



**TOMASY
PLANNING** PTY
LTD

Suite 1, Level 1
1073 Pittwater Road
Collaroy, NSW 2097
E: tia@tomasy.com.au P: 02 8456 4712

Statement of Environmental Effects



Demolition of two dwellings and construction of a five-storey residential flat building, one level of basement car parking and associated site and landscaping works

**22-24 Rodley Avenue
Penrith NSW 2750
Lots 51 & 52 in Deposited Plan 32844
Penrith City Council**

August 2021

Document Information

Prepared by: Tomasy Pty. Ltd.
Author: Denis Smith
Article Type: Statement of Environmental Effects
Date: 16 August 2021

Contact Information

Tomasy Pty. Ltd.
Suite 1 Level 1
1073 Pittwater Road,
Collaroy NSW 2073

Telephone: +61 8456 4754
Mobile: +61 400 777 115

Document Control

Version	Date	Author	Author Initials	Reviewer	Reviewer Initials	Comment
1.00	10 August	Denis Smith	DS	Robyn Smith	RS	Document reviewed internally.
2.00	16 August	Denis Smith	DS	Robyn Smith	RS	Final provided to client for review.

Copyright in the whole and every part of this document belongs to Tomasy Pty. Ltd. and may not be used, sold, transferred, copied or reproduced in whole or in part in any manner or form or in or on any media to any person other than by agreement with Tomasy Pty. Ltd.

TABLE OF CONTENTS

1	Introduction	5
2	Background Information	7
3	Site Profile	8
4	The Proposal	10
5	Statutory Planning Requirements	16
5.1	<i>Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River;</i>	16
5.2	<i>State Environmental Planning Policy No. 55 – Remediation of Land;</i>	16
5.3	<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>	16
5.4	<i>State Environmental Planning Policy (Infrastructure) 2007</i>	17
5.5	<i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i>	17
5.6	<i>Penrith Local Environmental Plan 2010 (Penrith LEP2010);</i>	18
5.7	<i>Penrith Development Control Plan 2014 (Penrith DCP2014).</i>	24
5.8	Other Matters for Consideration	27
6	Section 4.15 Evaluation	29
6.1	Matters for Consideration – General S4.15 (1)(a)	29
6.2	Likely Impacts of the Development – S4.15(1)(b)	29
6.3	Suitability of the Site – S4.15(1)(c)	30
6.4	Submissions – S4.15(1)(d)	30
6.5	The Public Interest – S4.15 (1)(e)	30
7	Conclusion	31

DEVELOPMENT DOCUMENTATION:

The accompanying documentation submitted as part of the development application is as follows:

Document:	Author:
Statement of Environmental Effects	Tomasy Planning
Architectural Plans	Morson Group
Survey Plan	RHCO Survey
Access Report	Vista Access Architects
Road Noise and Race Track Impact Assessment (Acoustic Report)	Rodney Stevens Acoustics
Arboricultural Impact Appraisal and Method Statement	Naturally Trees
BASIX and NatHERS Certificates	Partners Energy Management
Preliminary Site Investigation	Banksia EnviroSciences
Solar Access Compliance Table & Diagrams	Morson Group
Landscape Plans	Paul Scrivener Landscape
Concept Stormwater Drawings	Smart Structures Australia
Flood Impact Assessment Report	Smart Structures Australia
SEPP 65 Certificate	Peter Morson – The Morson Group
Geotechnical Report	Morrow Geotech
Traffic and Parking assessment	Stanbury Traffic Planning
Eye of the Sun Report	Morson Group
Cost of Works	RICQ5
Waste Management Plan	Morson Group

1. Introduction

Tomasy Pty. Ltd. has been engaged to prepare a Statement of Environmental Effects on behalf of the project architect, *The Morson Group*, to accompany a Development Application for the demolition of two dwellings, construction of a five-storey residential flat building with one level of basement car parking and associated landscaping and site works at 22-24 Rodley Avenue, Penrith. The Statement is to be read in conjunction with all documentation listed in this report.

In preparing this document, consideration has been given to the following legislative requirements including:

- *Environmental Planning and Assessment Act 1979*;
- *Environmental Planning and Assessment Regulation 2000*;
- *Sydney Regional Environmental Plan No. 22 – Hawkesbury Nepean River*;
- *State Environmental Planning Policy No. 55 – Remediation of Land*;
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*;
- *Penrith Local Environmental Plan 2010 (Penrith LEP2010)*;
- *Penrith Development Control Plan 2014 (Penrith DCP2014)*.

The document also relies upon the following architectural drawings prepared by the Morson Group:

- Drawing DA-01 – Issue A - Coversheet and development data;
- Drawing DA-02 – Issue A – SEPP 65 Compliance Summary and Design Statement;
- Drawing DA-03 – Issue A – SEPP 65 Compliance Schedule;
- Drawing DA-04 – Issue A – Site Plan and Demolition Plan;
- Drawing DA-05 – Issue A- Site analysis, Streetscape and form study;
- Drawing DA-06 – Issue A – Floor Plan – Ground Level;
- Drawing DA-07 – Issue A – Floor Plan – Level 1;
- Drawing DA-08 – Issue A – Floor Plan – Level 2;
- Drawing DA-09 – Issue A – Floor Plan – Level 3;
- Drawing DA-10 – Issue A – Floor Plan – Level 4;
- Drawing DA-11 – Issue A – Floor Plan – Roof;
- Drawing DA-12 – Issue A – Basement;
- Drawing DA-13 – Issue A – North Elevation;
- Drawing DA-14 – Issue A – South Elevation;
- Drawing DA-15 – Issue A – East Elevation;
- Drawing DA-16 – Issue A – West Elevation;
- Drawing DA-17 – Issue A – Section 1;
- Drawing DA-18 – Issue A – Section 2;
- Drawing DA-19 – Issue A – Section 3;
- Drawing DA-20 – Issue A – Solar Access Study;
- Drawing DA-21 – Issue A – 3D Images;
- Drawing DA-22 – Issue A – Window Schedule;
- Drawing DA-23 – Issue A – Material Schedule;
- Drawing DA-24 – Issue A – Detailed sections – balconies and living areas.

The development involves the demolition of the existing dwellings onsite, and the construction of a five-storey residential flat building with one level of basement car parking.

The development abuts Club Paceway horse racing track and associated function and event centre, Penrith Showground and Penrith War Memorial Swimming Pool at the rear of the site (south). Rodley Avenue is in a state of transition; the street is zoned R4 High Density Residential with a number of residential flat buildings under assessment with Council and some approved by Penrith City Council. The streetscape currently features single detached dwellings with the streetscape set to change in the coming years.

The development involves the construction of twelve residential units within a five-storey residential flat building with basement car park.

The proposal was subject to a pre-lodgement meeting with Penrith City Council and an Urban Design Review Panel with Penrith City Council on 16 March 2021.

This Statement of Environmental Effects describes the proposed development, having regard to the Provisions of Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, and closely examines the potential environmental impacts and the relevant sections of the Act, State Policies and relevant requirements of Penrith Local Environmental Plan 2010 and Development Control Plan 2014. In considering the above, the proposed development warrants approval from Penrith City Council.

2. BACKGROUND INFORMATION AND PRE-DEVELOPMENT APPLICATION

The proposal was subject to a pre-lodgement meeting with Penrith City Council and an Urban Design Review Panel with Penrith City Council on 16 March 2021.

The Pre-Development Application meeting was held on 16 March with Council issuing notes of the meeting dated 19 March 2021. Council comments included recommendations on how the development may be improved in respect to façade materials, and compliance with relevant setbacks under the ADG. The notes also advised that a geotech report would be required along with a preliminary contamination assessment report. Additional studies would also be required in respect to acoustics, arborist report and ground water assessment. The project architect has taken into consideration the relevant comments from Council in finalising the architectural documents, the subject of this application.

