



STATEMENT OF ENVIRONMENTAL EFFECTS

Residential Flat Building
10-14 Lethbridge Street, Penrith

GLN Planning Pty Ltd Trading as GLN Planning
ABN 39 585 269 237

A Level 10, 70 Pitt Street Sydney NSW 2000
P GPO Box 5013, Sydney NSW 2001
E info@glnplanning.com.au
T (02) 9249 4109 F (02) 9249 4111

glnplanning.com.au



Statement of Environmental Effects

Residential Flat Building – 10-14 Lethbridge Street, Penrith (Lot 456
DP1114361)

Prepared for

Fobupu Pty Ltd

By



ABN 39 585 262 237

A Level 10, 70 Pitt Street, Sydney 2000 P GPO Box 5013, Sydney
NSW 2001

T (02) 9249 4100 F (02) 2949 4111 E info@glnplanning.com.au

glnplanning.com.au





ABN 39 585 262 237

A Level 10, 70 Pitt Street, Sydney 2000 P GPO Box 5013, Sydney NSW 2001

T (02) 9249 4100 F (02) 2949 4111 E info@glplanning.com.au



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Project Manager: Paul Grech

Client: Fobupu Pty Ltd

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Executive Summary

This Statement of Environmental Effects (**SEE**) accompanies a Development Application (**DA**) proposing the construction of a residential flat building (**RFB**) over land at 10-14 Lethbridge Street, Penrith (legally described as Lot 456 DP1114361) (the **site**).

The site is located within the Penrith Local Government Area (**LGA**) and is zoned R4 High Density Residential under the *Penrith Local Environmental Plan 2010* (**PLEP**). The site is 1,811m², has a 45m frontage to Lethbridge Street and is currently vacant.

The surrounding locality is currently undergoing transformation from single detached dwellings and multi dwelling housing to high density residential development. Several RFBs have been recently approved and constructed in the area. This includes land directly adjoining the site to the east, which is approved for a six storey RFB with two levels of basement car parking and a height that exceeds the development standard to support a lift over run and roof top communal open space.

The development subject of this DA includes a six storey RFB with two levels of basement car parking and rooftop communal open space. The proposed RFB will include 36 apartments. The building has been orientated to maximise the number of apartments that address Lethbridge Street to maximise direct solar access to balconies and living areas. A total of 53 car parking space are provided.

The proposed development is permissible with consent and meets the requirements of PLEP, with a minor variation to the maximum height of building development standard. The height non-compliance is to accommodate shade structures, garden beds and the lift overrun associated with the rooftop terrace. The extent of the height variation varies due to the level change across the site and does not reflect an overdevelopment of the site with all gross floor area of the building being located below the maximum height of building control. The proposed height results in no material external impacts and the development remains consistent with the future character of the area including the approved building directly adjoining the site to the east, which also exceeds the maximum height of building development standard for similar reasons.

A clause 4.6 submission is included with the DA, which requests approval to vary the height of buildings standard having regard to accepted principles. The proposal otherwise complies with the prescriptive requirements of the PLEP, SEPP 65 Apartment Design Guide (**ADG**) and Council's DCP. In many cases the development exceeds the minimum standards in the ADG, including (but not limited to); apartment size, quantity of communal open space, provision of deep soil area as well as solar access.

This SEE describes the development, its likely impacts and measures to be implemented to mitigate those impacts as well as assessing the proposal against the planning controls that apply to the site. All anticipated environmental impacts can be satisfactorily managed and mitigated to ensure no unacceptable impacts would arise.

This report concludes that the proposed development is acceptable, and it is recommended that Council grant development consent subject to appropriate conditions of consent.



1 Introduction

1.1 Background

GLN Planning (**GLN**) has been commissioned by Fobupu Pty Ltd (the **Applicant**) to prepare this SEE to accompany a DA for construction of a RFB at Lot 456 DP1114361 at 10-14 Lethbridge Street, Penrith (**Figure 1**).



Source: Nearthmaps 20 May 2021

Figure 1 Aerial Overview

A Pre-DA meeting with Council and the Urban Design Review Panel (**UDRP**) was held on the 1 December 2020. That proposal included a six storey RFB comprising the following:

- 61 x car parking spaces across two level of basement.
- 42 residential apartments across six storeys comprising of;
 - 10 x 1 bedroom apartments,
 - 21 x 2 bedroom apartments, and,
 - 11 x 3 bedroom apartments.
- All gross floor area located below the 18m height limit, with lift over-run and rooftop garden beds exceeding the maximum height of building controls.
- Setbacks consisting of;
 - 5.5m front setback that contains a bin collection in the front setback,
 - 6m rear setback, and
 - 3m side setbacks.
- Primary open space located on the roof top.

The pre-DA notes are included as **Appendix B** and key issues raised are discussed in **Table 1**.

**Table 1 Key issues raised during pre-DA meeting and response**

Pre-DA Matters	Response
<p>Compatibility with character of the local area is a significant consideration that is raised by SEPP No 65 together with certain objectives in the PLEP:</p> <p>–Existing character is evident by reference to current buildings and landscaped areas;</p>	<p>The proposal has been designed in the context of surrounding existing and approved developments and the planned intent for the area - see the Architectural Design Statement in Appendix E.</p>
<p>– Due to strata-titling, existing town houses which adjoin the Site immediately to the west are unlikely to be redeveloped over the short-to-medium terms – if ever – and consequently compatibility with existing character demands consideration of their two storey scale;</p>	<p>The adjoining site to the west contains a multi dwelling housing development consisting of 4 strata titled semi-detached dwellings. Considering the uplift in development potential that has been experienced, it is not unreasonable to expect this site to be redeveloped in the future. Regardless, the proposal has considered the privacy and solar access of the adjoining development. The proposed development has been amended to ensure there is no unreasonable impact on the adjoining development by maintaining acceptable levels of privacy and solar access.</p> <p>Suitable setbacks have been provided in accordance with the controls within the ADG, whilst shadow diagrams in Appendix D demonstrate that private open space of these dwellings will receive direct solar access after 10am in mid-winter.</p>
<p>– Desired character is nominated by sections of the DCP, in particular 2.5.1, 2.5.2 and 2.5.4;</p>	<p>The design has considered the desired character of the locality as outlined in the DCP and by analysing the surrounding approvals and development.</p>
<p>– Critical requirements are that new developments should ‘reflect’ characteristics of traditional cottage development – highlighting the importance of setbacks that are sufficient to accommodate clusters of trees and shrubs, and also requiring effective modulation and articulation of building forms in order to avoid a bulky appearance as well as to display ‘ghosted’ references to preceding patterns of allotments and cottages</p>	<p>The site is currently vacant and therefore there is no opportunity to display “ghosted references of preceding patterns of allotments”. The proposal has however been broken into two distinct sections to provide a repetition of development that is more reflective of the surrounding subdivision pattern. The buildings themselves include a “base” and “top”, which is defined by varying setbacks and building elements such as vertical battens.</p> <p>Each ground floor apartment fronting Lethbridge St is provided with a courtyard that includes a garden bed and gate giving individual access from the public domain and direct interaction with the street.</p> <p>The proposed building setbacks have been reconsidered to afford the opportunity for deep soil plantings around the entire building.</p>
<p>The current concept fails to demonstrate reasonable compatibility with existing and desired characters:</p> <p>– In relation to existing character, suitable regard for the scale of two storey neighbouring town houses is not demonstrated by identical boundary setbacks for eastern and western elevations, or by the form and scale of those elevations;</p>	<p>It is unreasonable to restrict the development opportunity of the site on account the adjoining land has yet to be redeveloped. The existing building on the adjoining site does not reflect the future planned character of the locality.</p> <p>However, the side setbacks have been increased and ensure that the existing adjoining development will maintain an acceptable level of amenity.</p>

Pre-DA Matters	Response
<p>– In relation to desired character, front and side setbacks (in particular) are insufficient to accommodate clusters of canopy trees that would moderate scale or mass of the proposed building, and side elevations in particular display excessive scale and bulk which would not enhance streetscape quality;</p> <p>–Due to insufficiency of the front and side setbacks - or the absence of substantial deep soil pockets in suitable locations – landscaping cannot screen the proposed building to an extent that would moderate mass and scale or conceal the bulky appearance of side elevations.</p>	<p>The proposed development has increased side setbacks from what was proposed in the Pre-DA meeting package. The proposal now provides setbacks sufficient for large scale plantings. Furthermore, high quality landscaping has been included to support the proposal and enhance the streetscape.</p>
<p>Compatibility with character demands careful attention to building services to ensure appropriate quality for landscaping and facades that would provide backdrops to the street:</p> <p>–The concept does not indicate locations for a sub-station or fire boosters – both of those facilities typically require backdrop structures that restrict landscaping landscaped and, consequently, that tend to dominate street frontages;</p>	<p>The proposal has included a structure for services in the front setback on the eastern boundary of the site. The services will be suitably accessible and fenced to blend in the proposed development and not dominate the streetscape.</p>
<p>–The concept relies upon a garbage loading bay within the front setback, and that approach not only would compromise desired landscape quality of the street backdrop, but also is inconsistent with the Council's current waste management policies. This aspect must be reviewed ahead of the pre-lodgement meeting if a meaningful discussion on this area is sought.</p>	<p>The garbage loading bay has been removed from the front setback and has been relocated behind the building line at the entry to the basement.</p>
<p>Amenity shortcomings are revealed by:</p> <p>–Common areas that are located within side and rear setbacks at ground level are neither visible nor directly-accessible from the ground floor lobby;</p>	<p>The primary communal area is located at the rooftop terrace. Secondary open space is available at the rear of the property at ground and the first floor. These areas are visible directly from the common lobby areas.</p>
<p>–Upper storey lobbies are fully-enclosed, and do not have the benefit of windows that would allow daylight and natural ventilation, as well as permitting surveillance of ground level entries and outdoor areas;</p>	<p>Lobby areas have been amended to ensure they have access to natural light and air.</p>
<p>–Roof top open spaces do not provide satisfactory services such as outdoor cooking and universal access toilets, also do not have adequate summer-time shading, are not subject to surveillance from lower storey lobbies, and finally, do not have layouts that would accommodate unrelated individuals and groups concurrently.</p>	<p>Toilets, shade and seating areas have now been included at the rooftop terrace level. The space has been designed to accommodate unrelated individuals and groups concurrently.</p>
<p>Non-compliant building height cannot be justified:</p> <p>–Non-compliant height is required to service communal recreation areas which cannot be provided at ground level due to narrowness of</p>	<p>The rooftop private open space is the best location to provide an area of primary open space.</p>



