

STATEMENT OF ENVIRONMENTAL EFFECTS

DEMOLITION OF ALL STRUCTURES
AND CONSTRUCTION OF A MIXED
USE DEVELOPMENT WITH
BASEMENT PARKING

342-350 HIGH STREET, PENRITH



STATEMENT OF ENVIRONMENTAL EFFECTS

Prepared by

Name: Warwick Stimson
Qualification: Bachelor of Arts (Geography and Planning) (UNE)
Address: Stimson Urban & Regional Planning
Suite 5
488 High Street
Penrith NSW 2750

Client and Land Details

Client: Colin & Andrea Henry
Subject Site: SP65435, Lots 2 & 3 DP3180
342-350 High Street, Penrith.
Proposal: Demolition of all Structures and Construction of a Mixed Use
Development with Basement Parking.



Warwick Stimson RPIA
Director



This report dated November 2021 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 Urban & Regional Planning 2021

Version	Date	Comment
1.0	3/11/21	Initial Draft for client review
2.0	29/11/21	Final for DA lodgement

TABLE OF CONTENTS

1	<u>INTRODUCTION</u>	1
	1.1 Project Overview	
	1.2 Previous Development Application	
	1.3 Report Structure	
	1.4 History of the Application	
	1.4.1 Pre-Lodgement Meeting	
	1.4.2 Urban Design Review Panel Meetings	
	1.4.3 Design Integrity Panel	
	1.5 Supporting Documentation	
	1.6 Legislation, Environmental Planning Instruments and Policies to be considered	
	1.7 Consent Authority	
2	<u>THE SITE AND SURROUNDS</u>	8
	2.1 Surrounding Context	
3	<u>PROJECT DESCRIPTION</u>	11
	3.1 Overview	
	3.2 Demolition	
	3.3 Proposed Built Form	
	3.3.1 Building A (fronting High Street)	
	3.3.2 Building B (rear)	
	3.4 Calculations of Relevant Areas	
	3.5 Vehicular Elements	
	3.6 Landscaping and Open Space	
	3.7 Signage	
	3.8 Stormwater Drainage	
	3.9 Utilities	
	3.10 Waste Management Strategy	
	3.10.1 Residential Waste Collection Strategy	
	3.10.2 Commercial Waste Collection Strategy	
4	<u>STATUTORY CONSIDERATIONS</u>	17
	4.1 State Environmental Planning Policy No 55 – Remediation of Land	
	4.2 State Environmental Planning Policy No 64 – Advertising and Signage	
	4.3 State Environmental Planning Policy 65 Apartment Design Guide Criteria	
	4.3.1 Design Quality Principles	
	4.3.2 Apartment Design Guide	
	4.4 Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River	
	4.5 Penrith Local Environmental Plan 2010	
	4.6 Penrith Development Control Plan 2014	
5	<u>KEY PLANNING ISSUES</u>	35
	5.1 Design Excellence	
	5.2 Potential Site Isolation	
	5.3 Social and Economic	
	5.4 Crime Prevention Through Environmental Design (CPTED)	
6	<u>SECTION 4.15 ASSESSMENT</u>	40
	6.1 Section 4.15(1)(a)(i) – Any Environmental Planning Instruments	
	6.2 Section 4.15(1)(a)(ii) – Any Proposed Instrument	
	6.3 Section 4.15(1)(a)(iii) – Any Development Control Plan	
	6.4 Section 4.15(1)(a)(iiia) – Any Planning Agreement	
	6.5 Section 4.15(1)(a)(iv) – The Regulations	
	6.6 Section 4.15(1)(a)(v) – Any Coastal Zone Management Plan	
	6.7 Section 4.15(1)(b) – The likely impacts of that development	
	6.8 Section 4.15(1)(c) – The suitability of the site for the development	
	6.9 Section 4.15(1)(d) – Any submission made	
	6.10 Section 4.15(1)(e) – The public interest	
7	<u>CONCLUSION AND RECOMMENDATION</u>	42

APPENDICES

APPENDIX A	Design Competition Waiver
APPENDIX B	Urban Design Analysis
APPENDIX C	Design Integrity Panel Correspondence
APPENDIX D	SEPP 65 Design Verification Statement
APPENDIX E	Response from owner of 352 High Street, Penrith
APPENDIX F	Clause 4.6 Request to Vary a Development Standard

LIST OF FIGURES

Figure 1 Subject Site - Aerial	8
Figure 2 Subject Site - Cadastre	9
Figure 3 Site Plan	9
Figure 4 Building perspective from north	11
Figure 5 Aerial perspective from north	12
Figure 6 Area Schedules	13
Figure 7 Carparking calculations	14
Figure 8 Front elevation signage	14
Figure 9 Waste volume calculations	15
Figure 10 Waste Management details	16
Figure 11 Land use zoning map	23
Figure 12 Extract from Height of Buildings map	24
Figure 13 Building A eastern elevation	25
Figure 14 Building B eastern elevation	25
Figure 15 Extract from Floor Space Ratio map	26
Figure 16 DA16/0254 FSR calculations	26
Figure 17 Extract from Heritage map	27
Figure 18 Extract from Active Frontages map	29
Figure 19 Development viewed from the north, showing the pedestrian link	36

1 INTRODUCTION

1.1 PROJECT OVERVIEW

Stimson Urban & Regional Planning has been engaged by Colin & Andrea Henry to prepare a Statement of Environmental Effects in relation to a proposed mixed-use development on the property known as 342-350 High Street, Penrith. The site comprises two allotments – 342-346 High Street and 348-350 High Street¹.

The application seeks consent for the demolition of all existing structures, and the construction of a mixed-use development. The proposed development will comprise 2 buildings – Building A and Building B. Fronting High Street, Building A will comprise 2 basement levels and a seven-storey building (including ground). This building will comprise 5 levels (including ground) of commercial uses, and 2 levels of residential. Building B is proposed to also be 7 levels, with the ground floor accommodating lobby, plant, and storage areas, with residential above.

The site is zoned *B4 Mixed Use* under *Penrith Local Environmental Plan 2010* with the proposal being permissible with consent. Development standards for building height and floor space ratio are proposed to be varied and so a Clause 4.6 Request to Vary a Development Standard is appended to this report.

The proposed development has also been the subject of pre-DA and Urban Design Review Panel meetings, the outcomes of which resulted in a Design Integrity Panel meeting being convened at the request of the Government Architect, as part of the Design Competition Waiver process that the proponent pursued. That process concluded that the proposed development demonstrates design excellence and that, in the Panel's opinion, the relevant clauses of the LEP had been satisfied.

The proposal is defined as *development* in Section 4 of the Act. The 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 4.15 of the Act.

1.2 PREVIOUS DEVELOPMENT APPLICATION

DA16/0254 was approved on 29 March 2017, for the demolition of existing structures and the construction of a seven-storey mixed-use development and basement carparking, across 342-

¹ www.maps.six.nsw.gov.au

346 High Street. Subsequent modifications were also approved relating to the design, and to extend the timing of the consent. We are advised this consent has physically commenced.

Importantly for this current application, DA16/0254 was approved with two variations to the applicable development standards. The assessment report presented to the Panel at the time, recommended to approve buildings to a maximum height of 24m, and a floor space ratio (FSR) of 2.982:1 across the entire site.

Complicating the calculations to be made in the assessment of any redevelopment of the site, is the fact there are two FSR standards applying to the site – an FSR of 2:1 fronting High Street, and an FSR of 3:1 at the rear of the site, south of John Cram Place. Notwithstanding this anomaly, this site is subjected to a 12m maximum building height limit. But again, a significant difference in the height limit (24m) exists adjoining to the south, and further on the western side of Castlereagh Street. Specifically in relation to the differences in height limit, it is our assessment that this arose from a desire to protect the heritage item and its curtilage that adjoins the subject site to the east. Whilst it may have been imposed to achieve similar outcomes, the FSR controls in the locality appear to be applied slightly inconsistently to those relating to height. This conflict in the LEP standards, is exacerbated by the Council's DCP that seeks to achieve a particular building form fronting High Street, noting the inclusion of street wall height controls.

In any case, the assessment and determination of DA16/0254, considered these zoning controls in the context of the heritage item, and those variations were ultimately supported by Council and the determining Panel.

In its assessment of DA16/0254, Council considered two key elements supporting the ultimate variation. Firstly, a clause 4.6 request to consider a variation to a development standard, and secondly, whether the proposed development exhibited design excellence.

The following planning grounds were accepted by Council, and subsequently the Panel, justifying the variation:

"The proposed design provides a landmark architectural building for the Penrith Town Centre. As a backdrop to the vibrant High Street, adjacent to several significant heritage items, and located in Council's proposed new Legal precinct (as part of the Penrith New West initiative) the subject site is in a prominent location in the Penrith Town Centre and ideal for a high standard architectural and urban design solution.

Rather than repeating the residential grain of surrounding developments, this development embodies a sleek, elegant form to reflect the commercial and retail nature of a CBD location, whilst providing high-end apartments into the Town Centre, promoting pedestrian activity around a more retail and commercial streetscape.

The proposed development seeks to maintain the DCP envelopes in the existing streetscape in accordance with the DCP guidelines to provide a consistency in scale with the recent and proposed commercial developments at the eastern end of the High Street CBD. This provides a consistent streetscape with increased activity as you enter the traditional heart of the Penrith CBD.

Whilst the DCP and LEP allow a 0m setback to the adjacent heritage items at 340 High Street, the development proposal actually increases the building setback in order to pull the new building away from the boundary to provide an appropriate curtilage around the heritage buildings at 340 High Street.

This provides the old Bank Building at 340 High Street to have 'breathing space' with the opportunity to appreciate this building from the western and southern elevations. The proposal also reinstates the prominence of the Old Bank Building at 340 High Street in the streetscape through the use of symmetry. Using the proportions of the Bank Building's large archways the proposal incorporates a new entry structure for 344 High Street at the ground level within the setback from the eastern boundary to provide relief for the bank building.

This curtilage is reinforced by the extension of the vertical blades on the curved eastern facade which through the use of a bridging steel structure, provides an integrated facade between the front and rear buildings on the site which provide a consistent texture which acts as a backdrop to the heritage buildings. This backdrop not only addresses the Bank Building on the 340 High Street frontage, but also the old stables building at the rear of the site, providing a neatly landscaped courtyard at the end of John Cram Place.

The curved nature of the building also sets up the potential for a 'heritage precinct' where new developments in line with the LEP and DCP objectives can address the heritage buildings in this area, such as the items at 340 High Street and the Catholic Church adjacent. The proposal also provides a direct connection between High Street and the old 'Stables' building at the rear of 340 High Street. We note that the ground floor retail covers the entire frontage of High Street but is designed in such a way to provide pedestrian access through the retail space to the rear of the site.

We are looking to bring pedestrian activity into the site through a secure covered walkway, which can be used by commercial tenancies to promote pedestrian activity and passive surveillance at the end of John Cram Place.

The proposal also seeks to address John Cram Place through location of the residential lobbies for the development, which enter directly onto John Cram Place. This creates immediate pedestrian activity on the laneway, and changes it from a vehicle only service lane, to an active alive street.

The installation of a new stormwater drainage line, a new footpath and external lighting for pedestrian safety enhance this treatment. Through careful attention to form, massing and architectural detail the proposal has a distinct character. Located in the new legal precinct identified in the Penrith New West initiative the use of high quality materials, bold architectural features, and an expansive building form which curves and wraps around existing heritage items, result in a building which is not a regular residential apartment block.

The role of this building in the public domain is to promote pedestrian activity in the precinct, set a high standard for architectural detailing and finishing, to celebrate and acknowledge the heritage buildings that are adjacent to this site, and importantly with regard to the public domain set a precedent for future developments in the area.

The proposal maintains the streetscape envelope required by the DCP. The street frontage is an appropriate scale for pedestrian interaction, allows for the streetscape to retain good access to natural light and ventilation. Whilst it maintains the desired street wall along High Street the ground floor design allows for high pedestrian activity and easy access through the site to buildings at the rear of the site on John Cram Place on adjacent properties.

The public domain is also improved at the southern side of the building. New pedestrian footpath, external lighting and guttering mean that the development provides a pedestrian friendly environment along John Cram Place without compromising the service function the laneway performs for the existing commercial premises. With increased pedestrian activity there is regular surveillance of this laneway, which makes this a safe place.

Council's intention to maintain a 12 m height limit along High Street to provide a natural light to public spaces and to take into account a number of heritage buildings is understood. This proposal maintains the DCP setbacks and heights for the streetscape. We also provide a more significant presence of the heritage building adjacent to our site but using the same proportions of that for our walkway entry."

It is important to revisit the reasons behind the decision making around the original application since the principles adopted and endorsed in the original development application have been employed through the development of this proposal.

In Councils Assessment report, the following comments were made in relation to the proposal achieving design excellence:

The proposed development is considered to exhibit design excellence given its response to heritage issues and streetscape constraints, bulk massing and modulation of the buildings and the proposed improvements to pedestrian, cycle, vehicular and service access and circulation.

The proposal also needed to demonstrate it displayed design excellence, as per the requirements of the LEP. In this regard, a design competition waiver was granted by the NSW Government Architects Office, on the condition a Design Review Panel was established to review the project throughout its design and construction. As a result of that process, concurrence to the height and FSR variations were issued by the NSW Government Architects Office.

With this application, there is an opportunity to further enhance the design outcomes in this locality with an additional allotment being added to the development site. Obviously, the modification provisions of the Act are unable to be utilised given the expanded site, however, the expanded site has enabled the proponent to revisit the fabric of the design, and to contemporise its configuration. The outcome proposed here represents an appropriate response to the future market demands of Penrith.

Again, it is important to understand the factors considered when the original application was supported. With the passage of time, and the benefit of this new design, it is submitted that the planning outcomes are significantly improved again. It follows that significant weight should be given to the original reasons for justifying the LEP breaches in the determination of this application and that they are once again relevant in the circumstances of this case.

1.3 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: Project Description – provides a detailed description of the proposed development and its characteristics.
- Section 4: Statutory Considerations – provides for an assessment of the proposal against the specific planning instruments and policies that are applicable.
- Section 5: Key Planning Issues – provides an assessment of the key issues identified in the preparation of the application.
- Section 6: Section 4.15 Assessment – provides an assessment against section 4.15 of the EPA Act.
- Section 7: Conclusion and Recommendation – summarises the report and presents a recommendation.

1.4 HISTORY OF THE APPLICATION

1.4.1 *Pre-Lodgement Meeting*

A pre-DA meeting was held with Council Officers on 28 August 2020. At that meeting a number of technical issues were discussed and then implemented into the design.

Ongoing consultation has continued with Council up until the lodgement of this new application, particularly with Councils Waste section.

1.4.2 *Urban Design Review Panel Meetings*

UDRP meetings were attended on 27 March 2020 and 18 November 2020, resulting in ongoing urban design improvements to the design.

The UDRP then provided support for a submission to the Government Architects Office requesting the waiving of a design competition on the site.

1.4.3 *Design Integrity Panel*

Clause 8.4 of the LEP requires the proposed development to demonstrate it has design excellence. For this application, the LEP actually triggers an architectural design competition. However, for many cases in Penrith, Council and the NSW Government Architect have supported alternative processes to demonstrate design excellence.

On 1 June 2021, the NSW Government Architects Office granted a waiver to the design competition process (Appendix A). As an alternative process, the Government Architects Office required a Design Integrity Panel (DIP) to be established.

Importantly, an Urban Development Analysis was prepared and provided to the DIP in support of the application. The Urban Development Analysis was used throughout the design excellence process and has been continually updated to respond to Panel members comments. The final version of the Urban Development Analysis is provided at Appendix B providing a detailed consideration of the urban design matters relating to the site, and the proposed variations.

The DIP met on 6 July 2021 and considered the design proposed. Importantly, the DIP noted the following:

In advance of formal variation requests, the DIP agrees that current plans do not present any clear reasons to oppose proposed non-compliances with development standards for height and FSR.

The DIP also outlined some minor, additional refinements to the design, but also specifically supported the absence of communal open space for the residential component of the development.

The DIP's associated correspondence is provided at Appendix C, including the final endorsement, provided on 19 November 2021, that reads as follows.

Conclusions

The Panel considers that lodgement of the DA may proceed provided that the recommended further amendments are made, and provided also that the specified further details are provided.

The Panel is available to address any questions which might be raised by Council in relation to design excellence during assessment of the DA.

The majority of the recommendations have been incorporated into the final DA plans. However, Appendix C also contains the project's architect's final response to the DIP's comments, dated 26 November 2021. There is disagreement on one specific architectural aspect, that of the 'brick wall detail'. Whilst this impasse should not be fatal to the overall determination of an application like this, it represents a difference of professional opinion that will need to be determined one way or the other by Council and then ultimately the Panel.

From a planning perspective the LEP requires design excellence to be demonstrated in a proposal in accordance with the relevant LEP clause. The Panel has issued an endorsement, subject to the design being amended to accommodate their views on this one detail.

On the other hand, I acknowledge the points raised by the project architect in relation to the brick wall detail – it is a position that the client for the project, the owner, supports. In my opinion, I don't believe the application should be determined on this matter alone. Whilst from a design perspective, the outcome sought by the Panel may be warranted, the position of the architect (and owner) is practical and has a foundation in other celebrated architecture in Sydney. In any event, the brick wall detail is not, in my opinion, a primary design feature of the development and is one where some discretion could be exercised. I am also of the view that just because this specific matter has not been incorporated into the final design, it does not mean the overall development does not achieve design excellence. In this regard, I note the wording of the DIP's final comments saying:

- iii For commercial storeys along the eastern elevation of Building A, a random pattern of windows should be explored in lieu of random treatment of residential levels which would be harder to achieve.

The Panel has not insisted on this amendment, rather asked that it be explored, and it is my opinion that this has been done by the architect, and the owner, and that the Panel advice has been technically satisfied.

As a result of the extensive consultation already undertaken, it is submitted that the proposed development clearly demonstrates design excellence in the context of the applicable planning controls.

1.5 SUPPORTING DOCUMENTATION

The proposed is accompanied by the following documentation:

Documentation	Prepared by
Access Report	Funktion
Architectural Drawings	Integrated Design Group
BASIX Commitments	ESD Synergy Pty Ltd
BCA Compliance Statement	Blackett Maguire Goldsmith
Erosion and Sediment Control Plan	Cardno (NSW/ACT) Pty Ltd
Geotechnical Assessment	Geotechnique Pty Ltd
Geotechnical Investigation	Ground Technologies
Heritage Report	Nimbus Architecture & Heritage
Hydraulic Report/Stormwater Plans	Cardno (NSW/ACT) Pty Ltd
Landscape Plan	Melissa Wilson Landscape Architects
Noise Impact Assessment	Acouras Consultancy
SEPP 65 Statement	Integrated Design Group
Survey	Matthew Freeburn
Traffic Impact Assessment	Varga Traffic Planning Pty Ltd
Waste Management Plan	Integrated Design Group

1.6 LEGISLATION, ENVIRONMENTAL PLANNING INSTRUMENTS AND POLICIES TO BE CONSIDERED

- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy No. 65 – Apartment Design Guide Criteria*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy No. 20 – Hawkesbury Nepean River*
- *Penrith Local Environmental Plan 2010*
- *Penrith Development Control Plan 2014*

1.7 CONSENT AUTHORITY

The consent authority for this application is Penrith City Council.

2 THE SITE AND SURROUNDS

The subject site and its surrounds have the following characteristics.

Site Address	342 – 350 High Street, Penrith
Lot/DP	SP 65435, Lots 2&3 DP3180
Site Area	1605sqm approx..
Local Government Area	Penrith City Council
Zoning	B4 Mixed Use
Current Land Use	Commercial
Proposed Land Use	Mixed Use
Surrounding Land Uses	North- Commercial/Mixed Use, South- Commercial/mixed & Residential, East Commercial/Mixed West Commercial/Mixed Use
Topography	Generally flat
Terrestrial Biodiversity	Not mapped in LEP
Heritage	Heritage listed properties, with local heritage significance adjoin the site to the east and located across High Street to the north.
Flooding/Overland Flow	Not mapped in LEP
Bushfire	Not mapped in LEP



Figure 1 Subject Site - Aerial



Figure 2 Subject Site - Cadastre



Figure 3 Site Plan

2.1 SURROUNDING CONTEXT

Given the sites location within the Penrith CBD, the locality is characterised by a mix of commercial and main street retail. Commercial offices dominate adjoining properties, food premises are found on the northern side of High Street, and the Australian Arms Hotel is located to the north-east of the site, on the corner of High and Lawson Streets.

Adjoining the site to the west and fronting High Street is a two-storey commercial building. To the east is a two-storey commercial building with heritage value. To the west of the rear portion of the subject site is a two-storey commercial building, with its carpark immediately bordering the boundary. To the east of the rear portion of the subject site, is the St Nicholas of Myra Catholic school. Adjoining to the south are more commercial buildings.

Penrith Railway Station is located some 300m walk from the site, which is where the main bus interchange for Penrith is also located.

3 PROJECT DESCRIPTION

3.1 OVERVIEW

The application seeks consent for the demolition of all existing structures, and the construction of a mixed-use development. The proposed development will comprise 2 buildings – Building A and Building B. Fronting High Street, Building A will comprise 2 basement levels and a seven-storey building (including ground). This building will comprise 5 levels (including ground) of commercial uses, and 2 levels of residential. Building B is proposed to also be 7 levels, with the ground floor accommodating lobby, plant, and storage areas, with residential above.



Figure 4 Building perspective from north

3.2 DEMOLITION

This application includes the demolition of all structures on the site, as indicated in the accompanying Demolition Plan (DA-0200 Issue B).

3.3 PROPOSED BUILT FORM

The application seeks consent for the construction of two multi storey buildings. Building A will front High Street and comprise a mix of residential and business uses. Building B will contain residential accommodation. Basement carparking will be provided underneath each building. While waste storage will be provided at the base of each building, waste collection will take place in Building B.

3.3.1 *Building A (fronting High Street)*

Building A fronts High Street, with John Cram Place located at its rear. Two basement levels are proposed, accommodating 56 car parking spaces (inclusive of accessible parking), plant

rooms, storage lockers and bicycle parking. The ground floor level accommodates 4 commercial tenancies, 1 of which is proposed to be used as a café.

Levels 1-4 are proposed as commercial floor space.

Level 5 is proposed to accommodate 2 x 3-bedroom units and level 6 is proposed to accommodate 4 bedroom penthouse. It is noted that Level 3 also provides a landscape area on an 'open terrace'.

3.3.2 *Building B (rear)*

Building B is situated at the rear of the subject site, with a northern frontage to John Cram Place. Two basement levels are proposed for this building. Basement Level 1 accommodates 13 car spaces and 1 wash bay. Basement Level 2 accommodates 17 car spaces. Accessible spaces are provided across both levels, as is resident storage, bike parking and plant rooms.

Waste storage and collection areas are proposed at ground level. Located behind the lobby entrance.



Figure 5 Aerial perspective from north

3.4 CALCULATIONS OF RELEVANT AREAS

The accompanying plans (DA-0400 Issue B) detail the calculations of the various aspects of the proposed development, as follows:

area schedule

	GFA (m ²)	GFA (m ²)	NLA (m ²)	residential units		
	BUILDING A	BUILDING B	COMMERCIAL	10	20	30
GL	575.75	21.21	397.05			
L1	907.03	405.45	864.5	2	3	
L2	898.67	405.45	765.15	2	3	
L3	455.22	404.36	382.19	2	3	
L4	481.19	358.10	444.41	1	2	1
L5	421.14	358.10		1	2	3
L6	294.93	303.6		1	1	2
Total GFA	4033.93	2,256.27	2,853.30	9	14	6

Site Area (m ²)	1,271.4	829.76		Total units	29
FSR	3.17	2.72		Total Adaptable Units	3
Allowable FSR	2.00	3.00			
Height (m)	24.0	29.6			

Combined	
Site area (m ²)	2,101.16
Combined GFA	6,290.2
Allowable GFA	6,303.48
Proposed FSR	2.99

Figure 6 Area Schedules

A more detailed consideration of FSR calculations has been undertaken later in this report.

3.5 VEHICULAR ELEMENTS

Vehicle entry to the proposed buildings will be from John Cram Place, a service laneway entered via Castlereagh Street. Entry ramps will be provided to both buildings, leading down to the basement levels described earlier in this report.

The car parking numbers relating to the development and the land uses therein is provided below.

car parking requirements

	no. units	area (m ²)	SEPP 65 2015 ¹	penrith DCP ²	carparks required
1B units	11		0.4	1	4.4
2B units	12		0.7	1	8.4
3B units	6		1.2	2	7.2
total residential units	29				20
visitors			1 per 7		4.1
commercial		2760.02		1 per 100	27.6
total cars required					52
total cars provided					76

1 SEPP 65 2015 refers to RMS Guide to Traffic Generating Developments for developments within 500m of a railway station in the Sydney Metropolitan Area which includes Penrith City in accordance with Regional Development Regulation 242 - Reg 4. For this purpose the RMS guide has been used to calculate the SEPP 65 requirements for residential apartments.

2 Penrith Council DCP used to calculate commercial spaces due to RMS Guide to Traffic Generating Developments noting that commercial calculations are based on 1979 data and Council codes for parking should take precedence.

Figure 7 Carparking calculations

An excess of parking is proposed to be provided in order to cater for the known commercial demands of tenants in the Penrith CBD.

3.6 LANDSCAPING AND OPEN SPACE

Being a mixed-use development, targeted landscaping has been provided. This comprises landscaped common spaces for the commercial and ground floor retail elements of the development, as well as an internal atrium. While private open space is proposed for the residential elements of the development, the development will rely on the public open spaces and services and facilities of the Penrith CBD to take the place of communal open space.

3.7 SIGNAGE

Modest building and business identification signage is proposed as part of this application. The Figure below shows those signage panels that are proposed to be fronting High Street. Consideration of the signage against the provisions of SEPP 64 are provided later in this report.



Figure 8 Front elevation signage

3.8 STORMWATER DRAINAGE

A stormwater drainage concept plan accompanies the application and demonstrates compliance with Council's controls. MUSIC modelling has been carried out and accompanies the application.

We also note the site is covered in hard stand already.

3.9 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.

3.10 WASTE MANAGEMENT STRATEGY

Based on discussions with Council's Waste Department, the following waste generation rates have been calculated for the proposed development.

generated waste volumes

premises	use/ (m ² /apartment)	general waste			recyclable material		
		rate	weekly total (L)	no. bins	rate	weekly total (L)	no. bins
comm. (retail)	409.77	50L/100m ² /day	1,434.20	3 x 1100L	50L/100m ² /day	1,434.20	3 x 1100L
comm. (office)	2,440.57	10L/100m ² /day	1,708.40		10L/100m ² /day	1,708.40	
residential	29	80L/unit/week	2,320.00	3 x 1100L	40L/unit/week	1,160.00	2 x 1100L

Based on rates provided in Penrith DCP 2010 appendix F5 - Waste Recycling Generation Rules

Figure 9 Waste volume calculations

Given there is a mix of uses in the development, it is appropriate to propose waste strategies for each and this has been detailed below.