It is also noted that an Urban Design Review Panel, was attended by the project architect and other relevant consultants, on 16 March 2021. Minutes of the meeting were issued on 19 March 2021. The key issues and recommendations of the panel have been duly considered by the project architect in finalising the architectural plans.

3. SITE CHARACTERISTICS

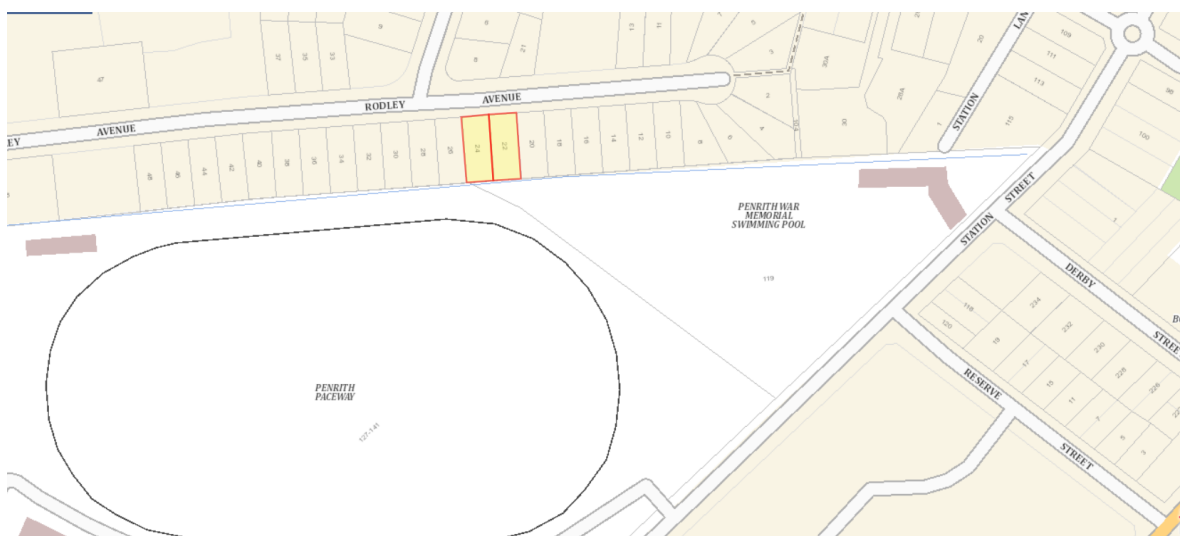
The site is legally known as Lots 51 and 52 in Deposited Plan 32844, being 22-24 Rodley Avenue, Penrith.

The site abuts Club Paceway horse racing track and associated function and event centre, Penrith Showground and Penrith War Memorial Swimming Pool at the rear of the site (south). In the local vicinity, Penrith train station is 750m to the north of the site, while Penrith Plaza and Westfield Shopping Centre are 375m to the north of the site. The Penrith football stadium is 480m to the south.

It should be noted that Rodley Avenue is in a state of transition; the street is zoned R4 High Density Residential with a number of residential flat buildings under assessment with Council and some approved by Penrith City Council. The streetscape currently features single detached dwellings with the streetscape set to change in the coming years.



Source: SIX Maps 2021



Source: SIX Maps 2021

3.1 Site Images and Streetscape



Nos 22 and 24 Rodley Avenue. Source: Google Maps 2021

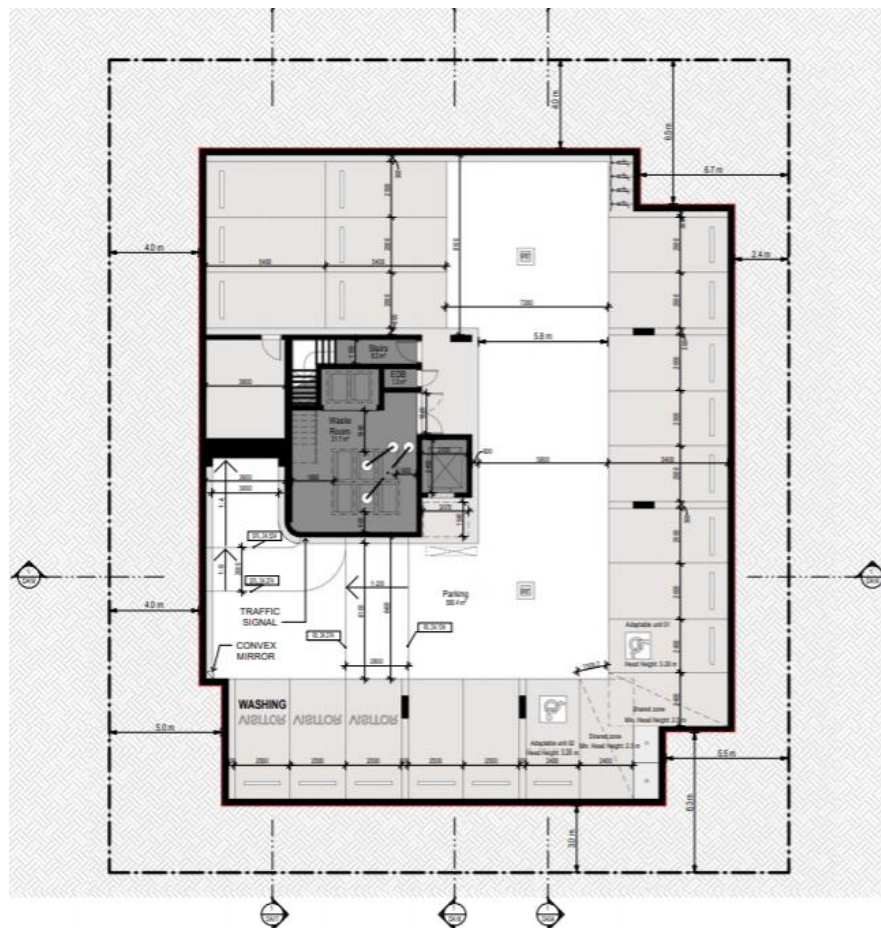
4. THE PROPOSAL

The proposal involves the following:

- Demolition of two existing dwellings and associated structures on the site.
- Construction of a new five-storey residential flat building comprising 12 residential units with associated basement car parking for 20 cars.
- Landscaping and associated infrastructure works.

The basement level comprises the following:

