

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0315
Proposed development:	Demolition of Existing Structures, Tree Removal and Construction of 13 x Townhouses with Car Parking, Drainage and Landscaping
Property address:	11 Gibson Avenue, WERRINGTON NSW 2747 9 Gibson Avenue, WERRINGTON NSW 2747
Property description:	Lot 69 DP 562334 Lot 68 DP 562334
Date received:	10 May 2019
Assessing officer	Pukar Pradhan
Zoning:	Zone R3 Medium Density Residential - LEP 2010
Class of building:	Class 1a
Recommendations:	Refuse

Executive Summary

Council is in receipt of a development application for the demolition of existing structures and the construction of thirteen (13) x two (2) storey townhouses proposed at 9 - 11 Gibson Avenue, Werrington. The subject site is zoned R3 Medium Density Residential under the Penrith Local Environmental Plan 2010. The proposal is defined as multi dwelling housing which is a permissible land use in the R3 zone subject to Council consent.

Key issues identified include:

- Drainage;
- Design;
- Landscaping;
- parking; and
- solar access.

The application was notified to adjoining properties and was advertised in the local newspaper between 24 May and 7 June 2019 in accordance with the Penrith Development Control Plan 2014. No submissions were received in response.

An assessment of the development application has been undertaken, under Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the application was found to be inconsistent with the objectives of the zone and non-compliance with several development standards of the DCP 2014 and is therefore recommended for refusal. This application is to be determined under delegated authority.

Site & Surrounds

Properties of the site

The subject development is located on two blocks and is located on the western side of Gibson Avenue, approximately 70m north of the intersection of the Irwin Street and Gibson Avenue and 580m north from Victoria Street. The site is a rectangular shaped lot with a 30m frontage to Gibson Avenue and a depth of 70m, resulting in a site area of 2,322m². The site is currently occupied by a single storey dwelling and associated outbuildings on each lots. The larger site has an inground swimming pool which will be removed. Several trees are located on the site which will be removed to cater for dwellings. The surrounding area is undergoing a period of transition from low density residential development to medium density.

Site constraints

- Site has a crest at almost half way from the front and half portion of the site slope to the rear and half to the front of the site.
- An easement will need to be created from one of the adjoining property to cater for drainage system.

History

- *No record of applicant attending a pre-lodgement meeting with Council prior to lodgement of the application.*
- *A letter was sent to the applicant on 11 June 2019 requesting for additional information on Drainage, Building length and improvement to design, increased landscaping area, provision of an additional visitor parking space submission of a Bushfire Report and a formal consent from Council's property department granting consent to create an easement for drainage over Council's Property. Applicant also advised to consider withdrawing the application to allow for sufficient time and meetings to resolve those matters needing to be addressed.*
- *A meeting was held on 24 June 2019 with the applicant and designer to go through the design and drainage issues of the proposal.*
- *A further letter was sent on 19 August 2019 advising that on site parking and manoeuvring and Stormwater design were not satisfactory and required to be addressed and a drainage easement through downstream properties pursued and information provided within 14 days.*
- *Applicant on 3 October 2019 requested the adjoining landowner (currently Council) for a consent to create a wider easement from 2m to 2.5m along the eastern boundary of 86 Reid Street. This was agreed by Council's property department on 9 October 2019 subject to their terms of conditions.*
- *Amended architectural plans were provided on 4 October 2019 in response to Council's letter. However, the information provided did not adequately address those matters raised by Council.*
- *An amended drainage plan was further submitted on 19 November 2019 and another one on 21 November 2019 for review however, they did not meet Council's DCP requirements.*
- *The applicant was given further time to respond to Council's concerns by 29 November 2019.*
- *A meeting was held with the applicant's engineer and Council's Engineer to discuss drainage and easement matter and the applicant was advised to come up with appropriate design or seek easements from other downstream property to provide drainage for the proposed development.*
- *Applicant on 28 November 2019 sent a new drainage plan requiring a new easement along the western boundary over 86 Reid Street.*
- *Applicant further requested extension of time to provide information, he was further given extra time and was advised to provide all information by 10 February 2020 otherwise, the application will be determined based on the information Council has at hand or he is to withdraw the application.*
- *Applicant still has not satisfactorily addressed the drainage system for the development or withdrawn the application and hence recommendation for refusal.*

Proposal

The development proposes the construction of 13 townhouses..

