PENRITH
CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0488
Proposed development:	Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 41 Apartments with Communal Roof Top Terrace & Two (2) Levels of Basement Car Parking
Property address:	28 Hope Street, PENRITH NSW 2750 30 Hope Street, PENRITH NSW 2750 26 Hope Street, PENRITH NSW 2750
Property description:	Lot 35 DP 31239 Lot 36 DP 31239 Lot 34 DP 31239
Date received:	14 May 2018
Assessing officer	Gemma Bennett
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 2 , Class 7a
Recommendations:	Refuse

Executive Summary

Council is in receipt of a development application from Mark Makhoul, Building Design & Technology Pty Ltd, proposing the demolition of existing structures and construction of a six (6) storey residential flat building containing forty one (41) apartments and two (2) levels of basement car parking at 26-30 Hope Street, Penrith.

The subject site is zoned R4 High Density Residential under Penrith Local Environmental Plan 2010 (PLEP 2010). Development for the purposes of a residential flat building is permissible within the R4 High Density Residential zone.

The Minister for Planning has given directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 on the development applications that are to be determined on behalf of Council by a Local Planning Panel. These directions, dated 23 February 2018, outline development within the Penrith Local Government Area that is for a residential flat building under the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development require determination by a Local Planning Panel.

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. The initial public exhibition period for the proposal was from between the 1 June 2018 and 15 June 2018. During this period, no submissions were received. Following significant redesigns, the proposal was re-notified to adjoining and nearby residences between 19 November 2018 and 3 December 2018. During this period, no submissions were received.

The application was originally reported to the Local Planning Panel on 24 April, 2019. The Panel determined to defer determination of the application to allow the applicant a final opportunity to resolve all the matters raised by the Panel and by Council in the original assessment report. The Panel requested that the application be reported back for determination by 12 June, 2019.

Subsequent to this meeting a number of amended plans and documentation was received by council for consideration.

Key issues identified for the proposed development as amended include:

Non compliance with maximum height requirements

The application proposes a numerical non compliance to the maximum 18m building height with an exceedance above the maximum building height of 20% to the lift overrun and 4% to the uppermost habitable floor area. In this regard, the application has been accompanied with an amended Clause 4.6 variation request prepared by Think Planners requesting a variation to the development standard.

Excavation

Penrith Development Control Plan 2014 clause D2.5.7 specifies that cut and fill is to be limited to 500mm in order to minimise disturbance to existing topography and natural soil profiles. The proposal includes a maximum 1.8m cut to the south east corner of the building.

Non compliance with ADG requirements

The built form is considered to provide for appropriate articulation to the Hope Street frontage with the proposal maintaining an articulated ground floor base presentation, well proportioned balcony layout and window openings to the upper levels and architectural features serving to diminish scale and bulk for the built form and provide depth to each façade. It is noted that the proposal is compliant with building separation requirements as provided by the Apartment Design Guide (ADG). However, non-compliances with the ADG have been identified in a number of areas, including solar access, cross ventilation and units per floor plate.

An assessment under Section 4.15 of the EP&A Act 1979 has been undertaken of the amended plans and Clause 4.6 variation request and, on balance, the application is recommended for refusal.

Site & Surrounds

The subject site is known as 26 - 30 Hope Street, Penrith and is legally known as Lots 34, 35 and 36, DP 31239. The allotment is rectangular in shape with a frontage onto Hope Street of 47m and a depth of 40m resulting in an overall site area of 1,880m^2. Each lot is currently provided with a single storey residential dwelling and associated structures. The subject site falls from the rear to the front with a fall of 2m across the depth of the site towards Hope Street.

This section of Hope Street is currently in a state of transition from traditional detached dwellings to higher density development with a number of approvals recently granted for the construction of residential flat buildings. In this regard, to the west of the subject site (No. 38-40 Hope Street) is a constructed 5 storey residential flat building containing 24 apartments with basement car parking (approved under DA15/0683) while to the north of the subject site along the opposite side of Hope Street (25-31 Hope Street) are two 6 storey residential flat buildings containing 61 apartments with basement car parking currently under construction under DA15/1185.

To the east of the subject site at No. 12 - 14 Hope Street is a five storey residential flat building containing 27 apartments and basement car parking approved under DA16/0123 currently under construction. Council is also currently in receipt of a development application at 16-24 Hope Street (2 x 6 storey residential apartment developments including 76 apartments and 2 levels of basement car parking under DA18/0792) which is currently under assessment and is yet to be determined.

It is noted that a development application at No. 32 - 36 Hope Street (6 storey residential flat building containing 45 apartments and 2 levels of basement car parking under DA18/0488) was provided to the Local Planning Panel who determined to refuse the proposal on 12 March, 2019 as the applicant's clause 4.6 request to vary a development standard relating to a building height was not considered to be well founded for the following reasons:

- A development with a height of 22.45 metres would not be compatible with the height, bulk and scale of the desired future character of the locality;
- It will not provide a high quality urban form; and
- It will not be consistent with the objectives of the R4 zone because it will not achieve a high level of residential amenity, and does not reflect the desired future character of the area.

Proposal

The development as amended subsequent to the original reporting of the application to the Local Planning Panel proposes the demolition of existing structures and construction of a six-storey residential flat building containing 41 apartments and two levels of basement car parking. Specifically, the proposed development includes the following key aspects;

Lower Basement

- The provision of a total of thirty seven residential car parking spaces including one accessible space,
- Bicycle parking containing eight spaces,
- Thirty residential storage spaces,
- Ramp access for vehicles to upper level, and
- One lift, two fire stairs and plant room.

Upper Basement

- The provision of a total of twenty five car parking spaces including fourteen residential spaces, four accessible spaces, ten visitor spaces and one loading space,
- Bicycle parking containing eight spaces,
- Eighteen residential storage spaces,
- Ramp access for vehicles to ground level, and
- One lift, two fire stairs and mechanical plant room.

Ground Floor Level

- Vehicular access to the basement level from Hope Street,
- Provision of a garbage truck / loading bay including 10.5m turntable, garbage room, bulky waste room and bin lift. The garbage truck / loading bay area is provided with a separate access way for service vehicles along the western boundary of the subject site to and from Hope Street,
- Pedestrian access to the proposed residential flat building and associated site landscaping,
- Provision of 1 x 3 bedroom unit, 1 x 2 bedroom unit and 2 x 1 bedroom units, each provided with a separate courtyard area, and
- Foyer entry area and circulation core providing for lift and fire stairs.

Level 1

- The provision of 5 x 2 bedroom units and 2 x 1 bedroom units each with an associated balcony, and
- Lobby area with circulation core providing for lift, fire stairs, waste chutes, 4 storage areas and service cupboard.

Level 2-3

- The provision of 1 x 3 bedroom unit, 5 x 2 bedroom units, and 3 x 1 bedroom units each with an associated balcony, and
- Lobby area with circulation core providing for lift, fire stairs, waste chutes and service cupboard.

Level 4

- The provision of 2 x 3 bedroom units, 2 x 2 bedroom units, 1 x 1 bedroom units, and 1 x 1 bedroom unit with study each with an associated balcony, and
- Lobby area with circulation core providing for lift, fire stairs, waste chutes and service cupboard.

Level 5

- The provision of 1 x 3 bedroom unit, 3 x 2 bedroom units, 1 x 1 bedroom units, and 1 x 1 bedroom unit with study each with an associated balcony, and
- Lobby area with circulation core providing for lift, fire stairs, waste chutes and service cupboard.

Rooftop Level

- The provision of a communal open space area consisting of planter walls, tables and chairs, BBQ area and toilet, and
- Circulation core providing for lift and fire stairs.

The proposed apartment mix is provided by the following table below;

Unit Type	**No of units**
1 bedroom unit	14
2 bedroom unit	21
3 bedroom unit	6

Background

The application was subject to a pre-lodgement meeting held with relevant Council staff members on the 10 October 2017. In addition, the application has been subject to an Urban Design Review Panel Meeting (UDRP) held with Council on the 24 January 2018. The application was also subject to a further UDRP meeting since the receipt of the application and the matters raised during the panel meetings have been addressed in the proposed design.

The application was originally reported to the Local Planning Panel for determination on 24 April 2019. At the meeting, the applicant requested a deferral to provide amended documentation addressing matters raised in the assessment report. The panel considerations and reason for the decision were as follows:

The Panel generally agreed with the assessment by Council staff although added some additional reasons for refusal.

The Panel considered the matter and agreed to defer the determination to allow the applicant a final opportunity to resolve all the matters raised by the Panel in relation to the adequacy of the Clause 4.6 Variation and by Council in the assessment report. The Panel requests the application to be reported back for determination by 12 June 2019.

In terms of considering community views, the Panel noted there were non submissions received from the public exhibition of the DA.

During May, Council was in receipt of a number of amended architectural plans, a revised Clause 4.6 Variation request in relation to building height and updated Apartment Design Guide documentation by the applicant which forms the basis of this reassessment of the development application.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- ### Section 4.15 - Evaluation

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

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

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

This Policy ensures the implementation of the BASIX scheme that encourages sustainable residential development. It requires certain kinds of residential development to be accompanied by a list of commitments to be carried out by applicants.

This application is subject to these requirements as it involves BASIX affected development.

BASIX Certificate No. 919932M_02 was submitted with the Development Application and following initial modifications demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort.

Following final amendments to the design, a further modified BASIX Certificate has not been submitted to Council reflecting those changes.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 (SEPP 55) outlines the following requirements that a consent authority must consider prior to the issue of a consent for any development:

A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

There is no record that the subject site is contaminated. The proponent has outlined that the site has been historically used for residential purposes while the surrounding area is also used for residential purposes. In this regard, given the residential use of the subject site and surrounding properties, it is not considered that further analysis is required as the proposal is not a change of land use being residential to residential. While so, should any 'unexpected findings' occur during excavation and earthworks, work is to cease immediately and Penrith City Council is to be notified. This may be addressed by way of recommended conditions of consent should the application be approved.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

An assessment has been undertaken of the development proposal against the aims and objectives and specific provisions of State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development. In particular, the development proposal has been assessed against Clause 30 of the Policy which states that:

"Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria"

Clause 50 (1A)(1AB) of the Environmental Planning and Assessment Regulation 2000 specifies:

50(1A) If a development application that relates to residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, the application must be accompanied by a statement by a qualified designer.

50 (1AB) The statement by the qualified designer must:
(a) verify that he or she designed, or directed the design, of the development, and
(b) provide an explanation that verifies how the development:
(i) addresses how the design quality principles are achieved, and
(ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.

The development application as amended has been submitted with a design verification statement.

An assessment against Schedule 1 'Design Quality Principles', of the Policy has been undertaken and is included in **Table 1** and an assessment against the accompanying Apartment Design Guide is also provided in **Table 2** below.

Table 1: Assessment Against Schedule 1 - Design Quality Principles Assessment Against Schedule 1 - Design Quality Principles	Officer Discussion

Principle 1: Context and neighbourhood character	Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The design is not considered to respond to the context of the site. While the development as proposed does have regard to the recommended building separation distances and is considered to respond adequately to the approved and constructed development in the streetscape, the proposal is not viewed as having proper consideration to the existing natural contours of the subject site. This has resulted in a significant amount of subterranean area being provided to ground floor units especially along the eastern elevation which is not a desirable design solution. While the current design has provided for the removal of the south eastern unit to the ground floor, the original amenity concerns for the remaining eastern facing units on the ground floor are considered to have been retained noting the sunken floor levels in relation to the existing natural ground level.
Principle 2: Built form and scale	Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook	The development does adequately respond to the site's context and is considered to be sympathetic with the bulk and scale of surrounding approved residential flat buildings. The visual presentation of the built form is also considered an acceptable addition to a streetscape which is currently in transition from older low scale residential dwellings to larger residential flat buildings.
Principle 3: Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The development is not considered to be of an appropriate bulk and scale noting the impact to the amenity created to future residents as discussed within this report.

Principle 4: Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The application is not considered to adequately identify that solar access and natural ventilation is provided in accordance with the Apartment Design Guide rates.
Principle 5: Landscape	Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	Deep soil has been co-located with private open space areas for ground floor apartments. Landscaping provided to the street frontage is considered to enhance the built form while boundary landscaping is also considered to improve the presentation of the proposed built form to direct adjoining neighbours. In addition, landscaping to the communal roof area is considered to offer areas of relief for future residents using this area. However, functionality of the private open spaces on the ground floor primarily along the sites eastern boundary is limited by the splitting of the paved and terraced levels. Future occupants will be required to access the upper levels by a flight of stairs, which is likely to inhibit maintenance and usability.

Principle 6: Amenity	Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	The proposal is considered to provide for an appropriate level of amenity for the majority of future occupants in accordance with the requirements of the Apartment Design Guide in regard to room dimensions and privacy. However, solar access and ventilation are not considered to have been adequately addressed, particularly the amenity for the occupants of Units 3 and 4. It is considered that these occupants will be unacceptably impacted by the location of the unit below the natural ground level. Access to sunlight, natural ventilation and outlook will be poor, especially for unit 4 noting the location of the private courtyard is accessed by 11 steps above the paved patio areas limiting its functionality and making it inaccessible for occupants with mobility challenges.
Principle 7: Safety	Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	The application is considered to have appropriate regard to the principles of Crime Prevention through Environmental Design. The proposal will present to Hope Street with casual surveillance achieved via the location of balconies and windows to all elevations. The building design is not considered to create areas of concealment with clear lines provided in separating public and private areas.
Principle 8: Housing Diversity and Social Interaction	Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	The mix of units in the development as amended is acceptable.

Principle 9: Aesthetics	Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The development is assessed to be appropriate in bulk and scale. As detailed elsewhere in this table and in the assessment of the development against the Apartment Design Guide (ADG) below, the development is considered to be generally consistent with the design criteria and design guidance statements of the ADG, however, non-compliances in relation to solar access, cross-ventilation and units per floor plate have been identified. In terms of the streetscape, the development is considered an acceptable addition to the streetscape providing for adequate landscaping, deep soil and canopy tree planting along the frontage of the site. While so, it is not considered that the amended architectural plans have clearly identified the treatment of the south eastern corner of the ground floor following the deletion of a unit. While sectional plans identify an external wall provided to the buildings perimeter, this is not reflected in ground floor plans and does not clarify how this area relates to the adjoining unit with only an outline of the first floor level above identified.

Table 2: Assessment Against the Apartment Design Guide (ADG)

Assessment Against the Apartment Design Guide (ADG)

Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was included in the original package of documents and modified ADG compliance table included on the amended plans to identify applicable elements as required within the Checklist.	Yes.
3B-1	Buildings to address street frontages.	The building frontage onto Hope Street is naturally orientated to north and allows for direct access from the street.	Yes.
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to received compliant levels of solar access.	Refer discussion under Part 3D and 4A.	N/A.

	Solar access to living rooms, balconies and private spaces of neighbours should be considered.	The submitted shadow diagrams have identified that the adjoining properties to the south, east and west of the subject site will be impacted by additional overshadowing but while so, noting the compliant setbacks provided to all boundaries as well as to the upper levels, the proposal is not considered to create an inappropriate relationship with surrounding lots and is considered to allow for the opportunity for these adjoining properties to be appropriately developed in accordance with the requirements of the ADG.	Yes.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	As discussed above, adequate information has been submitted with the development application to enable an accurate assessment in this regard. It is also noted that the proposed building has been orientated at 90 degrees to the boundary with neighbouring properties to minimise overshadowing created, also noting the compliant building separations provided to each boundary.	Yes.
3C-1	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	One of the three ground floor apartments with street frontage to Hope Street is provided with direct access to the street, while the remaining two have external access via the main pedestrian entry to the building.	Yes.
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	Limited level difference (up to 250mm) is provided between the pavement height and the finished floor height of the ground floor apartments fronting Hope Street.	Yes.
	Upper level balconies and windows to overlook the street.	All apartments along the street frontage overlook Hope Street.	Yes.
	Length of solid walls should be limited along street frontages.	The presentation of the northern elevation fronting Hope Street is provided with acceptable openings, including slat fencing, which has minimised the presentation of any solid walls.	Yes.

	Opportunity for concealment to be minimised.	Due to the central location of the lobby, areas of concealment and crime are not considered to be provided along the main ground floor lobby entry. The entry from Hope Street is considered to be distinguished and linear in nature maintaining a straight line to the ground floor lobby area so as to minimise and areas of concealment. The lift also faces internally and is located in sight of the front entry door.	Yes.
	Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	No seat is provided near the building entry. The ground floor lobby contains planter boxes rather than seating, and no seating is provided on other levels.	No.
3C-2	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	The mail box location is nominated on plans perpendicular to the front boundary which is considered an appropriate design solution.	Yes.
	Substations, pump rooms, garbage storage areas and other service requirements should be located in basement carparks or out of view.	A hydrant location has been indicated on the north east corner of the site. Garbage storage rooms are adequately integrated into the building with the entry proposed along the western elevation and not in view from the street. This location is considered appropriate and is not considered to create a negative streetscape or visual impacts. A potential location for an electrical substation has not been identified and there is limited opportunity in the front setback to include a substation without substantially impacting on landscaping treatment.	Partial non compliance.
3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	473.6m^2 of COS is required under the ADG (25% of total site area). Submitted plans state that 478m^2 of the site is provided as COS. The area of COS is provided to the roof top level. The proposed COS area is assessed to be of an acceptable amenity and usable space for residents with equitable access to this area provided from all levels via a lift core.	Yes.

	Achieve a minimum of 50% direct sunlight to the principle usable part of the communal open space.	As the communal open space is proposed to the roof area adequate solar access is maintained throughout the day.	Yes.
	COS to be consolidated into a well-designed, usable area.	Refer to discussion above.	Yes.
	COS to be co-located with deep soil.	As the communal open space is located to the roof level, co-existance with deep soil area is not provided for. While so, it is considered that a range of vegetation features has been provided for to the roof top area within planter box areas (provided with a depth of up to 1.2m) to allow for some form of natural relief for users.	No, but acceptable in this instance.
3D-2	COS is to be provided with facilities such as barbeque areas and seating.	Seating and barbeque areas are provided within the COS area.	Yes.
	COS is to be well lit and readily visible from habitable rooms.	The location of the communal open space to the roof level does not provide for visibility from habitable rooms, but while so, this area is not considered to provide for any areas of entrapment, is allowed equitable access via the proposed lift service with the location on the roof considered to allow for a greater area of use as compared to a confined location along a side boundary or a rear corner of the subject site.	No, but acceptable in this instance.
3D-4	Boundaries should be clearly defined between public open space and private areas.	Boundaries between public and private space are clear noting the continuation of front courtyard fencing and low sandstone wall along the street frontage. In addition, it is also considered that appropriate fencing has been provided between private open space areas on the ground floor and areas accessible from Hope Street to minimise inappropriate movement of persons.	Yes.

3E-1	Deep soil is to be provided at a rate 15% with a minimum dimension of 6m.	132.6m^2 of deep soil is required under the ADG (15% of total site area). Submitted plans state that 161m^2 of the site is provided as deep soil and is provided in a 6m wide strip primarily along the rear of the site. Small pockets of deep soil are provided within the front and eastern side setback which will allow for landscaping to be provided to assist in screening courtyard areas fronting Hope Street.	Yes.
3F-1	Minimum required shared separation distances between habitable rooms and balconies are to be as follows: 1-4 Storeys – 12m 5-8 storeys – 18m	Building separation is as follows (measured from the face of the balcony/building to the side boundary): <u>South Separation</u> A setback of 6m is provided to the ground to the third levels. A setback of 9m is provided for level 4 upwards. <u>Western Separation</u> A setback of 7.9m is provided to the ground, and 6m setback the first, second and third levels. A setback of 9m is provided for level 4 upwards. <u>East Separation</u> A setback of 6m is provided to the ground to the third levels. A setback of 9m is provided for level 4 upwards.	Yes.
3F-2	Communal open space, common areas and access paths to be separated from private open space and windows to apartments.	The proposal is provided with landscaping and fencing to allow for appropriate separation.	Yes.
	Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	An acceptable separation has been provided between habitable rooms and circulation spaces.	Yes.
	Balconies, and private terraces should be located in front of living rooms to increase internal privacy.	Balconies are generally provided adjacent living rooms.	Yes.
	Windows should be offset from the windows of adjacent buildings.	An acceptable separation is provided between proposed windows and openings on adjoining properties, particularly in consideration of likely redevelopment of sites to the east and west of the site.	Yes.

3G-1	Building entries to be clearly identifiable.	The entryway is adequately articulated with landscaping and the sandstone wall at the rear of the letterboxes provides a feature that allows it be clearly identifiable from Hope Street.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The main pedestrian entry is visible from the street. The lift faces into the lobby entry and is visible from the front door.	Yes.
3H-1	Carpark access should be integrated with the building's overall façade.	The entry to the basement carpark is adequately integrated into the building with access directly off Hope Street. The location of the driveway has also allowed for the provision of a splayed landscaped buffer along the northern boundary fronting Hope Street which will serve to minimise the visual impact of the basement entry.	Yes.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for pedestrians or drivers exiting the basement.	Yes.
	Garbage collection, loading and servicing areas are screened.	The bulky waste and garbage areas are screened from the street.	Yes.
3J-1	The site is not located within 800m of a railway station and is required to comply with the car parking rates as stipulated within the Penrith DCP 2014.	Refer discussion under Penrith DCP 2014.	N/A
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	16 secure bicycle parking spaces are provided within the basement levels.	Yes.
3J-3	Carpark design and access is safe and secure - A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lift lobby areas within Basement 1 and 2 are clearly defined and appropriately located.	Yes.

4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted amended plans are not considered to demonstrate that compliance with this design criteria is met in that 26 of the proposed 41 units (63%) will receive adequate solar access. A review of the submitted Solar Access Plan (Dwg. No. A1.13A, dated 09/05/19) and Sun Views (Dwg. No. A1.13B and A1.13C, dated 25/10/18) has been undertaken and it considered that the diagrams have not appropriately indicated solar access to living zones and open spaces, in particular the ground floor unit 4 will receive obstructed solar access due to its location below the natural ground level. East facing units on floors 1-5 (numbers 9, 10, 16, 17, 25, 26, 33 and 39) are not considered to achieve the full 2 hours of solar access due to oblique window angles and windows being inset by balconies.	No.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter.	Submitted plans are considered to demonstrate that a total of 6 units (15%).	Yes.
4A-2	Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.	The application is provided with a skylight to Unit 40. Units 7, 14, 23 and 31 from the level 1 to level 4 respectively are provided with a 'snorkel bedroom' with the window to the bedroom setback 3.9-4.6m from the buildings northern façade. The setback of these windows to the façade is considered to provide a limited degree of amenity within the bedrooms, however it is noted that only 4 of the overall proposed 76 bedrooms (5.2%) are provided in a snorkel manner which is considered an acceptable design outcome. As these bedrooms are also provided with a northern aspect, the amenity of these rooms is considered appropriate in terms of solar access.	Yes.
4A-3	Sun shading devices are to be utilised.	Shading devices are provided to the level 5 north facing units and on the rooftop communal open space.	Yes.

4B-3	60% of apartments are naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	The submitted plans indicate that 63% of apartments can achieve natural cross ventilation. However, the Ventilation Plan (Dwg. No. A1.13, dated 09/05/19) indicates that units 7, 14, 23, 31 and 37 rely on windows within 'snorkel' areas which is considered a poor design solution and are unlikely to provide for sufficient cross ventilation. This results in only 23 units or 51% being naturally cross ventilated.	No.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for 3.1m measured from finished floor to finished floor level resulting in a 2.8m finished floor to underside of ceiling, which is compliant with the ADG. It is noted that units 1 and 2 are provided with a 4m floor to ceiling height noting the split level nature of the ground floor.	Yes.
4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Additional bathroom areas increase minimum area by 5sqm.	Proposed apartment sizes comply with the ADG requirements.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	Proposed apartment depths comply with the ADG requirements. It is noted that the plans generally indicate unit depth as measured from the window to the kitchen bench, rather than window to wall.	Yes.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply with this requirement.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply with this requirement.	Yes.
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply with this requirement.	Yes.
4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep) Ground level units should be provided with 15m^2 of private open space with a minimum depth of 3m	All units comply with the balcony size and area requirements.	Yes.
4E-3	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	No air conditioning is indicated on the plans.	No.

