhibition homes limited to 2 years	N/A
7.14	Cherrywood Village	N/A
7.15	Claremont Meadows	N/A
7.16	Glenmore Park Stage 2	N/A

7.17	Dwelling houses on certain land in Castlereagh, Cranebrook, Llandilo, Londonderry, Kemps Creek and Mulgoa	N/A
7.18	Mulgoa Valley	N/A
7.19	Villages of Mulgoa and Wallacia	N/A
7.20	Orchard Hills	N/A
7.21	Twin Creeks	N/A
7.22	Waterside Corporate	N/A
7.23	Location of sex services premises and restricted premises	N/A

Part 8 Local provisions—Penrith City Centre

Provision	Comment
8.1 Application of Part	The subject site is located within the land identified as being affected by this Part of the LEP.
8.2 Sun access	The subject site is not within the area identified by this clause.
8.3 Minimum building street frontage	The site satisfies the minimum 20m length of at least one street frontage.
8.4 Design excellence	<p>The proposed development has been the subject of a number of Urban Design Review Panel meetings. Minutes from the most recent Panel meeting conclude that the scheme can demonstrate design excellence with some recommendations being incorporated into the design.</p> <p>Those amendments have been made and are represented in the plans accompanying this submission.</p> <p>It is also noted that the development triggers the need for an Architectural Design Competition in accordance with subclause (3). However, an application has been made to the NSW Government Architect to waive this requirement based on the level of independent urban design input that has been provided on the current scheme.</p> <p>Whilst this application is being lodged without the waiver having been issued, it is noted that the proposal could be amended to not trigger the Architectural Design Competition requirements if it was required to be.</p>
8.5 Building separation	Separation distances are considered to be consistent with the DCP given that SEPP 65 applies to the site as required by Clause 8.6 of the LEP.
8.6 Serviced apartments	This clause is applicable and an assessment against the requirements of SEPP 65 and the non-statutory Apartment Design Guidelines has been made. It is submitted that the proposed development largely satisfies the detailed controls, and certainly the intent of that Policy.

There are no other clauses relevant to the proposal.

4.5.1 Clause 4.6 – Exceptions to Development Standards

The proposed development seeks a variation to the building height and floor space ratio controls of the LEP. Clause 4.6 allows flexibility in applying development controls in some cases to particular developments. The relevant sub clauses include:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained*

This section of this Statement of Environmental Effects can be considered as the formal request to vary the cited development standards and is based on the document *"Varying Development Standards: A Guide (August 2011)" (Guide)*

1. What is the name of the environmental planning instrument that applies to the land?

Penrith Local Environmental Plan 2010

2. What is the zoning of that land?

The subject site is zoned *B4 Mixed Use*

3. What are the objectives of the zone?

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The proposed development is consistent with the objectives in that:

- The proposed use is permissible in the zone and will not negatively impact on adjoining land uses. In this regard it is considered compatible.
- The proposal is situated such that it maximizes opportunities for visitors to the city to utilise public transport, or cycle or walk.
- The development includes a high quality response to the public domain. In this regard it is considered to be complementary to Memory Park to the north.
- A mix of uses would arise as a result of this application that would greatly contribute to the vitality of this locality in the Penrith CBD.

4. What is the development standard being varied? e.g. FSR, height, lot size

Height of Building and Floor Space Ratio

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 Height of Building, Clause 4.4 Floor Space Ratio

6 What are the objectives of the development standard?

Clause 4.3 Height of building objectives include:

- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) *to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
- (d) *to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

Clause 4.4 Floor Space Ratio objectives include:

- (a) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (b) *to minimise the adverse impact of development on heritage conservation areas and heritage items,*
- (c) *to regulate density of development and generation of vehicular and pedestrian traffic,*
- (d) *to provide sufficient floor space for high quality development.*

7. What is the numeric value of the development standard in the environmental planning instrument?

The maximum building height is 24m and the maximum floor space ratio is 3:1.

8. What is proposed numeric value of the development standard in your development application?

The proposal exceeds the building height across a small percentage of the site up to a maximum of 27.4m (extent shown in figure below) although this is for only a small area of the encroachment, and the floor space ratio to a very minor 3.07:1.



