



## STATEMENT OF ENVIRONMENTAL EFFECTS

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Demolition of existing structures and construction of a six storey mixed use development with a neighbourhood shop, medical centre and 50 residential apartments above two levels of basement parking with associated landscaping

17-23 Hope Street, Penrith

Prepared for: Edge Medical Company Pty Ltd

Ref. M210309

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# 1. Introduction

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This Statement of Environmental Effects has been prepared for the applicant of the proposed development. The report is to accompany a development application to Penrith City Council ('Council') seeking consent for the '*Demolition of existing structures and construction of a six storey mixed use development with one neighbourhood shop, one medical centre and 50 residential apartments above two levels of basement parking with associated landscaping*' at Nos. 17-23 Hope Street, Penrith.

More specifically, the proposed development involves the provision of a neighbourhood shop and medical centre at ground level fronting Hope Street, with residential apartments at the rear and on the above floors. The proposal will provide 50 apartments, comprising nine (9) x one (1) bedroom, 36 x two (2) bedroom and five (5) x three (3) bedroom apartments. The development will also contain two levels of basement parking and two communal open spaces. Basement parking will be accessed from Hope Street and will provide for a total of 76 car parking spaces (including 11 non-residential and 65 residential spaces).

The proposal is generally permissible with consent in the R4 High Density Residential zone and is best described as a mixed use development (noting that shop top housing is permissible) per the *Penrith Local Environmental Plan 2010* (PLEP 2010). However, it is noted that health service facilities are not permitted with consent under the PLEP 2010. Accordingly, this application has also been submitted pursuant to Clause 57(1) under Part 3, Division 10 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP 2007). This permits the erection of medical centres within the 'prescribed zones', of which the R4 High Density Residential zone is recognised.

Notwithstanding the above, the development aligns with the objectives of the zone and is consistent with the relevant development standards and planning controls, with the exception of a breach in height for the upper edge of Level 5 and lift overruns. As such, a Clause 4.6 variation statement has been provided at **Annexure C**. Importantly, the proposal will contribute to the quantum of neighbourhood shops and housing in an area that is well serviced by public transport. The proposal is generally compliant with the provisions of the Apartment Design Guide (ADG) and Penrith Development Control Plan 2014 (PDCP 2014), and is a suitable form of development within the site context.

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impacts of the development on the environment in accordance with the requirements of S4.15 of the *Environmental Planning & Assessment Act, 1979* (EP&A Act).

This Statement has been divided into five sections. The remaining sections a locality and site analysis, a description of the proposal, an environmental planning assessment, and a conclusion.

## 2. Site Analysis and Context

### 2.1 THE SITE

The subject site is known as Nos. 17-23 Hope Street, Penrith, with the legal description of Lots 10, 11, 12 and 13 in DP31239. The site has a primary frontage to Hope Street and is located within the R4 High Density Residential zone. An aerial image of the subject site is provided in **Figure 1** below.



**Figure 1** Aerial image of subject site edged in red

The site is regular in shape with a southern frontage of 61.265m to Hope Street and northern (rear) boundary of 61.265m. The site measured at 39.93m to the eastern and western (side) boundaries and has a total area of 2,440.7m<sup>2</sup>. The subject site falls from the southern front boundary to the northern rear boundary by approximately 1m. From the eastern to western side boundary, the site also has a cross fall of approximately 1.2m across the width of the site.

The subject site contains four single storey detached residential dwellings which are ageing and reaching the end of their economic life. Each dwelling contain separate vehicular access and on-site parking with scattered vegetation throughout. Images of the subject site are provided in **Figures 2** and **3** below.





**Figure 2** Subject site viewed from west



**Figure 3** Subject site viewed from east

## 2.2 SURROUNDING DEVELOPMENT

The subject site is located within the zone R4 High Density Residential and is part of a wider high density area comprising of an eclectic mix of buildings ranging from 1 to 6 storeys in height, including detached dwellings and residential flat buildings. The character of the locality is undergoing transformation from lower to higher density development as a result of the permitted planning controls and associated zoning.

Importantly, the subject site is within close proximity to a variety of differing land uses and public transport options. To the east of the subject site is Nepean Hospital (zoned SP2 Health Services), which is also situated amongst a B4 Mixed Use zone. Further to the north of the site are similarly zoned B3 and B4 land, whilst land further to the south is zoned R3 Medium Density Residential. The site is also within walking distance to numerous educational facilities and public open spaces.

Adjoining the site to the east is No. 15 Hope Street which contains a detached single storey residential dwelling (**Figure 4**). In accordance with the planning controls, it is anticipated that this dwelling will be demolished and replaced with a residential flat building consistent with the proposed and surrounding developments.



**Figure 4** No. 15 Hope Street

To the west of the site is Nos. 25-31 Hope Street which contains a recently constructed six storey residential flat building (**Figure 5**). This development was approved by Penrith City Council under DA15/1185 and included a maximum height variation of 19.28m.



**Figure 5** Nos. 25-31 Hope Street

The rear of the site is adjoined by multiple allotments, containing a vacant lot at Nos. 20-28 Lethbridge Street and existing multi-dwelling development at Nos. 16-18 Lethbridge Street. Of relevance, Nos. 20-28 Lethbridge Street contains an approval under DA15/1175 for the construction of two six storey residential flat buildings with basement parking (**Figures 6 and 7**).





**Figure 6** Existing multi-dwelling development at Nos. 16-18 Lethbridge Street



**Figure 7** Approved development at Nos. 20-28 Lethbridge Street

To the south and opposite the subject site are a mixture of detached residential dwellings and residential flat buildings (**Figure 8**). Specifically, to the south-east of the subject site is Nos. 12-14 Hope Street which was approved under DA16/0123 for a five storey residential flat building with basement parking and has recently been constructed (**Figure 9**).



**Figure 8** Residential dwellings opposite the subject site



**Figure 9** Nos. 12-14 Hope Street



## 3. Description of the proposal

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### 3.1 OVERVIEW OF PROPOSAL

The subject development application proposes demolition of the existing buildings on site and construction of a six storey mixed use development with two levels of basement parking and associated landscaping. The proposal will provide a medical centre and neighbourhood shop at ground level fronting Hope Street, with apartments located at rear ground level and within the upper floors.

The proposal will provide a total of 50 apartments, with a mix of 9 x 1 bedroom, 36 x 2 bedroom and 5 x 3 bedroom apartments, including 8 adaptable dwellings. On-site parking is to be provided within two basement levels accessed from Hope Street and will provide for a total of 76 parking spaces, comprising 55 resident, 10 resident visitor, 7 medical and 4 neighbourhood shop spaces. The proposal will also provide 15 x bicycle spaces, of which 13 are for residents and 2 for commercial use. The proposal will also provide an additional access point for loading and waste collection at ground level.

### 3.2 DEMOLITION AND EXCAVATION

The existing residential dwellings on the subject site are to be demolished as part of this application. Demolition detail is illustrated on the Demolition Plan provided with the architectural plan set. Demolition will comply with *AS 2601-1991: Demolition of structures*.

The site is to be excavated to facilitate basement car parking and building services.

All demolition and excavation will be undertaken using conventional construction techniques and appropriate sediment control, safety fencing and hoardings, traffic management, waste management, tree protection, noise and dust control, and protection of public and adjoining properties will be undertaken during demolition, excavation and construction.

Any hazardous waste (e.g. asbestos) that is found during the construction phase of the development will be disposed of in accordance with the relevant NSW EPA regulations and procedures.

### 3.3 TREE REMOVAL

Seven trees are located on the subject site, 2 trees on the neighbouring property and 2 trees on the adjacent road reserve. Of the abovementioned, 8 trees are to be removed in order to enable redevelopment. This will involve the removal of all 7 trees on the subject site and one street tree located to the south-west of the front boundary. Assessment of the trees to be removed and protection of the trees to be retained are provided in the Arborist Report prepared by *Redgum Horticultural*.

Where trees are to be removed, these will be replaced according to the Landscape Plan prepared by *Site Image* which is submitted with this application. Further discussion is provided under Section 4.3.4 of this Statement.

### 3.4 BUILDING ARRANGEMENT AND CONFIGURATION

The proposed development is described on the submitted architectural plans prepared by *Urban Link*. It is noted that the apartments within Levels 1 to 5 are provided within two, mirrored wings (east and west) each with their own separate lift and stair core.





#### Basement Level 02:

The proposed basement level 02 is accessed via the internal ramp from the basement level 01 and has an RL of 39.6. This basement level contains parking for 43 vehicles, including 42 resident spaces (of which 4 are accessible) and 1 visitor/carwash bay. This basement level will also include storage for the proposed residential apartments. Access to the upper levels is provided via two separate stair and lift cores.

The proposed vehicular access and parking arrangement has been designed to comply with AS2 890.1.

#### Basement Level 01:

Access to basement level 01 is provided via a 6m wide driveway located on the south-eastern corner of the site accessed from Hope Street. This level is located at RL 42.6 and contains parking for a total of 33 vehicles, including 7 spaces for the medical centre (1 of which is accessible), 4 spaces for the neighbourhood shop (1 of which is accessible), 13 resident spaces (4 of which are accessible) and 9 resident visitor spaces. This basement level also contains 2 bicycle spaces for the commercial component and 13 spaces for the residential.

The proposal will also provide for general apartment storage, in addition to storage for residential, medical and bulky waste. Access to the lower and upper levels is provided via two separate stair and lift cores. The proposal also provides a lift access to and from the loading area.

The proposed vehicular access and parking arrangement will comply with AS2890.1.

#### Ground Level:

The ground level contains primary pedestrian access from Hope Street to the residential lobby entry, medical centre and neighbourhood shop. The proposal has specifically orientated the medical centre and neighbourhood shop to address the public domain, noting that their fitout will form part of a separate application.

Within the residential lobby as accessed centrally from the site, the proposal will provide 3 x 1 bedroom and 1 x 3 bedroom apartments, each with its own private open space. At ground level, the proposal will also provide for a centralised communal room which provides access to an outdoor communal open space at the rear of the site. Two secure lift and stair cores are provided at ground level and provide access to the upper and lower levels of the building.

The proposal will also provide two vehicular access points within the south-eastern corner of the site, one accessing the basement and the other the loading and waste collection area within the north-eastern corner of the site. The aforementioned loading and waste collection area will contain a turntable, service bay and access to the residential and commercial waste holding rooms.

#### Level 01:

Level 01 contains a total of 12 apartments, consisting of 2 x 1 bedroom and 10 x 2 bedroom apartments. The eastern and western wings, which are mirrored, each contain 1 x 1 bedroom and 4 x 2 bedroom apartments accessed from their respective lift and stair cores. Each apartment contains its own private open space in the form of a balcony in accordance with the ADG, four of which front Hope Street.

Four apartments are provided as adaptable and liveable, including L1.01, L1.03, L1.05 and L1.08. It is noted that each core contains a waste chute.

#### Level 02:

Level 02 contains a total of 12 apartments, consisting of 2 x 1 bedroom and 10 x 2 bedroom apartments. The eastern and western wings, which are mirrored, each contain 1 x 1 bedroom and 4 x 2 bedroom apartments accessed from







their respective lift and stair cores. Each apartment contains its own private open space in the form of a balcony in accordance with the ADG, four of which front Hope Street.

Four apartments are provided as adaptable and liveable, including L2.01, L2.03, L2.05 and L2.08. It is noted that each core contains a waste chute.

#### Level 03:

Level 03 contains a total of 12 apartments, consisting of 2 x 1 bedroom and 10 x 2 bedroom apartments. The eastern and western wings, which are mirrored, each contain 1 x 1 bedroom and 4 x 2 bedroom apartments accessed from their respective lift and stair cores. Each apartment contains its own private open space in the form of a balcony in accordance with the ADG, four of which front Hope Street.

Two apartments are provided as liveable, including L3.01 and L3.03. It is noted that each core contains a waste chute.

#### Level 04:

Level 04 contains a total of 8 apartments, consisting of 6 x 2 bedroom and 2 x 3 bedroom apartments. The eastern and western wings, which are mirrored, each contain 3 x 2 bedroom and 1 x 3 bedroom apartments accessed from their respective lift and stair cores. Each apartment contains its own private open space in the form of a balcony in accordance with the ADG, four of which front Hope Street. It is noted that each core contains a waste chute.

#### Level 05:

Level 04 contains a total of 2 x 3 bedroom apartments which are mirrored within the eastern and western wing. Each apartment contains its own private open space, orientated to the rear boundary. It is noted that each core contains a waste chute.

The proposal also provides a communal open space orientated to Hope Street which includes a variety of furniture and landscaping to promote social interaction.

### **3.5 OPEN SPACE AND LANDSCAPING**

Details of the proposed landscaping are shown on the Landscape Plan prepared by *Site Image* which accompanies the development application. The Landscape Plan concentrates deep soil planting throughout the site with emphasis on the Hope Street setback and to the side and rear boundaries. The proposed landscaping will provide a balance between the natural and built features of the site and will assist with softening the built form and separation of adjoining properties.

The proposal will provide 1,069m<sup>2</sup> or 43.8% of the site area as soft landscaped area (including podium landscaping), which includes 651m<sup>2</sup> (27% of the site area) as deep soil landscaped area and achieves the objectives of the Design Criteria contained within the Apartment Design Guide (ADG). That is, the proposal provides a deep soil area of 240m<sup>2</sup> (10%) with a minimum dimension of 6m and 411m<sup>2</sup> (16.8%) with no minimum dimension and will provide high quality soft and deep soil landscaping throughout the site. This will be capable of supporting a wide variety of vegetation, including mature trees, shrubs and grasses

The Landscape Plan details that the subject site will contain a number of mature trees which will grow to a height of 6 - 10m located in the deep soil landscaped areas throughout the site. Additional shrubs, ground cover and podium landscaping will be proposed throughout the site and on the built form to improve the landscaped character and soften the overall built form. As such, the density of the site will increase, so will the range of tree specifics within suitable locations that will ensure their long term retention.





The site also includes the provision of two communal open spaces. One space is located at ground level within the northern rear setback and contains a communal room and outdoor space. The second communal open space is provided on level 5 as a roof top space and is orientated to Hope Street. Both communal open spaces will include a variety of vegetation and recreational features to improve the amenity of future residents.

### 3.6 PROJECT DATA

The project data for the proposed development is provided in the table below.

Table 1 Project Data	
Site Area	2440m <sup>2</sup>
Gross floor area	Total GFA: 4,889m <sup>2</sup>
FSR	Total floor space ratio of 2:1.
Non-Residential Uses	Medical Centre: 199m <sup>2</sup> Neighbourhood Shop: 120m <sup>2</sup>
Number of apartments	Total of 50 apartments, including; 9 x 1 bedroom 36 x 2 bedroom apartments 5 x 3 bedroom apartments
Adaptable and Liveable Apartments	8 adaptable and liveable apartments provided in L1.01, L1.03, L1.05, L1.08, L2.01, L2.03, L2.05 and L2.08. 2 liveable apartment's provided in L3.01 and L3.03
Building Height	20.39m to the western lift overrun fronting Hope Street
Parking Space	Total of 76 spaces, including: 55 resident spaces 10 visitor spaces 7 medical spaces 4 shop spaces
Bicycle Space	Total of 15 spaces, including: 13 resident spaces 2 commercial spaces
Landscaped Area	Total landscaped area: 1,069m <sup>2</sup> or 43.8% Total deep soil area with minimum 2m dimension: 651m <sup>2</sup> or 27 % Deep soil area with minimum 6m dimension: 240m <sup>2</sup> or 10%

### 3.7 WASTE MANAGEMENT

The proposal incorporates bin storage rooms within basement level 01 that will accommodate the required number of bins for the residential and medical component of the development. At ground level, the proposal also provides a waste storage room for the neighbourhood shop and a residential bin holding area, both which are accessible from the proposed collection area. In addition, it is noted that a waste chute is provided for each wing of the residential component which will improve waste disposal and collection.





Residential waste and recycling will be collected by Penrith City Council's contractors who will access the loading and collection area within the north-eastern corner of the site. Commercial waste, including the medical centre and neighbourhood shop, will be collected by a licenced private waste contractor.

A Waste Management Plan prepared by *Dickens Solutions* has been submitted with the application detailing the nature and volumes of waste as a result of the demolition and construction phases as well as the intended disposal and recycling of those materials, and ongoing operational waste management.





## 4. Environmental Planning Assessment

### 4.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 4.15 of the EP&A Act, 1979.

### 4.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 4.15(1)(a) of the EP&A Act, 1979, are identified in Table 3 below.

Table 2 Section 4.15 Matters for Consideration				
EP & A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.4.15(1)(a)(i)	SEPP (BASIX) 2004	✓	✓	
"	SEPP No. 55 – Remediation of Land	✓	✓	
"	SEPP (Infrastructure) 2007	✓	✓	
"	SEPP No. 65 – Design Quality of Residential Apartment Development	✓	✓	
"	SEPP (Vegetation in Non-Rural Areas) 2017	✓	✓	
"	Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River	✓	✓	
"	Penrith Local Environmental Plan 2010	✓	✓	
S.4.15(1)(a)(iii)	Penrith Development Control Plan 2014	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter: <ul style="list-style-type: none"><li>AS 2601-1991: Demolition of structures</li></ul>	✓		

The matters identified in the above Table as requiring specific comment are discussed below. The primary statutory documents that relate to the subject site and the proposed development are *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*, *Penrith Local Environmental Plan 2010* (PLEP 2010) and *SEPP (Infrastructure) 2007* (ISEPP 2007).

The primary non-statutory documents relating to the subject site and the proposed development are the *Apartment Design Guide (ADG)* and *Penrith DCP 2014 (PDCP 2013)*. An assessment of the applicable provisions of these documents as well as other relevant planning instruments or guidelines is provided below.

#### 4.2.1 SEPP No.55 – Remediation of Land

This State Environmental Planning Policy (SEPP) was gazetted on 28 August 1989 and applies to the whole State. It introduces planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected, to ensure land is suitable for the intended use.

The subject site has been used for non-hazardous residential uses since construction and there is no reason to suspect that the site is subject to any contamination. No further consideration of SEPP No. 55 is warranted in this instance.





#### 4.2.2 SEPP Building Sustainability Index: BASIX 2004

SEPP (Building Sustainability Index: BASIX) 2004 commenced on 1 July 2004 and applies to the proposed development. In accordance with the provisions of the SEPP, a BASIX Certificate is submitted with the application and confirms that the proposal (once operational) will comply with the water, thermal comfort and energy efficiency requirements of the policy.

#### 4.2.3 SEPP (Infrastructure) 2007

This application has also been submitted pursuant to Part 3, Division 10 *Health service facilities* under the ISEPP 2007. Where medical centres are not permitted with consent in the R4 High Density Residential zone, Clause 57(1) allows the provision of “health service facilities” within prescribed zones, of which the R4 zone is included. A “health service facility” is defined as follows under the PLEP 2010 [our underline]:

***health services facility** means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—*

*(a) a medical centre,*

*(b) community health service facilities,*

*(c) health consulting rooms,*

*(d) patient transport facilities, including helipads and ambulance facilities,*

*(e) hospital.*

The proposed development is consistent with the above definition, and can be further identified as a “medical centre” in accordance with the definition contained within the PLEP 2010 which is reproduced below:

***medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.*

The proposed development will seek approval for the proposed use as indicated on the submitted plans. Detail drawings will form part of a separate application. As such, the proposed development is permissible with consent in the R4 zone under the ISEPP 2007, despite not being permitted under the Penrith LEP 2010.

#### 4.2.4 SEPP No. 65 – Design Quality of Residential Apartment Development

SEPP No. 65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of Development Applications for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Due to the composition of the proposed development SEPP 65 applies to the proposal.

Schedule 1 of the Policy sets out the 9 ‘Design Quality Principles’ and Clause 28(2) requires that the consent authority, in determining a development application to take into consideration:

- The advice (if any) of a relevant design review panel;
- The design quality of the residential flat development when evaluated in accordance with the design quality principles; and The Apartment Design Guide.

- A Design Verification has been submitted with the application detailing compliance with the design quality principles and in satisfaction of Clause 50 of the EP&A Act.

A compliance table is provided at **Annexure A** detailing compliance with the applicable Design Criteria contained within the Apartment Design Guide. The compliance table identifies that the proposal is consistent with the relevant design criteria or is acceptable on merit for the reasons detailed in the compliance table.

A Design Verification Statement has been submitted with this development application by *Urban Link* detailing compliance with the design quality principles and in satisfaction of Clause 50 of the EP&A Act.

