



08<sup>th</sup> September 2021

Penrith City Council  
Kate Smith  
Principal Planner  
601 High Street,  
PENRITH NSW 2750

RE: 76 HOBART STREET, ST. MARYS DA21/0348  
RESPONSE TO COUNCIL RFI DATED 31/07/2021

Dear Kate,

We refer to the subject application and Council's letter dated 31/07/2021. We have prepared to following responses to the issues raised.

**1. State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)**

i) Front Landscape Design

An updated Landscape Plan and Stormwater Concept Plan have been submitted as part of this submission. Stormwater Pits have been relocated and coordinated with the Landscape Design. The front setback is now consistent with the streetscape in particular reference is made to the front setback of 73-74 Hobart Street, St. Marys, a recently constructed Multi Dwelling Housing Development. This is consistent with the provisions of Clause 29(2)(b) of ARH SEPP.

i) Room Sizes

Room sizes have been provided as part of this submission to demonstrate what has been included / excluded as part of the calculation. Refer to drawing #0003, the areas highlighted in pink denote the areas included as part of the room size calculation. All rooms comply with the provisions of Clause 29(2)(f) and Clause 30(1)(b) of ARH SEPP.

ii) Motorcycle Spaces

Motorcycles spaces have been increased to 4 in compliance with the provisions of Cluse 30(1)(h) of ARH SEPP.

iii) Setbacks

The proposal has been updated to comply with the front and rear setbacks at ground and first floor levels. The eastern and western facades have meaningful indentations to add visual interest to these facades. The setbacks generally comply with the minimum side setback controls of Penrith Development Control Plan 2014.

iv) Local Character

This issue was discussed in detail within the SEE submitted with the development application. With proposed further amendments the proposed development is more aligned with the emerging and desired future character of the local area.

## 2. Penrith Local Environmental Plan 2010

### i) Zone Objectives

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To enhance the essential character and identity of established residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

Please refer to the extract below from the Statement of Environmental Effects.

- *The proposal will provide high quality affordable accommodation with retail/ commercial services available in proximity;*
- *The proposal will provide affordable residential accommodation that is well-integrated with the existing and proposed local land uses;*
- *Through the incorporation of high-quality urban design, the proposed development will positively contribute towards revitalization of the area;*
- *The proposal has provided adequate setbacks and building separation from the adjoining residential properties to the south, east and west;*
- *The proposed development is considerate to the intentions of the medium density residential zone;*
- *The proposed boarding house has been designed to facilitate passive surveillance to overlook the public domain area of Hobart Street and railway infrastructure across Hobart Street.*

The amended setbacks, landscaping treatment, articulation of facades and compliant parking ensure that a high level of residential amenity will be achieved.

## 3. Penrith Development Control Plan 2014

### i) Design, Setbacks, Landscaping, Bulk and Scale

The proposal has been amended to comply with the building envelope and setbacks.

### ii) Residential Safety & Amenity

For response relating to Waste please refer to point 5 of this letter – 5. Waste Management. Letterboxes have been relocated to the internal foyer on the ground floor in a secured area. The common room has been amended to a size of 34m<sup>2</sup> (excluding circulation spaces, laundry, and kitchenette). The relocation of the common room now has a more direct access and visibility from the front door and hallway areas thus increasing passive surveillance & social interaction between lodgers. The alfresco area to the south has a lightweight awning structure to promote use of the

outdoor area. Furthermore, although kitchenettes have been provided to individual rooms, this has now been designed within the common room to further promote its use and social interaction between lodgers.

iii) Setbacks

Refer to previous point addressing this item – 1. iii) Setbacks & 3. i).

#### 4. Site Isolation

Item 4 of Council's RFI states:

*The proposal will result in 75 Hobart Street being isolated. Documentation has not been provided demonstrating that reasonable attempts have been made to incorporate the isolated lot.*

No. 75 Hobart Street is located to the east of the subject site and is considered a standard rectangular block generally consistent with overall subdivision pattern of the area. Section 2, 'Built Form, Street Impact and Appearance' under the Boarding House provisions of Section D5 of PDCP 2014 stipulates:

*'Where an adjoining property with a frontage of under 22m is likely to be isolated by a proposed development, applicants should provide documentation demonstrating that a reasonable attempt has been made to purchase and incorporate the isolated site.'*

The adjoining site at No. 75 Hobart Street has a frontage of approximately 18.95m and by virtue of the above guideline, it may be considered isolated. The owners of the property has made genuine attempts to purchase this site and No. 2 Australia Street (not considered to be isolated as a result of proposed development) or to enter in a joint venture to develop subject lots. Please refer to the letters and statutory declarations by the owners attached with this report.