4F-1	The maximum number of apartments off a circulation core on a single level is eight. Where a development is unable to achieve the design criteria, a higher level of amenity for common lobbies, corridors and apartments should be demonstrated.	The application provides for a maximum of 9 units to levels 2 and 3 which is non compliant. No additional measures are proposed to achieve a higher level of amenity within the lobbies, corridors or apartments.	No.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	As the ground floor lobby area is provided with a northern facing entry onto Hope Street it is considered that an adequate amount of solar access is provided to this area. On levels 1-5, no natural light or ventilation is provided to common circulation spaces.	Yes.
4F-1	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	All primary bedroom and living room windows do not directly front onto common circulation spaces. In this regard, visual and acoustic privacy is considered to be maintained.	Yes.
4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m^3 2 bed – 6m^3 3 bed – 10m^3 With 50% of the above to be provided within the Units.	Submitted plans indicate that storage cages are provided with the basement carpark. Adequate area for internal storage could be accommodated within apartments.	Yes.
4H-1	Noise transfer is minimised through the siting of buildings and building layout.	The layout of units is considered to provide adequate acoustic amenity.	Yes.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. Unit mix is calculated as follows: 14 x 1 bedroom apartments 21 x 2 bedroom apartments 6 x 3 bedroom units	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	Direct street access is provided for ground floor unit 3, and external entry from the main pedestrian building entry is provided to units 1 and 2.	Yes.

4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposed street elevation is considered to provide for an acceptable form and presence with the building design incorporating varied building elements to provide visual interest along the street. The façade is provided with both horizontal and vertical elements with stacked balconies creating clearly identifiable vertical lines while horizontal division is provided via dominant storey levels. The proposed building is also provided with a solid base, defined middle element forms and topped with recessed upper 2 levels. The materials proposed provide for a mixture of brick, render and cladding which are considered to be appropriately coloured to allow for a favourable addition to the existing streetscape.	Yes.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The proposed landscaping design will allow for small sized trees (ranging in height from 3m to 5m when mature) to be incorporated within deep soil areas with planter boxes provided to the rooftop level. The nature of the landscaping proposed is considered to allow for subtle screening of apartments from adjoining premises in association with boundary fencing while also providing for an appropriate streetscape relationship along the sites northern façade. In this regard, the proposed landscaping is considered will enhance the environmental performance of the structure. In addition, sections are provided through upper level planting proposed via planter boxes which has identified that planting will be sustainable and practical with the depth of planter boxes equalling 1.2m.	Yes.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	A total of 5 adaptable units are proposed. With a total of 41 units identified, to meet Council's Policy in relation to adaptable units 4.1 units are required, which when rounded up equates to 5 units. In this regards, the proposal is compliant.	Yes.

4U-1	Adequate natural light is provided to habitable rooms.	The application is not considered to identify that habitable rooms will receive adequate natural light.	No.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	The development application was referred to Council's internal Environmental Waterways Unit and was supported subject to the provision of appropriate conditions with and development consent granted.	Yes.
4W-1	A Waste Management Plan is to be provided.	A Waste Management Plan is generally acceptable subject to conditions.	Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	Waste areas and manoeuvring is compliant with Council's DCP. Garbage collection will be provided onsite within a proposed garbage truck loading bay.	Yes.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997). This Policy aims *"to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".* The Policy requires Council to assess development applications with regard to general and specific considerations, policies and strategies.

The proposal is not found to be contrary to these general and specific aims, planning considerations, planning policies and recommended strategies of the plan. The site is not located within a scenic corridor of local or regional significance and it is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Does not comply - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Does not comply - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	Complies - See discussion
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 4.6 Exceptions to development standards	Does not comply - See discussion
Clause 5.10 Heritage conservation	N/A
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Does not comply - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion

Clause 1.2 Aims of the plan

The proposal is not considered to comply with the following aims of the LEP:

(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

(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

The adverse amenity impacts on future occupants, in regards to the inadequate solar access and natural ventilation opportunities, is not aligned with Council's vision for development in Penrith.

The proposal does not incorporate the principles of sustainable development into the design in that the existing landform is not retained and site disturbance is considered excessive.

Clause 2.3 Zone objectives
The subject site is located within the R4 High Density Residential zone. The objectives of the zone include:

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

The design of the proposed development does not ensure that a high level of residential amenity is achieved and maintained in that the application has not demonstrated that solar access and cross-ventilation standards have been satisfactorily achieved in accordance with the Apartment Design Guide. Additionally, the location of the ground floor units below existing ground level and the terraced nature of the private open space as provided by the amended architectural plans will limit amenity to those units and inhibit functionality of those spaces.

Clause 4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings
Once the three dwelling lots are consolidated, compliance with the minimum lot size of 800 square metres required by the LEP is achieved. Once consolidated, the total site area will be 1,884 square metres. Suitable conditions are recommended to require the lot consolidation to be created and registered on title prior to any Occupation Certificate should the application be approved.

Clause 4.3 Height of buildings
The subject site is provided with a maximum building height of 18m under the LEP. The application is provided with a flat roof (RL63.82) which also incorporates a pergola for part of the roof area used for communal open space purposes which provides for a non compliance on the subject site of between 3.3m (overall height of 21.3m or 18.3% above the maximum height required) to the lift overrun and 1.2m (overall height of 19.2m or 6.6% above the maximum height required) to the uppermost habitable floor area (for units 37 and 42 on Level 5). It is noted that the height of the building has not been modified by the provision of amended architectural plans following the original Local Planning Panel meeting.

In this regard, the application was accompanied with an amended *'4.6 Exception to development standard'* document which has discussed the nature of the height non compliance. Discussion in regard to the non compliance is provided for under a separate title within this report.

Clause 4.6 Exceptions to development standards
The application as amended is non compliant with the height of buildings development standard under Clause 4.3 of the Penrith Local Environmental Plan 2010. The application is provided with a flat roof (RL63.82) which also incorporates a pergola for part of the roof area used for communal open space purposes which provides for a non compliance on the subject site of between 3.3m (overall height of 21.3m

or 18.3% above the maximum height required) to the lift overrun and 1.2m (overall height of 19.2m or 6.6% above the maximum height required) to the uppermost habitable floor area (for units 37 and 42 on Level 5).

Clause 4.6 of the Penrith Local Environmental Plan 2010 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:
(a) the consent authority is satisfied that:
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

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

The application has been accompanied by a revised Clause 4.6 Variation Request prepared by Think Planners dated 11 April, 2019 in relation to the building height non-compliance. In this regard, the request has provided for the following evaluation as to the identified variation in relation to Clause 4.3 of the LEP;

The current development proposal is predominantly consistent with the building height except for a portion of level 6 however, the proposal remains consistent with the objectives based on the following:

- *Given the locality is in a state of transition from existing low density development to high density development the broad reference to compatibility with the existing character of the locality is not considered relevant in an R4 context with an 18m height limit (but would be relevant in an R2 or R3 context where an 8.5m height limit applies).*

- *The key requirement for development in the R4 zone is the desired future character of the locality. The building is compatible with the height, bulk and scale of the desired future character when having regard to the forms of development approved in the locality, and the approved building heights of those developments that are comparable in numerical terms to this proposal. This clearly shows the desired future character for the precinct being 6 storey residential flat buildings, with the majority of these buildings exceeding the 18m height limit to habitable areas (i.e. top most residential floor) as well as to the rooftop common areas and associated lift over-run and fire stairs. The numerical comparison provided on page 5 of this request demonstrates consistency and compatibility with those developments that are reflective of the desired future character of the locality on the basis that they have been granted development consent under the same set of planning controls.*

- *Providing for the rooftop communal open space area on top of the building that necessitates the provision of the lift over-run (for accessibility reasons) and the fire stair (fire safety and fire egress*

reasons). The provision of the rooftop common area enables the provision of a quality common open space area that achieves solar access for residents which is a response to the north-south orientation of the site- meaning any common open space at the ground level would be on the southern side of the building and would not receive adequate solar access. The provision of the rooftop common area is consistent with the desired future character of the locality when observing the other approved development in the locality that also feature rooftop common areas and comparable overall building heights. This aligns with the objective a) and d).

- *The overall height of the development presents as a compatible form of development to the anticipated high density residential development that are emerging in the locality, noting that the emerging character is for 6 storey residential flat buildings in the locality and 6 storeys is the prevailing form of development being carried in the R4/18m height limit area. The 5th and 6th storey of the proposal is recessed behind the main building alignment to downplay visual dominance as viewed from the public domain and adjoining residential properties- this step in the façade provides for visual relief to the street as it presents a 4 storey street wall.*

- *The proposed buildings will present an appropriate bulk and scale on the site with 3 balanced vertical components/proportions that are consistent with other approved and already constructed 6 storey residential flat building developments in Hope Street and surrounding area. Further the building height proposed provides for a high quality urban form consistent with objective (d) and the height departure to the habitable areas or the rooftop areas does not take away the fact the proposal presents a high quality urban form.*

- *The additional height to the habitable areas or the rooftop areas does not generate any additional amenity impacts given the location of the site and the surrounding site context with regard to overshadowing, visual privacy or acoustic privacy. The recessed nature of the top floor mitigates additional overshadowing and the centrally located rooftop structures means that the visual, privacy and shadow impacts are also mitigated.*

- *Given the scale of the proposal, and the extent of the variation is not perceptible at street level given the upper level of the building is setback behind the lower levels which means the additional height will not be seen from a pedestrian level when standing in the public domain and this offsets the additional height of the top most floor and the recessed nature of the roof structures also means they are not visible form the public domain which means the additional height continues to minimise visual impact to existing development and to public areas.*

- *The proposal, and specifically the additional building height, has been carefully designed to ensure that privacy impacts are minimised and the proposal will not obstruct existing view corridors noting that no significant view corridors are identified for the site.*

- *The proposal, and specifically the additional building height, does not result in any discernible increased shadow impact given the orientation of the site and setbacks that fully comply with the requirements of the Apartment Design Guide and the recessed upper levels relative to the levels below mean that the shadow cast is reduced. The centrally located rooftop elements are designed to be pulled away from the building edges to avoid generating additional overshadowing impacts.*

- *The non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors.*

- *The proposal does not adjoin any low-density areas or sensitive interfaces and will integrate with future development to the north, east, south and west which will accommodate developments of comparable building height- and likely also breach the numerical height limit to the residential floor area at the upper level and to rooftop common areas.*

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable.

The accompanying Variation request has also provided the following discussion in relation to Clause 4.6(4) and 4.6(5) of the Penrith Local environmental Plan 2010;

In accordance with the provisions of Clause 4.6(4)(a)(i) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) for the reasons set out previously.

In relation to the provisions of Clause 4.5(4)(a)(ii) the consent authority can be satisfied that the development, including the numerical building height departure, is in the public interest given that:

- *The proposed development remains consistent with the objectives of the building height control.*
- *The proposal is consistent with the objectives of the R4 zone, being:*

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

- *The proposal will provide a high quality residential development in a strategic location within close proximity to the Penrith train station and CBD, bus interchange to maximise public transport patronage and to encourage walking and cycling. The scale of the development will help to revitalise the area with delivery of an activated ground floor and an attractive overall development.*

- *The development provides for the delivery of a variety of housing types in a high density residential environment. The development also provides for a high level of residential amenity, provides for additional housing to contribute to housing supply and affordability and reflects the desired future character and dwelling densities of the area.*

- *The building height departure facilitates a better design response for the development with regard to waste collection, overland flow and finished floor levels, floor to ceiling heights and also in providing for high levels of residential amenity that is facilitated by the height departure in providing for the rooftop common open space. The rooftop common open space enables the achievement of high levels of residential amenity for residents owing to the northsouth lot orientation and the absence of the rooftop common open space, if strict compliance with the height limit was maintained, would reduce the level of amenity afforded to residents.*

- *The development proposal, including the building height departure, is consistent with the desired future character of the locality as established by approved development in the locality.*

On the basis of the above points the development is clearly in the public interest because it is consistent with the objectives of the building height standard, and the objectives of the R4 zone and the numerical departure from the building height control facilitates a better design outcome on the site

Clause 4.6(5)

As addressed, it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and

b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and the nature and height of approved developments in the locality.

Discussion in regard to building height non-compliance

Clause 4.6 (4)(ii) prohibits the granting of consent to a development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.

The objectives for clause 4.3 height of buildings are as follows:

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,
(c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,
(d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.

It is considered that the commentary provided by the accompanying Clause 4.6 Variation request in relation to the non compliant height has addressed why compliance with the objectives of the development standard.

The objectives of the R4 zone are as follows:

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

The application via the provision of amended plans has failed to demonstrate that the development will ensure a high level of residential amenity will be achieved and maintained. It is considered that the proposal has not demonstrated that solar access and cross ventilation standards have been achieved, concern is raised in regard to the treatment of the south east corner of the building to the ground floor, while the location of units below the existing ground level and terraced private open space will limit amenity to those units and inhibit functionality of those spaces.

Noting the above, a departure from the height development standard is therefore considered unacceptable in this instance. The applicant's written request relating to height non compliance is considered to have provided insufficient environmental planning grounds to justify contravening the development standard as the proposal is inconsistent with the objectives of the R4 zone.

Clause 7.4 Sustainable development

Clause 7.4 of the PLEP 2010 requires the consent authority to have regard to the principles of sustainable development as they relate to the development based on a "whole of building" approach and requires the consent authority to consider each of the following:

(a) conserving energy and reducing carbon dioxide emissions,
(b) embodied energy in materials and building processes,
(c) building design and orientation,
(d) passive solar design and day lighting,
(e) natural ventilation,
(f) energy efficiency and conservation,
(g) water conservation and water reuse,
(h) waste minimisation and recycling,
(i) reduction of vehicle dependence,
(j) potential for adaptive reuse.

The application is considered to not have been accompanied with information sufficient to demonstrate that solar access and the opportunity for natural ventilation is achieved. Adaptive reuse of a number of units is provided for. An updated BASIX Certificate has not been submitted to confirm that the amended design will meet the NSW Government's requirements for sustainability, if built in accordance with the identified commitments.

Clause 7.6 Salinity
The subject site is affected by moderate salinity. While so, it is not considered necessary in this instance to include any specific condition(s) in relation to construction noting the nature of the proposed works.

Clause 7.7 Servicing
The proposed works provide connections to new and existing servicing infrastructure to facilitate adequate servicing for the proposal.

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

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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

Development Control Plan 2014

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

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

There are no planning agreements applying to this application.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, could be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

As previously indicated, Clause 50 (1A)(1AB) of the Environmental Planning and Assessment Regulation 2000 specifies:

50(1A) If a development application that relates to residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, the application must be accompanied by a statement by a qualified designer.

The development application as amended was not submitted with a design verification statement.

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

Context and Setting

It is noted that the subject site and its surrounds is currently in a state of transition from a previously lower density zone to its current high density zoning, with Hope Street providing for a number of land parcels which are currently subject to or have been granted approval for the construction of residential flat buildings. This is evident in the provision of a new residential flat building directly opposite the subject site to the north and further construction works to the east and west of the subject site also providing for multi level apartment buildings. In this regard, the proposal is considered in keeping with the desired future character of the area allowing for an upgrade in structures from existing detached dwelling houses to large compact residential flat buildings.

The application is provided with compliant setbacks to each side and the rear boundary in accordance with the Apartment Design Guide. These setbacks have also incorporated greater setbacks to the fourth and fifth storeys to provide for a reduction in the visual impact of the building when viewed from both adjoining properties and surrounding public areas. The 6m building setback to the ground floor fronting Hope Street is also considered an appropriate separation to allow for landscaping to within the front setback area. This landscaping in the form of hedges, shrubs and trees to each front courtyard area is considered to minimise the visual impact of the building and allow for an improved integration with the existing streetscape.

Solar Access

The application has been accompanied by architectural plans which are considered to identify that 26 of the proposed 41 units (a total of 63%) will achieve a minimum 2 hours solar access between 9 am and 3 pm at mid-winter and is therefore non-compliant with the solar and daylight access requirements as provided by the Apartment Design Guide. It is also noted that the ground floor unit 4 on the south east corner of the building is located below the existing ground level and will receive restricted solar access in this regard. It is also noted that this concern for unit 4 has been maintained from previous revised architectural plans.

Excavation and Terraces

The proposed development includes a maximum cut of 1.8m on the rear south eastern corner of the building in order to maintain a consistent ground floor level and not exacerbate the overall building height which as proposed, exceeds the maximum height of buildings standard applicable to the site. It is considered that the degree of site disturbance proposed is excessive and therefore the design is unresponsive to the existing topography of the site. Terracing to the rear provides private open space to the ground floor units with split level design. However the functionality of and ability to maintain these spaces is impaired by the necessary flight of stairs to access the upper levels.

Overlooking

The application is provided with a number of fixed timber louvre screens to each elevation along in part the front of balcony areas to minimise the potential for overlooking onto adjoining properties. In this regard and noting the compliant separations provided to the side and rear boundary in accordance with the requirements of the Apartment Design Guide, it is considered that appropriate measures have been incorporated into the design to minimise direct overlooking concerns.

While so, it is considered that persons accessing the elevated private open space areas for unit 3 and 4 will potentially impact on the use of balconies for units 9 and 10 which overlook this area. This is considered a consequence of the provided subterranean ground floor levels and access to higher placed associated private open space areas which create an inappropriate relationship to unit on level 1.

Landscaping

The application has been accompanied with a landscape plan which has identified the provision of landscaping throughout the subject site in association with the proposal. In this regard, landscaping has identified bushes and trees to the front setback area which is considered to compliment the visual impact of any lightweight fencing and low sandstone walls proposed to ground floor unit courtyard areas fronting Hope Street. In addition to the mix of trees, shrubs and grasses provided to each of these courtyard areas, the nature of landscaping proposed to the northern elevation is considered to allow for an appropriate integration with the building design to minimise the impact of architectural features.

The proposal will provide for varied landscaping features to the eastern side setback in association with ground floor courtyard areas which will allow for mature tree planting to deep soil zones. This landscaping is considered to serve as a buffer between the adjoining neighbour while also providing for amenity for future occupants.

The south western corner of the ground floor adjoining the garbage rooms and garbage truck loading bay are maintained as deep soil areas. While not a communal landscape area, plans have identified access to this part of the site to allow for vegetation maintenance.

The communal open space to the roof level is considered to have been appropriately treated with landscaping features for the use of future occupants. These planter boxes are 1.2m in depth and are considered to allow for an appropriate mix of plant and tree species to assist in softening the presentation of this common area.

Access, Traffic and Parking

The proposal will generate an increase in traffic volume, but while so, it is considered that the application has adequately demonstrated that the local road network has capacity to cater for the development. Off-street parking spaces are provided in accordance with the DCP requirements and this arrangement will reduce the incidence of off-street parking. Sight distances of the proposed driveway would be clear when in view from the street and vehicles can enter and leave in a forward direction.

Noise

The application has satisfactorily addressed the potential noise impacts from the development through provision of an Acoustic Report which was reviewed by Council's Environmental Management Team and considered acceptable.

Accessibility

The application was accompanied by an Accessibility Certificate of Design Compliance. This certificate confirms that the adaptable units provided can comply with the spatial requirements of Australian Standard 4299 for Adaptable Housing. Five accessible units are required to be provided in accordance with Council's controls and the proposal is compliant in this regard.

In addition to the above, it is noted that a total of five accessible car parking spaces have been provided, while appropriate access may be provided to the communal roof area via the use of lifts within the building.

Waste Management

The application was supported by a Waste Management Plan which has detailed the way in which all waste and materials resulting from the excavation, construction and on-going use of the building on the site are to be dealt with.

The application has indicated the provision of on-site collection by Council waste contractors and will incorporate waste collection/storage rooms and a bulky goods area to the ground floor plan. This waste area is services by a garbage truck loading bay area incorporating a turntable accessed by a driveway along the western boundary for the movement of service vehicles. In this regard, the application has been accompanied by swept path diagrams which have identified that a service vehicle may safely enter and exit the subject site in a forward direction with the assistance of the turntable within the loading bay. It is also noted that this area will serve as a loading bay for other trucks or vehicles (eg removalist trucks or vans) who may be required to visit the subject site with a ramp from this area allowing for access to the ground floor lobby area and lifts.

The application is provided with a dual chute system for normal waste and recycling waste from each upper level to the ground floor with Council's Waste Services Section confirming that there is sufficient area to accommodate the required number of bins and allow for adequate manoeuvring.

In addition to the above, the proposed arrangements were reviewed by Council's Waste Officer and Traffic

Engineer who have raised no objection to the proposal subject to appropriate conditions.

Environmental Sustainability

Notwithstanding the solar access non-compliances as discussed above, inadequate cross ventilation is provided to the proposed development. The submitted plans indicate that 63% of apartments can achieve natural cross ventilation. However, the Ventilation Plan indicates that units 7, 14, 23, 31 and 37 rely on windows within 'snorkel' areas and are unlikely to provide for sufficient cross ventilation. This results in only 21 units, or a total of 51% being naturally cross ventilated.

Cumulatively, these aspects of the building design contribute to a development that does not adequately respond to the principles of sustainable development, and it is considered likely that future occupants will be over-reliant on artificial heating, cooling and lighting.

Social and Socio-Economic Impacts

The application is not considered likely to result in any negative social impact in the area. The proposal has been assessed against the principles and objectives contained within the DCP, specifically those related to safety and security and is compliant in this regard. The development of the site will facilitate the provision of high density residential accommodation in accordance with the aims of the LEP.

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

The site is considered to be unsuitable for the proposed development for the following reasons:

- The proposal does not respond to the site constraints in terms of grade and excavation required to accommodate a development of the scale proposed.
- The orientation of the building on the site does not provide for sufficient solar access to units or natural ventilation opportunities.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application was originally advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the recommendations of the Regulations and in accordance with Council's Development Control Plan. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 1 June 2018 to 15 June 2018. During this period, no submissions were received.

Following amendments to the proposal, the development application was re-notified to owners and occupiers of adjoining and nearby properties from 19 November 2018 to 3 December 2018. During this period, no submissions were received.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections
Development Engineer	Not supported
Landscape Architect	Not supported
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	Not supported, however conditions provided
Tree Management Officer	No objections - subject to conditions

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

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposed works are inconsistent with the relevant planning provisions related to the development of residential flat buildings and on balance, it is considered that the application is unsupportable due to the impacts on the topography of the site, lack of consideration for the principles of sustainable development, and adverse impacts on residential amenity for future occupants of the proposed development.

Section 94 - Developer Contributions Plans

Development contributions apply to the subject proposal, however as the application is recommended for refusal, a condition of consent requiring their payment prior to the issue of a Construction Certificate is not recommended.

Conclusion

The proposed development as amended has been assessed in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The provision of a residential flat building is a permissible use under the site's R4 High Density Residential zoning. As the development application is for a residential flat building under the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, the application is provided for determination to the Penrith Local Planning Panel.

The bulk, scale and presentation of the building is considered an appropriate inclusion to Hope Street, maintaining an acceptable relationship to adjoining properties while providing for a positive inclusion alongside the existing streetscape, surrounding buildings and public places. The proposal is considered to be compliant with the Apartment Design Guide requirements in relation to setbacks, building separation, deep soil zones, communal open space and apartment size.

Notwithstanding these positive attributes, the proposal is deficient in that it does not meet the objective of the R4 zone to ensure a high level of residential amenity is achieved and maintained. The application has not adequately demonstrated that an acceptable level of amenity will be provided to future occupants in relation to solar access, and natural ventilation. The excessive excavation at the south eastern corner of the site and terraced nature of the private open space will provide little amenity for occupants of the ground floor units. In addition, it is unclear how the ground floor south eastern corner is to be treated following the removal of a unit previously in this location.