3.10.1 Residential Waste Collection Strategy

The residential apartments will be serviced by a centrally located garbage collection room in each building which will hold both general waste and recycling. Waste is disposed to these rooms via garbage chutes. Building B uses a linear track waste system (Location E), and Building A uses a bin holding device (Location D) to service the 3 apartments across levels 5 and 6. Each residence will be provided with a waste cupboard space within their apartment for the storage of general and recyclable waste until it is disposed of. Tenants are required to transport all waste to the garbage and recycling chutes. Once residential bins have been filled in Building A, they will be transported to the Residential Garbage Holding Area (Location F) prior to collection day, by building maintenance. Similarly, once the residential bins for Building B are full, they will be taken from the Collection Room (Location E) to the Residential Garbage Holding Area (Location F) prior to collection day, by building maintenance. Penrith City Council will collect general waste and recycling on a weekly basis from the Residential Waste Holding Room (Location F). Council waste collection will provide a wheel out - wheel

back service of all 1100L bins from the Residential Garbage Holding Room (Location F) to the garbage loading zone. (Location C)

3.10.2 *Commercial Waste Collection Strategy*

Commercial waste is handled by tenants and is stored on the ground floor of Building A (Location A). Prior to collection day these bins are transported to Building B using the Bin Tug Device (stored at Location I) by building maintenance and are stored in the Commercial Garbage Holding Area (Location B), where they will then be loaded into the truck at Location C. Building maintenance will then transport the bins back to Building A once collection is completed. An external waste contractor will collect general waste and recycling on a weekly basis from the Commercial Waste Holding Room (Location B). The external contractor will provide a wheel out - wheel back service to all 1100L bins from the Commercial Garbage Holding Room (Location B) to the garbage loading zone. (Location C)

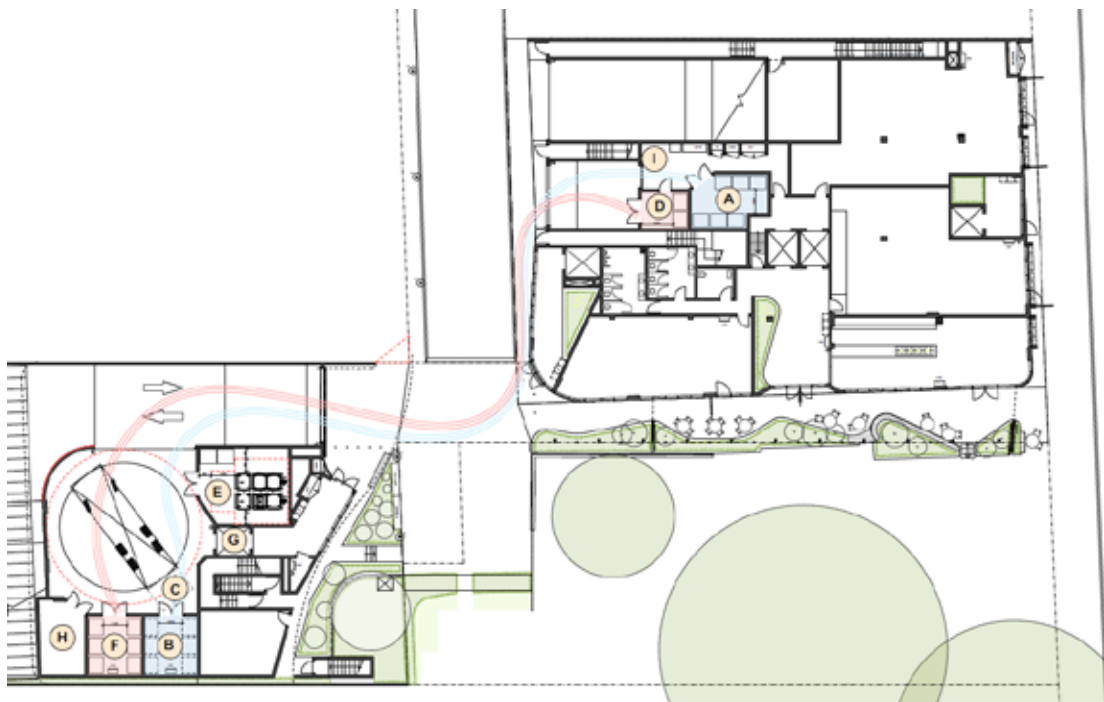


Figure 10 Waste Management details

4 STATUTORY CONSIDERATIONS

The applicable statutory planning instruments and relevant guidelines have been considered below.

4.1 STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

Under Clause 7(1)(A) of SEPP 55 the consent authority must not consent to a development application unless consideration has been given to whether the land is contaminated.

Accompanying DA16/0254 was a Stage 1 Contamination Assessment prepared by Ground Technologies. The assessment concluded the following:

The conclusions of this Contamination Report are as follows:

- The site has been used as a commercial and retail business premises since its creation.
- A review of aerial photography suggests that the neighbouring properties are commercial and not considered to have posed a risk for potential contamination to the site.
- A search of the NSW EPA Contaminated Land Management record of notices revealed that there were no notices issued to the subject site. No history of dangerous manufacturing utilizing heavy chemicals or metals was documented.
- No industrial facilities undertaking heavy manufacturing are located within 500m of the subject site. The surrounding sites are commercial. Therefore the risk of contamination migration caused by surface run-off from adjoining sites is minimal.
- Filling was observed to a depth of up to 0.9m across the site during the subsurface investigation. The source of this fill material is unknown.

This fill was placed at some time prior to 1986. The source of the fill material is unknown. Laboratory testing indicates that the site does not present a risk to human health or the environment in the exposure setting; 'residential with minimal opportunity for soil access such as high rise buildings and apartments' ('HIL B').

...

The subject site is suitable for the proposed development and no Remediation Action Plan (RAP) is required.

The subject site has not been altered in any way since this 2016 assessment was prepared and accepted by Council. It follows this report should continue to be acceptable to Council and that the provisions of SEPP 55 have been satisfied accordingly.

4.2 STATE ENVIRONMENTAL PLANNING POLICY NO 64 – ADVERTISING AND SIGNAGE

Under Clause 8 of SEPP 64, a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that:

- a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1)(a), and
- b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

An assessment against the relevant provisions is provided below.

Relevant Clause	Commentary
Part 1 Preliminary	
6 <i>Signage to which this Policy applies</i>	
(1) <i>This Policy applies to all signage that—</i>	The proposed development includes a range of business and building identification signage, as well as more modest directional and wayfinding signage. The Policy therefore applies.
(a) <i>can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and</i>	
(b) <i>is visible from any public place or public reserve, except as provided by this Policy.</i>	
(2) <i>This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.</i>	Not applicable.
Part 3 Advertisements	
Division 1 General	
9 <i>Advertisements to which this Part applies</i>	
(1) <i>This Part applies to all signage to which this Policy applies, other than the following:</i>	Approval for building and business identification signage is being sought in this application. This part therefore does not apply.
(a) <i>business identification signs,</i>	
(b) <i>building identification signs,</i>	
(c) <i>signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</i>	
(d) <i>signage on vehicles.</i>	
(2) <i>Despite subclause (1) (d), clause 27A applies to signage on a trailer (within the meaning of the Road Transport Act 2013).</i>	
Schedule 1 Assessment criteria	
1 <i>Character of the area</i>	
• <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	The signage proposed is not inconsistent with the commercial character of the locality. A significant amount of signage exists within the Penrith CBD; however this proposal is not unacceptable in the context of the scale and utility of the building.
• <i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	
2 <i>Special areas</i>	
• <i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</i>	There are no environmentally sensitive areas in the locality. The signage proposed will not negatively impact on the adjoining heritage item given the proposed building itself will dominate visually.
3 <i>Views and vistas</i>	
• <i>Does the proposal obscure or compromise important views?</i>	No. The signage proposed is minor in scale in the context of the overall proposed development.
• <i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	No. The signage is located within the building envelope.
• <i>Does the proposal respect the viewing rights of other advertisers?</i>	The signage will not impact on any views of, or from, other advertisers.
4 <i>Streetscape, setting or landscape</i>	
• <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i>	Yes. The signage is located within the building envelope.

Relevant Clause	Commentary
<ul style="list-style-type: none"> Does the proposal contribute to the visual interest of the streetscape, setting or landscape? 	The proposed signage is subtle and high in quality. Its placement and design will contribute to the visual presentation of the building and the broader streetscape.
<ul style="list-style-type: none"> Does the proposal reduce clutter by rationalising and simplifying existing advertising? 	Not applicable.
<ul style="list-style-type: none"> Does the proposal screen unsightliness? 	Not applicable for this development.
<ul style="list-style-type: none"> Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	No.
<ul style="list-style-type: none"> Does the proposal require ongoing vegetation management? 	No.
5 Site and building	
<ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? 	Yes. The signage proposed is integrated into the development, adding to the visual interest of the architecture adopted. It is not of a scale that would be considered unacceptable.
<ul style="list-style-type: none"> Does the proposal respect important features of the site or building, or both? 	Yes. Signage has been discreetly positioned so as to not detract from the visual presentation of the building.
<ul style="list-style-type: none"> Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	The main building/business identification sign is considered innovative in that its design is purposefully integrated into the front façade.
6 Associated devices and logos with advertisements and advertising structures	
<ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	Not applicable for this proposal.
7 Illumination	
<ul style="list-style-type: none"> Would illumination result in unacceptable glare? 	No. The signage is not considered to be of a scale that would pose a problem in this regard.
<ul style="list-style-type: none"> Would illumination affect safety for pedestrians, vehicles or aircraft? 	As above.
<ul style="list-style-type: none"> Would illumination detract from the amenity of any residence or other form of accommodation? 	As above.
<ul style="list-style-type: none"> Can the intensity of the illumination be adjusted, if necessary? 	This could be incorporated into the design however is considered unnecessary.
<ul style="list-style-type: none"> Is the illumination subject to a curfew? 	Not applicable.
8 Safety	
<ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? 	No. There are no safety aspects of concern relating to the signage, its contents or its location.
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians or bicyclists? 	As above.
<ul style="list-style-type: none"> Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	As above.

The proposed signage is considered acceptable in the context of the provision within this SEPP.

4.3 STATE ENVIRONMENTAL PLANNING POLICY 65 APARTMENT DESIGN GUIDE CRITERIA

Under Clause 4 of SEPP 65, the proposed development is required to be considered against the relevant SEPP provisions.

Clause 29 of the SEP requires Council to consider the design quality of the development when evaluated in accordance with the design quality principles, and the Apartment Design Guide.

As stated before, the application has been the subject of exhaustive design excellence consideration, of which the principles of SEPP 65 have been a priority.

4.3.1 *Design Quality Principles*

An assessment of the proposed development against the Design Quality Principles follows:

Principle	Commentary
Principle 1: Context and neighbourhood character	<p>The proposed mixed-use development is situated within the Penrith CBD and provides an appropriate configuration of uses given the location and context of the site. The design is sympathetic to the adjoining heritage item and has been the subject of exhaustive urban design analysis, including a Design Integrity Panel meeting.</p> <p>The final design outcome will see the addition of a 'through-block' pedestrian link and enhanced public domain finishes. In this context, the development is responding to the objectives of the LEP and DCP, but also SEPP 65 itself.</p> <p>The architectural presentation will establish a high quality of built form character in this locality.</p> <p>The accompanying SEPP 65 report confirms this as follows:</p> <p><i>There is no dominant character or scale along high street. The majority of existing buildings are 1 - 3 storeys retail and /or commercial. Street frontage varies between 4 - 60m in length. Only consistent feature is 0m allotment between boundaries the exception being the heritage building and church adjacent to the proposed site.</i></p> <p><i>The front facade of the proposed building responds to the height and scale of the adjoining heritage building. A pedestrian laneway adjacent to the heritage building is a modern interpretation of the heritage features and creates a greater setback between the two buildings than would a typical development response would allow.</i></p> <p><i>The retail facade is an open glass curtain wall which provides an ideal retail setting and opens to busy passing trade for retail tenants. The commercial levels are an elegant, curved face brick wall, consistent with many buildings in High Street. This shell is punctuated at the upper levels through large, expressed openings providing interaction with the streetscape from these levels.</i></p> <p><i>The proposal also seeks to continue the proposed commercial street wall along High Street whilst at the same time acknowledge the finer grain of the old suburb through a patterned window box which is constructed from a series of box frames which sit external of the curtain wall structure to the north of the street.</i></p> <p><i>The upper residential levels are expressed through a curved vertical batten facade which provides privacy and shade with the ability to open up to views while also allowing for a consistent backdrop to the heritage items.</i></p> <p><i>The proposed development steps up to 25m height after a 15m front setback. This, along with the greater setback on the eastern boundary creates a consistent backdrop to the adjacent heritage buildings whilst reinforcing the desired future character for High Street.</i></p>

Principle	Commentary
Principle 2: Built form and scale	<p>The proposed development has been the subject of an exhaustive urban design analysis and has benefitted from a Design Integrity Panel consideration. These bodies support the built form and scale of the proposal, in light of the planning controls and development standards that apply.</p> <p>The accompanying SEPP 65 report confirms the following:</p> <p><i>The proposed site has a smaller allowable floor space ratio and height allowance than the surrounding sites due to the adjacent heritage buildings. This would result in a disjointed street wall and the heritage items would only get lost in the building fabric amongst non heritage items. Following discussions with the urban design review panel, we agreed that a better approach is to have a consistent bulk and scale with the rest of the street in order to accentuate the heritage items.</i></p>
Principle 3: Density	Compliance with the Apartment Design Guide will ensure the amenity of any proposed dwellings satisfy those requirements.
Principle 4: Sustainability	<p>Cross ventilation and energy efficient outcomes have been demonstrated in the accompanying plans.</p> <p>There are significant positive environmental outcomes and public benefit arising from the design arrived at.</p>
Principle 5: Landscape	An appropriate landscape solution has been proposed that responds to the objectives of the SEPP and the outcomes that it seeks to achieve.
Principle 6: Amenity	The accompanying documentation demonstrates good amenity will be achieved for the benefit of residents and visitors to the site. Numerical controls have largely been complied with.
Principle 7: Safety	Appropriate safety measures can be implemented into any design. Aspects relating to Safer by Design principles have been considered later in this report.
Principle 8: Housing diversity and social interaction	An appropriate range of accommodation sizes have been proposed in this design. Entrances to different land uses have been separated and designed specifically.
Principle 9: Aesthetics	The building proposed comprises a high level of material finishes and textures. The visual presentation of the building represents an appropriate level of development in the context of this locality.

The proposed development is considered to satisfy the above design quality principles, and this is confirmed in the SEPP 65 Design Verification Statement at Appendix D.

4.3.2 Apartment Design Guide

As assessment of the proposed development against the key standards of the Apartment Design Guide is provided within the SEPP 65 Design Verification Statement at Appendix D.

The proposed development generally satisfies the Apartment Design Guide. Where departures are proposed, they are done so with justification based on the subject site and its location within a CBD context.

4.4 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.

4.5 PENRITH LOCAL ENVIRONMENTAL PLAN 2010

The Penrith LEP is the main environmental planning instrument applicable to the subject site. 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* with the following zone objectives applying to that 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 of the zone in that:

- The development comprises land uses that are anticipated within a CBD context.

- The mix of uses proposed has been carefully considered through the design phase. With the benefit of advice from Councils Urban Design Review Panel, the relationship between residential and commercial spaces has been well designed.
- Significant public amenity has been created with the introduction of a pedestrian laneway linking High Street and John Cram Place.

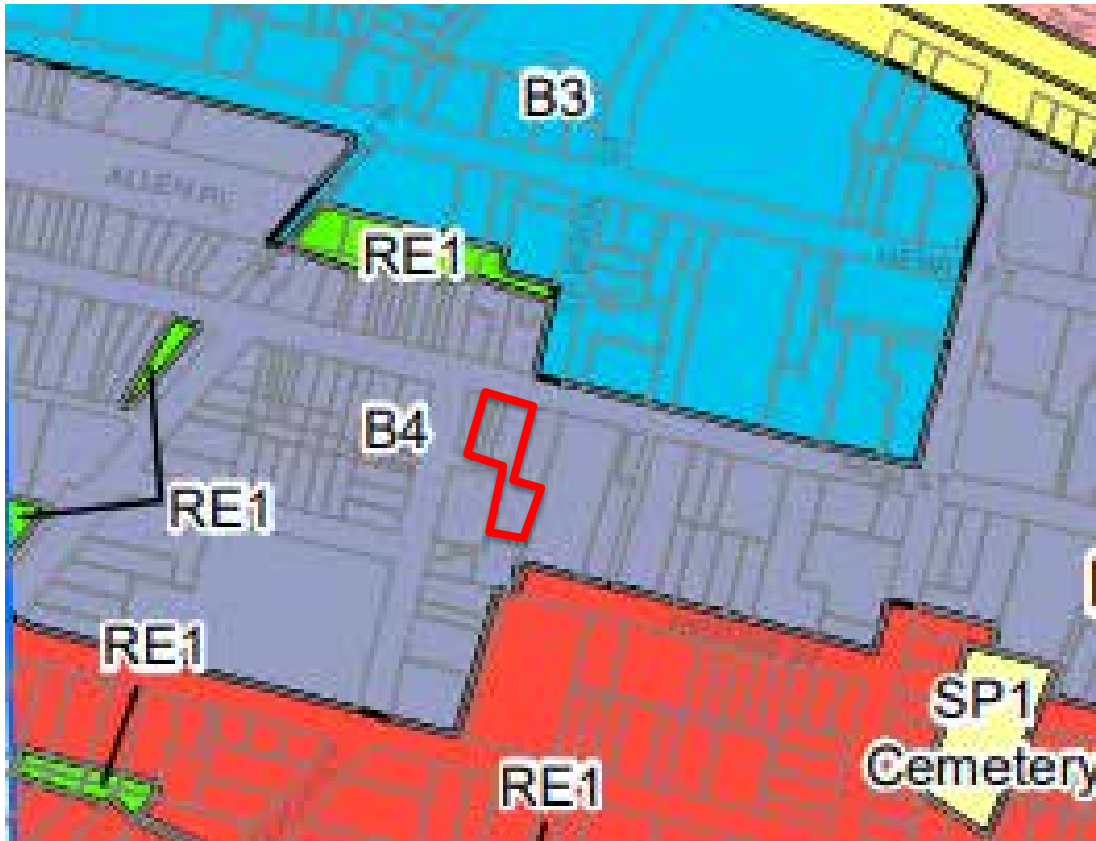


Figure 11 Land use zoning map

The following land uses, which are permissible with consent, are proposed in this application for a mixed-use development.

Commercial premises

commercial premises means any of the following—

- business premises,
- office premises,
- retail premises.

Residential Flat Building

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

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

Clause 4.3 Height of buildings

The objectives of this clause are

- (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.

As shown in the Figure below. The site is shown as having a maximum building height of 12m.

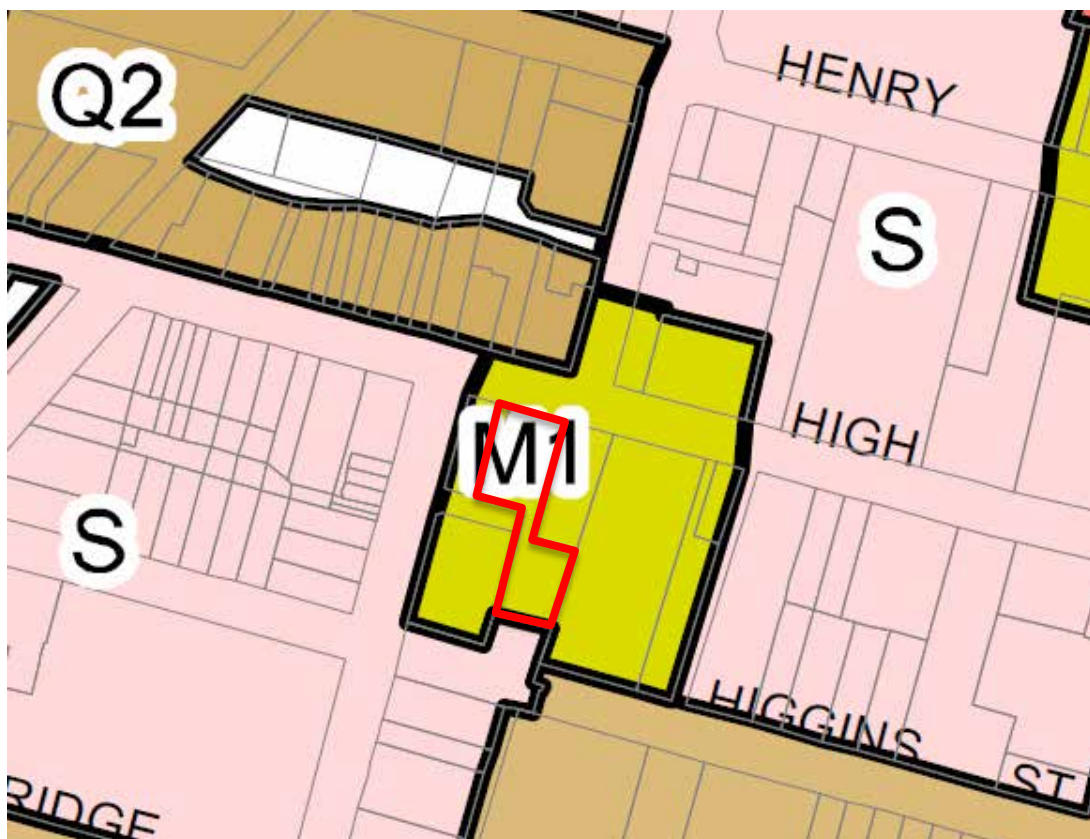


Figure 12 Extract from Height of Buildings map

The overall height of Building A is 25.38m to the very top of proposed roof plant. To the rooftop of the building, the height is 24.28m, but the bulk of that height is set back some distance from High Street. At the street frontage, the built form has a three-storey height, or 12.9m.



Figure 13 Building A eastern elevation

The overall height of Building B is 25.07m to the very top of proposed roof plant. To the rooftop of the building, the height is 23.47m.



Figure 14 Building B eastern elevation

The breach in height limit is considered in the appended Clause 4.6 Request to Vary a Development Standard (Appendix F).

4.4 Floor Space Ratio

The objectives of this clause 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.

As shown in the Figure below, there are two FSR controls that apply to the subject site. The part of the site fronting High Street has an FSR of 2:1, while the rear of the site enjoys an FSR of 3:1.

In the context of permissible gross floor area (GFA), and based on an area of 1271.4sqm, the LEP permits some 2542.8sqm of GFA on the front portion of the site. The application proposes

GFA on this part of the site totalling 4033.93sqm, equating to an FSR of 3.17:1 and a breach of the FSR control.

Based on an area of 829.76sqm, the LEP permits some 2489.28sqm of GFA on the rear portion of the site. The application proposed GFA on this part of the site totalling 2256.27sqm, equating to an FSR of 2.72:1 which is compliant with the FSR control.

When considered across the entire site, some 6290.2sqm is proposed, equating to a total FSR of 2.99:1.

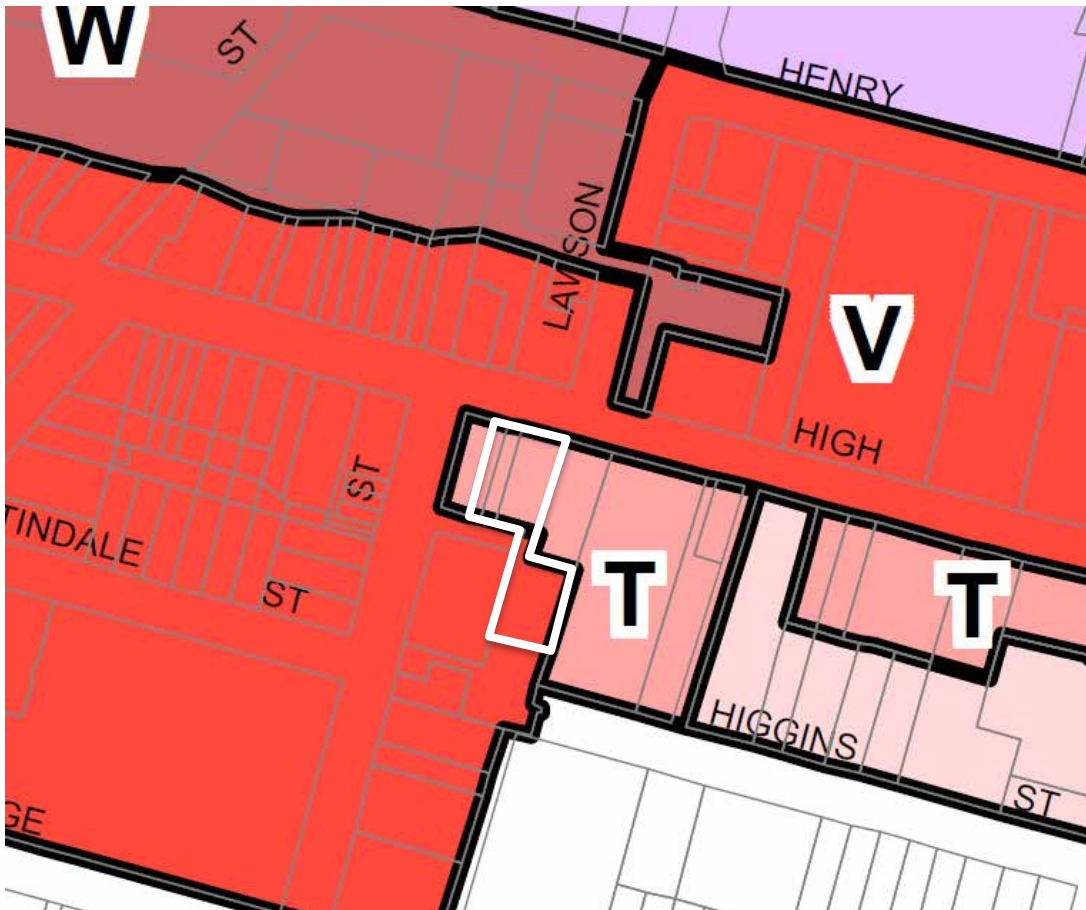


Figure 15 Extract from Floor Space Ratio map

For comparison, the following Figure shows an extract from the Council assessment report in respect of the calculations that were undertaken at that time.

The development proposes a total of floor space ratio over the whole of the site of 2.982:1 and is therefore partially non-compliant with the development standard.

The total site area is documented as being 1,610.83 sqm (Site A = 765.41 sqm and Site B = 854.42 sqm). Submitted plans indicate Gross Floor Area as follows:

Proposed Gross Floor Area
 Mixed Use Building (Building A) = 2336.43 sqm (3.055 : 1) - Does not comply.
 Residential Flat Building (Building B) = 2464.43 sqm (2.884 : 1) - Complies.

Quantum Calculation (2336.43+2464.43) / 1610.83 = 2.982:1 FSR

Figure 16 DA16/0254 FSR calculations

Of course, the site area in this application is increased due to the inclusion of the additional land parcel. However, the calculations scale similarly. The inclusion of the additional land parcel creates an improved streetscape presentation of urban form to High Street, and an improved development overall.

The breach in FSR is considered in the appended Clause 4.6 Request to Vary a Development Standard (Appendix F).

5.10 Heritage conservation

The objectives of this clause include:

- (a) to conserve the environmental heritage of Penrith,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

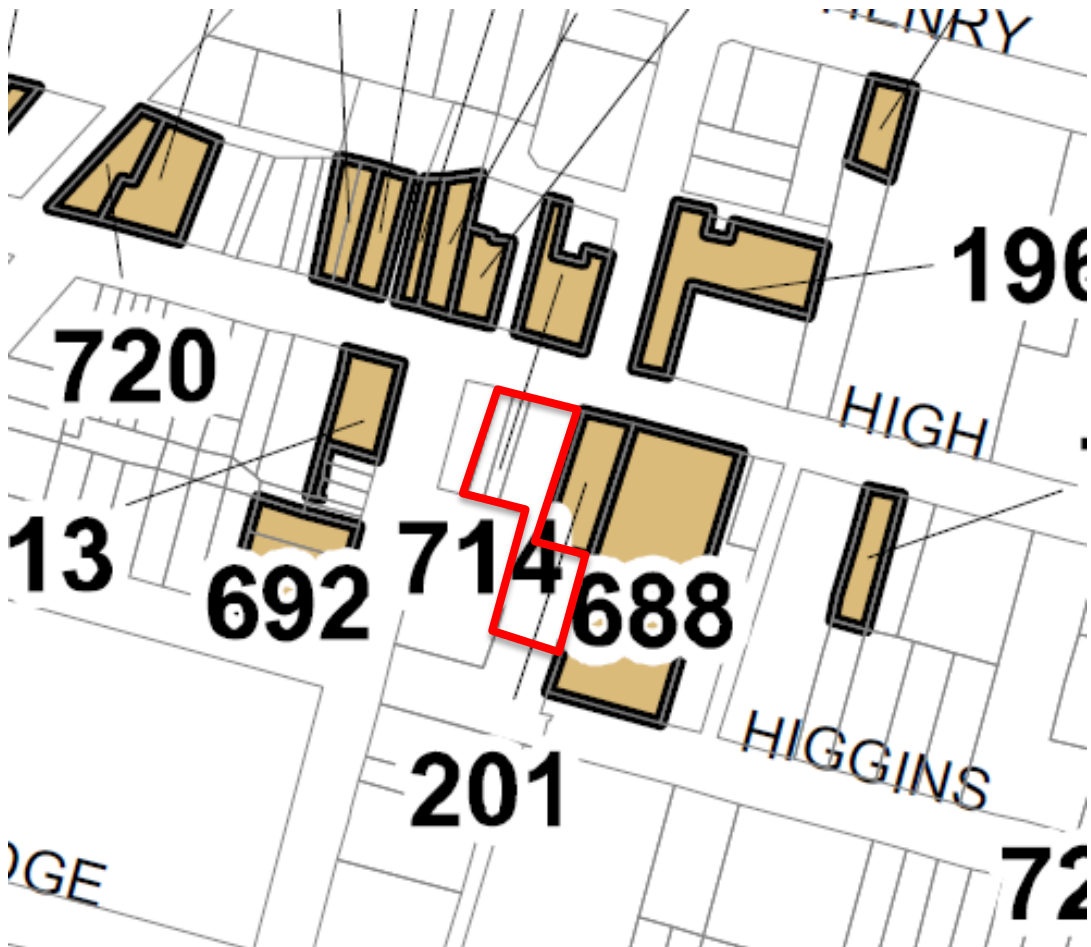


Figure 17 Extract from Heritage map

Whilst the site is not listed as an item of heritage significance, it is located within the vicinity of a number heritage items, and specifically Cram House which adjoins the site to the east. From a heritage perspective, both the original and this application have been designed from

the outset to respond appropriately to Cram House and this issue figured heavily in the urban design considerations around the development. This includes the project heritage consultant presenting directly to the Design Integrity Panel regarding heritage issues.