Specifically, the proposed development includes the following key aspects:

- Demolition of the existing dwellings, structures and outbuildings;
- 13 x 2 storey townhouses (all containing 3 and 4 bedrooms) within 6 buildings;
- 7 stacked double garages, 6 single garages and 8 open car spaces (a total of 28 parking spaces);
- Landscaping; and
- Related drainage works.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• Section 4.14 - Bushfire prone land assessment

The subject site is located within an infill urban area and is located within the Bushfire Prone Map. The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made:

A Bushfire Report prepared by BPAD dated 28/06/2019 was submitted with the application. The report states the following:

- There is at least 80m of managed residential land between the subject site and existing vegetation to the north west.
- A 10m asset protection zone (APZ) is required between the proposed building and grassland / remnant to the north-east.
- The proposed development is assessed as BAL-12.5 and maintain short cropped grass less than 100mm adjacent to the house
- The project complies with the construction requirements of AS3959 and the performance requirements of the BCA.
- The objectives and performance requirements of Planning for Bushfire Protection 2006 can also be achieved.

The site being within urban area with infill developments will not be able to comply with 10m IPA but will be required to maintain APZ by reducing radiant heat level at the building line. The buildings will need to be constructed of 12.5 BAL and landscaping area to be well maintained as recommended in the recommendations of the report.

• Section 4.15 - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land and the site has been used for only residential purpose for many years and as such the site is considered to be suitable for the same residential use and the application is satisfactory subject to recommended conditions of consent.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No.20 (SREP 20) provides an overall direction for planning to protect the environment of the Hawkesbury/Nepean River catchment. It requires that the impact of future land uses need to be considered in a regional context and that any development must be consistent with the aims of this policy. The aims and objectives of the plan are directed towards improving the amenity of the river and protecting the lands within the river valley, including scenic quality.

Whilst the development will provide soil erosion and sediment control measures, the development fails to provide a drainage solution that complies with Council's DCP and as such has the potential for the ability to redirect flows from one catchment to another catchment that are not normally receiving these flows which will have a potential adverse impact on the local drainage characteristics. In this regard the proposed development is considered unsatisfactory in accordance with Water Quantity Controls of the DCP.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Does not comply - See discussion
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.1 Earthworks	Does not comply - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The subject site is zoned R3 under the provisions of Penrith Local Environmental Plan 2010. The proposal which is defined as multi dwelling housing is permissible in the zone with Council consent.

Clause 2.3 Zone objectives

The proposed development is inconsistent with the objectives of the zone, specifically:

- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Under Clause 4.1A, within the R3 Medium Density Residential zone a lot is to have a minimum area of 800m² for multi dwelling housing development. The subject lot complies with this requirement having an area of 2,322m².

Clause 4.3 Height of buildings

The Height of Buildings Map indicates that the height of a building on the subject site is not to exceed 8.5m. The proposal complies with this requirement with the proposed development being 7.40m above natural ground level.

Clause 7.1 Earthworks

The development proposes the filling of the site to cater for drainage. This will result in the FFL of units 8 & 9 being raised approximately 1.10m above the natural ground level resulting in unacceptable privacy impact to adjoining property and will also have impacts on the surface water flow to adjoining properties.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Does not comply - see Appendix - Development Control Plan Compliance
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Does not comply - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	Does not comply - see Appendix - Development Control Plan Compliance
D2.5 Residential Flat Buildings	N/A
D2.6 Non Residential Developments	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

Section 79C(1)(a)(iv) The provisions of the regulations

The application was referred to Council's Building Surveyors for assessment who have provided standard conditions of consent with regard to fire safety and compliance with relevant sections of the BCA. These conditions are not recommended to be included in the Notice of Determination as the development application is recommended for refusal.