Furthermore, Clause 6A of the SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide in relation to:

- “
- (a) *visual privacy,*
  - (b) *solar and daylight access,*
  - (c) *common circulation and spaces,*
  - (d) *apartment size and layout,*
  - (e) *ceiling heights,*
  - (f) *private open space and balconies,*
  - (g) *natural ventilation,*
  - (h) *storage.”*

In addition, Clause 30(1) of the SEPP states that a development application cannot be refused if it complies with the prescribed criteria of the Apartment Design Guide in relation to ceiling heights, parking and internal apartment sizes.

#### **4.2.5 SEPP (Vegetation in Non-Rural Areas) 2017**

This SEPP was gazetted on 25 August 2017 and repeals Clause 5.9 of WLEP 2012. The Vegetation SEPP works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

The vegetation SEPP regulates clearing that is not ancillary to development requiring consent. Whereas, clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process. As such, the proposed removal of any trees is ancillary to development requiring consent and will be assessed by Council's Tree and Landscape Officer. Accordingly, it is noted that a number of trees on the subject site are to be removed to accommodate the proposed development. Refer to Section 4.3.4 of this Statement and Arborist Report prepared by *Redgum Horticultural*.

#### **4.2.6 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River**

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

The proposal has been designed in order to address the specific planning policies and strategies contained within the SREP 20. The proposal will integrate specific water quality and management strategies as provided in the supporting documentation. Additionally, the proposal will enhance the scenic quality of the locality through the proposed high

quality built form and landscaping throughout the site. Of relevance, the subject site will have no impact to the river system and is considered acceptable in this regard.

#### 4.2.7 Penrith Local Environmental Plan 2010

The Penrith Local Environmental Plan 2010 (PLEP 2010) applies to the subject site, which is identified as being within the R4 High Density Residential zone. The proposed development is best described as a mixed use development, noting that shop top housing is permissible with consent in the zone.

As identified under Section 4.2.3 of this Statement, the proposed medical centre is permitted under the Clause 57(1) of the ISEPP 2007 despite not being permitted in the R4 Zone. With regards to the proposed neighbourhood shop and residential component, these are both permitted within the R4 Zone under the PLEP 2010.

The objectives of the Zone R4 are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that a high level of residential amenity is achieved and maintained.*
- *To encourage the provision of affordable housing.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposed development achieves the objectives as stipulated above through the provision of a high quality, contemporary mixed use development which will provide for employment opportunities and a variety of residential accommodation within a highly accessible location in close proximity to various land uses and public transport. Specifically, the proposed neighbourhood shop and medical centre will provide facilities and services that will meet the day to day needs of residents.

Provided at **Annexure B** is a compliance table which identifies the relevant objectives and development standards that apply to the proposal and undertakes an assessment of the proposed development against those relevant provisions. The proposal seeks a variation to the building height standard, which is provided in a Clause 4.6 Variation statement at **Annexure C**.

#### 4.2.8 Penrith Development Control Plan 2014

Penrith Development Control Plan 2014 (PDCP 2014) applies to the site and the proposed development. A compliance table is provided in **Annexure D** which addresses how the proposal responds to all the relevant controls.

In relation to strict numerical compliance, attention is drawn to Section 4.15(3A) of the EP&A Act, 1979, which states as follows:

" (3A) **Development control plans**

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*(c) may consider those provisions only in connection with the assessment of that development application"*

Subclause (b) is of most relevance as it emphasises that there may be alternatives to strict numeric compliance in achieving the objectives of a DCP control. It compels the consent authority to be flexible in the application of DCP controls where the objectives of that control are met. Notwithstanding, the proposed development has been designed to adhere to the relevant controls as far as practicable. Where the development proposes a variation to a control, justification is provided in the table in **Annexure D** and below.

#### **4.2.8.1 Landscaped Area**

Within Part D2 – Residential Development of the PDCP 2014, Section 2.5.5 provides requirements for the provision of landscaped area on a site. The following is stipulated within the DCP;

*3) Landscaped area must meet the following requirements:*

*a) Landscaped areas should be: R4 High Density Zone – 35%*

*b) have a minimum width of 2m – with no basement encroachment; and containing unexcavated soil to promote landscaping that is effective and healthy;*

*c) may include terraces and patios located not higher than 0.5m above ground and pedestrian pathways to building and dwelling entrances;*

*d) do not include substantially-paved areas such as buildings, driveways and covered garages;*

*e) should include verges that surround car parking areas and open driveways;*

*f) should provide a reasonable area of private open space in accordance with the part within this section on design;*

*g) where more than one building is proposed, that part of any easement exceeding 10% of the site area shall not be included in the landscaped area calculation.*

The development, when including areas with a minimum dimension of 2m (not located above a basement or as podium landscaping above a building), provides a total area of 651m<sup>2</sup> or 27%. However, per (c) above, the proposal provides a total landscaped area of 722m<sup>2</sup> or 29.5% when including the pedestrian access pathways. This represents a relatively minor non-compliance which has been offset through the provision of additional deep soil landscaping (with a width less than 2m) and podium landscaping located throughout the development. Resultantly, the proposal provides a total soft landscaped area of 1,069m<sup>2</sup> or 43% when including the abovementioned conditions. Furthermore, the proposal also satisfies the 7% deep soil area (with minimum 6m dimension) per Objective 3E-1 and also considerably exceeds the Design Guidance which seeks the provision of 15% deep soil for sites greater than 1,500m<sup>2</sup>.

The objective of Clause 2.5.5 is reproduced below:

*Retain a reasonable proportion of each site for landscaped garden areas, conserve significant existing vegetation, and provide reasonable separation between neighbouring dwellings.*

Despite technically falling short of the requirement, the proposal will provide sufficient vegetation of differing mature heights in accordance with the Landscape Plan submitted with this application. As detailed in this Statement, the proposal has concentrated deep soil landscaping around the periphery of the subject site, with particular emphasis on the street frontage, and to the side and rear boundaries. The proposed vegetation will soften the built form as viewed from the public domain and neighbouring properties, in addition to the podium landscaping located on Levels 4 and 5.





When considering the retainment of vegetation, the proposal will require the removal of a number of trees (per the Arborist Report) to accommodate the built form. Notwithstanding, the proposal will include the provision of substantial vegetation commensurate to the scale of the development which will improve the flora and fauna network on the subject site (when compared to the existing arrangement). Similarly, the proposed landscaping will also provide a substantial buffer to the neighbouring properties, through dense landscaping and is considered acceptable in this regard.

As such, despite the numerical non-compliances with regards to the landscaped area, the proposed development is consistent with the objectives of the controls in the PDCP.

## **4.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT**

### **4.3.1 Topography & Scenic Impacts**

The proposal requires excavation to accommodate the two levels of basement car parking. The basement is contained below natural ground line, will be directly accessible from Hope Street and will not significantly protrude as viewed from the periphery of the site or public domain. The completed building will occupy majority of the excavated basement area which represents an efficient use of the site for the provision of on-site parking and other facilities necessary for the building to function.

However, it is noted that proposed basement will extend beyond the footprint of the building above as a result of the site arrangement, parking rates as required under the DCP and essential building services. Regardless, all walls are predominately contained below natural ground thus ensuring that the excavation will not have any adverse impact on the topography or character of the area. It is also noted that a degree of excavation and modification to the landform is required. This is a result of the topography of the site and provision of a basement as accessed from Hope Street.

In order to minimise the potential impacts created by the excavation and basement parking, appropriate design measures (including articulation and landscaping) have been implemented to mitigate any scenic impact. To protect the character of the locality, the topography around the periphery of the site has been maintained. This is also integrated with deep soil and podium landscaping to reduce the extent of hard surfaces and maximise permeability. It follows that despite the proposed excavation, a proportionate quantum of landscaped area and deep soil planting will be provided which is consistent with the ADG and is therefore considered acceptable. Where the excavation is located in close proximity to neighbouring properties, appropriate measures will be undertaken in accordance with the recommendations provided in the Geotechnical Assessment submitted with this application. Dilapidation Reports are also anticipated to be imposed as a condition of consent to ensure the protection of the neighbouring properties during excavation.

In terms of scenic impacts, the proposal is considered to be consistent with the desired future character of the area and changing density of the locality. The proposed excavation and building design will not adversely impact the amenity of neighbouring sites or the structural integrity of nearby buildings.

### **4.3.2 Micro-climate Impacts**

The proposed development will have no significant impact on the micro-climate of the locality.

### **4.3.3 Water & Air Quality Impacts**

The proposed development will have no significant impact on air or water quality in the locality. Standard conditions of consent relating to construction management will ensure that no silt laden water enters the stormwater system.

The completed project will be connected to Council's stormwater drainage system and will incorporate on-site stormwater detention in accordance with the submitted Stormwater Plans prepared by *SGC Consulting Engineers*.



The proposed development will be connected to the sewer and is not likely to generate any unusual liquid waste, odour or fumes. It is therefore unlikely to have any adverse impact in terms of air or water quality.

#### 4.3.4 Flora & Fauna Impacts

An assessment of trees on or in the vicinity of the site has been prepared by *Redgum Horticultural*. There are a total of 7 trees located on the site, 2 trees on the neighbouring properties and 2 trees along Hope Street. The proposal necessitates the removal of all trees and vegetation within the site to accommodate the proposed development, in addition to one street tree located to the south-east of the front boundary given the location of the driveway. In total, 8 trees will be removed. The other street tree to the south-west of the front boundary and all adjacent trees on the neighbouring property will be retained as part of the proposal. Details of tree protection are contained within the Arborist Report and are anticipated to be required by conditions of consent. The following is stated in the Arborist Report:

*Where tree removal is required for this development, it is considered that those trees identified within this report are not sustainable within the context of the proposed development. Where tree retention has been considered, those trees are expected to survive the redevelopment process and remain stable and viable.*

In order to mitigate the loss of trees on site, extensive tree planting is proposed on site, as demonstrated in the accompanying Landscape Plans prepared by *Site Image*. The landscape plans include the provision of extensive tree and vegetation planting throughout the site, including the addition of indigenous canopy trees. Screen tree planting adjacent to site boundaries will also assist in protecting the visual and aural amenity of neighbouring properties and future occupants of the proposed development. Furthermore, additional podium planting is also proposed throughout the development and on the upper levels to complement the character of the area and further soften the built form. A condition of consent is anticipated to be imposed for the replacement of the street tree to be removed.

It is unlikely that the subject site contains any protected flora or fauna species. Landscaping design, including species selection throughout the site will provide potential future habitats for a variety of fauna. In summary, due to the significant proposed new native plantings and increased habitat opportunities, the development is considered to have a positive impact on flora and fauna within the site and locality.

#### 4.3.5 External Appearance & Design

The proposed development represents an excellent response to the site constraints and reasonable permitted density on the site. The proposal, being a contemporary mixed use development, is consistent with the desired built form anticipated by the applicable planning controls and objectives of the R4 zone. The architectural language of the proposal utilises a high quality, simplified design to ensure the development will not be visually alarming or obtrusive as viewed from the public domain. Specifically, given the transition of building density occurring throughout the locality, the proposal provides a built form with 'calm' architectural elements, a considerable central recess and setback uppermost floors to ensure compatibility with both the existing and desired future character of the locality.

The building mass has been arranged on site to appropriately address Hope Street, whilst providing appropriate separation between the neighbouring properties. Fronting the public domain, the built form utilises façade undulations (noting the focal central recess), defined base, middle and top, framed elements, glazing and balcony articulation to create visual interest and depth. Importantly, the proposal has responded to the topography of the site and purposefully recessed the uppermost levels as to reduce the visual bulk and scale of the development when viewed from the public domain. This has been integrated with high quality materials including face brickwork, glazing and cladding through a neutral colour scheme which ensures the provision of a high quality development and differentiation between the levels of the building.

In accordance with the above, the proposal has been designed with a define base given the medical centre and neighbourhood shop proposed at ground level. This is incorporated with the central recess which articulates the façade,



provides visual interest and pedestrian cues as viewed from the public domain. The middle portion of the development, which is differentiated from the base, utilises horizontal articulation, fenestration and balcony design to address Hope Street. Notably, the two uppermost levels utilise greater setbacks and materiality as to mitigate the bulk and scale of the development. When considering the non-compliant building height (as discussed in **Annexure C** of this Statement), this is purposefully located away from the public domain and neighbouring properties. Photomontages of the proposed development are provided in **Figures 10 to 12** below.



**Figure 10** Perspectives of proposed development from Hope Street



**Figure 11** Perspective of proposed development from front boundary







**Figure 12** Perspective of proposed development from within site

Integral to the proposal is also the provision of high quality landscaping throughout the site which provides a visual and physical relationship between the streetscape and neighbouring properties. The proposal has concentrated landscaping to the frontages, with landscaped buffering to the properties adjoining. The proposal also incorporates landscaping on podium structures and throughout the development as to provide a high level of amenity for future occupants.

The internal design and layout of the building achieves a high level of amenity for residents via considerable solar gain and natural cross ventilation. The proposal has also provided outlooks to the public domain and has been designed to ensure visual privacy from neighbouring properties. The proposal will also be constructed in accordance with the Acoustic Report recommendations to ensure high levels of aural privacy.

In accordance with the above, the proposal will be subject to the Penrith City Council's *Urban Design Review Panel* as is reasonably anticipated for a development which is assessed under SEPP No. 65. It is noted that the application in its current form has not been addressed by the *Urban Design Review Panel* as this is not a prerequisite prior to the submission of a Development Application. Notwithstanding, any comments received by the Panel during the assessment of the application will be considered as required.

Accordingly, the proposed development will provide a high quality architectural design which is compatible with the locality.

#### **4.3.6 Solar Access**

Shadow diagrams have been prepared by *Urban Link* and show the extent of shadows cast by the development between 9am and 3pm on 21 June. The diagrams demonstrate shadows cast by the proposed development and surrounding properties. Importantly, the R4 zoning of the locality anticipates a degree of unavoidable overshadowing given the increase of density. Notwithstanding and as discussed below, the proposed development will retain adequate solar access to the neighbouring properties in accordance with the PDGP 2014, which requires the following:



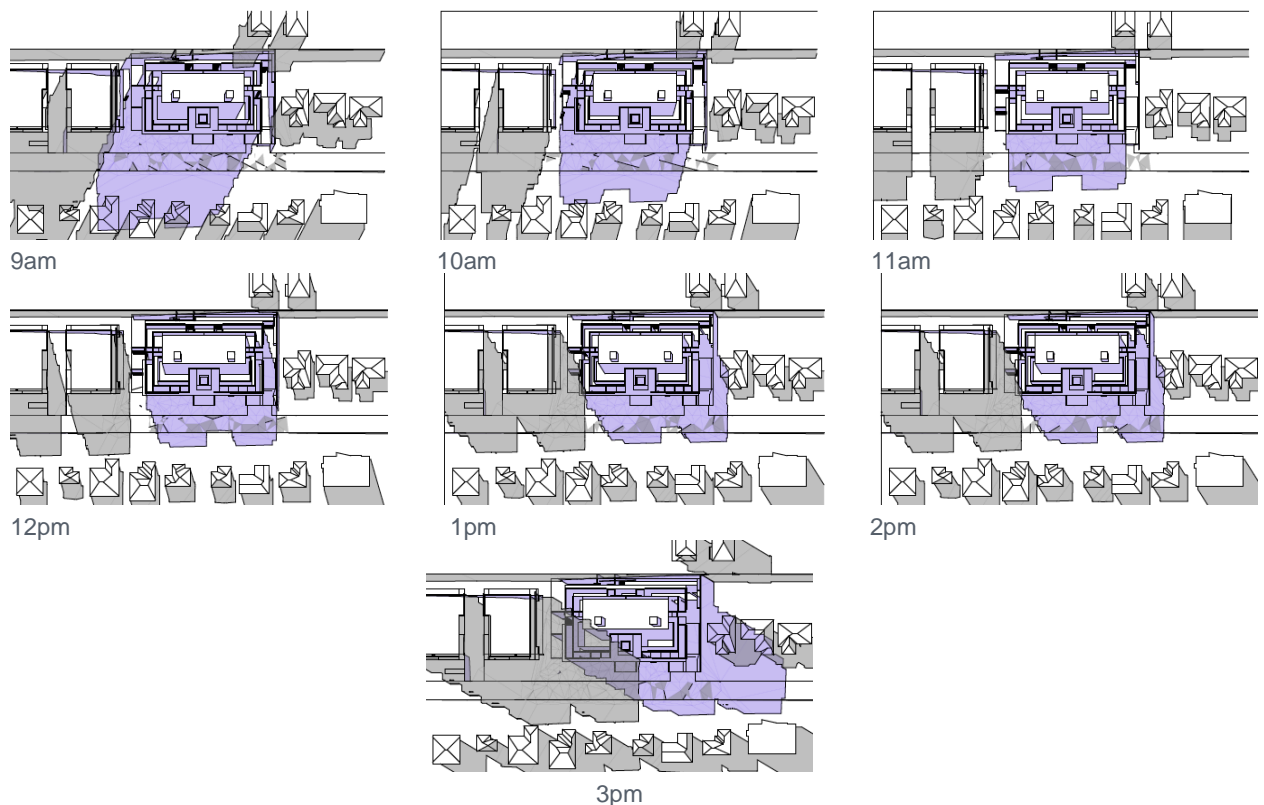
*'e) Ensuring that the proposed development provides a minimum of 4 hours sunlight between 9am and 3pm on 21 June, to living zones (i.e. areas other than bedrooms, bathrooms, kitchen and laundry) of each dwelling, and the living zones of any adjoining dwellings;*

*f) Ensuring that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings;*

*g) In situations where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduced sunlight to the specified areas by more than 20%.'*

Given the orientation of the subject site, the proposal will predominately result in overshadowing to the public domain, with a minor degree of overshadowing to the properties adjoining the site to the east and west and a portion of the front setbacks for the properties on the southern side of Hope Street.

Specifically, the proposal will not result in any loss of overshadowing beyond 2 hours to all neighbouring properties directly adjoining the subject site the east and west. That is, Nos. 25-31 will only be overshadowed from 9am to 10am whilst Nos. 13-15 will only be overshadowed from 1pm to 3pm. Importantly, the existing dwellings at Nos. 13-15 Hope Street will retain full solar access for 5 hours to their respective northern façades. To the south, the proposal will result in a loss of solar access to the northern façade of the existing dwellings by approximately 1 hour from 9am to 10am and is also considered acceptable. Upon redevelopment of the surrounding residential dwellings, the extent of overshadowing created by the proposal is not considered to impact achievement of the 70% solar access requirement contained within the ADG. The loss of overshadowing is demonstrated in the **Figure 13** below.



**Figure 13** Shadow diagrams during mid-winter



In terms of solar access to the proposed development, it is noted that the 72% will receive 2 hours of solar access from 9am to 3pm during mid-winter and will therefore comply with the ADG Design Criteria. As such, it is considered that the proposal will not result in any unreasonable impact to overshadowing or solar access.

#### **4.3.7 Views**

There are no significant views obtained from neighbouring properties through the subject site that are likely to be unreasonably obscured by the development. The proposed building massing is considered to be acceptable with regards to the PLEP 2010 development standards and PDCP 2014 building controls.

#### **4.3.8 Aural & Visual Privacy**

In terms of privacy, the proposed development has been designed to minimise, as far as practicable, the likelihood of any adverse overlooking or invasion of aural privacy of neighbouring properties.

Visual and acoustic privacy to neighbouring sites is achieved by providing considerable setbacks as required by the ADG and orientating communal open spaces, living areas and private open spaces to the public domain and rear of the site. At ground level, the proposal provides two commercial tenancies fronting the public domain which will not result in any aural or visual impact to the neighbouring properties. Of relevance, the medical suite is buffered by dense landscaping to the recently constructed residential flat building to the west, whilst the neighbourhood shop is setback by 13m with a blank façade to the east. With regards to the private and communal open spaces of the residential component located at ground level, these will be buffered from the neighbouring properties through the provision of landscaping and boundary fencing and is considered acceptable in this regard.

When considering the residential levels above, as detailed, the proposal is compliant with the Design Criteria contained within the ADG. By virtue of compliance with the ADG, acceptable levels of visual and aural privacy to the adjoining properties is considered to be maintained. Notwithstanding, the proposal has orientated living areas and private open spaces to the front and rear boundary as far as practicable. The proposed separation is considered to be sufficient to ensure the privacy of each apartment, however, it is important to note that the proposal has purposefully located lower trafficked bedrooms to the side boundaries as far as practicable.

With regards to the rooftop communal open space, this is orientated to the front boundary and is buffered by landscaped planter boxes. Furthermore, the useable edge of the communal open space is also setback greater than the 9m required under the ADG and therefore considered acceptable in this regard.