To satisfy the LEP clause, a Statement of Heritage Impact accompanies the application that considers all potential heritage impacts arising from the proposed development. The assessment concludes, amongst other things:

- The development will have a minor visual impact on the heritage items within its vicinity.
- Potential visual impacts on Cram Place have been further reduced.
- It is recommended that all materials should be recessive and non-reflective.
- It is recommended that the proposed scope of works be approved on heritage grounds.

We therefore submit the application satisfies the LEP provisions and that it can be supported from a heritage perspective.

7.6 Salinity

The objectives of this clause include:

- (a) to protect natural hydrological systems by minimising soil disturbance and ensuring appropriate land use management,
- (b) to avoid the adverse effects of rising salinity on land, including damage to infrastructure and buildings, loss of productive agricultural land and other adverse environmental effects.

Appropriate conditions of consent can be added to any approval to ensure these objectives are met.

7.7 Servicing

The objectives of this clause include:

- (a) the development will be connected to a reticulated water supply, if required by the consent authority, and
- (b) the development will have adequate facilities for the removal and disposal of sewage, and
- (c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and
- (d) the need for public amenities or public services has been or will be met.

The subject site is serviced with the necessary water, electricity and gas supply. Any augmentation that might be required would normally be confirmed and agreed to prior to the issue of a Construction Certificate.

7.8 Active street frontages

The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages in the B3 Commercial Core zone, and requires the following to be considered by Council:

- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

The High Street frontage of the proposed development triggers the application of this clause as indicated in the Figure below. The proposal provides opportunities for uses fronting High Street to activate that frontage in the manner sought.

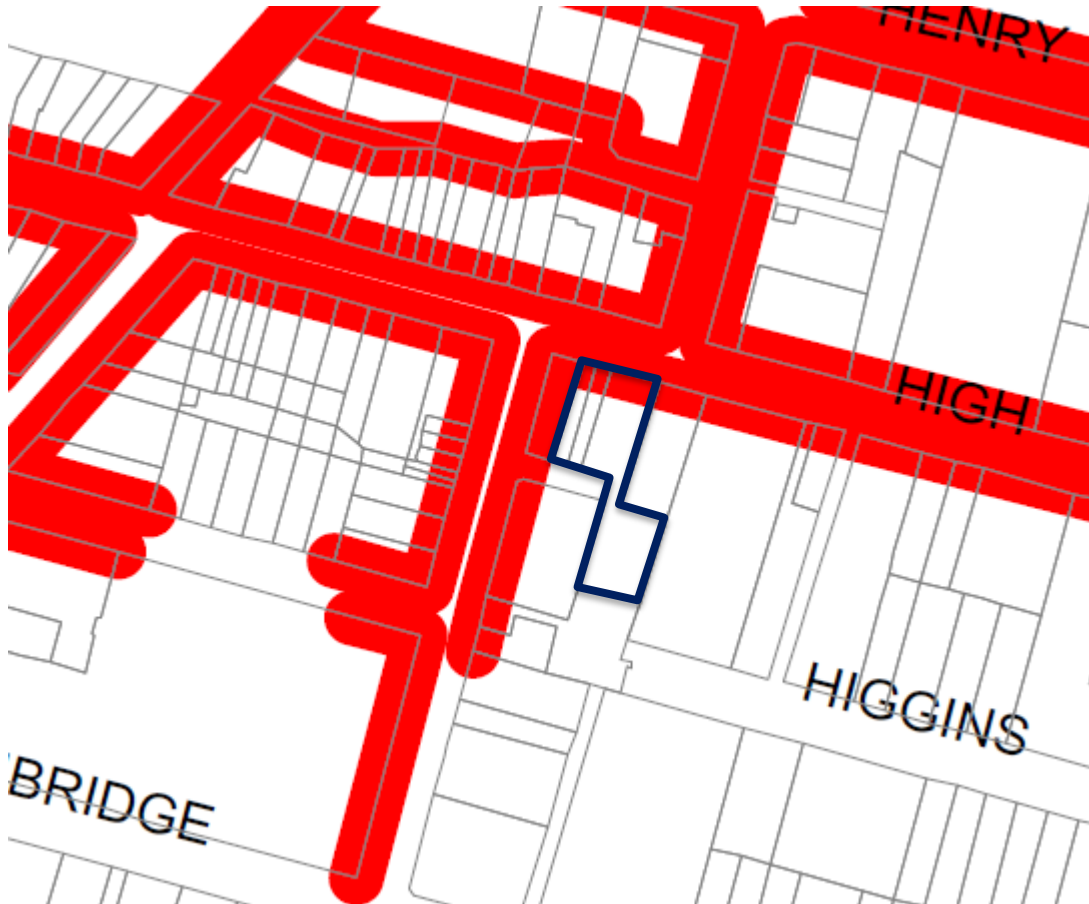


Figure 18 Extract from Active Frontages map

Part 8 of the LEP applies to the subject site given its location within the Penrith CBD and has been considered below.

8.2 Sun access

The objective of this clause is stated as follows.

- (1) The objective of this clause is to protect public open space from overshadowing.

The proposed development will not create any overshadowing of any public open space. No further consideration of this clause is required.

8.3 Minimum building street frontage

Clause 8.3 states the following:

- (1) Development consent must not be granted for the erection of a building on land in Zone B3 Commercial Core or Zone B4 Mixed Use that does not have at least one street frontage of 20 metres or more.
- (2) Despite subclause (1), development consent may be granted for the erection of a building on the land if the consent authority is satisfied that—
 - (a) due to the physical constraints of the site or an adjoining site or sites, it is not possible for the building to be erected with at least one street frontage of 20 metres or more, and
 - (b) the development is consistent with the aims and objectives of this Plan.

With a frontage of 30m to High Street, the proposed development satisfies this clause.

8.4 Design excellence

Council is required to consider the following.

- (1) Development consent must not be granted for development involving the construction of a new building, or external alterations to an existing building, on land to which this Part applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

The proposed development has been the subject of an exhaustive urban design consideration.

As this clause relates to the proposed development, the following is noted:

- The proposed development triggers the application of the clause and the need for an Architectural Design Competition.
- An Architectural Design Competition Waiver request was submitted to the NSW Government Architects Office, which was subsequently granted.
- A condition of the waiver required a Design Integrity Panel meeting to be convened and this Panel has met twice prior to the lodgement of this application.
- As indicated in the appended minutes from the Design Integrity Panel meeting, the proposed development would likely demonstrate design excellence in a development application.

The most recent comments from the Panel have been incorporated into the final design and accordingly, in our view, the LEP clause has been satisfied. Further discussion on design excellence is provided later in this report.

8.5 Building separation

Buildings on land to which this Part applies must be erected so that the separation distance—

- (a) from neighbouring buildings, and
- (b) between separate parts or other separate raised parts of the same building,

is not less than that provided for in a development control plan made by the Council.

Building separation has been considered in the context of the DCP and the Apartment Design Guide. The development satisfies this clause.

In summary, the proposed development satisfies the provisions of the LEP.

4.6 PENRITH DEVELOPMENT CONTROL PLAN 2014

The following assessment has been made in respect of the relevant development controls within the DCP.

Section	Comment
Part C – City Wide Controls	
C1 Site Planning and Design Principles	This application is not dissimilar (in building scale, bulk and typology) to that already approved in that the principles and outcomes sought for DA16/0254 have also been adopted in this design. The proposal has been the subject of extensive urban design analysis and has benefitted from the Design Integrity Panel process. It is considered the proposal is acceptable in the context of the DCP.
C5 Waste Management	Our response to waste management has been the result of extensive discussions with Council's Waste Department and the strategy proposed for the mix of uses is detailed earlier in this report. It is submitted that the application can be supported in terms of waste management.
C7 Cultural and Heritage	Matters relating to heritage and culture have been considered elsewhere in the report and specifically within the Statement of Heritage Impact. It is considered the proposal can be supported on these grounds.
C8 Public Domain	The proposed development will see the creation of a pedestrian link from High Street, through to John Cram Place, resulting in improved pedestrian permeability in this part of the Penrith CBD. Whilst this link will be situated on privately owned land, it will effectively offer pedestrian additional paths of travel. The link will be locked in the evening except for residents.
C9 Advertising and Signage	Signage has been considered in the context of SEPP 64 previously in this report.
C10 Transport, Access and Parking	A comprehensive traffic and parking assessment accompanies the application stating that: <ul style="list-style-type: none"> · The proposal satisfies the parking provisions of both Council's DCP and SEPP 65. · The level of traffic activity expected to arise from the development is considered to be consistent with the current planning controls which apply to the site. No unacceptable traffic implications are expected. · The proposed parking and loading areas are considered to be acceptable, including those for bicycles. In light of the assessment, it is considered the proposed development is acceptable in a traffic context.
C12 Noise and Vibration	An Acoustic Impact Assessment has been submitted accompanying the application. In order to maximise the internal amenity of dwellings proposed, recommendations have been made that would see: <ul style="list-style-type: none"> · Specific glazing requirements to be installed. · Building façade construction requirements. · Further consideration of mechanical services specifications. · Time limitations on delivery vehicles. In conclusion the assessment states that with the recommendations implemented, compliance can be achieved with the acoustic requirements of the relevant policies.

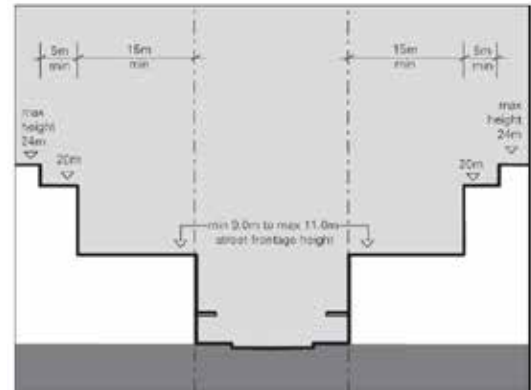
Part E

Part A – Penrith City Centre

11.2 Building Form

The proposed development:

- Satisfies the front setback requirements of Figure E11.3.
- Provides a street frontage height that is consistent with the DCP, as shown below.



- Generally satisfies the building depth and height objectives.

The development is considered acceptable in terms of building form.

11.2.6 Mixed Use Buildings

Details considered below.

C. 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.	Provided for in the design. Large floor plates are proposed that will be able to be partitioned according to tenant demands.
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.	Provided for in the design.
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.	Provided for in the design.
4)	Locate clearly demarcated residential entries directly from the public street. Clearly separate and distinguish commercial and residential entries and vertical circulation.	Provided for in the design.
5)	Provide security access controls to all entrances into private areas, including car parks and internal courtyards.	These will be provided and detailed prior to occupation.
6)	Provide safe pedestrian routes through the site.	A pedestrian link has been designed into the development providing access from High Street through to John Cram Place.
7)	Front buildings onto major streets with active uses.	Provided for in the design.
8)	Avoid the use of blank building walls at the ground level.	Noted and implemented in the design.

11.3	Pedestrian Amenity	The development provides increased pedestrian permeability in the Penrith CBD as a result of the pedestrian link that is proposed linking High Street and John Cram Place. The link itself will be activated through the proposed ground floor tenancies, and the entry point to the above ground commercial tenancies. We note the street front activation that will also result from the design of the ground floor of the development.
11.4	Access, Parking and Servicing	The accompanying Traffic Impact Assessment has considered these matters.
11.5	Sustainable Development	Appropriate sustainability measures have been introduced into the design of the development. This includes the BASIX provisions for the dwellings.
11.6	Controls for Residential Development	
11.6.1	Housing Choice and Mix	
C. Controls		
1)	Where residential units are proposed at ground level, a report must be provided with the development application demonstrating how future non-residential uses can be accommodated within the ground level design. The report must address:	Not applicable for this proposal.
a)	access requirements including access for persons with a disability;	
b)	any upgrading works necessary for compliance with the Building Code of Australia; and	
c)	appropriate floor to ceiling heights.	
2)	For smaller developments comprising up to six dwellings demonstrate how the proposal achieves a mix appropriate to the locality.	Not applicable for this proposal.
3)	For developments containing more than six dwellings, a mix of living styles, sizes and layouts is to be achieved by providing:	An acceptable mix of unit types is proposed in this development.
a)	a mix of bed-sitter/studio, one bedroom, two bedroom and three-bedroom apartments.	
b)	bed-sitter apartments and one-bedroom apartments must not be greater than 25% and not less than 10% of the total mix of apartments within each development; and	
c)	two-bedroom apartments are not to be more than 65% of the total mix of apartments within each development.	
4)	10% of all dwellings or a minimum one dwelling, whichever is the greater, must be designed to be capable of adaptation for disabled or elderly residents. Dwellings must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), which includes "pre-adaptation" design details to ensure visitability is achieved.	Can comply.
5)	Where possible, adaptable dwellings shall be located on the ground floor, for ease of access. Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities.	Adaptable dwellings have been indicated on the plans.

6)	The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable Housing Standard (AS 4299-1995).	The architectural plans detail alternative internal layouts to satisfy this requirement.
7)	Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard as accessible car spaces.	Considered in the accompanying Traffic Impact Assessment.

The proposed development is considered to be consistent with the provisions of Council's DCP.

5 KEY PLANNING ISSUES

The majority of planning issues have already been considered in this report. However, the following issues warrant additional commentary.

5.1 DESIGN EXCELLENCE

Clause 8.4 of the LEP requires the proposed development to demonstrate it has design excellence. For this application, the LEP actually triggers an architectural design competition. However, for many cases in Penrith, Council and the NSW Government Architect have supported alternative processes to demonstrate design excellence.

On 1 June 2021, the NSW Government Architects Office granted a waiver to the design competition process (Appendix A). As an alternative process, the Government Architects Office required a Design Integrity Panel (DIP) to be established.

Importantly, an Urban Development Analysis was prepared and provided to the DIP in support of the application. The Urban Development Analysis was used throughout the design excellence process and has been continually updated to respond to Panel members comments. The final version of the Urban Development Analysis is provided at Appendix B providing a detailed consideration of the urban design matters relating to the site, and the proposed variations.

The DIP met on 6 July 2021 and considered the design proposed. Importantly, the DIP noted the following:

In advance of formal variation requests, the DIP agrees that current plans do not present any clear reasons to oppose proposed non-compliances with development standards for height and FSR.

The DIP also outlined some minor, additional refinements to the design, but also specifically supported the absence of communal open space for the residential component of the development.

The DIP's associated correspondence is provided at Appendix C, including the final endorsement, provided on 19 November 2021, that reads as follows.

Conclusions

The Panel considers that lodgement of the DA may proceed provided that the recommended further amendments are made, and provided also that the specified further details are provided.

The Panel is available to address any questions which might be raised by Council in relation to design excellence during assessment of the DA.

The majority of the recommendations have been incorporated into the final DA plans. However, Appendix C also contains the projects architect's final response to the DIP's comments, dated 26 November 2021. There is disagreement on one specific architectural aspect, that of the 'brick wall detail'. Whilst this impasse should not be fatal to the overall

determination of an application like this, it represents a difference of professional opinion that will need to be determined one way or the other by Council and then ultimately the Panel.

From a planning perspective the LEP requires design excellence to be demonstrated in a proposal in accordance with the relevant LEP clause. The Panel has issued an endorsement, subject to the design being amended to accommodate their views on this one detail.

On the other hand, I acknowledge the points raised by the project architect in relation to the brick wall detail – it is a position that the client for the project, the owner, supports. In my opinion, I don't believe the application should be determined on this matter alone. Whilst from a design perspective, the outcome sought by the Panel may be warranted, the position of the architect (and owner) is practical and has a foundation in other celebrated architecture in Sydney. In any event, the brick wall detail is not, in my opinion, a primary design feature of the development and is one where some discretion could be exercised. I am also of the view that just because this specific matter has not been incorporated into the final design, it does not mean the overall development does not achieve design excellence. In this regard, I note the wording of the DIP's final comments saying:

- iii For commercial storeys along the eastern elevation of Building A, a random pattern of windows should be explored in lieu of random treatment of residential levels which would be harder to achieve.

The Panel has not insisted on this amendment, rather asked that it be explored, and it is my opinion that this has been done by the architect, and the owner, and that the Panel advice has been technically satisfied.

As a result of the extensive consultation already undertaken, it is submitted that the proposed development clearly demonstrates design excellence in the context of the applicable planning controls.



Figure 19 Development viewed from the north, showing the pedestrian link

5.2 POTENTIAL SITE ISOLATION

Council may have concerns over the potential isolation of 352 High Street as a result of this development proposal.

The issue of site isolation arising from the redevelopment of adjacent sites has been considered by the NSW Land and Environment Court in *Karavella v Sutherland Shire Council [2004]* where the Commissioner established the Planning Principle by asking the following key questions – firstly, is amalgamation of the sites feasible? And, secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible.

In relation to the first question, the proponent approached the owner of 352 High St on whether they either wished to be part of the development opportunity being pursued, or if they would be prepared to sell. At the time, the owner of 352 High Street had only just acquired the site. The answer to the first question in the Planning Principle as it relates to this scenario is ‘no’ – it is not feasible to amalgamate because the owner of 352 High Street does not wish to participate. The response from that owner is provided at Appendix E.

Other matters to consider in relation to the first question, but also the second question, include:

- 352 High Street can be redeveloped in its own right as it has one street frontage exceeding 20m in length.
- Parking in any redevelopment could utilise the relevant parking contributions plan for the Penrith CBD in lieu of providing parking on the site.
- Any redevelopment of 352 High Street could be designed to be consistent with the applicable planning controls.
- The flexibility in the planning system would allow for a merit-based assessment of any development of 352 High Street proposed to ‘bookend’ the streetscape.

In this instance it is not necessary for the proponent to demonstrate an orderly development can occur on 352 High Street given that site meets the requirements of the Council’s DCP. It can be developed in its own right, *if* the owner wished to. At this time, they do not and it is our view the proposed development does not isolate 352 High Street as a result of this application.

5.3 SOCIAL AND ECONOMIC

The additional housing and high-quality commercial office space opportunities arising from the proposed development are a positive social and economic impact on the Penrith CBD.

There are no negative economic or social impacts considered relevant to the proposal.

5.4 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 4.15 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 resident areas 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.

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 or security pass.

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

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 manager 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 of the project is dependent upon the management practices of individual tenants as well as the implementation of waste removal and street cleaning processes. This 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.

6 SECTION 4.15 ASSESSMENT

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 4.15 of the EPA Act has been undertaken.

6.1 SECTION 4.15(1)(A)(I) – ANY ENVIRONMENTAL PLANNING INSTRUMENTS

The relevant environmental planning instruments have been considered earlier in this report. These include the following:

- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy No. 65 – Apartment Design Guide Criteria*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy No. 20 – Hawkesbury Nepean River*
- *Penrith Local Environmental Plan 2010*

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

6.2 SECTION 4.15(1)(A)(II) – ANY PROPOSED INSTRUMENT

The NSW State Government has recently exhibited several Draft SEPP's including the Draft Environment SEPP, and Draft Remediation of Land SEPP. A review of Clause 4.6 in the Standard Instrument LEP is also underway. In time, these SEPP's will take the place of some of those being considered in this application and we submit they do not drastically change the intent of the SEPPs that are currently in place and therefore would unlikely change the consideration of this application.

6.3 SECTION 4.15(1)(A)(III) – ANY DEVELOPMENT CONTROL PLAN

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

6.4 SECTION 4.15(1)(A)(IIIA) – ANY PLANNING AGREEMENT

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

6.5 SECTION 4.15(1)(A)(IV) – THE REGULATIONS

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

6.6 SECTION 4.15(1)(A)(V) – ANY COASTAL ZONE MANAGEMENT PLAN

Not relevant to the proposed development.

6.7 SECTION 4.15(1)(B) – THE LIKELY IMPACTS OF THAT DEVELOPMENT

The potential impacts of this proposal have been considered through this report and the recommendations are in the accompanying consultant reports. Whilst extending to an additional allotment, the proposed development is similar in scale and bulk to that which was proposed under DA16/0254. It follows that the potential impacts of this development will likely be similar and therefore acceptable to the consent authority.

The proposed development is of a scale and bulk that is contemplated in the Penrith CBD through the planning controls and in that regard, the potential impacts of the development are considered acceptable.

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

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 development would not result in any unacceptable impact on any adjoining landowners or buildings.

The site is considered to be suitable for the development for the reasons outlined below:

- The proposal is permissible with consent in the *B4 Mixed Use* zone.
- The proposal represents an appropriate land use and built form located on an appropriately serviced site that is in an accessible location.
- The proposal is compatible with surrounding land uses which include other commercial and mixed use developments.
- The proposal represents an increase in high quality commercial office space and inner CBD apartment living.

6.9 SECTION 4.15(1)(D) – ANY SUBMISSION MADE

Council will undertake a notification process in accordance with its controls and policies. We welcome the opportunity to provide additional information in response to any submissions received.

6.10 SECTION 4.15(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.

7 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 development 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 development that is contemplated in this locality through the planning controls.

An assessment against Section 4.15 of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed development be approved.

APPENDIX A

DESIGN COMPETITION WAIVER



[S T I M S O N]
[U R B A N & R E G I O N A L P L A N N I N G]

GOVERNMENT ARCHITECT NEW SOUTH WALES

01 June 2021

Warwick Stimson
Stimson Planning

By email:
warwick@stimson.com.au

CC:
Gavin Cherry, Simone Muscat
Penrith City Council

342-348 Henry Street, Penrith
Design Competition Waiver Request

Dear Warwick,

Thank you for submitting your request for a design competition waiver for this project. We have consulted with Penrith City Council and have received written advice regarding this matter in a letter from Gavin Cherry, Development Assessment Coordinator, dated 20 April 2021.

We are pleased to advise that the waiver is endorsed subject to the following conditions stipulated by Penrith City Council:

- 1. Due to the nature and extent of development standard non-compliance relating to height of buildings and floor space ratio, a Design Integrity Panel (waiver version of a Jury) should be established by the applicant (and costs associated borne by the applicant). This Panel is to comprise a representative from the NSW Office of the Government Architect, a representative nominated by Penrith City Council and an independent representative nominated by the applicant with suitable experience in architecture and urban design.*
- 2. The progression of the design is to be informed by a heritage impact assessment that considers the significance, separation and protection of adjacent heritage items. The engaged Heritage Advisor should be present at the initial Design Integrity Panel meeting to address the Panel and explain how the proposed scheme addresses key heritage planning considerations in Penrith Local Environmental Plan 2010 (noting specifically that the development standards in the LEP stem from the number of adjoining and nearby heritage listed items).*
- 3. The establishment of design excellence via a design competition waiver does not eliminate the onus on the applicant to prepare a sufficiently detailed clause 4.6 request to vary LEP development standards (such as height of buildings and floor space ratio). The applicant's clause 4.6 request should be provided for consideration by the Panel to verify if the achievement of design excellence is dependent on the resulting non compliances or is a separate planning consideration to be addressed during the assessment of the development application to the satisfaction of the consent authority.*
- 4. Engagement of the Design Integrity Panel is to occur prior to the lodgement of any development application and an endorsed letter verifying design excellence*

Government Architect
New South Wales

4 Parramatta Square
L17, 12 Darcy Street
Parramatta NSW 2150

government.architect
@planning.nsw.gov.au
T +61(02)9860 1450

governmentarchitect.nsw.gov.au



achievement is to accompany the application when lodged. The Design Integrity Panel is also to be engaged prior to determination of the application (to ensure any amendments during the course of assessment have not diminished established excellence), as well as prior to the issue of any construction certificate.

5. Concurrence from the Delegate of the Director – General must separately be obtained for any variations to development standards that exceed 10% of the standard as outlined within Clause 8.4(5) of Penrith Local Environmental Plan 2010. Any endorsement of a design competition waiver does not extend to the granting of concurrence under these provisions, unless confirmed in writing by the NSW Office of the Government Architect. Evidence of this concurrence is to accompany the lodgement of any development application.

The governance of this project specific Design Review Panel (DRP - referred to as Design Integrity Panel in Council letter) is with Penrith City Council and terms of reference covering items including scheduling, venue, format, agendas, hosting, roles and responsibilities, briefing and minuting must be agreed between Council and the applicant prior to the first meeting of the panel.

A number of design and planning related issues raised in Mr Cherry's letter need to be addressed in consultation with the DRP prior to the endorsing of the project for Design Excellence by the panel, and prior to the lodging of any future development application. Further consultation between the applicant and Council is required prior to the first panel meeting to ensure all parties are suitably briefed and prepared.

Given current resourcing constraints within GANSW, our office's representative on the DRP will be a suitably qualified nominee from the NSW State Design Review Panel pool, approved by Council and the applicant.

We trust this is helpful and look forward to seeing the proposal as it develops. Please direct any further enquiries regarding this matter to Rory.Toomey@planning.nsw.gov.au

Sincerely



Rory Toomey
Principal Design Excellence,
GANSW

Government Architect
New South Wales

4 Parramatta Square
L17, 12 Darcy Street
Parramatta NSW 2150

government.architect
@planning.nsw.gov.au
T +61(02)9860 1450

governmentarchitect.nsw.gov.au



APPENDIX B

URBAN DESIGN ANALYSIS

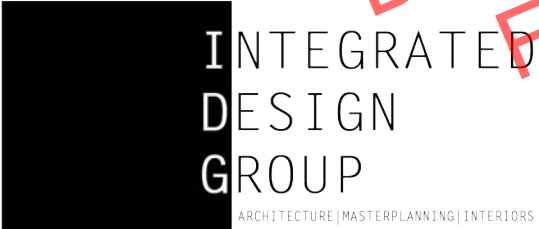


URBAN DEVELOPMENT ANALYSIS

342-348 High Street PENRITH | 8 OCTOBER 2021



PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION



Prepared by:

INTEGRATED DESIGN GROUP PTY LTD | ABN 84 115 006 329
Nominated Architect | Simon Thorne #7093
info@idgarchitects.com.au | www.idgarchitects.com.au

CONTENTS

EXECUTIVE SUMMARY

1 CONTEXT

Penrith New West initiatives
Penrith City Places
City Opportunity Precincts

2 ANALYSIS

Land use & Environmental
Heritage & View Corridors
Pedestrian Movement & vehicle traffic
Key Code Controls
Building Envelope
Street Frontage & Character
Relationships
Opportunities & Constraints

3 DESIGN RESPONSE

Design Principles
Precedent Images
Concept Masterplan
Public benefit Strategy
Preserving heritage Views
Streetscape character
Pedestrian Links

4 DESIGN EXCELLENCE

High Quality Design
The Public Domain
View Corridors & local landmarks
Suitability of Land for Development
Existing and proposed uses & use mix
Heritage Issues and Streetscape
Relationship with other Buildings
Bulk Massing and Modulation
Street Frontage Heights
Environmental Impacts
Ecologically Sustainability
Pedestrian, Cycle, Vehicular & Service
Impact on the Public Domain

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

EXECUTIVE SUMMARY

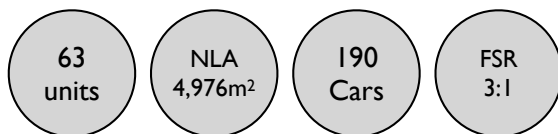
Integrated Design Group have been engaged to prepare an urban design analysis and concept plan for 342-348 High Street, Penrith. The proposal has been informed by local planning strategies including 'Penrith Progression - A Plan for Action', Penrith New West Strategy and the Penrith Council LEP 2010 and Penrith City Centre DCP E11.

We note that current planning controls for the site offer an inconsistent approach to development in this precinct due to the position of local heritage items adjacent and in close proximity to the site. Through detailed analysis this proposal seeks to provide a more cohesive response in line with the objectives of the planning controls, through site specific design principles:

- 1) Heritage Precinct | Appropriate development around heritage items using curtilage and proportion to enhance views of heritage items and define precinct character.
- 2) Streetscape Character | Establish CBD streetscape through scale and character with appropriate height controls and setbacks to set a consistent urban fabric.
- 2) Pedestrian Activation & Connection | Increase pedestrian activity and diversity in the town centre through creation of open space and laneways.

This analysis of the design quality of the proposed development has been prepared in accordance with Clause 4.6 and 8.4(2) of the Penrith Local Environment Plan 2010. Outlining how the proposed development addresses key design criteria in its design to deliver the highest standard of architectural and urban design.

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION



1 CONTEXT

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

CONTEXT

Penrith New West Initiatives

Penrith Council prepared planning document called Penrith Progression: A Plan for Action which was launched publicly in May 2015 after months of community and expert consultation.