In accordance with Clause 54 of the *Environmental Planning and Assessment Regulations 2000*, the applicant was requested to provide additional information and an amended drainage plan to demonstrate that the development can meet the Council's DCP requirements. Despite giving substantial amount of time (over 8 months) to the applicant, all amended drainage plans submitted have not demonstrated that it can satisfactorily discharge stormwater to the street or to obtain easements from other properties that would cater for drainage and can comply with Council's DCP requirements.

The applicant was requested to withdraw the application on 10 January 2020 but has not done so and as such the application is now recommended for refusal due to insufficient information given with respect to drainage and other non compliances with the DCP.

Section 79C(1)(b)The likely impacts of the development

Bulk, scale and design

Council's DCP requires that a development must demonstrate how all proposed buildings are consistent with the height, bulk and scale of adjacent buildings and buildings of a similar type and use and how it will avoid or minimise negative impacts on adjoining and surrounding properties taking into account the topography of the site and the area. Where the dimension of the building is 20m or more, an applicant must demonstrate how the building or surface has been articulated (either through built form or materials) to minimise impact on bulk and scale. Furthermore, building locations, height and setbacks should seek to minimise any additional overshadowing of adjacent buildings and for the buildings on the site where there would be a significant reduction in amenity for users of those buildings and courtyard spaces.

Although the immediate surrounding area are predominantly single and two storey residential developments, there are several newly development townhouse developments located not far from this site. Whilst the proposed development provides a similar form and style of townhouses existing in that area, the development fails to reflect a good design outcome in that:

- it does not provide sufficient articulation or stepped/recessed external wall and in particular along the upper levels,
- it proposes building length of 23.4m (which is over 20m);
- it does not adopt façade treatments which define, activate and enhance street character;
- it does not provide external walls along upper levels that are shorter than 5m between distinct corners that would assist to more articulate the building design and enhance its design;
- the buildings does not provide the upper storey surrounded by a larger ground floor plan that incorporates projecting rooms, shady verandah and carports;compose façades with an appropriate scale, rhythm and proportion that responds to the building's desired contextual character;
- whilst the building material or colour have been considered, the buildings does not express important corners by giving visual prominence to parts of the façade, for example, a change in building articulation, , roof expression or building height, which are inconsistent with the requirements of the DCP.

In view of the above, the development thus fail to comply with Part C Section 1.2.3 Building Form (in particular to sub-clauses c; d & f) and Part D Section 2.44 Urban Form and section 2.4.9 Solar Planning and Section 2.4.12 Building Design of the DCP .

Stormwater Management

As half site falls to the front and rear half part of the site falls to the rear, the development can not drain to Gibson Avenue and relies upon creating easement over adjoining property. In order to achieve an appropriate fall to cater for drainage, it proposes some filling to the rear part of the site and also construct retaining wall along the boundaries so that drainage can be channelled through an easement over an adjoining property. The drainage plan submitted was examined by Council's development engineer and was found to be unsatisfactory as it did not comply with Council's DCP requirements. It has been 8 months since the lodgement of the application and several meetings with the applicant to achieve an appropriate drainage system that meets Council's DCP requirements. However, the subsequent three different drainage plans submitted have failed to demonstrate that it can comply with Council's DCP requirements.

Furthermore, the proposed filling and retaining walls have the ability to redirect flows from one catchment to another catchment that are not normally receiving these flows and raise the FFL of dwellings and create overlooking impact to adjoining properties which will result in adverse impact on the local drainage characteristics and amenity.

The applicant thus fails to meet the requirements of Part C section 3.6 Stormwater Management and Drainage of the DCP 2014.