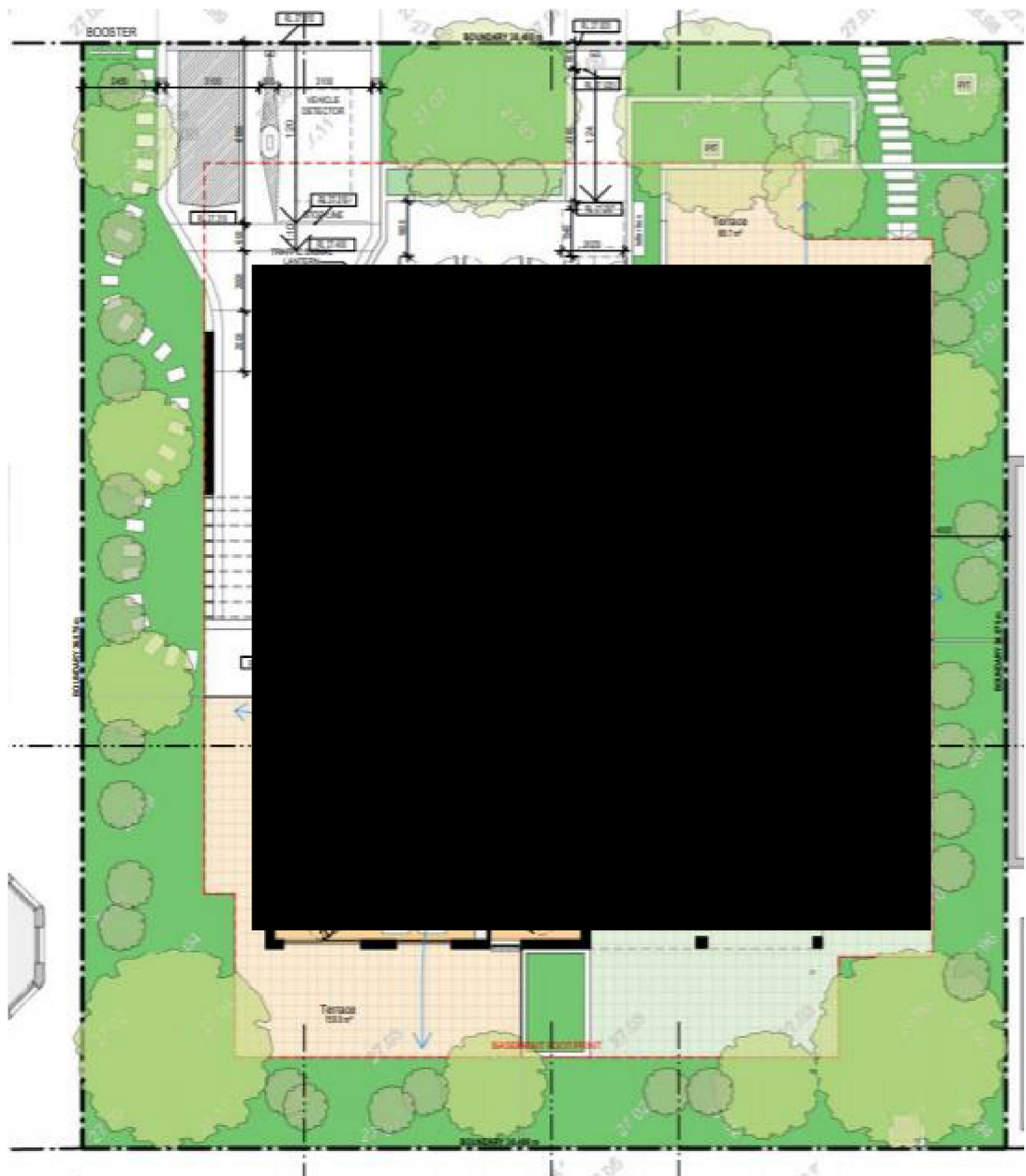
- Twenty car spaces including two disabled car parking spaces, two visitor car spaces along with one car washing place/visitor car space;
- Four bike racks;
- Lift access and staircase;
- Waste room;
- Traffic signals.



Source: Architectural by Morson Group - Drawing DA-12 – Basement

The ground floor level comprises the following:

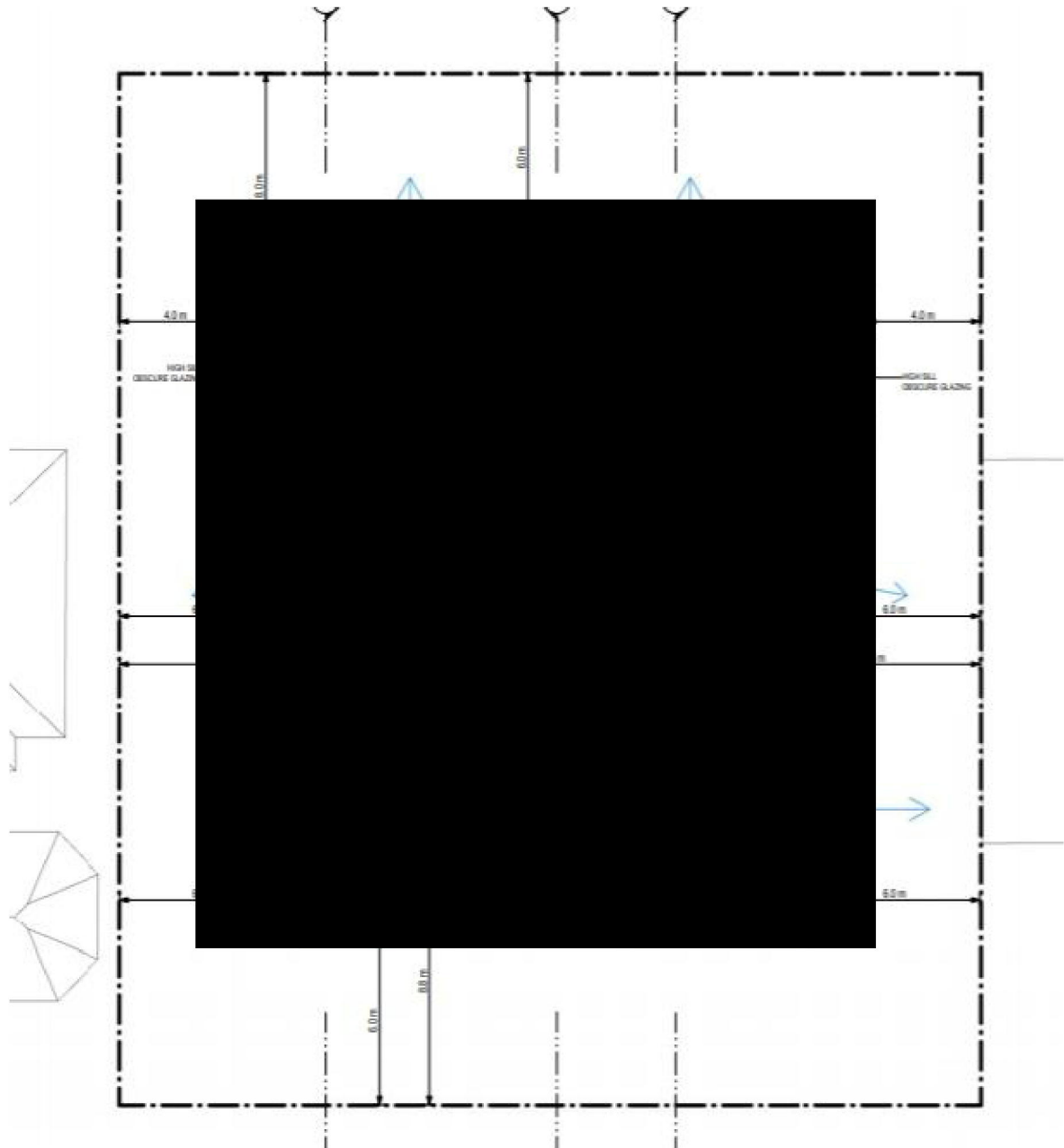
- Two x two adaptable units, being Unit 01 and Unit 02;
- Lift access;
- Lift foyer;
- Stairs;
- Pump room;
- Bulky goods room;
- Two-way vehicular access to basement level via a single lane ramp;
- Common open space, deep soil landscaping and external private open space for each unit.