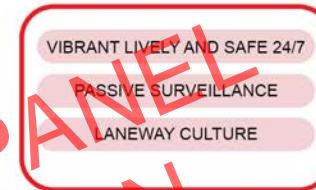
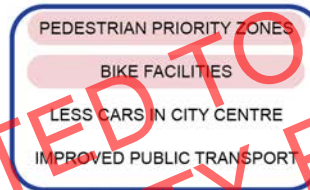
This document outlined key aims and ideas from the community for a new planning strategy to Transform Penrith City Centre and identified ways in which development should look to achieve these things in the built form.

Adjacent are 4 of the key ideas that relate directly to this proposal and this site and the design elements that might be incorporated in order to achieve this.

The proposal has looked carefully at these ideas and looked to incorporate many of them into the scheme where appropriate in order to be part of this new vision for the Penrith City Centre.



PENRITH NEW WEST OBJECTIVES



DESIGN ELEMENTS

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

CONTEXT

Penrith City Places

The Penrith Progression is a collaborative vision between Penrith City Council, the Penrith Business Alliance and the community with the aims of transforming the city centre, providing new jobs, places to live and becoming the heart of the New West. The City Centre is defined by six 'City of Places' as shown in the diagram adjacent.

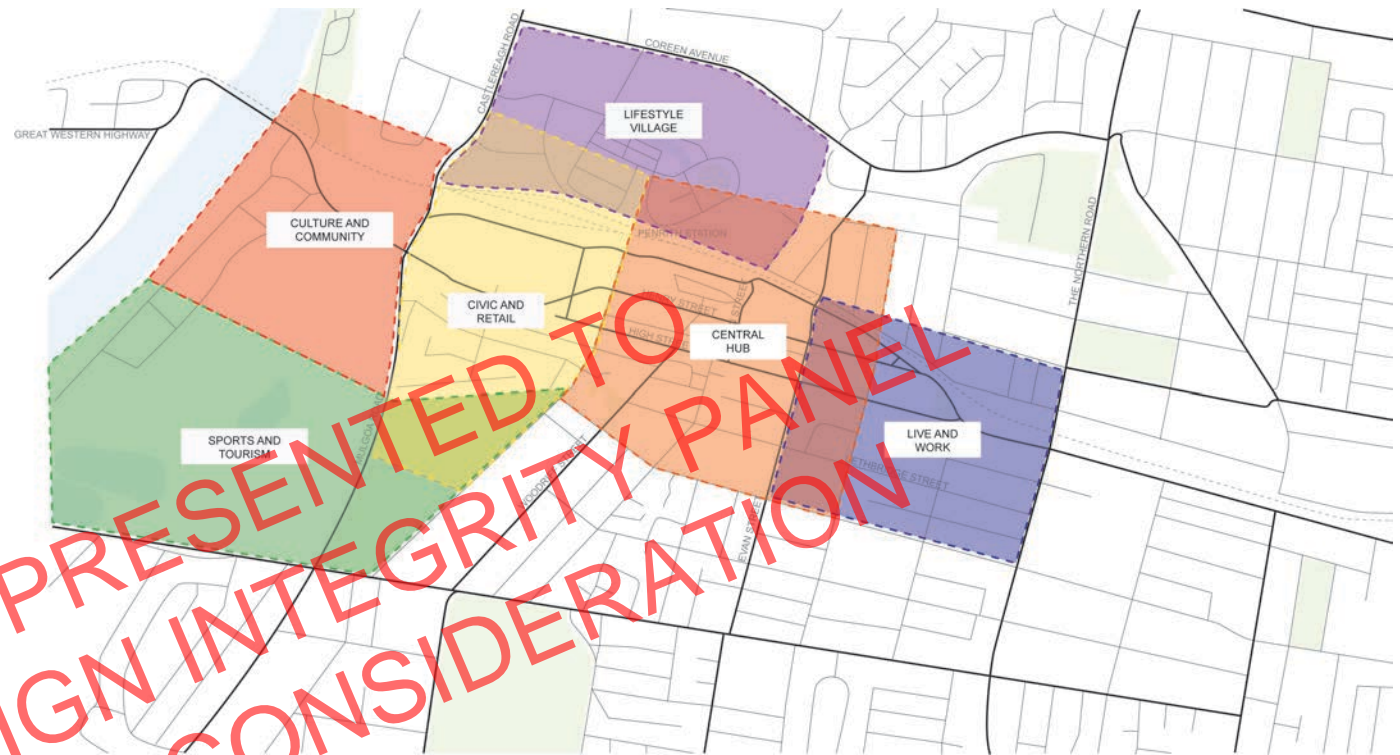
The proposed site is within the Live + Work City Place which is bordered by the well regarded Nepean public and private hospitals, this City Place is a gateway site to the Penrith City Centre for those travelling from the east.

The Live + Work City Place has opportunities that will support the development of employment generators associated with health and medical related offices. It also encourages mixed use development that provides retail, business and living opportunities.

The Justice Precinct is located within this City Place, reflecting a calmer daytime character with less after-hours activity. The Live + Work Place will also support a range of higher density living options.

KEY CITY ASSETS

Nepean Public Hospital, Nepean Private Hospital.



CONTEXT

Opportunity Precincts

Beneath the layer of City Places is a more detailed layer of six Opportunity Precincts, which define the areas of activity. The six 'Opportunity Precincts' include Central Park Village, Living Well, Commerce + Education, Health Link, Community, Cultural + Civic and Justice.

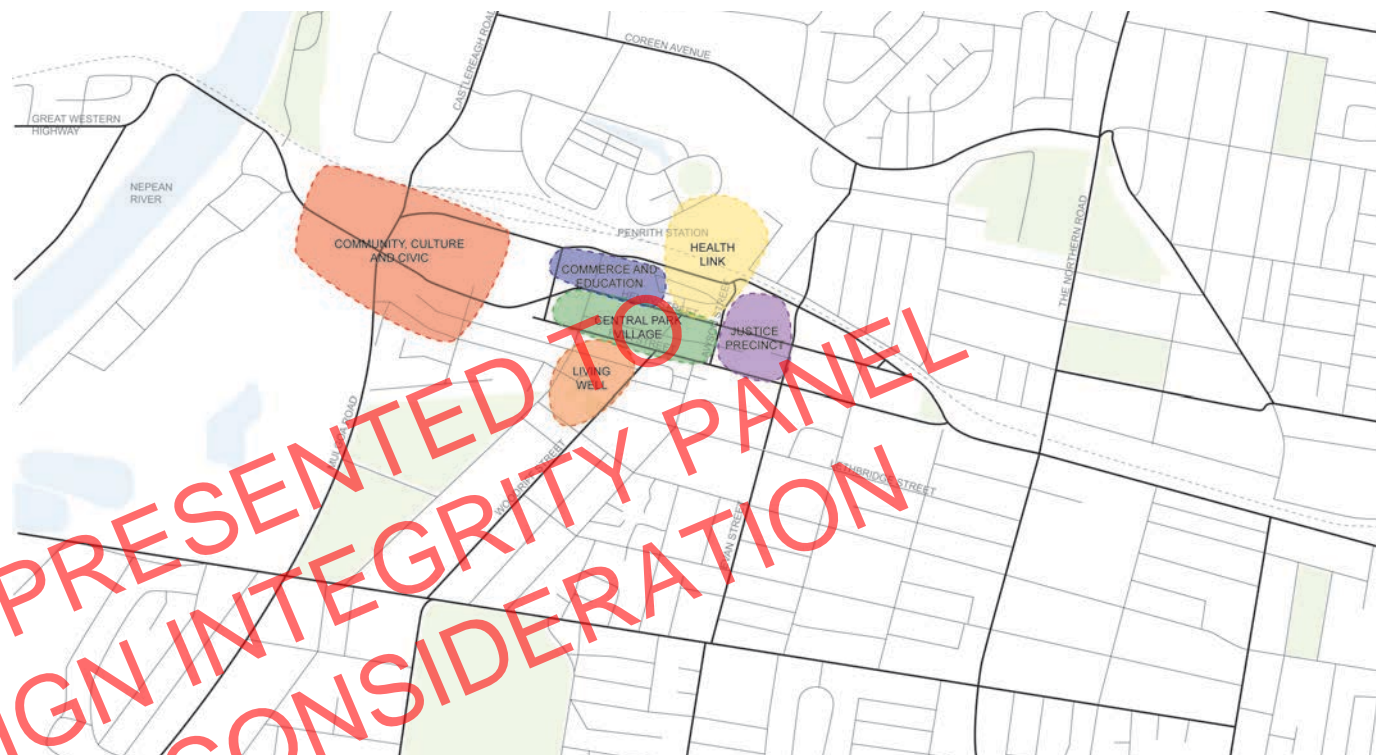
The site is located on the periphery of the Civic and Justice Precinct which brings a formality to the eastern boundary of the City Centre. The precinct will house a range of government services, including Courts and Police.

The area will largely be active during the day. The Justice Precinct provides a feeling of safety, with strong way finding elements on the ground to assist people as they participate in the activities of justice, appearing or defending, paying fines or consulting legal opinion.

For many people it is a place of work, with small cafés and office accommodation.

KEY CITY ASSETS IN THIS PRECINCT

Courts (with potential for additional courts), police, legal services and professionals, cafés, restaurants and bars.



CONTEXT

Character Areas

The Penrith DCP 2014 identifies nine precincts in the Penrith City Centre, all comprising their own distinct characteristics. The proposed development is situated within the High Street Mixed Use Character which the DCP notes as the 'historic heart of Penrith and is the focus of the City Centre activities'.

High Street is a focus of pedestrian activities with its wider, covered footpath areas which already encourage alfresco dining. The street will continue to be the hub for pedestrian street life in the City Centre, accompanied by central city 'greening'.

Mixed use developments will encourage a diversity of uses locating in the centre to further activate the street, whilst the residential development aligning the southern edge of the street will engage pedestrian activities into the city centre.

Views of the Blue Mountains escarpment are available along sections of High Street, particularly the eastern half of High Street up to mid-block past Station Street, and should be retained at street level.

This precinct offers the new City Park and City Square, with these public space areas are intended to be a series of linked areas, each expressing its own character to entice residents and workers to visit and enjoy these spaces. The City Park and City Square will be connected to High Street and surrounding streets via laneways and arcades.

The concentration of public spaces in this precinct means that development will need to address any potential impacts on these spaces as buildings get higher.

Tree-lined streets provide shade to pedestrians. Other public domain improvements are proposed in the precinct such as continuing the awnings along the street frontage, high quality paving, street furniture and pedestrian lighting.

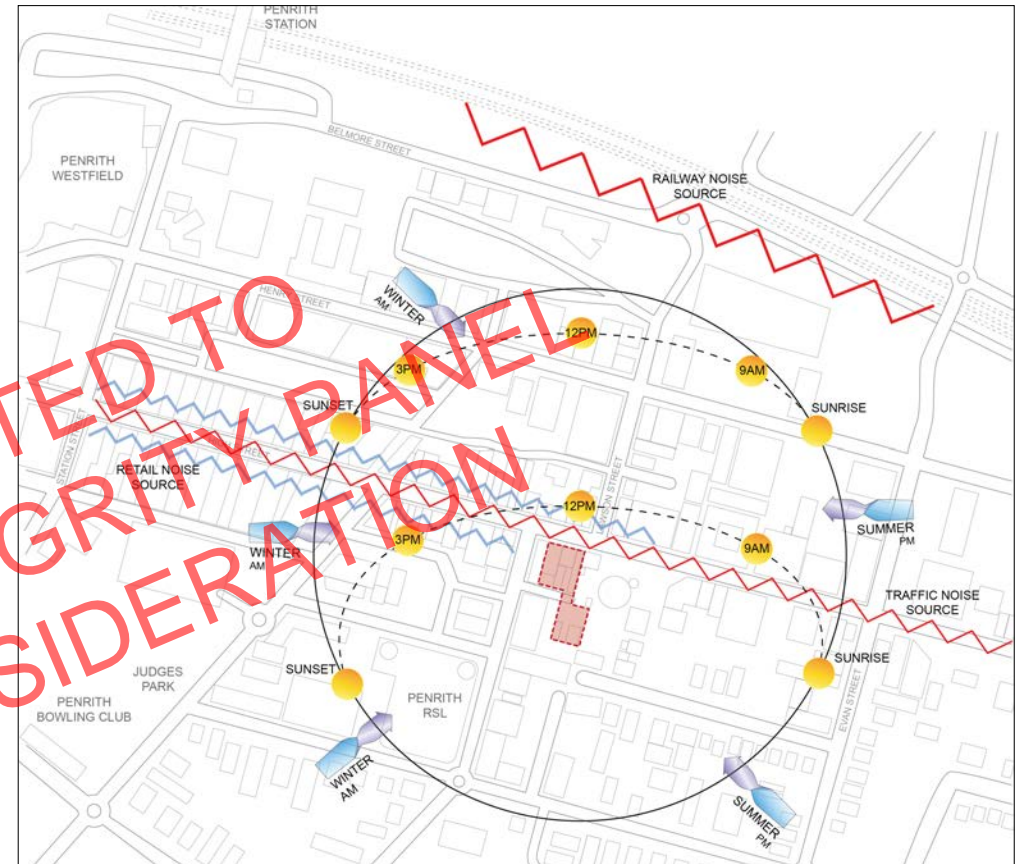


2 ANALYSIS

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

ANALYSIS

Land Use & Environmental



LAND USE

- The subject site sits at the intersection of retail, institutional, commercial and residential uses
- Located directly between the retail and commercial activities of High Street
- Provides a perfect opportunity to create links through the site (both visual and physical)
- Ideal outcome: Provide a mixed use development reflecting neighbouring uses

ENVIRONMENTAL

- The shape of the site allows for good potential for solar access deep into the site
- Noise sources come from the north with the railway line and busy traffic in High Street
- Colder winter winds from the west with cooler summer breezes from the east
- Ideal outcome: Development opens to the north and east with measures to mitigate noise

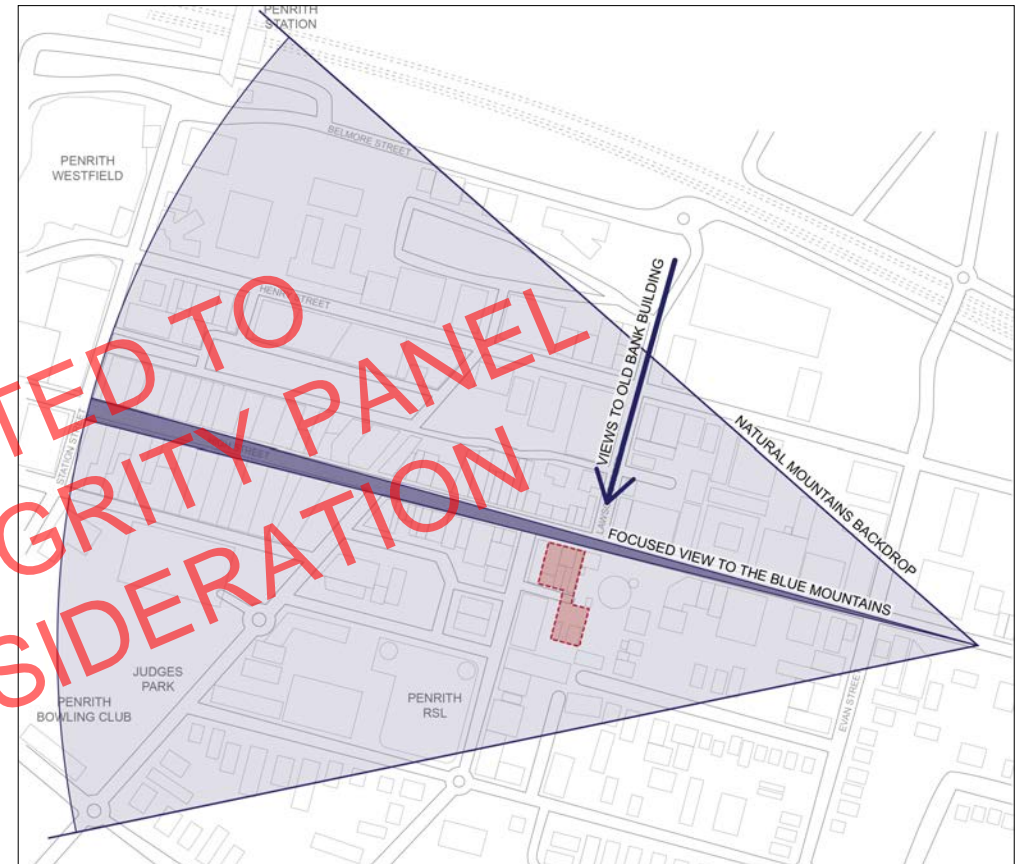
ANALYSIS

Heritage & View Corridors



HERITAGE

- Number of locally significant heritage items throughout the High Street retail corridor
- Reflects a finer grain retail precinct in the town centre
- Inconsistent with intended street wall controls in the DCP and heights and setbacks
- DCP promotes consolidation of sites to increase development potential
- Ideal outcome: is to reflect the finer grain in a consolidated and consistent development

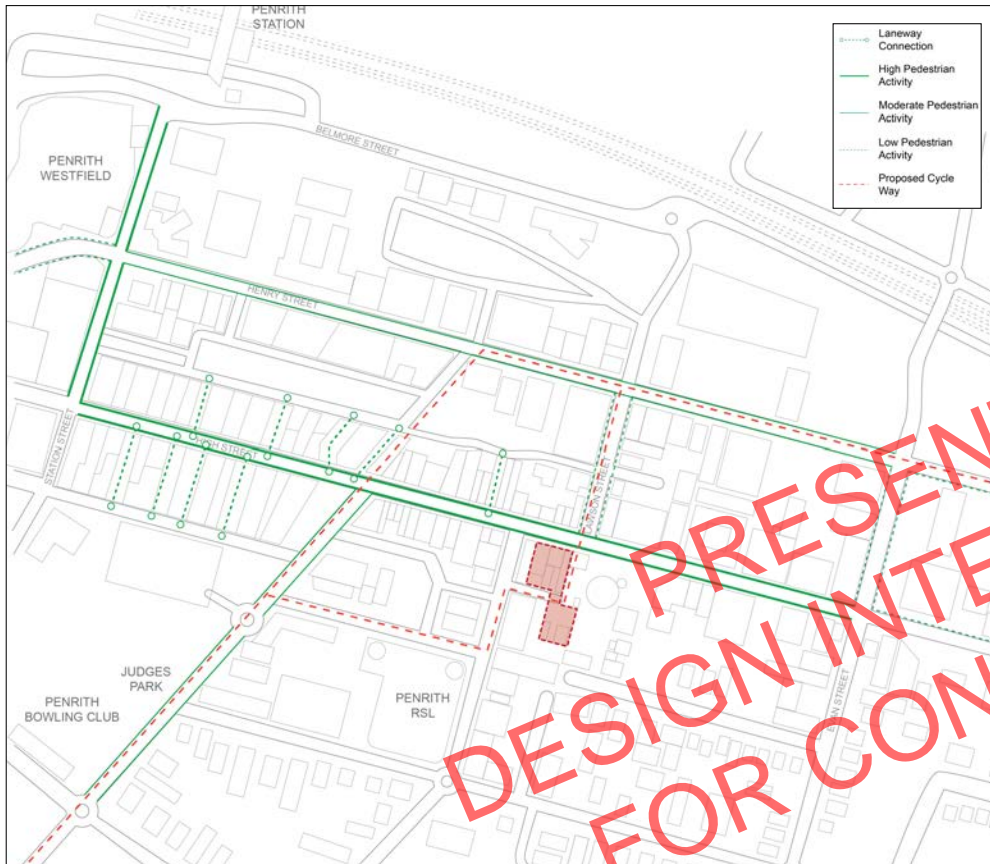


VIEW CORRIDORS

- Wide Mountain views vistas from top of High Street as you approach the Penrith CBD
- Focused and accessible view is directed down High Street with Blue Mountains as backdrop
- Focused view up Lawson Street of 340 High Street indicated previous hierarchy of this building
- Ideal outcome: Maintain views down High Street & provide backdrop for view up Lawson Street

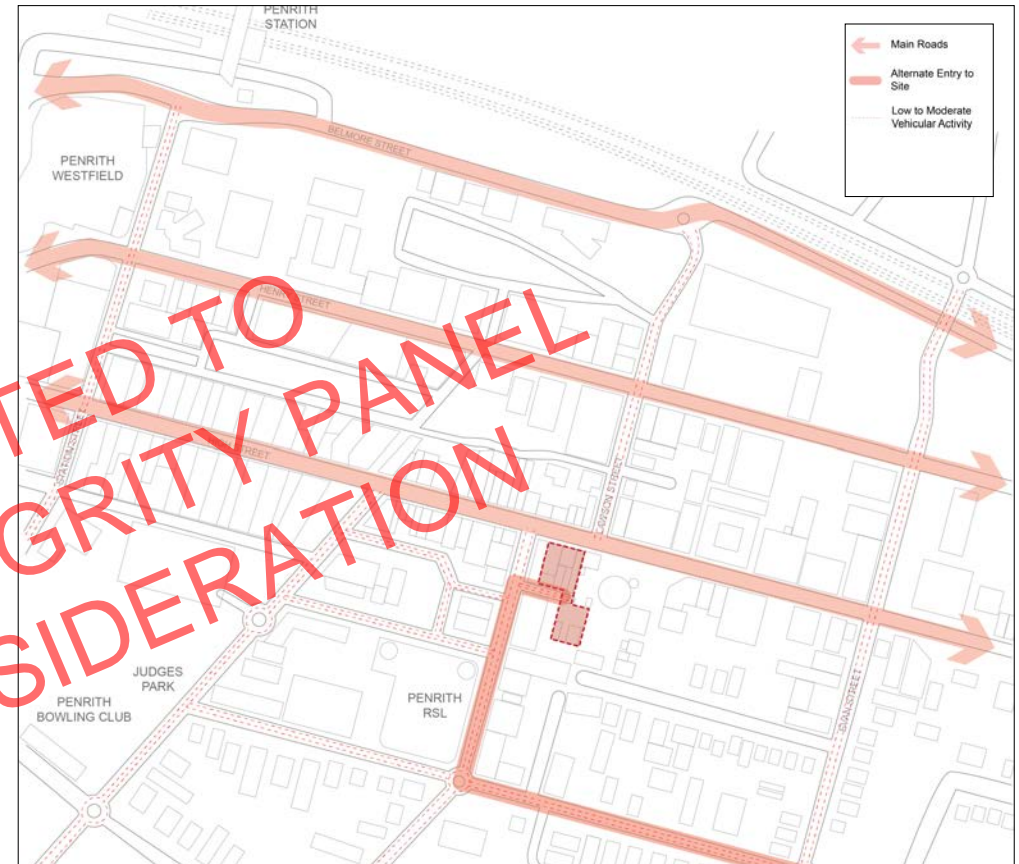
ANALYSIS

Pedestrian circulation & Traffic movement



PEDESTRIAN CIRCULATION

- Majority of pedestrian circulation along street frontages
- Existing pattern of arcades and laneways connecting existing parking areas to High Street retail
- Proposed share cycleway connecting Woodriff to Henry Street provide opportunity for
- Ideal outcome: Provide pedestrian link through the site connect residential with High Street



TRAFFIC MOVEMENT

- Majority of vehicle movement in Penrith CBD is in an East/West direction
- High & Henry Streets have a slower moving retail traffic & Belmore Street faster through traffic
- Secondary Streets have much less traffic and generally just local traffic
- Ideal outcome: Vehicle movement and access to site via secondary streets to John Cram Place

ANALYSIS

Codes and policies



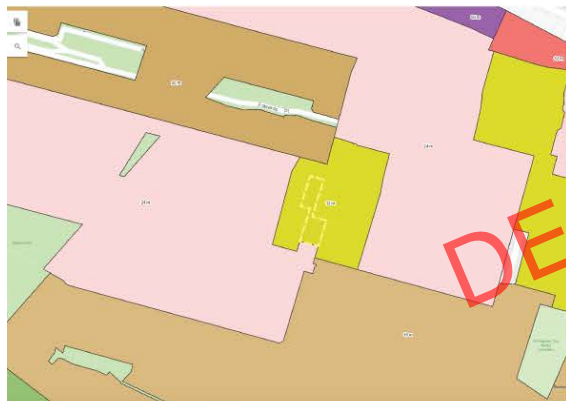
LEP - FLOOR SPACE RATIO



LEP - HEIGHT OF BUILDING



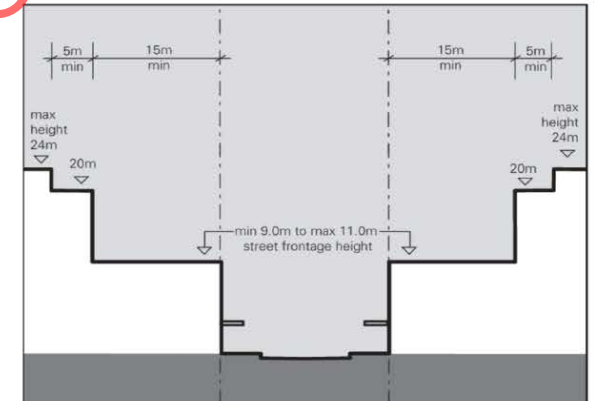
DCP - ACTIVE STREET FRONTAGES



LEP - HERITAGE ITEMS



DCP PENRITH CITY CENTRE - STREET FRONTAGE HEIGHTS



DCP PENRITH CITY CENTRE - STREET FRONTAGE HEIGHT. TYPE B

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

ANALYSIS

Existing precinct massing

The existing urban footprint in the area is a mixture of low rise, and medium density urban fabric with a mixture of retail, commercial, residential and community facilities.

Buildings along High Street are a mixture of 1 and 2 storey shop fronts with varying characters and a dense building arrangement with little activation and connection to levels above ground.

Parking in the Town Centre is located to the rear of the main retail street (High Street) and accessed via a number of private arcades and public laneways which are under utilised with lower patronage.

Disparate character and poor passive surveillance are symptoms of the existing urban fabric and sought to be amended by Council's current DCP controls.



ANALYSIS

Allowable precinct massing

The current LEP controls nominate a 12m height limit across the sites immediately adjacent to the heritage items. This is an inconsistent approach to height when compared to other nominated heritage items in the Penrith City Centre.

We also note that some of these sites have an allowable FSR of 3:1 and others an allowable FSR of 2:1 (including the subject site) which is inconsistent with what the height controls are promoting.

As a result these planning controls result in a built form which is inconsistent with the form and streetscape character that the Penrith Council DCP is trying to achieve in the height and setback controls.



ANALYSIS

Proposed precinct massing

This proposal seeks to amend the FSR and Height controls on the subject site (and surrounding sites) to match the neighbouring properties and allow a consistent approach to development, providing a more harmonious streetscape and retail character in the Penrith City Centre.

Through careful design and separation from heritage items the proposal is to increase the allowable height in the precinct to 24m and increase the allowable FSR in the precinct to accommodate the preferred building massing in accordance with allowable height controls and setbacks outlined in the Penrith Town Centre DCP.