Vegetation management and landscaping

The site contains several Vegetation located along the western front part of the site and a mature tree located close to the adjoining northern property. A Tree report, prepared by About Trees, author Lawrie Smith, undated was submitted along with landscape plan prepared by O'Brien Design and Drafting, Dwg No 911_GW_DA.30, revision A, dated 9/5/2019.

The tree report was examined by Council's Tree Management Officer who has advised that the application fails to address the vegetation management of the site.

The landscaping design show planting along the frontage and the rear area which appears to be reasonable for such developments. However, vegetation proposed along the side boundaries are within 3m from the buildings and as such will need to be relocated to achieve 3 m distance from buildings or choose more appropriate species that will not have wider spread and roots.

Visual Impacts

The proposed finished floor levels of Unit's 12 and 13 proposes a floor level in excess of 80cm above natural ground level and will have the potential to increase overlooking to adjoining properties.

Solar Access

The DCP requires that 4 hours of sunlight access is received in living areas and 3 hours to 40% of the main private open spaces of the dwelling and any adjoining dwellings. The submitted shadow diagram indicates that 5 of the 7 dwellings located on the southern boundary will not receive 4 hours of sunlight to living areas during winter period and 4 to 5 courtyards of the 13 dwellings will not receive 3 hours of solar access to 40% of the courtyard area. The development thus has been poorly designed and is non compliance with the DCP requirement.

Parking and vehicular access

Vehicular access is provided via a combined 5.50m wide entry/exit central driveway. However, all vehicles should be able to drive in to garages in a forward direction but turning circles provided show that not all vehicles can enter the garages in a forward direction and will need to reverse in to the garage which is not satisfactory.

The development required to provide 29 (13 x 2 + 3 visitors = 29 spaces) parking spaces for the occupants and 3 spaces for the visitors. The development provides 28 on site parking spaces and has a shortfall of 1 visitor parking space. The application thus does not comply with on site parking requirements.

Section 79C(1)(c)The suitability of the site for the development

The application fails to comply with the requirements of the relevant planning provisions, particularly with regard to water management, filling and retaining walls resulting in loss of privacy and poor design outcome. The site is therefore not suitable for the development proposed.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents and advertised in the local newspaper between 26 May and 7 June 2019. Council has received no submissions in response.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	Not supported
Environmental - Biodiversity	No objections
Waste Services	Not supported
Traffic Engineer	Not supported
Property Development	Not supported, however conditions provided

Property Development

The development will require to use one of the adjoining properties to drainage the site to the street.

Applicant has requested the property owner of 86 Rreid Street for consent to use a nominated easement located along the eastern part of that site. Council being the owner of that property has provided consent in principle to use that part of the site as an easement subject to Council's Development Engineer accepting the design.

Whilst there has been several amendments to the drainage plan in attempting to comply with Council's DCP none of the plans using the easement proposed along eastern part of the adjoining property were able to demonstrate that it is compliant with the DCP requirements. The latest drainage plan proposes to create a new easement along the western boundary for drainage outlet to street however, the applicant does not have consent from the property owner for the creation of the easement. This would result in creating two easements over one property which would limit the site development area for future developments on this site and hence was not supported.

Section 79C(1)(e)The public interest

In light of the issues raised in this report, the application is not in the public interest. The proposal is not consistent with the objectives of the zone and the application has failed to demonstrate compliance with relevant planning controls.

Section 94 - Developer Contributions Plans

The following Section 7.11 calculations apply to the proposed development should the development be supported.

S.7.11 Contribution Plan	Contribution Rate x Calculation rate	Total
District Open Space	20 x \$ 726	\$14,520.00
Local Open Space	20 x \$ 2,009.00	\$ 40,180.00
Cultural facilities	25.2 x 178.00	\$ 4,486.00
Other		
	NET TOTAL	\$59, 186.00

Conclusion

In assessing this application against the relevant environmental planning policies, being State Regional Environmental Regional Plan No. 20 - Hawkesbury/Nepean River, Penrith Local Environmental Plan 2010 and Penrith Development Plan 2014, the proposal does not satisfy the aims, objectives and provisions of these policies.