Figure 9 Extent of height encroachment

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

In relation to building height the variation is some 14%, however as noted in the figure below, that extent is limited to only a very small portion of the building. The remainder of the encroachment is less.

In relation to the floor space ratio the variation is approximately 2%.

Whilst the FSR is not easily shown visually, the height encroachment is indicated above and below.



Figure 10 Extent of height encroachment

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case

The proposal meets the general intent of *clause 4.3 Height of Buildings* and complies with the objectives of this development standard as follows:

- The proposal is compatible with the height, bulk and scale of the emerging and desired future character of the locality and with the surrounding development. The site is situated on a corner lot with frontage to a major entry point to the Penrith CBD. A context plan accompanies the application showing the existing and future context. In this regard the proposal is consistent with the desired future character.
- The proposal does not impact on the visual amenity, reduces views or minimises loss of privacy or solar access. The suggested built form would result in an encroachment more towards the northern end of the site, therefore resulting in little or no impact to properties to the south or west.
- There is no heritage item on the site or in the vicinity of the site.
- The proposal provides a high quality urban form and provides a building that can contribute to a varying skyline given the recent increase in height limit in this area.
- The encroachment fully maximises the ability for the development to provide facilities for its guests and ensures the number of greatly needed accommodation rooms in Penrith is maximised.

The proposal does not impact on the visual amenity nor does it reduce views or result in loss of privacy or solar access. The suggested built form offers a reduced bulk and scale to the west and south, with the building 'celebrating' the corner and providing a

prominent visual marker at the southern end of Memory Park. The design is complementary in the context of the street. When viewed from street level the height encroachment will be imperceptible.

It is considered that the proposal is in the public interest and strict compliance with the standard in this instance is both unreasonable and unnecessary.

The proposal meets the general intent of *clause 4.4 Floor space ratio* and complies with the objectives of this development standard as follows:

- The proposed development is considered to be consistent with the anticipated bulk and scale of future development in the locality.
- No heritage items would be impacted on as a result of the breach in floor space ratio.
- The minor breach in floor space ratio is not going to create unacceptable impacts on vehicular and pedestrian traffic generation.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* provide:

The objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities, and*
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) ecologically sustainable development, and*
- (viii) the provision and maintenance of affordable housing, and*

(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

It is submitted that the height and floor space ratio encroachments still maintain an appropriate bulk and scale and also maintains the objectives of the clauses within the

LEP that relate to those controls. The objects of the Act are not hindered through the proposed variation being supported.

Complying with the height will not improve the outcome in relation to visual bulk, scale, amenity and solar access, however it will create a superior development outcome on the site that will be providing a much needed land use in the city of Penrith.

Complying with the floor space ratio control is not considered necessary given its minor nature. However, in supporting the variation, the proponents would be receiving a floor layout that is the most desirable, efficient and economical.

12. Is the development standard a performance based control? Give details.

No it is prescriptive.

13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

Strict compliance with the standard in this particular case is unreasonable and unnecessary as the variations sought as part of this development application is considered appropriate in the context and setting of the site. The proposed development meets the objectives of the zone, it meets the relevant development standard clauses and it is considered that the objectives of the Act would not be undermined by supporting the variation.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

In terms of the floor space ratio, the proposed variation arises as a result of the client's internal requirements. The breach in the control will be imperceptible and will not result in any impacts on any surrounding land.

In terms of the building height, the main environmental planning grounds justifying this breach include:

- The significant ceiling height of the ground floor creates an unusually higher building. This is reflective of the ground floor uses, including the reception lobby, porte cochere and importantly the loading dock and waste collection area. This height could be regarded as a requirement given the utility it is expected to provide.
- The economics around a project of this nature requires the maximum amount of rooms to offer to the market. There is also a need to ensure guests have facilities of a certain quality and these are found on the what would otherwise be a blank roof top. Were the breach not proposed, a loss of rooms would result.
- In achieving the above, there are no perceptible impacts arising on any nearby or adjoining lands.

Specific to the circumstances of this development there is sufficient grounds to support the variations in height for this proposal for the following reasons:

- The breaches in development standards are considered minor in the context of the overall site development and will not result in a negative impact on nearby or adjoining properties.
- The bulk and scale of the building will continue to be consistent with emerging and anticipated development outcomes in the locality.
- Solar access will not be impacted on to any significant extent as a result of the breaches.