Source: Architectural by Morson Group - Drawing DA-06 – Ground Floor

The first-floor level comprises the following:

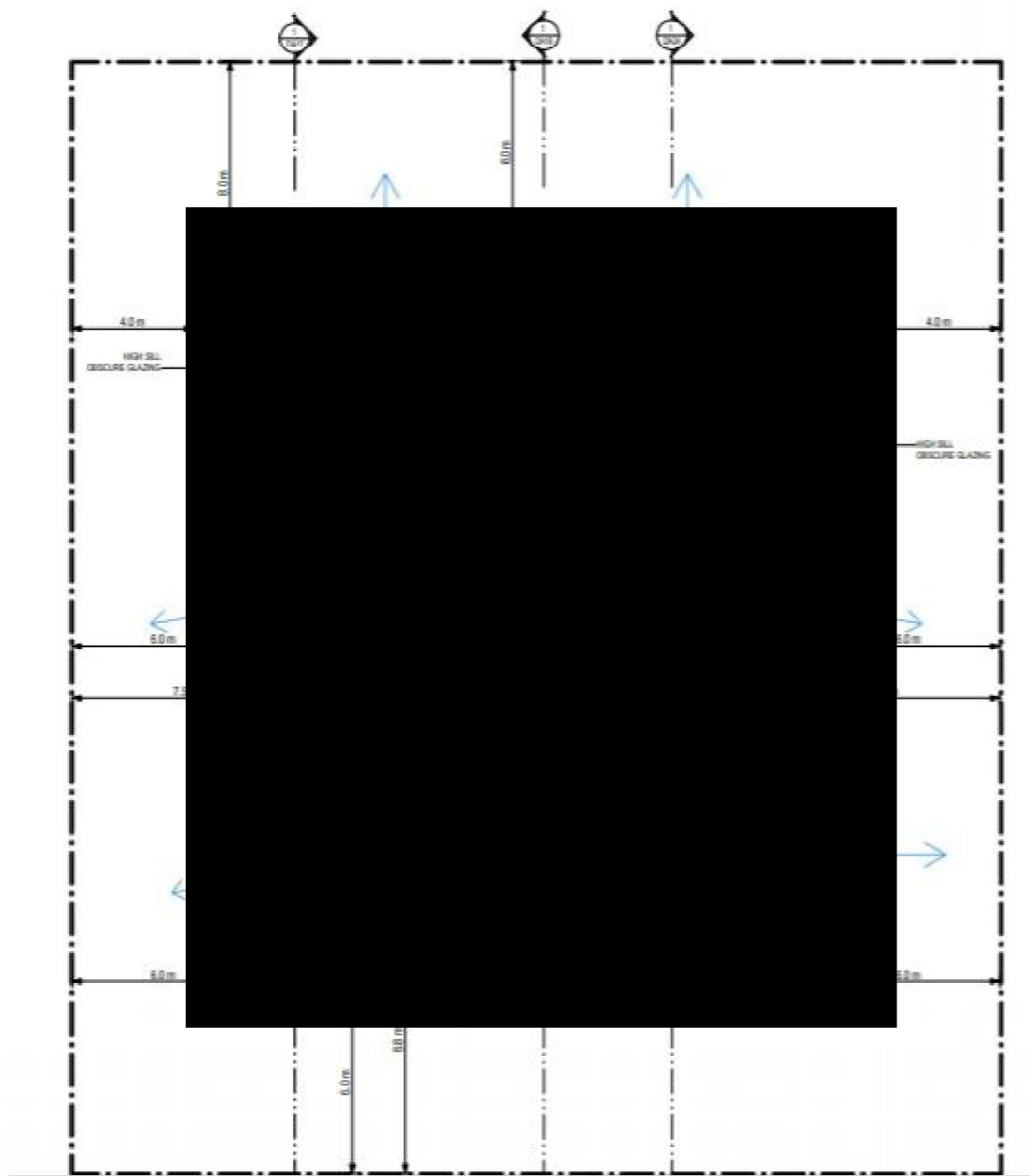
- 1 x three-bedroom unit;
- 2 x two-bedroom units;
- Each unit has its own balcony approximately 17sqm;
- Two waste chutes;
- Common foyer area with lift and stair access.



Source: Architectural by Morson Group - Drawing DA-07 – Floor Plan – Level 1

Levels 2 and 3 floor plan comprises the following:

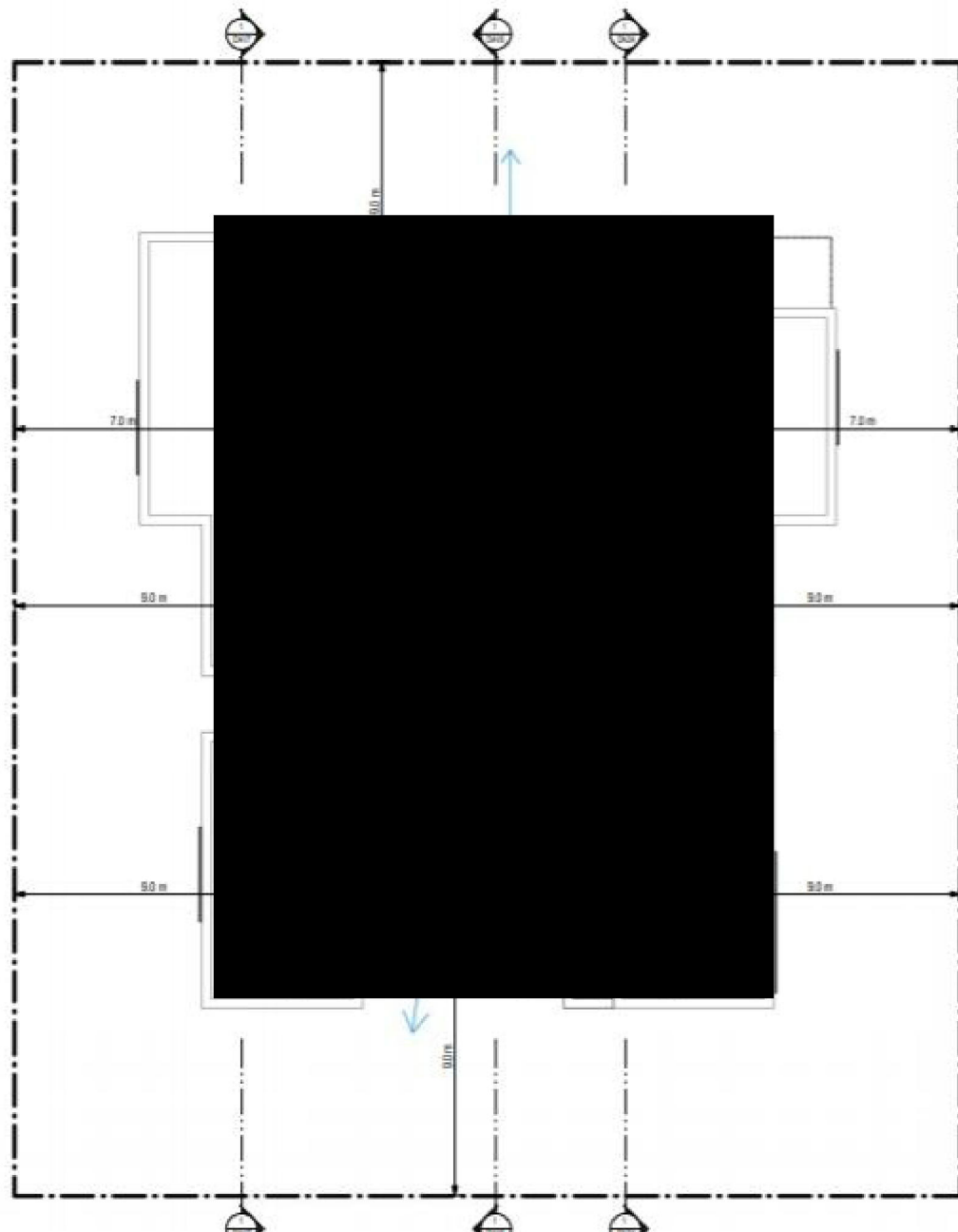
- 1 x three-bedroom unit;
- 2 x two-bedroom unit;
- Each unit has its own balcony approximately 17sqm;
- Two waste chutes;
- Common foyer area with lift and stair access.