The site is unsuitable for the proposed development, the proposal is not in the public interest, and there is likely to be negative impacts arising from the proposed development. Therefore, the application is not worthy of support for the attached reasons.

Recommendation

1. That Da19/0315 for the demolition of existing structures and construction of 13 x 4 bedroom townhouse development at 9 - 11 Gibson Avenue. Werrington, be Refused for the following reasons;

Refusal

1 X Special 02 (Refusal under Section 79C(1)(a)(i) of EPA Act 1979)

The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the following provisions of:

Penrith Local Environmental Plan 2010:

- Clause 2.3 - the objectives of the zone.

- i) To ensure that a high level of residential amenity is achieved and maintained.
- ii) To ensure that development reflects the desired future character and dwelling densities of the area.

- Clause 7.1 Earthworks.

2 X Special 04 (Refusal under Section 79C(1)(a)(iii) of EPA Act 1979)

The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal has failed to achieve a design outcome consistent with the following Penrith Development Control Plan 2014 provisions:

- C1 Site Design and Design Principles
- C2 Vegetation Management
- C3 Water Management
- C6 Landscape Design
- C10 Transport, Access and Parking
- D2 Residential Development

3 X Special 07 (Refusal under Section 79C(1)(b) of EPA Act 1979)

The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 in terms of following matters identified during assessment process and which are likely to result in adverse impacts:

1. The design, scale and nature of the proposed development is not considered to be consistent with the existing and desired future character of the immediate locality.
2. The development is not considered to be site responsive due to the extent of fill and the finished ground levels throughout the development proposed to drain the site.
3. The proposed vegetation removal and proposed planting is not suitable and exacerbates concerns identified regarding the built form, internal amenity and scale of the development.
4. The proposal does not provide a suitable level of internal amenity which stems from the orientation of the units, limited solar access to units located on the southern side of the development site, internal dimension of living areas, overall length of buildings, car parking and drainage.
5. The provision of retaining walls with fencing on top does not provide suitable boundary wall/edge conditions as viewed from neighbouring properties and from within internal private open space areas within the development.

4 X Special 08 (Refusal under Section 79C(1)(c) of EPA Act 1979)

The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as it has not been demonstrated that the site is suitable for the proposed development as the application has failed to demonstrate that a satisfactory drainage design can be achieved for the development.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning and Design Principles

The area is located in vicinity of an area where it is gradually being redeveloped with some townhouse developments. However, Gibson Avenue is predominantly occupied with single storey and some two storey dwellings in the area. Although the two of the adjoining properties have single storey developments, the proposed two storey form of proposed townhouse development is not inconsistent with the other type of townhouse developments seen in the area.

Whilst two storey townhouse development is permitted and consistent with what is envisaged by the DCP, the front two dwellings requires some improvement in design features in order to improve their design and provide a good streetscape by reducing the upper level area and design features. The building consisting of units 3, 4 & 5 does not complying with the maximum allowed 20m building length as it is 23.425m long and is non compliance with section 1.2.3 Building Form within Part C of the DCP . This building needs to include recessed/stepped walls along both side elevations at the upper level which is lacking articulations (which are all in a straight line) and results in a poor design outcome of the development. whilst some recessed wall provided along the internal driveway is minimal, the use of different materials does assist to some extent however, it tokenistic and does not provide the visual relief and in particular along the boundary elevations and hence does not result in a good design outcome or meet the intent of this clause.

In view of the above and the development not meeting the minimum required 20m building length, landscaping area of 40% and on site visitor parking spaces and as such appears to be poorly designed and over development of the site.

C2 Vegetation Management

The site contains several Vegetation located along the western front part of the site and a mature tree located close to the adjoining northern property. A Tree report, prepared by About Trees, author Lawrie Smith, undated was submitted along with landscape plan prepared by O'Brien Design and Drafting, Dwg No 911_GW_DA.30, revision A, dated 9/5/2019.