Pre-DA Matters	Response
setbacks, and consequently which must be located on the roof-top;	<p>Utilising the rear setback for the primary open space would ensure suitable privacy, however is unlikely to obtain acceptable solar access.</p> <p>Locating the primary open space in the side boundaries could impact on the amenity of adjoining development, namely the existing multi dwelling housing to the east. Future development of adjoining RFBs will also likely cause issue with regards to solar access.</p> <p>The approved building to the east has a communal open space approved on the rooftop.</p>
<p>– Noting that the concept development would display pronounced incompatibility with zone and height objectives which relate to character, a variation request could not be supported;</p> <p>–Furthermore, noting the logical association between non-compliant heights and an excessively large floorplate (which result in setbacks that do not satisfy ADG objectives), there are no planning grounds that would justify non-compliant height.</p>	<p>The proposal has been dramatically amended from that originally presented in the Pre-DA meeting to ensure the proposal is compatible with the existing controls as well as future character of the locality including (but not limited to):</p> <ul style="list-style-type: none"> • Removing garbage collection from the front setback to the basement. • Reducing the floor plate, increasing setbacks to comply with ADG and providing sufficient area for deep soil plantings. • Reduce the height of the building so that all GFA is located below the maximum height of building control. • Ensure that sufficient amenity is afforded to all common areas. • Reduce building form to ensure surrounding development receives suitable direct solar access.

The proposed RFB development has appropriately responded to the issues raised by Council in the pre-DA meeting discussions.

1.2 Purpose of Report

This SEE has been prepared in accordance with Schedule 1 of the *Environmental Planning & Assessment Regulation 2000 (EP&A Regulation)* for the purposes of:

- demonstrating that the environmental impacts of the development have been considered; and
- outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SEE details the necessary information for the proposal to be assessed by the consent authority, including a description of the site and its surrounds and an assessment of the proposal against the relevant planning controls.

The SEE has been prepared in conjunction with a team of specialist consultants as outlined in **Table 2**.



Table 2 **Consultant Team**

Discipline	Consultant
Architect	PBD Architects
Town planner	GLN Planning
Stormwater	ACOR Consultants Pty Ltd
Traffic	McLaren Traffic
Landscape	Site Image Landscape Architects
Arborist	Advanced Treescape Consulting
Access	Vista Access Architects
Basix	ESD Synergy
Waste	Elephants Foot
Contamination	Alliance
Quantity Surveyor	QPC & C

1.3 Type of Development Application

The proposal constitutes 'development' in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). The capital investment value of the development falls under \$30 million and does not require referral to the Sydney Western City Planning Panel for determination. On account the proposal includes a departure from the maximum height of building standard by more than 10%, the proposal is required to be referred to the Local Planning Panel for determination in accordance with *Local Planning Panels Direction -Development Applications and Application to Modify Development Consents* dated 30 July 2020.

This DA does not trigger any integrated referrals under section 4.46 of the EP&A Act. **Section 4.2** of this SEE provides further discussion in relation to integrated development matters.

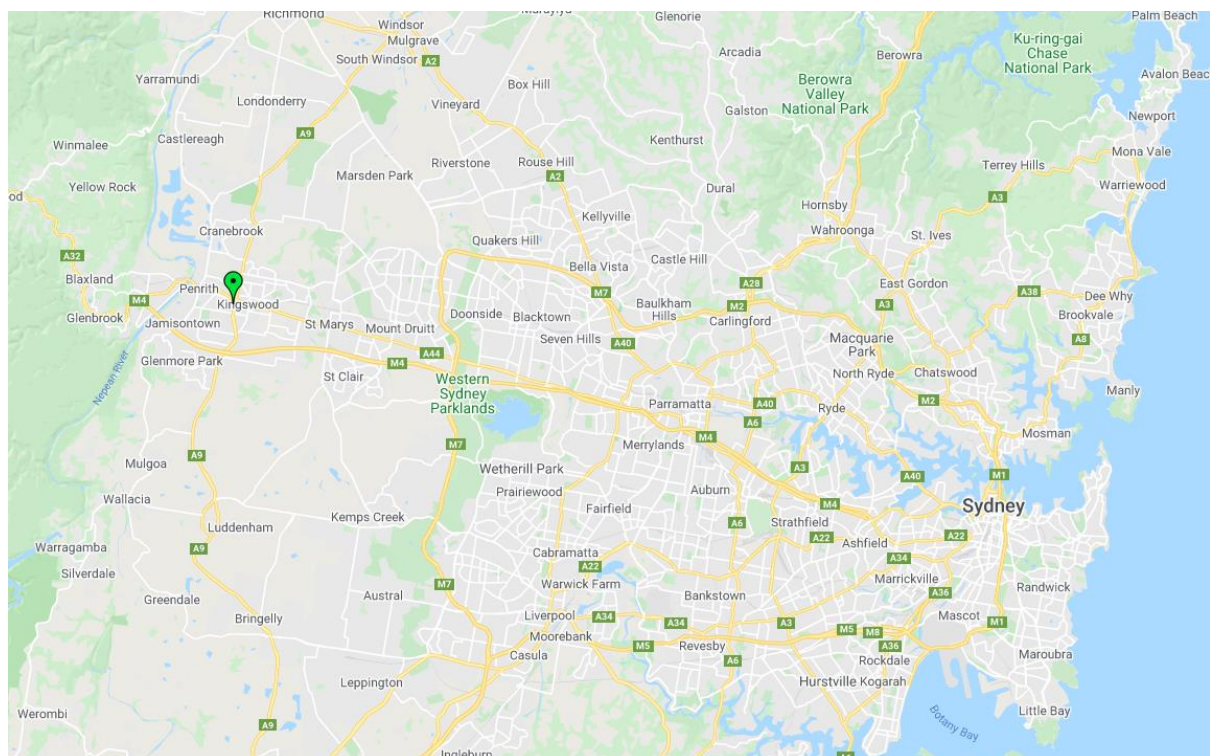
This DA is not 'Integrated development', 'Designated development', 'Regionally significant development' or 'State significant development' under the EP&A Act or the EP&A Regulation.

2 The Site and Locality

This section of the report describes the physical characteristics of the site, the adjoining development and character of the locality relevant to the preparation of a site analysis.

2.1 Site Location

The subject site is situated within the Penrith LGA which forms part of the western Sydney suburbs (**Figure 2**). The site is approximately 90m west of the Nepean Hospital, 1.6km east of Penrith Railway Station and Penrith Town Centre and 1.6km west of Western Sydney University (Kingswood Campus).



Source: Nearmap

Figure 2 Site location

2.2 Site Description

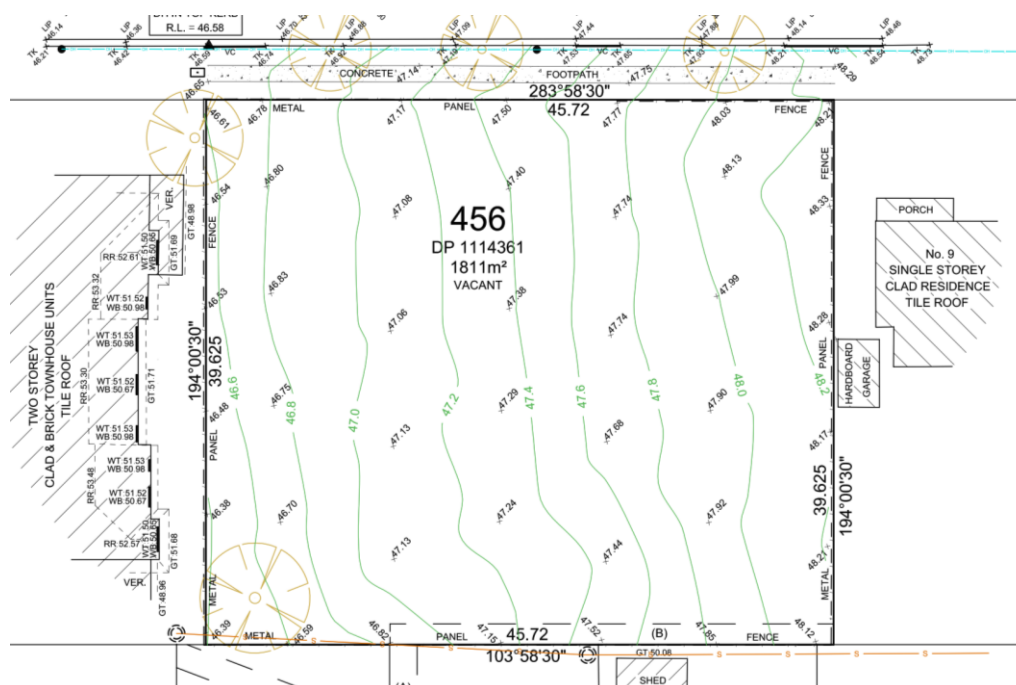
The site is located at 10-14 Lethbridge Street, Penrith which is legally described as Lot 456 in DP1114361 (see **Figure 3**). The site is rectangular in shape, with an area of 1,811m², has a 45.72m frontage to Lethbridge Street and a depth of 39.63m. The site is currently vacant and contains only one existing tree located in the south west corner of the property. Three street trees exist in front of the site in the Lethbridge Street road reserve.

The site appears generally flat, however there is a slight fall from east to west. The Survey Plan in **Appendix A** shows that the highest point on the site is RL48.33m on the western boundary, whilst the lowest point is RL46.39m at the south western corner (see **Figure 4**).