15. Conclusion

It is considered that the proposed variation to support an increase in the height limit and floor space ratio in this case is warranted as the proposed design and development provides a better planning outcome as outlined in this Clause 4.6 variation request. Compliance with the development standard in relation to height of building is unnecessary and unreasonable in the circumstances of this development and there are sufficient planning grounds to justify the variations.

4.6 Penrith Development Control Plan 2014

Development Control Plans contain finer grain planning controls in respect of specific development types. Penrith Development Control Plan 2014 (DCP) applies to the proposal, with the following Parts of the DCP being the most relevant in the case of the proposed residential apartment building:

Part C1: Site Planning and Design Principles

The design methodology was discussed with Council at its Urban Design Review Panel and Pre DA meetings. The site has been responded to with the proposed development and a Context and Site Analysis Plan accompanies the application.

Part C2: Vegetation Management

A Landscape Concept Plan accompanies the application and provides for a mix of planting that better integrates with the development and surrounding area.

Part C3: Water Management

Appropriate initiatives are proposed for on-site stormwater management and these have been incorporated into the design of the development. A Stormwater Concept Plan accompanies the application demonstrating suitable management of stormwater quality and quantity.

Part C4: Land Management

Appropriate measures will be put in place to ensure the site is protected from erosion and sedimentation. An erosion and sedimentation control plan is provided. It is submitted that there are no concerns around potential contamination of the site assuming the proposed remediation action plan is undertaken.

Part C5: Waste Management

The provision for waste management on site is considered satisfactory and there is provision for a waste chute and waste room which is sufficient for this building. A Waste Management Plan accompanies the application outlining the waste requirements.

C6: Landscape Design

A detailed Landscape Concept Plan accompanies this application. The provisions of SEPP 65 have been considered in respect of the landscaping proposed.

The plants that will be used in the landscaping will be varieties that require low levels of maintenance and are drought resistant to reduce water use within the development. Refer to the accompanying Landscape Concept Plan.

C7: Culture and Heritage

The site is not a heritage item and does not adjoin a heritage item or precinct.

C10: Transport, Access and Parking

A detailed Traffic Impact Assessment accompanies the application that addresses this section of the DCP. An acceptable number of car parking spaces are proposed to be provided along with bicycle spaces.

C12: Noise and Vibration

There is no anticipated noise or vibration generated or land uses adjoining affecting the proposal in this regard.

C13: Infrastructure and Services

As stated previously, the subject site is already serviced to accommodate the proposed development and any augmentation required will be confirmed with the relevant service providers.

Part A Penrith City Centre

Provision	Comment
11.2.2 Building to Street Alignment and Street Setbacks Controls 1) Street building alignment and street setbacks are specified in Figure E11.3. 2) Balconies may project up to 600mm into front building setbacks, provided the cumulative width of all balconies at that particular level totals no more than 50% of the horizontal width of the building façade, measured at that level. 3) Minor projections into front building lines and setbacks for sun shading devices, entry awnings and cornices are permissible. 4) Notwithstanding the setback controls, where development must be built to the street alignment (as identified in Figure E11.3) it must also be built to the side boundaries (0m setback) where fronting the street. The minimum height of development built to the side boundary must comply with the minimum street frontage height requirement. 5) Buildings along High Street must demonstrate that views to the Blue Mountains escarpment are maintained through the provision of perspectives	Generally, the proposed setbacks are considered acceptable in the context of these controls and given the unique shape and location of the site.
11.2.3 Street Frontage Heights Controls 1) Buildings must comply with the relevant street frontage heights as shown in Figure E11.4 and illustrated in Figures E11.5 to E11.10. 2) Development of land in the vicinity of Allen Place, Memory Park and Judges Park the development must demonstrate that it does not adversely overshadow the adjoining public places.	A small variation is sought to this DCP control and this is detailed in the architectural plans. The variation is considered to be minor, but if supported, would ensure the maximum amount of accommodation could be provided on the site.
11.2.4. Building Depth and Bulk Controls 1) The maximum floorplate sizes and depth of buildings are specified in the table below (also refer to Figure E11.11). 2) Notwithstanding the above, no building above 24m in height is to have a building length in excess of 50m.	Building depth and configuration has largely been driven by the requirements of SEPP 65. A significant amount of architectural articulation is provided for in the current design and this will help 'break down' longer facades.