The tree report was examined by Council's Tree Management Officer who has advised that the report is lacking in assessment as a number of healthy trees are viable for retention but have been disregarded as they would be within the building footprint (thus the Category Z being applied) which is an invalid assessment. These trees should have been highlighted as retainable, discussed accordingly and potentially retained within the proposed design of the site. Furthermore, one of those trees is a mature *Eucalyptus moluccana* (Grey Box) that is representative of locally occurring species. It is a dominant tree on the site and the Arborist report states that it is good health and condition. The retention of this tree would require major setbacks and a redesign of the site, however, this has not been discussed or considered in the scope of this application.

The application thus fails to address vegetation management of the site.

The landscaping design show planting along the frontage and the rear area which appears to be reasonable for such developments. However, vegetation proposed along the side boundaries are within 3m from the buildings and as such will need to be relocated to achieve 3 m distance from buildings or choose more appropriate species that will not have wider spread and roots.

C3 Water Management

The subject site currently slopes from the front of the property to the rear. The development proposes to fill and regrade part of the rear site so that the stormwater runoff discharges from the central part of the northern boundary via adjoining lot over 86 Reid Street by connecting a piped drainage system to Reid Street. There have been three amended drainage designs proposed over 86 Reid Street in order to satisfactorily resolve the drainage system for the

proposed development. These submitted drainage plans have been examined by Council Development Engineer and provided following comments: on their proposed Stormwater designs:

- *The original proposed drainage easement and inter-allotment drainage line through Council-owned property at 86 Reid Street, Werrington is not compatible with the already approved road and drainage upgrade design for 88 Reid Street, Werrington.*
- *Owner's consent is needed to establish a legal point of discharge. The stormwater plans submitted on 16/01/2020 (prepared by Gerard Balkin, dated 15/01/2020) propose to discharge stormwater along the eastern boundary of 86 Reid Street, however the applicant has not provided owner's consent from Council's Property team (being the landowner of 86 Reid Street) for provision of a drainage easement in support of this design. It should be noted that owner's consent was previously provided by Council's Property team for creation of a drainage easement along the eastern boundary of 86 Reid Street (dated 9/10/2019), however this was based on an earlier stormwater design that was not supported by Development Engineering (see ECM 8970823).*
- *Notwithstanding the above, the stormwater plans submitted on 16/01/2020 cannot be supported from a drainage point of view. The approved drainage line along the eastern boundary of 86 Reid Street (associated with DA16/0211.02) is intended to capture sheet flows only and is designed to surcharge in a 1% AEP flood event and contain floodwaters within a shaped channel until floodwaters recede. Although the plans submitted on 16/01/2020 adopt a lower tailwater level than previous designs, Development Engineering does not support the addition of stormwater flows to the drainage channel along the eastern boundary of 86 Reid Street from upstream development due to the flood risks associated with the channel in a major flood event or system failure (i.e. the channel fills up in a 1% AEP flood event and doesn't have a natural relief point to Reid Street).*

Whilst there has been several attempt (in over 7 months) to resolve drainage system for the development, all of the submitted drainage plans has failed to demonstrate that the drainage system for the proposed development is able to meet the Council's requirements. The development hence does not comply with Section 4 and 2.3 of Council's Stormwater Drainage Specifications for Building Developments. In this regard, acceptable drainage design is required and an alternative inter-allotment drainage easement over the other downstream properties should be explored/required to cater for this development.

C4 Land Management

The proposed filling and retaining wall heights do not comply with Penrith Development Control Plan 2014. In this regard, the proposed filling and retaining walls have the ability to redirect flows from one catchment to another catchment that are not normally receiving these flows which will have a potential adverse impact on the local drainage characteristics. In particular, the rise in the FFL level of units 12 and 13 being 0.80m - 0.85m above the natural floor level which is likely have adverse privacy impact to adjoining northern properties.