The proposal has provided for a height of building non compliance with the respective development standard under Clause 4.3 of the LEP, and it is considered that the application has not been accompanied by an acceptable 'Exception to Development Standards' variation request as required under Clause 4.6 of the Penrith LEP. It is also noted that were the design to be amended to reflect the existing topography of the site, the potential may exist for a higher set building form and further non-compliance with the desired building height control.

Noting the above, the proposed development has been assessed against the relevant heads of consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and on balance, has been found to be unsatisfactory. The amended application and supporting documentation is not considered to have provided an appropriate response to the deferral of determination by the Local Planning Panel as provided on 24 April, 2019. The site is unsuitable for the proposed development and the proposal in its current form is not considered to be in the public interest. The proposal is therefore recommended for refusal.

Recommendation

That DA17/1341 providing for the demolition of existing structures and construction of a six (6) storey residential flat building containing forty two (41) apartments and two (2) levels of basement car parking be refused subject to the attached reasons.

CONDITIONS

Refusal

1 X Special 02 (Refusal under Section 79C(1)(a)(i) of EPA Act 1979)
The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of Penrith Local Environmental Plan 2010 as follows:

(i) Clause 1.2 Aims of the plan - The proposal is inconsistent with the aims of the plan in relation to promotion of development consistent with Council's vision for Penrith, to meet the emerging needs of Penrith's communities while safeguarding residential amenity and ensuring that the development incorporates the principles of sustainable development.

(ii) Clause 2.3 Zone objectives - The proposal is inconsistent with the objectives of the R4 High Density Residential zone, particularly (a) The design of the proposed development does not ensure that a high level of residential amenity is achieved and maintained.

(iii) Clause 4.3 Height of buildings - The proposal exceeds the maximum building height standard for the subject site.

(iv) Clause 4.6 Exceptions to development standards - The proposal fails to satisfy the development standard for building height and the request for a variation to the development standard is not supported because the proposed development will not be in the public interest as it will not ensure a high level of residential amenity is achieved and maintained in accordance with the zone objectives.

(v) Clause 7.4 Sustainable development - The proposal does not demonstrate that the principles of sustainable development have been appropriately incorporated into the design.

2 X Special 03 (Refusal under Section 79C(1)(a)(i) of EPA Act 1979)
The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development as follows:

(i) Clause 30(2)(a) - compliance with the design quality principles specified in the Apartment Design Guide:
- Principle 1: Context and Neighbourhood Character
- Principle 3: Density
- Principle 4: Sustainability
- Principle 5: Landscape
- Principle 6: Amenity
- Principle 9: Aesthetics

(ii) Clause 30(2)(b) - compliance with the objectives specified in the Apartment Design Guide:
- 3C Public domain interface
- 4A Solar and daylight access
- 4B Natural ventilation
- 4E Private open space and balconies
- 4F Common circulation and spaces
- 4U Energy efficiency

3 X Special 04 (Refusal under Section 79C(1)(a)(iii) of EPA Act 1979)
The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979,* as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:

(i) The application has not satisfied Council with respect to the requirements under Part B - 'DCP Principles', specifically:
- The proposal does not recognise and protect the intrinsic value of natural systems, and the proposal does not minimise its ecological footprint or promote sustainable production and consumption.

(ii) The application has not satisfied Council with respect to the requirements under Section C1 'Site Planning and Design Principles', specifically:
- The proposal does not adequately respond to the natural topography of the site or attempted to minimise site disturbance.

(iii) The application has not satisfied Council with respect to the requirements under Section C4 'Land Management', specifically:
- Excavation of the site exceeds 1m from the natural ground level and extensive retaining walls are proposed to manage the cut.

(iv) The application has not satisfied Council with respect to the requirements under Section D2 'Residential Development', specifically:
- Clause D2.5.8 The building design does not ensure tat overlooking problems are minimised for the eastern elevation between ground and first floor units.
- Clause D2.5.13 The building design does not promote cross-ventilation standards.
- Clause D2.5.14 The design of ground floor courtyards includes terraces higher than 1.5m above ground level.
- Clause D2.5.18 Retaining walls are greater than 500mm.
- Clause D2.5.19 The design does not ensure that the safety and security of occupants is able to be maintained.

4 X Special 06 (Refusal under Section 79C(1)(a)(iv) of EPA Act 1979)
The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the regulations as follows:

(i) Schedule 1 Forms of the *Environmental Planning and Assessment Regulation 2000* requires a BASIX Certificate to be submitted that reflects the amended proposal.

5 X Special 07 (Refusal under Section 79C(1)(b) of EPA Act 1979)
The development application is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of that development including those related to:

(i) Solar access,

(ii) Excavation and terraces,

(iii) Environmental sustainability, and

(iv) Overlooking from elevated private open space areas to first floor units.

6 X Special 08 (Refusal under Section 79C(1)(c) of EPA Act 1979)
The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the grade and orientation of the site is not suitable for the proposed development.

7 X Special 10 (Refusal under Section 79C(1)(e) of EPA Act 1979)
The application is not satisfactory for the purpose of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979,* as the proposal is not in the public interest.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposal is contrary to the principles, commitments and objectives of the DCP, specifically as follows:

Principle 3: Recognise the intrinsic value of biodiversity and natural ecosystems, and protect and restore them.

The design of the development is not considered to be site responsive in that a significant excavation is maintained at the eastern side of the building is proposed. The cut creates ground floor units that are largely sited below natural ground level, in effect providing for subterranean levels, limiting solar access, cross-ventilation and providing for undersized and poor functioning private open space areas.

Principle 4: Enable communities to minimise their ecological footprint.

The proposed development does not provide for adequate solar access or cross-ventilation, as described in the SEPP 65 section of this report. This will inhibit the ability of future occupants to naturally regulate temperatures and increase reliance on artificial heating and cooling.

Part C - City-wide Controls

C1 Site Planning

Clause C1.2.4 of the DCP specifies the following:

a) Applicants must demonstrate how the development responds to the natural topography and landform of the site based on analysis drawings.
b) Any built form should be located, oriented and designed to minimise excavation, cut and fill in accordance with the requirements of the Land Management Section of this Plan.
c) The built form should respond to the natural topography by:
i) Avoiding steep slopes for buildings;
ii) Aligning the built form with the contours; and
iii) Utilising split level design on gentler slopes.

It is considered that the applicant has not adequately responded to the natural landform or attempted to minimise excavation of the site as the development includes a proposal to excavate up to a maximum of 1.8m alongside unit 4 for instance. The removal of the unit previously located on the ground floor at the south eastern corner of the building will also create a large retaining wall to be provided adjoining the southern side of the patio for unit 4 which is not an acceptable design solution. The built form does not incorporate a split level design to assist in reducing the impact of the cut and to allow for finished levels in line with the existing contours of the subject site.

C4 Land Management

Clause 4.1(B)(4) Limitations on Earthworks includes controls to limit cut and fill on development sites, including:

a) Earthworks to create a building platform shall not be undertaken where excavation and/or filling would exceed 1m from the existing natural ground level of the site.
b) On sloping sites, site disturbance is to be minimised by using split level or pier foundation building designs.
c) All retaining walls proposed for the site are to be identified in the development application for the proposed development. Retaining walls are to be kept to a minimum to reduce earthworks. Use of materials that complement the natural environment is encouraged.
d) During any earthworks, any topsoil should be preserved on site for re-use and should be stockpiled and covered to avoid dust or loss of topsoil. Refer to the Landscape Design Section of this Plan for controls on stockpiling topsoil on site.

Notwithstanding the basement construction, the proposed development includes excavation exceeding the 1m maximum cut. No attempt has been made to minimise site disturbance in the building design. Extensive retaining walls are proposed to manage the cut, and these retaining walls incorporate between 7 to 11 stairs for ground floor units to access the proposed upper levels as extended private courtyards. The number of stairs from the proposed ground level private open space to access what will become the upper level private open space, but is in fact the existing ground level, further illustrates the unresponsive nature of the building design.

C10 Transport, Access and Parking

The following on-site car parking rate is required to be provided in relation to the proposed residential flat building development;

Land Use Element	***Parking Rate***	***Required***
Residential Flat Buildings	1 space per 1 or 2 bedrooms	35
	2 spaces per 3 or more bedrooms	12
	1 space per 40 units for service vehicles	1
	Visitor parking: 1 space per 5 dwellings	8.2 1
	1 space for car washing for every 50 units	
Total Required		***57.2 spaces***

It is noted that the application is compliant with the required car parking rate, via the provision of a total of 62 parking spaces over two basement levels. These parking spaces have also included a designated car wash bay, service vehicle bay and five accessible car parking spaces associated with the provision of adaptable apartments. In this regard, it is considered that adequate parking facilities are provided to cater for future occupants and visitors of the proposed apartments. It is also noted that the application was referred to Council's Traffic Engineering Section who raised no objection to the application subject to the provision of appropriate conditions with any development consent granted.

D2 Residential Development

The proposal has been assessed against the applicable provisions of this section and is found to be generally acceptable. Particular clauses which have provided for non compliances or relevant discussion points are identified below:

Clause D2.5.5 Landscaped Area

Clause D2.5.5 Landscaped Area of the DCP provides the following development control in relation to landscaped area for a R4 High Density Residential in which the subject site is located;

Zone: R4 High Density Residential
Minimum Landscaped area % of the site: 35%

In addition to the above, landscaped areas are to have a minimum width of 2m, with no basement encroachment, may include terraces and patios located no higher than 0.5m above ground and pedestrian pathways to building and dwelling entrances but does not include substantially-paved areas such as buildings, driveways and covered garages. Noting these controls, an assessment of the provided plans has identified that with a site area of 1,894m^2, a total of 663m^2 landscaping area is required. While so, only 594m^2 (31% of the total site area) landscaping area is considered to have been provided with the proposal and is therefore non

compliant by 69m2.

While it is acknowledged that the proposal is non compliant, it is noted that the proposal has provided for a compliant deep soil zone, building separations to the boundaries as well as a compliant communal open space to the rooftop level. In this regard, it is considered that the proposal has provided for a good use of landscaping opportunities and noting that the deep soil and communal open space areas are in accordance with the Apartment Design Guide, the variation of this control in this instance is considered acceptable.

Clause D2.5.6 Front Setback

Clause D2.5.6 Front and Rear Setbacks within the DCP provides the following development control in relation to front setbacks:

Determine an appropriate front setback:

a) either average the setbacks of the immediate neighbours; or
b) 5.5m minimum whichever is the greater dimension.

The existing setbacks of the adjoining dwellings is 5.5m (32 Hope Street) and 6.7m (24 Hope Street) which provides an average of 6.1m. The development provides a 6m front setback which is considered consistent with the immediate neighbours.

Clause D2.5.8 Visual and Acoustic Privacy and Outlook

Clause D2.5.8 includes the following objective:

c. To ensure that building design minimises overlooking problems.

The proposal has provided for subterranean floor levels for units 3 and 4 on the ground level and consequential terraced private open space areas below and in line with the existing natural ground level. Users of these private open space areas are considered to create the potential for amenity loss to units to level 1 above, in particular for units 9 and 10, noting the location of balconies fronting this side, and vice versa for users of the ground floor private open space areas. This design feature creates a scenario where the finished levels for level 1 along the eastern elevation are only 1.3m above the existing natural ground level. The amenity for future occupants to units 3 and 4 on the ground floor as well as units 9 and 10 on the first floor are not considered to have been appropriately maintained.

Clause D2.5.13 Energy Efficiency

Clause D2.5.13 Energy Efficiency includes the following controls:

1) Adopt a configuration for dwellings that promotes cross-ventilation:
a) corner apartments with two external walls;
b) apartments that sit between two opposite external walls.

Minimum cross-ventilation standards specified in the ADG have not been achieved as discussed earlier in this report.

Clause D2.5.14 Design of Dwellings and Private Courtyards

Clause D2.5.14 Design of Dwellings and Private Courtyards includes the following control:

2) A reasonable area of private open space should be provided for each dwelling:
a) for dwellings at ground level:
i) a minimum of 20m²;
ii) as courtyards at ground level; and / or
iii) terraces located not higher than 1.5m above ground level; and

Ground level units as proposed do not comply with the control due to terraces greater than 1.5m above ground level for units 3 and 4.

Clause D2.5.18 Fences and Retaining Walls

Clause D2.5.18 Fences and Retaining Walls in the DCP requires that fences shall be no taller than 1.8m generally and walls of solid construction and taller than 1.2m shall be of see through construction. Retaining walls are identified as being no taller than 500mm.

An assessment of the provided plans has identified the provision of a front fence also serving as the boundary to private open space for ground floor Hope Street facing apartments. This fencing is to be provided as a horizontal colorbond fence with open spacing, measuring to a maximum height of 1.8m in line with the contours of the subject sites frontage. Noting the open nature of this fencing, the design is therefore compliant.

Retaining walls are proposed to the courtyard areas of all ground floor units. While the height is not noted on the plans, they will exceed 500mm based on the degree of cut proposed. The ability to maintain landscaping on the upper terraced levels and the safety of those accessing those parts of the private open space is therefore not considered an appropriate design solution.

Clause D2.5.19 Safety and Security

The objective of this clause is as follows:

Achieve a high level of passive security within and surrounding dwellings.

The landscaped area at the rear of the building is able to be accessed by a set of stairs to the west of the waste bay. This also gives persons access to the eastern elevation, and due to the existing ground levels and relationship to finished floor levels for the ground and level 1 of the building, it is considered that there is a higher risk to safety for future occupants of units 4 and 10 in particular.

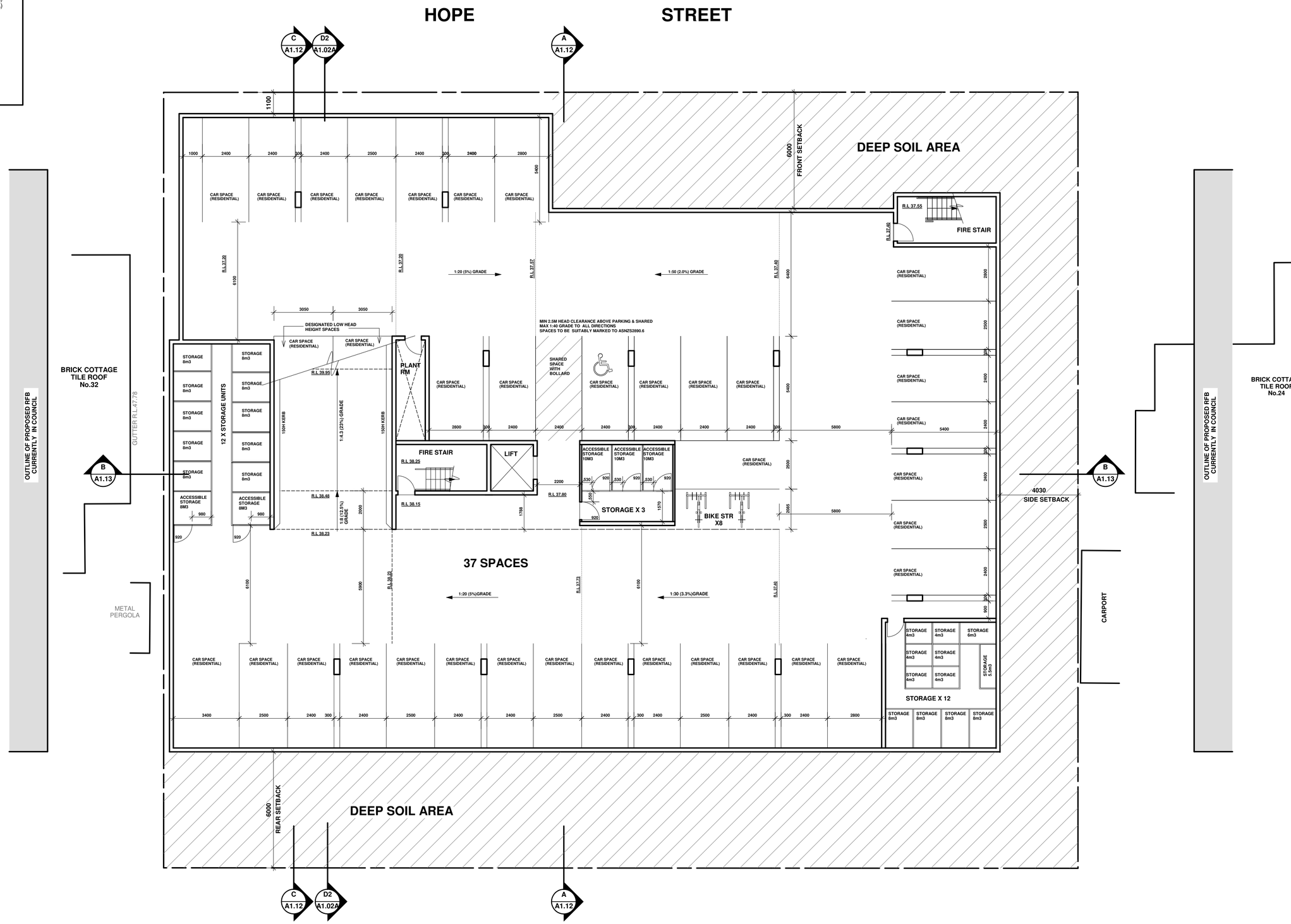
Clause D2.5.20 Accessibility and Adaptability

Clause D2.5.20 of the DCP specifies that '*10% of all dwellings or a minimum one dwelling, whichever is greater, must be designed in accordance with the Australian Adaptable Housing Standard (AS4299-1995), to be capable of adaptation for people with a disability or elderly residents'.*

The proposal includes 41 units, including 5 adaptable units. To meet the control a minimum of 5 adaptable units are required.

SITE CALCULATIONS

SITE AREA:	1894.4sqm
LANDSCAPED/DEEP SOIL AREAS:	
LANDSCAPED AREA AT REAR:	476sqm
LANDSCAPED AREA AT FRONT:	193sqm
TOTAL LANDSCAPED AREA:	669sqm (35% OF TOTAL SITE AREA)
REQUIRED AREA:	663sqm (35% OF TOTAL SITE AREA)
ROOF COMMUNAL:	478sqm
CAR PARKING:	
VISITOR:	10
RESIDENT:	51(INCLUDES 5 ACCESSIBLE)
SERVICE VEHICLE:	1
TOTAL REQUIRED:	58
TOTAL PROVIDED:	62
BIKE PARKING:	16



PROPOSED LOWER BASEMENT

Scale: 1:100

DATE	REV	AMENDMENTS
25.10.18	B	AMENDED BASEMENT LAYOUT
11.04.18	A	DA ISSUE
08.11.17	-	DRP ISSUE

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
2. BUILDER TO CHECK AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
3. IT IS THE OWNERS RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBSOIL CONDITIONS & DESIGNED ALL STRUCTURAL ELEMENTS TO SUIT.
4. THE INFORMATION CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFIDENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORISED BY

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APPLICATION PREPARED BY: MARK MAKHOUL
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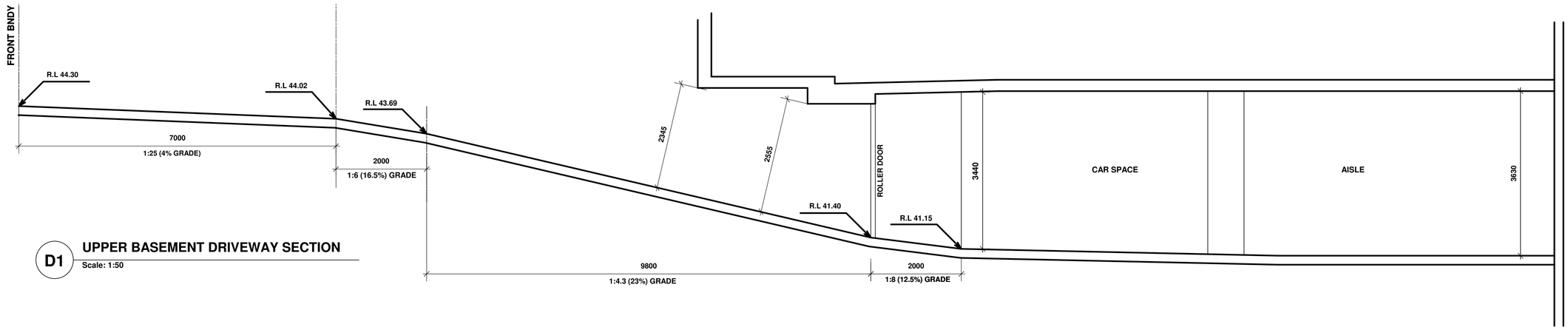
E-mail: mark@build-design.com.au
NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH
TITLE:	LOWER BASEMENT PLAN
SCALE :	A1 @ 1:100
DRAWN :	MM
DATE :	AUG 2017
CHECKED :	MS
REV :	B
PROJECT No.	201727
DWG No.	A1.02

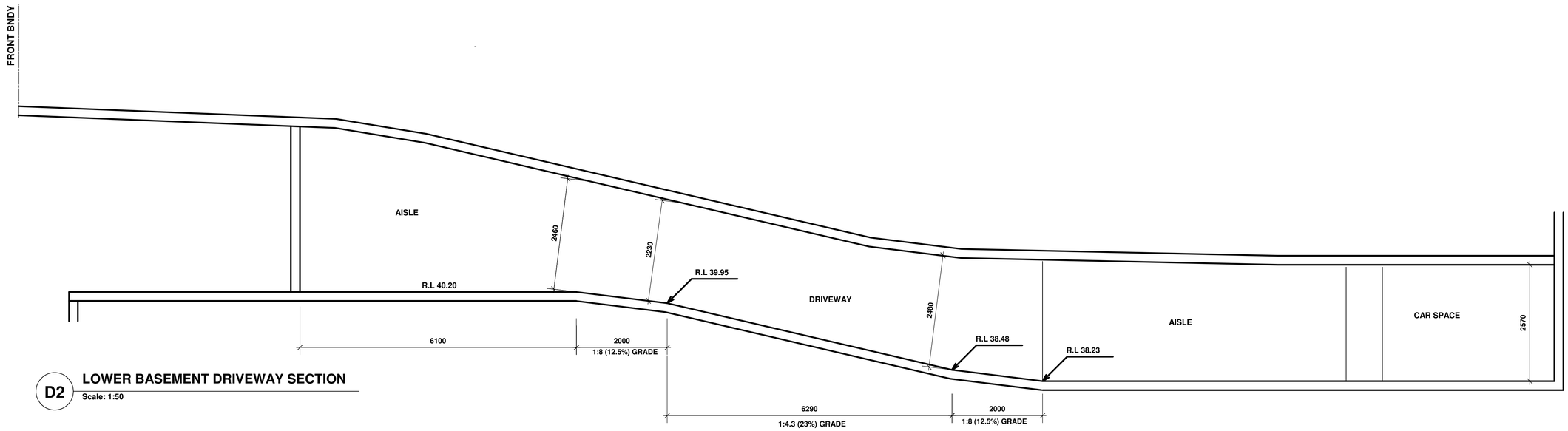
T.N M.M

Document Set ID: 8725584
Version: 1, Version Date: 06/06/2019



D1 UPPER BASEMENT DRIVEWAY SECTION

Scale: 1:50



D2 LOWER BASEMENT DRIVEWAY SECTION

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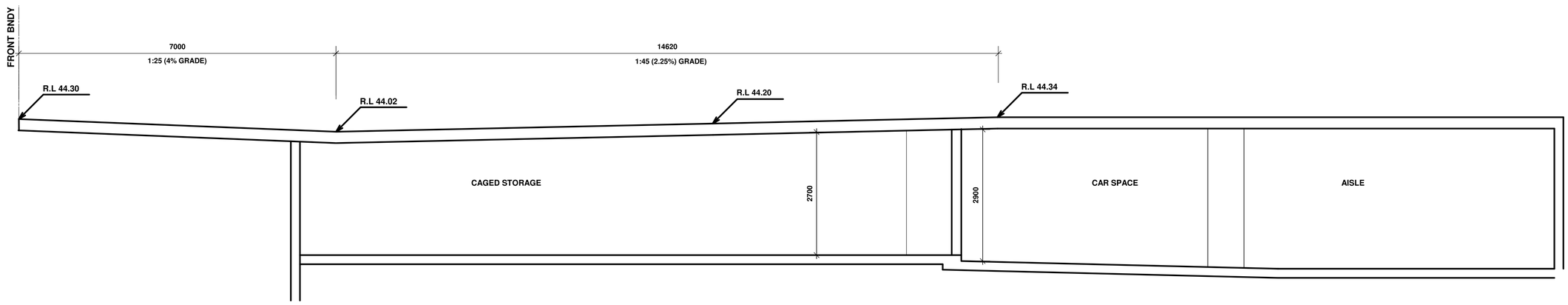