3 URBAN RESPONSE

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

URBAN RESPONSE

Key Design Principles

Following the analysis of the wider strategy vision for the Penrith Town Centres, and the more detailed analysis of the codes, controls and parameters of the existing site and the surrounds, we identify the following design principles for this development:

HERITAGE PRECINCT

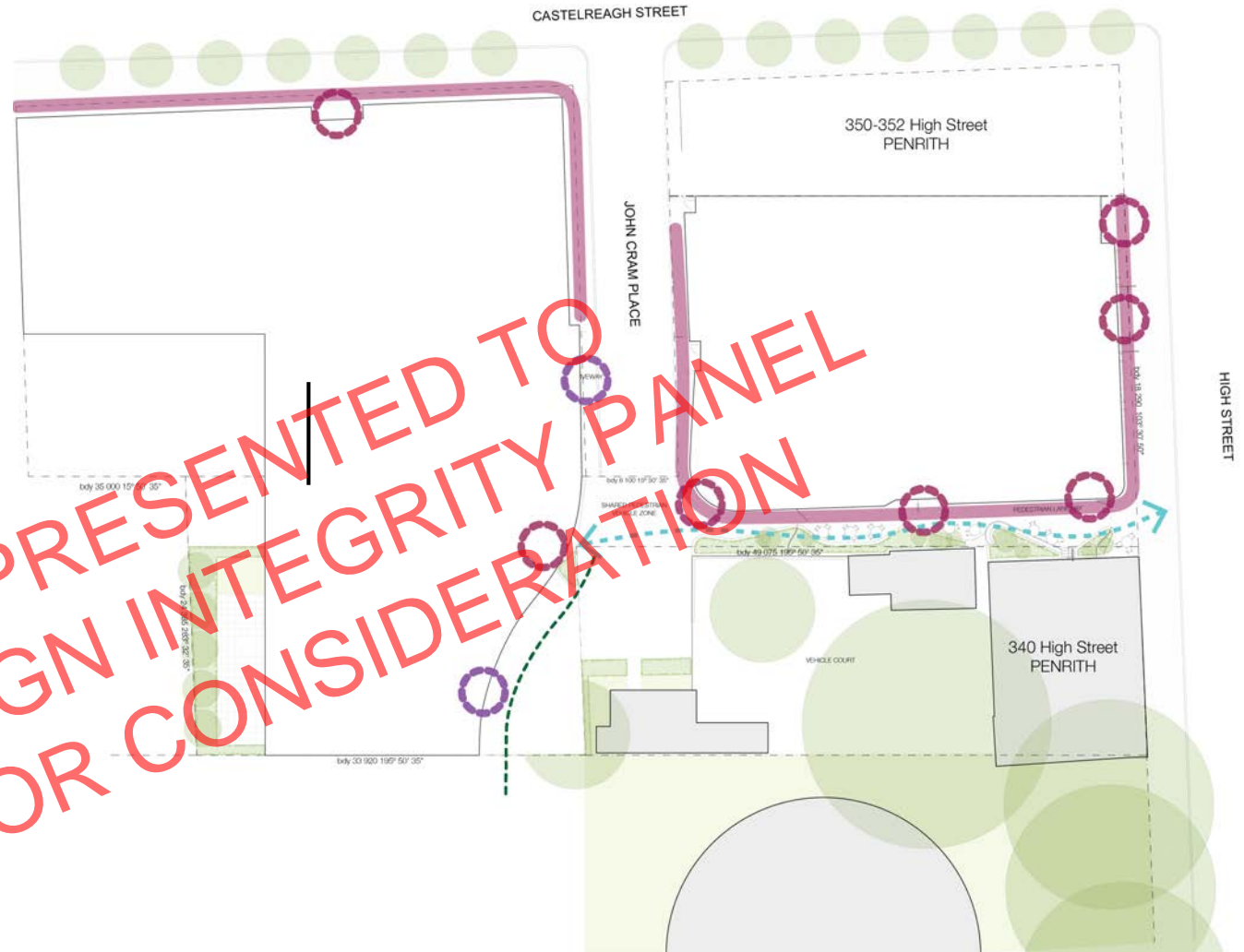
- Appropriate development around heritage items.
- Provide appropriate curtilage and proportion in setting up a backdrop to a heritage precinct.
- Maintain and enhance views of heritage items to define the character of the precinct.

STREETSCAPE CHARACTER

- Establishing a commercial centre streetscape through scale and character.
- Determine appropriate height controls and separation around heritage items to enhance the public domain.
- Understand the existing urban fabric and set precinct design to compliment and highlight.

PEDESTRIAN ACTIVATION

- Increased pedestrian activity, diversity and safe movement within in the Penrith town centre.
- Provide open space relief in the town centre that is pedestrian focused with soft landscaping.
- Encourage pedestrian activity through the creation of various 'destinations' through laneways.



- Active Street frontage
- Pedestrian Entry
- Vehicle Entry
- Pedestrian Through Link
- - - Heritage Curtilage

URBAN RESPONSE

Heritage precinct

The proposal seeks to create a heritage precinct around a cluster of heritage items which is a unique setting in High Street. The current controls approach is to restrict height on adjacent sites, however as noted this has created an inconsistency of scale and building form in the town centre.

Instead this proposal suggests that the creation of a heritage precinct through separation, curtilage and activation is a more positive approach and remains consistent with Council's objectives for the Penrith City Centre.

1. Increase the allowable height along the southern part of the precinct to match adjacent properties height plane at the rear of the site to provide a backdrop to a new heritage precinct.
2. Preserve landscape area on High Street in front of Church and maintain significant vegetation where possible.
3. Provide appropriate scale building massing fronting High Street and adjacent to existing heritage item.
4. Preserve view of old bank building (340 High Street) from Lawson street.
5. Preserve view of church and garden setting from eastern end High Street and provide backdrop.
6. Preserve view of heritage stables building along John Cram Place from Castlereagh Street



URBAN RESPONSE

Streetscape Character

The proposal seeks to provide consistency in the streetscape of the Penrith City Centre by using the current Town Centre DCP controls for street heights and setbacks along High Street and Castlereagh Street.

With increased separation from the shared boundary with the adjacent heritage building the proposal seeks to extend this retail street character down a new laneway connecting to the new residential development at the rear of the site providing further activation in the site and connecting to the rear land of John Cram Place.

1. Maintain a 12m street wall along High Street with retail at ground level and commercial tenancies at level 1 and 2.
2. Setback upper levels of commercial and residential in line with allowable DCP controls to minimise impact on streetscape, but increase density to provide pedestrian activation, passive surveillance, and accommodation and employment opportunities.



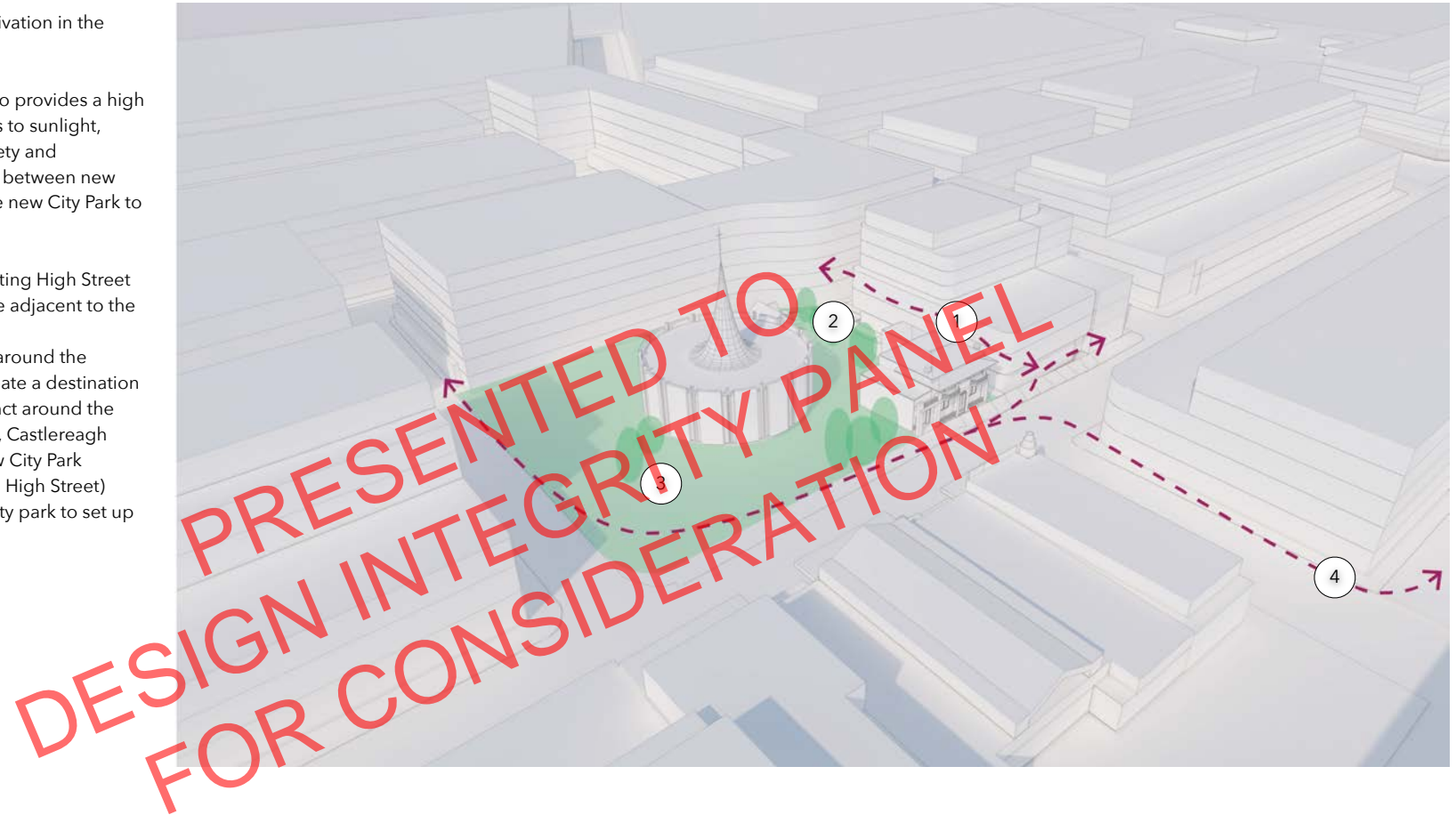
URBAN RESPONSE

Pedestrian Activation

The proposal seeks increase pedestrian activation in the Penrith City Centre through the use of

The development of a Heritage precinct also provides a high amenity open space which has good access to sunlight, provides clear sight lines for pedestrian safety and movement, and provides clear connections between new residential development to the south, to the new City Park to the north.

1. Create new pedestrian laneway connecting High Street and John Cram Place on the subject site adjacent to the existing heritage building.
2. Soft landscaping to rear of subject site around the heritage item in John Cram place to create a destination
3. Preserve a lower soft landscaped precinct around the existing Church connecting High Street, Castlereagh Street, Higgins Street the proposed new City Park
4. Preserve view of old bank building (340 High Street) from Lawson street from entry to new city park to set up connection to heritage precinct.



URBAN RESPONSE

Precedent images | Heritage Precinct

1. Using proportion and scale to set up a contemporary response to a curtilage building without detracting or distracting from the heritage item.
2. Utilising the street wall scale of surrounding heritage buildings but using light and materials to create separation and open-ness.
3. New development designed to feature the sides and corners of heritage items through the use of active laneways and undercrofts.



PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

URBAN RESPONSE

Precedent images | Streetscape Character

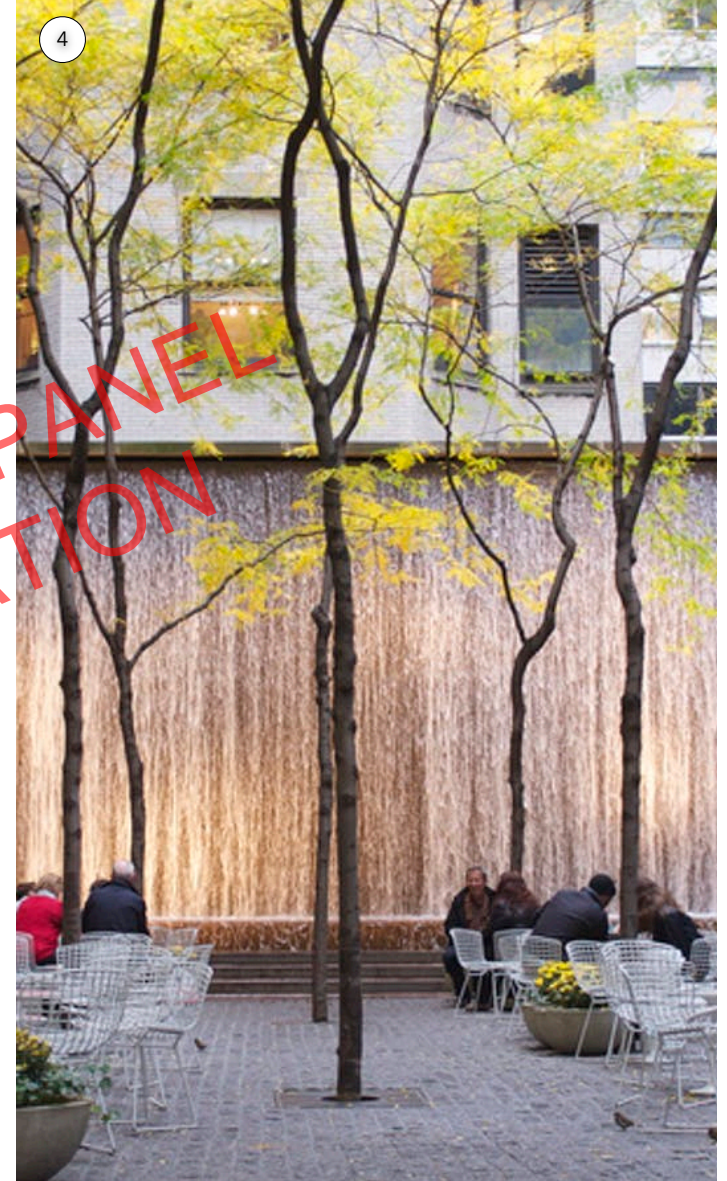
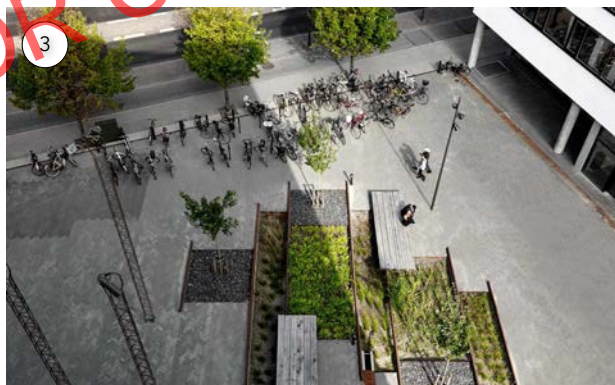
1. Effective modulation of buildings to set and define a street wall character height at a pedestrian level whilst providing a clear separation to the residential levels above.
2. Retail activation at the ground level through transparency and open-ness, combined with an passive commercial facade on the upper levels can still provide presence in the streetscape through materiality and light.
3. An active street wall with a mix of retail and commercial frontage that directly engage with the streetscape profiling passive surveillance and activity at upper levels. Also demonstrates how to break up a larger consolidated commercial development to match a finer retail street urban fabric.



URBAN RESPONSE

Precedent images | Laneway Culture

1. Using artwork in public laneways to provide interest, demonstrate public art, provide practical use such as shelter and light, and create a new 'place' in a confined space.
2. Pedestrian laneways provide additional commercial and retail frontage and can exist comfortably between buildings.
3. The use of landscaped pocket parks and accessible ground treatment provide destinations for laneways.
4. The use of vegetation and water in confined spaces provide interest and play in public spaces.



PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

4 DESIGN EXCELLENCE

PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

DESIGN EXCELLENCE

2(a) High Quality Design | Built Form

Proposal has a high standard of architectural design, will be constructed with quality materials and has a high standard of detailing that reflects the building type, location and the surrounding buildings.

Whilst the DCP and LEP allow a 0m setback to the adjacent heritage items at 340 High Street, the development proposal actually **increases** the building setback in order to pull the new building away from the boundary to provide an appropriate curtilage around the heritage buildings at 340 High Street.

This provides 'breathing space' to the old Bank Building at 340 High Street with the opportunity to appreciate this building from the western and southern elevations. The proposal also reinstates the prominence of the Old Bank Building at 340 High Street in the streetscape through the use of symmetry and height to provide a consistent backdrop.

This curtilage is reinforced by the extension of the vertical patterns to the upper levels and the curved brick facade to the lower levels providing a clear connection between the front and rear buildings on the site which provide a consistent texture which acts as a backdrop to the heritage buildings.

The curved nature of the building also sets up the potential for a 'heritage precinct' where new developments in line with the LEP and DCP objectives can address the heritage buildings in this area, such as the items at 340 High Street and the Catholic Church adjacent. Refer to the response to Part 2(e) (iii).



DESIGN EXCELLENCE

2(a) High Quality Design | Connections

Proposal has a high standard of architectural design, will be constructed with quality materials and has a high standard of detailing that reflects the building type, location and the surrounding buildings.

The proposal also provides a direct connection between High Street and the old 'Stables' building at the rear of 340 High Street.

The proposal is stepped back from the eastern boundary to bring pedestrian activity into the site through a secure laneway which can be used by commercial tenancies to promote pedestrian activity and passive surveillance at the end of John Cram Place.

The proposal also seeks to address John Cram Place through location of the residential lobbies for the development which enter directly onto John Cram Place which create immediate pedestrian activity on the lane way, and changes it from a vehicle only service lane, to an active alive street.

The installation of a new stormwater drainage line, a new footpath and external lighting for pedestrian safety enhance this treatment.



DESIGN EXCELLENCE

2(a) High Quality Design | Materials

Proposal has a high standard of architectural design, will be constructed with quality materials and has a high standard of detailing that reflects the building type, location and the surrounding buildings.

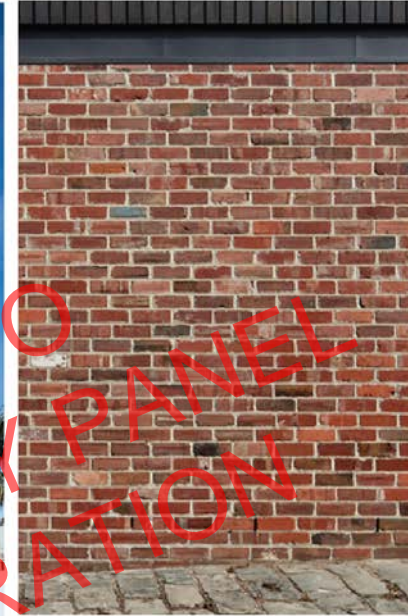
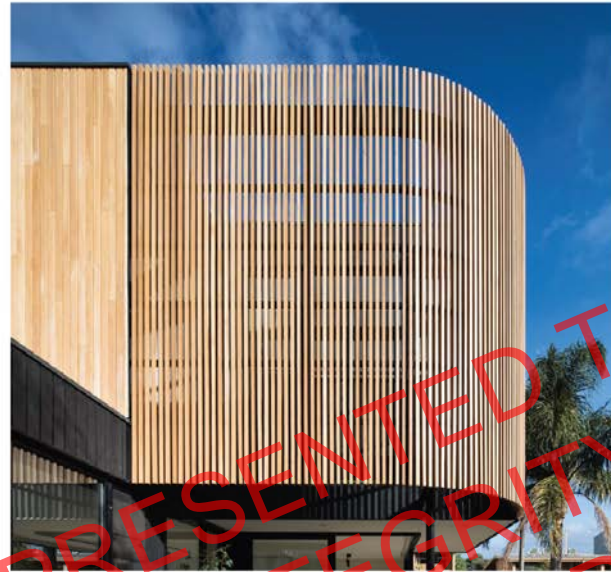
The proposal also includes a selection of materials which achieve the objectives of a sleek, modern new building at the heart of Penrith's new urban CBD, whilst also providing an engaging public building at the street level which illustrates the retail heart and commercial aspect of the development.

The retail facade is an open glass curtain wall which provides an ideal retail setting and opens to busy passing trade for retail tenants.

The commercial levels are an elegant curved face brick wall, consistent with many buildings in High Street. This shell is punctuated at the upper levels through large expressed openings providing interaction with the streetscape from these levels.

The proposal also seeks to continue the proposed commercial street wall along High Street whilst at the same time acknowledge the finer grain of the old suburb through a patterned window box which is constructed from a series of box frames which sit external of the curtain wall structure to the north of the street.

The upper residential levels are expressed through a curved vertical batten facade which provides privacy and shade with the ability to open up to views while also allowing for a consistent backdrop to the heritage items.



PRESENTED TO
DESIGN INTEGRITY PANEL
FOR CONSIDERATION

DESIGN EXCELLENCE

2(b) The Public Domain

Proposal will significantly improve the quality and amenity of the public domain through the building's form and external appearance.

Through careful attention to form, massing and architectural detail the proposal has a distinctive character. Located in the new legal precinct identified in the Penrith New West initiative the use of high quality materials, bold architectural features, and an expansive building form which curves and wraps around existing heritage items, result in a building that is not a regular residential apartment block.

The role of this building in the public domain is to promote pedestrian activity in the precinct, set a high standard for architectural detailing and finishing, to celebrate and acknowledge the heritage buildings that are adjacent to this site, and importantly with regard to the public domain set a precedent for future developments in the area.

The proposal maintains the streetscape envelope required by the DCP (see response to 2(d) and 2(e)(iii) and 2(e)(vi)) and as such the street frontage is an appropriate scale for pedestrian interaction, allows for the streetscape to retain good access to natural light and ventilation. Whilst it maintains the desired street wall along High Street the ground floor design allows for high pedestrian activity and easy access through the site to buildings at the rear of the site on John Cram Place on adjacent properties.

The public domain is also improved at the southern side of the building. New pedestrian footpath, external lighting and guttering mean that the development provides a pedestrian friendly environment along John Cram Place without compromising the service function the laneway performs for the existing commercial premises. With increased pedestrian activity there is regular surveillance of this laneway which makes this a safe place.



DESIGN EXCELLENCE

2(c) View Corridors & local landmarks

Proposal will not detrimentally impact on the amenity of the surrounding area, nor on any view corridors, vistas or landmark locations.

Due to the compliance with Council's DCP setbacks and height limits along High Street, the proposal maintains the views to the Blue Mountains from High Street as you enter the CBD from the east. As a result adjacent landmark heritage buildings remain visible from both the east and west approach along High Street.

Increasing the side setback on the eastern boundary the proposal re-establishes a prominence for this building as it allows a focal point at the end of Lawson Street and provides a point of pedestrian activity.

In addition to this the proposal also deliberately uses the design of the buildings along John Cram Place to frame the heritage stables building at 340 High Street, and the Catholic Church spire at 338 High Street.

From its very inception the proposal has been deliberately set up around the local heritage items and landmarks, and deliberately uses the form of the building to establish a larger precinct around these items (refer to response to Part 2(e)(iii), Part 2(e)(iv) and Part 2(e)(v) in this document).

- 1 Church view and curtilage
- 2 John Cram Place Stables building
- 3 Lawson Street Bank building



DESIGN EXCELLENCE

2(c) View Corridors & local landmarks

Proposal will not detrimentally impact on the amenity of the surrounding area, nor on any view corridors, vistas or landmark locations.

The proposal seeks to provide consistency in the streetscape of the Penrith City Centre by using the current Town Centre DCP controls for street heights and setbacks along High Street and Castlereagh Street.

This allows for future neighbouring development to continue to maintain view corridors and curtilage to existing heritage items and local landmarks.

From Lawson Street it provides a clear backdrop to the heritage items on High Street, but also provides opportunity for the backdrop to continue around adjacent heritage items and maintain a consistent street wall as envisaged by the DCP.

This sets a precedent of neighbouring sites but maintains and enhances view corridors with future development.



DESIGN EXCELLENCE

2(e) i Suitability of the Land for Development

Well-designed buildings within close proximity of each other and within easy walking distance to amenities, can have the effect of transforming the overall impression of the streetscape and bring about vitality that is often lacking in medium density development, borne about by poor design, bulk, scale and landscape setting.

The subject site is located about 500m directly southwest of Penrith Station and within 700m walking distance. It is located on High street, one of the main retail streets in Penrith and is surrounded by mostly 2 storey commercial and retail developments. The site is adjacent to and opposite to buildings of heritage significance. There are distant mountain views to the west.

The key aspect to this site, is its place within the Penrith New Strategy set up by the Penrith Progression movement within Penrith Council. The report (dated May 2015) states: *“With Penrith’s population expected to grow to 224,000 in 2031, the City will need another 35,000 new dwellings to house our new residents.”*

The New West strategy looks to change the Penrith CBD to be a more vibrant, economically sustainable, and livable site with the objectives summaries below. In the heart of the Penrith CBD this development seeks to provide high quality apartment housing close to major transport infrastructure and in the retail heart of the city, high end commercial tenancies (in the new Legal Precinct) and retail activity on the street front to promote and activate High Street adjacent to important heritage items.

The site at 342-348 High Street is ideal for a new urban infill development, that brings high quality residential into a commercial heart of the CBD to revitalise and activate the town centre.



DESIGN EXCELLENCE

2(e) ii Existing and proposed uses and use mix

The existing use of the site is commercial. The High Street section of the site contains a 2 story brick building which has two Real Estate Agencies as tenants. The rear part of the site (accessed via John Cram Place) contains an on-grade open carpark that serves the two commercial tenancies. The proposal increases the uses on the site to provide a diversity that reflects the changing nature of Penrith's CBD.

Commercial: The commercial component of the development increases the available floor space to provide for additional tenancies. The existing tenants will also remain on the site once the building is completed. This maintains a strong commercial presence visible from the public realm and maintains the presence of quality commercial business in the High Street precinct.

Retail: The proposal provides for new retail tenancies on High Street with the addition of a cafe space along the new laneway. This cafe serves the commercial tenancies in the area and utilises the laneway in the development for seating which looks back to the Heritage buildings as a backdrop. This part of Penrith draws in many people for dining and entertainment and is conveniently located in close walking distance to Penrith Station for bus and rail interchange. This development provides opportunity for higher pedestrian activity additional residential dwellings in the heart of the CBD.

Residential: The apartment mix ensures a diversity of dwelling type to encourage occupation by a wide cross section of the community & with proximity to public transport the units are well positioned to offer a range of lifestyle options. In having residential dwellings on the site it increases passive surveillance in the rear John Cram Place which provides additional safety in the streetscape outside of commercial hours of operation.



DESIGN EXCELLENCE

2(e) iii Heritage Issues and Streetscape Constraints

The proposal pulls the building mass away from the adjacent heritage building and coach house and creates a curtilage around this. The new building wraps around the 340 High Street (taking cues in it's geometry from the adjacent church building) and sets a back drop to 340 High Street which provides a more significant setting to the heritage buildings in the precinct.

The proposal also uses side setbacks and proportions to create symmetry and prominence for 340 High Street at the end of Lawson Street, sets up a view of the coach house and the Catholic Church (also a heritage item) at the end of John Cram Place. (as outlined in response to Part 2(a)).



DESIGN EXCELLENCE

2(e) iv Relationship of the Development with other Buildings

Relationship with existing or proposed buildings in terms of separation, setbacks, amenity and urban form.

By increasing the required setback adjacent to the heritage building, the proposal opens up views to the heritage building from the corner, at the front and the rear, which are not currently available.

The incorporation of the new pedestrian laneway provides an opportunity for increased appreciation of the heritage items.

The proposal seeks to increase and attract pedestrian activity into the site by creating the possibility for a courtyard at the rear of the heritage building. This also provides a visible and clear entry for residents, and as such promotes a walkable community of residents who interact directly with the main street.

This also provides good surveillance and activity in John Cram Place. We note that the ground floor retail is designed in such a way to provide continuous activity along the new laneway to John Cram Place and benefits not only the proposed development, but neighbouring sites as well.



DESIGN EXCELLENCE

2(e) v Bulk Massing and Modulation of Buildings

There are two objectives with a development of this kind. Provide enough bulk and massing to achieve the objectives of the urban street walls of the development, as addressed in response to Part 2(e)(vi), but also provide enough modulation and definition in the facade so as not to create large monolithic buildings facing High Street. The proposal achieves this through the use of external fittings which provide texture and definition.

The development addresses the larger scale of the building by dividing it into 3 distinct components:

Ground floor retail

The ground floor of the building is the direct public interface. It is glazed and open with both commercial and retail tenancies within. The ground floor transparency is re-enforced by the glazed entry walkway which allows for direct sunlight and daylight access to the middle of the site. This glazed wall detail wraps around a curved corner and along the new laneway.

Commercial tenancies

Through the use of the DCP setbacks and height for the High Street frontage we have a mid level which is defined by the curved face brick facade. This mid level runs from the northern part of the site through to the southern section of the site.

Residential

The incorporation of vertical batten louvres at Level 4 marks a residential component which is subtle and shielded from the activity of the lower levels.



DESIGN EXCELLENCE

2(e) vi Street Frontage Heights

The proposed building is designed in accordance with the Penrith Council DCP Part E11 (building height type B) with regard to building heights and setbacks with regard to the street frontage on High Street.

We understand that council's intention to maintain a 12m height limit along High Street to provide natural light to public spaces and to take into account a number of heritage buildings. This proposal maintains the DCP setbacks and heights for the streetscape. We also provide a more significant presence of the heritage building adjacent to our site but using the same proportions of that for our walkway entry. This has been addressed in response to Part 2(d) and 2(e)(iii) previously noted in this statement.



DESIGN EXCELLENCE

2(e) vii Environmental Impacts

Impact of development with regard to sustainable design, overshadowing, wind and reflectivity

The proposed building is designed allowing greater access to daylight and natural ventilation in both the residential and commercial components. With the great variance in Penrith's temperatures we note the incorporation of vertical louvres to the eastern face which provide a buffer to harsh morning sun in summer, but allow for free air movement throughout. Outlook to suburb views and distant views to the mountains will contribute to the resident's quality of life and good sized sheltered balconies are provided adjacent to each living room in the residential apartments provide access to these views, and good access to natural ventilation and light.