Source: Nearmap (Base photo: 20 May 2021)

Figure 3 Aerial of Subject Site



Source: RHCO Surveying and Development Consultants

Figure 4 Snapshot of Site Survey



2.3 Surrounding Locality

Located approximately 800m west of the Penrith City Centre the site has good access to the Penrith Westfield shopping centre and other commercial and employment activity. The Penrith Train Station is located approximately 1.5kms north west of the site, with the Kingsway Train Station only 1km north east of the site. In addition, the site benefits from close access to major roads such as the Great Western Highway 250m north, the M4 Western Motorway 3km south and The Northern Road 1.8km south.

Currently adjoining the site to the east and south are detached dwellings, whilst a four dwelling multi dwelling housing development adjoins the site to the west. The surrounding locality is currently undergoing a transformation from single detached dwellings and town houses to high density RFBs of 5 to 6 storeys. The recent approval and construction of RFBs in the surrounding area have established the future character of the locality, which the proposal has considered in its design. Notably, land directly adjoining the site to the east at 2-8 Lethbridge Street is subject to the approved development under DA16/0182 for:

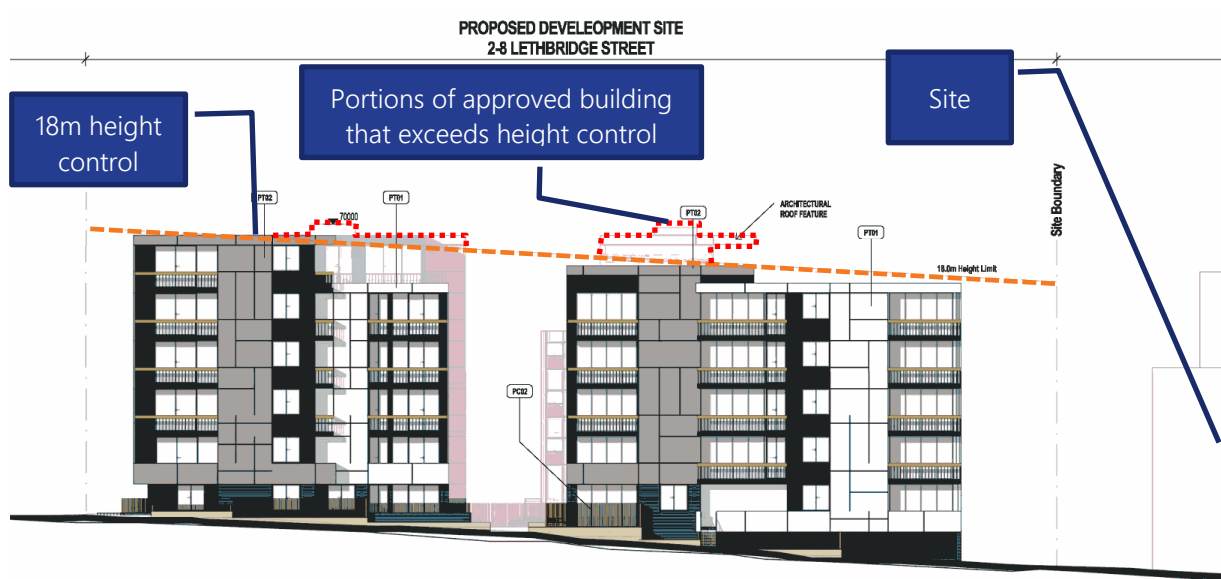
Demolition of existing structures and construction of two (2) x part five (5) & part six (6) storey residential flat buildings containing 60 apartments and two (2) levels of basement car parking.

The approved development under DA16/0182 includes a 9% variation to the maximum height of building control in the PLEP. The variation to the height control is to facilitate the roof top communal open space area. A snapshot of the approved plans is provided in **Figure 5 and 6** below.



Source: Morson Group

Figure 5 Perspective of approved building under DA16/0182 from corner of Parker St and Lethbridge St



Source: Morson Group

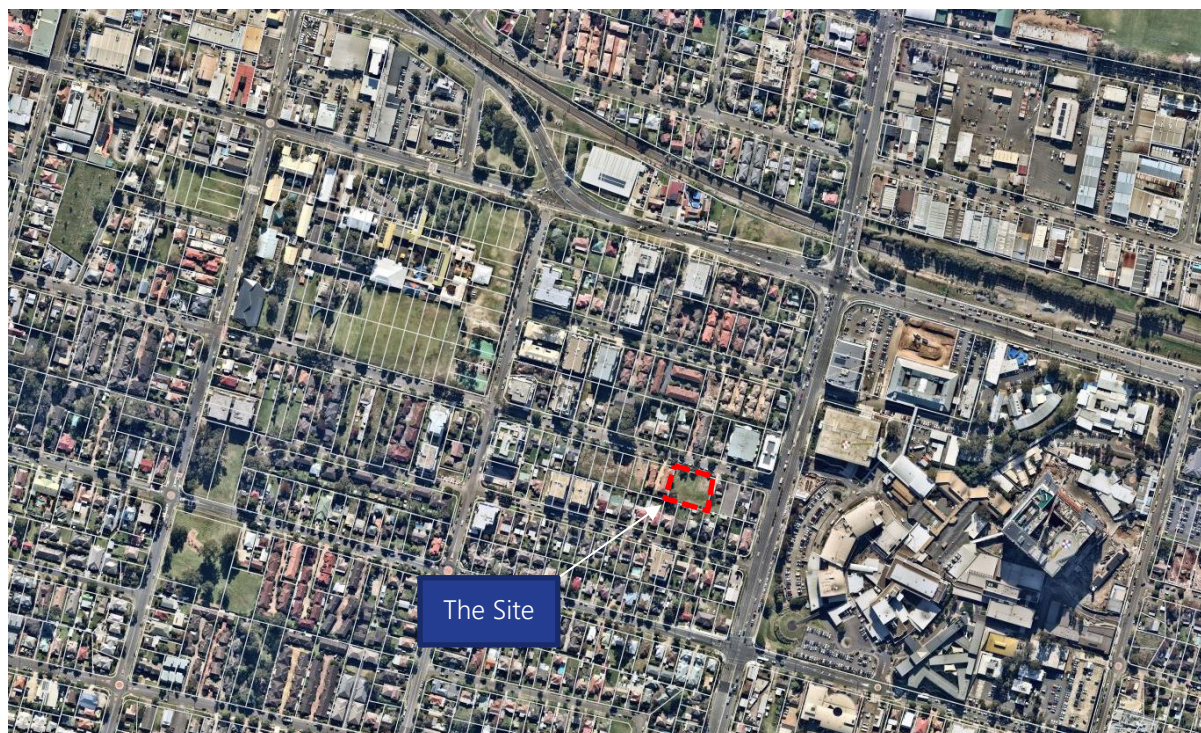
Figure 6 Snapshot of approved plan DA16/0182 (Lethbridge St elevation)

Other surrounding RFBs/approvals include:

- On the corner of Lethbridge Street and Parker Street at 5 Lethbridge Street – 5 storey RFB with basement car parking,
- On the corner of Lethbridge Street and Colless Street (south east) at 18 Colless Street – 6 storey building with basement car parking,
- On the corner of Lethbridge Street and Colless Street (north east) at 16 Colless Street - 6 storey RFB with basement car parking.
- 29-31 Lethbridge Street - 6 storey RFB with basement car parking.



Figure 7 provides an aerial photograph of the subject site and broader locality.



Source: Nearmap 6 May 2018

Figure 7 Aerial photograph of subject site and broader locality



3 Proposed development

This DA seeks approval for the following:

- Removal of 2 x trees.
- Construction of a six storey residential flat building including 36 residential apartments consisting of:
 - 9 x 1 bedroom apartments,
 - 19 x 2 bedroom apartments, and
 - 8 x 3 bedroom apartments.
- 2 levels of basement car parking comprising of 53 spaces.
- Rooftop primary open space area.
- Associated civil works.
- Landscaping.

Each component is described in more detail below. Architectural plans prepared by PBD Architects are contained in **Appendix C**.

3.1 Removal of trees

The Arborist Report in **Appendix N** has identified several trees that have the potential to be impacted by the proposal. Only two of these trees, plus a small group of Silver Wattles are located on the site. The two trees are situated towards the rear of the site, whilst the group of Silver Wattles are in the north east corner.

Two trees will require removal as a result of the development, one being a street tree that is required to facilitate driveway access as well as the existing Grey Box Gum Tree situated in the south west corner of the site. The group of Silver Wattles also require removal to accommodate the driveway.

All other trees within the site and adjoining lots will be retained in accordance with the Arborist Report in **Appendix N**.

3.2 Construction of a residential flat building

The construction of a six 6 storey RFB will create 36 apartments and two levels of basement car parking. The Architectural Plans prepared by PBD Architects provided at **Appendix D** illustrate the siting, detailed design, private open space and solar access diagrams. The Architectural Statement in **Appendix E** provides a detailed description of the design philosophy.

The building presents to the Lethbridge Street as six storeys. Two levels of basement are accessed off Lethbridge Street. The basement entrance is located at the western edge of the development, which is also the lowest part of the site. The basement includes resident car parking, storage as well as loading and garbage collection. The first four levels of the building represent a “base” to the structure. The footprint provides sufficient surrounding deep soil to ensure the building can be sited amongst large scale plantings. A total of 35% of the site area will be landscaped at the ground plane, with 18% of the site meeting the ADG requirement for deep soil. The upper two storeys are further setback from the boundaries and create a “top” of the building utilising slight variations in colours and materials.

As well as being broken up horizontally through a base and top, the building is articulated vertically – presenting as two buildings joined by a centrally recessed pedestrian entrance.

Across all levels of the building has direct access to a lift, garbage room chutes, service room and fire stairs which are located centrally. A roof top communal open space is proposed, which will provide a high level of amenity for future residents. The rooftop communal area has been setback from the edge of the building to ensure it is not visible from the public domain as demonstrated in **Figure 8** below.



Source: PBD Architects.