In terms of aural privacy, the proposal is submitted with an Acoustic Report prepared by *Acoustic Works*. This ensures the acoustic privacy of future residents and neighbouring properties is appropriately maintained, particularly with regards to the waste collection and loading area. Of relevance, this area is also buffered by landscaping along the side boundary to protect the amenity of neighbours. Accordingly, the proposal is considered acceptable in terms of aural and visual privacy impacts.

### **4.4 ECONOMIC & SOCIAL IMPACTS**

The proposed development will result in an increase in the available services to meet the needs of residents and housing stock in the locality by the provision of a high quality mixed use development as envisaged by the PLEP 2010. The subject site is situated within an existing urban area, and enjoys good access to community facilities and public transport routes. The development is an efficient use of established infrastructure and utilities in the area.

Undertaking the demolition and construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality.



#### 4.4.1 Social Impacts

The proposal has been designed to appropriately respond to the transitioning character of the locality from one and two storey residential dwellings to five and six storey developments. The development will provide a number of social benefits which are considered to achieve the objectives of the R4 High Density Residential zone, these include;

- The provision of a neighbourhood shop and medical centre to serve the day to day needs of residents;
- Direct address to the public domain;
- The provision of 50 high quality residential apartments in place of the four existing structures which are reaching the end of their economic life;
- Increase in employment and housing variety to provide various opportunities and serve demographics within the Penrith locality and wider LGA;
- Increase of density within close proximity to public transport, including bus services located along Parker Street, Derby Street and Great Western Highway;
- Increase of density within proximity to numerous differing land uses and open space;
- Improvements to housing affordability given the proposed dwelling mix and variety offered; and
- Improved casual surveillance to the surrounding public domain.

Despite the predominant positive social benefits, the proposal is considered to have short term negative effects to the surrounding lower density dwellings. Given the area is undergoing transition, it can be reasonably anticipated that during this process there will be an impact to the amenity of the lower density surrounds. Notwithstanding, the low density structures in the locality are expected to be similarly replaced with higher density developments.

Accordingly, despite the minor short term negative impact, the proposal is considered to perform favourably with regards to the social impacts of the development.

#### 4.4.2 Crime Prevention through Environmental Design

Part B of the Department of Urban Affairs and Planning's (now Department of Planning and Environment) Crime Prevention and the Assessment of Development Applications: Guidelines under Section 4.15 of the Environmental Planning and Assessment Act 1979 identify four Crime Prevention through Environmental Design (CPTED) principles. Each of the principles seeks to reduce opportunities for crime and have been used to inform the NSW Police Safer by Design Guidelines for Crime Prevention. The principles are:

- Surveillance;
- Access control;
- Territorial reinforcement; and
- Space management

The subject development performs well in terms of achieving the safer by design guidelines for crime prevention. The development is deemed to be either safe or safe subject to the implementation of the following recommendations:

- The provision of ground level active uses and higher level apartments facing Hope Street will provide for natural surveillance;
- The pedestrian access points to the development are provided via the pedestrian pathways from the streets. These are to be controlled by secure entry points with access being restricted by an intercom, key, code or card lock system;

- The entries to the pathways leading to the building lobby, medical suite and neighbourhood shop are to be illuminated during the evening to a level that allows clear lines of sight from the street frontage;
- Vehicular access to the basement is to be restricted via a security door with access being controlled by an intercom, key, code or card lock system;
- Access to the loading bay and service area will be restricted with appropriate wayfinding signage;
- A security alarm is to be linked to the basement entry, pedestrian entry lobbies, medical centre, neighbourhood shops and ground floor apartments to be activated in the event of forced entry;
- The street number of the subject building is to be readily identifiable from Hope Street;
- Vehicular access to the basement car park and loading area is to be illuminated by a sensor light during the evening;
- All painted surfaces on the external parts of the ground floor level are to be treated with a graffiti resistant coating; and
- Building management is to be responsible for the maintenance of common property including landscaping and removal of any graffiti.

## 4.5 THE SUITABILITY OF THE SITE

### 4.5.1 Access to Services

The site is located within close proximity to numerous bus stop along Parker Street, Derby Street and Great Western Highway. The site has good access to services and facilities as well as public transport. Electricity, sewer, telephone, and water services are readily available to the subject site.

### 4.5.2 Parking and Access

Vehicular access to the site is provided from the Hope Street. The driveway is located within the south-eastern corner of the site to provide access to the basement levels and has been design with a total of 76 car parking spaces, comprising of 65 resident (including 10 visitor), 7 medical centre and 4 neighbourhood shop spaces. The PDCP requires a total of 55 spaces for residents, 10 spaces for resident visitors and 4 spaces for both the medical centre and neighbourhood shop. As detailed above, the proposal meets meet the PDCP 2014 for all components of the development.

The proposed development has also provided a total of 15 bicycle spaces within basement level 1, of which 13 are to be dedicated to the residential component and 2 to the commercial component. The design and layout of the on-site parking and vehicular access/egress is compliant with relevant Australian Standards and will not give rise to any traffic or parking issues in the locality.

A Traffic and Parking Assessment Report has been prepared by *Varga Traffic Planning* and is submitted with this application.

### 4.5.3 Hazards

The site is not in an area recognised by Council as being subject to landslip bushfire or any other particular hazards. The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.

#### Flooding





As detailed in the Supporting Flood Letter prepared by *SGC Consultants*, the proposed development is compliant with the minimum freeboard level which applies to the subject site. Furthermore, it is also noted that the site is marginally affected by the 1% AEP and therefore acceptable in this regard.

## 4.6 THE PUBLIC INTEREST

The proposed development has been designed to relate to the configuration, constraints and context of the site and to achieve compatibility with the desired future character of development in the area, as anticipated by the prescribed development standards.

The proposal will contribute to meeting the day to day needs of residents and will provide for a variety of dwelling types in line with the objectives of the R4 High Density Residential zone. The building has been designed to minimise or mitigate any adverse impact on existing and future development on adjoining allotments. The proposal includes the provision of a high quality, generously sized neighbourhood shop, medical centre and apartments which have access to private balconies, car parking and well-designed communal open spaces.

The proposal is largely consistent with SEPP No. 65, PLEP provisions and PDCP requirements. The proposal is considered to have largely positive social and economic impacts, and manageable impacts on the environment. Ultimately, the proposal represents a positive redevelopment of the site and is considered to be in the public interest.







## 5. Conclusion

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The proposed development has been assessed in light of Section 4.15 of the Environmental Planning & Assessment Act, 1979, State Environmental Planning Policies and Council's planning instruments.

The proposed development is permissible with Council's consent in the R4 High Density Residential zone under the Penrith LEP 2010. However and as discussed in this Statement, health service facilities are not permitted with consent under the PLEP 2010. Accordingly, this application has been submitted pursuant to Clause 57(1) under Part 3, Division 10 of the ISEPP 2007 which permits the erection of medical centres within the 'prescribed zones', of which the R4 High Density Residential zone is recognised.

Regardless, the proposed development complies with the applicable provisions of Council's PLEP 2010 and meets the objectives of the zone, with exception to the maximum building heights development standard. In this regard, justification pursuant to Clause 4.6 of the PLEP is provided at **Annexures C** demonstrating why strict compliance is both unreasonable and unnecessary. The proposal is also consistent with the objectives and/or Design Criteria of the Apartment Design Guide and Council's PDCP.

The siting, design and external appearance of the proposal is considered to be appropriate and consistent with the desired future character of the locality. The proposal is not likely to result in any unreasonable loss of solar gain or privacy to any adjoining or nearby residents and will offer high levels of amenity for the future occupants. The completed development will also have no unreasonable impact on solar access to adjoining residential properties, nor will the proposal change the topography, micro-climate, air or water quality of the locality.

Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. The proposal will not generate an increase in traffic beyond the capacity of the existing road network and is unlikely to affect the level of service, capacity and function of nearby roads and intersections.

The site is suitable for the residential flat building development and will positively contribute to diversity in housing stock and will generally have manageable impacts on both the environment and the amenity of the locality. Accordingly, in the circumstances of the case, the proposal is considered to be in the public interest and worthy of Council's support.



## ANNEXURE A

### Apartment Design Guide – Compliance Table



1

## Apartment Design Guide - Compliance Table

	No building separation is necessary where building types incorporate blank party walls. Typically, this occurs along a main street or at podium levels within centres.	<table><tr><td>Level 1-3</td><td>6m to habitable rooms</td><td>Complies</td></tr><tr><td>Level 4</td><td>9m to habitable rooms</td><td>Complies</td></tr><tr><td>Level 5</td><td>13m to habitable rooms</td><td>Complies</td></tr></table> <table><tr><td colspan="3"><b>Northern (rear) boundary</b></td></tr><tr><td>Ground Floor</td><td>6m to habitable rooms, 4.5m to raised terraces</td><td>Complies and On Merit</td></tr><tr><td>Level 1-3</td><td>6m to habitable rooms</td><td>Complies</td></tr><tr><td>Level 4</td><td>9m to habitable rooms and balconies</td><td>Complies</td></tr><tr><td>Level 5</td><td>9m to balconies</td><td>Complies</td></tr></table> <p>The proposal complies with the building separation requirements of the ADG. A minor variation is proposed to the raised terraces accessed from G.02 and G.03, however, this is considered acceptable given they are located at ground and will be buffered by landscaping and boundary fencing. This will not result in any adverse overlooking given the location and high density character of the locality.</p>	Level 1-3	6m to habitable rooms	Complies	Level 4	9m to habitable rooms	Complies	Level 5	13m to habitable rooms	Complies	<b>Northern (rear) boundary</b>			Ground Floor	6m to habitable rooms, 4.5m to raised terraces	Complies and On Merit	Level 1-3	6m to habitable rooms	Complies	Level 4	9m to habitable rooms and balconies	Complies	Level 5	9m to balconies	Complies	Yes
Level 1-3	6m to habitable rooms	Complies																									
Level 4	9m to habitable rooms	Complies																									
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Level 5	9m to balconies	Complies																									
3J Bicycle and Car Parking	<p>1. For development in the following locations:</p> <ul style="list-style-type: none"><li>on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or</li><li>on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li></ul> <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments (GTTGD), or the car parking requirement prescribed by the relevant council, whichever is less.</p>	Not applicable. PDGP parking rates apply.	N/A																								
Part 4 Designing the Building																											
4A Solar Access and Daylight	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	<p>36 of the 50 apartments (72%) receive the required degree of solar access as per the ADG.</p> <p>7 of the 50 apartments (14%) do not receive solar access.</p>	<p>Yes</p> <p>Yes</p>																								

## Apartment Design Guide - Compliance Table

4B Natural Ventilation	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	36 of the 50 apartments (72%) satisfy cross ventilation requirements and therefore the proposal complies with the ADG.	Yes										
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Maximum building depth of 15.6m	Yes										
4C Ceiling Height	<div>1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are:<table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable rooms</td><td>2.4m</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table></div>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable rooms	2.4m	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<div>Ground floor: 3.7m Remaining residential floors: 3.05m</div>	Yes
Minimum ceiling height													
Habitable rooms	2.7m												
Non-habitable rooms	2.4m												
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope												
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use												
4D Apartment Layout	<div>1. Apartments are required to have the following minimum internal areas:<table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 Bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 Bedroom</td><td>90m<sup>2</sup></td></tr></table><div>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</div></div>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 Bedroom	70m <sup>2</sup>	3 Bedroom	90m <sup>2</sup>	<div>1B – 55m<sup>2</sup> 2B – 75m<sup>2</sup> 3B – 95m<sup>2</sup> Apartments with additional bathrooms are provided the additional 5m<sup>2</sup>. Refer to data sheet and dimensions provided on plan set.</div>	<div>Yes Yes Yes Yes</div>
	Apartment type	Minimum internal area											
	Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>												
2 Bedroom	70m <sup>2</sup>												
3 Bedroom	90m <sup>2</sup>												
2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Each habitable room has a sufficiently sized window/s for solar access and natural ventilation.	Yes											
1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Dimensions provided on the submitted plan set demonstrate that rooms are appropriately proportioned to comply with the numeric requirements of the ADG and to permit entry of sunlight and natural ventilation throughout internal spaces.	Yes											



## Apartment Design Guide - Compliance Table

	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Dimensions indicated on plans demonstrate that room depths comply with numeric requirements.  It is noted that a number of apartments exceed this requirement and provide a depth of 9m, however, provide numerous openings which reduce the depth of the living area from an opening to approximately 7m.	Yes															
	1. Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)	Refer to plan set which demonstrates that each bedroom is sized to comply with the numeric requirements of the AGD.	Yes															
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Each bedroom has a minimum dimension of 3m to allow for typical furniture layouts.	Yes															
	3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"><li>• 3.6m for studio and 1 bedroom apartments</li><li>• 4m for 2 and 3 bedroom apartments</li></ul>	Each living room has a minimum dimension which accords with the ADG to allow for varied furniture layouts.	Yes															
	4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Apartments have a minimum width of 4m and thus avoid elongated spaces with poor utility value and internal amenity.	Yes															
4E Open Space	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 Bedroom</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3 Bedroom +</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m <sup>2</sup>	-	1 bedroom	8m <sup>2</sup>	2m	2 Bedroom	10m <sup>2</sup>	2m	3 Bedroom +	12m <sup>2</sup>	2.4m	<p>Each apartment is provided with an area of private open space in the form of a balcony that is directly accessible from a primary living area and complies with the minimum area and depth requirements of the ADG.</p> <p>Studio – Not Applicable.</p> <p>1 bedroom – Minimum 10m<sup>2</sup> with 3m dimension</p> <p>2 bedroom – Minimum 10m<sup>2</sup> with 2m dimension</p> <p>3 bedroom – Minimum 17m<sup>2</sup> within 2.4m dimension.</p>	Yes
Dwelling type	Minimum area	Minimum depth																
Studio	4m <sup>2</sup>	-																
1 bedroom	8m <sup>2</sup>	2m																
2 Bedroom	10m <sup>2</sup>	2m																
3 Bedroom +	12m <sup>2</sup>	2.4m																
	2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	The proposed ground level apartments comply with this control.	Yes															
4F Common Circulation Space	1. The maximum number of apartments off a circulation core on a single level is 8.	The maximum number of apartments off a circulation core is 6.	Yes															
	2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Not applicable.	N/A															

### Apartment Design Guide - Compliance Table

4G Storage	<p>1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling type</th><th>Storage volume</th></tr><tr><td>Studio</td><td>4m<sup>3</sup></td></tr><tr><td>1 bedroom</td><td>6m<sup>3</sup></td></tr><tr><td>2 Bedroom</td><td>8m<sup>3</sup></td></tr><tr><td>3+ Bedroom</td><td>10m<sup>3</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage volume	Studio	4m <sup>3</sup>	1 bedroom	6m <sup>3</sup>	2 Bedroom	8m <sup>3</sup>	3+ Bedroom	10m <sup>3</sup>	<p>Each apartment is provided with sufficient storage space, at least 50% is provided within the apartment.</p>	Yes
Dwelling type	Storage volume												
Studio	4m <sup>3</sup>												
1 bedroom	6m <sup>3</sup>												
2 Bedroom	8m <sup>3</sup>												
3+ Bedroom	10m <sup>3</sup>												

## ANNEXURE B

### Penrith Local Environmental Plan 2010 – Compliance Table



## Penrith Local Environmental Plan 2010 - Compliance Table

Clause / Control	Requirement	Proposal	Complies
2.3 Zone objectives and Land Use Table	<p>Zone R4 High Density Residential</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a high density residential environment.</li> <li>To provide a variety of housing types within a high density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>To ensure that a high level of residential amenity is achieved and maintained.</li> <li>To encourage the provision of affordable housing.</li> <li>To ensure that development reflects the desired future character and dwelling densities of the area.</li> </ul> <p>Shop Top Housing, Neighbourhood Shops are permissible with consent. Medical centres are not permissible with consent.</p>	<p>The proposed development meets the objectives of the zone by providing a mixed use development which includes a medical centre, neighbourhood shop and residential apartments. The proposal will provide for services which will meet the day to day needs of residents on the subject site and surrounding locality, whilst also including residential apartments in close proximity to public transport and various land uses. The proposal will also increase the affordability and variety of residential accommodation which will serve differing members of the locality. The proposed contemporary architectural design is also consistent with the desired future character of the locality and is acceptable in this regard.</p> <p>The proposed residential accommodation and neighbourhood shops are permissible. The mixed use development, which is consistent with shop top housing, is also permissible with consent.</p> <p>As discussed under Section 4.2.3 of this Statement, medical centres are permissible under the ISEPP 2007 despite being prohibited in the zone.</p>	<p>Yes</p> <p>Yes</p> <p>No – Permissible under ISEPP 2007</p>
Schedule 1 Additional Permitted Uses	<p>20 Use of certain land bounded by Colless, Derby, High and Parkers Streets, Penrith</p> <p>(1) This clause applies to land bounded by Colless, Derby, High and Parkers Streets, Penrith that is identified as “19” on the Additional Permitted Uses Map.</p> <p>(2) Development for the purposes of serviced apartments is permitted with development consent.</p>	<p>The site is identified as ‘19’ on the Permitted Uses Map. The proposal will not involve the provision of any serviced apartments.</p>	N/A
4.1A Minimum lot sizes for dual occupancies, multi dwelling housing	<p>Residential Flat Building – Zone R4 High Density Residential – 800 square meters for standard lot.</p>	<p>The subject site has a site area of 2,440m<sup>2</sup>.</p>	Yes

## Penrith Local Environmental Plan 2010 - Compliance Table

and residential flat buildings			
4.3 Height of buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. (18m)	The proposed development has a maximum height of 20.39m to the western lift overrun and is therefore not compliant. Accordingly, a Clause 4.6 variation request is provided in <b>Annexure C</b> of this Statement.	No – Refer to Clause 4.6 in <b>Annexure C</b>
4.4 Floor space ratio	(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.	No FSR development standard applies to the subject site. It is noted that the proposed GFA is 4,889m <sup>2</sup> , which equates to an FSR of 2:1.	N/A
5.4 Controls relating to miscellaneous permissible uses	(7) <b>Neighbourhood shops</b> If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 200 square metres.	The proposed neighbourhood shops do not exceed 200m <sup>2</sup> as indicated on the submitted plans.	Yes
5.21 Flood planning	(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development— (a) is compatible with the flood function and behaviour on the land, and (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and (d) incorporates appropriate measures to manage risk to life in the event of a flood, and (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.	A Supporting Flood Letter is submitted with this application and is considered acceptable in this regard. It is noted that the site is only partially affected by the 1% AEP.	Yes



## Penrith Local Environmental Plan 2010 - Compliance Table

7.1 Earthworks	<p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,</p>	<p>The proposal will result in a maximum depth of excavation of 7.3m below the existing ground level to allow for the provision of the two basement car parking levels. Given the typology and density of development as anticipated by the R4 Zone, the proposed basement excavation is considered to be acceptable. The basement is adequately setback from the side boundaries and includes considerable landscaping and the relevant stormwater controls. All excavation works will be undertaken to minimise as far as practicable impacts onto adjoining properties.</p> <p>A Geotechnical Report is submitted with this application.</p> <p>Stormwater plans accompanying the application demonstrate that the proposal will not give rise to adverse drainage impacts on the site or surrounds.</p> <p>The proposed development is for high density residential development which is compatible with the desired future character of the site and locality. The excavation will not adversely affect the future use of the neighbouring sites.</p> <p>Any excavated materials will be reused on site where appropriate.</p> <p>It is anticipated that the earthworks can be undertaken without adversely impacting neighbouring properties, as per the submitted Geotechnical Report. Dilapidation surveys are expected to be required as conditions of consent.</p> <p>All excavated material will be disposed of in accordance with the relevant NSW guidelines and requirements.</p> <p>It is unlikely that the proposed excavation will disturb relics. If, during excavation works, relics are encountered, excavation works will cease until the relevant authorities have been notified in accordance with the relevant guidelines.</p> <p>The site is not located in the vicinity of any waterway, drinking water catchment or environmentally sensitive land.</p>	Yes
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## Penrith Local Environmental Plan 2010 - Compliance Table

	<p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</p> <p>(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.</p>	<p>The proposed excavation will be undertaken in accord with the Geotechnical Report. Once completed, the excavation will be suitably setback and buffered by landscaping.</p> <p>The subject site is not within proximity to any heritage items or in a heritage conservation area.</p>	
7.4 Sustainable development	<p>In deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development based on a “whole of building” approach by considering each of the following—</p> <p>(a) conserving energy and reducing carbon dioxide emissions,</p> <p>(b) embodied energy in materials and building processes,</p> <p>(c) building design and orientation,</p> <p>(d) passive solar design and day lighting,</p> <p>(e) natural ventilation,</p> <p>(f) energy efficiency and conservation,</p> <p>(g) water conservation and water reuse,</p> <p>(h) waste minimisation and recycling,</p> <p>(i) reduction of vehicle dependence,</p> <p>(j) potential for adaptive reuse.</p>	<p>The proposed development has been designed with numerous elements to improve the thermal comfort of the development through natural measures. This includes the specific use of materials and maximisation passive solar access and natural ventilation. This application is also supported by a BASIX Certificate and NatHERS Certificate.</p>	Yes
7.6 Salinity	<p>(2) Development consent must not be granted to any development unless the consent authority has considered—</p> <p>(a) whether or not the proposed development is likely to have an impact on salinity processes, and</p> <p>(b) whether or not salinity is likely to have an impact on the proposed development, and</p> <p>(c) appropriate measures that can be taken to avoid or reduce any undesirable effects that may result from the impacts referred to in paragraphs (a) and (b).</p>	<p>The proposed development will not have any impact on the salinity process. Refer to the Geotechnical Report submitted with this application.</p>	Yes

## Penrith Local Environmental Plan 2010 - Compliance Table

7.7 Servicing	<p>(2) Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that—</p> <p>(a) the development will be connected to a reticulated water supply, if required by the consent authority, and</p> <p>(b) the development will have adequate facilities for the removal and disposal of sewage, and</p> <p>(c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and</p> <p>(d) the need for public amenities or public services has been or will be met.</p>	The proposed development will be connected to the relevant services for the building to function.	Yes
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## ANNEXURE C

### Clause 4.6 Variation – Building Height





# Clause 4.6 Variation Statement – Maximum Height (Clause 4.3)

## 1. Height of Buildings standard

Clause 4.3 (2) of PLEP 2010 relates to the maximum height requirements and refers to the Height of Buildings Map. Building height is defined as:

a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*

(b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

*including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The relevant map [sheet HOB\_013] indicates that the maximum building height permitted at the subject site is 18m.