D3 GARBAGE TRUCK DRIVEWAY SECTION

Scale: 1:50

DATE	REV	AMENDMENTS
25.09.18	B	AMENDED DRIVEWAY PROFILES

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
2. BUILDER TO CHECK AND VERIFY ALL DIMENSIONS & LEVELS PRIOR TO COMMENCEMENT OF WORK.
3. IT IS THE OWNERS RESPONSIBILITY TO ENSURE THAT THE ENGINEER HAS INVESTIGATED SUBSOIL CONDITIONS & DESIGNED ALL STRUCTURAL ELEMENTS TO SUIT.
4. THE DESIGNS & DETAILS CONTAINED ON THIS DRAWING ARE SUPPLIED IN CONFIDENCE & ARE NOT TO BE USED FOR ANY OTHER PURPOSE EXCEPT THAT AUTHORISED BY

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PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH		
TITLE:	BASEMENT DRIVEWAY SECTIONS		
SCALE :	A1 @ 1:50	DRAWN :	MM
DATE :	AUG 2017	CHECKED :	REV : B
PROJECT No.	201727	DWG No.	A1.02A

T.N M.M

SITE CALCULATIONS

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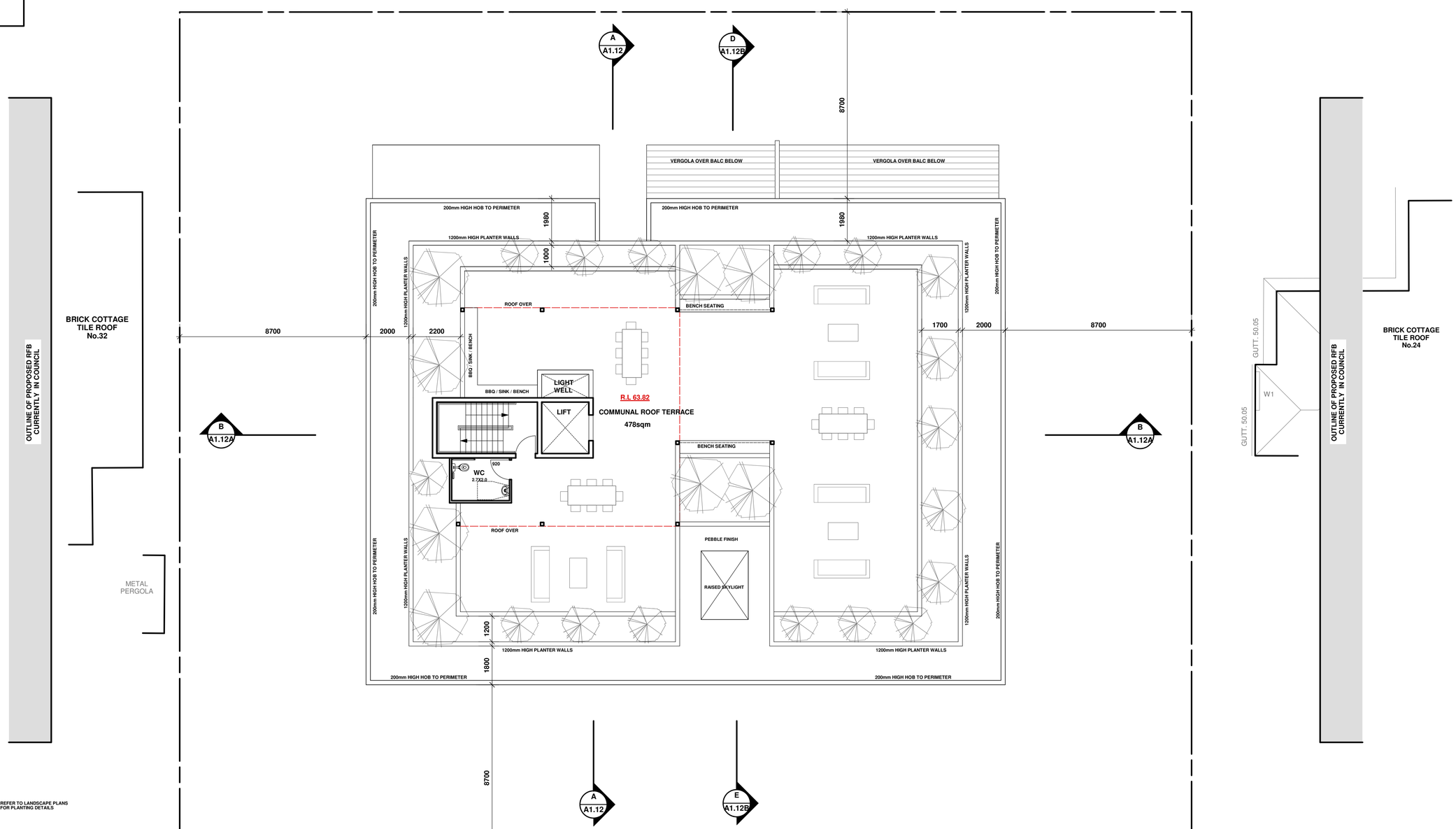
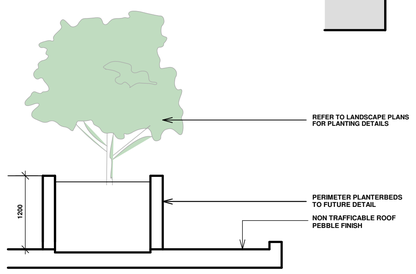
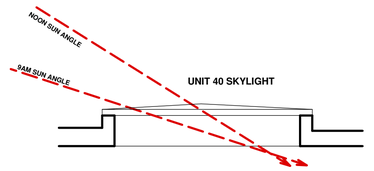
ROOF COMMUNAL:	478sqm
CAR PARKING:	
VISITOR:	10
RESIDENT:	51(INCLUDES 5 ACCESSIBLE)
SERVICE VEHICLE:	1
TOTAL REQUIRED:	58
TOTAL PROVIDED:	62
BIKE PARKING:	16





TYPICAL PLANTER DETAIL
Scale: 1:50

PROPOSED ROOF TERRACE PLAN
Scale: 1:100



UNIT 40 SKYLIGHT DETAIL
Scale: 1:50

DATE	REV	AMENDMENTS
09.05.19	C	DELETED PERGOLA & AMENDED SKYLIGHT DETAIL
25.10.18	B	AMENDED ROOF PLAN
11.04.18	A	DA ISSUE

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
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BUILDING DESIGN & TECHNOLOGY Pty Ltd
APPLICATION PREPARED BY: MARK MAKHOUL
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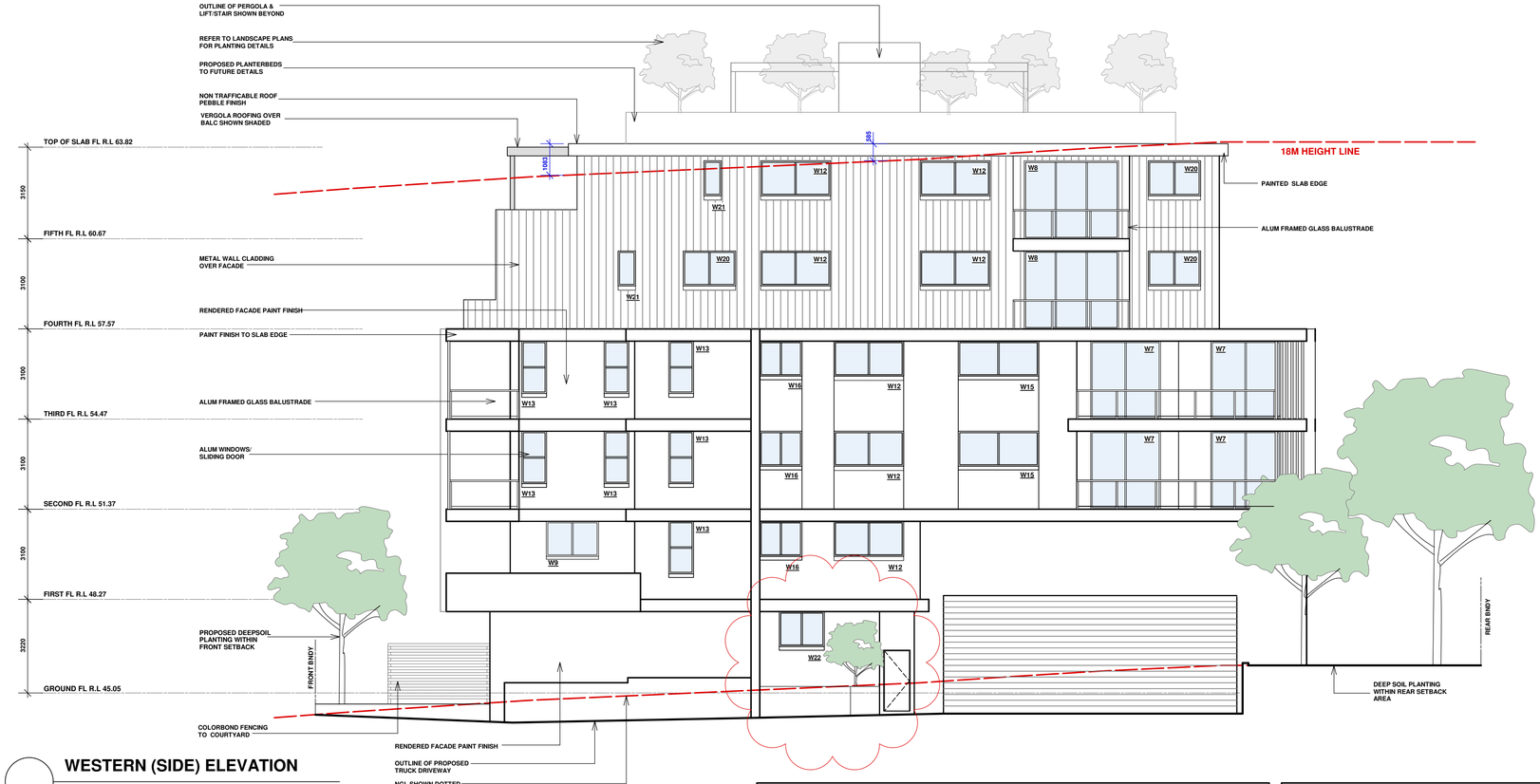
PO Box 795 Kings Langley NSW 2147
Ph: 02 9687 0814 Mob: 0412 109 759
E-mail: mark@build-design.com.au
NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH
TITLE:	PROPOSED ROOF TERRACE PLAN
SCALE :	A1 @ 1:100, 1:50
DRAWN :	MM
DATE :	AUG 2017
CHECKED :	MS
REV :	C
PROJECT No.	201727
DWG No.	A1.09

T.N M.M

SOUTHERN (REAR) ELEVATION

Scale: 1:100



WESTERN (SIDE) ELEVATION

Scale: 1:100

FINISHES LEGEND

MAIN WALL COLOUR PAINTED FINISH
= DULUX LIMED WHITE OR SIMILAR

SECONDARY WALL COLOUR PAINT FINISH
= DULUX WHITE WATSONIA OR SIMILAR

METAL CLADDING COLORBOND MONUMENT OR SIMILAR

WINDOWS = POWDERCOAT MONUMENT

BATTEN SCREENS = TIMBER FINISH

DRIVEWAYS / PATHS
= COLORBOND SHALE GREY

COLORBOND FENCING = MONUMENT

DULUX WHITE WATSONIA

COLORBOND MONUMENT

DULUX LIMED WHITE

WINDOW SCHEDULE

WINDOW NO	WIDTH	HEIGHT	TOTAL	TYPE
1	1800	1550	9	SLIDING WINDOW
2	2400	2800	9	SLIDING DOOR
3	3250	2800	6	SLIDING DOOR
4	2400	1550	20	SLIDING WINDOW
5	2200	2800	1	HINGED DOOR & SIDELITE
6	1580	2400	1	DELETED
7	2400	2680	33	SLIDING DOOR
8	3250	2680	29	SLIDING DOOR
9	1800	1200	4	SLIDING WINDOW
10	2400	850	3	SLIDING WINDOW
11	600	850	3	AWNING WINDOW
12	2400	1200	11	SLIDING WINDOW
13	850	1200	5	DOUBLE HUNG
14	1800	1800	5	SLIDING WINDOW
15	2770	1200	2	SLIDING WINDOW
16	1400	1400	3	SLIDING WINDOW
17	4210	2680	6	SLIDING DOOR
18	1200	1800	2	DOUBLE HUNG
19	730	2150	4	DOUBLE HUNG
20	1800	1200	3	SLIDING WINDOW
21	600	1200	2	AWNING WINDOW
22	1550	1200	1	SLIDING WINDOW
			161	

DATE	REV	AMENDMENTS
09.05.19	D	AMENDED ELEVATIONS TO SUIT PLAN CHANGES
08.04.19	C	AMENDED GROUND FLOOR TO SUIT PLAN CHANGES

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E-mail: mark@build-design.com.au

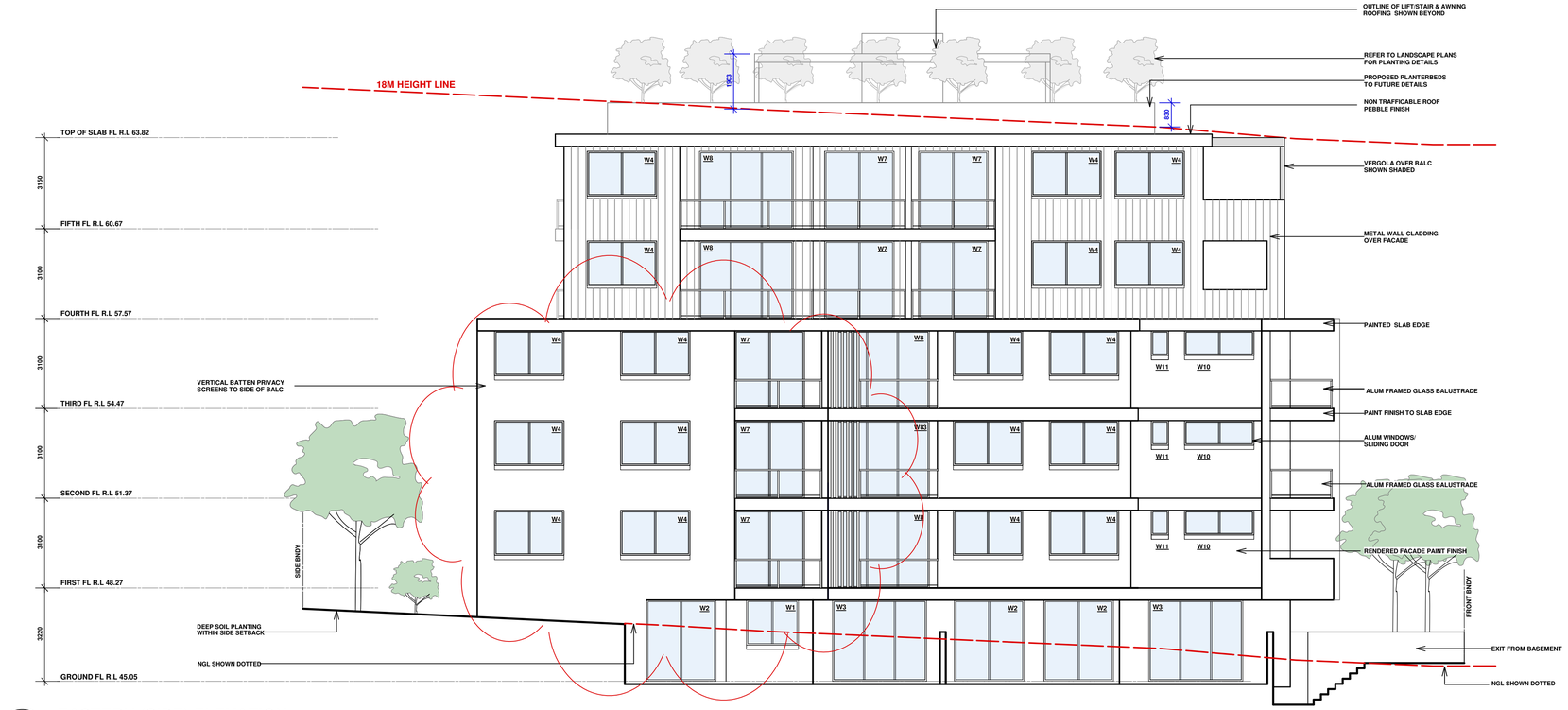
PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH
TITLE:	ELEVATIONS 2 (SOUTH & WEST)
SCALE :	A1 @ 1:100
DRAWN :	MM
DATE :	AUG 2017
CHECKED :	
REV :	D
PROJECT No.	201727
DWG No.	A1.11

T.N M.M

Document Set ID: 8725584
Version: 1, Version Date: 06/06/2019

NORTHERN (FRONT) ELEVATION

Scale: 1:100



EASTERN (SIDE) ELEVATION

Scale: 1:100

FINISHES LEGEND

MAIN WALL COLOUR PAINTED FINISH = DULUX LIMED WHITE OR SIMILAR

SECONDARY WALL COLOUR PAINT FINISH = DULUX WHITE WATSONIA OR SIMILAR

METAL CLADDING COLORBOND MONUMENT OR SIMILAR

WINDOWS = POWDERCOAT MONUMENT

BATTEN SCREENS = TIMBER FINISH

DRIVEWAYS / PATHS = COLORBOND SHALE GREY

COLORBOND FENCING = MONUMENT

COLORBOND MONUMENT

DULUX LIMED WHITE

DULUX WHITE WATSONIA

WINDOW SCHEDULE

WINDOW NO	WIDTH	HEIGHT	TOTAL	TYPE
1	1800	1550	9	SLIDING WINDOW
2	2400	2800	9	SLIDING DOOR
3	3250	2800	6	SLIDING DOOR
4	2400	1550	20	SLIDING WINDOW
5	2200	2800	1	HINGED DOOR & SIDELITE
6	1580	2400	1	DELETED
7	2400	2680	33	SLIDING DOOR
8	3250	2680	29	SLIDING DOOR
9	1800	600	4	SLIDING WINDOW
10	2400	850	3	SLIDING WINDOW
11	600	850	3	AWNING WINDOW
12	2400	1200	11	SLIDING WINDOW
13	850	1200	5	DOUBLE HUNG
14	1800	1800	5	SLIDING WINDOW
15	2770	1200	2	SLIDING WINDOW
16	1400	1400	3	SLIDING WINDOW
17	4210	2680	6	SLIDING DOOR
18	1200	1800	2	DOUBLE HUNG
19	730	2150	4	DOUBLE HUNG
20	1800	1200	3	SLIDING WINDOW
21	600	1200	2	AWNING WINDOW
22	1550	1200	1	SLIDING WINDOW
			161	

DATE	REV	AMENDMENTS
09.05.19	D	AMENDED GROUND FLOOR TO SUIT PLAN CHANGES
08.04.19	C	AMENDED GROUND FLOOR TO SUIT PLAN CHANGES

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PROJECT : PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH

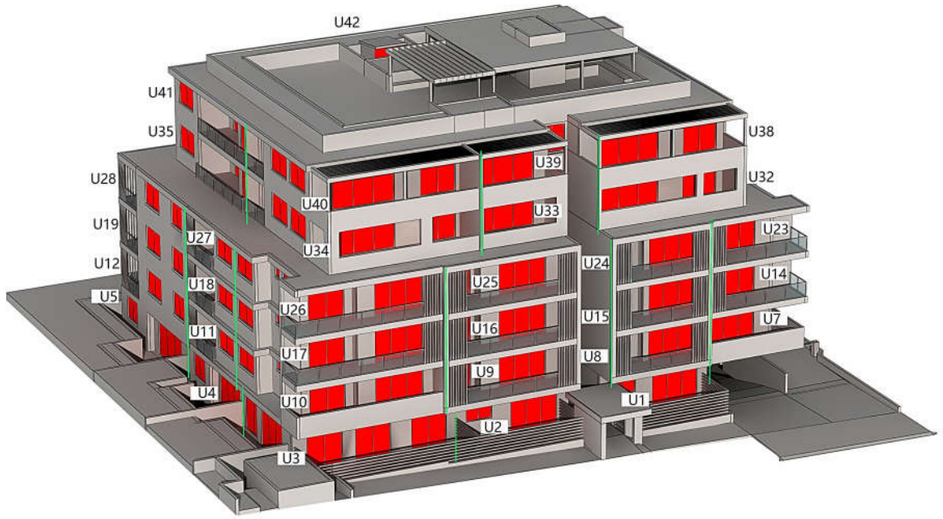
TITLE: ELEVATIONS 1 (NORTH & EAST)

SCALE : A1 @ 1:100 DRAWN : MM

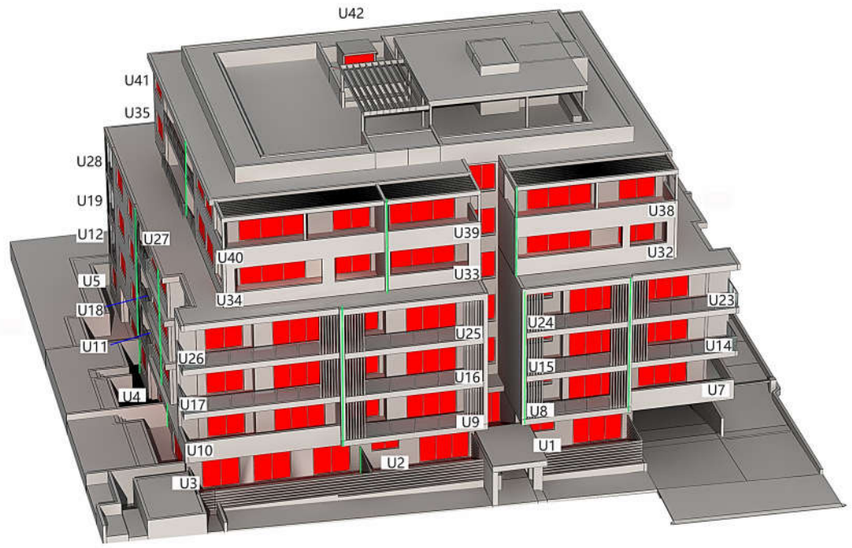
DATE : AUG 2017 CHECKED : MS REV : D

PROJECT No. 201727 DWG No. A1.10

T.N M.M



9AM-VIEW FROM THE SUN



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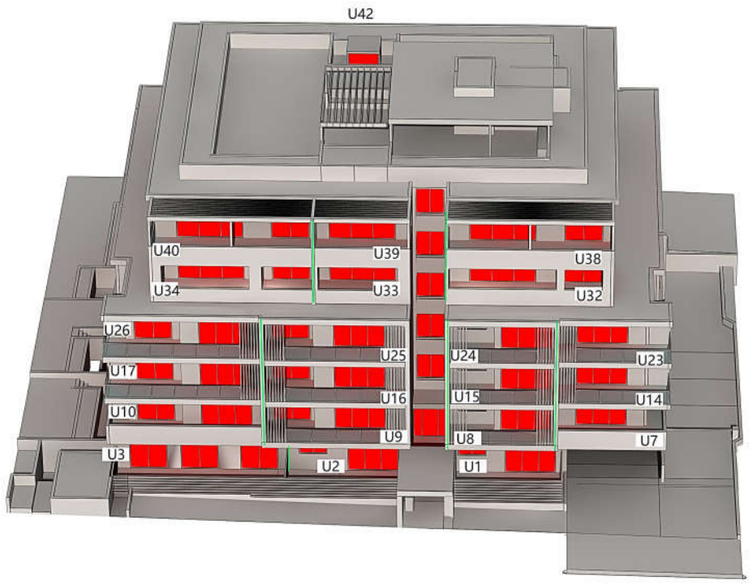
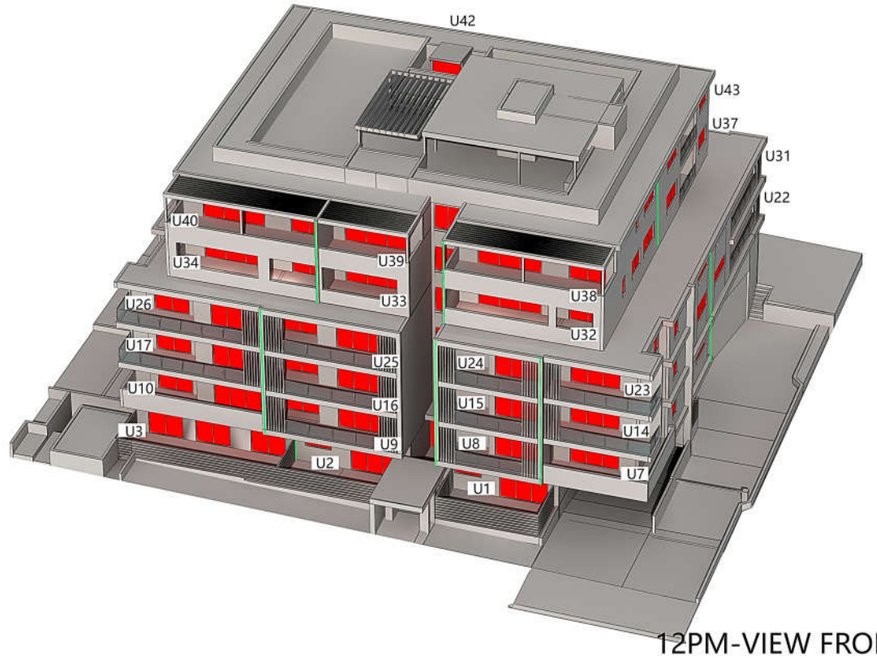