Figure 8 Perspective of the development viewed from Lethbridge Street

Table 3 outlines the number of units and bedrooms proposed. A total of 20% of the apartments are “liveable apartments”, whilst 10% meet the requirements for “adaptable housing”. The apartments are all afforded generous indoor area and outdoor private open spaces – all of which exceed the minimum requirements of the ADG. Each room is afforded a window that allows for natural ventilation.

Table 3 Summary of units and bedrooms

Level	No. units	No. one bedroom units	No. two bedroom units	No. three bedroom units
Ground Floor	5	3	2	0
Level 1	7	2	5	0
Level 2	8	2	6	0
Level 3	8	2	6	0
Level 4	4	0	0	4



Level	No. units	No. one bedroom units	No. two bedroom units	No. three bedroom units
Level 5	4	0	0	4
Total	36			

3.3 Landscape and Communal Open Space

The proposal includes over 35% landscaped site area. This includes 18% of site area for deep soil that has a minimum dimension of 6m. The majority of the front and side setbacks will allow for large scale plantings to maintain a green character and a planted building interface with adjoining developments. The entire rear setback is available for deep soil planting.

Communal open space areas are divided between space at the rear of the building, the rooftop open space and the common balcony area at level 1. Each will provide a different function for future residents as outlined below:

- The rooftop terrace is the primary communal open space area, which provides outdoor cooking facilities, toilet facilities as well as seating and lounging areas. The area has been orientated to create a number of private spaces so that the area can be enjoyed by different groups of people at once. These spaces are setback from the edge of the building and include planter boxes. The setback is to ensure the area is not visible from public domain along Lethbridge Street, whilst the perimeter planting and a pergola are provided to create a pleasant environment and shade.
- Rear setbacks will be a grassed area with seating, evoking the ideals of a "rear yard". The area is on the southern side of the building and will be afforded a good level of shade. There will be grassed areas for active uses such as children play space. Seating will also be provided as well as large scale plantings at the boundary. These plantings will provide a green interface with the adjoining development and minimises overlooking.
- A communal balcony is provided on level 1. This balcony overlooks the "rear yard". It provides an area that parents can sit and watch children playing in the "rear yard" or just enjoy overlooking the green space located at the rear of the building.

Landscaping Plans are provided in **Appendix F**.

3.4 Basement Car Parking, Storage and Garbage Collection

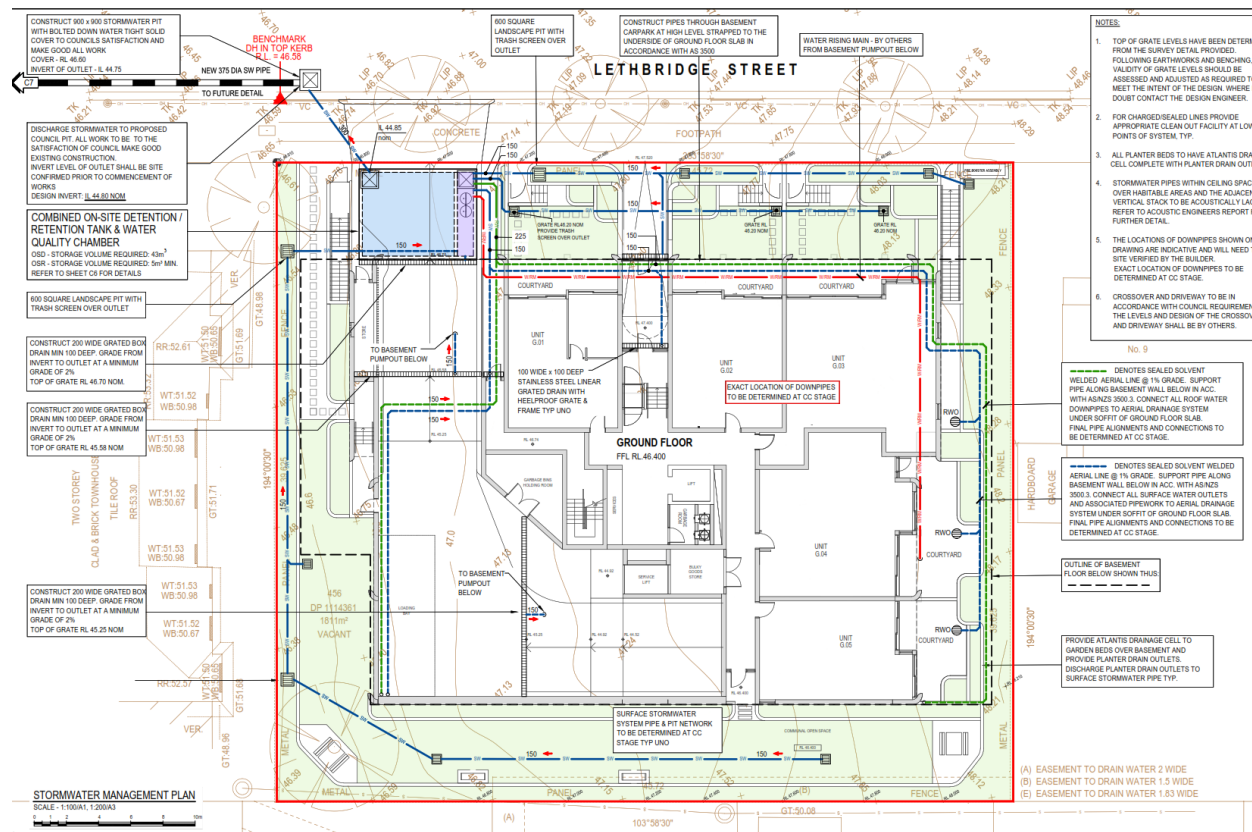
The basement provides space for 53 parking spaces as well as bicycle storage areas. Of the 53 car parking spaces, eight are visitor spaces and four are disabled spaces. Each apartment is provided a storage area in the basement, most of which are located in cages at the end of the designated parking spot. A garbage room is provided on Basement level 1. Chutes are accessible on each level of the building, which terminate in this garbage room. The garbage room has space for 8 x 1,100L bins plus area for manoeuvrability.

A service lift is located in the bin room to move bins from the basement bin rooms and goods from bulky goods store to holding room for collection. The bin holding room is located behind the building line at the ground floor before the ramp to basement level 1 begins. A loading bay is provided for garbage collection and will also provide for removalist vehicles. The Traffic and Transport Report in **Appendix J** confirms that

the space is suitable for Council's waste vehicle, whilst the Waste Report in **Appendix M** confirms the proposed number of bins and space is sufficient to service the development.

3.5 Associated Civil Works

Detailed Stormwater and Civil Plans have been prepared by Accor Consultants and are provided in **Appendix K**. The proposed stormwater system includes a system of pits and pipes that drain to a 43m³ on-site detention tank, which eventually drains to Council's stormwater network in Lethbridge Street (see **Figure 9**).



Source: Accor Consultants

Figure 9 Proposed Stormwater Drainage System

The proposed stormwater system has been designed to meet the pollution reduction targets as follows:

- Gross Pollutants – 90% reduction
- Total suspended solids – 85% reduction
- Total Phosphorus – 60% reduction
- Total nitrogen - 45%.

Detail of the proposed stormwater design including erosion and sediment control is provided in **Appendix K**.



4 Environmental Assessment

This section of the report assesses the proposed development against the planning framework and planning controls applicable to the site and the development.

4.1 Biodiversity and Threatened Species Impacts

The EP&A Act contains provisions designed to ensure both the threatened species legislation as well as any approvals required under other legislation (known as integrated development) are considered as part of a single development assessment process. The provisions as they apply to the proposed development are discussed below.

4.1.1 Biodiversity Conservation Act 2016

Section 1.7 of the EP&A Act requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments.

The site has previously been cleared, is mostly grassed and contains two trees that are not classified as a native or threatened species. An Arborists Report is provided at **Appendix N** that outlines the necessary removal of the relevant trees.

As a result, no further assessment of threatened species is required in relation to this application under Part 1.7 of the EP&A Act.

4.1.2 Environmental Protection and Biodiversity Conservation Act 1999

Having regard to the above, the environmental protection requirements under the Environmental Protection and Biodiversity Conservation Act, are not considered relevant.

4.2 Integrated Development

Section 4.47 of the EP&A Act requires a review of whether the proposed development on the land could trigger an approval under other environmental or related legislation. Such development is categorised as 'integrated development'.

The following provides brief comments on whether any aspect of the development triggers the ability for the applicant to apply for integrated development approval and for the consent authority to obtain general terms of an approval from the relevant approval bodies.

Roads Act 1993

Section 138 of the *Roads Act 1993* requires an approval from the roads authority (either Council or the Roads and Maritime Services) for certain works in, on or over a public road, or to connect to a classified road.

Minimal works (driveway cross over) in, on or over a public road are proposed as part of this DA. However, the consent required under section 138 of the *Roads Act 1993* is required from Council. Therefore, the DA is not integrated development.



NSW National Parks & Wildlife Act 1974

The site is within a highly urbanised area and is substantially disturbed. An Aboriginal Heritage Impact Permit is therefore not required to be obtained under s90 of the NP&W Act 1974.

Rural Fires Act 1997

Section 100B of the *Rural Fires Act 1997* requires that a bush fire safety authority for development of bush fire prone land that could lawfully be used for residential or rural residential purposes, or development of bush fire prone land for a 'special fire protection purpose'.

The site is not mapped as bushfire prone and therefore does not require referral to the Rural Fire Service.

Water Management Act 2000

A Controlled Activity Approval is required to be obtained for any activity being situated within 40 metres from the top of a river bank in accordance with section 91(2) of the *Water Management Act 2000*. The site is not within 40m from a riverbank, as such the proposed development does not require an integrated approval to satisfy this legislation.

Heritage Act 1977

No works are proposed that are referred to under section 57 of the *Heritage Act 1977*. Therefore, no integrated approval is required to address this legislation.