C6 Landscape Design

The submitted landscape plan provides for reasonable amount of vegetation which in long term will result in having reasonable streetscape of the site and area. However, the development provides 35% landscape area and fails to meet the minimal landscape area of 40% of the site required by the DCP. Some of the landscaped area that has been calculated in the landscape area included visitor parking spaces which have permeable surface which cannot be considered as landscape area and this will further reduce the total landscape area from 35 % and hence will not comply with the DCP requirements.

C10 Transport, Access and Parking

The development provides a combined entry/exit 5.50m wide driveway located at the central part of the site leading to the garages and open carparking spaces. All vehicles are required to enter and leave the garages and site in a forward direction. The turning path provided show that not all vehicles can enter the garages in a forward direction and requires to reverse in rather than forward. Council's Development Engineer have advised that this is not satisfactory and requires all vehicles to enter the garage in a forward direction.

The development required to provide the following number of on site parking spaces.

Items	Parking requirement	Parking provided	Comments
13 x 4 bedrooms	$13 \times 2 = 26$ spaces	26 spaces	complies
Visitor parking	$13/5 = 2.6 = 3$ spaces	2 spaces	1 shortage

The development provides 1 less parking spaces than required by the DCP.

D2 Residential Development

2.4.4 Urban Form

New buildings should show characteristics of traditional suburban development: dwellings oriented to face the street, building forms stepped or articulated, and integrated with the shape of surrounding garden areas. The existing character of the area is predominantly single storey dwellings with some two storey dwellings. The proposal involves the construction of six (6) buildings of which five are grouped in two dwellings and one with three dwellings. Whilst the proposed design is not consistent with the prevailing character of the street, the site is zoned to allow for townhouse developments of this nature. However, the proposed design results in poor design as it provides for a building that is 23.40m long i.e. 3.40m longer than allowed by the DCP. The development also fails to provide upper storey surrounded by a larger ground floor plan that incorporates projecting rooms, shady verandah and provide external walls longer than 5m between distinct corners of the buildings.

Although the other five of the buildings that meets the 20m width allowed by the DCP, they also fails to provide projecting rooms, shady verandah and provides external walls longer than 5m between distinct corners which results in poor design outcome of the development.

2.4.6 Building Envelope and Side Setbacks

The DCP limits the amount of cut and fill on a site to a maximum of 500mm. The civil plans submitted in support of the application indicate a proposed fill of 550mm to 800mm located north-east part of the rear resulting in a FFL of Units 12 and 13 to about 80 - 85 cm above the natural ground level. The development also proposes retaining wall along the northern boundary and partly southern boundary. The proposed filling of the site and raised FFL of units along with retaining walls will result in poor visual and privacy impacts to adjoining properties.

2.4.7 Driveways and Parking Areas

As discussed in other part of the report, the development does not comply with parking requirement of DCP controls:

2.4.18 Fences and Retaining Walls

The DCP states that retaining walls should not be taller than 500mm. The proposed retaining walls located along the northern boundary and western boundaries varies from 15cm to 35cm with the finished floor level of Unit 12 & 13 raised to 80cm and 85cm resulting in loss of privacy to adjoining properties. This will require fences to be constructed above the retaining wall and to the height of over 2.10m to alleviate overlooking on to adjoining properties. This will result in a high fence that is unsuitable for the site and visually unacceptable.

Furthermore, the retaining walls also have the ability to redirect flows from one catchment to another catchment that are not normally receiving these flows which will have a potential adverse impact on the local drainage characteristics.

2.4.9 Solar planning

The DCP requires that 4 hours of sunlight access is received in living areas and 3 hours to 40% of the main private open spaces of the dwelling and any adjoining dwellings. The submitted shadow diagram indicates that 5 of the 7 dwellings located on the southern boundary will not receive 4 hours of sunlight to living areas during winter period and 4 to 5 courtyards of the 13 dwellings will not receive 3 hours of solar access to 40% of the courtyard area. The development thus has been poorly designed and is non compliance with the DCP requirement.