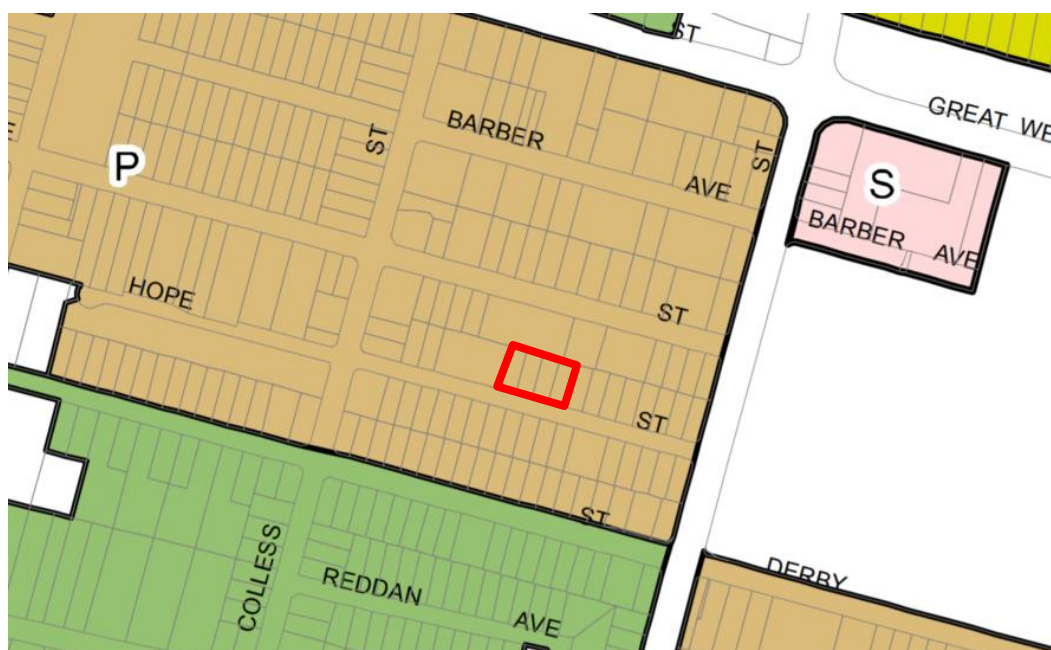


Figure 14 Extract from Height of Buildings Map [P=18m]

## 2. Proposed variation to height of buildings development standard

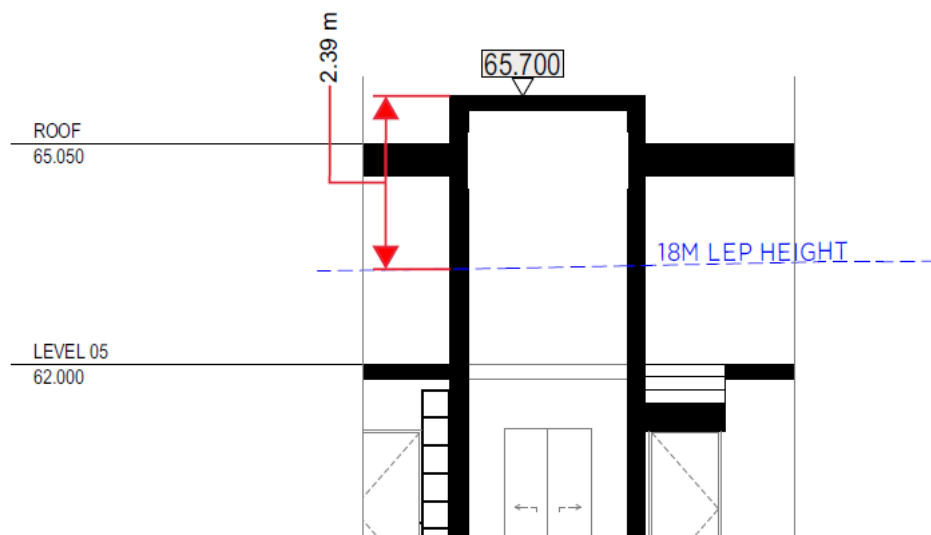
The architectural plans indicate that the proposed development has a maximum height of 20.39m to the western lift overrun in accordance with the definition of height under PLEP 2010. To the eastern lift overrun, the proposal provides a maximum height of 20.1m. It is also noted that the proposal is non-compliant to the upper edge of Level 5, with a maximum height of 1.48m. The proposal is therefore non-compliant with the development standard and seeks a maximum variation of 2.39m or 13.2% to the western lift overrun. Refer to **Figures 15** and **17** below.



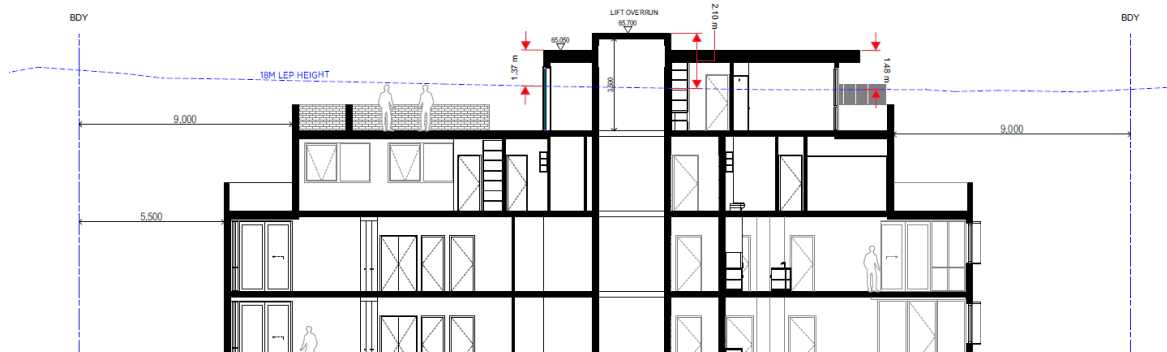




**Figure 15** Height Blanket Diagram



**Figure 16** Section illustrating maximum height non-compliance to western lift overrun



**Figure 17** Section illustrating height non-compliances to eastern lift overrun and upper edge of Level 5

### 3. Clause 4.6 to PLEP 2010

The objectives and provisions of clause 4.6 are as follows:

- (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.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (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.*



(5) In deciding whether to grant concurrence, the Planning Secretary must consider—

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

**Note—** When this Plan was made it did not include Zone RU3 Forestry or Zone RU6 Transition.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (ca) clause 6.1, 6.2, 6.6, 6.7, 6.16, 7.7, 7.17, 7.21, 7.24, 8.4(5) or Part 9.

The development standards in Clause 4.3 are not “expressly excluded” from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum building height of 20.39m which equates to a numerical variation of 2.39m and a percentage variation of 13.2%, noting that the maximum height relates to the proposed western lift overrun fronting Hope Street.

#### **4. Compliance is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))**



Of relevance to Clause 4.6(3)(a), in *Wehbe V Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

The judgement goes on to state that:

*“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

*“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”*

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- the development is consistent with the standard and zone objectives, even with the proposed variation (refer to Section 7 below);
- there are no additional significant adverse impacts arising from the proposed non-compliance; and
- important planning goals are achieved by the approval of the variation.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

## 5. Sufficient environmental planning grounds (Clause 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. Specifically, Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 24) states:

*The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify contravening the maximum building height:

1. The height breach is at its greatest for the western lift overrun which contains an RL of 65.7. The maximum extent of variation sought is 2.39m and relates to a building element which will provide equitable access to the communal open space located on the roof top and two residential apartments. This similarly applies to the eastern lift overrun (RL 65.7) which seeks a variation of 2.1m. In addition, the proposal also has a variation of 1.48m to the upper edge of level 5 which includes internal areas and awning structures.
2. When considering the lift overruns, these are both located 19.5m from the southern frontage to Hope Street and 17.45m from the northern (rear) boundary. Both the western and eastern lift overruns are also setback 17.9m from their respective boundaries. Given the considerable setbacks and centralised location of the lift cores, this will not form part of the dominant visual building composition from the street frontage or neighbouring properties.

When considering the height non-compliances pertaining to the upper edge of Level 5, this is setback 17.65m from the Hope Street boundary, 13m from the eastern and western (side) boundary and 10.35m from the northern (rear) boundary. In addition, it is vital to note that the uppermost floor is purposefully recessed from the built form below (which is compliant) to ensure it is not visually dominant and exceeds the separation requirements as required by the Apartment Design Guide. Specifically, Level 5\ is setback 2.3m-9.5m from the predominant built form fronting Hope Street, 4m from the lower built form opposing the eastern and western (side) boundaries



and 1.3m from the lower built form fronting the northern (rear) boundary. Importantly, these setbacks will ensure the proposal will provide a strong presentation to the streetscape which is compatible with the objectives and controls which apply to the subject site.

3. As discussed, the non-compliant elements are located centrally within the site and are setback considerably from the streetscape, neighbouring properties and the lower built form. When viewed from Hope Street (the elevation with the most bearing on character), the non-compliant elements will be obscured from the public domain by the compliant built form. That is, the building will appear as overwhelmingly height compliant. The recessed nature of these elements are incorporated with numerous design measures including façade articulation, planter box vegetation, fenestration and materiality (namely, vertical cladding) as to reduce the visual bulk and scale of the development and ensure they are subordinate. To the casual observer, these non-compliant elements will not be considered visually obtrusive or jarring from the public domain (**Figure 18**).





**Figure 18** Perspective of proposed development as viewed from southern side of street (non-compliance circled)

Similarly and as viewed from the neighbouring properties, the proposal is also setback considerably from the boundaries and compliant built form. This ensures that the non-compliances will not be visually obtrusive as viewed from the neighbouring properties.

4. In addition to the above, the proposed development has been provided with a medical centre and neighbourhood shop at ground level. These areas incorporate a floor to ceiling height of 3.7m which has artificially raised the overall building height. Given the 18m height standard reasonably





anticipates a 6 storey built form (as is proposed), the non-compliances are consistent with the perceivable bulk and scale as anticipated in the locality. Further, the proposal is predominately compliant with the development standard with the non-compliances are limited to the lift overrun and the upper edge of the recessed uppermost level.

It is also noted that the alternative ground level uses will satisfy the objectives of the R4 Zone and represents a unique circumstance when compared to the typical residential flat buildings approved in the locality. That is, the additional height created by the ground floor uses is not anticipated by the height standard which applies to the zone. As discussed in this variation, insistence on strict compliance will have an inferior outcome given the limited impact of the proposal and benefits afforded by the development.

5. The proposal is predominately compliant with the 18m standard and provides a six storey development. As discussed, the locality is undergoing a significant transition in bulk and scale which includes the provision of 5 and 6 storey buildings as is evident through a number of recently constructed and approved developments. Specifically, nearby developments include (but are not limited too):

- Nos. 25-31 Hope Street (to the western side boundary) - 6 storey residential flat building, approved with 19.28m height;
- Nos. 20-28 Lethbridge Street (to the northern rear boundary) - 6 storey residential flat building, approved with 19m height;
- Nos. 18-20 Colless Street - 6 storey building (with ground level childcare);
- No. 16 Colless Street - 6 storey residential flat building;
- Nos. 12-14 Hope Street - 5 storey residential flat buildings (with raised ground level); and
- Nos. 38-40 Hope Street - 5 storey residential flat buildings (with raised ground level).

As such, although the proposal results in non-compliances with the building height, the proposed 6 storey development is considered to provide an appropriate bulk and scale within the emerging character in the locality. In fact, the proposal is considered to provide a lesser bulk and scale than other established 6 storey buildings given the considerable central recess and setback uppermost floor. Accordingly, the proposal will nestle comfortably within the emerging context of Penrith.

6. Insistence on compliance with the height standard will require deletion of the ground level commercial tenancies which are provided with greater floor to ceiling heights to provide a fully compliant six storey building. The removal of these uses and their replacement with residential apartments is considered inferior (given the limited impact of the non-compliance) as they directly serve the needs of the community.
7. Alternatively, the proposal will require the removal of the uppermost level and associated lift overruns which would remove two high quality apartments and a communal open space. The



removal of residential units is antipathetic to the objectives of the zone in that it will reduce the quantum of residential accommodation within a highly accessible area where no adverse impacts to the streetscape or amenity of the public domain or neighbouring properties will result. It is considered the proposal suitably balances the provision of communal open space and residential accommodation despite the height breach to ensure no adverse impacts will result. Further, the removal of one residential level will not accurately reflect the desired character of the locality, given numerous recently built developments are 6 storeys in height. It is also noted that the lift overruns provide equitable access to the communal open space for people with disability and it is therefore their removal is considered to be unreasonable

8. The extent of the variation is in-part a result of the topography of the subject site. That is, the variation is greater along the western and northern edge of the site due to the topographical fall of the site. As such, the topography is considered to be the site specific reasons for the extent of this variation and should be considered.
9. The social benefits of providing additional housing stock, a high quality communal open space and alternative ground level uses within a highly sought after location should be given weight in the consideration of the variation request. It would be a loss to the community (and contrary to the public interest) to deny the variation and require either the removal of apartments or the alternative ground level uses given the minor impact created by the proposal.
10. It is considered that there is an absence of any significant material impacts attributed to the breach on the amenity or the environmental values of surrounding properties, the amenity of future building occupants and on the character of the locality. Specifically:
  - a. The extent of the additional height creates no adverse additional overshadowing impacts to adjoining residential dwellings and flat buildings when compared to a compliant building envelope. That is, despite the additional shadowing cast by the non-compliant element, the proposal will not impact the solar gain of the properties to the east, west or south, which will achieve greater than 3 hours of solar access to the private open spaces and openings as discussed in this Statement. As such, additional overshadowing caused by the non-compliant elements would be insignificant; and
  - b. The height breach does not result in any adverse additional privacy impacts. Where the non-compliance pertains to the glazed openings, these have been designed with increased setbacks (beyond the ADG Design Criteria) to the side and rear boundaries. Furthermore, the extent of overlooking would be no different if the proposal was entirely compliant. That is, the removal of the ground level uses to provide a compliant height would not alter the location and provision of openings to Level 5. As such, it is considered that any additional loss of privacy caused by the non-compliant elements would be insignificant; and





- c. The height of building breach does not result in view loss which is not reasonably anticipated within the planning controls and site context. When considering the extent of view sharing, it is noted that the height breach will have no impact as there are no significant views enjoyed across the subject site. As such, it is anticipated the extent of view loss caused by the non-compliant element would be insignificant or nil.
- 11. The proposed development meets the objectives of the development standard and meets the objectives of the R4 High Density Residential zone (as further detailed in Section 7 below);
- 12. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
  - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for residential uses (1.3(c));
  - b. The proposed development promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context (1.3(g)).
- 13. The variation to the height of buildings development standard will give better effect to the aims of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65). In particular:
  - a. The proposed variation will provide more sustainable housing in social and environmental terms and better achieve urban planning policies (clause 2(3)(a)(i));
  - b. to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define (clause 2(3)(b));
  - c. to contribute to the provision of a variety of dwelling types to meet population growth (clause 2(3)(f));
  - d. Approval of the proposed variation will support a variety of housing types by providing a well-located and compact development that will be a better choice for families (clause 2(3)(g)).

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development, particularly given the topography site and provision of ground level non-residential uses. As discussed, the additional height does not significantly impact the amenity of the neighbouring properties and has been designed in such a way to ensure the additional height is not visually jarring from the public domain.



It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. *The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*
87. *The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

**6. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), (Clause 4.6(4)(a)(i))**

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in Section 7 below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. **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 (Clause 4.6(4)(a)(ii))**

### **Height of Buildings Objectives**

The objectives and relevant provisions of Clause 4.3 of PLEP 2010 are as follows:

- (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.*

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of Clause 4.3 are addressed in turn below.

#### **Objective (a): to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,**

Objective (a) seeks to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality and positively complement and contribute to the locality.

An 18m height of buildings control effectively anticipates a six (6) storey building can be constructed on the site. The proposed development provides a six (6) storey building on the subject site and it is only the topography and provision of alternative ground level uses (which are specific conditions), that result in a breach to the 18m height of buildings development standard. As such, the 6 storey appearance and predominant compliance with the 18m height requirement are considered to represent the desired future character.

It is noted that objective (a) refers to being “compatible” with adjoining development. It is considered that “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

*“22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”*

To the casual observer in Hope Street, the proposal will appear as a six (6) storey building which is consistent with the 18m height of buildings development standard. The proposed height and form is considered to be compatible with other recently developed properties throughout the locality (as discussed in this variation) and contains a bulk and scale which is representative of the 18m development standard and desired future height of buildings. Of relevance, the existing character of locality is significantly changing given the transition from low density residential dwellings to high density residential flat buildings. As such, the proposal has been purposefully designed to protect the amenity of the neighbouring properties, however, it is noted that this pre-existing character will be replaced overtime.



The proposed building will appear greater than the adjoining dwellings east and on the southern side of Hope Street, however, this is reasonably anticipated by the zoning (as detailed above). When considering the established high density developments in the locality, it is noted that the directly adjoining properties to the west and north contain six storey residential flat buildings which are consistent with the proposed development. In order to conceal the extent of non-compliance, the proposal has purposefully recessed Level 5 and is considered to be a significant visual improvement when compared to a sheer 18m building form as anticipated by PLEP 2010. That is, the height breach (up to 2.39m or 13.2%) is mainly hidden from the public domain and would not be alarming to the visual aesthetic of the streetscape. Furthermore, the variation will not result in a scale of development that is noticeably different from the parts of the building that comply with the maximum building height development standard.

The burden of insisting on strict compliance would result in the removal of the ground level medical centre and neighbourhood shop and their replacement with residential apartments and a standard floor to ceiling height. Alternatively, the proposal would require the removal of Level 5 which would result in the removal of high quality apartments and communal open spaces. In both instances, this would be an unreasonable and unnecessary planning outcome given the nature of the non-compliance and limited impacts pertaining to bulk, scale and character. In fact, the removal of Level 5 would result in a development that is five storeys which is less than the scale of buildings anticipated by the 18m height of buildings development and would be inconsistent with the desired future character of the locality.

The proposal will positively contribute to the existing and desired future character of the Penrith locality when viewed in conjunction with buildings located along Hope Street. To the casual observer, the building will appear to have compliant height and has been tailored to create an improved relationship with the adjoining buildings. The scale of development is essentially consistent with the form encouraged by the LEP height limit and has been designed with façade undulations, a recessed uppermost level, fenestration, balcony articulation and materiality.





**Figure 19** Perspective of proposed development

Therefore the proposal will be entirely compatible with the streetscape and represents the desired future character of the locality. It will certainly not be visually “jarring” in the streetscape or as viewed from any surrounding properties. On







balance, the proposal is considered to achieve a planning purpose of providing a high quality building in a suitable locality in close proximity to services and transport, and replacing four buildings that are nearing the end of their economic life. These benefits are in the absence of any significant additional adverse streetscape or amenity impacts.

The proposal is therefore consistent with objective (a), despite the height breach.