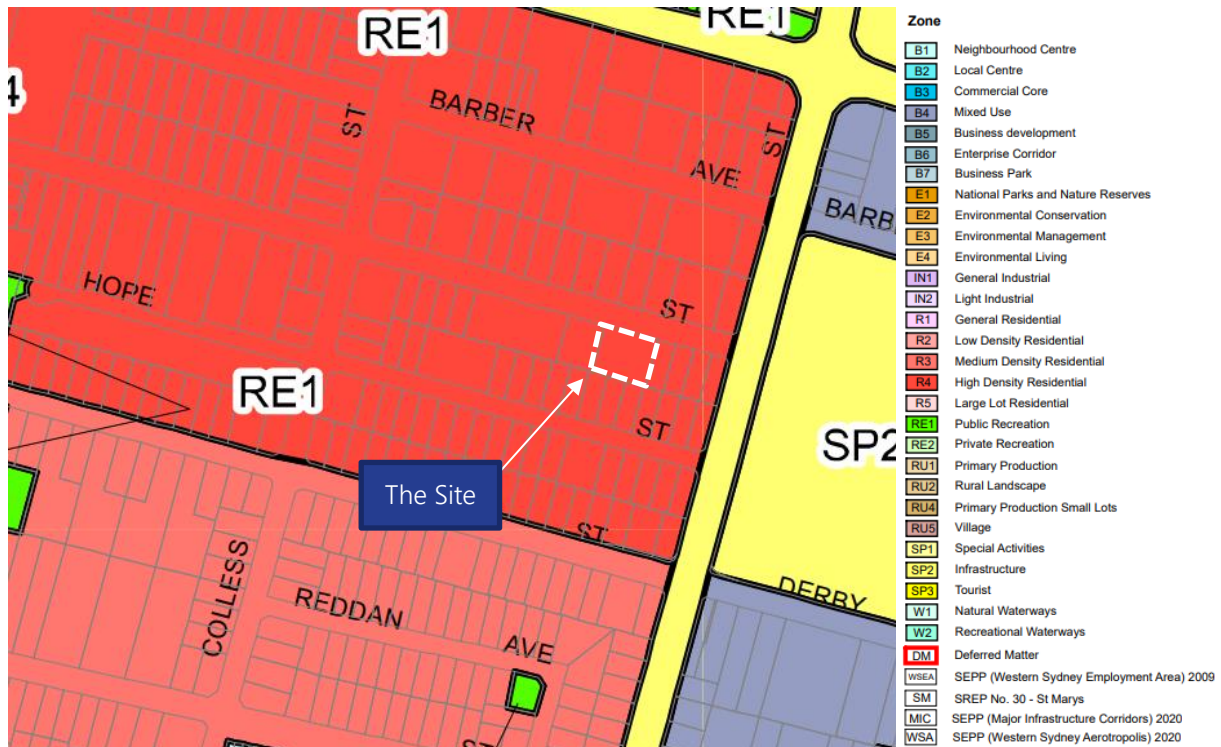
Protection of the Environment Operations Act 2002

The implementation of appropriate environmental protection works will ensure that no licence will be required. No integrated approval is required to address this legislation.

4.3 Environmental Planning Instruments

4.3.1 Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 2010 (PLEP) provides the statutory framework regulating land uses. The subject site is zoned R4 High Density Residential as illustrated at **Figure 10**. The proposed construction of a residential flat building is permissible with consent under the PLEP and is consistent with the objectives of the R4 zoned land, as outlined within **Table 3**, which also contains an assessment of the proposal against the other relevant clauses of the PLEP.



Source: Penrith LEP 2010 - Land Use Zone Map Tile 013

Figure 10 Zoning Map

Table 3 Assessment against Penrith Local Environmental Plan 2010

Clause	Comment	Compliance
Part 2 Permitted or prohibited development		
2.3 – Zone Objectives and Land Use Table	<p>The site is zoned R4 High Density Residential.</p> <p>The DA seeks consent for the development of a RFB which is permissible with consent in the R4 zone.</p> <p>The proposal is consistent with the aims of the zone objectives, in particular:</p> <ul style="list-style-type: none"> 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 ensure that a high level of residential amenity is achieved and maintained. To ensure that development reflects the desired future character and dwelling densities of the area. 	Yes
2.6 – Subdivision – consent requirement	<p>Subdivision is not proposed with this application. Future strata subdivision is anticipated in accordance with the provisions of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p>	NA

Clause	Comment	Compliance
Part 4 Principal development standards		
4.1 – Minimum subdivision lot size	The site is subject to a minimum lot size of 400m ² as per the Lot Size Map. As per subclause (4) this would clause does not apply to Strata subdivision.	NA
4.1B – Minimum lot size for dual occupancies, multi dwelling housing and residential flat buildings	The site is subject to a minimum lot size of 800m ² for residential flat building in land zoned R4. The site has an area of 1,811m ² which complies with the minimum lot size.	Yes
4.3 – Height of building	The site is subject to a maximum building height of 18m on the height of building maps. The proposal has variable height up to a maximum 21.1m. See additional detail following this table. While this does not comply with the maximum building height control, the departure from the standard is justified in a clause 4.6 request in Appendix G .	Subject to clause 4.6 variation request.
4.4 – Flood space ratio	The site is not subject to a maximum FSR.	NA
Part 5 Miscellaneous provision		
5.1 – Relevant acquisition authority	The site does not contain any land identified for acquisition.	NA
5.6 – Architectural roof features	This clause allows minor roof features that exceed the maximum height of building. The proposal does not include any architectural roof features.	N/A
5.10 – Heritage Conservation	The site is not a heritage item or located within a conservation area and is not located in proximity to a heritage item or conservation area.	NA
Part 7 Additional local provisions		
7.1 - Earthworks	The proposal includes excavation for the purposes of establishing the basement. The impact of these earthworks during construction and as finished have been considered in the civil engineering design in Appendix K and Geotechnical Report in Appendix L .	Yes

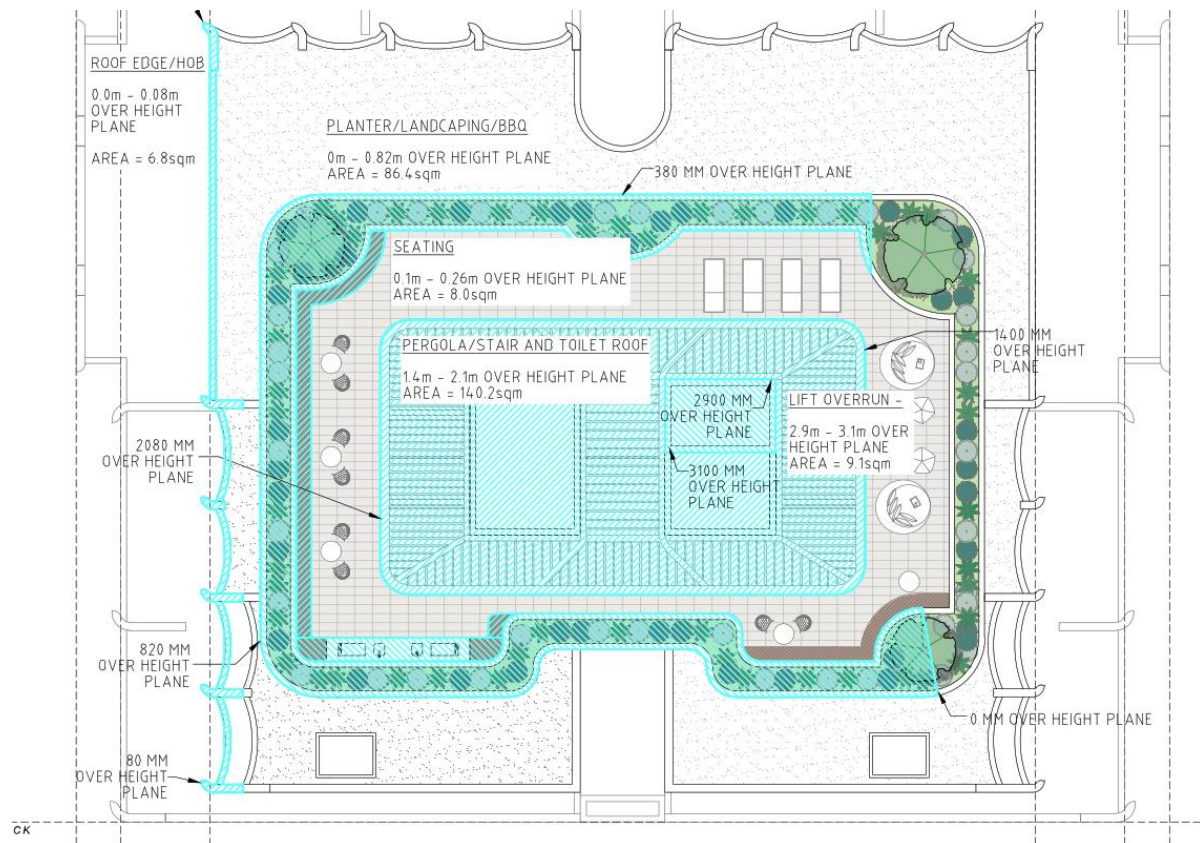
Based on the above assessment, the application is considered permissible development that is fully compliant with all requirements of PLEP, other than the height standard for which a variation is sought under clause 4.6 which is summarised below.

Proposed Variation to the Penrith LEP 2014

This DA proposes the construction of a RFB that exceeds the 18m maximum building height under the PLEP. The roof of the building is located below the 18m height control, however portions of the communal open space, lift overrun and a small portion of the parapet and architectural articulation on the western elevation will exceed this control by varying degrees:

- 6.8m² of parapet and architectural articulation on western portion of the building is between 0.015m - 0.08m over.

- 86.4m² of the landscape planter and seating is over the height limit a maximum of 0.8m at the western elevation, but under the height limit at the eastern elevation.
- 140.2m² of the pergola and stair/toilet roof are between 1.4m - 2.1m over.
- 9.1m² of the lift overrun is between 2.9m - 3.1m over.



Source: PBD Architects

Figure 11 Portion of the building over the 18m HOB control

The extent of the exceedance is reflective of the accommodation of a high quality communal open space area on the rooftop, whilst the variance in the extent of the exceedance is a consequence of the slope of the site from east to west.