Overshadowing

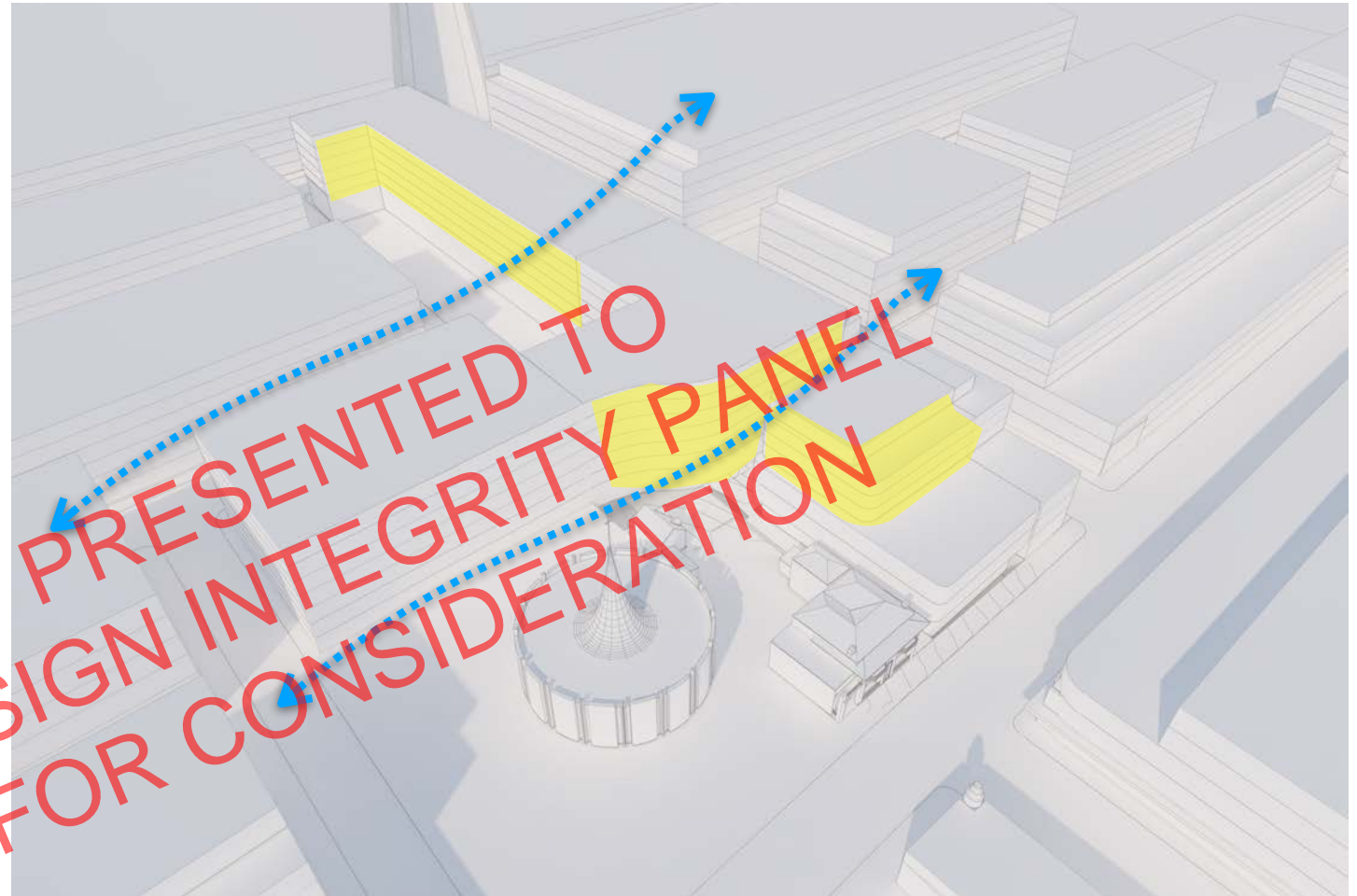
As any building of up to 7 storeys, the development has some overshadowing impact to its neighbours however this impact is not unreasonable in the context of an urban environment. The impact of this overshadowing is minimised due to the north-south orientation of the building form. We also note that in a future street wall residential development for buildings to the south the impact of the subject site proposal is minimal.

Wind and air movement

The building is open in the middle to ensure air movement continues throughout the site without impediment, however the design of the building also allows for pockets of sheltered outdoor areas around the adjacent heritage building which provides a more pleasant and usable outdoor space.

Reflectivity

On the eastern facade the building utilises large vertical blades along the facade to create a consistency curved facade which soften the building appearance. The face brick to the street wall component provides a subtle matt texture with low reflectivity.



DESIGN EXCELLENCE

2(e) viii Ecologically Sustainable Development

The proposal has been designed with an ecologically sustainable approach with regard to waste generated during construction, durability of materials to avoid on-going maintenance and replacement of materials, minimising the use of energy in on-going operation within the residential components, and the re-use of resources such as water within the development.

As noted in 2(e)(vii) the units have been designed to promote increased access to daylight and natural ventilation with living rooms having large balcony areas which provide shelter to the hard summer conditions and natural ventilation. Living areas have generous glazing onto these balconies creating outdoor rooms in winter, and shelter from the summer heat.

Significant access to light through solar passive design also means that units receive significant daylight not requiring artificial light during daylight hours. The incorporation of LED lighting throughout the residential component of the facility also means that the on-going energy use of the property is significantly reduced.

The design of the roof also allow for the simple installation of solar PV panels banks without visual impact on surrounding properties.

A key part of the design is the incorporation of a commercial atrium which provides opportunities for significant natural light access to internal commercial areas, and potential for natural ventilation in addition to mechanical air conditioning. This also provides pedestrian activation through the heart of the commercial core.



DESIGN EXCELLENCE

2(e) viii Ecologically Sustainable Development

Atrium design

The atrium design provides opportunities for natural ventilation and daylight access deep into the commercial floor plate. This reduces the need for energy consumption in environmental management systems but also provides increased amenity and raises the value and quality of the commercial spaces.

Management of water

The water catchment has been designed in basement 1 for on site detention of storm and rainwater recycling in line with water sensitive urban design guide. The rainwater recycling can be reused for garden irrigation ensuring the landscaped areas are well maintained for all tenants in an ecologically sustainable method.

Construction waste and maintenance

The development proposes to incorporate a concrete wall system which utilises a permanent formwork construction in order to minimise waste during construction. The formwork and reinforcement is prepared and constructed in accurate components off site and simply put together on site. This provides a significant reduction in waste during construction while at the same time providing a durable low-maintenance building product which does not require replacement.



DESIGN EXCELLENCE

2(e) ix Pedestrian, Cycle, Vehicular & Service Access

Pedestrian activity

The ground floor retail opportunities which support life in the public streetscape are further activated by the new laneway for pedestrians to move from High Street to explore the site and connect to John Cram Place at the rear. The proposal also includes the ability to secure this laneway after hours allowing for a safer pedestrian environment along High Street without providing hidden alleyways and 'escape routes' for undesirable activity.

Cycling infrastructure

Significant cycling infrastructure is included for residents at basement levels, enabling the use of bicycles as a daily transport option, reducing the reliance of personal motor vehicles.

Service access

The rear area of the site has been planned to ensure efficiency of space and ease of facilities management across the development of both 342 High Street and the neighbouring 340 High Street allowing service access from John Cram place rather than High Street. A new vehicle court is proposed at the rear of the site (combining with 340 High Street) to provide adequate turning and operation for service vehicles, and easy access to parking for both 340 and 342 High Street.

Pedestrian safety

There has been a clear separation between residential and commercial activities on the site, and through the use of materials, slow down devices, canopies and pedestrian crossings, the vehicle movement areas are well separated from pedestrian circulation areas.



DESIGN EXCELLENCE

2(e) x Impact of the Development on the Public Domain

Proposal will significantly improve the quality and amenity of the public domain through the building's form and external appearance.

The 2016 Penrith Council Public Benefit Strategy was developed to highlight the responsibility for additional services, employment, and housing, benefiting the local area and wider catchment.

LIVABILITY

- Creation of new laneway
- Public Domain upgrades to High Street
- Passive Surveillance & streetscape activation
- Pedestrian lighting & creative lighting
- Bicycle lockers & facilities

COMMUNITY

- Public Art and Placemaking
- Preservation of Heritage views

RECREATION

- New laneway as new public place






INFRASTRUCTURE

- Footpaths along John Cram Place
- Connection from John Cram Place to High Street

SUSTAINABILITY

- Green Roofs
- Shading to new pedestrian links
- Provision of bicycle parking and facilities



-  Street Frontage Activation
-  A New Public Place with Local Art
-  Passive Surveillance from Above
-  Pedestrian Through Link
-  New Footpath

APPENDIX C

DESIGN INTEGRITY PANEL
CORRESPONDENCE



14 July 2021

Warwick Stimson, Principal
Stimson Urban & Regional Planning
PO Box 1912
PENRITH 2751

Design Integrity Review for proposed redevelopment of 342-348 High Street, Penrith

Dear Warwick,

This letter confirms design integrity procedures in relation to proposed mixed-use redevelopment of the property above.

Background

The design integrity review commenced formally during the video conference which was held on 6 July, and that review responded directly to requirements which were specified by the Government Architect of NSW (GAO) in their letter dated 1 June 2021.

The review of design integrity was conducted by a panel of three (the DIP) comprising:

- Matthew Bennett, architect as the GAO nominee;
- Russell McFarland, architect as the Proponent's nominee;
- Brett Newbold, urban designer and representative of Penrith City Council's Urban Design Review Panel.

During the video conference, the DIP was briefed by the project architect and heritage specialists in relation to urban design and heritage matters which have shaped the current development concept, and received a comprehensive explanation of that detailed architectural concept.

Following that briefing, the DIP appreciated heritage and town planning requirements that apply to development of the Site, and understood the extent to which the architectural concept proposes to vary development standards under the Penrith LEP. However, at this stage, requests to vary development standards for height and FSR have not been presented to the DIP for detailed consideration.

Conclusions and recommendations

With regard to concept plans and their supporting urban design and heritage rationales, the DIP agreed unanimously that the architectural concept demonstrates merit, and that design excellence is likely to be demonstrated by a development application which incorporates certain design refinements together with further information.

Proposed massing of the two buildings is positive, and that massing comfortably accommodates the floorspace-potential which has been foregone in order to provide pedestrian links together with curtilages for neighbouring heritage items.

In advance of formal variation requests, the DIP agrees that current plans do not present any clear reasons to oppose proposed non-compliances with development standards for height and FSR.

DA documents should incorporate the following refinements and information:

- Landscape design along John Cram Place and associated outdoor areas should emphasise pedestrian priority and safety, as well as contributing to the civic quality of this publicly-accessible location which would provide a focal point for the development. This could be achieved through changing the finished level and surface treatment of John Cram Place to create a unified and seamless public domain and the strategic placement of discrete traffic calming measures to eliminate the requirement for kerbs. The materiality of this ground plane should adopt or compliment Council's approved standards to reinforce this as a public realm designed for pedestrians.
- Landscape and urban design of the proposed pedestrian way between High Street to John Cram Place should be simplified in order to emphasise the qualities of heritage items that provide backdrops to the development, and simplified elements might comprise carefully-considered public artworks that contribute to civic quality and place-making. In particular, the Panel questioned the inclusion of an overhead artwork and the placement of lighting poles adjacent to the heritage building and recommends these be removed to declutter the space.
- Landscape and urban design of the interface between heritage-listed buildings and the proposed southern apartment building require careful attention to provide suitable backdrops to all buildings, as well as a clearly-identifiable entrance to the apartment building. The Panel recommends the Client prepare an overall urban and landscape site strategy to inform discussions with council and neighbouring property owners to ensure the outcomes for the site are holistic and integrated.
- Form of the High Street building, together with proportions of windows and detailing of window surround-frames, require further design development in order to present a suitably-coherent architectural solution. The Panel supported the new stepped brick detailing developed for the eastern windows in the northern building but questioned whether a staggered or more random pattern may differentiate this building and its commercial uses from the residential grid of the southern building and provide subtle variation within the same family of materials and detailing. The Panel questioned the retention of the black frames in the windows to the curved corner to High St as these felt like a remnant of the previous scheme. The necessity of these two corner windows and the design of these openings should be reconsidered. The Panel recommends the large black frames to High St be reduced in height to the height of the windows to allow the brick facade to extend the full length of High St providing a clearer

reading of the podium as a single brick base. The Panel supports the steel plate construction of the large black frames to High St to ensure a crisp definition of these elements and that all of these frames should be black (rather than yellow) to create a more coherent facade with signage discretely placed as secondary elements. The Panel strongly supports the inclusion of the curved corner to the north east corner of the building on High Street but questioned the inclusion of a curved corner to the north west and how it will contribute to a coherent streetscape when the 352 High St is redeveloped?

- For the upper levels of the northern building, the Panel recommends that the vertical screen be extended over the atrium and upper level apartment to define a single and coherent upper level volume. The floating roof plane and the eastern windows to the penthouse apartment also require attention to reinforce the hierarchy and definition of stacked building forms.
- For the southern apartment building, glazed balcony balustrades should be replaced by carefully detailed brickwork or an opaque alternative which would complement the podium-brickwork and provide superior privacy for lower-level apartments.
- Graphic confirmation of conformity with key ADG metrics should be provided, and any non-conformities with numeric guidelines should be clearly-explained.
- In that regard, the rationale for not providing a designated communal open space as part of this development should be justified.

Draft DA documents should be reviewed by the DIP prior to lodgement – in particular: architectural and landscape plans, urban design documents and montage views.

Yours sincerely:



Matthew Bennett
Architect
GAO nominee



Russell McFarland
Architect
Proponent's nominee



Brett Newbold
Urban Designer
PCC UDRP member

19 November 2021

Warwick Stimson, Principal
Stimson Urban & Regional Planning
PO Box 1912
PENRITH 2751

Design Integrity Review for proposed redevelopment of 342-348 High Street, Penrith

Dear Warwick,

As requested by the Design Integrity Panel, draft development application documentation was reviewed on Monday 8 November 2021. This review was conducted by the following Panel:

- Matthew Bennett, architect as the GAO nominee and Chair;
- Russell McFarland, architect as the Proponent's nominee;
- Brett Newbold, urban designer and representative of Penrith City Council's Urban Design Review Panel.

The Panel has noted responses by the project architect (IDG) which explain proposed amendments in relation to previous Panel comments in July of this year.

However, the Panel considers that all elements of the July recommendations are relevant to design excellence, and that further-amendment of the draft DA submission is necessary.

Recommended further amendments

The final DA submission should incorporate the following further-amendments:

- i The top edge of Building A immediately fronting High Street should present a horizontal brick parapet across the full width of the building, with window box frames to be lowered and 'framed' by that horizontal masonry element.
- ii The roof above the basement entry to Building B (adjacent to the southern boundary) should be clarified and represented better in the architectural plans.
- iii For commercial storeys along the eastern elevation of Building A, a random pattern of windows should be explored in lieu of random treatment of residential levels which would be harder to achieve.
- iv Daylight to the third bedroom of Unit B6.01 is limited by a deep roof overhang together with the window's orientation: to provide reasonable daylighting and an improved outlook, the roof overhang should be cut back and the apartment layout should be reconfigured to accommodate a narrow south-facing window.

- v Benefits of the west-facing courtyard to Unit B6.01 should be explained, and further design amendments should be explored to enhance the function and utility of that courtyard.
- vi The swimming pool on the top level of Building A should have a wider landscaped setback from the western façade so that composition of the façade would not be interrupted by the raised pool enclosure and fencing: to accommodate that setback, the pool should be rotated 90 degrees or reconfigured, and pool fencing should be set back behind a landscaped planter.
- vii For the commercial landscaped terrace along the northern frontage of Building A, planters and pergolas should be redesigned to achieve more-coherent integration of the lift overrun which currently is visually-intrusive.

Recommended additional information

In addition, the Panel notes the following matters that require further information to be added to the final DA documents:

- i As required by the EP and A Regulation, large-scale design sections should confirm dimensions, construction details, architectural elements such as windows, window surrounds and balustrades, planter dimensions, and concealed building services for all typical facades.
- ii In addition, a range of photomontages should depict the proposed development in the context of adjacent buildings, and should include accurate representation of the proposed landscaping.
- iii Coloured elevations should clearly illustrate proposed materials and finishes, and together with detailed sections, should clearly explain relationships between windows, reveals and surrounding frames, and wall planes
- iv Floorplans should show setbacks from adjoining buildings in order to confirm building separations and compliances.
- v Roof plans should provide further details regarding required roof-top plant and screening or integration with roof forms.
- vi BCA compliance of daylighting and ventilation for the penthouse media room should be confirmed, and if necessary, the hinged door to that room should be converted to a wide 'sliding wall'.

Conclusions

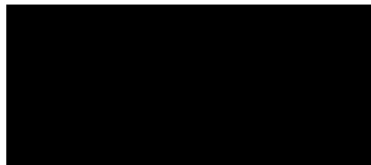
The Panel considers that lodgement of the DA may proceed provided that the recommended further amendments are made, and provided also that the specified further details are provided.

The Panel is available to address any questions which might be raised by Council in relation to design excellence during assessment of the DA.

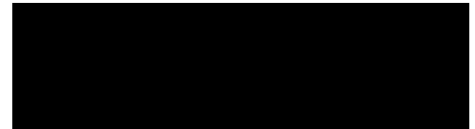
Yours sincerely:



Matthew Bennett
Architect
GAO nominee



Russell McFarland
Architect
Proponent's nominee



Brett Newbold
Urban Designer
PCC UDRP member

26 November 2021

Warwick Stimson
Stimson Urban & Regional Planning
Suite 5/488 High Street
PENRITH NSW 2750

RE: 342-348 High Street Penrith: Design Integrity Panel Feedback

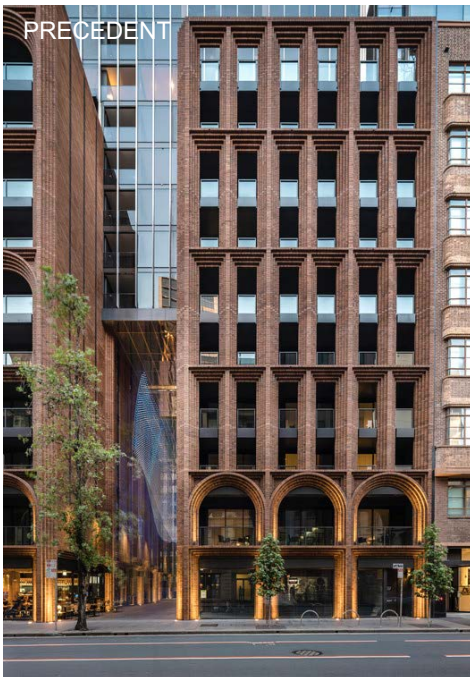
Dear Warwick,

Thank you for your providing the feedback from the Design Integrity Panel from your meeting dated 19 November 2021. We note that these comments have been incorporated into amended plans and we have provided additional drawings to show details in the final DA submission and photomontage images.

However, there is one suggestion that has not been modified because in our opinion it has a detrimental impact on the building and so we include additional perspective images and explanation to clarify our design intent.

Brick Wall Detail

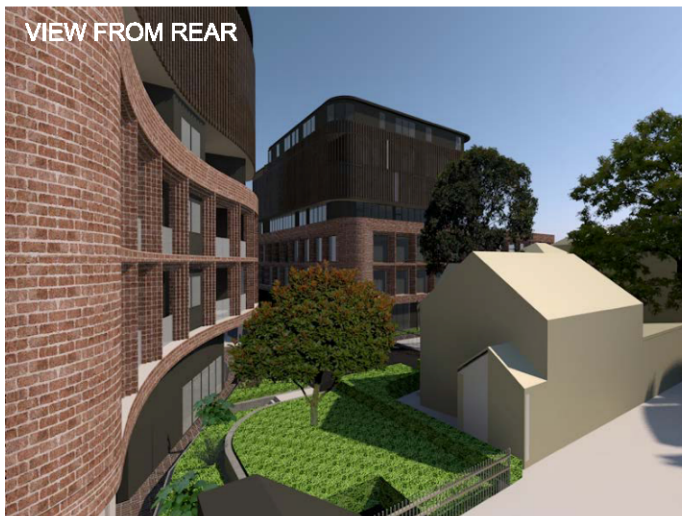
With regard to the comments on the pattern of openings in the brick podium, we note that the proposal is an expressed masonry frame with stepped brick columns which provide depth and detail, reflecting the surrounding heritage buildings in the precinct yet achieving the finer texture of a modern contemporary development. The openings are the spaces between an expressed brick structure rather than a number of openings within a solid wall, which helps to break down the mass of the building while still expressing the scale of the podium and the streetscape (similar to the Arc Building in Sydney by Koichi Takada Architects below).



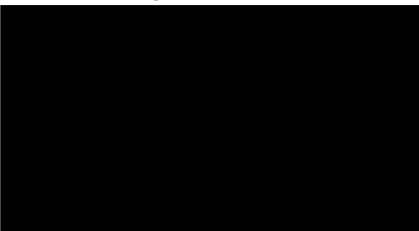
To incorporate a randomised pattern of openings in this wall would defeat the purpose of the detailed brick frame. Changing the language of the building, increasing the bulk of the podium and losing the elegance of the proposed brick detail in the façade.

A key part of the original design intent is the podium wall extending from north to south, connecting the two separate towers together and defining the curtilage around the adjacent heritage buildings. This intent is reinforced through the consistent pattern and weight of the brick wall which draws attention to the activity at the ground level and focuses on the pedestrian movement of the laneway, playing a subservient role to the heritage items and the pedestrian movement between them.

To set a consistent backdrop to the heritage curtilage it is important that the language of the podium wall be carried through the development and expressed on both buildings. This provides a consistent approach throughout the whole development and marks the precinct.



Yours faithfully,



Andrew Elia
DIRECTOR
NSW ARB #7928

APPENDIX D

SEPP 65 DESIGN VERIFICATION STATEMENT



SEPP 65 STATEMENT

MIXED USE DEVELOPMENT | 342-350 HIGH STREET PENRITH
8 OCTOBER 2021

FOR

Colin & Andrea Henry
344 High Street
PENRITH NSW 2750

8 October 2021

The General Manager
Penrith City Council

Civic Centre, 601 High Street
PENRITH NSW 2750

SEPP 65 DESIGN VERIFICATION STATEMENT

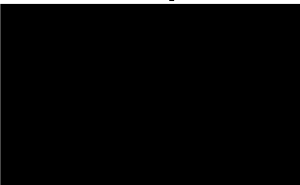
We confirm that Integrated Design Group has been engaged by Colin & Andrea Henry to prepare the architectural documentation for the proposed development application at 342-350 High Street, PENRITH.

Pursuant to the requirements of SEPP 65 - Design Quality of Residential Apartment Development, Part 4 Section 28 - Determination of development applications, we advise;

- a) The design has been directed by Andrew Elia of Integrated Design Group who is registered in accordance with the Architects Act 1929, registration number: 7928.
- b) The design quality principles set out in Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development are achieved for the residential flat development.
- c) The proposal has been designed in accordance with the Apartment Design Guide.

Please contact me if you have any queries.

Yours faithfully,



Andrew Elia
DIRECTOR
NSW ARB #7928

PENRITH COUNCIL KEY DEVELOPMENT STANDARDS

The following statement provides an assessment of the development against the Penrith Development Control Plan 2014 and Penrith Local Environmental Plan 2010

CONTROL	PROPOSED	COMPLIANCE
Floor Space Ratio <i>front site maximum FSR 2:1</i> <i>rear site maximum FSR 3:1</i>	<p>The proposed development has a FSR of 3:1.</p> <p>This exceeds the FSR allowable for the front site but is consistent with the FSR of adjoining properties.</p>	<p>NO <i>seek variation to LEP based on LEP Clause 4.6</i></p>
Height <i>12m maximum height</i>	<p>The proposed development has a street wall height of 11m, followed by a 15m setback and then a height of up to 25m.</p> <p>This exceeds the FSR allowable for the site but is consistent with the FSR of adjoining properties.</p>	<p>NO <i>seek variation to LEP based on LEP Clause 4.6</i></p>
Front Setbacks <i>0m setback</i>	<p>A 0m street setback is applied to the facades facing High Street and John Cram Place.</p>	<p>YES</p>
Side Setback (DCP) <i>Non residential uses up to 20m - 0m setback</i> <i>Residential uses up to 12m</i> <i>- non-habitable rooms 3m</i> <i>- habitable rooms 6m</i> <i>Residential uses up to 24m height:</i> <i>- non-habitable rooms 4.5m</i> <i>- habitable rooms 9m</i>	<p>A 0m setback is applied on the west side boundary of the Building A and to the west and east side boundary of Building B. This allows for the adjacent buildings to also build to the boundary, creating a street wall desired by the DCP.</p> <p>The proposed development tapers around the heritage building achieving 6.5m setback where it is closest at high street and 4m at the southern side of the front building.</p>	<p>NO <i>seek variation to DCP based on design merit and compliance with street wall characteristics</i></p>
Rear Setback (DCP) <i>minimum 2-3m</i>	<p>The proposed development achieves a 6m rear setback, which exceeds the minimum setback requirement</p>	<p>YES</p>

SEPP 65 KEY STANDARDS

The following statement provides an assessment of the development against the State Environmental Planning Policy No 65 - Design Quality of Residential Flat Developments, Design Quality Principles Part 2.

STANDARD	COMMENT
<p>VISUAL PRIVACY To provide visual privacy during day/night, maximise outlook and views from private open space without compromising visual privacy, with recessed balconies.</p>	<p>Building separation has been provided with the design incorporating solid facade relief elements and privacy screening where necessary. The buildings have been designed to minimise direct overlooking, and no living space is orientated to face another within the development.</p>
<p>BICYCLE AND CAR PARKING To minimise car dependency for commuting and promote alternative means of public transport, walking or bicycling. Underground parking where possible with ventilation. Safe and secure access for building users. Consider: - vegetation, canopy/shade trees, selection paving, screening from communal and private open space and bicycle parking</p>	<p>The proposed development will be serviced by public transport with Penrith Station approximately 300m walking distance away. As such a reduced car parking rate is applied and consistent with the Guide to Traffic Generating Development.</p> <p>Occupants will be able to store bicycles within the secured basement, in their secured storage cage or in the bicycle storage areas provided.</p> <p>All car parking including the basement will be well lit for security and safety. Ventilation to basement car parking will be in accordance with NCC requirements.</p>
<p>SOLAR AND DAYLIGHT ACCESS To ensure that daylight provided to all habitable rooms, ambient lighting to minimise the need for artificial lighting. Living rooms and open space for at least 70% of apartments to receive 2 hours direct sunlight in winter. (in accordance with the SEPP allowance for urban areas).</p>	<p>21 of the 29 apartments receive minimum 2 hours direct sunlight on the 21 June between 9am and 3pm when assessing the building form.</p> <p>The development will comply with the required 70% solar access, achieving 72%</p>
<p>COMMON CIRCULATION AND SPACES To provide safety, amenity and durability as well as opportunity for casual social interactions among residents and assist with social recognition.</p>	<p>The maximum number of apartments sharing a circulation core is 5.</p> <p>Corridors are simple and generous in width in size with ample circulation space. Some levels have access to external light and ventilation. Entries to units are orientated to maintain privacy.</p>
<p>APARTMENT SIZES AND LAYOUT To ensure that the apartments are functional, well organised, accommodate a variety of household activities and occupants needs. Single – aspect apartments should be limited in depth to 8m from a window. Cross over apartments 15 m deep should be 4m wide or wider to avoid narrow apartments. The back of the kitchens should be no more than 8m from window.</p>	<p>The design provides for a mix of apartment sizes with a variety of one, two and three bedroom units with options of study / dual access to suit different family size and needs.</p> <p>1 bedroom - 53.34m² – 67.17m² 67.17m² adaptable 2 bedroom - 81.93m² – 102.94m² 81.93m² adaptable 3 bedroom - 106.35m² - 295.85m²</p> <p>Single aspect apartments have been minimised and designed to be compliant with the SEPP 65 rules of thumb. Cross through units over 15m deep are wider than 4m and all kitchens are within 8m from a window.</p>
<p>CEILING HEIGHT To provide a sense of space, penetration of daylight, flexibility of use, quality internal space.</p>	<p>The 2.7m floor to ceiling height is achieved for all units.</p>
<p>PRIVATE OPEN SPACE AND BALCONIES To ensure apartments have private open space, which is functional for outdoor living. The design is integrated into the overall architectural form and to allow casual overlooking of street.</p>	<p>All primary balconies achieve the minimum requirements</p> <p>1 bed - 8m², 2m depth 2 bed - 10m², 2m depth 3 bed - 12m², 2.4m depth</p> <p>The private open space area is functional and useable with a larger section to accommodate outdoor furniture. The provision of stacked sliding doors leading from living rooms to balconies ensures an extension of the living areas. Units provide direct casual surveillance of communal open spaces and adjoining streets.</p>

<p>NATURAL VENTILATION</p> <p>Provision of each apartment with direct access to fresh air and to assist in promoting thermal comfort for occupants. Natural ventilation in non-habitable rooms, where possible. The design is to reduce energy consumption. <u>Overall 60% of apartment should have cross ventilation.</u></p>	<p>All apartments will receive direct access to fresh air and 22 of the 29 apartments achieve cross ventilation. The prevailing north easterly and southerly aspect will provide thermal comfort to the occupants.</p> <p>The development will comply with the required 60% cross ventilation, achieving 76%.</p>
<p>STORAGE</p> <p>To ensure that each apartment has adequate storage at rate defined SEPP 65.</p>	<p>The design provides for required storage within each apartment with additional secured storage space provided in the carpark area of the units. Refer to area schedule.</p> <p>1 bedroom - 6m³ 2 bedroom - 8m³ 3 bedroom - 10m³</p>

DESIGN QUALITY PRINCIPLES

The following statement provides an assessment of the development against the State Environmental Planning Policy No 65 - Design Quality of Residential Flat Developments, Design Quality Principles Part 2.