**Objective (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,**

This objective envisages that building heights must be controlled to minimise impacts to the streetscape and amenity of neighbouring properties and the public domain.

When considering visual impact, this has been addressed under Objective (a) above. Notwithstanding and as detailed, the extent of non-compliance is recessed beyond the compliant building envelope and utilises a number of design elements to limit the visual impact of this component. Specifically, Level 5 incorporates increased setbacks, façade undulations, fenestration, landscaped elements and materiality (being vertical cladding) as to limit the perceivable bulk and scale as viewed from the public domain. Accordingly, when viewed from Hope Street and the neighbouring properties, the extent of non-compliance will be obscured by the compliant envelope and therefore the visual impact is appropriately mitigated.

With regards to minimising the impact to the amenity of adjoining properties, the height breach will not adversely compromise the use and enjoyment of neighbouring properties in terms of privacy, daylight access or views. The proposal will enhance the existing streetscape through the replacement of dated building stock that were nearing the end of their economic lives with a modern building and responds to the desired future character of the locality.

In terms of privacy, the elements of the building above the 18m height limit are limited to the upper portion of Level 5 which has been designed to preserve privacy of adjoining properties. That is, the architectural plans included increased setbacks (beyond the Design Criteria contained within the ADG) and orientates living areas and private open spaces to the rear boundary. Of relevance, if strict compliance is insisted, the privacy impact to the neighbouring properties would be unchanged. That is, a compliant building height to level 5 would not alter the extent of overlooking given the proposal is compliant with the relevant separation criteria and is a result of the high floor to ceiling of the ground level. As such, the elements that breach the height limit have no greater impact on the privacy of adjoining properties when compared to elements that comply with the height limit.

In relation to solar access, the elements of the building above the 18m height limit creates no significant additional overshadowing to adjoining properties or public domain when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the height breach recessed and flanked by a built form that complies with the height of buildings development standard. The elements of the building that breach the height limit would have insignificant additional impacts on the overshadowing of adjoining properties between 9am and 3pm in midwinter as discussed in this Statement.

In terms of view loss, the proposed variation will not result in any significant loss of views or outlook compared to a building with a compliant height. Importantly, no significant views are currently enjoyed across the subject site from neighbouring properties or the public domain. The applicable planning controls effectively anticipate a continuous 18m high built form along Hope Street that will follow the topography. As the existing buildings are under-developed relative to the 18m height control, the expectation to retain any views is considered unreasonable. As such, any view impact is created by the is generally compliant building envelope which is set by the controls of the PLEP 2010, ADG and PDCP 2014.

Therefore, the proposal is consistent with objective (b), despite the minor height breach.



**Objective (c): to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,**

The subject site is not located within the immediate vicinity of heritage items, within a heritage conservation or in proximity to any areas of scenic or visual importance and therefore the proposal is consistent with objective (c).

**Objective (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.**

This objective seeks to ensure development provides a high quality urban form and suitable scale and intensity within the R4 zone. Of relevance to this objective, the subject site is surrounded by an area which is zoned R4 High Density Residential and therefore a transition in built form and intensity to other land uses is not considered necessary in this regard.

With regards to the quality of built form and intensity desired within the R4 Zone, the 18m height of buildings control effectively anticipates a six storey building can be constructed on the site. The proposed development provides a six storey building and is only in breach of the height limit due to the greater floor to ceiling height of the ground level and topography of the site. The proposed design measures, as detailed in this variation, provide a six storey appearance with a recessed uppermost level and will result in a built form which is reasonably anticipated in the zone. Further, the proposal is predominately compliant building height development standard and therefore represents the desired future character of the locality.

To the casual observer on Hope Street, the proposed development will read as a height compliant building that is consistent with the future intensity and character of the locality. Importantly, the non-compliances do not bring with it additional density on the site not envisaged by the zone or development standards. The proposed height and form is considered to be entirely compatible with other recently approved and developed properties, including Nos. 25-31 Hope Street (to the western side boundary) and Nos. 20-28 Lethbridge Street (to the northern rear boundary). That is, the additional floor to ceiling height provided for the non-residential uses does not bring with it a form of development which is appreciably greater than anticipated by the zone or established by the neighbouring properties.

The burden on insisting on strict compliance would result in the removal proposed non-residential uses or the uppermost level and therefore the subsequent loss of additional residential accommodation and the rooftop communal open space. This will significantly impact the provision of the alternative uses, amenity and liveability of the proposal and is considered a disproportionate outcome given the minimal impact to scale and intensity resulting from the height variation. Therefore the proposal will be entirely compatible with the streetscape and represents the desired future character of the locality.

The proposal is therefore consistent with objective (d), despite the height breach.

**Objectives of the Zone**

Clause 4.6(4)(a)(ii) requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R4 are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*

The proposed development will provide for the housing needs of the community through providing a mixture of apartments typologies within a high density environment.

- *To provide a variety of housing types within a high density residential environment.*

As above, the proposed development will provide for a variety of apartment types including 9 x 1 bedroom, 36 x 2 bedroom 5 x 3 bedroom apartments, including 8 adaptable dwellings.





- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is not antipathetic to this objective. It is also noted that the proposal will provide a medical centre and neighbourhood shop which will also serve the community and meet the day to day needs of the residents.

- *To ensure that a high level of residential amenity is achieved and maintained.*

The proposed development has been purposefully designed to retain the amenity of the existing dwellings, residential flat buildings and approved developments throughout the locality.

- *To encourage the provision of affordable housing.*

The proposal will provide an appropriate mix of apartment types which will improve affordability in the locality.

- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposed development provides a six storey development which is entirely consistent with the anticipated bulk, scale and character of development in the locality as envisaged by the R4 Zone.

The proposed development, including those parts of the building that breach the height of buildings development standard, is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

#### **8. The concurrence of the Secretary has been obtained (Clause 4.6(4)(b))**

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

#### **9. Whether contravention of the development standard raises any matter of significance for State or Regional environmental planning (Clause 4.6(5)(a))**

Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

#### **10. The public benefit of maintaining the development standard (Clause 4.6(5)(b))**

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum building height. As such there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building height exceeds the maximum permitted on the site by 20.39m (13.2%), the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

#### **11. Conclusion**

This written request has been prepared in relation to the proposed variation to the 18m height of buildings development standard contained in Clause 4.3 of PLEP 2010.





Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach. Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation supported.



## ANNEXURE D

### Penrith DCP 2014 – Compliance Table



## Penrith DCP 2014 Compliance Table

Clause / Control	Requirement	Proposal	Complies?
<b>C1 Site Planning and Design Principles</b>			
<b>1.2.3. Building Form - Height, Bulk and Scale</b>	a) Context: An applicant 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.	A site analysis plan is submitted with this application. Additional discussion regarding the design and character of the building is provided throughout this Statement which demonstrates compliance with the locality.	Yes
	b) Character: An applicant must demonstrate how any building's height, bulk and scale will avoid or minimise negative impacts on an area's landscape, scenic or rural character (where relevant) taking into account the topography of the area, the surrounding landscape and views to and from the site.	The proposed development has been designed as a contemporary built form which is consistent with the character of the locality. The non-compliance pertaining to building height is considered to be compatible with the character of the locality as discussed in the Clause 4.6 in Annexure B.	Yes
	c) Articulation: 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.	The built form utilises a significant recess fronting Hope Street to articulate the façade. This is also integrated with balconies, fenestration and materials.	Yes
	d) Overshadowing: Building locations, height and setbacks should seek to minimise any additional overshadowing of adjacent buildings and/or public spaces where there would be a significant reduction in amenity for users of those buildings/spaces.	Shadow diagrams have been prepared and are submitted. The proposal provides a compliant built form as far as practicable to minimise overshadowing.	Yes
	e) Setbacks/Separations: Buildings should be sufficiently set back from property boundaries and other buildings to: i) Maintain consistency with the street context and streetscape Character, especially street/front setbacks; ii) Maximise visual and acoustic privacy, especially for sensitive land uses; iii) Maximise deep root planting areas that will support landscape and significant tree plantings integrated with the built form, enhancing the streetscape character and reducing a building's visual impact and scale; iv) Maximise permeable surface areas for stormwater management; and v) Minimise overshadowing.	The proposal provides separation which is entirely consistent with the Design Criteria contained within the ADG. This ensures aural and visual privacy of neighbouring properties in addition to compatible character. The setbacks will provide significant vegetation in addition to minimising overshadowing and maximising amenity.	Yes
	f) Building Façade Treatment: The aim is to ensure that any built form will:		



## Penrith DCP 2014 Compliance Table

	<p>i) promote a high architectural quality commensurate with the type of building and land use;</p> <p>ii) adopt façade treatments which define, activate and enhance the public domain and street character;</p> <p>iii) ensure that building elements are integrated into the overall building form and façade design;</p> <p>iv) compose façades with an appropriate scale, rhythm and proportion that responds to the building's desired contextual character;</p> <p>v) design façades to reflect the orientation of the site using elements such as sun shading, light shelves and appropriate glazing as environmental Controls;</p> <p>vi) express important corners by giving visual prominence to parts of the façade, for example, a change in building articulation, material or colour, roof expression or building height, and</p> <p>vii) co-ordinate and integrate building services to improve the visual presentation.</p>	<p>The proposal provides a high quality contemporary façade which is consistent with the high density character.</p> <p>The proposal provides a defined base, middle and podium with central recess to address the streetscape.</p> <p>The building provides articulation to balconies, fenestration and undulation.</p> <p>Refer to Section 4.3.5 of this Statement.</p> <p>The proposal provides inset balconies to provide shading.</p> <p>Not applicable.</p> <p>Building services are integrated.</p>	Yes
	<p>g) Roof Design: The roof is an important architectural element of any building and:</p> <p>i) the shape and form of the roof should respond to its surrounding context and minimise visual impact from any key viewpoints; and</p> <p>ii) should consider opportunities for incorporating 'green roofs'.</p>	<p>The proposal provides parapet roof to the uppermost level which is consistent with the contemporary character of the development and locality.</p>	Yes
<b>1.2.4. Responding to the Site's Topography and Landform</b>	a) Applicants must demonstrate how the development responds to the natural topography and landform of the site based on analysis drawings.	The proposal has been designed to provide the basement below natural ground with apartments with at-grade access where practicable.	Yes
	b) Any built form should be located, oriented and designed to minimise excavation, cut and fill in accordance with the requirements of the Land Management Section of this Plan.	The building minimises excavation excluding the provision of basement parking.	Yes
	c) The built form should respond to the natural topography by: <p>i) Avoiding steep slopes for buildings;</p> <p>ii) Aligning the built form with the contours; and</p> <p>iii) Utilising split level design on gentler slopes.</p>	The proposal has provided at-grade ground level apartments and non-residential uses and is considered acceptable.	Yes
	d) Where relevant, buildings should be placed so there is a backdrop of a hill, slope or rise behind the building. In this way, the ridgeline of any building is lower than the highest level of any hill, slope or rise on which the building is placed to avoid being visible above that hill, slope or rise.	Not applicable.	N/A

## Penrith DCP 2014 Compliance Table

<b>1.2.5. Safety and Security (Principles of Crime Prevention through Environmental Design)</b>	<b>1) Lighting:</b> Lighting plays a vital role in crime prevention and personal safety as you can see and respond to what is around you and ahead of you. Others can also see you, which further reduces the likelihood of a crime being committed.	The proposal will provide appropriate lighting to the building entries and communal open spaces. This can be imposed as a condition of consent.	Yes
	<b>2) Fencing:</b> If fencing is too high or made of inappropriate materials it reduces the opportunity for casual surveillance of the street and for users of the public domain to see what activities are taking place on your site. This then further increases the likelihood of a crime being committed.	No front fencing is proposed and therefore this is considered acceptable.	N/A
	<b>3) Car Parking:</b> Poorly designed car parks whether underground or not can be a dangerous environment for their users. Through the provision of some basic design elements, such as lighting and signage these spaces can be made safer.	Car parking is provided as a basement with secure key code entry required. This will be adequately lit.	Yes
	<b>4) Entrapment spots and blind corners:</b> Entrapment spots and blind corners provide opportunities for perpetrators of crime to hide and or commit crime.	The proposal will not provide any blind corners or areas for concealment as accessed from the public domain.	Yes
	<b>5) Landscaping:</b> Trees and shrubs that are inappropriately located can easily reduce surveillance opportunities and provide entrapment spots and blind corners.	Landscaping is designed to minimise disruption of sight lines.	Yes
	<b>6) Communal/Public Areas:</b> Communal or public open space areas that do not have adequate natural surveillance are a risk to personal safety.	Roof top communal space will provide surveillance to Hope Street. Rear space will be overlooked by rear apartments.	Yes
	<b>7) Movement predictors:</b> Movement predictors are routes which people move through on a regular and predictable basis such as a pedestrian underpass.	The proposal provides clear and identifiable entries from Hope Street to the residential and non-residential uses.	Yes
	<b>8) Entrances:</b> Entrances to all types of development that are not visible from the public domain provide an opportunity for perpetrators of crime to hide and or commit crime. Entrances to all types of development need to be clearly visible and legible so that the users can obtain entry quickly and expediently.	The entries are visible from the public domain and will be overlooked by the residential dwellings above.	Yes
	<b>9) Site Building and Layout:</b> Buildings should be sited so that they address the street and promote surveillance of the street from the dwelling and of the dwelling.	As detailed, non-residential and residential uses directly front the public domain.	Yes

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	<b>10) Building Identification:</b> Adequate building identification is essential to ensure that people can easily find a destination and do not have to walk up and down the street searching for it.	Building identification will be clearly provided. Signage for non-residential uses will be the subject of a separate application.	Yes
	<b>For commercial development:</b> a) Street numbers should be at least 7cm high, and positioned between 1m and 1.5m above ground level on the street frontage. b) Street numbers should be made of durable materials preferably reflective or luminous, and should be unobstructed (e.g. by foliage). c) Location maps and directional signage should be provided for larger developments.	To be integrated into the built form.	Yes
	<b>For residential development:</b> a) Each individual dwelling should be clearly numbered. b) Unit numbers should be clearly provided on each level. c) Each building entry should clearly state the unit numbers accessed from that entry.	The building and dwellings will be clearly identifiable.	Yes
	<b>11) Security:</b> A crucial part of a crime prevention strategy is the use of security hardware and/or personnel to reduce opportunities for unauthorised access.	Secure entries to be provided.	Yes
	<b>12) Ownership and Space Management:</b> It is important that people have a sense of ownership of a place whether it is residential or commercial as a person who feels attached to a place is more likely to watch out for it and the other users of it.	The high quality design, generous open spaces and landscaping will improve sense of place.	Yes
	<b>13) Way finding/ finding help:</b> The ability to escape, communicate or find help when in danger can be assisted through improved signage and legible design. Moreover, knowing where you are in a large open space or shopping centre contributes to a feeling of safety.	Design provides clear and legible pathways and access.	Yes
<b>Part C2 – Vegetation Management</b>			
<b>2.1 Preservation of Trees and Vegetation</b>	a) A person must not remove, clear, prune or otherwise cause harm to any tree or other vegetation prescribed by this Plan without an appropriate approval. This includes the following activities in relation to trees and other vegetation which are not permitted without approval	Existing vegetation to be removed will be in accordance with the plans and Arborist Report.	Yes
	b) A person must not remove, clear, prune or otherwise cause harm to any tree or other vegetation prescribed by this Plan, which is proposed as part of development without Development Consent. These works must be assessed as part of a Development Application.	As above.	Yes

## Penrith DCP 2014 Compliance Table

	b) A report prepared by a suitably qualified and experienced arborist may be required with a tree removal application and as a minimum should address the following in relation to trees	An Arborist Report is submitted with this application.	Yes
	a) Australian Standard AS 4970-2009 Protection of Trees on Development Sites should be considered, and	Refer to Arborist Report.	Yes
	b) The siting and layout of a development should consider, at the initial concept stage, the location of trees and other vegetation (including on adjoining land) and favour their retention.	The proposal will protect the street trees where possible. The removal of the single tree is acceptable and will be replaced.	Yes
<b>2.3. Bushfire Management</b>	a) If land is identified as 'bushfire prone land' on the Bushfire Prone Land Map, then any development application on that land must address the bush fire protection measures set out in the document ' <i>Planning for Bushfire Protection</i> 2006 (PBP).	Site is not identified as bushfire prone land.	N/A
<b>C3 Water Management</b>			
<b>3.2. Catchment Management and Water Quality</b>	<b>1) Approval to Discharge Contaminants</b> Water discharge from any development must not contain contaminants, unless necessary licences and/or approvals are obtained from relevant government authorities.	Refer to submitted Stormwater Plans.	Yes
	<b>2) Addressing Potential Catchment Impacts</b> All applications to Council, where there is the potential to impact upon a water system, are required to identify in the application the relevant water systems in the catchment area of the site that may be affected and address how any potential impacts will be mitigated/avoided.	Refer to submitted Stormwater Plans.	Yes
	<b>3) Water Quality for all Land Uses</b> Council's Water Sensitive Urban Design (WSUD) Policy (2013) has been prepared to improve water conservation, quality and quantity in both new development and some redevelopments. The policy seeks to clarify which developments need to achieve the targets for water conservation, quality and quantity.	Refer to submitted Stormwater Plans.	Yes
	<b>4) Council Approval Requirements for WSUD Systems</b> Development types required to meet water conservation and stormwater quality and quantity targets are defined in Table C3.1. The performance criteria required to be met are listed below under subsection '5) WSUD Development Controls'. Affected developments must submit a WSUD Strategy (report dealing with measures to be implemented as part of the development) with a Development Application.	Refer to submitted Stormwater Plans.	Yes

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	<b>5) WSUD Development Controls</b> a) All residential buildings are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX), as required.	Refer to submitted Stormwater Plans.	Yes
3.4. Groundwater	<b>1) Utilising Groundwater/Bores</b> Where groundwater is proposed to be accessed, satisfactory arrangements for the proper utilisation and protection of the groundwater resource must be made with the Office of Water.	Refer to Geotechnical Report.	Yes
	<b>2) Protecting Groundwater</b> a) Applicants are required to consider the impact of the proposed development on underlying and surrounding groundwater resources and adopt appropriate measures to avoid these impacts.	Refer to Geotechnical Report.	Yes
3.5 Flood Planning	<b>1) Submission Requirements</b> a) Where relevant, a comprehensive flood study, incorporating: i) a survey of the main watercourse; ii) a survey of the site; and iii) a detailed flood and drainage investigation which establishes the estimated 1% AEP (100 year ARI) flood level; is to be submitted with any development application on land identified as fully or partially flood affected. The levels on the survey are required to be verified during construction by a survey certificate.	A Supporting Flood Letter is submitted with this application which details that the proposal is compliant with the minimum freeboard where the 1% AEP applies.	Yes
	b) The applicant shall be required to demonstrate to the satisfaction of Council (on the basis of a qualified consultant report) that: i) The development will not increase the flood hazard or risk to other properties; ii) The structure of the proposed building works shall be adequate to deal with flooding situations; iii) The proposed building materials are suitable; iv) The buildings are sited in the optimum position to avoid flood waters and allow safe flood access for evacuation; v) The proposed redevelopment will not expose any resident to unacceptable levels of risk or any property to unreasonable damage; and vi) Compliance of any existing buildings with the <i>Standard - Construction of Buildings in Flood Hazard Area</i> and the accompanying handbook developed by the Australian Building Codes Board (2012).		
	<b>2) Flood Hazard Classifications</b>	As above.	Yes

## Penrith DCP 2014 Compliance Table

	<p>a) Council will consider development on land subject to the flood planning provisions of the LEP but will not grant consent to new development in floodways or in high hazard areas.</p> <p><i>Flood hazard (high) or high flood hazard</i> occurs when there is possible danger to life and limb; evacuation by trucks is difficult; there is potential for structural damage; and social disruption and financial losses could be high.</p>		
<b>3.6. Stormwater Management and Drainage</b>	<p><b>1) Natural Environment</b></p> <p>a) Runoff must not be discharged into bushland areas, including threatened ecological communities.</p> <p>b) Pipe outlets shall be treated with measures to dissipate stormwater velocity, except where waters enter a formed channel or similar structure that is unlikely to be damaged by water flowing in at high velocity.</p> <p>c) Permeable ground surfaces are to be maintained as far as possible, and where suitable conditions exist, stormwater is to be infiltrated on-site.</p>	Refer to submitted Stormwater Plans.	Yes
	<p><b>2) Drainage</b></p> <p>a) Council's Stormwater Drainage Specification for Building Developments provides details on drainage requirements including on-site detention, new drainage systems and the like.</p> <p>b) The development of any lot should take into account the existing drainage patterns of the area, including any localised ponding</p>	Refer to submitted Stormwater Plans.	Yes
	<p><b>On-Site Stormwater Detention (OSD)</b></p> <p>a) Council's <i>Stormwater Drainage Specification for Building Developments</i> provides details on drainage requirements for on-site detention.</p> <p>b) Adequate stormwater systems shall be designed and constructed to ensure that, for all rainwater events up to and including the 1:100 Average Recurrence Interval (ARI) event, new developments and redevelopments do not increase stormwater peak flows in any downstream areas.</p>	Refer to submitted Stormwater Plans.	Yes
	<p><b>New Drainage Design</b></p> <p>a) Any new piped drainage system shall be designed to control minor stormwater flows under normal operating conditions for an ARI of 5 years.</p>	Refer to submitted Stormwater Plans.	Yes