Clause 4.6 of the PLEP 2014 permits exceptions to development standards to provide an appropriate degree of flexibility. As outlined in the clause 4.6 variation submission contained in **Appendix G**, there is merit in allowing the variation in the circumstances of the case.

4.3.2 State Environmental Planning Policy - Design Quality of Residential Apartment Development

This policy (SEPP 65) applies to the proposed development. Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):



(a) the advice (if any) obtained from the design review panel, and

(b) the design quality of the development when evaluated in accordance with the design quality principles, and

(c) the Apartment Design Guide.

A Statement has been prepared by PBD Architects to explain how the design of the proposal has considered the design quality principles of SEPP 65 and the objectives in Parts 3 and 4 of the Apartment Design Guide (**ADG**). Refer to the SEPP 65 Design Statement contained in **Appendix E**.

The following provides an assessment of the proposal against the key guidelines contained in the ADG.

Requirement	Proposed	Complies
PART 03: SITING THE DEVELOPMENT		
3A Site Analysis		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site and their relationship to the surrounding context.	Refer to SEPP 65 Design Statement (Appendix E)	Yes
3B Orientation		
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Refer to SEPP 65 Design Statement (Appendix E)	Yes
Overshadowing of neighbouring properties is minimised during winter.	<p>The proposal will provide a strong edge to Lethbridge Street.</p> <p>The properties directly to the south of the site are yet to be developed for high density residential development. The shadow diagrams and suns eye diagrams provided in Appendix D demonstrate that these existing dwellings to the south will maintain at least two hours direct sunlight to their rear yards during mid-winter.</p> <p>The DCP criteria for maintaining solar access to neighbouring residential properties is satisfied.</p>	Yes
3C Public Domain Interface		
Transition between private and public domain is achieved without compromising safety and security.	<p>The ground floor apartments are afforded a terrace and yard that provides direct access to Lethbridge Street. The fencing will be permeable and steps down the frontage as the levels of Lethbridge Street fall from east to west.</p> <p>This interface will be gated and include landscaped planter boxes to maintain privacy. Balconies on upper levels look over</p>	Yes



Requirement	Proposed	Complies
	the public domain to facilitate passive surveillance.	
Amenity of the public domain is retained and enhanced.	Mailboxes are located behind the fence line, before the security entrance and are perpendicular to the road frontage. As requested in the Pre-DA meeting, garbage collection and other services have now been located in the basement to avoid dominating the street frontage.	Yes
3D Communal and Public Open Space		
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	Refer to SEPP 65 Design Statement (Appendix E)	Yes
Communal open space >25% of site.	Site area = 1,811m ² x 25% = 452.75m ² . There are two areas of communal open space that meet the 3m minimum dimension – being: <ul style="list-style-type: none"> Landscaped garden at the ground floor – 255.1m², and Rooftop communal area – 232.3m² Total – 487.4m² In addition, the development has also included an area of open space on level 1, being a common balcony area. This area has a minimum depth of approximately 2.85m, however still provides a common outdoor space that will add 13m ² to the overall development's amenity.	Yes – exceeds the standards.
Direct sunlight to >50% of communal open space.	The primary active area of communal open space is located on the roof. This area will maintain direct solar access to the entire space during mid winter. A pergola has been provided to allow some shade to ensure the space is usable during the summer season.	Yes – exceeds the standards.
Communal open space designed for a range of activities, be attractive and inviting.	As previously outlined, the open space is located across three areas. These areas are unique and have been designed to allow for a range of different uses.	Yes
Communal open space designed for safety.	The communal open spaces will be secure, accessed only from within the building. The spaces are able to be well lit.	Yes
Responsive to existing pattern and uses.	The proposal does not include any public spaces.	N/A



Requirement	Proposed	Complies												
3E Deep Soil Zone														
Deep soil zones provide for and support healthy plant and tree growth. Minimum 7% site area to be deep soil with 3m dimension; 10% and 15% desirable for sites between 650m ² and 1,500m ² and above 1,500m ² , with a 6m dimension.	<p>Site area = 1,811m²</p> <p>Minimum deep soil 7% = 126.77m²</p> <p>Desirable 15% = 271.65m²</p> <p>Deep soil - 6m dimension – 328m² (18%)</p> <p>Deep soil - any dimension – 529m² (29%)</p> <p>The deep soil area that meets the 6m dimension is provided in the ground floor communal open space, which will provide a positive interface with the adjoining dwellings to the south. Although much of the side and front setbacks are unable to meet the minimum 6m dimension (due to basement or areas of paving), there is sufficient area to provide significant plantings to ensure as the locality develops there will be significant greens spaces located between buildings.</p>	Yes minimum exceeded.												
3F Visual Privacy*														
<p>Objective 3F-1: Design Criteria 1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>The proposal generally complies with the setback controls other than some minor variations in the northern part of the building between ground and level 3, which is setback 4.5m from the side boundaries. Despite minor variations to the 6m control, this portion of the building generally presents as a blank wall and will not impact on adjoining privacy. The windows that are located on these elevations, within 6m of the side boundaries are secondary windows. On account they are secondary windows, they are not the primary source of light and are able to be closed by the applicant to maintain privacy without affecting solar access or natural ventilation. Furthermore, additional architectural screens have been proposed to ensure visual privacy both to the occupants and adjoining development.</p> <p>There is also a slight departure from 9m setback control to the rear boundary for level 4 and 5. There are two windows that will address the rear boundary within 9m of the southern boundary. One window is to the master bedroom, whilst the other is a window to the kitchen. The kitchen will also benefit from the floor to ceiling glazing to the balcony. These windows are also afforded architectural screening to maintain visual privacy.</p>	Minor variation considered acceptable on merit
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												



Requirement	Proposed	Complies
	Despite these two minor variations, the proposal has provided separation distances that achieve a reasonable level of external and internal privacy, which meet the objectives of the prescriptive design criteria.	
Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2).	N/A	
Objective 3F-2 Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and privacy open space.	Windows provided to all communal spaces are located in excess of the minimum setback requirements. Similarly, the rooftop communal open space exceeds the minimum setback requirements	Yes – exceeds the standards.
3G Pedestrian access and entries		
Objective 3G-1 Building entries and pedestrian access connects to and addresses public domain.	The main pedestrian entrance to the building is through an architectural feature, double height archway that is distinctly identifiable from Lethbridge Street.	Yes
Objective 3G-2 Access, entries and pathways are accessible and easy to identify.	An Access Report has been prepared (Appendix H) that concludes that the proposal would meet relevant access criteria.	Yes
Objective 3G -3 Large sites provide pedestrian links for access to streets and connection to destinations	N/A	
3H Vehicle Access		
Vehicle access points to achieve safety, minimise conflicts between pedestrians and vehicles create high quality streetscape.	Vehicle access is via Lethbridge Street. The vehicular access has been designed to fit the scale and repetition expressed by the apartments. The opening will include aluminium battens with the actual garage door setback into the building. The materials and colours to this portion of the building have intentionally been chosen to ensure the opening falls into the background and does not dominate the streetscape. The size and scale of the opening has had to be provided to ensure garbage collection and servicing can occur in the basement.	Yes
3J Bicycle and Car Parking		
Objective 3J-1: Design Criteria 1. For development in the following locations:		

Requirement	Proposed	Complies
On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area (including Willoughby LGA); or	NA	NA
On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre	The site is located within 400m of land zoned B4 Mixed use.	Yes
The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.	The proposed development delivers 53 parking spaces including, 3 visitor spaces plus a loading bay - hence satisfying the requirements of the DCP.	Yes
The car parking needs for a development must be provided off street.	All parking is off street.	Yes
Parking and facilities are provided for other modes of transport.	The proposed development provides 1 bicycle locker which can accommodate a maximum of 7 bicycles, with two visitor bicycle parking spaces and therefore satisfies the requirements of the DCP. Oversized balconies and additional storage areas (above minimum ADG requirements) provide opportunities to also store bicycles.	Yes
Parking and access safe and secure.	Provided within secure parking levels of the building	Yes
Visual and environmental impacts of ground level and basement car parks minimised.	Integrated into design of building as discussed above	Yes
PART 04: DESIGNING THE BUILDING		
4A Solar and Daylight Access*		
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	The majority of apartments are orientated to benefit from the northern orientation of the lot.	Yes
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.	27 of the 36 units will achieve 2 hours or better (75%) to private open space. 26 (72%) will receive a minimum of 2 hours direct solar access to open space and living rooms. In total 17 of the 26 compliant apartments (65%) will receive direct solar access for the full 6 hours during mid-winter.	Yes – exceeds the standard.
A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm mid-winter.	No apartments receive 0 hours direct solar access. All apartments will receive at least 30mins of direct solar access to living rooms and open space during mid winter.	Yes – exceeds the standards
Daylight is maximised where sunlight is limited.	This is achieved through dwelling orientation.	Yes



Requirement	Proposed	Complies												
Design incorporates shading and glare control, particularly for warmer months	Refer to SEPP 65 Design Statement (Appendix E)	Yes												
4B Natural Ventilation*														
All habitable rooms are naturally ventilated.	Yes	Yes												
The layout and design of single aspect apartments maximises natural ventilation	Yes	Yes												
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 in any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	22 of the 36 apartments (61%) are naturally cross ventilated.	Yes												
Overall depth of cross-over or cross- through apartment does not exceed 18m, measured glass line to glass line.	N/A- There are no cross through apartments.	Yes												
4C Ceiling Heights*														
Ceiling height achieves sufficient natural ventilation and daylight access.	Yes	Yes												
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <div><table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</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 for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	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	All habitable rooms to apartments in the proposed development have ceiling heights of 2.7m.	Yes
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
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 Size and Layout														
Objective 4D-1: Design Criteria 1. Apartments are required to have the following minimum internal areas: <div><table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table></div>	Apartment type	Minimum internal area	Studio	35m²	1 bedroom	50m²	2 bedroom	70m²	3 bedroom	90m²	The apartments are functionally designed to maximise amenity. Minimum area for all 1 bd apartments is 55-54m² Minimum area of 2 bd apartments ranges from 89-121m² Minimum area of 3 bd apartments ranges from 112-123m².	Yes – exceeds the standard.		
Apartment type	Minimum internal area													
Studio	35m²													
1 bedroom	50m²													
2 bedroom	70m²													
3 bedroom	90m²													