Source: Architectural by Morson Group - Drawing DA-08/09 – Floor Plan – Levels 2 and 3

The proposed level 4 floor plan comprises the following:

- 1 x 4-bedroom apartment;
- Lift and stair access;
- Waste room with 2 x bin chutes;
- Two balconies.



Source: Architectural by Morson Group Drawing DA10 Level 4

5. STATUTORY PLANNING REQUIREMENTS

The statutory planning controls that are relevant to the proposed development are as follows:

- Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- Penrith Local Environmental Plan 2010 (Penrith LEP2010);
- Penrith Development Control Plan 2014 (Penrith DCP2014).

5.1 State Regional Environmental Plan No. 20 – Hawkesbury Nepean River

The aim of SREP No. 20 is to protect the Hawkesbury/Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Appropriate conditions of consent would be applied by the consenting authority to any approval given to ensure health of the river system is not compromised by way of sediment or erosion from works or use. A sediment and erosion control plan would need to be approved as part of a construction certificate for the proposed development.

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

State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land is applicable to all land within NSW and aims to promote the remediation of contaminated land and to reduce risk of harm to human health and environment. Clause 7 of the SEPP Provisions prescribe that the consent authority must have consideration as to whether the land is contaminated, if the land is contaminated it is satisfied that the land is suitable in its contaminated state and/or if suitable remediation processes are required before the land is used for any proposed uses.

A contamination report has been prepared by Banksia EnviroSciences. This report will form part of supporting documentation for the Development Application. It is important to note that the historic use of this site for residential purposes suggests there have been no uses that could potentially pose a contamination risk on the land.

Banksia EnviroSciences make a number of recommendations that need to be undertaken to ensure the land is suitable for the proposed use. The conclude *“based on the desktop and field results, and subject to implementation of the recommendations, it is considered the site is suitable for the proposed redevelopment works associated with the medium density housing and related activities.”*

5.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP Building Sustainability Index (BASIX) 2004 is applicable to the subject site. Clause 6 of the SEPP Provisions prescribe that the proposal is deemed to be a 'BASIX affected development' under the *Environmental Planning and Assessment Act 1979* and a BASIX certificate is required to accompany any prospective Development Application for the proposed works.

A BASIX and Naters Certificate has been prepared by Partners Energy Management which indicate that the proposed development will satisfy the relevant water and energy reducing targets.

5.4 State Environmental Planning Policy (Infrastructure) 2007

This application does not require a referral to the electricity supply authority as the proposal is not affected by any of the defined clauses with the SEPP.

5.5 State Environmental Planning Policy No. 65 Design Quality for Residential Apartment Development

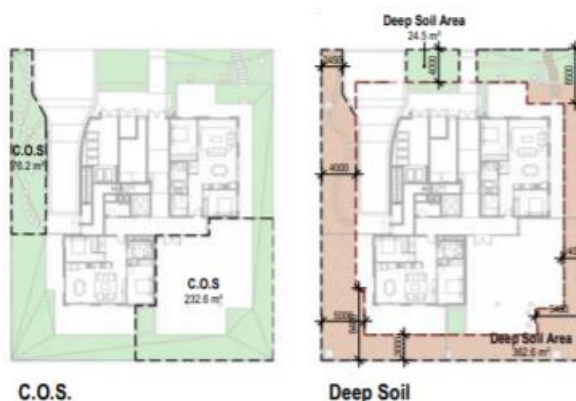
State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development is applicable to all residential flat buildings within NSW and aims to improve the design quality of residential apartment development through achieving better built form and aesthetics of buildings and of the streetscapes and the public spaces they define. Clause 4 of the SEPP Provisions prescribe that this policy is applicable to development for the purposes of a either a residential flat development, shop top housing or mixed-use development with a residential accommodation if: (a) the development is for the erection of a new building; (b) the substantial redevelopment or refurbishment of an existing building or (c) the conversion of an existing building and must at least three or more storeys or contain at least four or more dwellings.

The proposed development includes the construction of a new five-storey residential flat building development (12 residential apartments with one level of basement car parking for 20 cars) on the site and the Provisions of the SEPP no. 65 are applicable to the proposed development. Clause 28(2)(b) of the SEPP Provisions prescribes that a consent authority is required to take into consideration the design quality of the development when evaluated in accordance with the design quality principles. A design verification has been prepared by the project architects, Morson Group (Peter Morson, Director), which addresses all nine design quality principles including context and neighbourhood character; built form and scale; density; sustainability; landscape; amenity; safety; housing diversity and social interaction and aesthetics.

A full assessment of the proposal against the SEPP and the Apartment Design Guidelines (ADG) are shown on architectural drawings DA-01, DA-02 and DA-03. Compliance with the ADG's requirements have been achieved, importantly in regard communal open space and deep soil zones.

Communal Open Space % of Site Area ^A	25%	308.8m ² 28%
Deep Soil Zones % of Site Area ^A	7%	387.1m ² 35%

^ALEP REQUIREMENT
^ASEPP 65 REQUIREMENT
REFER SHEET DA02 FOR DETAILS



Source: Architectural Drawing DA-01

5.6 Penrith Local Environmental Plan 2010

The Penrith LEP is the main environmental planning instrument applicable to the subject site. The objectives of the LEP are as follows:

- (a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,
- (b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,
- (c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity,
- (d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,
- (e) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,
- (f) to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,
- (g) to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,
- (h) to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.

COMMENT: The subject development achieves the principal aims and objectives of this plan in the following manner:

- **Promotes development that is consistent with Council's vision for Penrith in that it provides for a sustainable development in harmony with the future character of the area;**
- **Supports Penrith's future population growth by providing a diversity of housing types which are located in areas close to services, facilities and transport;**
- **The construction of the development will provide for employment opportunities;**

- The development has taken into consideration environmental values and including the minimisation of risk to the community, particularly in respect to flooding;
- The development incorporates sustainable development principles through the delivery of balanced social, economic, planning and environmental outcomes.

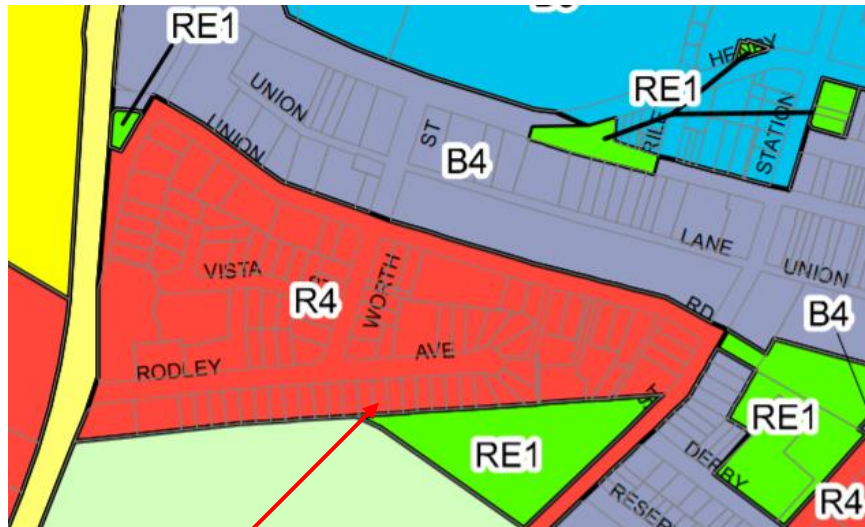
Zoning Provisions

The site is zoned R4 High Density Residential as shown within the zoning maps of Penrith Local Environmental Plan 2010 as below:

PENRITH
CITY COUNCIL

Penrith Local Environmental Plan 2010

Land Zoning Map - Sheet LZN_006



Subject sites

Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B4	Mixed Use
B5	Business development
B6	Enterprise Corridor
B7	Business Park
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
R1	General Residential
R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential
R5	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
RU4	Primary Production Small Lots
RU5	Village
SP1	Special Activities
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways
DM	Deferred Matter
WSEA	SEPP (Western Sydney Employment Area) 2009

Zone R4 High Density Residential

1 Objectives of zone

- 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.