## C4 Land Management



## Penrith DCP 2014 Compliance Table

4.1. Site Stability and Earthworks	1) Development Consent a) In accordance with the earthworks provisions of the LEP, development consent is required for any earthworks	Earthworks are proposed as part of this application and is consistent with the LEP.	Yes
	3) Development Application Requirements a) Any development application that proposes earthworks and therefore changes to the levels of a site, is required to clearly address the following in the Statement of Environmental Effects or a Geotechnical Report (if required, see 3 b)	A Geotechnical Report is submitted with this application.	Yes
	4) Limitations on Earthworks a) Earthworks to create a building platform shall not be undertaken where excavation and/or filling would exceed 1m from the existing natural ground level of the site. b) On sloping sites, site disturbance is to be minimised by using split level or pier foundation building designs (see Figure C4.1). c) All retaining walls proposed for the site are to be identified in the development application for the proposed development. Retaining walls are to be kept to a minimum to reduce earthworks. Use of materials that complement the natural environment is encouraged. d) During any earthworks, any topsoil should be preserved on site for re-use and should be stockpiled and covered to avoid dust or loss of topsoil. Refer to the Landscape Design Section of this Plan for controls on stockpiling topsoil on site.	The excavation proposed is only to accommodate the basement level.	Yes
		Not applicable.	N/A
Retaining walls proposed are to be minimised.		Yes	
Noted.		-	
4.2 Landfill	2) Landfill Requirements a) Imported fill shall not include putrescible waste (i.e. waste that breaks down) or building material. Clean fill including soil, sand or virgin excavated natural material (VENM) is generally acceptable.	Noted. Excavated material to be used on-site.	-
4.3. Erosion and Sedimentation	a) All applications for subdivision and development which involve site disturbance must be accompanied by an Erosion and Sediment Control Plan (ESCP).	Erosion and Sediment Control Plan submitted.	Yes
	2) Requirements for Erosion and Sediment Control a) Soil erosion and sediment control measures are to be provided on-site before the commencement of any earthworks or development activity, in accordance with the approved ESCP.	To be implemented as a condition of consent.	Yes
	3) Additional Measures for Large Sites	The subject site is 2440m <sup>2</sup> and therefore this is not applicable.	N/A

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	Where an application is for a site over 2,500m <sup>2</sup> and there will be substantial earthworks, the applicant is required to address a number of additional measures in the ESCP		
<b>4.4. Contaminated Lands</b>	1) Development applications for new or for expanding existing developments may be required to include information on the potential for the activity to contaminate. 2) Environmental impact assessments are required to address the potential and likelihood of contamination.	The subject site has been used as residential for a considerable period of time and therefore is not anticipated to be contaminated.	Yes
	<b>4.4.2. Triggers for Contamination Investigation</b> 1) Any application must provide appropriate information relating to past, present and proposed land uses. 2) Council will evaluate the site's potential for contamination in accordance with procedures established by this section.	As above.	Yes
<b>4.5. Salinity</b>	<b>1) Salinity Analysis</b> a) A detailed salinity analysis will be necessary if: i) The site of the proposed development has been identified as being subject to a potential risk of salinity (refer to the map <i>Salinity Potential in Western Sydney 2002</i> ), or ii) An initial investigation shows the site is saline or affected by salinity.	The subject site is not identified as within an area of high salinity and is therefore acceptable. 	
<b>C5 Waste Management</b>			
<b>5.1. Waste Management Plans</b>	1) Applicants are to submit a Waste Management Plan when lodging a development application	A Waste Management Plan prepared by Dickens Solutions is submitted with this application.	Yes
	2) The Waste Management Plan must be supported by scaled waste management drawings that are to assist in demonstrating compliance with the provisions of this Plan.	As above. Additional details also provided on submitted architectural plans.	Yes
<b>5.2. Development Specific Controls</b>	<b>5.2.1. Siting and Design of Waste Bin Storage Areas for Residential Development</b> <b>2) Waste Bin Storage Area Size:</b>		

## Penrith DCP 2014 Compliance Table

	<p>a) The development must provide a waste bin storage area that is of sufficient size to accommodate all required waste bins associated with the development. This is to be Waste Management achieved through the provision of a communal waste storage area. For larger developments, multiple waste bin storage areas may be required.</p> <p>b) All waste streams must be catered for, including general waste, bulky waste and recyclable waste.</p> <p>c) Sufficient space must be provided onsite to ensure that adequate room is provided to manoeuvre, clean and maintain all waste and recycling bins for the development.</p> <p>d) Sufficient space must be provided onsite for any required equipment to manage waste, waste bins (including washing and cleaning) and the waste bin storage area.</p>	<p>The proposal provides significant waste storage area for all uses at ground level and within the basement.</p>	Yes
		General, recyclable and bulky waste provided. Waste storage also provided for the medical uses and neighbourhood shop.	Yes
		Adequate spaces are provided throughout the development.	Yes
		Loading bay provided.	Yes
	<p><b>3) Waste Bin Storage Area Location:</b></p> <ul style="list-style-type: none"> <li>The waste bin storage area is to be located within the basement footprint of the residential flat building developments.</li> <li>The waste bin storage area is to be located on the ground level for multi-unit housing developments.</li> <li>The waste bin storage area is to be located where its use and operation will not adversely impact the amenity of development occupants in terms of noise and odour.</li> <li>If the waste bin storage area is to be used as the collection point (for multi-unit housing), it must be located and designed to meet the applicable requirements for servicing.</li> </ul>	<p>Permeant bin holding area is provided within the basement.</p>	Yes
		Not applicable.	N/A
		The waste storage area is provided in the basement which will not impact the public domain or neighbours. The residential holding area is sufficiently setback from the neighbours.	Yes
		Not applicable.	N/A
	<p><b>4) Waste Bin Area Layout</b></p> <ul style="list-style-type: none"> <li>The layout of the waste bin storage area is to be designed so that the area is free from obstructions so not to restrict the movement and servicing of the bins.</li> <li>An aisle space of 1.2m is required to access and manoeuvre the bins.</li> <li>In determining the layout and size of the waste bin storage area, consideration should be given to whether waste bins are required to be rotated. If waste bins are to be rotated, additional room size to aisle width will be required to manoeuvre bins.</li> </ul>	<p>The bin storage areas will allow ease of movement and access.</p>	Yes
		1.3m clearance is provided.	Yes
		Adequate sizes are provided.	Yes
	<p><b>5.2.2. Residential Development Controls</b></p> <p><b>Waste Management 5.2.2.4 Residential Flat Buildings</b></p> <p>1) The development must provide a waste bin storage area that is of sufficient size to accommodate all required waste bins associated with</p>		

## Penrith DCP 2014 Compliance Table

	the development. This is to be achieved through the provision of a waste storage bin area located within the basement footprint of the development. For larger developments, multiple waste bins storage areas may be required.	Two residential waste storage rooms are provided in the basement, in addition to the holding area at ground floor. This is considered acceptable.	Yes
	a) The waste bin area is to be designed in accordance with Section 5.2.1 Siting and Design of Waste Bin Storage Areas for Residential Development.	As above.	Yes
	b) Additional storage space for bulky items is to be provided for the development.	Bulky waste storage provided.	Yes
	c) Swept paths demonstrating adequate manoeuvring area are to be provided with the application.	Loading bay will provide movement in accord with AS.	Yes
	2) For developments comprising three or more storeys, the development is to incorporate a waste chute system that:		
	a) The waste chute system will provide a separate chute for both residual and recyclable material.	Waste chutes are provided within the eastern and western wings as demonstrated on the submitted plans.	Yes
	b) Waste Disposal points are to be provided on each residential level of the development located within a high trafficked area for residential use.	Waste disposal points are provided on each level for the chutes.	Yes
	c) Larger recyclable goods are to be placed in a separate location identified by the strata management for collection.	Bulky waste storage and waste rooms provided in the basement.	Yes
	d) The chute is to be designed to minimise noise and fire risk is reduced.	Complies.	Yes
	e) The chute is to be completely enclosed and fire-rated and comply with the BCA.	Complies.	Yes
	f) The chute is to terminate in a garbage and recycling room and discharge directly into a receptacle.	Chutes terminate at ground level with access to the waste holding area.	Yes
	g) The waste chute service room must be located directly under where the chute terminates. The room will need to accommodate the entire fleet of bins allocated to the development.	As above.	Yes
	h) A separate bin storage room located in the basement will need to accommodate the entire fleet of bins allocated to the development.	Waste storage is provided within the basement.	Yes
	i) A site caretaker/manager will be required to transfer all bins from the bin storage room to the collection room located on ground floor.	Manager will be required to move bins and manage waste collection.	Yes
	3) Council may consider an alternative solution to the waste chute system for developments comprising three or more storeys if the applicant can demonstrate:		
	a) That the alternative system provides a convenient method for the transfer of waste to a centralised location within the basement/ground floor;	The proposed waste chute is considered acceptable and its operation is provided in the WMP prepared by <i>Dickens Solutions</i> .	Yes
	b) Provides adequate room to cater for the storage and easy access to all waste bins required for the size of the proposed development; and		

## Penrith DCP 2014 Compliance Table

	c) Does not require residents to walk to the ground floor with waste and dispose of the waste within designated bins.		
	4) The Waste Services Room is to be provided so that: a) It is accessible for residents on each residential level of the development. The waste services room will include the access to the residual and recyclable chute with provisions for cardboard storage. b) The maximum travel distance from any dwelling to the waste services room is not to exceed 75m. c) The waste service room must be of adequate size to accommodate the required access to chutes or waste infrastructure assigned to the development d) The room is to be designed to accommodate waste generation rates projected for the development	Two permanent waste storage areas provided within the basement with direct access from the lifts within each wing.  The proposal complies with this requirement.  Refer to WMP.  Refer to WMP.	Yes  Yes  Yes  Yes
	5) On-site collection is required to service the development. Adequate and safe access must be provided for Council's Standard Waste Collection Vehicles and waste collection staff	On-site waste collection provided from holding area at ground level.	Yes
	6) The on-site collection point is to be clearly nominated on the site plan which accompanies the development application. The collection point is to only temporarily store waste bins so that they can be serviced. The waste bin holding area is to be located fully within the development site.	This is shown clearly on the submitted plans.	Yes
	8) For developments where on-site collection is required or where Council collectors are required to enter a site for the purpose of waste collection services, an agreement will be required to be entered into with Council.	Noted.	-
	9) A separate area should also be provided for the storage and collection of bulky waste (such as old cardboard boxes) and old or discarded furniture/appliances. The sizing of the bulky waste area needs to be capable of holding the bulky waste generated from the development between scheduled pickups. The bulky waste area needs to be located near to the on-site loading bay).	Area for bulky waste provided within the basement.	Yes
	<b>5.2.3. Mixed Use Development Controls</b> 1) Where mixed use developments include a residential component, separate waste management facilities are to be provided, in accordance with the residential controls identified in Section 5.2 above. 2) For non-residential uses located in mixed use developments, separate waste management facilities are to be provided for the non-	Separate waste facilities are provided within the basement and at ground level.  As above. Separate waste provided. Refer to WMP.	Yes  Yes

## Penrith DCP 2014 Compliance Table

	residential uses, in accordance with the controls identified in Section 5.2.4 below.		
	<b>5.2.4. Non-Residential Development Controls</b> 1) These controls will apply to commercial, industrial and any other non-residential development.	Noted.	-
	3) Waste storage and collection areas should be: a) Flexible in their design so as to allow for future changes in the operation, tenancies and uses; b) Located away from primary street frontages, where applicable; c) Suitably screened from public areas so as to reduce the impacts of noise, odour and visual amenity; and d) Designed and located to consider possible traffic hazards (pedestrian/vehicular) likely to be caused by the storage and collection of waste.	The proposal provides medical waste room and neighbourhood shop waste room in convenient locations. These are not fronting the primary street. These are screened entirely from public areas.  In acceptable locations with no impacts to pedestrians or vehicles.	Yes  Yes Yes  Yes
	4) The following features will need to be considered in the design of waste storage and collection areas: a) Dry recyclables including containers, paper, cardboard and toners for printers and photocopiers should be separated from other waste, for recycling; b) Food scraps should be placed in specialised containment bins and collected on a regular basis (particularly where large volumes of perishable wastes are generated); c) Refrigerated garbage rooms should be provided where there are large quantities of perishable wastes and infrequent collections; and d) Clinical or hazardous and liquid waste should be placed in specialised containment bins and collected by specialised services.	Acceptable waste storage provided for both non-residential uses.	Yes
	<b>5.3.1. Site Management</b> 1) Proposals involving demolition and/or construction (including earthworks) are to include a Waste Management Plan.	WMP prepared by <i>Dickens Solutions</i> is submitted with this application.	Yes
	<b>5.3.2. Selection of Building Materials</b> 1) Choose materials with low embodied energy properties and/or materials that have been salvaged/recycled for the construction/fit out of the development.	Building materials to have low energy use. Refer to submitted architectural plans.	Yes
	<b>5.3.4. Siting and Design of Waste Storage and Collection Areas</b> 1) Waste storage and/or collection areas (or the required space for these facilities) should be available both on-site and within individual tenancies	Waste storage available to all residents.	Yes



## Penrith DCP 2014 Compliance Table

	of all developments for the source separation of waste, recyclables and compostable materials.		
	2) The expected volumes of waste and recyclables generated by the construction and ongoing use of the development, including individual tenancies, must be calculated.	Refer to WMP.	Yes
	3) Space must be provided to allow for the storage, access and manoeuvring of waste bins to facilitate ease of use and servicing.	Refer to WMP and architectural plans.	Yes
	<b>5.3.4.1 Access to Waste Storage and/or Collection Areas</b> 1) The design and location of waste storage and/or collection areas should allow for ease of access for both tenants and waste contractors and should be separated from the car parking area(s) or located away from the circulation path of other vehicles.	As detailed, waste storage and collection will be easily accessible for residents and contractors. Separate waste collection area is provided.	Yes
<b>C6 Landscape Design</b>			
	c) Landscape plans must be prepared by a suitably qualified consultant.	A Landscape Plan prepared by <i>Site Image</i> is submitted with this application.	Yes
	<b>11) Minimisation of Impervious Surfaces</b> a) Where possible, all landscape designs should include permeable paving options. b) The following minimum areas of permeable surfaces are required to facilitate on-site stormwater infiltration for each land use: i) Residential – please refer to controls included in the Residential Development section of this Plan. ii) Industrial - 15% of the site area.	Refer to Waste Management Plan.  Permeable surfaces have been maximised. Refer to Section 4.2.7.1 of this Statement.	Yes  Yes
<b>6.1.3. Neighbourhood Amenity and Character</b>	a) Landscape design should reinforce the identified natural attributes of the site including, but not limited to, watercourses, landmark elements, landforms, views and vistas, significant trees, vegetation patterns and historic buildings. b) Remnant native vegetation should be retained, managed and incorporated into landscape designs to conserve the natural biodiversity across the landscape. c) Landscape design should enhance the amenity and visual quality of the site. Landscaping solutions are to be used to screen and enhance visually obtrusive land uses or building elements within their setting.	The Landscape Plan provides a variety of vegetation and elements to improve and relate to the character of the locality.  The proposal will require the removal of vegetation, however will be replaced accordingly.  Refer to Landscape Plan.	Yes  Yes  Yes
	<b>2) Integration of Design</b>		

## Penrith DCP 2014 Compliance Table

	a) All landscape and building designs should be complementary and aim to achieve similar design outcomes.	The proposal provides consistent deep soil and podium landscaping.	Yes
	<b>3) Streetscape</b> a) All sites make a contribution to the streetscape by way of the design of any structures or vegetation. b) Generally, Council requires that dominant positive streetscape elements are to be continued in the design of any landscaping works to ensure that the development integrates into and enhances the existing streetscape character.	Significant deep soil and podium landscaping provided within the front setback to address the public domain. Refer to Landscape Plan.	Yes
	<b>4) Community Safety</b> a) Landscape designs must comply with the safety and crime prevention controls in the 'Site Planning and Design Principles' section of this DCP. b) All landscape designs should promote the safety of the community through the maximisation of natural surveillance and appropriate lighting.	The proposed landscaping will not create any areas of concealment.  Landscaping will help define the public and private domain.	Yes  Yes
	<b>5) Fencing and Retaining Walls</b> a) Landscape designs must comply with fencing controls required by this DCP. b) Fencing and retaining walls are an important part of any landscape design and can alter the style and character of the development and the streetscape.	No front fence is proposed.  As above. Retaining walls integrated per the Landscape Plan.	Yes  Yes
	<b>6) Planting on Structures</b> a) Landscape designs that propose planting on structures will require a Landscape Concept Plan which must outline how the area of planting on structures will be maintained for the life of the development.	The proposal provides podium landscaping which will soften the built form per the Landscape Plan.	Yes
6.1.4. Site Amenity	<b>1) Contextual Design</b> a) Landscape designs should seek to screen development, particularly from the sides and rear of an allotment. b) Landscape design should be used to highlight architectural features, define entry points, indicate direction, and frame and filter views into the site.	The proposal provides landscaping to the side and rear boundaries to soften and screen the proposed development. The proposal provides landscaping throughout the development and on the podium to soften the built form.	Yes  Yes
	<b>2) Open Space Requirements</b> a) The amount of open space is crucial to the landscape design. b) Communal space/recreational facilities must be located and designed to avoid nuisance or danger to neighbours, residents and visitors. c) Communal open space should generally have access only from within the site.	The proposal provides significant open space. The proposal provide open space at ground level and on the roof top.  Communal open space only accessed within the site.	Yes Yes  Yes

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	d) The design of a development should maximise solar access to all open spaces.	Ground floor communal open space orientated to the north.	Yes
	<b>3) Deep Soil Zones</b> a) Landscape design should maximise the area of a deep soil zone, especially around existing trees to provide sufficient soil depth for roots.	Deep soil provided in accordance with the ADG. Refer to Annexure A.	Refer to Annexure A
	<b>4) Equal Access</b> a) In accordance with the Federal <i>Disabilities Discrimination Act 1992</i> and the NSW <i>Anti Discrimination Act 1977</i> , and all relevant Australian Standards.	Refer to Access Report.	Yes
	<b>9) Landscaping and Above Ground On-Site Stormwater Detention</b> a) Landscape works must comply with the stormwater management and drainage requirements in the 'Water Management' section in this DCP.	Refer Landscape Plan and Stormwater Plan.	Yes
	<b>11) Car Wash Bays</b> a) Where appropriate, landscape designs should incorporate an area with a permeable surface where a car can be washed.	Car wash provided in the basement.	Yes
<b>C10 Transport, Access and Parking</b>			
<b>10.1 Transport and Land Use</b>	2) New development that will have potential significant public transport patronage (especially residential, commercial and employment generating uses) is to be located close to existing or proposed transport nodes or networks.	Not applicable.	N/A
	3) A range of uses are to be provided or integrated in mixed-use areas to provide a range of services in a single location and minimise the need for additional travel.	Not applicable.	N/A
	4) Public transport use is to be enhanced by providing good pedestrian connections from places of residence or employment to transport networks or nodes.	The site is located in close proximity to numerous public transport options by virtue of the R4 Zoning.	Yes
<b>10.2 Traffic Management and Safety</b>	a) Development applications for major development proposals should be accompanied by an appropriate <i>Traffic Report</i> .	Traffic Report submitted with this application.	Yes
	<b>2) Road Safety</b> a) Each development should demonstrate how it will: i) Provide safe entry and exit for vehicles and pedestrians which reflect the proposed land use, and the operating speed and character of the road; b) Where feasible, vehicle access for developments should be from service roads/lanes.	Pedestrian and vehicle entry are provided separately to ensure safety.  Not applicable.	Yes  N/A

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	c) The design of direct vehicular access to developments should consider the traffic impacts on the surrounding road network. This may require the provision of deceleration, acceleration, right turn lanes and road widening, as necessary.	Refer To Traffic Report.	Yes
	d) Provision must be made for all vehicles to enter and leave properties in a forward direction other than for single dwellings.	All traffic can leave in a forward entry and exit, including waste collection vehicles.	Yes
	e) The layout and design of parking areas must minimise vehicle to pedestrian impacts, especially where heavy vehicle access to loading docks is proposed.	Resident parking is separate from waste and loading collection.	Yes
	<b>3) Traffic Generating Development</b> a) New access points off arterial, sub arterial or other major roads is to be avoided where alternate access opportunities exist.	Not applicable.	N/A
<b>10.5. Parking, Access and Driveways</b>	<b>1) Provision of Parking Spaces</b> a) Parking provided on site is to meet AS 2890 and where appropriate, AS 1428.	Proposal complies with the Australian Standards.	Yes
	b) For any proposed development, Council will require the provision of on-site car parking to a standard appropriate to the intensity of the proposed development as set out in Table C10.2 below.	On-site parking complies.	Yes
	d) For commercial developments providing employment for 20 people or more, bicycle parking is to be in secure and accessible locations, and provided with weather protection.	Not applicable.	N/A
	f) In the absence of specific requirements relevant to particular developments, the parking requirements in the RTA's "Guide to Traffic Generating Developments"	Noted.	-
	g) Where relevant, development shall provide on-site loading facilities to accommodate the anticipated heavy vehicle demand for the site.	Loading can be provided from waste collection area.	Yes
	h) Stacked parking will not be permitted for visitor spaces for any development.	Not proposed.	N/A
	i) Stacked parking in commercial or industrial development may be permitted for employee spaces only, provided the number of stacked spaces does not account for more than 10% of the total required parking spaces.	Not proposed.	N/A
	j) Car parking above ground level is to have a minimum floor to ceiling height of 2.8m so it may be adapted to another use in the future.	Not applicable.	N/A
	m) Proposals for basement parking areas are to be accompanied with a geotechnical report prepared by an appropriately qualified professional and any other supporting information to the Development Application.	Geotechnical Report submitted with the application.	Yes

## Penrith DCP 2014 Compliance Table

n) For all residential development at least one car parking space for each dwelling shall be covered the second space may be "stacked" or "tandem" or located on a driveway.