Requirement	Proposed	Complies															
The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each.																	
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	Every habitable room contains a window with an area greater than 10% of the floor area of that room.	Yes															
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	The depths of all habitable rooms are less than the maximum stated.	Yes															
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	All apartments have open plan living, dining and kitchen areas. These open floor plans are generally 8m from the glass line to the back wall of the kitchen with the exception to apartments 07 and 04. These floor plans are 8m from the glass line to the cabinetry on the back wall of the kitchen. In strict compliance with the control, the room is actually 8.5m deep – however this will make no practical difference to the amenity experienced by the occupants of the apartments. The rooms will benefit from the light and air experienced from floor to ceiling glass sliding doors to the balcony.	Effectively complies															
Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space)	All bedrooms and living/dining areas in the new apartments are larger than the minimums stated	Yes															
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms in the proposed development have a minimum dimension greater than 3m.	Yes															
Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1-bedroom apartments and 4m for 2 and 3 bedroom apartments	All living rooms in the proposed development comply or exceed the minimum width requirement.	Yes															
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	NA	NA															
4E Private Open Space and Balconies*																	
All apartments are required to have primary balconies as follows:	<p>Minimum balcony area of 1 bed apartments is a minimum of 10.7m²</p> <p>Minimum balcony area of 2 bed apartments ranges from 10.1-12.4m²</p> <p>Minimum balcony area of 3 bed apartments ranges from 14.1-18.9m².</p>	Yes															
<table border="1"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>-</td></tr> <tr> <td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>			Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															

Requirement	Proposed	Complies										
The minimum balcony depth to be counted as contributing to the balcony area is 1m.												
For apartments on ground, podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m.	Ground floor apartments have a terrace with an area between 34-40m ² .	Yes – exceeds the standard										
4F Common Circulation and Spaces*												
Objective 4F-1: Design Criteria 1: The maximum number of apartments off a circulation core on a single level is eight. However, if this is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.	Each level contains a maximum of 8 dwellings.	Yes										
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	The building will be a maximum of 6 storeys.	Yes										
4G Storage*												
<div>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>At least 50% of the required storage is to be located within the apartment</div>	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	<div>Minimum storage area of 1 bed apartments ranges from 6.7-7.4m³ Minimum storage area of 2 bed apartments ranges from 8.1-10.4m² Minimum storage area of 3 bed apartments ranges from 11.3-13.1m² As a rule generally 50% of the required storage area is located within each apartment and the balance of the storage area is located in dedicated store area at the basement. All apartments comply with the minimum storage in terms of volume.</div>	Yes – exceeds the standard.
Dwelling type	Storage size volume											
Studio apartments	4m ³											
1 bedroom apartments	6m ³											
2 bedroom apartments	8m ³											
3+ bedroom apartments	10m ³											
4H Acoustic Privacy												
Noise transfer is minimised through the siting of buildings and building layout.	Refer to SEPP 65 Design Statement (Appendix E) and BCA Report (Appendix I).	Yes										
Noise impacts are mitigated within apartments through layout and acoustic treatments.	Refer to SEPP 65 Design Statement (Appendix E) and BCA Report (Appendix I).	Yes										
4K Apartment Mix												
A range of apartment types and sizes is provided to cater for different household types now and in the future. The apartment mix is distributed to suitable locations within buildings.	A mix of 1bd, 2bd and 3bd apartments are provided. The 3bd apartments are on different levels.	Yes										
4L Ground Floor Apartments												
Street frontage activity is maximised where ground floor apartments are located. Design of	Each apartment that fronts Lethbridge Street on the ground floor has direct access	Yes										



Requirement	Proposed	Complies
ground floor apartments delivers amenity and safety for residents.	to the public domain via a gate and landscaped area that maintains privacy but creates a level of interaction between the public and private domain.	
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area.	The façade includes a mix of materials that creates visual interest. Furthermore, vertical articulation is provided through recessed building elements and curved balcony elements. Refer to SEPP 65 Design Statement (Appendix E).	Yes
4N Roof Design		
Roof treatments are integrated into the building design and positively respond to the street.	The upper two storeys of the building provide a variation in materials and colour to create a “top” of the building. Refer to SEPP 65 Design Statement (Appendix E)	Yes
4O Landscape Design		
Landscape Design is viable and sustainable. Landscape design contributes to the streetscape and amenity.	35% of the site area is reserved for landscaping. The landscaped plans in Appendix F provide significant landscape plantings and treatments to ensure the building is situated within a strong landscaped character.	Yes
4P Planting on Structures		
Appropriate soil profiles are provided.	Refer to SEPP 65 Design Statement (Appendix E) and Landscape Plans (Appendix F)	Yes
Plant growth is optimised with appropriate selection and maintenance.		
Planting on structures contributes to the quality and amenity of communal and public open space.		
4Q Universal Design		
Universal design features are included in apartment design to promote flexible housing for all community members.	A range of apartment configurations are provided. This includes over 20% of the dwellings are considered “liveable dwellings” in accordance with the Liveable Housing Design Guidelines and 10% of the apartments are adaptable.	Yes
A variety of apartments with adaptable designs are provided.	Refer to SEPP 65 Design Statement (Appendix E) and Access Report (Appendix H)	Yes
Apartment layouts are flexible and accommodate a range of lifestyle needs.	Refer to SEPP 65 Design Statement (Appendix E)	Yes



4.3.3 State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP provides a State-wide planning approach to remediation and aims to promote the remediation of any contaminated land for the purpose of reducing the risk of harm to human health and/or the environment. The SEPP requires a consent authority to consider whether the land is contaminated. The area has historically been identified for residential development, being zoned R4 High Density Residential in 2014. Aerial imagery identifies that the subject site contained three detached dwellings, which were demolished in 2011. The site has been vacant since that time. The proposal includes the use of the site for residential purposes, of a scale that is commensurate to that provided for under the LEP and consistent with surrounding approved development.

Surrounding development, including the approval directly adjoining the site to the east was considered suitable for high density residential development subject to the inclusion of an unexpected finds protocol.

4.3.4 State Environmental Planning Policy – Building Sustainability Index: (Basix) 2009

BASIX and NatHERS Certificates have been prepared (**Appendix O**) demonstrating compliance with this Policy and the lodgement requirements of the EP&A Regulations.

4.4 Proposed Environmental Planning Instruments

The public exhibition of the Design and Place SEPP Explanation of Intended Effects (**EIE**) closed in April 2021 and included proposed amendments to SEPP 65 and the ADG. From the EIE the Draft Design and Place SEPP was formulated and has been put on public exhibition in December 2021 to 28 February 2022.

The Department of Planning, Industry and Environment has specifically noted that:

“For the purposes of 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 (EP&A Act), the draft proposed Design and Place State Environmental Planning Policy (DP SEPP) 2021 is not notified to any consent authorities. The draft DP SEPP is therefore not a mandatory matter for consideration under the Act.”

The Draft Design and Place SEPP also includes savings and transition provisions, which outline that the Policy does not apply to a development application lodged but not finally determined before the commencement date.

In light of the above, the Draft Design and Place SEPP is not a matter for consideration for the DA, and on account the DA has been submitted prior to the commencement, the Design and Place SEPP will not apply to this DA if adopted during assessment.

No further consideration of the Draft Design and Place SEPP is required.

4.5 Development Control Plans

The purpose of the Penrith Development Control Plan (**DCP**) is to outline the planning, design and environmental objectives and controls to ensure orderly, efficient, and sensitive development occurs.

An assessment of the proposal against the relevant provisions of the DCP is provided in **Table 4**.

**Table 4 Assessment against Penrith DCP 2014**

Control	Comment	Compliance
C1 Site Planning and Design Principles		
1.1 Site Analysis	A site analysis plan is provided at Appendix D .	Yes
1.2 Design Principles	The proposal seeks to construct a RFB which has been designed to consistently be compatible with the desired scale, character of the area and design principles.	Yes
C2 Vegetation Management		
	The proposal seeks to removal 1 tree and a cluster of small trees.	Yes
C3 Water Management		
	Engineering Plans are submitted with this application, refer to Appendix K .	Yes
C4 Land Management		
	Erosion and sediment control plans have been included in Appendix K . Geotechnical consideration has been addressed in Appendix L . The site and surrounding locality have traditionally been used for residential pursuits. The site previously contained three detached dwellings which were demolished in 2011. The proposal includes the use of the site for residential pursuits. It is expected any approval will include suitable unexpected find protocol conditions.	Yes
C5 Waste Management		
5.2.2 Residential Development Controls	A garbage room is proposed at the Basement 1 Level. The garbage room includes 1,100L bins to be located at the termination of the chutes. There is enough space to accommodate 6 of these bins despite only requiring provision of 2. The garbage room is serviced by a service lift that supports the movement of two bins at a time from the garbage room to the ground floor to the Bin Holding Room. The Holding Room has sufficient space to hold 4 of the bins. Adjacent to the service lift on the ground floor is a bulky good storage. The number of bins and estimated waste generation is described in the Waste Report provided in Appendix M . On-site waste collection is proposed to service the building. A Traffic Report (Appendix J) is provided with this application which demonstrates there is adequate vehicle clearance for a suitable service vehicle to enter and exit the site in a forward direction and the vehicle manoeuvring area around the waste collection point.	Yes
C6 Landscape Design		
	The proposal seeks to removal 1 existing trees on site, however the landscape plans in Appendix F demonstrate that extensive replacement planting is being provided under this proposal. The landscape has been carefully designed to respond to the character and streetscape where fencing and gates are proposed on the front boundary line with landscaping behind the boundary line to soften the	Yes