To deal with site isolation a planning principle was established in *Karavellas v Sutherland Shire Council* (11658 of 2004) by Commissioner Tuor. The planning principle established two questions to be asked as under:

*Firstly, is amalgamation of the sites feasible?*

*Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

The principles to be applied in determining the answer to the first question were established by Commissioner Brown C in *Melissa Grech v Auburn Council* [2004]. The Commissioner stated:

*Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*

*Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the*

*purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*

*Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

Based on the evidence provided as attachment to this letter, Council should be satisfied that reasonable attempts were made to purchase the adjoining site at No. 75 Hobart Street by the property owners and that no responses or negotiations were offered in reply. It is our view that the attachment to this report genuinely satisfies the first test.

In dealing with the second question, Commissioner Tour stated as under:

*In the decision **Cornerstone Property Group Pty Ltd v Warringah Council** [2004] NSWLEC 189, I extended the principles of *Brown C* to deal with the second question and stated that:*

*The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.*

*To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.*

*The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.*

In applying this second test of the planning principle to the proposed development, the following observations can be made:

- (i) The proposed development on the subject site is generally consistent with the applicable planning controls. As demonstrated through the amended plans, the proposed development is an orderly development of the subject land offering affordable housing within a sympathetic and harmonic built form with high degree of internal amenity.

- (ii) A concept plan – drawing No. #4004 for No. 75 Hobart Street is prepared and submitted for Council’s considerations. The concept plan demonstrate that No. 75 Hobart Street can achieve an orderly development consistent with the zone objectives and applicable planning controls.

We are also of the view that the slightly less than the minimum required width of the adjoining site will not hinder from a reasonable multi dwelling housing development on this site.

In *CSA Architects Pty Ltd v Randwick City Council* (11551 of 2003), a planning principle for development on narrow sites was established by Senior Commissioner Roseth. The planning principle established following questions to be asked for development on small and narrow allotments:

- *Would approval of the application result in the isolation of neighbouring sites?*
- *Would it render the reasonable development of neighbouring sites difficult?*
- *Can orderly, economic and appropriate development of the subject site as well as neighbouring sites be achieved?*
- *The main criterion for assessing the proposal on its own site is whether it meets other planning controls, eg:*
  - *Does the proposal meet density, setback and landscaping controls? The most critical control for small and narrow sites is that for setbacks.*
  - *Is its impact on adjoining properties and the streetscape worse because the development is on a small or narrow site?*

A review of the above questions provides following answers:

- (i) The proposed development on the subject site will not isolate the adjoining site at No. 75 Hobart Street in such a way that it would not be able to achieve a reasonable development.
- (ii) The proposed development will not render No. 75 Hobart Street incapable of being developed as a multi dwelling housing development consistent with other recent developments in the vicinity.
- (iii) As discussed throughout the SEE, submitted with the development application, the proposed development is an orderly and appropriate development for the subject site. Through the proposed amendments the proposal achieves a higher level of compliance with building envelope controls and landscape/deep soil area controls. Approval of this development will not hinder appropriate development at No. 75 Hobart Street.
- (iv) The proposal meets height, setbacks in general and landscape controls and complies with density standards.
- (v) The proposal is a sympathetic addition to the streetscape with minimal Impacts on adjoining sites and streetscape.

It is our genuine planning belief that the subject site meets all development standards of ARH SEPP and established planning principles and standards of site isolation. Council should consider these issues on merits and be satisfied that approval of this development will be appropriate for the site and in public interest.



## **5. Waste Management**

Both the Communal Waste Room and the Bulky Waste Room have been amended as per Council's comments with the respect to minimum dimensions, areas required and the number of 240L bins (14).

### **Summary**

In summary, it is considered that the issues, as raised by Penrith City Council have been satisfactorily addressed through this submission and its associated documents.

Yours faithfully,

IDA DESIGN GROUP

Pierre Revollar