All parking within the basement.

Yes

### Parking Requirements

#### Residential Flat Buildings

On-site resident parking for each dwelling:

1 space per 1 or 2 bedrooms

2 spaces per 3 or more bedrooms

1 space per 40 units for service vehicles

In addition, visitor parking is to be provided for developments that have 5 or more dwellings: 1 space per every 5 dwellings, or part thereof.

1 space for car washing for every 50 units, up to a maximum of 4 spaces per building.

#### Medical Centres

3 spaces per health care professional practising at any one time plus 1 space per receptionist/support staff, plus 1 space per associated dwelling.

#### Neighbourhood Shops

1 space per 30m2 GFA

	Required	Proposed
<b>Residential Flat building</b>		
9 x 1 bedroom	9	-
36 x 2 bedroom	36	-
5 x 3 bedroom	10	-
Total	55	55
Visitor	10	10 (including 1 carwash)
Service vehicle	1 per 40 units	1 within waste area
<b>Medical Centre</b>		
1 healthcare professional plus 1 staff	4	7 provided
<b>Neighbourhood Shop</b>		
119m2	4	4 provided

Yes

### 3) Additional Controls for Residential Developments

a) On-site parking for residential developments, including the residential component in a mixed use development, is to be accommodated wholly in a basement parking area unless the applicant can demonstrate to Council's satisfaction that the site's unique conditions prevent the parking from being located in a basement structure.

b) If on-grade car parking is proposed, the location and adequacy of the parking area must not adversely impact on the amenity of the adjoining neighbourhood. The parking area is to:

i) be located on the side or rear of the site, and is not visible from the street and street frontage;

ii) be landscaped or screened so that cars parked in the parking area are not visible from adjoining buildings or the street/ street frontage; and

iii) allow safe and direct access to the building entry points.

All parking provided within the basement.

Yes

Not applicable.

N/A

### 5) Design of Parking and Manoeuvring Areas

## Penrith DCP 2014 Compliance Table

	<p>a) Car space dimensions must comply with the relevant Australian Standards.</p> <p>b) The movement of pedestrians throughout the car park should be clearly delineated and be visible for all users of the car park to minimise conflict with vehicles. The car parking and manoeuvring layout should be in accordance with the provisions of AS 2890.1 - 2004.</p> <p>c) Provision of parking spaces for disabled persons should be in accordance with the Access to Premises Standards, the Building Code of Australia and AS2890.</p> <p>g) For development in the R4 High Density Residential zone, use semi-pervious materials for all uncovered parts of driveways and parking areas to assist with stormwater infiltration.</p> <p>h) Large car parking areas (more than 5 vehicles) should be visually separated from access roads and from the buildings they serve by planting and other landscaping and should not be visually prominent from public roads, either through separation or screening</p> <p>l) The design of the car park should ensure that passive surveillance is possible</p> <p>s) Loading docks associated with the development shall be provided on-site, with all loading and unloading activities occurring on-site.</p> <p>t) All loading and unloading areas are to be:</p> <p>i) integrated into the design of developments,</p> <p>ii) separated from car parking and waste storage and collection areas,</p> <p>iii) located away from the circulation path of other vehicles,</p> <p>iv) provided separately for commercial/retail and residential uses, where part of a mixed use development, and</p> <p>v) designed for commercial vehicle circulation and access complying with AS 2890.2.</p> <p>Site area 1,500-4000sqm – HRV required for commercial developments</p>	<p>Refer to Traffic Report.</p> <p>The proposal will comply in this regard.</p> <p>Proposal complies in this regard.</p> <p>Not applicable.</p> <p>Basement parking is provide.</p> <p>Dwellings overlook the basement entry.</p> <p>Loading dock is provided separately from the basement and is integrated into the overall built form. This will be concealed from the public domain and is considered acceptable in this regard.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>10.5.2. Access and Driveways</b></p> <p>a) The road access to the site should provide for safe entry to and exit from the site. All vehicles must enter/exit the site in a forward direction. (This does not apply to single dwellings).</p>	<p>Access is safely provided and vehicles will enter and exit in a forward direction.</p>	<p>Yes</p>
<b>10.7 Bicycle Facilities</b>	<p><b>2. Provision of Bicycle Spaces</b></p> <p>a) For commercial developments providing employment for 20 people or more, bicycle parking is to be in secure and accessible locations, and</p>	<p>Bicycle parking provided within the basement.</p>	<p>Yes</p>



## Penrith DCP 2014 Compliance Table

	provided with weather protection, in accordance with AS2890.3:1993 Bicycle Parking Facilities.		
<b>C12 Noise and Vibration</b>			
<b>12.1. Road Traffic Noise</b>	<b>1) Road traffic noise criteria including sensitive land uses</b> a) Council will not grant consent to development, particularly residential development, including subdivisions, unless the impact of traffic noise from freeway, arterial, designated or collector roads complies with the standards and guidelines for road traffic noise prepared by the relevant State Government authorities or agencies, as well as relevant Australian Standards	An Acoustic Report prepared by <i>Acoustic Works</i> is submitted with this application.	Yes
<b>12.4. Industrial and Commercial Development</b>	a) Council will not grant consent to any noise generating industrial development, commercial development or licensed premises unless it can be demonstrated that: i) The development complies with the relevant State Government authority or agency standards and guidelines for noise, as well as any relevant Australian Standards; ii) The development is not intrusive (as defined in the EPA's Industrial Noise Policy); iii) Road traffic noise generated by the development complies with the provisions of Section 12.1 Road Traffic Noise of this Section; iv) The development complies with rail noise and vibration criteria (refer Section 12.2 Rail Traffic Noise and Vibration of this Section); and v) The development does not adversely impact on the amenity of the area or cause sleep disturbance.	An Acoustic Report prepared by <i>Acoustic Works</i> is submitted with this application.	Yes
<b>D2 Residential Development</b>			
<b>2.5 Residential Flat Buildings</b>			
<b>2.5.2 Preferred Configuration for Residential Flat Buildings</b>	1) New residential flat building development should incorporate the traditional configuration of the cottages and cottage gardens that define the character of Penrith's established neighbourhoods, because:  a) Traditional development demonstrates social and urban design benefits, particularly the orientation of dwellings and their private open spaces towards the street rather than overlooking neighbouring dwellings and gardens; b) Patterns of buildings and private gardens in established neighbourhoods have visual and symbolic richness that are valued by their community;	The proposed development has orientated living areas and private open spaces to the front and rear of the site as far as practicable. This will promote causal surveillance.  The locality is undergoing transition and the proposal provide significant landscaping in the front setback to reflect the desired character of the locality.	Yes

## Penrith DCP 2014 Compliance Table

	c) the use of traditional features softens the popular perception that redevelopment is changing the traditional character of Penrith City.	The proposal incorporates a mixture of materiality and design elements to maintain the character of the locality.	
	2) Within the relevant zones, established development is detached buildings or semidetached pairs which are: a) separated from one another by landscaped courtyards; b) stepped floor plans and projecting verandahs; c) capped by a variety of pitched roofs.	The residential dwellings in the locality are all anticipated for demolition and redevelopment as anticipated by the zoning.	Yes
	3) Within the relevant zones, established development provides a "green corridor" of trees and shrubs along the rear boundary: a) conserving remnant vegetation; and b) providing new shelter and habitat; and c) contributing to streetscape.	The proposal provides considerable landscaping within the front, side and rear setbacks to provide a consistent green corridor.	Yes
	4) Within the relevant zones, established development provides a front garden setback which may be filled by verandahs and private garden-courts: a) encourages active use by residents; b) provides for attractive front gardens.	The proposal provides landscaped area which buffers the entries to the residential lobby, neighbourhood shop and medical centre. This will provide an attractive frontage to the streetscape.	Yes
	5) Within the relevant zones, established development provides parking areas which are concealed from the street and consequently avoids the appearance of "garage architecture".	The parking is concealed within the basement.	Yes
<b>2.5.3 The Development Site</b>	1) Determine a minimum lot width for residential flat buildings: a) adopt a minimum lot width of 20m in the R4 High Density Residential zone. 2) For the purposes of calculating lot size and lot width, the lot does not include the area of any access corridor or right-of-carriageway.	The site has a width of 61m.  Not applicable.	Yes  N/A
<b>2.5.4. Urban Form</b>	1) For dwellings fronting the street, adopt a traditional orientation: a) living rooms, verandahs and the paths to entrances face the street rather than neighbouring properties; and b) private gardens fill the front setback area; and c) garages are concealed behind dwellings.	The proposal provides living areas and private open spaces fronting the public domain. The proposal provides landscaping within the front setback softening the commercial uses, however activates the frontage. Garage is concealed in the basement.	Yes
	2) Dwellings behind the street frontage should adopt similar principles: a) living rooms and entrances face the street, and / or the landscaped rear boundary setback; and b) private gardens fill the rear setback area.	Apartments are all orientated with living areas to the rear boundary.	Yes

## Penrith DCP 2014 Compliance Table

		Private open spaces and communal spaces are located within the rear setback.	
	<p>3) Avoid "gun-barrel" style developments with long rows of attached dwellings, long straight driveways and rows of uniform width side setback:</p> <p>a) step the alignment of all facades – generally one corner and a substantial indentation for every 10m run of wall;</p> <p>b) divide buildings into separate wings – a deep indentation located centrally in the longest walls; or a central garden courtyard;</p> <p>c) vary the width of side setbacks – a combination of garden courtyards and access ways; and</p> <p>d) lined by an "avenue" of shady overhanging trees;</p> <p>e) cap the stepped floor plan with a variety of pitched roof forms;</p> <p>f) windows should be inserted into every elevation.</p>	<p>Not proposed.</p> <p>Façade undulations are proposed throughout the flat building.</p> <p>An eastern and western wing are proposed.</p> <p>Side setbacks are compliant with the ADG and include landscaping and undulations.</p> <p>Refer to Landscape Plan.</p> <p>Parapet roof is proposed and considered acceptable in the zone.</p> <p>Balconies and windows are provided to all elevations.</p>	Yes
<b>2.5.5 Landscaped Area</b>	<p>1) Landscaped areas should provide:</p> <p>a) effective separation between neighbouring dwellings;</p> <p>i) healthy growth of new trees and shrubs;</p> <p>ii) long-term survival of existing vegetation required by Council to be preserved;</p> <p>iii) private courtyards for all dwellings and a green outlook;</p> <p>iv) front gardens that contribute to an attractive streetscape; and</p> <p>v) where more than 10 dwellings are proposed, a centrally located communal open space area that is accessible and available to all residents of the development, comprising 10% of the minimum landscaped area requirement.</p>	<p>The proposal provides significant landscaping within the front, side and rear setbacks. This will be landscaped in accordance with the Landscape Plan submitted with this application.</p> <p>All apartments overlook the front and rear setbacks which contain considerable landscaping.</p> <p>The proposal provides a communal open space of 175m<sup>2</sup> of landscaped communal open space in the rear of the site which accounts for 20% of the requirement.</p>	Yes
	<p>3) Landscaped area must meet the following requirements:</p> <p>a) Landscaped areas should be:</p> <p>R4 High Density Zone – 35%</p> <p>b) have a minimum width of 2m – with no basement encroachment; and containing unexcavated soil to promote landscaping that is effective and healthy;</p> <p>c) may include terraces and patios located not higher than 0.5m above ground and pedestrian pathways to building and dwelling entrances;</p> <p>d) do not include substantially-paved areas such as buildings, driveways and covered garages;</p> <p>e) should include verges that surround car parking areas and open driveways;</p>	<p>854m<sup>2</sup> or 35% is required. The proposal provides a deep soil area of 651m<sup>2</sup> (27%) with a minimum dimension of 2m. This is technically non-compliant however it is noted that the proposal provides a total soft fall landscaped area of 1,069m<sup>2</sup> or 43% with no minimum dimension. This is discussed in Section 4.2.7.1 of this Statement.</p>	On merit

## Penrith DCP 2014 Compliance Table

	f) should provide a reasonable area of private open space in accordance with the part within this section on design; g) where more than one building is proposed, that part of any easement exceeding 10% of the site area shall not be included in the landscaped area calculation.		
<b>2.5.6 Front and Rear Setbacks</b>	1) Determine the maximum development footprint for your site: a) The minimum rear setback for a single storey building (or any single storey component of a building) is 4m b) The minimum rear setback for a two storey building (or any two storey component of a building) is 6m.	The proposed rear setback is compliant with the ADG and provides a minimum setback of 6m.	Yes
	2) Within the rear boundary setback: a) there shall be no building encroachments either above or below ground (eaves excepted); b) maximise the amount of undisturbed soil, encouraging rapid growth of healthy trees and shrubs; c) where there are physical encumbrances such as open drains, increase the setback accordingly.	The 6m rear setback does not include any building encroachments excluding the basement. It is noted that the basement is setback 4.5m from the rear boundary which will enable sufficient vegetation and landscaping despite not meeting the requirement. This is considered acceptable in this regard.	Yes
	3) Determine an appropriate front setback: a) either average the setbacks of the immediate neighbours; or b) 5.5m minimum whichever is the greater dimension.	The proposal provides a setback of 5.5m which is considered to be compatible with the setbacks of the neighbouring residential flat building. It is noted that the neighbouring residential flat building contains a setback 5m to 6m setback balconies with increased setback to the external wall of approximately 7m. The proposed 5.5m setback is therefore considered acceptable in this regard, noting a significant recess of 15m is proposed for a considerable width of the façade.	On merit
	4) Permissible encroachments within the front setback are: a) verandahs and pergolas only which are a 4.5m minimum setback to the face of the verandah or pergola; and maximum 50% of elevation.	Overhang is proposed to 4.3m for access to the non-residential uses. This is limited to a single element and is considered acceptable as it will not increase bulk or scale.	Yes
	5) Garages and parking spaces are not permissible within the front setback.	Not proposed.	N/A
<b>2.5.7 Side Setbacks</b>	1) Cut and fill and maximum ground floor heights: a) on sloping sites provide stepping building platforms in line with existing topography with floors no higher than 1m above natural ground level; b) restrict cut-and-fill to a maximum of 500mm; and c) provide effective sub-soil drainage.	Apartments are not provided 1m above natural ground and is considered acceptable.  No significant cut and fill is provided. Refer to Stormwater Plans.	Yes

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	2) Pitches for main roofs are not to be in excess of 25 degrees in order to reduce the visual scale.	Flat roof is proposed.	Yes
	3) Zero setbacks from the side boundary are not permissible, other than awnings to main building entrances.	Not proposed. Proposal is complaint with the ADG.	Yes
<b>2.5.8 Visual and Acoustic Privacy and Outlook</b>	<p>1) Demonstrate a package of measures that achieves reasonable visual privacy between adjacent dwellings:</p> <p>a) windows oriented towards their own private garden courtyard; and / or</p> <p>b) at least 9m between any windows that face each other; and / or</p> <p>c) screening measures, including:</p> <p>i) offsetting of windows; or</p> <p>ii) oblique orientation for windows; or</p> <p>iii) external screens to windows; or</p> <p>iv) courtyard walls and pergolas;</p> <p>note that landscaping (other than established trees and shrubs that are proposed to be retained) should not provide the principal means of screening;</p> <p>d) for windows of habitable rooms with a direct outlook onto windows of habitable rooms of adjacent dwellings:</p> <p>i) are offset by a distance sufficient to limit views between windows; or</p> <p>ii) have sill heights of 1.7m above floor level; or</p> <p>iii) have fixed obscure glazing in any part of the window below 1.7m.</p>	<p>Refer to Section 4.3.8 of this Statement.</p> <p>The proposal orientates windows to the front and rear boundary as far as practicable and is adequately separated.</p> <p>As above, the proposal is complaint with the ADG.</p> <p>Windows and external areas are setback significantly as prescribed by the ADG and therefore mitigate overlooking concerns.</p> <p>The proposal is considered acceptable per the ADG.</p>	Yes
<b>2.5.9 Solar Planning</b>	<p>1) The applicant must demonstrate that dwellings meet acceptable solar standards and that existing neighbouring and proposed private open spaces receive adequate solar access by:</p> <p>a) Providing shadow diagrams prepared by a qualified technician;</p> <p>b) Illustrating the impacts of proposed development upon existing neighbouring dwellings and their open space areas;</p> <p>c) Demonstrating shadows cast by neighbouring buildings;</p> <p>d) Maximising potential for solar gain by placing windows in all exterior walls that are exposed to northern sun;</p> <p>e) Ensuring that the proposed development provides a minimum of 4 hours sunlight between 9am and 3pm on 21 June, to living zones (i.e. areas other than bedrooms, bathrooms, kitchen and laundry) of each dwelling, and the living zones of any adjoining dwellings;</p> <p>f) Ensuring that the proposed development provides a minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main</p>	<p>The proposal will meet the 70% solar access requirement of the ADG. Refer to Annexure A and Section 4.3.6 of this Statement.</p> <p>Shadow Diagrams are submitted with this application. Diagrams demonstrate overshadowing to the neighbours.</p> <p>Refer to Plans.</p> <p>Openings are orientated to the north as far as practicable.</p> <p>The proposal is complaint with the ADG which overrides the DCP. With regards to the overshadowing of the neighbours, refer Section 4.3.6 of this Statement.</p> <p>As above, the proposal complies with the ADG. Refer Section 4.3.6 of this Statement for discussions regarding overshadowing to neighbours.</p>	Yes

## Penrith DCP 2014 Compliance Table

	private open spaces of the dwelling and main private open spaces of any adjoining dwellings; g) In situations where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduced sunlight to the specified areas by more than 20%.	Noted.	
<b>2.5.10 Significant Townscapes &amp; Landscapes</b>	1) In neighbourhoods with townscape significance, new development should: a) conserve vegetation that has visual or historical significance;  b) adopt the prevailing configuration of garden areas, particularly the street's predominant front boundary set-back; c) adopt the predominant width, height, and scale of existing buildings;  d) ensure that floor plans are stepped or articulated similar to the shape or form of surrounding buildings; e) adopt roof pitches, ceiling heights and forms that match neighbouring buildings; f) minimise the width and area of driveways visible from public frontages;  g) conceal garages from public frontages (corner sites excepted).	The proposal will conserve the street trees where practicable and provide additional vegetation. The proposal provides dense vegetation within the front setback.  The locality is undergoing transition and therefore the built form is considered acceptable. The building design and arrangement is acceptable with regards to the ADG and character of the locality. The proposal provides a parapet roof which is consistent with the neighbouring properties. The proposal provides two driveways, one which services the basement and the other the loading area and is considered acceptable.	Yes
	2) In areas with significant vegetation: a) aim to preserve established trees as blocks or corridors; b) ensure that the location of buildings and pavements does not affect long term survival of established trees; c) incorporate new plantings that reinforce the visual and habitat values; d) in general, new plantings should be species indigenous to the local soil type, reinforcing visual and habitat values.	The site does not contain any significant vegetation, however the proposal will provide considerable landscaping throughout the subject site.	Yes
	3) New development should not aim to provide a direct copy of traditional buildings: a) simple detailing of building forms and openings is preferred to the use of "stuck-on" detailing applied to gable ends and verandahs; b) the pitch and form of roofs, and articulation of floor plans are of particular importance; c) frequent use of shadow-casting elements such as verandahs and awnings is important to reduce the scale of long walls;	The proposal provides a contemporary residential flat building which is consistent with the zoning and desired future character of the locality.  The proposed development provides façade undulations and inset balconies to reduce the scale of the built form. The proposal provides articulated fenestration to articulate the façade.	Yes