2 Permitted without consent

Home occupations

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Emergency services facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home-based child care; Home businesses; Information and education facilities; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Residential accommodation; Respite day care centres; Roads; Shop top housing

4 Prohibited

Rural workers' dwellings; Any other development not specified in item 2 or 3

Comment: The proposed development is consistent with the relevant objectives of this zone in the following manner:

- The proposal, which involves the erection of a residential flat building comprising 12 apartments, meets the housing needs of the community within a defined high density residential environment.
- The proposal is consistent with the future character of this high-density locality which is undergoing major changes from single residential dwellings to residential apartment buildings.
- The development provides for a high quality of residential amenity both to future occupants of the building and the neighbouring properties.
- The proposal satisfies the relevant planning controls, SEPP 65 and the ADG Provisions in respect to the nine principles applicable to residential apartment buildings.

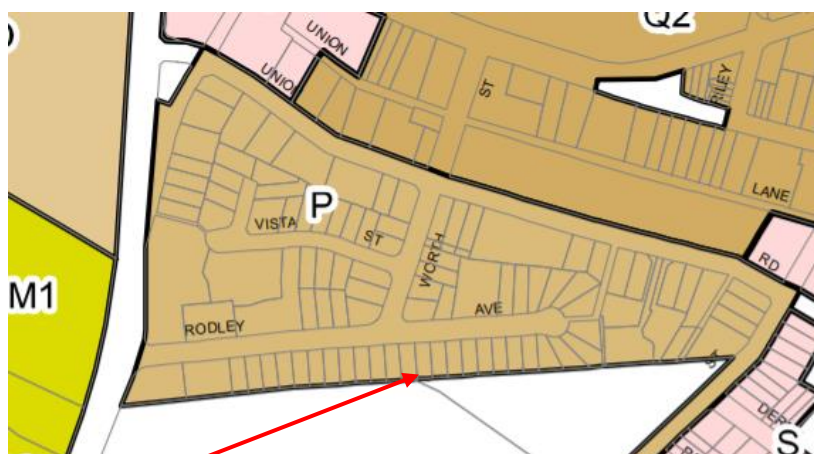
Under the Provisions of the Land Use Table for the R4 High Density residential zoning, a residential flat building is a permissible form of development under the terms of the dictionary definition of a residential flat building as set out below:

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

Note—Residential flat buildings are a type of **residential accommodation**— see the definition of that term in this Dictionary.

Source: PLEP2010 - Dictionary

Clause 4.3 Height of Buildings



Subject Sites

In accordance with the 'Height of Buildings Map', the site has a maximum building height of 18m.

PENRITH CITY COUNCIL
Penrith Local Environmental Plan 2010

Height of Buildings Map -
Sheet HOB_006

Maximum Building Height (m)

A	0
C	5
I	8.5
J	9
K	10
M1	12
M2	12.5
O	15
P	18
Q1	19
Q2	20
R	21
S	24
T	27
U	32

4.3 Height of buildings

(1) The objectives of this clause are as follows—

- (a) to ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality,
- (b) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (c) to minimise any overshadowing of neighbouring properties,
- (d) to allow for the reasonable sharing of views,
- (e) to encourage buildings that are designed to respond sensitively to the natural topography,
- (f) to minimise the adverse visual impact of development on the natural environment, heritage conservation areas and heritage items.

(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](#).

(2A) Despite subclause (2), development on land—

- (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the [Coastal Risk Planning Map](#), and
- (b) that has a maximum building height of 8.5 metres shown for that land on the [Height of Buildings Map](#),
may exceed a height of 8.5 metres, but not be more than 8.0 metres above the flood planning level.

(2B) Despite subclause (2), development on land—

- (a) at or below the flood planning level or identified as “Coastal Erosion/Wave Inundation” on the [Coastal Risk Planning Map](#), and
- (b) that has a maximum building height of 11 metres shown for that land on the [Height of Buildings Map](#),
may exceed a height of 11 metres, but not be more than 10.5 metres above the flood planning level.

(2C) Despite subclause (2), development on an area of land shown in Column 1 of the table to this subclause and identified as such on the [Height of Buildings Map](#), may exceed the maximum building height shown on the [Height of Buildings Map](#) for that land, if the height of the development is not greater than the height shown opposite that area in Column 2.

Column 1	Column 2
Area	Maximum height above the flood planning level
Area 1	11.5 metres
Area 2	8.5 metres on the street frontage and 10.5 metres at the rear
Area 3	8.5 metres
Area 4	7.0 metres

(2D) Despite subclause (2), development on land that has a maximum building height of 8.5 metres shown for that land on the [Height of Buildings Map](#) may exceed a height of 8.5 metres, but not be more than 10.0 metres if—

- (a) the consent authority is satisfied that the portion of the building above the maximum height shown for that land on the [Height of Buildings Map](#) is minor, and
- (b) the objectives of this clause are achieved, and
- (c) the building footprint is situated on a slope that is in excess of 16.7 degrees (that is, 30%), and
- (d) the buildings are sited and designed to take into account the slope of the land to minimise the need for cut and fill by designs that allow the building to step down the slope.

(2E) Despite subclause (2), development for the purposes of shop top housing on land identified as “Area 5” on the [Height of Buildings Map](#) may have a height of up to 10 metres if the top floor of the building is setback a minimum of 6 metres from the boundary to the primary street frontage.

(2F) Despite subclause (2), development on land identified as “Area 6” on the [Height of Buildings Map](#) must not exceed 8.5 metres within the area that is 12.5 metres measured from the boundary of any property fronting Orchard Street, Macpherson Street, Warriewood Road or Garden Street.

(2FA) Despite subclause (2), the maximum height for a secondary dwelling or a rural worker’s dwelling in Zone E4 Environmental Living or Zone RU2 Rural Landscape is 5.5 metres if the secondary dwelling or rural worker’s dwelling is separate from the principal dwelling.

(2FB) Despite subclause (2), in the case of a dual occupancy (detached), the maximum height for the dwelling that is furthest back from the primary street frontage of the lot is 5.5 metres.

(2G) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan.

floodplain risk management plan has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government.