11AM-VIEW FROM THE SUN



12PM-VIEW FROM THE SUN

DATE	REV	AMENDMENTS
25.10.18	A	DA ISSUE

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
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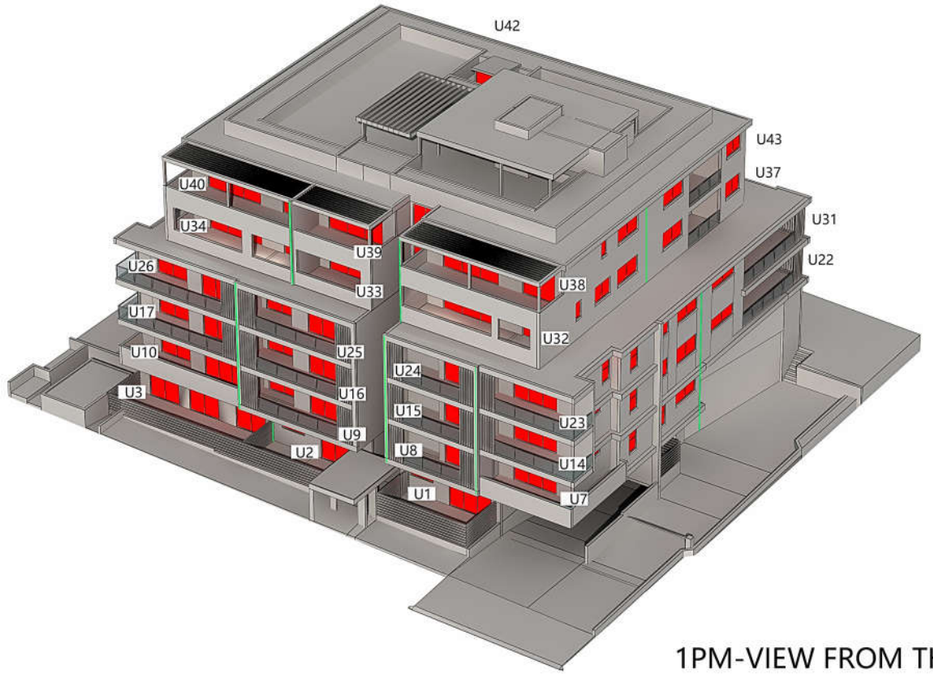
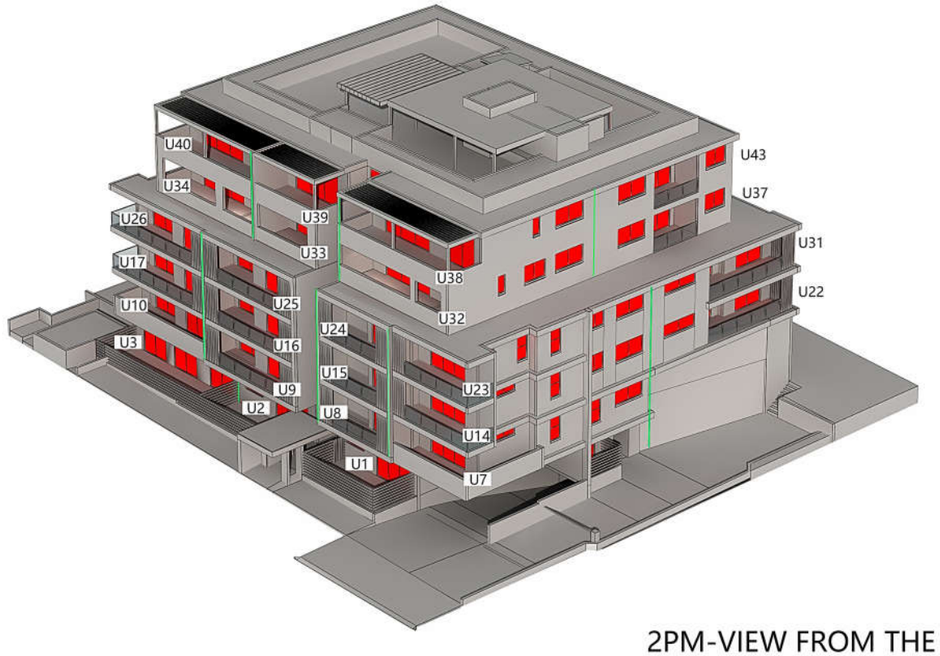
E-mail: mark@build-design.com.au
NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH			
TITLE:	9AM-NOON SUN VIEWS			
SCALE :	A1 @ NTS	DRAWN :	MM	
DATE :	OCT 2018	CHECKED :	MS	REV : A
PROJECT No.	201727	DWG No.	A1.13B	

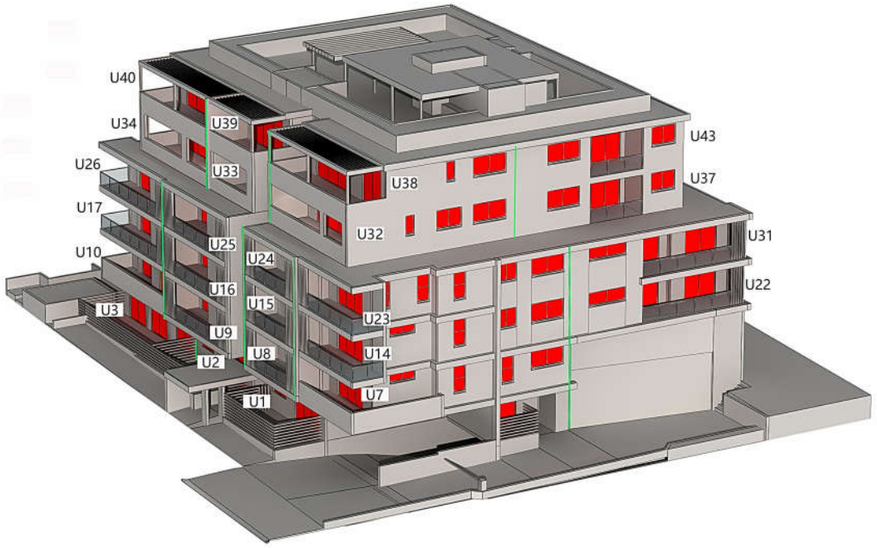
T.N M.M



1PM-VIEW FROM THE SUN



2PM-VIEW FROM THE SUN



3PM-VIEW FROM THE SUN

DATE	REV	AMENDMENTS
25.10.18	A	DA ISSUE

1. DO NOT SCALE FROM DRAWING, USE WRITTEN DIMENSIONS ONLY
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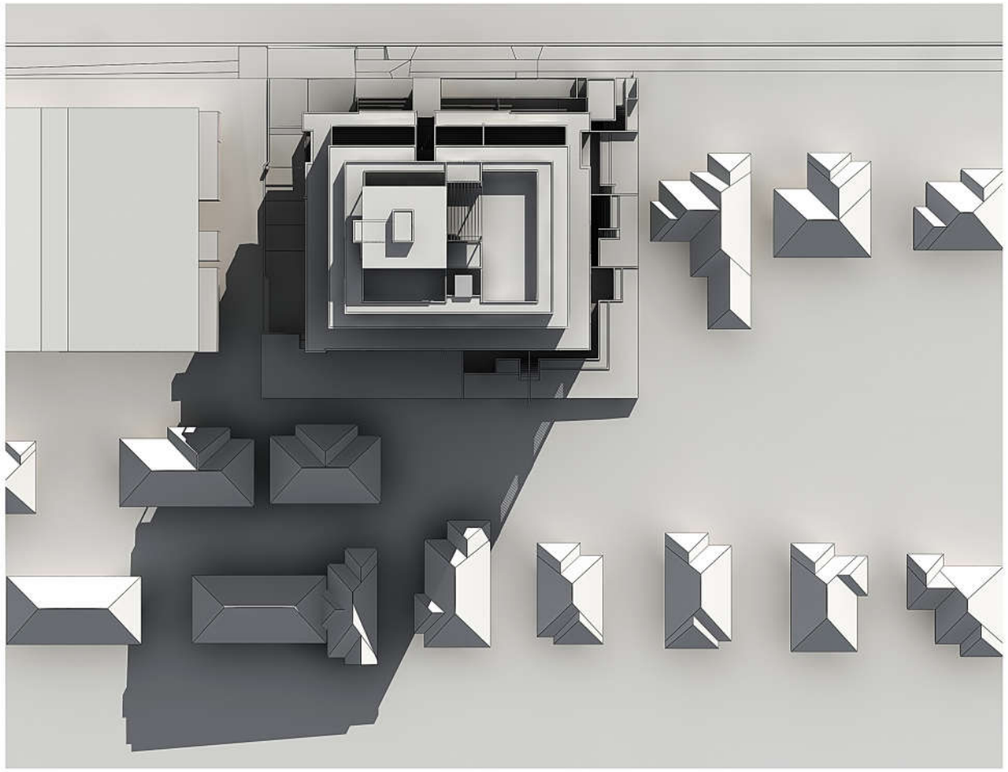
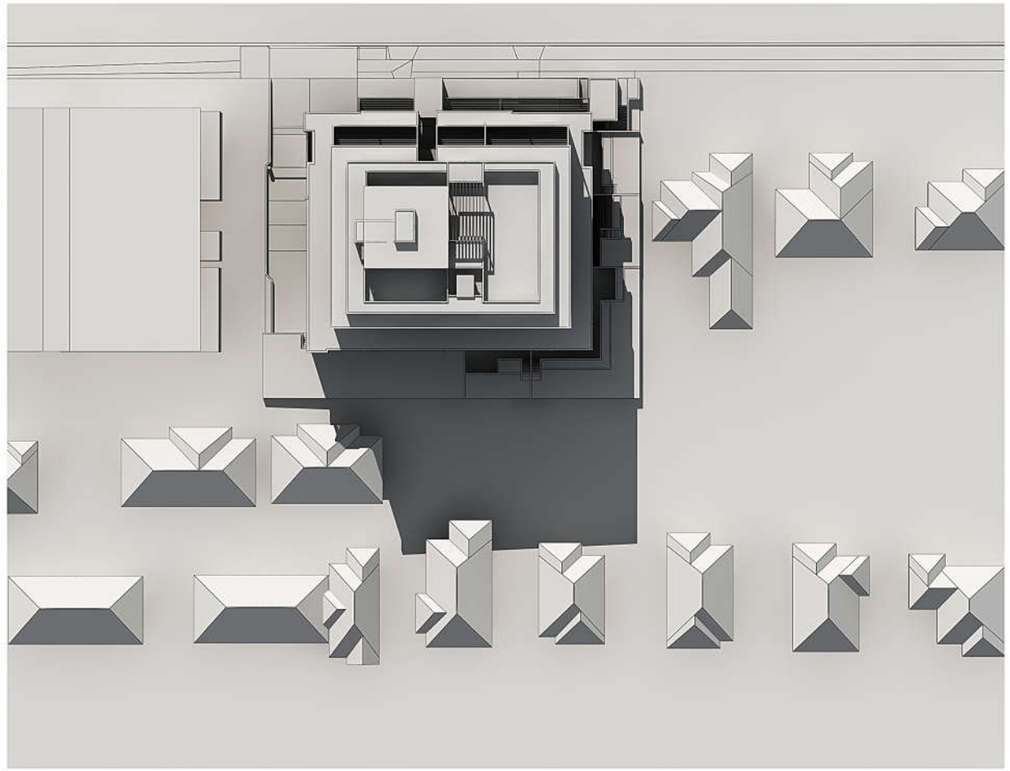
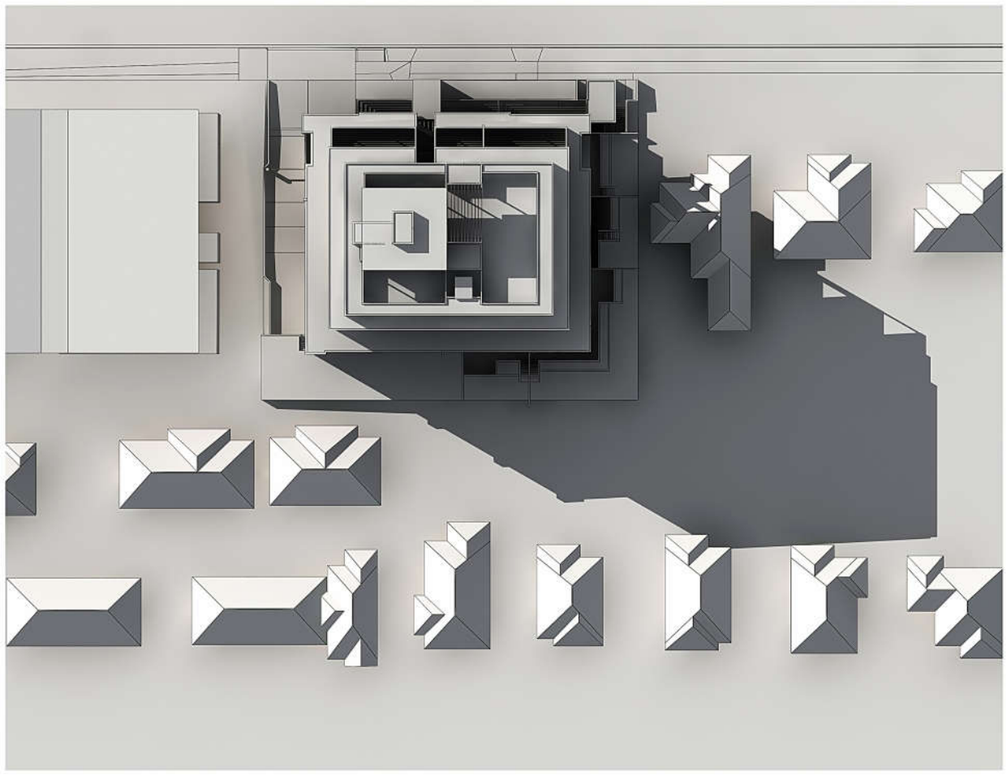
E-mail: mark@build-design.com.au
NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH			
TITLE:	1PM-3PM SUN VIEWS			
SCALE :	A1 @ NTS	DRAWN :	MM	
DATE :	OCT 2018	CHECKED :	MS	REV : A
PROJECT No.	201727	DWG No.	A1.13C	

T.N M.M







1	2
3	

1. 9am June 21 Winter Shadows
2. Noon June 21 Winter Shadows
3. 3pm June 21 Winter Shadows

DATE	REV	AMENDMENTS
25.10.18	B	AMENDED DA ISSUE
11.04.18	A	DA ISSUE

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NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT : **PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH**

TITLE: **JUNE 21 WINTER SHADOW PLAN**

SCALE :	A1 @ 1:300	DRAWN :	MM
DATE :	AUG 2017	CHECKED :	MS REV : B
PROJECT No.	201727	DWG No.	A1.15

T.N M.M

PROPOSED RESIDENTIAL FLAT BUILDING 26-30 HOPE ST PENRITH FINISHES SCHEDULE

TIMBER SCREENING

1.TIMBER SCREENING

HANDRAILING/ WALL CLADDING, WINDOWS & COURTYARD FENCING

2.COLORBOND MONUMENT

MAIN EXTERNAL FAÇADE

3. DULUX LIMED WHITE

SECONDARY EXTERNAL FAÇADE

4. DULUX WHITE WATSONIA

GROUND FLOOR FEATURE WALLS

5. SANDSTONE CLADDING

TOP FLOOR CLADDING

6. METAL WALL CLADDING

DATE	REV	AMENDMENTS
25.10.18	A	DA ISSUE

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E-mail: mark@build-design.com.au
NOMINATED ARCHITECT: MARTHA STRANGAS REG 6980

PROJECT:	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH		
TITLE:	FINISHES SCHEDULE		
SCALE:	A3 @ NTS	DRAWN:	MM
DATE:	AUG 2017	CHECKED:	MS REV: A
PROJECT No.	201727	DWG No.	A1.16

T.N M.M

North Elevation

West Elevation

South Elevation

East Elevation

3D View

25.10.18	B	AMENDED DA ISSUE
11.04.18	A	DA ISSUE
DATE	REV	AMENDMENTS

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NOMINATED ARCHITECT: MARTHA STRANGAS REG 6900

PROJECT :	PROPOSED UNIT DEVELOPMENT LOCATED AT 26-30 HOPE ST PENRITH		
TITLE:	SIDE ELEVATION HEIGHT LINES		
SCALE :	A1 @ NTS	DRAWN :	MM
DATE :	AUG 2017	CHECKED :	MS REV : B
PROJECT No.	201727	DWG No.	A1.11B

T.N M.M

Clause 4.6 Variation: Building Height

LOT CONSOLIDATION, DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A 6 STOREY RESIDENTIAL FLAT DEVELOPMENT CONTAINING AT 26-30 HOPE STREET, PENRITH

Prepared by: Think Planners Pty Ltd
Document Date: 30 May 2019
Consent Authority: Penrith City Council

QUALITY ASSURANCE

PROJECT: Statement of Environmental Effects – 6 Storey RFB

ADDRESS: 26-30 Hope Street, PENRITH

COUNCIL: Penrith City Council

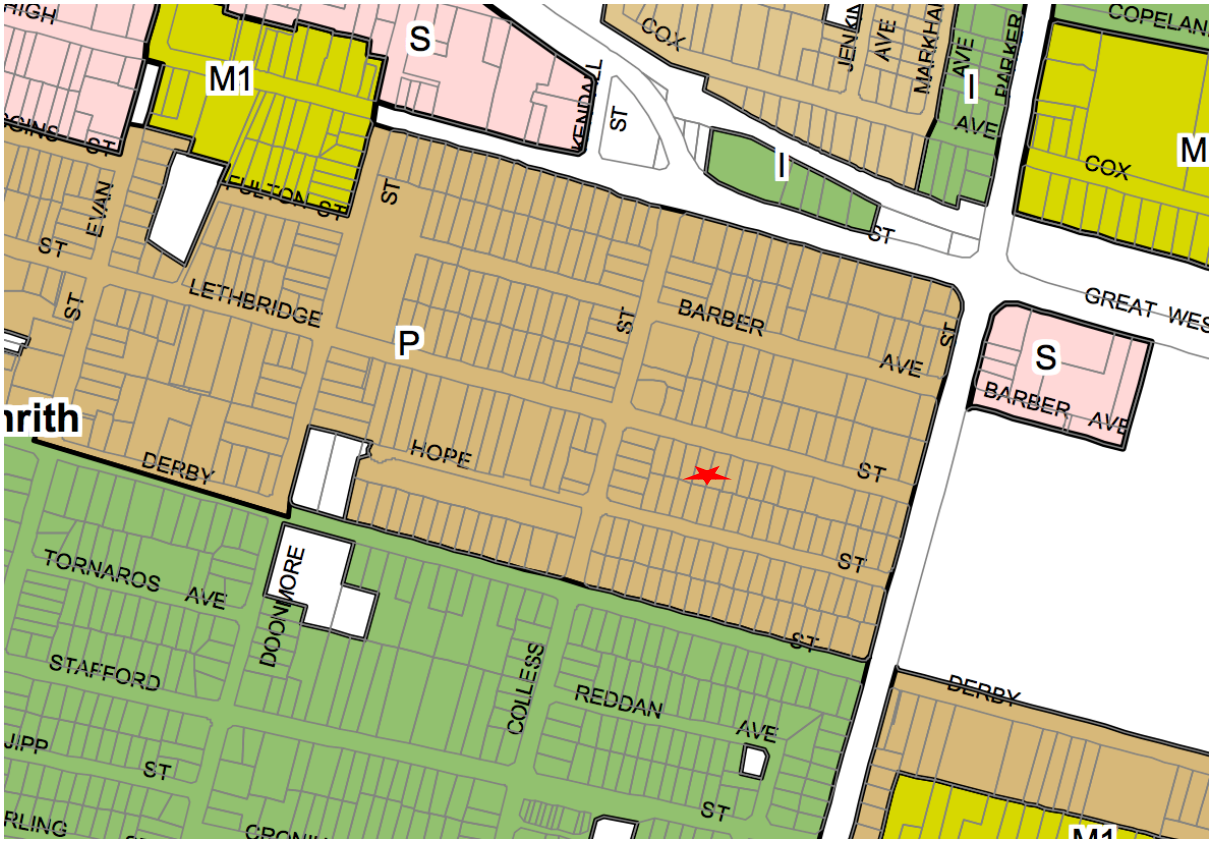
AUTHOR: Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
6 December 2017	Draft Issue	Draft	SR	SF
April 2019	Final Issue for DA	Final	JW	JW
30 May 2019	Revised Issue	Final	JW/SF	JW

Table of Contents

Background to Building Height

Clause 4.3 under the Penrith LEP stipulates a maximum building height of 18m for the subject site and broader locality- as indicated on the height of building map extract below, noting the 'P' notation reflects the area showing the 18m building height limit. The star shows the location of the subject site.



The LEP amendment rezoning the land and applying the 18m height limit came into effect on 25 February 2015. At the time the amendment was made:

- The Residential Flat Design Code was in force that only required 3m floor to floor heights which equated to 2.7m floor to ceiling heights;
- There was no requirement for on-site waste collection, with garbage bins presented to the street or alternatively collected via an indented waste bay.

The building height control of 18m at the time of the amendment coming into force, contemplated 6 storey development with 3m floor to floor height, which equates to 18m height limits. There was no implication from waste servicing clearances and the like at that time also.