11.2.5 Boundary Setbacks and Building Separation

Controls

- 1) The minimum building setbacks from the side and rear property boundaries are specified in Table E11.2 and illustrated in figures E11.14 to E11.17.
- 2) Notwithstanding the setback controls, where development must be built to the street alignment (as identified in figure E11.3) it must also be built to the side boundaries (0m setback) in the vicinity of the street.
- 3) Where 0m side and rear boundary setbacks are permissible, and where it can be demonstrated that 0m setbacks cannot be achieved, Council may consider buildings that are setback from the boundary providing they are setback at least 5m to provide amenity in terms of day light access, useable outdoor space and landscaping

Setbacks and separation have been designed largely in accordance with SEPP 65. Those that are proposed are considered acceptable.

11.2.6 Mixed Use Buildings

Controls

- 1) Provide flexible building layouts which allow greater adaptability of the floor area of, or tenancies on, the first floor of a building above the ground floor.
- 2) Ground floor of all mixed-use buildings is to have a minimum floor to ceiling height of 3.6m in order to provide for flexibility of future use. Above ground level, minimum floor to ceiling heights are 3.3m for commercial office, 3.6m for active public uses, such as retail and restaurants, and 2.7m for residential.
- 3) The commercial and residential activities of the building are to have separate service provision, such as loading docks, from residential access, servicing needs and primary outlook.
- 4) Locate clearly demarcated residential entries directly from the public street. Clearly separate and distinguish commercial and residential entries and vertical circulation.
- 5) Provide security access controls to all entrances into private areas, including car parks and internal courtyards.
- 6) Provide safe pedestrian routes through the site.
- 7) Front buildings onto major streets with active uses.
- 8) Avoid the use of blank building walls at the ground level

These DCP controls have been incorporated into the design of the proposed building where required and applicable.

11.2.7 Site Cover and Deep Soil Zones

Controls

- 1) The maximum site cover and minimum deep soil area for development is specified in Table E11.3 below:

Table E11.3: Maximum site cover & minimum deep soil for development

Zone/Area	Maximum Site Cover	Minimum Deep Soil Area
Commercial Core	100%	0%
Mixed Use (Other)	100%	0%
Mixed Use (City East)	70%	10%
Residential	50%	15%
All Other Zones	70%	10%

- 2) Deep soil area is provided in one continuous block. In multiple deep soil areas are provided they must have a minimum dimension (in any direction) of 6m.
- 3) Where non-residential developments result in full site coverage and there is no capacity for water infiltration, the deep soil component must be provided on structure, in accordance with the provisions of Section 11.2.9 Planting on Structures. In such cases, compensatory stormwater management measures must be integrated within the development to minimise stormwater runoff.
- 4) Where deep soil zones are provided, they must accommodate existing mature trees as well as allowing for the planting of trees/ shrubs that will grow to be mature trees.
- 5) No structures, works or excavations that may restrict vegetation growth are permitted in this zone (including but not limited to car parking, hard paving, patios, decks and drying areas).

The proposed development would result in close to the maximum site coverage, particularly in relation to the basement.

A detailed landscape plan has been provided showing how a high quality landscape response is proposed to be delivered.

11.2.9 Planting on Structures

Controls

- 1) Recycled water should be used to irrigate in areas with planting on structures.
- 2) Design for optimum conditions for plant growth by:
 - a) providing soil depth, soil volume and soil area appropriate to the size of the plants to be established, b) providing appropriate soil conditions and irrigation methods, and c) providing appropriate drainage.
- 3) Design planters to support the appropriate soil depth and plant selection by: a) ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and b) providing square or rectangular planting areas rather than narrow linear areas.
- 4) Increase minimum soil depths in accordance with:
 - a) the mix of plants in a planter for example where trees are planted in association with shrubs, groundcovers and grass, b) the level of landscape management, particularly the frequency of irrigation, c) anchorage requirements of large and medium trees, and
- 5) soil type and quality.
- 6) A long-term landscape concept plan is to be submitted with a development application. The plan is to be prepared in accordance with the requirements of the Landscape Design Section of this DCP. The plan must outline how the planting on structures are to be maintained for the life of the development.