Comment:

Clause 4.3(2) prescribes that the maximum building height for the site is 18m as indicated on the height of buildings map. The subject development does not exceed the 18m height limitation. This is illustrated on the eastern elevation as shown below:



Source: Architectural by Morson Group - Drawing DA-16 – Eastern Elevation

Part 4 – Principal Development Standards - PLEP 2010

Standard		Permitted	Proposed	Comment
4.1A	Minimum Lot Size	800sqm	1115sqm	Complies
4.2	Rural Subdivision	N/A	N/A	
4.3	Height of Buildings	18m	< 18m	Complies
4.4	Floor Space Ratio	N/A	1.34:1	

Part 5 – Miscellaneous Provisions - PLEP 2010

Provision	Comment
5.1 Relevant acquisition Authority	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissilbe uses	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean	N/A

5.8	Conversion of fire alarms	N/A
5.10	Heritage Conservation	N/A
5.11	Bush Fire Hazard Reduction	N/A
5.12	Infrastructure development and use of existing buildings of the Crown	N/A
5.13	Eco-tourist facilities	N/A
5.14	Sliding Spring Observatory – maintaining dark sky	N/A
5.15	Defence communications facility	N/A
5.16	Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	N/A
5.17	Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18	Intensive livestock agriculture	N/A
5.19	Pond-based, tank-based and oyster aquaculture	N/A

Part 7 Additional Local Provisions

Provision		Comment
7.1	Earthworks	The proposal includes the excavation of a basement carpark. Any material that is excavated from the site will be inspected prior to being disposed of to an appropriate location depending upon the quality of the material.
7.2	Flood Planning	<p>A flood impact assessment has been carried out by Smart Structures Australia. This report has analysed flood impacts in accordance with a flood model set-up and associated flood risk management. The report concluded as follows “A site-specific flood study assessment was undertaken to determine the 1% AEP flood behaviour in the vicinity of the subject site. The development of the flood model is described in Section 3 of this report, and the flood modelling results are presented in Section 3.</p> <p>The flood planning level recommended is RL 27.60m AHD for the habitable areas and RL 27.40m AHD for the crest of the basement ramp providing adequate freeboard meeting the minimum floor level requirements of the flood control matrix of Penrith City Council DCP.</p> <p>Based on the above, we are of the view that the proposed apartment building will generally comply with the requirements of the flood planning policies contained within Penrith DCP.”</p>
7.3	Development of natural resources sensitive land	N/A
7.4	Sustainable development	The project architect has designed the building giving due consideration to sustainable building principles and in particular BASIX and NaTHERS requirements for energy efficiency, solar access for both future occupants of the building and adjoining residential development. The development is compliant with the nine design quality

Provision		Comment
		principles of SEPP 65 Design Statement which includes built form, scale, density, sustainability, landscape, amenity, safety, housing diversity, social inter-reaction and aesthetics. All of these ingredients form part of a whole of building approach embedding sustainability principles.
7.5	Protection of scenic character and landscape values	N/A
7.6	Salinity	N/A
7.7	Servicing	The subject property is currently fully serviced with all essential utilities adequate to accommodate the proposed development.
7.8	Active Street frontages	N/A
7.9	Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
7.10	Dual Occupancies and secondary dwellings in certain rural and environmental zones	N/A
7.11	Penrith Health and education precinct	N/A
7.12	Maximum gross floor area of commercial premises	N/A
7.13	Exhibition homes limited to 2 years	N/A
7.4	Cherrywood Village	N/A
7.15	Claremont Meadows	N/A
7.16	Glenmore Park Stage 2	N/A
7.17	Dwelling houses on certain land in Castlereagh, Cranebrook, Llandillo, Londonderry, Kemps Creek and Mulgoa	N/A
7.18	Mulgoa Valley	N/A
7.19	Villages of Mulgoa and Wallacia	N/A
7.20	Orchard Hills	N/A
7.21	Twin Creeks	N/A
7.22	Waterside	N/A
7.23	Location of sex services premises and restricted premises	N/A
7.24	Sydney Science Park	N/A
7.25	Warehouses and distribution centres on land zoned B7 Business Park	N/A
7.26	Serviced apartments	N/A

5.7 Penrith Development Control Plan 2014

Set out below are the relevant general controls considered applicable to this application:

PART C1: SITE PLANNING AND DESIGN PRINCIPLES
<p>The project architect has undertaken a site analysis which includes consideration of the streetscape as it currently exists and future developments that have been approved by Council in this immediate locality. Refer to drawing DA-05. It is noted that on number 36-38 Rodley Avenue, Council has approved a five-storey residential flat building. No. 44-48 Rodley Avenue is a proposed residential flat building of five stories and at No. 54 Rodley Avenue is a newly built, five-storey residential flat building. The number of residential flat buildings in this immediate precinct that have either been built, approved or proposed clearly demonstrates that this area is undergoing major change from low density residential to high density housing in accordance with Council's housing strategy. The strip of residential zoned land for high density along Rodley Avenue is located immediately opposite a number of major recreation facilities which include a public swimming pool and associated parkland, the show ground and raceway track. This site is also strategically located in respect to public transport and retail shopping facilities and community activities.</p>
PART C2: VEGETATION MANAGEMENT
<p>A landscape concept plan has been prepared by Paul Scrivener Landscapes. This plan sets out the planting schedule to ensure that the planting species are applicable for the Penrith climate. The schedule is set out on the landscape drawing sheet 2. It is also important to acknowledge that the site makes provision for deep soil zones of approximately 387sqm which represents 35% of the total site area.</p>
PART C3: WATER MANAGEMENT
<p>A stormwater management plan has been prepared by Smart Structures Australia and this report outlines appropriate incentives for the management of stormwater and this is complemented by a BASIX assessment which incorporates appropriate design criteria for the development. The stormwater management plan addresses the relevant provisions of the DCP for water management.</p>
PART C4: LAND MANAGEMENT
<p>The proposal does involve excavation for a one level basement car park. Excavation and associated earthworks will be subject to an endorsed erosion and sedimentation control plan. This plan will address any potential run-off from the site during construction and take into consideration any potential contamination that may be encountered during the excavation process. It is noted that the site has already been the subject of a PSI carried out by Banksia EnviroSciences who have made a number of recommendations in their report.</p>
PART C5: WASTE MANAGEMENT
<p>The provision of waste management on site includes waste chutes, a waste room for storage of bins to a size and scale which is deemed to be appropriate to accommodate any waste from 12 residential apartments. A waste management plan has been prepared by the project architects and this plan has been compiled in accordance with Council's standard template. It is noted that waste is intended to be collected from the kerbside consistent with other recent approvals for residential flat buildings in this immediate locality such as No. 36 -38 Rodley Avenue, Penrith.</p>

- The internal passenger vehicle circulation arrangements are capable of providing for safe and efficient internal manoeuvring;
- The proposed indented bay within Rodley Avenue adjacent to the site is projected to safely and efficiently accommodate refuse servicing of the site and is consistent with that previously approved within the immediate precinct;
- The surrounding road network operates with a satisfactory level of service during peak periods;
- The subject development has been projected to generate up to five additional peak hour vehicle trips to and from the subject site over and above that capable of being generated by the existing site dwellings; and
- It is considered that the adjoining road network is capable of accommodating the traffic projected to be generated by the subject development.

It is considered, based on the contents of this report and the conclusions contained herein, there are no traffic or parking related issues that should prevent approval of the subject application. This action is therefore recommended to Council.

PART C12: NOISE AND VIBRATION

Rodney Stevens Acoustics has conducted a review of the proposed multi-storey residential development at 22 - 24 Rodley Avenue, Penrith. The review has assessed the noise generated by Penrith Paceway on the site as well as traffic noise intrusion and compared it with the noise criteria required by in Penrith City Council and other relevant standards.

Noise emissions criteria for mechanical plant has been established in accordance with the EPA's Noise Policy for Industry intrusiveness and amenity. A further noise assessment must be carried out once a mechanical plant schedules have been finalised at CC stage.

Based on the noise impact study conducted, the proposed development is assessed to comply with the SEPP (Infrastructure) 2007 noise criteria with recommendations from this report. It is therefore recommended that planning approval be granted for the proposed development on the basis of acoustics.

PART C13: INFRASTRUCTURE AND SERVICES

All essential services are currently available to the subject site and any additional augmentation required would be confirmed by the service providers prior to CC documentation.

D2 – RESIDENTIAL DEVELOPMENT

2.5 RESIDENTIAL FLAT BUILDINGS

The project architect has undertaken a comprehensive analysis in preparing the design statement under SEPP 65, Schedule 1, Design Quality Principles. This statement has been duly certified by the project architect and it is submitted that the content of each of the design principles is endorsed from a planning and environmental perspective.