Principle One : Context and Neighbourhood Character

Good design responds and contributes to its context (defined as the key natural and built features of an area).

OBJECTIVE	COMMENT
<p>Natural Features The building should respond to the natural characteristics of the site</p>	<p>The site is within an urban landscape. The site has an 30.5m frontage to high street, the main commercial street. The site has a significant west / north orientation but buildings are orientated to maximise on north and east orientation.</p>
<p>Built Features How does the proposed development respond to the adjoining developments.</p>	<p>There is no dominant character or scale along high street. The majority of existing buildings are 1 - 3 storeys retail and /or commercial. Street frontage varies between 4 - 60m in length. Only consistent feature is 0m allotment between boundaries the exception being the heritage building and church adjacent to the proposed site.</p> <p>The front facade of the proposed building responds to the height and scale of the adjoining heritage building. A pedestrian laneway adjacent to the heritage building is a modern interpretation of the heritage features and creates a greater setback between the two buildings than would a typical development response would allow.</p> <p>The retail facade is an open glass curtain wall which provides an ideal retail setting and opens to busy passing trade for retail tenants. The commercial levels are an elegant curved face brick wall, consistent with many buildings in High Street. This shell is punctuated at the upper levels through large expressed openings providing interaction with the streetscape from these levels.</p> <p>The proposal also seeks to continue the proposed commercial street wall along High Street whilst at the same time acknowledge the finer grain of the old suburb through a patterned window box which is constructed from a series of box frames which sit external of the curtain wall structure to the north of the street.</p> <p>The upper residential levels are expressed through a curved vertical batten facade which provides privacy and shade with the ability to open up to views while also allowing for a consistent backdrop to the heritage items.</p> <p>The proposed development steps up to 25m height after a 15m front setback. This, along with the greater setback on the eastern boundary creates a consistent backdrop to the adjacent heritage buildings whilst reinforcing the desired future character for High Street.</p>

Principle Two : Built Form and Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings and an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements

OBJECTIVE	COMMENTS
<p>Building Envelopes Building envelopes set appropriate scale of future development in terms of bulk and height in relation to street layout and lot size.</p>	<p>The proposed site has a smaller allowable floor space ratio and height allowance than the surrounding sites due to the adjacent heritage buildings. This would result in a disjointed street wall and the heritage items would only get lost in the building fabric amongst non heritage items. Following discussions with the urban design review panel, we agreed that a better approach is to have a consistent bulk and scale with the rest of the street in order to accentuate the heritage items.</p>
<p>Building Depth Objectives ensure adequate amenity for occupants – sun and ventilation. building depth 10-18m 60% of units to achieve cross ventilation, 25% of kitchens to have access to natural ventilation to comply with SEPP requirements</p>	<p>The apartments have a variety of depths, and use corner units, and cross through units to assist sunlight penetration and ventilation. Through the use of internal courtyards the 3 units deeper than 18m have cross ventilation. 76% of units achieve cross ventilation. 51% of kitchens receive natural ventilation.</p>

<p>Building Separation The objective is to achieve appropriate massing and spaces between buildings</p>	<p>The site is adjacent to a two and one storey heritage building on its eastern boundary. The proposed development deliberately sets up a curtilage around these heritage items.</p> <p>To the eastern boundary a setback ranging from 5.9 – 2.5m is achieved. The western boundary of the site is set up with a 0m setback to continue a street wall along High Street in accordance with the DCP.</p>
<p>Building Entry To provide desirable residential amenity and to contribute positively to the streetscape and building façade.</p>	<p>The residents have been provided with clearly defined and secure entries and building lobbies. Direct access is also available from the secured basement carparks. Entry to building lobbies are accessibly compliant with AS1428.1 (2009).</p>
<p>Open Space To achieve a passive recreational area for residents which is usable, safe and attractive</p>	<p>The development is within close proximity (<400m) to public open space, retail and transportation. Thus a reduced demand for open space is proposed and provided on the ground floor.</p>
<p>Principle Three : Density Good design has a density appropriate for a site and its context, in terms of floor space yields or number of units or residents.</p>	
<p>OBJECTIVE</p>	<p>COMMENTS</p>
<p>Floor Space Ratio To ensure development is within optimum capacity of site and local area, (modulation and depth of walls allow for habitable balconies).</p>	<p>The proposed development achieves an appropriate response to the adjacent heritage building and thus proposes a similar floor space ratio to the neighbouring sites and informs the streetscape character identified in the DCP.</p>
<p>Principle Four : Sustainability Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction phases.</p>	
<p>OBJECTIVE</p>	<p>COMMENTS</p>
<p>Energy Efficiency To reduce the need for mechanical heating and cooling, reduce greenhouse gas emissions and support and promote renewable energy initiatives.</p>	<p>The proposed development is designed with passive environmental principles in planning and solar control but will also incorporate energy saving measures such as energy efficient hot water systems, water saving devices, including a relatively large native garden area, basement light sensors and timers.</p>
<p>Principle Five : Landscape Good design recognises that together landscape and building operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p>	
<p>OBJECTIVE</p>	<p>COMMENTS</p>
<p>Landscape Design To provide residents with a quality of life in the development in the forms of privacy, outlook and views. To provide for improved micro climate and solar performance.</p>	<p>The landscaping has been designed to satisfy the objectives and Council's Landscape Code, by providing shade, screening, visual softening and improved energy efficiency and solar access.</p>
<p>Deep Soil Zones To assist water table and improve amenity through planting large - medium size trees.</p>	<p>A reduced deep soil zone is proposed due to site restraints and its urban context</p> <p>DCP requires 0% of the site to be deep soil</p>
<p>Fencing and Walls To provide privacy and security and to contribute to the public domain.</p>	<p>Low height planters define the rear boundary. The existing fence between our site and the adjacent site is proposed to be taken down and a courtyard be built, an outcome which can be beneficial to both sites. Secure entries control access to building A and B.</p>
<p>Principle Six : Amenity Good design provides amenity through the physical, spatial and environmental quality of a development.</p>	
<p>OBJECTIVE</p>	<p>COMMENTS</p>
<p>Flexibility To ensure that the design meets the broadest range of occupants' needs. To promote 'long life loose fit'</p>	<p>The design of the residential apartments provides a variety of accommodation options and lifestyle preferences, though is generally sized to suit the new or smaller family market in the Penrith area.</p>

buildings which can accommodate whole or partial changes of use.	
Acoustic Privacy Each apartment is to achieve acoustic privacy between external and internal space.	The design where possible achieves active and noisy areas adjacent to each other: Living rooms to living rooms and quiet areas bedroom to bedroom. Visually screening is provided between balconies as required. Installing seals at the entry door in accordance with the BCA will reduce noise from common corridors.
<p>Principle Seven : Safety</p> <p>Good design optimises safety and security, both internal to the development and for the public domain.</p>	
OBJECTIVE	COMMENTS
Safety To ensure that Residential Flat Buildings (RFB) are safe and secure for residents and visitors, and the public domain.	The development reinforces the distinction between public and private utilising landscaping, terraces and variation in levels, clearly mark entry points. Well-lit access between car park and apartments and between basement car park and stairway. Unsecured concealed areas have been minimised and will be well lit. All common area and pathways will be illuminated. Lobbies are accessed via secure entries.
<p>Principle Eight : Housing Diversity and Social Interaction</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyle, affordability, and access to social facilities.</p>	
OBJECTIVE	COMMENTS
Unit Mix Response to the needs of the local Community.	The proposed apartment buildings contain a wide range of apartment types, thus providing a number of options to various members of the community. The wide selection of unit types will make these buildings attractive to a broad cross section of the community. Adaptable apartments (3 in total) are provided in accordance with the recommendations of Penrith Councils DCP.
Location Access to the local community in terms of lifestyle, affordability, and access to social facilities.	The proposed development is in the Penrith City Centre and will be serviced by Penrith Railway Station about 300m away.
<p>Principle Nine : Aesthetics</p> <p>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.</p>	
OBJECTIVE	COMMENTS
Facades To promote high architectural quality in facades which define and enhance the public domain.	The facades of the building respond to the orientation and usage of the rooms within, providing liveable indoor and outdoor spaces therefore encouraging residents to utilise the threshold between semi-private and the public domain. Articulation is achieved with balconies, sunshades and plug-on type details giving the buildings a 'human' scale. The development
Roof Design Form and roof type relative to the precinct, and as part of the buildings sun control.	Defined horizontal edges is incorporated into the roof plane appear as an extended eave overhang. This structure conceals A/C, solar, and HW plant on the roof whilst at the same time reducing the scale of the building providing an eave line. Shading devices and balconies contribute to shading of the units and create the traditional 'Australian verandah' with a useable dimension.
Awning and Signage Awnings are to be provided to increase usability and amenity in public areas. Signage is an important aspect in mix residential development.	Awnings along High Street are integrated into the building form. With the ground level setback from the boundary, and the new hood elements forming extending from the level 1 podium an effective awning is achieved, whilst not taking away from the elegance of the building.

UNIVERSAL LIVING

The proposed development is designed to incorporate universal standards.

The majority of units achieve the objectives of the Liveable Housing requirements at the silver level, and many at the gold level. 20 out of 29 (69%) achieve all of the Liveable Housing Guidelines Silver Level universal Design features. This includes 4 adaptable units, unit 1.01, 1.05 & 2.05 which significantly exceeds the 20% requirement in SEPP 65.

Many of the apartments also incorporate a flexible apartment design to allow buildings to accommodate a diverse range of lifestyle needs such as different household structures, live/work housing arrangements and further change in use.

OBJECTIVE	REQUIREMENT	COMPLIANT
DWELLING ACCESS <i>There is a safe, continuous, step-free pathway from the street entrance and/or parking area to a dwelling entrance that is level.</i>	silver level a. Provide a safe and continuous pathway from: <ol style="list-style-type: none"> the front boundary of the allotment; or a car parking space, where provided, which may include the driveway on the allotment, to an entrance that is level (step-free) This provision does not apply where the average slope of the ground where the path would feature is steeper than 1:14. b. The path of travel as referred to in (a) should have a minimum clear width of 1000mm and – <ol style="list-style-type: none"> an even, firm, slip resistant surface; a crossfall of not more than 1:40; a maximum pathway slope of 1:14, with landings provided at no greater than 9m for a 1:14 ramp and no greater than 15m for ramps steeper than 1:20. Landings should be no less than 1200mm in length; and be step-free c. A step ramp may be incorporated at an entrance doorway where there is a change in height of 190mm or less. The step ramp should provide: <ol style="list-style-type: none"> a maximum gradient of 1:10 a minimum clear width of 1000mm (please note: width should reflect the pathway width) a maximum length of 1900mm Level landings no less than 1200mm in length, exclusive of the swing of the door or gate than opens onto them, must be provided at the head and foot of the ramp.	100%
	gold level As for silver level except in (b) replace the minimum clear pathway width of 1000mm with 1100mm	100%
	platinum level As for silver level except in (b) replace with a minimum clear pathway width of 1100mm with 1200mm provided from: <ol style="list-style-type: none"> the front boundary of the allotment, and any car parking space, where provided, which may include the driveway on the allotment, to an entrance that is level (step-free) as specified in Element 2. 	100%
DWELLING ENTRANCE	silver level	100%

<p><i>There is at least one level (step-free) entrance into the dwelling to enable home occupants to easily enter and exit the dwelling.</i></p>	<p>a. The dwelling should provide an entrance door with -</p> <ul style="list-style-type: none"> i. a minimum clear opening width of 820mm ii. a level (step-free) transition and threshold (maximum vertical tolerance of 5mm between abutting surfaces is allowable provided the lip is rounded or beveled); and iii. reasonable shelter from the weather. <p>b. A level landing area of at least 1200mm x 1200mm should be provided at the level (step free) entrance door.</p> <p>c. Where the threshold at the entrance exceeds 5mm and is less than 56mm, a ramped threshold may be provided</p> <p>d. The level (step-free) entrance should be connected to the safe and continuous pathway as specified in Element 1.</p> <p>Note: The entrance must incorporate waterproofing and termite management requirements as specified in the NCC.</p>	
	<p>gold level</p> <p>As for silver level except replace:</p> <ul style="list-style-type: none"> (b) with a level landing area of at least 1350mm x 1350mm, and (a) (i) with minimum clear door opening width of 850mm 	100%
	<p>platinum level</p> <p>As for silver level except replace:</p> <ul style="list-style-type: none"> (b) with a level landing area of at least 1500mm x 1500mm, and (a) (i) with a minimum clear door opening width of 900mm 	0%
<p>CARPARKING</p> <p><i>Where the parking space is part of the dwelling access it should allow a person to open their car doors fully and easily move around the vehicle.</i></p>	<p>silver level</p> <p>a. Where the parking area forms part of the dwelling access the space should incorporate:</p> <ul style="list-style-type: none"> i. minimum dimensions of at least 3200mm (width) x 5400mm (length); ii. an even, firm and slip resistant surface; and iii. a level surface (1:40 maximum gradient, 1:33 maximum gradient for bitumen). 	n/a
	<p>gold level</p> <p>As for silver level except replace:</p> <ul style="list-style-type: none"> (b) with a level landing area of at least 1350mm x 1350mm, and (a) (i) with minimum clear door opening width of 850mm 	n/a
	<p>platinum level</p> <p>As for silver level except replace:</p> <ul style="list-style-type: none"> (b) with a level landing area of at least 1500mm x 1500mm, and (a) (i) with a minimum clear door opening width of 900mm 	n/a
<p>INTERNAL DOORS & CORRIDORS</p> <p><i>Internal doors and corridors facilitate comfortable and unimpeded movement between spaces.</i></p>	<p>silver level</p> <p>a. Doorways to rooms on the entry level used for living, dining, bedroom, bathroom, kitchen, laundry and sanitary compartment purposes should provide:</p> <ul style="list-style-type: none"> i. a minimum clear opening width of 820mm (see Figure 2(a)); and ii. a level transition and threshold (maximum vertical tolerance of 5mm between abutting surfaces is allowable provided the lip is rounded or beveled). <p>b. Internal corridors/passageways to the doorways referred to in (a) should provide a minimum clear width of 1000mm.</p>	100%
	<p>gold level</p> <p>As for the silver level except replace:</p> <ul style="list-style-type: none"> (a)/(i) with a minimum clear opening width of 850mm (see Figure 2(b)), and (b) with a minimum corridor/passageway width of 1200mm. 	0%
	<p>platinum level</p> <p>As for the silver level except replace:</p> <ul style="list-style-type: none"> (a)/(i) with a minimum clear opening width of 900mm (see Figure 2(c)), and (b) with a minimum corridor/passageway width of 1200mm. 	0%
<p>TOILET</p>	<p>silver level</p>	69%

<p><i>The ground (or entry) level has a toilet to support easy access for home occupants and visitors.</i></p>	<p>a. Dwellings should have a toilet on the ground (or entry) level that provides:</p> <ul style="list-style-type: none"> i. a minimum clear width of 900mm between the walls of the bathroom if located in a separate room; and ii. a minimum 1200mm clear circulation space forward of the toilet pan exclusive of the swing of the door in accordance with Figure 3(a). <p>b. If the toilet is located within the ground (or entry) level bathroom, the toilet pan should be located in the corner of the room to enable the installation of grabrails.</p>	<p>1.01, 1.02, 1.05, 2.01, 2.02, 2.05, 3.01, 3.02, 3.05, 4.01, 4.02, 4.04, 5.01, 5.02, 5.04, 5.05, 5.06, 6.02, 6.03, 6.04</p>
	<p>gold level</p> <p>As for silver level except replace (a)/(i) with a minimum clear width of 1200mm between the walls of the bathroom if located in a separate room, or between amenities if located in a combined bathroom.</p>	<p>69%</p> <p>1.01, 1.02, 1.05, 2.01, 2.02, 2.05, 3.01, 3.02, 3.05, 4.01, 4.02, 4.04, 5.01, 5.02, 5.04, 5.05, 5.06, 6.02, 6.03, 6.04</p>
	<p>platinum level</p> <p>As for the gold level with the following features added to (a):</p> <ul style="list-style-type: none"> iii. a toilet pan positioned between 450mm – 460mm from the nearest wall as measured from the centre line of the toilet; iv. 600mm minimum clearance forward of the cistern measured from the front of the cistern to the front of the toilet pan. 800mm (+/-10mm) clearance is required if the cistern is recessed; and v. a height for the pan of between 460mm - 480mm above the finished floor level as detailed in Figure 4. 	<p>10%</p> <p>1.01 1.05 2.05</p>
<p>SHOWER</p> <p><i>The bathroom and shower is designed for easy and independent access for all home occupants.</i></p>	<p>silver level</p> <ul style="list-style-type: none"> a. One bathroom should feature a slip resistant, hobless (step-free) shower recess. Shower screens are permitted provided they can be easily removed at a later date. b. The shower recess should be located in the corner of the room to enable the installation of grab rails at a future date. 	<p>100%</p>
	<p>gold level</p> <p>As for silver level except:</p> <ul style="list-style-type: none"> c. The hobless (step-free) shower recess described in (a) should: <ul style="list-style-type: none"> i. be located in a bathroom on the ground (or entry) level; ii. provide minimum dimensions of 900mm (width) x 900mm (length); and iii. provide a clear space of at least 1200mm (width) x 1200mm (length) forward of the shower recess entry as detailed in Figure 5(a). 	<p>58%</p> <p>1.01, 1.02, 1.05, 2.01, 2.02, 2.05, 3.01, 3.02, 3.05, 4.01, 4.02, 5.01, 5.02, 5.05, 5.06, 6.02, 6.04</p>
	<p>platinum level</p> <p>As for gold level except:</p> <ul style="list-style-type: none"> i. replace (c)/(ii) with dimensions of at least 1160mm (width) x 1100mm (length); and ii. replace (c)/(iii) with dimensions of at least 1600mm (width) x 1400mm (length) forward of the shower recess as detailed in Figure 5(b). 	<p>0%</p>
<p>REINFORCEMENT OF TOILET AND BATHROOM WALLS</p> <p><i>The bathroom and toilet walls are built to enable grabrails to be safely and economically installed.</i></p>	<p>silver level</p> <ul style="list-style-type: none"> a. Except for walls constructed of solid masonry or concrete, the walls around the shower, bath (if provided) and toilet should be reinforced to provide a fixing surface for the safe installation of grabrails. b. The fastenings, wall reinforcement and grabrails combined must be able to withstand at least 1100N of force applied in any position and in any direction. c. The walls around the toilet are to be reinforced by installing: <ul style="list-style-type: none"> i. noggings with a thickness of at least 25mm in accordance with Figure 6(a); or ii. sheeting with a thickness of at least 12mm in accordance with Figure 6(b). 	<p>100% possible <i>commitment by builder</i></p>

	<p>d. The walls around the bath are to be reinforced by installing:</p> <ul style="list-style-type: none"> i. noggings with a thickness of at least 25mm in accordance with Figure 7(a); or ii. sheeting with a thickness of at least 12mm in accordance with Figure 7(b). <p>e. The walls around the hobless (step-free) shower recess are to be reinforced by installing:</p> <ul style="list-style-type: none"> i. noggings with a thickness of at least 25mm in accordance with Figure 8(a); or ii. sheeting with a thickness of at least 12mm in accordance with Figure 8(b) 	
	<p>gold level Silver level requirements apply.</p>	100% possible <i>commitment by builder</i>
	<p>platinum level Silver level requirements apply.</p>	100% possible <i>commitment by builder</i>
<p>INTERNAL STAIRWAYS <i>Where installed, stairways are designed to reduce the likelihood of injury and also enable future adaptation.</i></p>	<p>silver level a. Stairways in dwellings must feature:</p> <ul style="list-style-type: none"> i. a continuous handrail on one side of the stairway where there is a rise of more than 1m. 	n/a
	<p>gold level As for the silver level with the following additional features:</p> <ul style="list-style-type: none"> ii. a minimum clear width of 1000mm; iii. be straight in design; and iv. be positioned adjoining a load bearing wall. <p>Note: The steps must provide a slip resistant finish and suitable non-slip tread as specified in the NCC. Handrails on both sides of the stairway are preferred.</p>	n/a
	<p>platinum level As for the gold level with the following additional features:</p> <ul style="list-style-type: none"> v. closed risers; vi. continuous handrails on both sides of the stairway; and vii. minimum landing areas of 1200mm x 1200mm at the top and base of the stairway. <p>Note: The steps must provide a slip resistant finish and suitable non-slip tread as specified in the NCC</p>	n/a
<p>KITCHEN SPACE <i>The kitchen space is designed to support ease of movement between fixed benches and to support easy adaptation.</i></p>	<p>silver level No requirements.</p>	100%
	<p>gold level a. The kitchen space should be designed to support ease of movement and adaptation with:</p> <ul style="list-style-type: none"> i. at least 1200mm clearance provided in front of fixed benches and appliances; and ii. slip resistant flooring. <p>b. Where practicable, floor finishes should extend under kitchen cabinetry to enable cupboards to be removed without affecting the flooring. An Assessor should ask the builder / client if he/she can confirm that flooring runs completely under cupboards. Sometimes it is relatively easy to confirm that floor coverings have been applied after cupboards have been installed and sometimes it is not so easy. If relying on advice from a third party, Assessors are advised to provide a note in the notes column of the Assessment.</p>	89% 1.01, 1.02, 1.03, 1.04, 2.01, 2.02, 2.03, 2.04, 3.01, 3.02, 3.03, 3.04, 4.01, 4.02, 4.03, 4.04, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 6.01, 6.02, 6.03, 6.04
	<p>platinum level As for the gold level except that the kitchen space described in (a)</p>	10% 1.01

	<p>should be designed to support ease of movement and adaptation with:</p> <ul style="list-style-type: none"> i. at least 1550mm clearance should be provided in front of fixed benches and appliances; ii. slip resistant flooring; and iii. task lighting installed above workspaces. 	<p>1.05 2.05 Post adaptation</p>
<p>LAUNDRY SPACE <i>The laundry space is designed to support ease of movement between fixed benches and to support easy adaptation.</i></p>	<p>silver level No requirements.</p>	100%
	<p>gold level As for silver level except:</p> <ul style="list-style-type: none"> a. The laundry space should be designed to support ease of movement and adaptation with: <ul style="list-style-type: none"> i. at least 1200mm clearance provided in front of fixed benches and appliances; and ii. slip resistant flooring. b. Where practicable, floor finishes should extend under laundry cabinetry to enable cupboards to be moved without affecting the flooring. 	<p>72% 1.01, 1.02, 1.04, 1.05, 2.01, 2.02, 2.04, 2.05, 3.01, 3.02, 3.04, 3.05, 4.01, 4.04, 5.01, 5.04, 5.05, 5.06, 6.01, 6.03, 6.04</p>
	<p>platinum level As for the gold level except that the kitchen space described in (a) should be designed to support ease of movement and adaptation with:</p> <ul style="list-style-type: none"> i. at least 1550mm clearance should be provided in front of fixed benches and appliances; ii. slip resistant flooring; and iii. task lighting installed above workspaces. 	<p>44% 1.01, 1.04, 1.05, 2.01, 2.04, 2.05, 3.01, 3.04, 3.05, 4.01, 5.01, 5.06, 6.03</p>
<p>GROUND OR (ENTRY LEVEL) BEDROOM SPACE <i>There is a space on the ground (or entry) level that can be used as a bedroom.</i></p>	<p>silver level No requirements.</p>	100%
	<p>gold level a. The dwelling should feature a space (or room) on the ground (or entry) level that:</p> <ul style="list-style-type: none"> i. is of at least 10m² with one wall a minimum length of 3m; ii. provides for a minimum path of travel of at least 1000mm on at least one side of the bed. 	100%
	<p>platinum level As for the gold level, but it also:</p> <ul style="list-style-type: none"> i. provides a space of at least 1540mm (width) x 2070mm (in the direction of travel) on the side on the bed that is closest to the door approach; and ii. provides for a minimum path of travel of 1000mm on the remaining side of the bed. <p>For Platinum level, It should be assumed that a bed with dimensions 1500mm x 2000mm (as shown on the sketch overleaf) is present. This will mean that the minimum clear dimensions of a room would need to be 3000mm x 4040mm to meet the Platinum level requirements. Where a bed is present (in the case of an As Built Inspection), the clearance should be measured to the edges of the bed for beds smaller than 1500mm x 2000mm. If the bed provided is larger than 1500mm x 2000mm compliance should be determined based upon a bed with dimensions 1500mm x 2000mm.</p>	<p>10% 1.01 1.05 2.05</p>
<p>SWITCHES AND POWERPOINTS <i>Light switches and powerpoints are located at heights that are easy to reach for all home occupants.</i></p>	<p>silver level No requirements.</p>	100%
	<p>gold level a. Light switches should be positioned in a consistent location:</p> <ul style="list-style-type: none"> i. between 900mm – 1100mm above the finished floor level; and ii. horizontally aligned with the door handle at the entrance to a room. 	100% possible <i>commitment by builder</i>

	b. Powerpoints should be installed not lower than 300mm above the finished floor level.	
	<p>platinum level</p> <p>As for gold level with the following feature:</p> <p>c. Light and powerpoint switches should be rocker action, toggle or push pad in design with a recommended width of 35mm.</p>	100% possible <i>commitment by builder</i>
<p>DOOR AND TAP HARDWARE</p> <p><i>Home occupants are able to easily and independently open and close doors and safely use tap hardware.</i></p>	<p>silver level</p> <p>No requirements.</p>	100%
	<p>gold level</p> <p>a. Doorways should feature door hardware installed at between 900mm – 1100mm above the finished floor.</p>	100% possible <i>commitment by builder</i>
	<p>platinum level</p> <p>As for gold level with the following features:</p> <p>b. Doorways should feature lever or D-pull style door hardware; and</p> <p>c. Basins, sinks and tubs should feature lever or capstan style tap hardware with a central spout.</p> <p>For Gold and Platinum level, the handle clearances for D-pull style door hardware should be the same as AS1428.1. AS 1428.1 is the most relevant set of specifications aimed at providing the greatest access to the greatest number of people and as such is an appropriate standard to reference for this Element.</p>	100% possible <i>commitment by builder</i>
<p>FAMILY LIVING ROOM SPACE</p> <p><i>The family/living room features clear space to enable the home occupant to move in and around the room with ease.</i></p>	<p>silver level</p> <p>No requirements.</p>	100%
	<p>gold level</p> <p>No requirements.</p>	100%
	<p>platinum level</p> <p>a. The family/living room should accommodate a free space, minimum 2250mm in diameter, to enable ease of movement clear of furniture.</p>	100% possible depending on furniture selection
<p>WINDOW SILLS</p> <p><i>Windows sills are installed at a height that enables home occupants to view the outdoor space from either a seated or standing position</i></p>	<p>silver level</p> <p>No requirements.</p>	100%
	<p>gold level</p> <p>No requirements.</p>	100%
	<p>platinum level</p> <p>a. Window sills on the ground (or entry) level in living areas and bedroom spaces should be positioned no higher than 1000mm above the finished floor level to enable enjoyment of the outlook.</p> <p>b. Window controls should be able to be easy to operate with one hand and located within easy reach from either a seated or standing position.</p> <p>Note: A concession from (a) is reasonable in kitchen, bathroom and utility spaces.</p>	100%
<p>FLOORING</p> <p><i>Floor coverings are slip resistant to reduce the likelihood of slips, trips and falls in the home.</i></p>	<p>silver level</p> <p>No requirements.</p>	100%
	<p>gold level</p> <p>No requirements.</p>	100%
	<p>platinum level</p>	100% possible

	<p>a. All floor coverings should:</p> <ul style="list-style-type: none"> i. be firm and even, and ii. feature a level transition between abutting surfaces (a maximum vertical tolerance of 5mm between abutting surfaces is allowable provided the lip is rounded or beveled). 	<p><i>commitment by builder</i></p>
--	---	---

APPENDIX E

RESPONSE FROM OWNER OF 352 HIGH STREET,
PENRITH



25 October 2021

Colin Henry
Raine and Horne Commercial
Level 1/344 High St,
Penrith NSW 2750

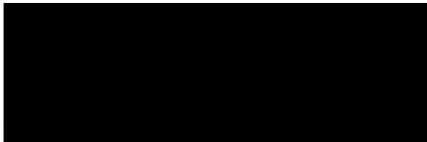
Dear Colin,

RE: 352 High Street, Penrith

Thank you for our discussions in relation to the potential development of my site at 352 High Street, Penrith. I acknowledge your offer to acquire the site, as well as to form a joint venture, as part of the redevelopment of your site.