Subsequent to the height control coming into force there were 2 key changes relating to building height, without a correlating change to the 18m height limit:

1. Adoption of the Apartment Design Guide (ADG) in July 2015 which prescribes a minimum floor to floor height of 2.7m for residential habitable (Section 4C) plus an additional 0.4m per floor for structure, services, set downs and finishes (Section 2C). This equates to the requirement to provide a floor to ceiling height of 3.1m. This increased the effective height of RFBs to 18.6m minimum;

2. Penrith City Council's adoption of an On-Site Waste Collection Policy for Residential Flat Building Development in July 2016. This requirement for garbage trucks to enter the site, collect waste, and enter and leave in a forward direction, meant the height of the ground level floor to floor height was required to be increased to 4.2m to achieve the truck clearances, as compared to 3.1m which is an increase of 1.1m.

When taken together the building height required to achieve 6 storeys has gone from 18m to a total of 19.7m minimum to achieve the required floor to floor heights and requisite clearances for garbage trucks- which equates to a 10% variation if a building is of 6 storeys.

It is also noted that areas through the precinct are also affected by overland flow/flooding that also requires an increase in the finished floor level of the ground floor to achieve required freeboard.

This is a key contextual consideration relating to development in the R4 zone and the area nominated with an 18m height limit as the 'goalposts' have shifted in terms of the building height provisions when factoring in the ADG and waste collection requirements as compared to the established 18m building height established prior to 2015 noting the exhibition of the Draft LEP was in 2013.

As outlined further in this request the Council has taken a practical and pragmatic approach to building height in permitting 6 storey development in the locality with exceedance of the control to habitable floor areas as well as lift over-runs and fire stairs beyond the 18m.

Other Development in the Locality & Context & Desired Future Character

A review of relevant approvals in the locality, being the area of Barber Avenue, Lethbridge Street, Colless Street, Hope Street and Derby Street has been conducted.

This shows a total of 12 relevant development applications either approved or in varying states of assessment and construction which is reflected in the table below.

Site	***Height***	***DA Consent Issued With Clause 4.6***	***Status***
16 Colless Street Penrith	19.9m	Yes	Not yet constructed
18-22 Colless Street Penrith	22m	Yes	Constructed
41-43 Barber Ave Penrith	19.34m	Yes	Not yet constructed
36-38 Barber Ave Penrith	19.4m	Yes	Constructed
32-36 Lethbridge Street Penrith	20.2m	Yes	Not yet constructed
25-31 Hope Street Penrith	19.1m	Yes	Constructed
2-8 Lethbridge Street Penrith	19.66m	Yes	Not yet constructed
16-24 Hope Street Penrith	20.04m	No	Not yet constructed
26-30 Hope Street Penrith	19.2m	Current Proposal	Not yet constructed
42-44 Lethbridge Street Penrith	19.4m	Yes	LEC Approved
72-74 Lethbridge Street Penrith	22m	Yes	Not yet constructed
38-40 Doonmore Street Penrith	19.3m	Yes	Constructed

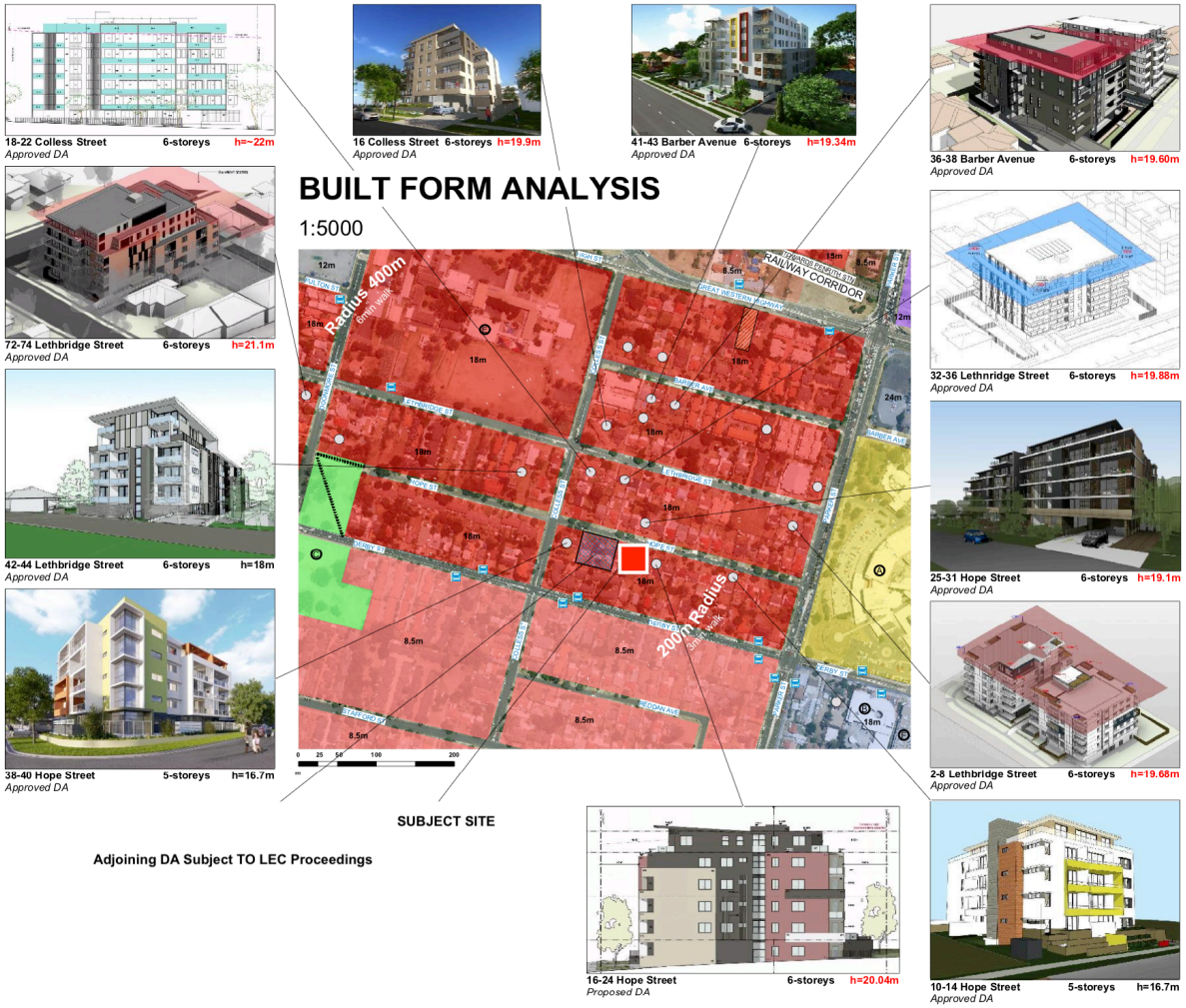
*Note these figures, with the exception of 16-24 Hope Street, have been drawn directly from the Council assessment reports to ensure accuracy for those DA's that have been determined.

The current proposal is 21.3m to the top of the lift overrun/fire stairs and 19.2m-20.7m when considering the roof form.

The development proposal is for a 6 storey residential flat building, consistent with the height of many residential flat buildings in the locality and consistent with the Councils approach of endorsing 6 storey buildings in the 18m height limit area even where the 18m is exceeded. In effect the maximum height control is 6 storeys that is applied consistently, rather than technical compliance with the 18m control.

Therefore the proposal is entirely consistent with the desired future character observed in the locality given the above developments that are either approved or constructed in the immediate locality.

A broad map/plan representation of this is provided over the page however please refer to the numerical data provided in the list above for accuracy.



Relevant Case Law

There are a number of recent Land and Environment Court cases including *Four 2 Five v Ashfield* and *Micaul Holdings Pty Ltd v Randwick City Council* and *Moskovich v Waverley Council,* as well as *Zhang v Council of the City of Ryde*.

In addition a recent judgement in *Initial Action Pty Ltd v Woollahra Municipal Council (2018) NSWLEC 118* confirmed that it is not necessary for a non-compliant scheme to be a better or neutral outcome and that an absence of impact Is a way of demonstrating consistency with the objectives of a development standard. Therefore this must be considered when evaluating the merit of the building height departure.

Further a decision in *Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245* has adopted further consideration of this matter which requires that a consent authority must be satisfied that:

- The written request addresses the relevant matters at Clause 4.6 (3) and demonstrates compliance is unreasonable or unnecessary and that there are sufficient environmental planning grounds; and
- The consent authority must consider that there are planning grounds to warrant the departure in their own mind and there is an obligation to give reasons in arriving at a decision.

The key tests or requirements arising from the above judgements is that:

- The consent authority be satisfied the proposed development will be in the public interest because it is "*consistent with*" the objectives of the development standard and zone is not a requirement to "*achieve*" those objectives. It is a requirement that the development be compatible with the objectives, rather than having to 'achieve' the objectives.

- Establishing that 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe "test" 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in Wehbe v Pittwater.

- The proposal is required to be in 'the public interest'.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the maximum building height control and on that basis that compliance is unreasonable or unnecessary;
- Demonstrating consistency with the R4 zoning;
- Demonstrating there are sufficient environmental planning grounds to vary the standard; and
- Satisfying the relevant provisions of Clause 4.6.

The Variation & Design Response

Clause 4.3 under the Penrith LEP stipulates a maximum building height of 18m for the subject site. The development exhibits the following building height elements:

Portion	***Maximum Height***	***Departure***
Top of Building- Lift Over-run and Fire Stair providing access to the common open space area as well as the bathroom and cleaner room in proximity to this area.	21.3m	3.3m & 18.3%

It is noted that these departures are a function of four (4) fundamental matters:

1. ADG 3.1m floor to floor heights;
2. Waste collection vehicle 4.2m clearance requirement;
3. Providing for the rooftop communal open space area on top of the building that necessitates the provision of the lift over-run (for accessibility reasons) and the fire stair (fire safety and fire egress reasons). The provision of the rooftop common area enables the provision of a quality common open space area that achieves solar access for residents which is a response to the north-south orientation of the site- meaning any common open space at the ground level would be on the southern side of the building and would not receive adequate solar access. Therefore the provision of this additional height to the rooftop area facilitates a good planning outcome- that strict compliance with the control would prevent from occurring and hence flexibility in the application of the height control enables a better design outcome and provides planning grounds to support such a departure to the height control. The provision of the toilet at the rooftop level also improves amenity and functionality for users and is also facilitated through the departure to the building height control.

Items 1-2 increases the height of a 6 storey building 19.7m to achieve the required floor to floor heights and waste infrastructure.

As addressed above Item 3 achieves a better urban design outcome in terms of amenity for residents of the development in providing a quality common open space area good solar access.

Address of Clause 4.6 Provisions

A detailed discussion against the relevant provisions of Clause 4.6 are provided below.
As shown on the sections below, the proposed development varies the height control to a portion of the upper level, roof form, lift overrun and shade structures within the rooftop common open space.

This is a function of the waste servicing requirements and relevant clearances to the basement, topography of the site, ADG floor to floor heights, overland flow and architectural features of the proposed building. Further the rooftop common area necessitates the provision of the lift over-run (for accessibility reasons) and the fire stair (fire safety and fire egress reasons).

The provision of the rooftop common area, and associated infrastructure including the toilet and cleaners room, enables the provision of a quality common open space area that achieves solar access for residents which is a response to the north-south orientation of the site- meaning any common open space at the ground level would be on the southern side of the building and would not receive adequate solar access.

Therefore the provision of this additional height to the rooftop area facilitates a good planning outcome- that strict compliance with the control would prevent from occurring and hence flexibility in the application of the height control enables a better design outcome and provides planning grounds to support such a departure to the height control.

The location of the building height departure will ensure that they are not readily viewable from the street level from Hope Street given the design steps back the upper 2 levels and therefore the recessed nature of the upper level means it will not be visually dominant.

Clause 4.6 of the Penrith Local Environmental Plan 2010 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclause 3-5 which provide:

> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
>
> *(4) Development consent must not be granted for development that contravenes a development standard unless:*
> *(a) the consent authority is satisfied that:*
> *(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

Each of these provisions are addressed individually below.

Clause 4.6(3)- Compliance Unreasonable and Unnecessary

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as:

- The underlying objectives of the control are satisfied.

In addition it is noted that the 18m numerical requirement has been regularly applied as a 6 storey maximum height control- In effect the maximum height control is 6 storeys that is applied consistently. This sets the desired future character for development in the R4 zone in the immediate locality and as demonstrated on the discussion on page 5 the current proposal is consistent with the approved building heights for other development in the locality which clearly establishes the desired future character of the locality.

Underlying Objectives are Satisfied

In Wehbe v Pittwater it was set out that compliance can be considered unreasonable or unnecessary where:
(i) The objectives of the standard are achieved notwithstanding non-compliance with the standard

It is considered that this approach can be followed in this instance.

The objectives of the Height development standard are stated as:

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

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

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,

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

d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.

The proposal, despite the numerical non-compliance identified, remains consistent with the objectives based on the following:

- Given the locality is in a state of transition from existing low density development to high density development the broad reference to compatibility with the existing character of the locality is not considered relevant in an R4 context with an 18m height limit (but would be relevant in an R2 or R3 context where an 8.5m height limit applies).

- The key requirement for development in the R4 zone is the desired future character of the locality. The building is compatible with the height, bulk and scale of the desired future character when having regard to the forms of development approved in the locality, and the approved building heights of those developments that are comparable in numerical terms to this proposal. This clearly shows the desired future character for the precinct being 6 storey residential flat buildings, with the majority of these buildings exceeding the 18m height limit to habitable areas (i.e. top most residential floor) as well as to the rooftop common areas and associated lift over-run and fire stairs. The numerical comparison provided on page 5 of this request demonstrates consistency and compatibility with those developments that are reflective of the desired future character of the locality on the basis that they have been granted development consent under the same set of planning controls.

- Providing for the rooftop communal open space area on top of the building that necessitates the provision of the lift over-run (for accessibility reasons) and the fire stair (fire safety and fire egress reasons). The provision of the rooftop common area enables the provision of a quality common open space area that achieves solar access for residents which is a response to the north-south orientation of the site- meaning any common open space at the ground level would be on the southern side of the building and would not receive adequate solar access. The provision of the rooftop common area is consistent with the desired future character of the locality when observing the other approved development in the locality that also feature rooftop common areas and comparable overall building heights. This aligns with the objective a) and d).

- The overall height of the development presents as a compatible form of development to the anticipated high density residential development that are emerging in the locality, noting that the emerging character is for 6 storey residential flat buildings in the locality and 6 storeys is the prevailing form of development being carried in the R4/18m height limit area. The 5th and 6th storey of the proposal is recessed behind the main building alignment to downplay visual dominance as viewed from the public domain and adjoining residential properties- this step in the façade provides for visual relief to the street as it presents a 4 storey street wall.

- The proposed buildings will present an appropriate bulk and scale on the site with 3 balanced vertical components/proportions that are consistent with other approved and already constructed 6 storey residential flat building developments in Hope Street and surrounding area. Further the building height proposed provides for a high quality urban form consistent with objective (d) and the height departure to the habitable areas or the rooftop areas does not take away the fact the proposal presents a high quality urban form.

- The additional height to the habitable areas or the rooftop areas does not generate any additional amenity impacts given the location of the site and the surrounding site context with regard to overshadowing, visual privacy or acoustic privacy. The recessed nature of the top floor mitigates additional overshadowing and the centrally located rooftop structures means that the visual, privacy and shadow impacts are also mitigated.

- Given the scale of the proposal, and the extent of the variation is not perceptible at street level given the upper level of the building is setback behind the lower levels which means the additional height will not be seen from a pedestrian level when standing in the public domain and this offsets the additional height of the top most floor and the recessed nature of the roof structures also means they are not visible form the public domain which means the additional height continues to minimise visual impact to existing development and to public areas.

- The proposal, and specifically the additional building height, has been carefully designed to ensure that privacy impacts are minimised and the proposal will not obstruct existing view corridors noting that no significant view corridors are identified for the site.

- The proposal, and specifically the additional building height, does not result in any discernible increased shadow impact given the orientation of the site and setbacks that fully comply with the requirements of the Apartment Design Guide and the recessed upper levels relative to the levels below mean that the shadow cast is reduced. The centrally located rooftop elements are designed to be pulled away from the building edges to avoid generating additional overshadowing impacts.

- The non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors.

- The proposal does not adjoin any low-density areas or sensitive interfaces and will integrate with future development to the north, east, south and west which will accommodate developments of comparable building height- and likely also breach the numerical height limit to the residential floor area at the upper level and to rooftop common areas.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable.

Sufficient Environmental Planning Grounds & Design Response

The below points demonstrate suitable environmental planning grounds exist to justify contravening the height development standard and further demonstrates that the height departure facilitates a better design response for the subject site:

- The variation to the height control to the habitable areas up to 19.2m, arising from the ADG 3.1m floor to floor heights, overland flow impact, and provision of on-site waste collection, enables delivery of a residential flat building that maximises amenity for residents and ensures suitable on-site waste collection arrangements that align with the adopted policy of the Council with regard to waste collection. Therefore the height departure facilities compliance with these aspects.

- The provision of the rooftop communal open space area on top of the building necessitates the provision of the lift over-run (for accessibility reasons) and the fire stair (fire safety and fire egress reasons) to a height of 21.3m. The provision of the rooftop common area enables the provision of a quality common open space area that achieves solar access for residents which is a response to the north-south orientation of the site- meaning any common open space at the ground level would be on the southern side of the building and would not receive adequate solar access.

Therefore the provision of this additional height to the rooftop area facilitates a good planning outcome- that strict compliance with the control would prevent from occurring and hence flexibility in the application of the height control enables a better design outcome on this site and provides planning grounds to support such a departure to the height control. The provision of the rooftop common area is consistent with the desired future character of the locality when observing the other approved development in the locality that also feature rooftop common areas.

- The variation to the height control does not generate unacceptable adverse impacts to surrounding properties or as viewed from the public domain;

- The variation to the height control does not result in unacceptable overshadowing and privacy impacts to the adjoining residential properties;

- The variation to the height control enables a development form on the site that presents a suitable bulk and scale and intensity of development on the land having regard to the desired 6 storey form of development in the 18m height area as reflected by past approvals of similar developments;

- There are also circumstances that relate to the topographical fall of the site and the relationship to the levels in Hope Street. This fall means that to achieve strict compliance results in the floor levels to be further stepped and cut into the site which results in a poor outcome for the ground floor units and it would result in a suboptimal outcome as compared to the current situation which results in the non-compliance to the building height control. Strict compliance is clearly not a preferred outcome.

- The proposal provides for a suitable planning outcome through limiting south facing units. Therefore the design response has been to maximise the amenity of apartments through a cut-out in the building and suitable recessed elements rather than a 'square' building utilising every available area of floor space.

- In the absence of additional height, the ability to deliver a satisfactory waste management and truck turning areas within the site is not achievable or feasible- again noting the requirement for on-site collection came into effect after the adoption of the LEP amendments- and therefore nearly all residential flat buildings represent a degree of departure from the 18m control to facilitate this. The additional floor to ceiling height needed for truck turning areas for a heavy rigid vehicle is 4.5m which is significantly larger than the normal requirements for floor to floor heights within a residential development and is a key driver of the extent of the height non-compliance.

- The proportion of the building that protrudes above the 18m height limit continues to present a 6 storey form, reinforcing that the breach to the height standard does not result in the development representing an overdevelopment of the site but rather a suitable contextual response to the topographical fall on the site in order to achieve a suitable ground floor outcome with sufficient amenity for the apartments at this level as well as catering for the additional height required for waste servicing trucks- which is a requirement that has been adopted by Council well after the adoption of the 18m height limit control in the LEP and therefore results in an increased height beyond the 18m.

Therefore, the current proposal is a suitable outcome from an environmental planning perspective and demonstrates that there is merit in varying the height control to achieve a better design response on the site.

Clause 4.6(4) Zone Objectives & The Public Interest

In accordance with the provisions of Clause 4.6(4)(a)(i) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) for the reasons set out previously.

In relation to the provisions of Clause 4.5(4)(a)(ii) the consent authority can be satisfied that the development, including the numerical building height departure, is in the public interest given that:

- The proposed development remains consistent with the objectives of the building height control.

- The proposal is consistent with the objectives of the R4 zone, being:

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

  The proposal will provide a high quality residential development in a strategic location within close proximity to the Penrith train station and CBD, bus interchange to maximise public transport patronage and to encourage walking and cycling. The scale of the development will help to revitalise the area with delivery of an activated ground floor and an attractive overall development.

  The development provides for the delivery of a variety of housing types in a high density residential environment. The development also provides for a high level of residential amenity, provides for additional housing to contribute to housing supply and affordability and reflects the desired future character and dwelling densities of the area.

- The building height departure facilitates a better design response for the development with regard to waste collection, overland flow and finished floor levels, floor to ceiling heights and also in providing for high levels of residential amenity that is facilitated by the height departure in providing for the rooftop common open space. The rooftop common open space enables the achievement of high levels of residential amenity for residents owing to the north-south lot orientation and the absence of the rooftop common open space, if strict compliance with the height limit was maintained, would reduce the level of amenity afforded to residents.

- The development proposal, including the building height departure, is consistent with the desired future character of the locality as established by approved development in the locality.

On the basis of the above points the development is clearly in the public interest because it is consistent with the objectives of the building height standard, and the objectives of the R4 zone and the numerical departure from the building height control facilitates a better design outcome on the site

Clause 4.6(5)

As addressed, it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and

b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and the nature and height of approved developments in the locality.

Conclusion

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its unique circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The design response aligns with the intent of the control and provides for an appropriate transition to the adjoining properties.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and considering the absence of adverse environmental, social or economic impacts, it is requested that Council support the development proposal.

Strict compliance with the prescriptive building height control is unreasonable and unnecessary in the context of the proposal and its particular circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, and is consistent with the future character envisioned, while supporting the role of Penrith as a strategic centre. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the proposed variation.

MAY 2019 REVISION
~~**MAY 2018**~~

DEVELOPMENT APPLICATION LODGED WITH PENRITH CITY COUNCIL

FOR
PROPOSED APARTMENT DEVELOPMENT
AT

26-30 HOPE STREET, PENRITH NSW 2750

APARTMENT DESIGN GUIDE COMPLIANCE TABLE FOR SEPP 65

SEPP 65 establishes nine design quality principles to be applied in the design and assessment of residential apartment development.

Parts 3 and 4 of the Apartment Design Guide set out objectives, design criteria and design guidance for the siting, design and amenity of residential apartment development.

ARCHITECTS STATEMENT IN RESPONSE TO

SEPP No.65- DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT and THE APARTMENT DESIGN GUIDE.

Nine design principles from SEPP 65
1. Context and neigbourhood character
2. Built form and scale
3. Density
4. Sustainability
5. Landscape
6. Amenity
7. Safety
8. Housing diversity and social interaction
9. Aesthetics

Design Verification Statement

The proposal has been designed by Mark Makhoul of Building Design & Technology, in association with Martha Strangas, Architect NSW ARB No:6900, who prepared this ADG Compliance table.

The design of this residential apartment development achieves the design quality principles set out in SEPP 65 and Sections 3 & 4 of the Apartment Design Guide.