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	<p>d) traditional proportions for window and door openings should be employed;</p> <p>e) use of traditional joinery details for windows, doors and verandahs and fences should be concentrated in elevations that are visible from public places</p>	Noted.	
<b>2.5.12 Building Design</b>	<p>1) Development should incorporate a variety of architectural features to minimise the apparent scale and bulk of buildings and to reflect typical features of established cottage developments:</p> <p>a) walls with alignments that step in both plan and section;</p> <p>b) windows and doors inserted into all visible walls;</p> <p>c) a variety of pitched roofs, predominantly hipped.</p> <p>d) lower storeys that project beyond the line of the top storey, and are capped by roofs; or terraces to the upper storey apartments;</p> <p>e) the top storey designed as a "penthouse" with extensive glazing in the form of windows and large doors surrounded by terraces and pergolas;</p> <p>f) a variety of overhangs that cast shadows including:</p> <p>i) roofs with wide eaves;</p> <p>ii) awnings and pergolas;</p> <p>iii) balconies enclosed by corner columns and a variety of balustrades;</p> <p>iv) wide terraces at ground level;</p> <p>g) variation in building materials, for example:</p> <p>i) a "solid" masonry base;</p> <p>ii) intermediate levels that appear lighter: coloured or painted brickwork, with projecting "screens" of balconies that are located in particular at corners of buildings;</p> <p>iii) a lightweight "penthouse" upper storey, capped by overhanging roofs and open pergolas, with terraces and balconies surrounded by open-style balustrades.</p>	<p>The proposal provides steps throughout the building facades to provide visual interest.</p> <p>Fenestration provided throughout the whole development.</p> <p>Parapet roofing is consistent with buildings in the locality.</p> <p>The proposal provides a consistent built form with articulation.</p> <p>The 2 x 3 bedroom penthouse apartments are glazed and opposed the rear boundary.</p> <p>The proposal provides inset balconies to provide shading during summer.</p> <p>The proposal provides a variety of materials which improves the architectural character fo the locality. This is demonstrated in the submitted plans which differentiates between the different levels of the building.</p>	Yes
	<p>2) Variety in architectural features should be apparent in all visible facades including:</p> <p>a) facing the street;</p> <p>b) facing side driveways; and</p> <p>c) facing neighbouring residential properties.</p>	The proposal provides façade undulations, fenestration, balcony articulation and a recessed uppermost floor to reflect the character of the locality.	Yes
	<p>3) Basements for car parks should rise no higher than 1.5m above ground provide a minimum 2.2m vertical clearance for vehicles.</p>	The basement carpark is predominately below natural ground line and will not extent 1.5m above.	Yes
	<p>1) Adopt a configuration for dwellings that promotes cross-ventilation:</p>	The proposals provides cross ventilation as required by the ADG.	Yes

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<b>2.5.13 Energy Efficiency</b>	a) corner apartments with two external walls; b) apartments that sit between two opposite external walls.		Refer to Annexure A
	2) Adopt an appropriate orientation for rooms and windows: a) living areas - facing within 30 degrees of solar north is desirable; b) windows - at least 50% of glazing facing solar north is desirable; unprotected glazing facing east, west or south shall be avoided; for every room, windows in two external walls are desirable; c) where the desired orientation cannot be achieved, higher compliance with other energy efficiency standards shall be achieved.	The proposed development has been designed to maximise solar access through orientating buildings to the north, east and west. The proposal will achieve the 70% requirement per the ADG and is therefore acceptable.	Yes Refer to Annexure A
	3) Provide effective shading from summer sun and employ effective glazing: a) overhanging eaves: at least 450mm wide; b) external, adjustable screening for windows, doors and skylights to habitable rooms; c) pergolas over courtyards; d) for any large south-facing window: high performance glass eg. double glazing in thermal break frames; e) windows and doors facing east, south or west: high performance glass eg. Double glazing in thermal break frames; f) all windows and external doors: weather-stripping should be used.	The proposal has provided inset balconies will provide shade to the primary living areas during mid-summer. Glazing will be provided in accordance with the BASIX Certificate to further improve thermal efficiency.	Yes
<b>2.5.14 Design of Dwellings and Private Courtyards</b>	1) Common circulation areas should facilitate access by people carrying parcels and removal of furniture: a) corridors at least 1.2m wide; b) stairs with landings at least 1.2m deep.	All common circulation areas exceed 1.2m in width. Stair landings are to be constructed to the relevant Australian Standards.	Yes
	2) A reasonable area of private open space should be provided for each dwelling: a) for dwellings at ground level: i) a minimum of 20m <sup>2</sup> ; ii) as courtyards at ground level; and / or iii) terraces located not higher than 1.5m above ground level; and iv) for street-front dwellings: individual entrances to terraces or courtyards from the street; b) for dwellings above ground - balconies that are a minimum of 10m <sup>2</sup> ; c) all required open space should include one area: v) measuring at least 2.5m by 2.5m; vi) suitable for outdoor dining; and	The proposals provides private open spaces in accordance with the Design Criteria of the ADG which overrides the DCP. Refer to Annexure A of this Statement.  As above. As above.	Refer to Annexure A

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	<p>vii) located immediately next to, and level with, a living or dining room; and</p> <p>viii) incorporating an area for outdoor clothes drying that is visually-screened to a height of at least 1.5m above floor level;</p> <p>ix) Landscaped areas should maximise the area available for private courtyards and gardens.</p>		
	<p>3) Dwellings should have rooms that are planned and oriented:</p> <p>a) to maximise privacy,</p> <p>b) to provide a "green" outlook across open space;</p> <p>c) to facilitate natural ventilation and day lighting.</p>	As detailed in this Statement, the proposal has been designed in accordance with the separation requirements of the ADG and orientates apartments to the front and rear boundary.	Yes
	<p>4) Rooms should have dimensions and an area that:</p> <p>a) can accommodate the range of furniture typically associated with their function; and</p> <p>b) recognise that furnishing options may be restricted by the location of windows and doors.</p>	The proposals complies with the relevant criteria of the ADG.	Refer to Annexure A
<b>2.5.15 Garages</b>	<p>5) Garage and parking areas should be planned to:</p> <p>a) minimise disruption to traditional or established streetscapes by concealing from the street;</p> <p>b) provide flexible accommodation for vehicles, domestic pets, storage, and covered areas for outdoor recreation;</p> <p>c) minimise transmission of noise to adjoining dwellings;</p> <p>d) provide secure parking;</p> <p>e) allow for maintenance access to rear garden courtyards; and</p> <p>f) provide for effective and healthy landscaping along verges and boundaries.</p> <p>g) permit all turning movements, full opening of vehicle doors as defined by AS 2890.1- 1993;</p>	<p>The proposals provides a basement garage to minimise impacts to the streetscape.</p> <p>This is the most efficient use of the land.</p> <p>Minimise noise impacts to the surrounding locality.</p> <p>Secure basement parking is provided.</p> <p>Access to the communal open space in the rear setback is provided.</p> <p>Refer to Landscape Plan.</p> <p>Refer to Traffic Report.</p>	Yes
	<p>6) Basements should have:</p> <p>i) a low appearance, rising no higher than 1.5m above ground;</p> <p>j) natural ventilation, either screen walls; or terraced embankments, with each step a maximum of 500mm, and landscaped as part of the side boundary court;</p> <p>k) a "capping" of private courtyards or balconies opening from the lowest level of dwellings (if basements extend beyond the main building walls);</p> <p>l) vehicle entrances designed to complement the architecture and landscaping of each building:</p>	<p>The proposed basement is located predominately below natural ground line and will not extent above 1.5m.</p> <p>Not applicable.</p> <p>Terraces located above basement where it protrudes above natural ground level.</p>	Yes

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	<p>m) individual up and down ramps;</p> <p>n) a central median;</p> <p>o) overhung by balcony structures; and</p> <p>p) undercover storage:</p> <p>iii) garbage and recycling bins in a secured area located close to the street entrance and detailed according to Council codes; and</p> <p>iv) household items: in secured enclosures for each dwelling, or associated with secured private parking spaces.</p>	<p>The proposed vehicle entry is integrated into the contemporary built form.</p> <p>Two way driveway is proposed.</p> <p>Not applicable.</p> <p>Balcony and built form overhangs the proposed driveway.</p> <p>Storage provided in the basement per the ADG.</p>	
	<p>7) For dwellings that require two spaces:</p> <p>a) parking may be arranged in a stacked configuration</p>	No stacked parking is proposed.	N/A
	8) Garages and parking spaces are not permissible within the front setback.	Not proposed in front setback.	N/A
<b>2.5.16 Garden Design</b>	<p>1) The rear boundary setback should provide:</p> <p>a) private garden courtyards;</p> <p>b) a corridor of habitat, and a green backdrop that is visible from the street;</p> <p>c) conservation for any existing corridor of mature trees; or</p> <p>d) an interlocking canopy of low to medium-height trees and shrubs;</p> <p>e) predominantly species indigenous to the soils of Penrith City.</p>	The rear setback contains private open spaces and a communal open space which serves future residents. This space is dominated by vegetation per the Landscape Plan submitted with this application.	Yes
	<p>2) Alongside boundaries, generally provide:</p> <p>a) small-to medium height canopy trees for sun-shading and privacy separation between dwellings;</p> <p>b) within the verges to any common driveway: hedges fronting windows to any dwelling;</p>	As demonstrated in the submitted Landscape Plan, a variety of vegetation is provided in the side setbacks. It is noted that landscaped buffer is provided to the driveway.	Yes
	<p>3) Along driveway verges and surrounding parking basements:</p> <p>a) screen plantings of small to medium canopy trees;</p> <p>b) beds of continuous ground cover;</p> <p>c) common pathways to building entrances according to the part below</p> <p>on Paving Design Street frontage plantings should provide:</p> <p>a) private gardens for street-front dwellings;</p> <p>b) a civic garden frontage appropriate to the established neighbourhood character; and</p> <p>c) mixed species of trees, shrubs, and accent plantings including flowers and ground covers;</p> <p>d) level areas of well-drained turf; and</p> <p>e) along noisy thoroughfares:</p>	<p>The proposals provides vegetation to the setbacks to buffer from the neighbouring properties.</p> <p>The proposal provides landscaping buffering the entries to the residential and non-residential components.</p> <p>As detailed, the proposal provides dense landscaping within the front setback which will articulate the non-residential uses from the public domain.</p> <p>Refer to Landscape Plan.</p>	Yes

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	i) noise attenuation with an interlocking canopy formed by at least two rows of trees under planted with dense hedges.		
<b>2.5.17 Paving Design</b>	1) Hard paved surfaces should: a) maximise the area available for landscaping and gardens; b) impose no adverse long term effect on any vegetation that Council requires preserved.	Refer to Landscape Plan.	Yes
	2) Generally paving should: a) provide an attractive "address" for any dwellings without a direct frontage to the street; b) minimise the area and width of driveways along the street-frontage; c) be overlooked by continuously-occupied rooms such as kitchens and living rooms; d) be divided into panels by bands of contrasting materials or pavers; e) provide barrier-free access continuous from the street to the entrance of each dwelling; f) provide for landscaping as continuous verges along both sides, g) collect and channel run off into grated sumps located strategically and integrated with the design of surface pavement. h) Incorporate outdoor storage of garbage bins awaiting collection.	Refer to Landscape Plan. The proposal provide paving to the building entry form Hope Street.  The extent of paving is limited where possible. Living areas overlook the public domain.  Refer to Landscape Plan. Barrier free access provided to building.  Landscaping provided to side boundaries. Refer to Stormwater and Landscape Plan.  Residential waste collection area provided at ground.	Yes
<b>2.5.18 Fences and Retaining Walls</b>	1) Fencing must: a) Be structurally adequate, in accordance with the Building Code of Australia, and meets the <i>Dividing Fences Act 1991</i> . b) Be sympathetic to the natural setting and character in form, materials and colour; c) Maximise natural surveillance from the street to the building and from the building to the street.	Fencing and retaining walls to comply with the Australian Standards.  Fencing to match the overall character and materiality of the development per the submitted plans. No fencing proposed to front setback given proposed uses.	Yes
	2) Fences should be no taller than: a) 1.8m generally; and b) 2.4m on sloping sites, including the height of any retaining wall.	Side boundary fencing is 1.8m and is compatible.	Yes
	3) Fences along boundaries forward of the front building alignment: a) should not be taller than 1.2m, or if taller, of see-through construction; b) should not be constructed of metal panels; c) walls of solid construction and taller than 1.2m (such as courtyard walls) should be set back at least 2m from the front boundary (to allow for landscaping) and should not occupy more than 50% of the allotment width.	No front fencing is proposed forward of the building line.	N/A

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	4) Fences along driveways and separating existing multi-unit housing, or fronting a public park should be 1m tall, or if taller, of see-through construction;	Side boundary fencing will permit adequate sight lines.	Yes
	5) Fences along boundaries around private courtyards should minimise cross-viewing and the transmission of noise;	Rear fencing is provided to protect residents from the communal open space.	Yes
	6) Fences along boundaries in any location that can be seen from the street or a public park frontage should not be constructed of metal panels;	No front boundary fencing is proposed.	N/A
	7) Fences along boundaries fronting noisy thoroughfares: a) solid masonry walls are acceptable to a maximum of 1.8m; and b) incorporating corners and planting beds every 5m;	Not applicable.	N/A
	8) Where fencing affects easements or stormwater flow paths: consult with Council and the relevant authority.	Not applicable.	N/A
	9) Fencing of a "see-through" construction includes: a) panels set into a timber frame or between brick piers; where b) any solid base is not taller than 1m; and c) panels are spaced pickets or palings, or lattice.	Noted.	
	10) Retaining walls: a) generally should be no taller than 500mm; b) should not cut through roots of any tree required by Council to be preserved; c) should be separated from any associated fence by a planter-bed at least 500mm wide, minimising the apparent overall height of fencing; d) should provide drainage for any associated planter-bed; e) should be separated from any driveway by a landscaped verge at least 500mm wide, to prevent impact damage from vehicles	Retaining walls are compliant with these requirements per the submitted plans.	Yes
<b>2.5.19 Safety and Security</b>	1) Encourage a sense of community: a) Each common stairwell should serve no more than 10 dwellings. b) The public street and /or common pathways should be overlooked by: i) Entrances to dwellings or to ground level; terraces; ii) Windows to living rooms, dining rooms and/or kitchens; and iii) Private terraces and balconies c) fences should be designed to facilitate glimpses or filtered views from dwellings and private courts to the street and to driveways.	The lift and stair cores do not serve more than 6 apartments. Residential and non-residential lobby entries are overlooked by upper levels and is therefore considered acceptable.  No front fencing is proposed.	Yes

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	2) Ensure that at least one continuously-occupied room in each dwelling (a kitchen or living room) overlooks: a) the front street; b) driveways and garage forecourts.	All dwellings fronting Hope Street provide primary living areas and open spaces to the streetscape.	Yes
	3) Prevent concealment of intruders by: a) uniform lighting levels across common areas such as driveways; b) planning which does not provide hidden recesses; c) along common pathways: selection of appropriate plant species according to height and density.	The proposals provides casual surveillance, appropriate lighting and no areas of concealment to ensure safety and security.	Yes
<b>2.5.20 Accessibility and Adaptability</b>	1) Demonstrate that planning and design measures do not prevent access by people with disabilities: a) access pathways should slope gently and evenly, with a non-slip finish and no steps between the street frontage and principal building entrances; b) stair nosings should have a distinctive colour and texture; c) dwellings should have: d) dimensions consistent with AS 1428.1-Design for access and mobility. e) hallways at least 1m wide. f) circulation areas in bathrooms at least 1 m wide.	An Access Report is submitted with this application which ensure compliance with the Australian Standards.	Yes
	2) Demonstrate that dwellings have been designed to meet the needs of an ageing population: a) incorporate design measures which are appropriate to people with disabilities; and b) employ lever-type door handles and traditional cruciform tap-handles; and c) provide for future low cost modifications to bathrooms: i) future removal of hobs from shower recesses; ii) provision for future attachment of grab-rails to walls. d) provide for future low-cost modifications to kitchens including replacement of under bench shelves with drawers & attachment of grab-rails. e) provide appropriate levels and location of lighting.	As above, the proposals is submitted with an Access Report. The proposal also provides a suitable amount of adaptable and liveable dwellings which will serve the differing age groups in the locality.	Yes
	3) 10% of all dwellings or a minimum one dwelling, whichever is greater, must be designed in accordance with the Australian Adaptable Housing Standard (AS4299-1995), to be capable of adaptation for people with a disability or elderly residents.	The proposal provides 8 apartments or 16% as adaptable and is therefore compliant.	Yes



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	4) Where possible, the mandatory adaptable dwellings shall be located on the ground floor.	Adaptable dwellings are provided throughout all floors to allow equitable access. Lift access is provided to all dwellings.	Yes
	5) 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 Housing Standard (AS4299- 1995).	An Access Report is submitted with this application.	Yes
	6) Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard regarding parking for people with a disability.	Complies with the relevant standards.	Yes
<b>2.5.21 Storage and Services</b>	1) Provide storage for household items: a) at least 10m <sup>3</sup> per dwelling; either b) as cupboard space within the dwelling in addition to wardrobes; or c) within a lockable garage, not encroaching upon the parking space; or d) in weather-proof lockers that are not visible from the street.	Storage is provided in accordance with the ADG and is therefore acceptable. This is provided within the basement and in each apartment.	Yes
	2) Letter boxes should be provided according to Australia Post specifications: a) adjacent to the front boundary; b) located conveniently for residents entering the site (by car or on foot); c) integrated with the design of landscaped areas, fences and buildings.	Letter boxes to be provided in accordance with the Australian Standards. Can be imposed as a condition of consent.	Yes
	3) Demonstrate that dwellings have been designed to accommodate home-based telecommunications facilities and information technologies by allowing for: a) additional telephone lines and outlets; b) additional electrical outlets; c) satellite or cable-based reception.	Noted.	-
<b>2.6 Non Residential Developments</b>	1) Principles of urban form and urban design that apply to permissible residential development should be adopted for non-residential development.	The proposed neighbourhood shop and medical centre are contained within the compliant DCP and ADG form.	Yes
	2) Particular attention should be paid to: The development site including front setbacks, rear setbacks dual frontage situations. a) Urban form including: i) traditional building design features; ii) traditional garden frontages; iii) orientation of building entrances; iv) continuously occupied rooms facing the street;	As detailed above, the proposed non-residential uses are contained entirely within a complaint building form. These elements are relatively minor when considering the overall bulk and scale of the development which is consistent with the character of the locality.	

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	<p>v) detailed consideration of significant townscapes or landscapes; vi) signs. vii) driveways and parking including:</p> <ul style="list-style-type: none"> <li>• provision of on-site parking appropriate to the proposed use, and in accordance with the parking requirements of this DCP;</li> <li>• minimise site coverage by paved areas;</li> <li>• conceal garages from views available from public parks and streets;</li> <li>• locate driveways and parking areas away from any neighbouring residential development;</li> </ul> <p>b) landscaped area- provision and design of the required minimum area with detailed design of gardens and paving; c) side setbacks to provide for effective landscaped separation from adjacent developments; d) solar planning and energy efficiency - minimised overshadowing of adjacent properties and minimise requirements for mechanical heating and cooling of interiors; e) privacy - protect the amenity of adjacent properties; f) storage and building services - sufficient to meet requirements generated by the proposed development and located to protect the amenity of adjacent developments.</p>	<p>Parking is provided within the basement which is consistent with the DCP as detailed in this Statement.</p> <p>Limited as discussed. Parking located within the basement. As above.</p> <p>Landscaped area is consistent with a residential flat building.</p> <p>Setbacks are provided in accordance with the ADG.</p> <p>Proposal is compliant with the relevant energy efficiency requirements.</p> <p>No privacy impacts will result . Storage is provided within each tenancy.</p>	
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