Control	Comment	Compliance															
	building and provide a visual element between the street and the development.																
C7 Culture and Heritage																	
	As previously mentioned, the site is not identified as a heritage listed item. The site is also located within a highly urbanised area that is identified to continue transforming into a high density residential area. Accordingly, there is effectively no potential for the site to contain any items or sites of Aboriginal cultural significance.	NA															
C10 Transport, Access and Parking																	
	<p>A Traffic Report has been prepared and submitted with this application, refer to Appendix J.</p> <p>As per Table C10.2 of the DCP, Council requires:</p> <table border="1"> <thead> <tr> <th>Car Parking Rate for RFB</th><th>Proposed</th><th>Compliance</th></tr> </thead> <tbody> <tr> <td>1 space per 1 or 2 bedrooms</td><td>28</td><td>Yes</td></tr> <tr> <td>2 spaces per 3 or more bedrooms</td><td>16</td><td>Yes</td></tr> <tr> <td>1 space per 40 units for service vehicle</td><td>1 x loading</td><td>Yes</td></tr> <tr> <td>1 space per every 5 dwellings for visitor parking</td><td>8</td><td>Yes</td></tr> </tbody> </table> <p>The proposed basement car parking entrance is integrated into the overall façade and landscape design of the development.</p> <p>Car parking dimension and accessible parking spaces are designed in accordance with the Australian Standards. Visitor parking and bicycle parking are also provided at the basement. Details of the car parking design are provided in the Architectural Plans at Appendix D.</p> <p>A clear driveway entrance to the site is easily identified by the concrete ramped entry to the basement car park from Lethbridge Street. The car parking door is setback from the building façade so no to detract from the streetscape while architecturally tying into the building design.</p> <p>The loading bay has been carefully designed to ensure adequate spacing is provided for a HRV enter and exit in a forward direction and manoeuvre around the development.</p>	Car Parking Rate for RFB	Proposed	Compliance	1 space per 1 or 2 bedrooms	28	Yes	2 spaces per 3 or more bedrooms	16	Yes	1 space per 40 units for service vehicle	1 x loading	Yes	1 space per every 5 dwellings for visitor parking	8	Yes	Yes
Car Parking Rate for RFB	Proposed	Compliance															
1 space per 1 or 2 bedrooms	28	Yes															
2 spaces per 3 or more bedrooms	16	Yes															
1 space per 40 units for service vehicle	1 x loading	Yes															
1 space per every 5 dwellings for visitor parking	8	Yes															
C13 Infrastructure and Service																	
	<p>The site is burdened by an easement at the rear of the block, which is identified for stormwater drainage. Sewer is also located along the rear boundary. Water is located in the Lethbridge Street frontage.</p> <p>A pump room and tank is located under the driveway and service rooms are located on each level above the ground floor. Area for hydrant infrastructure has been integrated into the design of the building's Lethbridge Street frontage.</p>	Yes															
D2 Residential Development																	



Control	Comment	Compliance
2.5.1 – Residential Character	<p>The site is located in an area where the neighbourhood character is transitioning from low density residential to high density residential. Although the adjoining properties comprise of detached dwellings, a number of 5 and 6 storey residential flat buildings have recently been constructed or approved within the locality.</p> <p>The proposed development is consistent with the planned high-density residential consistent with a built form that positively contributes to the quality of the streetscape.</p>	Yes
2.5.2 – Preferred Configuration for Residential Flat Building	<p>The design of the RFB has incorporated landscaping to all setbacks that provides green interface with adjoining buildings. All the ground floor units fronting Lethbridge Street have direct access to a private courtyard that have direct access to Lethbridge Street. The high-quality landscaping, ground floor courtyards and access to the street reflects the fine grain repetition of the original subdivision pattern – despite the current site being vacant.</p> <p>The proposal also includes a call back to the tradition of a “backyard”, with the rear setback providing grassed area for the private active enjoyment of the residents. A communal balcony is provided at level 1 overlooking this backyard.</p>	Yes
2.5.3 – The Development Site	The site has a lot width of 47m which complies with the minimum.	Yes
2.5.4 – Urban Form	<p>The proposal includes street front entrance from Lethbridge Street, private gardens to the front setback and basement car parking access to the rear.</p> <p>The apartment design has positioned living rooms and entrances facing the street to allow passive surveillance to the Lethbridge Street and landscape to the rear setback.</p> <p>The building is essentially divided into an east and west wing, to create vertical articulation.</p>	Yes
2.5.5 – Landscaped Area	The site provides 35% landscaped area	Yes
2.5.6 - Front and Rear Setback	The proposal complies with the front and rear setback of 6m.	Yes
2.5.7 – Side Setback	Side setbacks have been provided in accordance with the controls within the ADG.	Complies with ADG
2.5.8 – Visual and Acoustic Privacy and Outlook	Visual privacy has been provided in accordance with the controls in the ADG.	Complies with ADG
2.5.9 – Solar Planning	27 of the 36 units will achieve 2 hours or better (75%). In total 17 of the 26 compliant apartments (65%) will actually receive direct solar access for the full 6 hours during mid-winter.	Complies with ADG
2.5.10 – Significant Townscapes & Landscape	The site is not identified as having any townscape significance.	N/A



Control	Comment	Compliance
2.5.12 – Building Design	The building has been designed to provide a high level of amenity to the future occupants whilst providing a positive impact on the streetscape. The design approach has been provided in the SEPP 65 Design Statement in Appendix E .	Yes
2.5.13 – Energy Efficiency	The proposed development includes cross ventilation and solar access that complies with the minimum standards in the ADG, which in turn maximises energy efficiency.	Yes
2.5.14 – Design of Dwellings and Private Courtyards	Courtyards and balconies have been designed to comply or exceed the minimum standards in the ADG.	Yes
2.5.16 – Garden Design	Garden plantings are provided to separate buildings and provide green boundary interfaces. This in turn results in the building being located in a green setting.	Yes
2.5.17 – Paving Design	Paving is provided to the front entrance that assists the architecture to identify the buildings address and presence on the street. Paving is also provided through the courtyards of ground floor apartments to ensure they interact with the public domain.	Yes
2.5.18 – Fences and Retaining Walls	Fencing is 1.8m alongside boundaries and 1.2 along the property's frontage. The front fencing is permeable however the occupant's privacy is maintained through provision of raised garden beds.	Yes
2.5.19 – Safety and Security	Apartments are orientated to overlook Lethbridge Street to provide public surveillance.	Yes
2.5.20 – Accessibility and Adaptability	An Access Report has been provided in Appendix H .	Yes
2.5.21 – Storage and Services	Storage has been provided in accordance with the ADG.	Complies with ADG.

4.6 Planning Agreements

No Voluntary Planning Agreements apply to the subject site.

4.7 Regulations

There are no Regulations which have been prescribed that are relevant to this application.

4.8 Likely impacts of the Development

The likely impacts of the proposed development have been adequately addressed in the previous sections of this SEE. The proposed development is not considered to have any unacceptable impacts on the site or locality.

The application is supported by specialist reports which comprehensively consider, and address likely impacts of the development. All specialist reports prepared to inform the development proposal are contained within the Appendices of this SEE.



4.9 Suitability of the site

Having regard to the characteristics of the site and its location, the proposal is considered appropriate in that:

- The proposed RFB is permissible with consent in the R4 High Density Residential zone.
- The proposal is compliant with the relevant LEP standards other than the maximum height of building, which has no material impacts and is suitably justified in the attached clause 4.6 request (**Appendix G**).
- The development complies and in many cases exceeds and the minimum prescriptive controls of the ADG and DCP.
- The proposal will provide provisions for additional housing to meet demand within the Penrith locality and Penrith LGA.
- The proposal will provide provisions that will not result in any unacceptable or material environmental impacts to the neighbouring residential properties.
- The DA is not expected to result in any adverse environmental impacts and consequently, it is considered that the site is suitable for the proposed development.

4.10 Submissions

The DA would need to be notified in accordance with Council's adopted policy. The proponent requests the opportunity to review and comment on any submissions received.

4.11 Public Interest

The proposed development is in the public interest for the following reasons:

- Provisions for additional housing of an appropriate standard will be provided in Penrith.
- Development of an underutilised site.
- Construction and landscaping employment will be generated.
- High quality of urban design improving streetscape
- Increased diversity of housing
- Improved and activated streetscape.



5 Conclusion

This DA seeks approval for construction of a high density residential development comprising a six storey residential flat building with 36 residential apartments. The DA provides a development that is compatible with the site context, that is either compliant with the prescriptive relevant planning controls or is acceptable on merit, and is responsive to matters raised at the Pre-DA meeting.

The proposed development has been assessed against the relevant requirements of the EP&A Act, relevant SEPPS, the ADG, Penrith LEP and DCP and has been found to be an acceptable development consistent with the future anticipated growth of the area for urban development.

Based on the information contained in this SEE, the proposal should be granted consent subject to the appropriate conditions.



6 Glossary

Abbreviation	
ADG	Apartment Design Guide
BC Act	<i>Biological Conservation Act 2017</i>
Council	Penrith City Council
DA	Development Application
DCP	Development Control Plan
DP	Deposited Plan
EIE	Explanation of Intended Effects
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	Environment Protection and Biodiversity Conservation Act
GLN	GLN Planning Pty Ltd
ILP	Indicative Layout Plan
LEP	Local Environmental Plan
LGA	Local Government Area
RFB	Residential Flat Building
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
DPIE	NSW Department of Planning Industry and Environment
VPA	Voluntary Planning Agreement



Appendix A: **SURVEY PLAN**





Appendix B: **PRE-DA MEETING MINUTES**



B.1:



Appendix C: **COST OF WORKS**



C.1:



Appendix D: **ARCHITECTURAL PLANS**



D.1:



Appendix E: **ARCHITECTURAL DESIGN STATEMENT**



E.1:



Appendix F: **LANDSCAPE PLAN**





Appendix G: **CLAUSE 4.6** **REQUEST**





Appendix H: **ACCESS REPORT**





Appendix I: **BCA REPORT**





Appendix J: **TRAFFIC REPORT**





Appendix K: **STORMWATER DESIGN**





Appendix L: **GEOTECHNICAL REPORT**





Appendix M: **WASTE REPORT**





Appendix N: **ARBORIST REPORT**





Appendix O: **BASIX AND NATHERS CERTIFICATION**