This has been noted and incorporated into the landscape design.

11.3.1 Permeability

Controls

- 1) Through site links are to be provided as shown in Figure E11.18.
- 2) Existing dead end lanes are to be extended through to the next street as redevelopment occurs.
- 3) New through site links should be connected with existing and proposed through block lanes, shared zones, arcades and pedestrian ways and opposite other through site links.
- 4) Existing publicly and privately owned links are to be retained.
- 5) The redevelopment of sites with an extra area of 5 hectares or more are to include new streets, lanes and/or site links to ensure permeability and encourage public access throughout the site.
- 6) Signage is to be located at street entries indicating public access through the site as well as the street to which the link connects.

Not applicable to the proposed development.

11.3.2 Active Street Frontages and Address

Controls

Active Street Frontages

- 1) Active frontage uses are defined as one or a combination of the following at street level:
 - a) entrance to retail;
 - b) shop front;
 - c) glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage, to a maximum of 12m frontage;
 - d) café or restaurant if accompanied by an entry from the street;
 - e) active office uses, such as reception, if visible from the street;
 - f) public building if accompanied by an entry.
- 2) Active street fronts are to be located at the ground level of all buildings located in those areas as shown in the Active Street Frontages map of Penrith LEP 2010.
- 3) Ground floor active street frontage uses are to be at the same level as the adjoining footpath and must be directly accessible from the street.
- 4) Restaurants, cafes and the like are to consider providing openable shop fronts.
- 5) Only open grill or transparent security shutters are permitted to retail frontages.

Street Address

- 1) Street address is defined as entries, lobbies, and habitable rooms with clear glazing to the street not more than 1.2m above street level, and does not include car parking areas.
- 2) Street address is required on the ground level of buildings specifically located in areas shown in the Active Street Frontages Map of Penrith LEP 2010.
- 3) Residential developments are to provide a clear street address and direct pedestrian access off the primary street front, and allow for residents to overlook all surrounding streets.
- 4) Provide multiple entrances for large developments including an entrance on each street frontage.
- 5) Provide direct 'front door' access from ground floor residential units.
- 6) Residential buildings are to provide not less than 65% of the lot width as street address.

These requirements have been incorporated into the final design.

11.3.4 Vehicle Footpath Crossings

Location of Vehicle Access

- 1) No additional vehicle entry points will be permitted into the parking or service areas of development along those streets identified as significant pedestrian circulation routes in Figure E11.21.
- 2) In all other areas, one vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be generally permitted.
- 3) Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with major pedestrian activity.
- 4) Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.
- 5) Vehicle access may not be required or may be denied to some heritage buildings.

Design of Vehicle Access

- 1) Wherever practicable, vehicle access is to be a single lane crossing with a maximum width of 2.7m over the footpath, and perpendicular to the kerb alignment. In exceptional circumstances, a double lane crossing with a maximum width of 5.4m may be permitted for safety reasons (refer to Figure E11.20). The Penrith City Centre Public Domain Masterplan should be referred to for further design details.
- 2) Vehicle access ramps parallel to the street frontage will not be permitted.
- 3) To ensure vehicle entry points are integrated into building design.
- 4) Doors to vehicle access points are to be roller shutters or tilting doors fitted behind the building facade.
- 5) Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.

Porte Cocheres

- 1) Porte cocheres disrupt pedestrian movement and do not contribute to active street frontage. They may only be permitted for hotels and major tourist venues subject to urban design, streetscape, heritage and pedestrian amenity considerations.
- 2) If justified, porte cocheres are to be internal to the building with one combined vehicle entry and exit point, or one entry and one exit point on two different street fronts of the development.
- 3) In exceptional circumstances for buildings with one street frontage only, an indented porte cochere with separate entry and exit points across the footpath may be permitted, as long as it is constructed entirely at the footpath level and provides an active frontage at its perimeter and provides for safe and clear pedestrian movement along the street.

Noted and incorporated into the design.