Unfortunately, at this time I do not wish to sell or join you in a redevelopment.

I wish you all the best with your project.


Lee Waterhouse

APPENDIX F

CLAUSE 4.6 REQUEST TO VARY
DEVELOPMENT STANDARD



CLAUSE 4.6 REQUEST TO VARY DEVELOPMENT STANDARD

DEMOLITION OF ALL STRUCTURES
AND CONSTRUCTION OF A MIXED
USE DEVELOPMENT WITH
BASEMENT PARKING

342-350 HIGH STREET, PENRITH



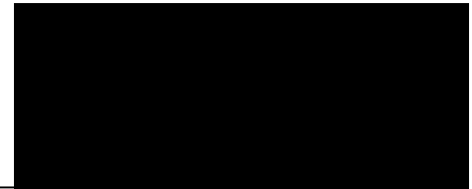
CLAUSE 4.6 REQUEST TO VARY DEVELOPMENT

Prepared by:

Name: Warwick Stimson
Qualification: Bachelor of Arts (Geography and Planning) (UNE)
Address: Stimson Urban & Regional Planning
Suite 5
488 High Street
Penrith NSW 2750

Client and Land Details

Client: Colin & Andrea Henry
Subject Site: SP65435, Lots 2 & 3 DP3180
342-350 High Street, Penrith.
Proposal: Demolition of all Structures and Construction of a Mixed Use
Development with Basement Parking.



Warwick Stimson RPIA
Director



Version 1.0 - 5 Nov 2021
Version 2.0 – 29 Nov 2021

TABLE OF CONTENTS

1	INTRODUCTION	1
2	VARIATION CONSIDERATION	3
	2.1 Variations Sought and their Objectives	
	2.2 History of Supporting Variations on the Site	
	2.3 The Variations Currently Proposed	
	2.4 Compliance is Unreasonable or Unnecessary – (cl4.6(3)(a))	
	2.5 Sufficient Environmental Planning Grounds – (cl4.6(3)(b))	
	2.6 Adequately Addressed the Matters Required to be Demonstrated by subclause (3) – (cl4.6(4)(a))?	
	2.7 Concurrence of the Planning Secretary – (cl4.6(4)(b))	
3	CONCLUSION	15

1 INTRODUCTION

The NSW planning system provides flexibility in planning controls by providing the ability for a consent authority to vary development standards in certain circumstances.

Clause 4.6 in Penrith Local Environmental Plan 2010, includes the following objectives:

- 1) The objectives of this clause are as follows—
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Subclauses 3 and 4 detail the requirements for the consent authority when considering a variation, including:

- (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 Planning Secretary has been obtained.

Stimson Urban & Regional Planning has been engaged by Colin and Andrea Henry to prepare a request to vary two development standards in respect of its proposed development at 342-350 High Street, Penrith. The proposal is to be assessed by Penrith City Council and this request accompanies plans and other documentation, including a Statement of Environmental Effects, submitted to Council. This variation is to be read in conjunction with that material.

The submitted plans propose a breach in the *height of building* and *floor space ratio* development standard and this submission aims to address that aspect of the application. The request is considered to be reasonable in the circumstances and argues why compliance with the standard is unnecessary on the grounds that:

- a) there are sufficient environmental planning grounds to justify the contravention of the development standards;

- b) compliance with the development standards is unreasonable and unnecessary in the circumstances of this case;
- c) the proposed development is in the public interest because the proposed development achieves relevant objects of the *Environmental Planning & Assessment Act 1979* and is consistent with the relevant control objectives and development standards, despite the non-compliance;
- d) the proposed development standard breaches are reflective of a previously approved and activated consent in DA16/0254, with this application being largely consistent with that approval; and
- e) this variation request satisfies the tests established by the Land and Environment Court for the justification and assessment of variations to development standards.

It is considered there are sufficient environmental planning grounds to support the variations. These include the development demonstrating it has design excellence as per the Penrith LEP, the site needing to accommodate Council's on-site waste collection requirements as detailed in the DCP, satisfying the objectives of the zone and the relevant development standards, and the enormous public benefit arising out of this development through the provision of a pedestrian link through the site. The variations sought will not negatively impact nearby or adjoining sites, much like the existing approval on the site.

2 VARIATION CONSIDERATION

2.1 VARIATIONS SOUGHT AND THEIR OBJECTIVES

Variations are sought to the height of building and floor space ratio development standards.

The objectives of the height of building standard (Clause 4.3) 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.

The maximum height of building standard for this site is 12.0m.

The objectives of the Floor Space Ratio standard (Clause 4.4) 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.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The front portion of the site has a maximum floor space ratio control of 2:1, while the rear of the site is 3:1.

2.2 HISTORY OF SUPPORTING VARIATIONS ON THE SITE

Assisting in the consideration of this variation is the existing approval that the site currently enjoys. For DA16/0254, variations to development standards were considered in the report to the Panel in the following manner.

Floor Space Ratio

The subject site is identified on Council's Floor Space Ratio Map as being subject to two differing maximum floor space ratios. The 7 storey mixed use building fronting High Street is subject to a maximum floor space ratio of 2:1. The 7 storey residential flat building located to the rear is subject to a maximum floor space ratio of 3:1.

The development proposes a total of floor space ratio over the whole of the site of 2.982:1 and is therefore partially non-compliant with the development standard.

The total site area is documented as being 1,610.83 sqm (Site A = 765.41 sqm and Site B = 854.42 sqm). Submitted plans indicate Gross Floor Area as follows:

Proposed Gross Floor Area

Mixed Use Building (Building A) = 2338.43 sqm (3.055 : 1) - Does not comply.

Residential Flat Building (Building B) = 2464.43 sqm (2.884 : 1) - Complies.

Quantum Calculation $(2338.43+2464.43) / 1610.83 = 2.982:1$ FSR.

Height of Building

The maximum height permissible for the site under the Penrith LEP 2010 is 12 m. The development proposes a maximum height slightly greater than 24m and does not comply.

Consideration of Clause 4.6

The report presented to the Panel included an extensive extract from the proponent's submission and, given the similarities between that proposal and that which is the subject of this application, it is worthwhile reproducing here as it was the main basis on which the variation was supported.

*"The proposed design provides a landmark architectural building for the Penrith Town Centre. As a backdrop to the vibrant High Street, adjacent to several significant heritage items, and located in Council's proposed new Legal precinct (as part of the Penrith New West initiative) the subject site is in a prominent location in the Penrith Town Centre and **ideal for a high standard architectural and urban design solution.***

Rather than repeating the residential grain of surrounding developments, this development embodies a sleek, elegant form to reflect the commercial and retail nature of a CBD location, whilst providing high-end apartments into the Town Centre, promoting pedestrian activity around a more retail and commercial streetscape.

The proposed development seeks to maintain the DCP envelopes in the existing streetscape in accordance with the DCP guidelines to provide a consistency in scale with the recent and proposed commercial developments at the eastern end of the High Street CBD. This provides a consistent streetscape with increased activity as you enter the traditional heart of the Penrith CBD.

Whilst the DCP and LEP allow a 0 m setback to the adjacent heritage items at 340 High Street, the development proposal actually increases the building setback in order to pull the new building away from the boundary to provide an appropriate curtilage around the heritage buildings at 340

High Street.

*This provides the old Bank Building at 340 High Street to have 'breathing space' with the opportunity to appreciate this building from the western and southern elevations, The proposal also reinstates the prominence of the Old Bank Building at 340 High Street in the streetscape through the use of symmetry. **Using the proportions of the Bank Building's large archways the proposal incorporates a new entry structure for 344 High Street at the ground level within the setback from the eastern boundary to provide relief for the bank building.***

This curtilage is reinforced by the extension of the vertical blades on the curved eastern facade which through the use of a bridging steel structure, provides an integrated facade between the front and rear buildings on the site which provide a consistent texture which acts as a backdrop to the heritage buildings. This backdrop not only addresses the Bank Building on the 340 High Street frontage, but also the old stables building at the rear of the site, providing a neatly landscaped courtyard at the end of John Cram Place.

The curved nature of the building also sets up the potential for a 'heritage precinct' where new developments in line with the LEP and DCP objectives can address the heritage buildings in this area, such as the items at 340 High Street and the Catholic Church adjacent. The proposal also provides a direct connection between High Street and the old 'Stables' building at the rear of 340 High Street. We note that the ground floor retail covers the entire frontage of High Street but is designed in such a way to provide pedestrian access through the retail space to the rear of the site.

We are looking to bring pedestrian activity into the site through a secure covered walkway, which can be used by commercial tenancies to promote pedestrian activity and passive surveillance at the end of John Cram Place.

The proposal also seeks to address John Cram Place through location of the residential lobbies for the development, which enter directly onto John Cram Place. This creates immediate pedestrian activity on the laneway, and changes it from a vehicle only service lane, to an active alive street.

The installation of a new stormwater drainage line, a new footpath and external lighting for pedestrian safety enhance this treatment. *Through careful attention to form, massing and architectural detail the proposal has a distinct character. Located in the new legal precinct identified in the Penrith New West initiative the use of high quality materials, bold architectural features, and an expansive building form which curves and wraps around existing heritage items, result in a building which is not a regular residential apartment block.*

The role of this building in the public domain is to promote pedestrian activity in the precinct, set a high standard for architectural detailing and finishing, to celebrate and acknowledge the heritage buildings that are adjacent to this site, and importantly with regard to the public domain set a precedent for future developments in the area.

The proposal maintains the streetscape envelope required by the DCP. The street frontage is an appropriate scale for pedestrian interaction, allows for the streetscape to retain good access to natural light and ventilation. Whilst it maintains the desired street wall along High Street the ground floor design allows for high pedestrian activity and easy access through the site to buildings at the rear of the site on John Cram Place on adjacent properties.

The public domain is also improved at the southern side of the building. New pedestrian footpath, external lighting and guttering mean that the development provides a pedestrian friendly environment along John Cram Place without compromising the service function the laneway performs for the existing commercial premises. With increased pedestrian activity there is regular surveillance of this laneway, which makes this a safe place.

Council's intention to maintain a 12 m height limit along High Street to provide a natural light to public spaces and to take into account a number of heritage buildings is understood. This proposal maintains the DCP setbacks and heights for the streetscape. We also provide a more significant presence of the heritage building adjacent to our site but using the same proportions of that for our walkway entry."

The assessment report presented to the Panel succinctly concluded as follows.

In conclusion the proposed variations are supported on the basis of their consistency with the matters for consideration outlined in Clause 4.6.

For this application, whilst the site area is marginally bigger with the acquisition of an adjoining site, the principles applied through the design process, from establishing design excellence, through to consideration of the adjoining heritage item, have all been consistent with those that were applied in the original application. In simple, practical terms, it follows that the same response to the variations sought should also be similar with support being given to the development.

2.3 THE VARIATIONS CURRENTLY PROPOSED

The variations are best presented in tabulated form.

Building Height				
Building	Building Element	LEP Standard (m)	Approved (m) ¹	Proposed (m)
A	Main Building	12	24m+	24.28
	Lift Overrun/Plant		24m+	25.38
B	Main Building	12	24m+	23.47
	Lift Overrun/Plant		24m+	25.07

Floor Space Ratio					
Building	LEP Standard	Approved	Approved (Total)	Proposed	Proposed (Total) ²
A	2:1	3.055:1	2.982:1	3.17:1	2.99:1
B	3:1	2.884:1		2.72:1	

¹ The Council assessment report presented to the Panel explains the proposed height of the building as *“The development proposes a maximum height slightly greater than 24m and does not comply”*. No detailed measurements or building references are included. It is not clear whether there is any difference, or extent thereof, between the height of the main building and that of the lift overrun/plant.

² Assuming the same calculation methodology in Council's Assessment Report presented to the Panel

2.4 COMPLIANCE IS UNREASONABLE OR UNNECESSARY – (CL 4.6(3)(A))

Of relevance to this part of the consideration, the Land and Environment Court has considered a series of questions, as outlined in *Wehbe v Pittwater [2007] NSW LEC 827*. This case expanded on the previous findings in *Winten v North Sydney Council* and established a five (5) part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions (with those most applicable to this matter underlined):

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives;
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consents that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
- Is the “zoning of particular land” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.

Consistency with the objectives

We submit it would be unreasonable to enforce strict compliance given that the proposal satisfies the height of building and floor space ratio standards 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, as indicated in Council’s Penrith City Centre section of DCP 2014.
- The proposal demonstrates design excellence as required under clause 8.4 of the LEP, and as endorsed by Council’s Urban Design Review Panel and the NSW Government Architect’s Office convened Design Integrity Panel.
- The proposal does not impact on the visual amenity or minimise loss of privacy or solar access.
- There is no heritage item on the site. The adjoining heritage item has been considered extensively in the design submitted for consideration.
- The proposal provides a high-quality urban form and results in a building that will contribute to a varying skyline given the height limit in this locality.

- It is unreasonable to apply the height limit across the site in this case as the proposal does not impact on the visual amenity nor does it significantly reduce views, privacy or solar access.
- The proposed development meets the objectives of the zone and the height of building clause, in that it contributes to the provision of necessary land uses within the Penrith LGA in locations that are in close proximity to services and facilities.

On this test the requirements of clause 4.6(3)(a) have been met.

Abandonment of the Development Standard

The Urban Design Analysis accompanying the application describes the character of the area as follows:

The site is located on the periphery of the Civic and Justice Precinct which brings a formality to the eastern boundary of the City Centre. The precinct will house a range of government services, including Courts and Police. The area will largely be active during the day. The Justice Precinct provides a feeling of safety, with strong way finding elements on the ground to assist people as they participate in the activities of justice, appearing or defending, paying fines or consulting legal opinion. For many people it is a place of work, with small cafés and office accommodation.

The proposed development is consistent with the built form anticipated in the locality, guided by the street wall and setback controls within Council's DCP, and is similar to other commercial and mixed-use development being considered in the locality. This development is representative of the built form envisaged in the location and the accepted interpretation of the applicable controls, which is itself a reflection of the development approved under DA16/0254. Whilst the subject site is now slightly larger, the two developments scale similarly and the inclusion of the additional site has created an improved presentation of urban form to High Street and a better result overall. It is reasonable to use DA16/0254 as a basis for considering this development and the variations proposed.

In *Abrams v The Council of the City of Sydney (No 2)* [2018] NSWLEC 85, Robson J, on appeal, concluded that the previous development consents were relevant instruments to be considered for the purpose of s39(4) of the *Land and Environment Court Act 1979* (NSW) because they were relevant to whether the FSR development standard had been abandoned.

Abrams requested a variation of the FSR development standard pursuant to CI 4.6 of the Sydney LEP, relying on two prior consents given by Council on the site. The Council refused the development application and Abrams appealed the refusal to the LEC. Commissioner Brown heard and dismissed the appeal. Abrams appealed against this decision.

Abrams relied upon *Wehbe v Pittwater Council* [2007] NSWLEC 827; (2007) 156 LGERA 44, as the basis for arguing that compliance with the development standard was unnecessary or unreasonable in the circumstances. In particular, it was argued that the fourth test as set out in that case applied. Namely, the development standard had been abandoned or destroyed by the Council's own actions of granting development consents departing from the standard.

The Court held that prior consents on the same site or in the locality '*may be instructive for the purpose of an 'abandonment' argument or in informing the desired character or future streetscape of a locality*'.

This, however, was not sufficient to demonstrate abandonment of the development standard.

In 2020, the Court determined *SJD DB2 Pty Ltd v Woollahra Municipal Council [2020]NSWLEC 1112* in which further direction was provided when it comes to dealing with the test of establishing whether a development standard has been abandoned as justification for a clause 4.6 variation request. This decision also considered the impacts of existing nearby developments in determining the 'desired future character' of a neighbourhood.

SJD DB2 Pty Ltd (the Applicant) sought consent for the demolition of existing buildings and the construction of a six-storey shop top housing development, with retail on the ground floor, twenty-one residential apartments above, and two levels of basement parking for thirty-six cars and four motorbikes.

The proposed development had a height of 21.21m and a floor space ratio (FSR) of 3.54:1. Pursuant to the height and FSR controls under the applicable Woollahra Local Environmental Plan 2014 (WLEP), this is an exceedance of approximately 44% in relation to height and 41% in FSR.

Importantly, adjacent to the subject site to the east are two approved developments under construction, each to become six storey buildings of a very similar height and floor space to the proposed development. The proposed development was designed with the intention of continuing the line of development from adjoining sites to the east, adopting the same height and general form.

As established by Preston CJ in *Wehbe v Pittwater Council [2007] 156 LGERA446*, one of the five most common ways to demonstrate that the application of standards is unreasonable or unnecessary in a particular scenario is to show that the standard has been abandoned.

In this case, the Court concluded that the development meets the objectives of the development standards notwithstanding the breaches. That said, the Acting Commissioner still stated that when considering whether the relevant development standards had been abandoned, the Court had to again consider whether to look at the recent approvals to the east of the subject site in their immediate context or in the broader context of the Double Bay Centre.

The Council argued that the controls had not been abandoned, as it was only two non-compliant developments that had been approved, and as such the controls that apply to the Double Bay Centre had not been abandoned and should apply to the subject site.

However, the Applicant again argued that the planning controls had clearly been abandoned in this specific area of the Centre, as shown by the approval of the two developments adjacent to the east.

The Acting Commissioner agreed with the Applicant, stating “The Council deliberately and knowingly decided that larger buildings were appropriate in the block of which the site forms part. That, in my view, amounts to an abandonment of the controls for this part of Double Bay.”

So the Court, if asked to determine the matter on this issue, adopted the position that the concept of abandoning a control can apply to a part of an area that is the subject of that control, albeit subject to the circumstances of the case.

The cases are relevant to this scenario for the following reasons:

- The controls that are seeking to be varied, apply to a very small area of the Penrith CBD. Their genesis was likely a rudimentary approach to preserving the heritage values of the adjoining heritage item, the efforts of which translated into a clumsy set of planning controls applying to this site. This development proposal incorporates a sophisticated consideration of the adjoining heritage item and its relationship with the proposed development, including consideration by Council’s own Urban Design Review Panel and the NSW Government Architects convened Design Integrity Panel.
- The controls themselves do not relate to each other, given there are differing FSR controls over an area that has a constant building height limit.
- DA16/0254 represents the built form that Council, and the Panel, believes is appropriate for this part of the Penrith CBD as depicted in the Penrith Development Control Plan. Apart from a differing architectural detail on this proposal, the main contrast between the approved DA and this proposal is that the site extends further to the west – the resultant building form, we submit, is a broader benefit to this particular Penrith streetscape.
- The objectives of the standards have been met, notwithstanding the non-compliances.

Even if one concludes the development standards have not been abandoned through the approval of DA16/0254, one will have to accept that its approval was a recognition that built form generally of the scale which was approved then, and is proposed now, can sit comfortably within the context of the planning controls that apply to the Penrith CBD beyond the site and the relevant zoning boundaries.

On this basis the requirements of clause 4.6(3)(a) have also been met.

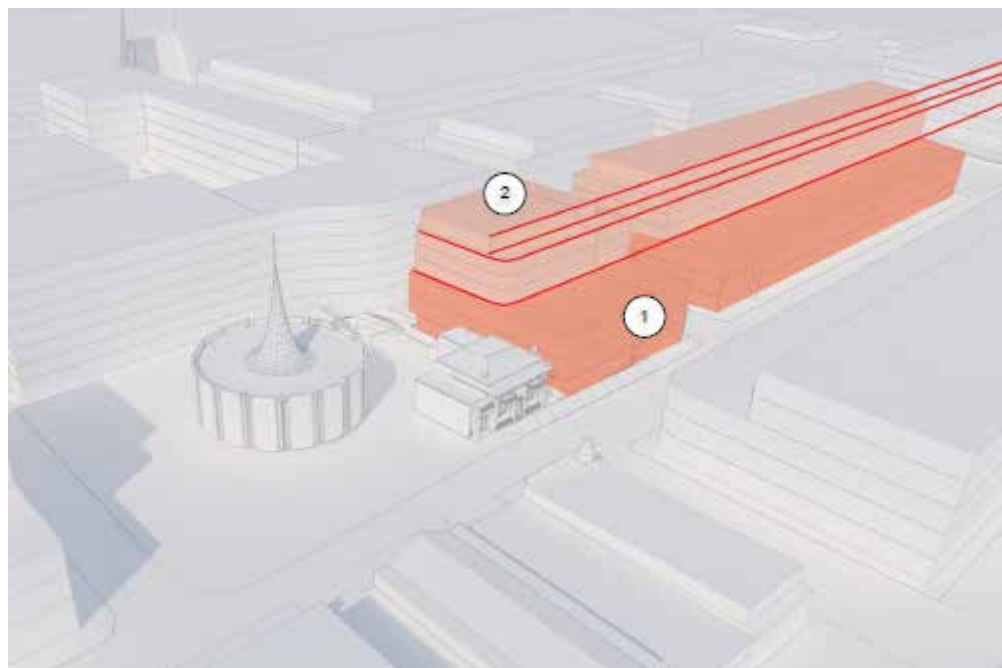
Inappropriate Development Standards

As an extension to the points made above in relation to the potential discarding of the relevant standards, it follows that there would therefore be an acceptance that those controls were not appropriate.

As we have submitted above, not only do the two standards (height and FSR) not ‘talk to each other’, their genesis was likely based on a rudimentary approach to preserving the heritage values of the adjoining heritage item. This proposal has taken a far more sophisticated approach to the design submitted and this is detailed in the accompanying Urban Design Analysis, which states:

The proposal seeks to provide consistency in the streetscape of the Penrith City Centre by using the current Town Centre DCP controls for street heights and setbacks along High Street and Castlereagh Street. With increased separation from the shared boundary with the adjacent heritage building the proposal seeks to extend this retail street character down a new laneway connecting to the new residential development at the rear of the site providing further activation in the site and connecting to the rear land of John Cram Place.

1. Maintain a 12m street wall along High Street with retail at ground level and commercial tenancies at level 1 and 2.
2. Setback upper levels of commercial and residential in line with allowable DCP controls to minimise impact on streetscape, but increase density to provide pedestrian activation, passive surveillance, and accommodation and employment opportunities.



In this case, the DCP controls could be considered in conflict with the LEP standards. Notwithstanding, the assessment of DA16/0254 considered this conflict and concluded that the above representation presented the preferred principles on which development of the site should be based.

It could be argued that on this basis, the requirements of clause 4.6(3)(a) have been met.

2.5 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS – (CL 4.6(3)(B))

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under Clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP.
- Whether there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning

grounds that may apply to any similar development occurring on the site or within its vicinity).

- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs; and
- All three elements of clause 4.6 have to be met and it is best to have different reasons for each, but it is not essential.

In the context of the current proposal, an in light of Council's consideration of development on the site over the past several years, the following is submitted for consideration.

- One could argue that due to the small footprint of where the planning controls apply (particularly the FSR control – centred around the heritage item), the approval of DA16/0254 has effectively abandoned their application. At the very least, the approval of DA16/0254, including all of the arguments and principles supported through the design, was recognition that there was a better method in planning development on this site and in proximity of the heritage item.
- The approval of DA16/0254 also acknowledged the conflict between the controls within the LEP, and those within the DCP. The decision indicates a preference for the built character and outcomes sought by the DCP, and this proposal reflects that position and decision making.
- The resultant building bulk, is positioned away from the edge of High Street, meaning that the built form will not result in an unacceptable and overbearing visual element on the streetscape.
- As a result, the objectives of the DCP, particularly the controls relating to street wall height and surrounding overall building height, are met.
- Further benefits have arisen through the design process with the creation of a pedestrian link to John Cram Place. This has not only created pedestrian permeability in a part of the Penrith CBD that is lacking in that respect, but that link has created the opportunity for an appropriate setback to the heritage item, in turn creating an activated laneway space.
- The proposal pioneers an interesting mix of commercial and residential uses that will guide such developments in the CBD in the future.
- The creation of unique and intimate public open spaces in the laneway should be supported in contributing to the broader activity within the Penrith CBD. Tenancies fronting such spaces may result in social and economic benefits that would otherwise not be created were a strictly compliant development be proposed.
- The variation proposed as part of this application, would not result in any material impacts beyond what has been approved under DA16/0254.
- Design excellence has been demonstrated through the general satisfaction of the ADG controls and SEPP 65 design principles, as well as endorsement of the proposed

development by the NSW Government Architects Office convened Design Integrity Panel.

Given the unique situation on this site with the previous approval of DA16/0254, the above grounds are not considered generic, and are closely linked to the differences between the two development proposals and the applicable controls. These are sufficient environmental planning grounds on which the proposal can be justified.

2.6 ADEQUATELY ADDRESSED THE MATTERS REQUIRED TO BE DEMONSTRATED BY SUBCLAUSE (3) – (CL4.6(4)(A))?

The Court, in *Initial Action Pty Ltd v Woollahra Municipal Council*, further clarified the correct approach to the consideration of Clause 4.6 requests. This included clarifying that the Clause does not require that a development that contravening a development standard must have a neutral or better environmental planning outcome than one that does not.

Clause 4.6 of a standard instrument LEP permits a consent authority to grant development consent for development that would contravene a development standard where the consent authority is satisfied that:

- cl4.6(4)(a)(i): a written request from the applicant adequately demonstrates that compliance with the development standard is unreasonable or unnecessary (cl4.6(3)(a)), and that there are sufficient environmental planning grounds to justify the contravention (cl4.6(3)(b)), and
- cl4.6(4)(a)(ii): the proposed development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development within the relevant zone.

To clearly consider this case and its applicability to the proposed development, the clauses have been tabulated below, and considered against the above Court case, the proposal, and this very submission.

Penrith LEP 2010	Consideration
<p>4.6(4) Development consent must not be granted for development that contravenes a development standard unless:</p> <p>(a) the consent authority is satisfied that:</p>	
<p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>	<p>Subclause (3) requires the following to be demonstrated for the purposes of this consideration:</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>These matters have been responded to earlier in this report in that:</p> <ul style="list-style-type: none"> · There are sufficient environmental planning grounds to justify the proposal. · Application of the standards is unreasonable and unnecessary on the basis that the controls have effectively been abandoned. If not abandoned, the

previous approval on the site has effectively established an appropriate scale and bulk of development in the context of the locality and the adjoining heritage item.

Other matters to note, although less direct in the specifics of this proposal, include:

- The height, bulk and scale of the proposal is consistent with that of the desired future character of the locality, as indicated in Council's DCP.
- There will be no loss of views to or from public areas, nor any loss of solar access.
- The height proposed is considered to result in a building that will present as a high-quality architectural element in this locality and represents a scale and bulk generally consistent with the desired future character.

The objective of each of the development standards can be satisfied through this development as proposed.

It follows that this aspect of Clause 4.6 has been satisfied.

(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

The proposed development is consistent with both the development standards that are proposed to be varied, as well as the objectives of development in the zone. The development is therefore in the public interest (see para 27 of the judgement).

2.7 CONCURRENCE OF THE PLANNING SECRETARY – (CL4.6(4)(B))

Concurrence may be assumed by the consent authority as per Planning Circular PS20-002, issued on 5 May 2020.

3 CONCLUSION

Compliance with the building height and floor space ratio development standard is considered to be unreasonable and unnecessary in the circumstances of the case, and it is considered that there are sufficient environmental planning grounds to vary the standards in this case.

The request to vary the development standards is considered to be well-founded on the grounds that the non-compliance with the building height development standard, *inter alia*:

- Enables compliance with Council's DCP in respect of built form and design outcomes along High Street.
- Enables provision for additional housing stock in a transport-accessible location.
- Will result in a building that demonstrates design excellence, as endorsed by Council's Urban Design Review Panel and the NSW Government Architects Office Design Integrity Panel.
- Allows for the efficient and economic development of a site that is capable of accommodating, and suitable for, the additional height proposed.
- Enables a development that reflects the changing character of the locality without significant impact on the use and enjoyment of adjoining land.
- Does not fetter consistency of the development with the objectives of the building height development standard, or the objectives of the zone.
- Achieves relevant objects of the *Environmental Planning & Assessment Act 1979*, in particular, the provision of housing, in the public interest; and
- Does not raise any issues of State or regional planning significance.

This variation request addresses the matters required to be considered in Clause 4.6 of Penrith LEP 2010. Council is requested to exercise its discretion to vary the development standards by granting consent to the proposed development despite its non-compliance with the building height standard.