26-30 HOPE STREET PENRITH NSW 2750 - APARTMENT DESIGN GUIDE COMPLIANCE TABLE FOR SEPP 65

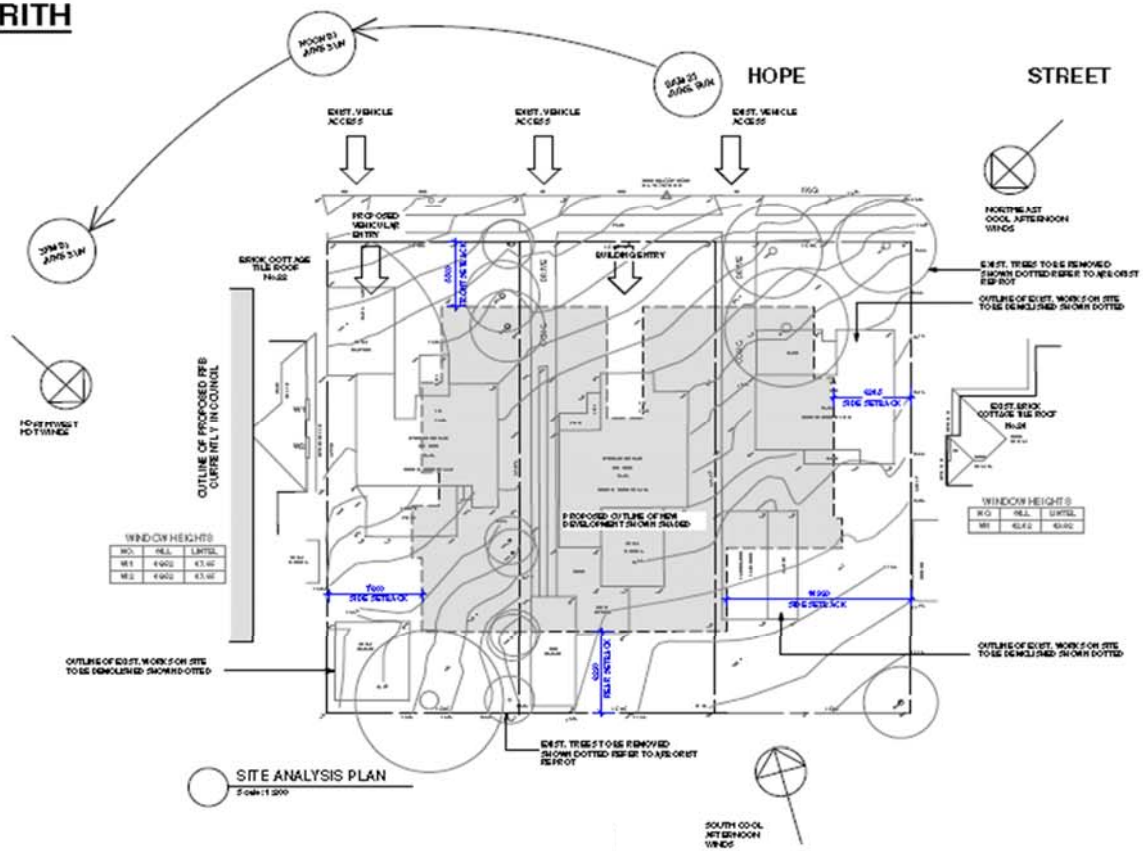
PART 3 SITING THE DEVELOPMENT

3A SITE ANALYSIS

OBJECTIVE 3A-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context		Each element in the Site Analysis Checklist should be addressed (see Appendix 1)	Objective Achieved. Site Analysis Checklist used as guide. Refer to SURVEY PLAN and Architectural Drawings No. A0.01 SITE ANALYSIS PLAN AND LOCATION PLAN and No. A0.02 SITE LEP CONTROLS & PHOTOS

PROPOSED UNIT DEVELOPMENT 26-30 HOPE ST PENRITH

LOCATION PLAN



SITE ANALYSIS PLAN

3B ORIENTATION

OBJECTIVE 3B-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Building types and layouts respond to the streetscape and site while optimising solar access within the development.		Buildings along the street frontage define the street, by facing it and incorporating direct access from the street.	Objective Achieved. The main entry and three ground floor apartments face the street. All three apartments can access the street via their courtyards as well as through the main building entry. The apartments on the floors directly above them also address the street.
		Where the street frontage is to the east or west, rear buildings should be orientated to the north.	
		Where the street frontage is to the north or south, overshadowing to the south should be minimised and buildings behind the street frontage should be orientated to the east and west.	The street frontage is to the north of the site. The neighbours will receive required solar access because of the north-south site orientation.

OBJECTIVE 3B-2	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Overshadowing of neighbouring properties is minimised during mid winter.		Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access.	Objective Achieved. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN; and No. A1.15 SHADOW DIAGRAMS The amended building footprint is smaller than the original proposal which ensures less overshadowing to the neighbouring properties, increasing their amenity.
		Solar access to living rooms, balconies and private open spaces of neighbours should be considered.	
		Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	
		If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.	Required building separation has been proposed. Currently the east and west neighbours are individual dwellings, with development proposals for units of similar nature to this one. The southern neighbours will achieve at least 3 hours sunlight.
		Overshadowing should be minimised to the south or down hill by increased upper level setbacks.	
		It is optimal to orientate buildings at 90 degrees to the boundary with neighbouring properties to minimise overshadowing and privacy impacts, particularly where minimum setbacks are used and where buildings are higher than the adjoining development.	
		A minimum of 4 hours of solar access should be retained to solar collectors on neighbouring buildings.	

3C PUBLIC DOMAIN INTERFACE

OBJECTIVE 3C-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Transition between private and public domain is achieved without compromising safety and security.		Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	Objective Achieved, as detailed in 3B.1
		Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	The street fencing is setback from the street boundary to allow for a landscaped zone. Behing this landscaped area, open Colorbond slat fencing, 1800mm high, enclose the streetfront courtyards of the four ground floor units. This permeable filter allows them some privacy while still enabling street surveillance.
		Upper level balconies and windows should overlook the public domain.	
		Front fences and walls along street frontages should use visually permeable materials and treatments. The height of solid fences or walls should be limited to 1m.	
		Length of solid walls should be limited along street frontages.	The letterbox canopy and the main pedestrian entry are centrally located off the street frontage. The ground floor units have direct access to their courtyards via side gates off clearly defined paths.
		Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	
		In developments with multiple buildings and/or entries, pedestrian entries and spaces associated with individual buildings/entries should be differentiated to improve legibility for residents, using a number of the following design solutions: • architectural detailing • changes in materials • plant species • colours	Pedestrian and vehicular entry and exit points are clearly defined.
		Opportunities for people to be concealed should be minimised.	

OBJECTIVE 3C-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Amenity of the public domain is retained and enhanced.		Planting softens the edges of any raised terraces to the street, for example above sub-basement car parking.	Objective Achieved, as detailed above in 3C.1.
		Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	Main entry and letterboxes are clearly designated. Pedestrian and vehicular entry and exit points are clearly defined.
		The visual prominence of underground car park vents should be minimised and located at a low level where possible.	No underground vents are visual from the street. All carpark mechanical vents will be taken through the building to the roof within the services zone indicated next to the lift.
		Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	
		Ramping for accessibility should be minimised by building entry location and setting ground floor levels in relation to footpath levels.	Services rooms and all garbage storage areas are located in the basement and the garbage collection area is on the west side to the rear of the site at ground level out of street view.
		Durable, graffiti resistant and easily cleanable materials should be used.	
		Where development adjoins public parks, open space or bushland, the design positively addresses this interface and uses a number of the following design solutions: • street access, pedestrian paths and building entries which are clearly defined • paths, low fences and planting that clearly delineate between communal/private open space and the adjoining public open space • minimal use of blank walls, fences and ground level parking.	Location of substation and fire hydrants to be determined by relevant authoirites. Accessible ramped entry path way is at the main entrance.
		On sloping sites protrusion of car parking above ground level should be minimised by using split levels to step underground car parking.	

3D COMMUNAL AND PUBLIC OPEN SPACE

OBJECTIVE 3D-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	1. Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).	Communal open space should be consolidated into a well designed, easily identified and usable area. Communal open space should have a minimum dimension of 3m, and larger developments should consider greater dimensions. Communal open space should be co-located with deep soil areas. Direct, equitable access should be provided to communal open space areas from common circulation areas, entries and lobbies. Where communal open space cannot be provided at ground level, it should be provided on a podium or roof. Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space.	Overall Objective Achieved. Site Area = 1894.4sqm. Required Communal Area = 473sqm Proposed Communal Area = 478sqm with minimum 3m width (25.2%). This consists of 478sqm of communal roof terrace. The roof top communal area has ample all day direct sunlight and exceeds the 50% direct sunlight requirement. Penrith Council DCP requires 10% of the landscaped area to be communal open space but the ADG requires 25% of site area. Council's onsite garbage collection policy requires a turntable which reduces our total potential ground floor communal open space area. We have a further 669sqm of deep soil planted landscaped area at ground level to the front and rear of the site that is to be enjoyed by all the residents.
OBJECTIVE 3D-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting		Facilities are provided within communal open spaces and common spaces for a range of age groups (see also 4F Common circulation and spaces), incorporating some of the following elements: • seating for individuals or groups • barbecue areas • play equipment or play areas • swimming pools, gyms, tennis courts or common rooms The location of facilities responds to microclimate and site conditions with access to sun in winter, shade in summer and shelter from strong winds and down drafts. Visual impacts of services should be minimised, including location of ventilation duct outlets from basement car parks, electrical substations and detention tanks.	Objective Achieved. The proposed communal open space area located on the roof top of has shading, pergolas, timber tables and benches, seating and a combined kitchenette-barbeque area.The communal areas are screened by landscaping and architectural elements for shade, privacy and wind. The proposed communal open space will provide a high level of amenity for the residents.

OBJECTIVE 3D-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Communal open space is designed to maximise safety.		Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy. Design solutions may include: • bay windows • corner windows • balconies	Objective achieved in principle. The roof top communal open spaces are visible and only accessible via a lift to the roof terrace. The areas will be well lit and safe.
		Communal open space should be well lit.	
		Where communal open space/facilities are provided for children and young people they are safe and contained.	
OBJECTIVE 3D-4	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.		The public open space should be well connected with public streets along at least one edge.	Objective achieved. The street facing courtyards are set back 3m from the street front boundary. This 3m wide public zone that stretches from the driveway on the north-west of the site to the north-east corner of the site is landscaped with varying height planting to allow partial screening of the courtyards. This zone incorporates the letterbox canopy that leads to the wide central path to the main entry of the building. It is a destinctly public zone that leads to the semi public and semi private spaces.
		The public open space should be connected with nearby parks and other landscape elements.	
		Public open space should be linked through view lines, pedestrian desire paths, termination points and the wider street grid.	
		Solar access should be provided year round along with protection from strong winds.	
		Opportunities for a range of recreational activities should be provided for people of all ages.	
		A positive address and active frontages should be provided adjacent to public open space.	
		Boundaries should be clearly defined between public open space and private areas.	

3E DEEP SOIL ZONES

OBJECTIVE 3E-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.	1. Deep soil zones are to meet the following minimum requirements: Site area / Minimum dimensions / Deep soil zone (% of site area) less than 650m² / - / 7% 650m² - 1,500m² / 3m greater than 1,500m² / 6m greater than 1,500m² with significant existing tree cover / 6m	On some sites it may be possible to provide larger deep soil zones, depending on the site area and context: • 10% of the site as deep soil on sites with an area of 650m2 - 1,500m2 • 15% of the site as deep soil on sites greater than 1,500m2. Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include: • basement and sub basement car park design that is consolidated beneath building footprints • use of increased front and side setbacks • adequate clearance around trees to ensure long term health • co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil Achieving the design criteria may not be possible on some sites including where: • the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres) • there is 100% site coverage or non-residential uses at ground floor level. Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.	Overall Objective Achieved. Site Area = 1894.4sqm. Required Deep Soil Area = 133sqm = 7% Proposed Deep Soil Area = 161sqm with minimum 6m width (8.5%). The overall deep soil landscaped requirement is 35% of site area (663sqm). A total of 669sqm (35%) of deep soil planted landscaped area at ground level consists of 193sqm at the front of the site and 476sqm to the rear of the site. This application proposes to retain two mature trees to the rear of the site and establish 2 new large and 10 new medium trees. Refer to LANDSCAPE PLANS.

3F VISUAL PRIVACY

OBJECTIVE 3F-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.	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: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.	Generally one step in the built form as the height increases due to building separations is desirable. Additional steps should be careful not to cause a 'ziggurat' appearance. For residential buildings next to commercial buildings, separation distances should be measured as follows: • for retail, office spaces and commercial balconies use the habitable room distances • for service and plant areas use the non-habitable room distances New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. Design solutions include: • site layout and building orientation to minimise privacy impacts (see also section 3B Orientation) • on sloping sites, apartments on different levels have appropriate visual separation distances (see figure 3F.4) Apartment buildings should have an increased separation distance of 3m (in addition to the requirements set out in design criteria 1) when adjacent to a different zone that permits lower density residential development to provide for a transition in scale and increased landscaping (figure 3F.5) Direct lines of sight should be avoided for windows and balconies across corners. No separation is required between blank walls.	Objective Achieved. The minimum separation distances have been met.

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

OBJECTIVE 3F-2	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.		Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows. Design solutions may include: • setbacks • solid or partially solid balustrades to balconies at lower levels • fencing and/or trees and vegetation to separate spaces • screening devices • bay windows or pop out windows to provide privacy in one direction and outlook in another • raising apartments/private open space above the public domain or communal open space • planter boxes incorporated into walls and balustrades to increase visual separation • pergolas or shading devices to limit overlooking of lower apartments or private open space • on constrained sites where it can be demonstrated that building layout opportunities are limited, fixed louvres or screen panels to windows and/or balconies	Objective Achieved. Privacy screens, planting and orientation of open spaces protect privacy and views. Details as outined in 3C and 3D.
		Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas	
		Balconies and private terraces should be located in front of living rooms to increase internal privacy.	
		Windows should be offset from the windows of adjacent buildings.	
		Recessed balconies and/or vertical fins should be used between adjacent balconies.	

3G PEDESTRIAN ACCESS AND ENTRIES

OBJECTIVE 3G-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Building entries and pedestrian access connects to and addresses the public domain.		Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.	Objective Achieved. Details as outined in 3C and 3D.
		Entry locations relate to the street and subdivision pattern and the existing pedestrian network.	
		Building entries should be clearly identifiable and communal entries should be clearly distinguishable from private entries.	
		Where street frontage is limited and multiple buildings are located on the site, a primary street address should be provided with clear sight lines and pathways to secondary building entries.	
OBJECTIVE 3G-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Access, entries and pathways are accessible and easy to identify.		Building access areas including lift lobbies, stairwells and hallways should be clearly visible from the public domain and communal spaces.	Objective Achieved. Details as outined in 3C and 3D. Refer to AMENDED A1.03 GROUND FLOOR PLAN and Basement Plans.
		The design of ground floors and underground car parks minimise level changes along pathways and entries.	
		Steps and ramps should be integrated into the overall building and landscape design.	
		For large developments 'way finding' maps should be provided to assist visitors and residents (see figure 4T.3).	
		For large developments electronic access and audio/video intercom should be provided to manage access.	
OBJECTIVE 3G-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Large sites provide pedestrian links for access to streets and connection to destinations.		Pedestrian links through sites facilitate direct connections to open space, main streets, centres and public transport.	N/A
		Pedestrian links should be direct, have clear sight lines, be overlooked by habitable rooms or private open spaces of dwellings, be well lit and contain active uses, where appropriate.	Objective Achieved. The main entry and foyer on the ground floor are accessed off a central path that runs along the street-front-private courtyards and is overlooked by the balconies of the units above.

3H VEHICLE ACCESS

OBJECTIVE 3H-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		Car park access should be integrated with the building's overall facade. Design solutions may include: • the materials and colour palette to minimise visibility from the street • security doors or gates at entries that minimise voids in the facade • where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed.	Objective achieved. There is a clearly identifiable vehicular access point onto the site located at the north-west corner, as the remaining street frontage is defined by 3m wide landscaping and a central pedestrian entry point into the site. The driveway widens to accommodate 2 distinct vehicular paths. The first is the garbage collection graded driveway that runs along the west boundary at ground level to the turntable and garbage collection zone to the rear of the building. The resident and visitor parking is a accessed via a down ramp to the basement and runs parallel to the truck driveway. The main pedestrian entry to the site is at the centrally located letterbox canopy that leads to the wide central graded path to the main entry of the building. The pedestrian and vehicluar zones are made destinct from each other by the use of varying surfaces and colour. The driveway is visually diminished by the layered and textural landscaped components of the streetfront setbacks.
		Car park entries should be located behind the building line.	
		Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.	
		Car park entry and access should be located on secondary streets or lanes where available.	
		Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.	
		Access point locations should avoid headlight glare to habitable rooms.	
		Adequate separation distances should be provided between vehicle entries and street intersections.	
		The width and number of vehicle access points should be limited to the minimum.	
		Visual impact of long driveways should be minimised through changing alignments and screen planting.	
		The need for large vehicles to enter or turn around within the site should be avoided.	
		Garbage collection, loading and servicing areas are screened.	
		Clear sight lines should be provided at pedestrian and vehicle crossings.	
		Traffic calming devices such as changes in paving material or textures should be used where appropriate.	
		Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include: • changes in surface materials • level changes • the use of landscaping for separation	

3J BICYCLE AND CAR PARKING

OBJECTIVE 3J-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	1. For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or	Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.	N/A
	• on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre	Where less car parking is provided in a development, council should not provide on street resident parking permits.	Resident car parking quotas have been met: 58 required, a total of 62 provided: Resident car spaces: 51 (including 5 accessible) Visitor car spaces: 10 and 1 Carwash / service vehicle bay = total 62 car spaces. 16 Bicyce racks/ storage have been provided.
	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 car parking needs for a development must be provided off street.		

OBJECTIVE 3J-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Parking and facilities are provided for other modes of transport.		Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters.	Objective Achieved. Residents have allocated car spaces that they would use for scooters or motorbikes. A bike rack on each level of the basement car park, adjacent to the lift, provide 16 bicycle spaces.
		Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.	
		Conveniently located charging stations are provided for electric vehicles, where desirable.	

OBJECTIVE 3J-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Car park design and access is safe and secure.		Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces.	Objective Achieved. All plant, storage rooms and garbage rooms are accessed off the main aisles.
		Direct, clearly visible and well lit access should be provided into common circulation areas.	Clearly defined lift core adjacent accessible spaces allowing pedestrian access.
		A clearly defined and visible lobby or waiting area should be provided to lifts and stairs.	Firestairs have direct access off the main aisles.
		For larger car parks, safe pedestrian access should be clearly defined and circulation areas have good lighting, colour, line marking and/or bollards.	

OBJECTIVE 3J-4	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Visual and environmental impacts of underground car parking are minimised.		Excavation should be minimised through efficient car park layouts and ramp design.	Objective Achieved. The basement car park has been designed to minimise excavation and maximise the efficiency of its layout and use. There are no protrusion of car park elements above ground: the wall above the basement car park entry forms the edge of the raised planter bed above. The steel framed security roller door is perforated for ventilation.
		Car parking layout should be well organised, using a logical, efficient structural grid and double loaded aisles.	
		Protrusion of car parks should not exceed 1m above ground level. Design solutions may include stepping car park levels or using split levels on sloping sites.	
		Natural ventilation should be provided to basement and sub basement car parking areas.	
		Ventilation grills or screening devices for car parking openings should be integrated into the facade and landscape design.	
OBJECTIVE 3J-5	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Visual and environmental impacts of on-grade car parking are minimised.		On-grade car parking should be avoided.	Objective Achieved. All car parking is located in the basement.
		Where on-grade car parking is unavoidable, the following design solutions are used: • parking is located on the side or rear of the lot away from the primary street frontage • cars are screened from view of streets, buildings, communal and private open space areas • safe and direct access to building entry points is provided • parking is incorporated into the landscape design of the site, by extending planting and materials into the car park space • stormwater run-off is managed appropriately from car parking surfaces • bio-swales, rain gardens or on site detention tanks are provided, where appropriate • light coloured paving materials or permeable pavingsystems are used and shade trees are planted between every 4-5 parking spaces to reduce increased surface temperatures from large areas of paving.	

OBJECTIVE 3J-6	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Visual and environmental impacts of above ground enclosed car parking are minimised.		Exposed parking should not be located along primary street frontages.	N/A
		Screening, landscaping and other design elements including public art should be used to integrate the above ground car parking with the facade. Design solutions may include: • car parking that is concealed behind the facade, with windows integrated into the overall facade design (approach should be limited to developments where a larger floor plate podium is suitable at lower levels) • car parking that is 'wrapped' with other uses, such as retail, commercial or two storey Small Office/Home Office (SOHO) units along the street frontage (see figure 3J.9)	
		Positive street address and active frontages should be provided at ground level.	

26-30 HOPE STREET PENRITH NSW 2750 - APARTMENT DESIGN GUIDE COMPLIANCE TABLE FOR SEPP 65

PART 4 DESIGNING THE BUILDING

AMENITY

4A SOLAR AND DAYLIGHT ACCESS

OBJECTIVE 4A-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	The design maximises north aspect and the number of single aspect south facing apartments is minimised	Overall Objective Achieved. 35 of 41 units = 85% of apartments achieve minimum required solar access to living areas or POS. There are 7 single aspect south facing apartments. Six of which get no direct sunlight (15%). The 7th apartment on the fifth floor has a large skylight over the living area, achieving direct sunlight during 9am and 3pm in winter. There are 22 corner apartments which enjoy dual aspects. The building has a north-south orientation. The east, west, south-east and south-west orientated apartments should achieve maximum direct sunlight if building separation minimums are upheld by the neighbouring future developments. The street-facing north facing apartments achieve the maximum sunlight. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN; and No. A1.15 SHADOW DIAGRAMS
		Single aspect, single storey apartments should have a northerly or easterly aspect	
		Living areas are best located to the north and service areas to the south and west of apartments	
	2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter	To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used: • dual aspect apartments • shallow apartment layouts • two storey and mezzanine level apartments • bay windows	
	3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m2 of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes	
		Achieving the design criteria may not be possible on some sites. This includes: • where greater residential amenity can be achieved along a busy road or rail line by orientating the livingrooms away from the noise source • on south facing sloping sites • where significant views are oriented away from the desired aspect for direct sunlight Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective	

OBJECTIVE 4A-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Daylight access is maximised where sunlight is limited		Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms	Overall Objective Achieved with the reconfiguration of apartments in the amended plans
		Where courtyards are used : • use is restricted to kitchens, bathrooms and service areas • building services are concealed with appropriate detailing and materials to visible walls • courtyards are fully open to the sky • access is provided to the light well from a communal area for cleaning and maintenance • acoustic privacy, fire safety and minimum privacy separation distances (see section 3F Visual privacy) are achieved	
		Opportunities for reflected light into apartments are optimised through: • reflective exterior surfaces on buildings opposite south facing windows • positioning windows to face other buildings or surfaces (on neighbouring sites or within the site) that will reflect light • integrating light shelves into the design • light coloured internal finishes	
OBJECTIVE 4A-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Design incorporates shading and glare control, particularly for warmer months		A number of the following design features are used: • balconies or sun shading that extend far enough to shade summer sun, but allow winter sun to penetrate living areas • shading devices such as eaves, awnings, balconies, pergolas, external louvres and planting • horizontal shading to north facing windows • vertical shading to east and particularly west facingwindows • operable shading to allow adjustment and choice • high performance glass that minimises external glare off windows, with consideration given to reduced tint glass or glass with a reflectance level below 20% (reflective films are avoided)	Overall Objective Achieved. A combination of high performance glass and shading elements, such as landscaping, blade walls, overhangs, sliding privacy screens and fixed timber battens, are used for privacy and shade. Covered balconies shade the north facing units.

4B NATURAL VENTILATION

OBJECTIVE 4B-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
All habitable rooms are naturally ventilated		The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms	Overall Objective Achieved. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN
		Depths of habitable rooms support natural ventilation	
		The area of unobstructed window openings should be equal to at least 5% of the floor area served	
		Light wells are not the primary air source for habitable rooms	
		Doors and openable windows maximise natural ventilation opportunities by using the following design solutions: • adjustable windows with large effective openable areas • a variety of window types that provide safety and flexibility such as awnings and louvres • windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors	

OBJECTIVE 4B-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
The layout and design of single aspect apartments maximises natural ventilation		Apartment depths are limited to maximise ventilation and airflow	Overall Objective Achieved.
		Natural ventilation to single aspect apartments is achieved with the following design solutions: • primary windows are augmented with plenums and light wells (generally not suitable for cross ventilation) • stack effect ventilation / solar chimneys or similar to naturally ventilate internal building areas or rooms such as bathrooms and laundries • courtyards or building indentations have a width to depth ratio of 2:1 or 3:1 to ensure effective air circulation and avoid trapped smells	All the apartment depths are well below the 18 metre maximum. The natural ventilation of the single aspect apartments have been maximised as they are shallow apartments that open directly onto courtyards and baclonies. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN

OBJECTIVE 4B-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	Overall Objective Achieved.
		In cross-through apartments external window and door opening sizes/areas on one side of an apartment (inlet side)are approximately equal to the external window and dooropening sizes/areas on the other side of the apartment (outlet side)	26 of 41 apartments = 63% achieve natural cross ventilation Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN

OBJECTIVE 4B-3 continued	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
	2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Apartments are designed to minimise the number of corners, doors and rooms that might obstruct airflow	Overall Objective Achieved.
		Apartment depths, combined with appropriate ceiling heights, maximise cross ventilation and airflow	All the apartment depths are well below the 18 metre maximum.