11.4.2 On-Site Parking Options

- 1) In addition to the parking requirements outlined in the Transport, Access and Parking Section of this DCP, Figures E11.22 and E11.23 contains additional options for car parking at Penrith City Centre.
- 2) On-site parking is to be accommodated in basement parking except in the blocks between Belmore and Henry Streets where above ground car parking may be permissible in the form illustrated in Figure 11.24 below.

Noted and incorporated into the design.

11.4.3 Site Facilities and Services	Noted and provided.
11.5.1 Reflectivity	Noted and incorporated into the design.
11.6.1 Housing Choice and Mix	Not applicable to the proposed development.

There are no other aspects of the DCP that are specifically relevant to the proposal or that require detailed consideration.



Figure 11 Southern elevation showing minor DCP breach relating to street setback profile

5 Section 79C Assessment

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 79C of the EPA Act has been undertaken.

5.1 Section 79C(1)(a)(i) – Any Environmental Planning Instruments

The relevant environmental planning instruments have been considered earlier in this report.

The proposal is permissible with consent and is considered satisfactory when assessed against the relevant requirements.

5.2 Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument

There are no known draft Environmental Planning Instruments applicable to the subject site.

5.3 Section 79C(1)(a)(iii) – Any Development Control Plan

Compliance against the relevant DCP's has been considered earlier in this report.

5.4 Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f

There are no known planning agreements that apply to the site or development.

5.5 Section 79C(1)(a)(iv) – The Regulations

There are no sections of the regulations that are relevant to the proposal at this stage.

5.6 Section 79C(1)(b) – The Likely Impacts of the Development

The following impacts have been considered in the preparation of this development proposal.

5.6.1 Flora and Fauna

Existing vegetation on the site is to be removed as part of this proposal. The proposed basement will cover the majority of the site and as such, landscaping will be provided aboveground and is detailed in the submitted landscape plan.

5.6.2 Stormwater and Flooding

A stormwater concept plan has been submitted with the development application demonstrating compliance with Council's requirements in this regard and is consistent with the discussions held at the pre-lodgement meeting. The issue of overland flow has also been considered in the engineering documentation.

5.6.3 Erosion and Sediment Control

It is expected that Council would impose appropriate conditions of consent to ensure that erosion and sediment control measures were installed on the site prior to construction commencing.

5.6.4 Traffic Generation and Parking

The traffic generation of this development is expected to be low given the nature of the proposed use. Peak generation times are expected mid-morning (check out) and Afternoon (check in) and therefore expected to be different to the demand times of the adjoining carpark. Traffic conflict between land uses is therefore expected to be minimal. All egress from the site is to Union Lane, which again will limit potential conflicts. The entry points to the proposal, from the right of carriageway, is considered to be acceptable in terms of safe vehicle manoeuvring.

In terms of parking, the development provides adequate parking for the land uses proposed and this is confirmed in the traffic report.

It is also noted there have been specific discussions around the use of Union Lane to service the subject site. In general, there has been agreement that the primary purpose of Union Lane is to service those properties that have a frontage and the proposed development is consistent with expected usage.

5.6.5 Noise Impacts

Whilst there will be some noise associated with the construction of the development, longer term there is not expected to be any noise impacts above and beyond what might normally be associated with a CBD environment. No sensitive receptors are considered to be impacted on by the development.

5.6.6 Heritage Issues

There are no heritage matters considered relevant to the proposed development.

5.6.7 Visual Impact

The proposed development is designed with a high level of architectural merit that exceeds that of nearby and adjoining properties. Its visual impact will be positive in the locality.

5.6.8 Services

The site is appropriately serviced to allow for the proposed development.

5.6.9 Overshadowing

There will be no unacceptable overshadowing impacts as a result of the proposed development. This is largely due to the location of the building and the surrounding land uses.

5.6.10 Social and Economic

Additional construction and hospitality jobs will be created from this development. Additional businesses will be created on the ground floor, providing more options for visitors to the City. Economic multipliers will be created as other additional businesses, new and existing, are created as a result of the proposal. On a wider scale much needed additional accommodation will be provided for Penrith.

It is considered that any social or economic impacts will be positive.