5.8 OTHER RELEVANT MATTERS FOR CONSIDERATION

Overshadowing

There will be no unacceptable overshadowing impacts as result of the proposed development. This is largely due to the central location of the building and the setbacks that are proposed.

Crime prevention through Environmental Design (CPTED)

The project architect has given due consideration to CPTED issues, this includes crime prevention and assessment of development application guidelines under Section 4.5 of the *EP&A Act 1979*. CPTED principles have also been adopted by the NSW Police who have identified the following principles applying to residential apartment buildings:

- Establish opportunities for good surveillance both casually and technically;
- Create a sense of ownership over spaces that are clearly demarcated between public and private ownership for territorial reinforcement;
- Establish spaces that are utilised appropriately through proper space management and ensuring light fixtures are working.

Surveillance

In respect to surveillance the proposed development provides for numerous opportunities for surveillance – the following casual surveillance opportunities have been provided through the design project:

- Opportunities for visual observance through a high percentage of transparent glazing along relevant frontages which will allow normal space users to see and be seen by others;
- Entries are located at highly visible locations;
- Clear visual pathways within resident areas to and from public streets;
- Areas of entrapment are limited due to the multiple exit points from around the development;
- Active communal areas at the front and rear of the building are well positioned.

Access Control

Access control to the building will effectively managed through lockable entry doors. Access to the basement will be by a lockable roller door which can be accessed by tenants/owners's swipe cards.

Territorial Reinforcement

There is a clear separation between public and private space in terms of the relationship between the proposed development and the public domain.

Space Management

In accordance with most modern residential developments today, space management will be carried out in a professional manner, preferably by a third party specialising in building management.

VIEW ANALYSIS

The subject site is very flat and the same terrain prevails in this locality. There is no evidence that this development would result in loss of views from any neighbouring properties either side or at the rear. Accordingly, there is no justification in undertaking a view analysis in accordance with the NSW Planning Principles for view loss in accordance with the *Tenacity Consulting V Warringah Council [2004] NSWLEC 140*.

6. SECTION 4.15 EVALUATION

In assessing the development application, the consent authority is required to consider the relevant planning criteria in Section 4.15 (formerly known as Section 79C) of the *Environmental Planning and Assessment Act, 1979*. Section 4.15 is addressed as follows:

6.1 Matters for Consideration - General – S4.15(1)(a)

The relevant statutory planning policies have been assessed with respect to all relevant State Environmental Planning Policies; Local Environmental Plans and Development Control Plans, as addressed above within Section 5 of the Statement of Environmental Effects.

The planning provisions that are relevant to the proposed development include the following:

- *Environmental Planning and Assessment Act 1979*;
- Environmental Planning and Assessment Regulation 2000;
- Sydney Regional Environmental Plan No. 22 – Hawkesbury Nepean River;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- Penrith Local Environmental Plan 2010 (Penrith LEP2010);
- Penrith Development Control Plan 2014 (Penrith DCP2014).

The proposal involves the demolition of two residential dwellings and the construction of a five-storey residential building with one level of basement car parking along with associate landscaping works. The development has been designed to meet all relevant provisions of State Environmental Planning Policy No. 65 which aims to improve the design quality of residential apartment development through achieving better built form and aesthetics of buildings and the streetscape they define. The site is zoned R4 High Density Residential under PLEP2010 and accordingly residential flat buildings are a permissible land use.

The assessment that was carried out as part of the Statement of Environmental Effects has given due consideration to the relevant provisions of the SEPP, the ADG and both Penrith Local Environmental Plan 2010 and the Penrith DCP 2010.

The proposal is considered to be consistent with the fundamental objectives and provisions of the governing instruments and, accordingly, the proposal represents a development type and use facilitated by such instruments.

6.2 Likely Impacts of the Development – S4.15(1)(b)

An assessment of the likely impacts of this development, including environmental impacts on both the natural and built environment and social economic impacts in the locality, has been made as follows.

Comment: The proposal is unlikely to have any environmental impacts on the natural and built environment. The proposal would also have no adverse social impacts on this locality. The proposal is consistent with the statutory planning controls as they currently exist and, taken individually, will have a negligible economic impact on other similar developments in this locality. However, the proposal will provide an economic benefit to the community both during the construction phase and the ongoing maintenance of a building of this nature.

6.3 Suitability of the Site – S4.15(1)(c)

The subject property meets the necessary criteria to be developed for a residential flat building development under the provisions of SEPP 65. The size and shape of the parcel of land meets relevant provisions of the Councils DCP21 for residential development (residential flat buildings). The development is aesthetically pleasing and has been designed to be compatible with other land uses and developments both adjoining and in the immediate locality. The proposal achieves a high quality design through consideration of the amenity of the street, neighbours and future generations of residents. The characteristics of the site are such that the development has been designed with a successful arrangement of massing, so as to allow the balance between maximising orientation for day-lighting and passive thermal benefits, accessibility, maintaining privacy to both the future occupants and adjoining dwellings.

The proposal would have no adverse impact on the streetscape and in fact represents a potential to substantially enhance the streetscape.

6.4 Submissions – S4.15 (1)(d)

No submissions are available at this time.

6.5 The Public Interest – S.4.15(1)(e)

The public interest is well served with the development which will provide a type of residential development that is in high demand within the Penrith Local Government Area. The site is ideally situated in close proximity to public transport, recreation facilities, business and commercial and other essential community infrastructure.

The proposal does not have any adverse environmental impacts and the existing amenity of the neighbourhood would be protected and maintained.

It is considered that the development is sensitive to both the natural and built environments and will cater for a clear demand for this form of accommodation within the Penrith Local Government Area and therefore, approval is in the public interest.

7. CONCLUSION

- The merits of the proposal have been assessed in accordance with the provisions of the relevant clauses of PLEP 2010 and the provisions of 4.15(C) of the *Environmental Planning and Assessment Act, 1979* (as amended) together with the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- The proposed development is permissible under the provisions of PLEP 2010 as the land is zoned R4 High Density Residential.
- The merits of the proposal include:
 - A scheme consistent with the nine (9) principles defined under SEPP 65, which include the following:
 - Context and neighbourhood character
 - Built form and scale
 - Density
 - Sustainability
 - Landscape
 - Amenity
 - Safety
 - Housing Diversity and Social interaction
 - Aesthetics

Each of the above principles have been addressed by the project architect who has certified that the project has been designed to provide a development that is respectful of local planning and design controls and that responds to the best practice design principles of SEPP65.

- Contribution to a sustainable and vibrant residential community that will reflect equal and integrated consideration of social, economic and design issues by providing a development with improved visual and built-form outcomes.
- The development of an underutilised parcel of land in close proximity to public transport, shops, recreation facilities (outdoor) and services represents sound urban consolidation principals and infill development.
- A proposal that will not give rise to any significant traffic impacts on existing or future residents within this precinct.
- The provision of an exceptionally high standard of residential amenity for future residents in terms of solar access, privacy, natural ventilation, acoustics and landscaped environment. The development is considered to be a 'right neighbourhood fit' for this locality.
- The scale and bulk of the built form is designed to effectively moderate the scale of the building when perceived from the street and surrounding locations; it includes varying facades with sandstone wand using architectural elements giving the building a distinct form.
- The building has a modern and clean aesthetic, tempered by environmental control, site response and landscape treatments.
- There will be no significant environmental impacts.
- Accordingly, the proposal for the construction of construction of five-storey residential flat building comprising twelve apartments including with basement car parking including infrastructure and landscaping is acceptable from an environmental, social and planning perspective and approval should therefore be granted.