5.6.11 Crime Prevention Through Environmental Design (CPTED)

The consideration of CPTED issues has been prepared having regard to various published CPTED literature and academic works, and specifically includes the “*Crime Prevention and Assessment of Development Application Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979*” published by the former Department of Urban Affairs and Planning.

The advice is structured in accordance with Part B of the above guidelines – *Principles for Minimising Crime Risk*. In this regard, the advice considers the responsiveness of the proposed design to each of the adopted four principles for CPTED (surveillance; access control; territorial reinforcement and space management).

CPTED principles have been adopted by the NSW Police Force, based on recognition that the design of spaces plays a pivotal role in facilitating the safety and security of its users. The NSW Police Force has identified key principles of CPTED being:

- Establish opportunities for **good surveillance**, both casually and technically.

- Provide legible barriers for **access control** for spatial definition.
- Create a sense of ownership over spaces that are also clearly demarcated between public and private ownership for **territorial reinforcement**.
- Establish spaces that are utilised appropriately through **proper space management**, relating to litter and graffiti removal, and ensuring lighting fixtures are working.

When implemented, these measures are likely to reduce opportunities for crime by using design and place management principles.

Surveillance

The proposed development will provide numerous opportunities for surveillance. The following casual surveillance opportunities have been provided through the design of the project:

- Opportunities for visual observance through a high percent of transparent glazing along all frontages allow normal space users to see and be seen by others.
- Entries are located in highly visible locations.
- Active communal areas at the front and rear of the building are well positioned.
- Clear visual pathways within the building as well as from public streets to private entrances.
- Areas of entrapment are limited due to multiple exit points from around the development.
- CCTV should be incorporated into the basement level.

It is also noted that the proposal will have employees present at all times of the day.

Access Control

Access control to public, semi public and private areas of the development is considered to be well managed and effective. Access control to the building can be effectively managed through lockable entry doors. Common areas at all locations and levels should have access control measure in place. With respect to fire escape points and building services rooms, the location of these access points, the use of lockable doors and other environmental cues will make it clear that these are not public entry points. Access to the basement level will be via lockable roller door.

Overall access to the building will be managed by the on-site staff.

Territorial Reinforcement

Clear separation exists between public and private space in terms of the relationship between the proposal and the public domain. Appropriate signage, landscaping, site furnishings and paving will provide good environmental cues about the transition or movement from public to private domain.

Space Management

For most modern developments, space management is increasingly carried out in a professional manner, often by third party specialist building management businesses. Therefore, the effectiveness of management systems such as light globe replacement, removing graffiti, and fixing broken site furnishings will influence the perceived level of care of the project. In this case, the on-site management will ensure that processes are established to respond to and fix services and structures and under whose responsibilities these services are assigned.

Site cleanliness is also a factor that influences the perceived and actual level of care of an area.

Cleanliness will be overseen by the on-site manager. The selection of lighting should also be vandal proof, and materials facilitate ease of maintenance in the long-term, to delay the appearance of decay.

5.6.12 Waste Management

Appropriate waste management measures would be put in place on the site that are consistent with Council's requirements and those arrangements in place for other commercial businesses in the CBD.

5.7 Section 79C(1)(c) – The Suitability of the Site

The proposal is generally consistent with the planning controls that apply in this zone. Moreover, the objectives of the zone have been satisfied, ensuring that the proposal would not result in any unacceptable impact on any adjoining landowners or buildings.

The location of the site is ideal for the proposed development with additional economic activity expected in the area of the Penrith CBD.

For the reasons outlined in this report the site is considered suitable for this development proposal.

5.8 Section 79C(1)(d) – Any Submission Made

We welcome the opportunity to provide additional information in response to any submissions received by Council.

5.9 Section 79C(1)(e) – The Public Interest

Given the type of development, its general compliance with the planning controls, how the objectives are satisfied and the suitability of the site it is considered that the public interest would not be jeopardised as a result of this development.

6 Conclusion and Recommendation

The proposed development has been assessed against the requirements of the Penrith LEP and DCP and is considered to represent a form of development that is acceptable.

The proposed serviced apartments would not result in any unacceptable impact on the locality.

The site is considered quite suitable for a use of this nature and is consistent with nearby and adjoining development.

An assessment against section 79C of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed development of serviced apartments at 21-25 Woodriff St be approved