4C CEILING HEIGHTS

OBJECTIVE 4C-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Ceiling height achieves sufficient natural ventilation and daylight access	1. Measured from finished floor level to finished ceiling level, minimum ceiling heights are: **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 These minimums do not preclude higher ceilings if desired	Ceiling height can accommodate use of ceiling fans for cooling and heat distribution	Overall Objective Achieved. All habitable rooms have a minimum 2.7m ceiling height (3.1m slab to slab) and all non habitable rooms have a minimum of 2.4m height. Please note that all floor plates are flat and not split level.

OBJECTIVE 4C-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Ceiling height increases the sense of space in apartments and provides for well proportioned rooms		A number of the following design solutions can be used: • the hierarchy of rooms in an apartment is defined using changes in ceiling heights and alternatives such as raked or curved ceilings, or double height spaces • well proportioned rooms are provided, for example, smaller rooms feel larger and more spacious with higher ceilings • ceiling heights are maximised in habitable rooms by ensuring that bulkheads do not intrude. The stacking of service rooms from floor to floor and coordination of bulkhead location above non-habitable areas, such as robes or storage, can assist	Overall Objective Achieved.

OBJECTIVE 4C-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Ceiling heights contribute to the flexibility of building use over the life of the building		Ceiling heights of lower level apartments in centres should be greater than the minimum required by the design criteria allowing flexibility and conversion to non-residential uses	Overall Objective Achieved. The ground floor apartments enjoy higher ceilings than the minimum 2.7m ceiling height (3.24m slab to slab).

4D APARTMENT SIZE AND LAYOUT

OBJECTIVE 4D-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	1. Apartments are required to have the following minimum internal areas: Apartment type / Minimum internal area Studio 35m² 1 bedroom 50m² 2 bedroom 70m² 3 bedroom 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m2 each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m2 each 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space) A window should be visible from any point in a habitable room Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits	Overall Objective Achieved. Kitchens are not part of the circulation spaces of any of the apartments.

Apartment type	Minimum internal Area	Proposed Minimum internal Areas
1 bedroom	50sqm	57sqm
1 bedroom + study	50sqm	70sqm
2 bedroom	70sqm	76sqm
3 bedroom	90sqm	104sqm

OBJECTIVE 4D-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Environmental performance of the apartment is maximised	1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths	Overall Objective Achieved. All bedrooms and living areas are located on the external face of the building. Complies with the maximum 8m apartment depth
	2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	All living areas and bedrooms should be located on the external face of the building Where possible: • bathrooms and laundries should have an external openable window • main living spaces should be oriented toward the primary outlook and aspect and away from noise sources	

OBJECTIVE 4D-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Apartment layouts are designed to accommodate a variety of household activities and needs	1. Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)	Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas	Overall Objective Achieved. All proposed bedrooms are at least 11sqm and 3 metres wide.
	2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms allow a minimum length of 1.5m for robes	All bedrooms have robes, either built- in or walk-in, of 1.5m and 1.8m minimum lengths
	3. Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high	Minimum living area width for studio or 1 bedroom apartments is 3.7m and for 2 and 3 bedrooms is 4.3m wide.
	4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Apartment layouts allow flexibility over time, design solutions may include: • dimensions that facilitate a variety of furniture arrangements and removal • spaces for a range of activities and privacy levels between different spaces within the apartment • dual master apartments • dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments • room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1)) • efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms	Overall Objective Achieved.

4E PRIVATE OPEN SPACE AND BALCONIES

OBJECTIVE 4E-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Apartments provide appropriately sized private open space and balconies to enhance residential amenity	1. All apartments are required to have primary balconies as follows: Dwelling type / Minimum area / Minimum depth Studio apartments: 4m² / - 1 bedroom apartments: 8m² / 2m 2 bedroom apartments: 10m² / 2m 3+ bedroom apartments: 12m² / 2.4m balcony depth to be counted as contributing to the balcony area is 1m 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m	Increased communal open space should be provided where the number or size of balconies are reduced. Storage areas on balconies is additional to the minimum balcony size Balcony use may be limited in some proposals by: • consistently high wind speeds at 10 storeys and above • close proximity to road, rail or other noise sources • exposure to significant levels of aircraft noise • heritage and adaptive reuse of existing buildings In these situations, juliet balconies, operable walls, enclosed wintergardens or bay windows may be appropriate, and other amenity benefits for occupants should also be provided in the apartments or in the development or both. Natural ventilation also needs to be demonstrated	Overall Objective Achieved. Minimum depth and area requirements of all apartment balconies, and ground floor POS, have been met or have been exceeded. N/A
OBJECTIVE 4E-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Primary private open space and balconies are appropriately located to enhance liveability for residents		Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space Primary open space and balconies should be located adjacent to the living room, dining room or kitchen to extend the living space Primary open space and balconies should be orientated with the longer side facing outwards or be open to the sky to optimise daylight access into adjacent rooms	Overall Objective Achieved. Private open spaces and balconies are located off the living areas, and where possible, secondary open spaces are accessed from bedrooms.
OBJECTIVE 4E-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building		Solid, partially solid or transparent fences and balustrades are selected to respond to the location. They are designed to allow views and passive surveillance of the street while maintaining visual privacy and allowing for a range of uses on the balcony. Solid and partially solid balustrades are preferred Full width full height glass balustrades alone are generally not desirable Projecting balconies should be integrated into the building design and the design of soffits considered	Overall Objective Achieved. All private open spaces and balconies have been integrated into the overall architectural form. They compromise of a mixture of solid blade walls, glass and solid balustrades, with some partially screened for privacy and shading.

OBJECTIVE 4E-3 continued	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
		Operable screens, shutters, hoods and pergolas are used to control sunlight and wind	As above
		Balustrades are set back from the building or balcony edge where overlooking or safety is an issue	
		Downpipes and balcony drainage are integrated with the overall facade and building design	
		Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design	
		Where clothes drying, storage or air conditioning units are located on balconies, they should be screened and integrated in the building design	
		Ceilings of apartments below terraces should be insulated to avoid heat loss	
		Water and gas outlets should be provided for primary balconies and private open space.	
OBJECTIVE 4E-4	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Private open space and balcony design maximises safety		Changes in ground levels or landscaping are minimised	Overall Objective Achieved.
		Design and detailing of balconies avoids opportunities for climbing and falls.	

4F COMMON CIRCULATION AND SPACES

OBJECTIVE 4F-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Common circulation spaces achieve good amenity and properly service the number of apartments	1. The maximum number of apartments off a circulation core on a single level is eight	Greater than minimum requirements for corridor widths and/or ceiling heights allow comfortable movement and access particularly in entry lobbies, outside lifts and at apartment entry doors	Overall Objective Achieved with minor non compliance. A lift, adjacent a firestair, off centre to the main entry, services a wide short corridor each level. The number of apartments off the circulation core varies from 4 to 9. The ground floor has a total of 4 apartments; level 1 has 7 apartments; levels 2 and 3 each have 9 apartments; levels 5 and 6 each have 6 apartments. As the proposal has been amended, the apartment mix and layouts have changed.
	2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	Daylight and natural ventilation should be provided to all common circulation spaces that are above ground	
		Windows should be provided in common circulation spaces and	
		Longer corridors greater than 12m in length from the lift core should be articulated. Design solutions may include: • a series of foyer areas with windows and spaces for seating • wider areas at apartment entry doors and varied ceiling heights	
		Design common circulation spaces to maximise opportunities for dual aspect apartments, including multiple core apartment buildings and cross over apartments	
		Achieving the design criteria for the number of apartments off a circulation core may not be possible. Where a development is unable to achieve the design criteria, a high level of amenity for common lobbies, corridors and apartments should be demonstrated, including: • sunlight and natural cross ventilation in apartments • access to ample daylight and natural ventilation in common circulation spaces • common areas for seating and gathering • generous corridors with greater than minimum ceiling heights • other innovative design solutions that provide high levels of amenity	
		Where design criteria 1 is not achieved, no more than 12 apartments should be provided off a circulation core on a single level	no more than 9 apartments off a circulation core on one level
		Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled	Overall Objective Achieved Refer to 4D.2

OBJECTIVE 4F-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Common circulation spaces promote safety and provide for social interaction between residents		Direct and legible access should be provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines	Overall Objective Achieved. Short main corridor off lift each level, with shorter intermediate corridors to apartment entries
		Tight corners and spaces are avoided	
		Circulation spaces should be well lit at night	
		Legible signage should be provided for apartment numbers, common areas and general wayfinding	
		Incidental spaces, for example space for seating in a corridor, at a stair landing, or near a window are provided	
		In larger developments, community rooms for activities such as owners corporation meetings or resident use should be provided and are ideally co-located with communal open space	
		Where external galleries are provided, they are more open than closed above the balustrade along their length	

4G STORAGE

OBJECTIVE 4G-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Adequate, well designed storage is provided in each apartment	1. In addition to storage in kitchens, bathrooms and bedrooms, the following Dwelling type / Storage size volume Studio apartments — 4m³ 1 bedroom apartments — 6m³ 2 bedroom apartments — 8m³ 3+ bedroom apartments — 10m³ At least 50% of the required storage is to be located within the apartment	Storage is accessible from either circulation or living areas Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street Left over space such as under stairs is used for storage	Overall Objective Achieved. Minimum storage requirements for each apartment have been met or exceeded.
OBJECTIVE 4G-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Additional storage is conveniently located, accessible and nominated for individual apartments		Storage not located in apartments is secure and clearly allocated to specific apartments Storage is provided for larger and less frequently accessed items Storage space in internal or basement car parks is provided at the rear or side of car spaces or in cages so that allocated car parking remains accessible If communal storage rooms are provided they should be accessible from common circulation areas of the building Storage not located in an apartment is integrated into the overall building design and is not visible from the public domain	Overall Objective Achieved. More storage and accessible storage is located in the Basement car park.

4H ACOUSTIC PRIVACY

OBJECTIVE 4H-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Noise transfer is minimised through the siting of buildings and building layout		Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses (see also section 2F Building separation and section 3F Visual privacy)	Overall Objective Achieved. Minimal party walls to each apartment a maximum of two.
		Window and door openings are generally orientated away from noise sources	
		Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas	Noise sources such as lift, garbage chutes are to be acoustically treated to minimise noise. Habitable rooms alongside Garbage area to be acoustically treated.
		Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources	
		The number of party walls (walls shared with other apartments) are limited and are appropriately insulated	
		Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms	
OBJECTIVE 4H-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Noise impacts are mitigated within apartments through layout and acoustic treatments		Internal apartment layout separates noisy spaces from quiet spaces, using a number of the following design solutions: • rooms with similar noise requirements are grouped together • doors separate different use zones • wardrobes in bedrooms are co-located to act as sound buffers	Overall Objective Achieved.
		Where physical separation cannot be achieved noise conflicts are resolved using the following design solutions: • double or acoustic glazing • acoustic seals • use of materials with low noise penetration properties • continuous walls to ground level courtyards where they do not conflict with streetscape or other amenity requirements	Refer to Acoustic Assesment Report for treatments to reduce noise to apartments and dampen noise and vibration around lift core and garbage chute.

4J NOISE AND POLLUTION

OBJECTIVE 4J-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings		To minimise impacts the following design solutions may be used: • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • non-residential buildings are sited to be parallel with the noise source to provide a continuous building that shields residential uses and communal open spaces • non-residential uses are located at lower levels vertically separating the residential component from the noise or pollution source. Setbacks to the underside of residential floor levels should increase relative to traffic volumes and other noise sources • buildings should respond to both solar access and noise. Where solar access is away from the noise source, nonhabitable rooms can provide a buffer • where solar access is in the same direction as the noise source, dual aspect apartments with shallow building depths are preferable (see figure 4J.4) • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry	Overall Objective Achieved.
		Achieving the design criteria in this Apartment Design Guide may not be possible in some situations due to noiseand pollution. Where developments are unable to achievethe design criteria, alternatives may be considered in the following areas: • solar and daylight access • private open space and balconies • natural cross ventilation	
OBJECTIVE 4J-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission		Design solutions to mitigate noise include: • limiting the number and size of openings facing noise sources • providing seals to prevent noise transfer through gaps • using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) • using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits	Overall Objective Achieved.

CONFIGURATION

4K APARTMENT MIX

OBJECTIVE 4K-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
A range of apartment types and sizes is provided to cater for different household types now and into the future		A variety of apartment types is provided	Overall Objective Achieved. A variety of apartment types is proposed to meet the socio-economic demand of the area. Each level varies its mix of 1 bedroom, 2 bedroom and 3 bedroom apartments.
		The apartment mix is appropriate, taking into consideration: • the distance to public transport, employment and education centres • the current market demands and projected future demographic trends • the demand for social and affordable housing • different cultural and socioeconomic groups	
		Flexible apartment configurations are provided to support diverse household types and stages of life including single person households, families, multi-generational families and group households	
OBJECTIVE 4K-2	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
The apartment mix is distributed to suitable locations within the building		Different apartment types are located to achieve successful facade composition and to optimise solar access (see figure 4K.3)	Overall Objective Achieved.
		Larger apartment types are located on the ground or roof level where there is potential for more open space and on corners where more building frontage is available	

4L GROUND FLOOR APARTMENTS

OBJECTIVE 4L-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Street frontage activity is maximised where ground floor apartments are located		Direct street access should be provided to ground floor apartments	Overall Objective Achieved. The main entry and three ground floor apartments face the street and have direct access to their apartments from the street via their front courtyards. The apartments on the floors directly above them also address the street.
		Activity is achieved through front gardens, terraces and the facade of the building. Design solutions may include: • both street, foyer and other common internal circulation entrances to ground floor apartments • private open space is next to the street • doors and windows face the street	
		Retail or home office spaces should be located along street frontages Ground floor apartment layouts support small office home office (SOHO) use to provide future opportunities for conversion into commercial or retail areas. In these cases provide higher floor to ceiling heights and ground floor amenities for easy conversion	
OBJECTIVE 4L-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Design of ground floor apartments delivers amenity and safety for residents		Privacy and safety should be provided without obstructing casual surveillance. Design solutions may include: • elevation of private gardens and terraces above the street level by 1-1.5m (see figure 4L.4) • landscaping and private courtyards • window sill heights that minimise sight lines into apartments • integrating balustrades, safety bars or screens with the exterior design	Overall Objective Achieved. As detailed in Objectives 3B and 3C.
		Solar access should be maximised through: • high ceilings and tall windows • trees and shrubs that allow solar access in winter and shade in summer	

4M FACADES

OBJECTIVE 4M-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Building facades provide visual interest along the street while respecting the character of the local area		Design solutions for front building facades may include: • a composition of varied building elements • a defined base, middle and top of buildings • revealing and concealing certain elements • changes in texture, material, detail and colour to modify the prominence of elements	Overall Objective Achieved. The proposed building envelope is an elegant, articulated, and textured composition of various architectural elements and colours. The repetition of strong vertical and horizontal elements create symmetry and balance. Balconies project out from the building and overhang those below. Others are stacked and enclosed within blade walls. The proposed building provides visual interest along the street while respecting the character of the exisitng and proposed future local area in terms of colours, materials and landscaping.
		Building services should be integrated within the overall facade	
		Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include: • well composed horizontal and vertical elements • variation in floor heights to enhance the human scale • elements that are proportional and arranged in patterns • public artwork or treatments to exterior blank walls • grouping of floors or elements such as balconies and windows on taller buildings	
		Building facades relate to key datum lines of adjacent buildings through upper level setbacks, parapets, cornices, awnings or colonnade heights	
		Shadow is created on the facade throughout the day with building articulation, balconies and deeper window reveals	
OBJECTIVE 4M-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Building functions are expressed by the facade		Building entries should be clearly defined	Overall Objective Achieved. As detailed in Objectives 3B and 3C.
		Important corners are given visual prominence through a change in articulation, materials or colour, roof expression or changes in height	
		The apartment layout should be expressed externally through facade features such as party walls and floor slabs	

4N ROOF DESIGN

OBJECTIVE 4N-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Roof treatments are integrated into the building design and positively respond to the street		Roof design relates to the street. Design solutions may include: • special roof features and strong corners • use of skillion or very low pitch hipped roofs • breaking down the massing of the roof by using smaller elements to avoid bulk • using materials or a pitched form complementary to adjacent buildings Roof treatments should be integrated with the building design. Design solutions may include: • roof design proportionate to the overall building size, scale and form • roof materials compliment the building • service elements are integrated	Overall Objective Achieved. The concrete roof design is integrated into the building design. The communal open space on the roof terrace is landscaped to enhance the amenity of the residents and the area.
OBJECTIVE 4N-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Opportunities to use roof space for residential accommodation and open space are maximised		Habitable roof space should be provided with good levels of amenity. Design solutions may include: • penthouse apartments • dormer or clerestory windows • openable skylights Open space is provided on roof tops subject to acceptable visual and acoustic privacy, comfort levels, safety and security considerations	Overall Objective Achieved. There is a semi-covered communal open space terrace proposed on the top level of the building.
OBJECTIVE 4N-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Roof design incorporates sustainability features		Roof design maximises solar access to apartments during winter and provides shade during summer. Design solutions may include: • the roof lifts to the north • eaves and overhangs shade walls and windows from summer sun Skylights and ventilation systems should be integrated intothe roof design	Overall Objective Achieved. Maximum solar access and shading have been utlised for the top floor apartments. The south facing top floor apartment has a large skylight over the living areas to enjoy direct sunlight throughout the day.

4O LANDSCAPE DESIGN

OBJECTIVE 4O-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Landscape design is viable and sustainable		Landscape design should be environmentally sustainable and can enhance environmental performance by incorporating: • diverse and appropriate planting • bio-filtration gardens • appropriately planted shading trees • areas for residents to plant vegetables and herbs • composting • green roofs or walls	Overall Objective Achieved. Please refer to the LANDSCAPE PLANS prepared by a Landscape Architect. The site will be generously landscaped along the site's boundaries, in the commuunal open areas and in private courtyards. The ground floor apartments will enjoy private landscaped courtyards while the upper level south facing apartments each enjoy large balconies looking out to the site's communal landscaping area.
		Ongoing maintenance plans should be prepared	This proposal maintains the existing biodiversity and seeks further facilitate biodiversity with the proposed amount of native plants which not only require less irrigation, but also reduce the amount of stormwater runoff, erosion and sedimentation.
		Microclimate is enhanced by: • appropriately scaled trees near the eastern and western elevations for shade • a balance of evergreen and deciduous trees to provide shading in summer and sunlight access in winter • shade structures such as pergolas for balconies and courtyards	
		Tree and shrub selection considers size at maturity and the potential for roots to compete (see Table 4)	
OBJECTIVE 4O-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Landscape design contributes to the streetscape and amenity		Landscape design responds to the existing site conditions including: • changes of levels • views • significant landscape features including trees and rock outcrops	Overall Objective Achieved. Please refer to the LANDSCAPE PLANS prepared by a Landscape Architect.
		Significant landscape features should be protected by: • tree protection zones (see figure 4O.5) • appropriate signage and fencing during construction	The extensive landscaped areas proposed provide enhanced amenity for the residents and neighbours and is in keeping with the local area.
		Plants selected should be endemic to the region and reflect the local ecology	

4P PLANTING ON STRUCTURES

OBJECTIVE 4P-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Appropriate soil profiles are provided		Structures are reinforced for additional saturated soil weight	Overall Objective Achieved.
		Soil volume is appropriate for plant growth, considerations include: • modifying depths and widths according to the planting mix and irrigation frequency • free draining and long soil life span • tree anchorage	Please refer to the LANDSCAPE PLANS prepared by a Landscape Architect. This application proposes to retain two mature trees to the rear of the site and establish 2 new large and 10 new medium trees.
		Minimum soil standards for plant sizes should be provided in accordance with Table 5	

Table 5 Minimum soil standards for plant types and sizes

Plant type	Definition	Soil volume	Soil depth	Soil area
Large trees	12-18m high, up to 16m crown spread at maturity	150m³	1,200mm	10m x 10m or equivalent
Medium trees	8-12m high, up to 8m crown spread at maturity	35m³	1,000mm	6m x 6m or equivalent
Small trees	6-8m high, up to 4m crown spread at maturity	9m³	800mm	3.5m x 3.5m or equivalent
Shrubs			500-600mm	
Ground cover			300-450mm	
Turf			200mm	

Note: The above has been calculated assuming fortnightly irrigation. Any sub-surface drainage requirements are in addition to the above minimum soil depths

OBJECTIVE 4P-2	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Plant growth is optimised with appropriate selection and maintenance		Plants are suited to site conditions, considerations include: • drought and wind tolerance • seasonal changes in solar access • modified substrate depths for a diverse range of plants • plant longevity	Overall Objective Achieved. Please refer to the LANDSCAPE PLANS prepared by a Landscape Architect.
		A landscape maintenance plan is prepared	
		Irrigation and drainage systems respond to: • changing site conditions • soil profile and the planting regime • whether rainwater, stormwater or recycled grey water is used	

OBJECTIVE 4P-3	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Planting on structures contributes to the quality and amenity of communal and public open spaces		Building design incorporates opportunities for planting on structures. Design solutions may include: • green walls with specialised lighting for indoor green walls • wall design that incorporates planting • green roofs, particularly where roofs are visible from the public domain • planter boxes Note: structures designed to accommodate green walls should be integrated into the building facade and consider the ability of the facade to change over time	Overall Objective Achieved. Please refer to the LANDSCAPE PLANS prepared by a Landscape Architect.

4Q UNIVERSAL DESIGN

OBJECTIVE 4Q-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Universal design features are included in apartment design to promote flexible housing for all community members		Developments achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features	Overall Objective Achieved. 36 of 41 (88%) apartments meet or exceed the seven core Livable Housing design elements of the Silver level that are applicable to apartment design. The five adaptable units (12%) plus 31 two and three bedroom apartments (76%) meeet this criteria. The bathrooms of 5 one bedroom apartments have showers over bath tubs. In the larger apartments where there are two bathrooms, the ensuites have hobless showers.
OBJECTIVE 4Q-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
A variety of apartments with adaptable designs are provided		Adaptable housing should be provided in accordance with the relevant council policy Design solutions for adaptable apartments include: • convenient access to communal and public areas • high level of solar access • minimal structural change and residential amenity loss when adapted • larger car parking spaces for accessibility • parking titled separately from apartments or shared car parking arrangements	Overall Objective Achieved. There are five adaptable units (12%) comprised of 3 one bedroom apartments and 2 two bedroom apartments . All the adaptable units are located on the first 3 levels. The 3 street facing (north) apartments are located in the same position on each of the floor plates. The other 2 adaptable units are south facing, on levels 2 & 3, one above the other, and adjacent to the lift. The ground floor adaptable apartment opens on to a large landscaped courtyard. The two apartments above open onto generous balconies. The other 2 adaptable apartments open out onto large balconies with a view to the landscaped rear boundary (south). Five accessable car spaces are located adjacent to the lift in the basement as well
OBJECTIVE 4Q-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Apartment layouts are flexible and accommodate a range of lifestyle needs		Apartment design incorporates flexible design solutions which may include: • rooms with multiple functions • dual master bedroom apartments with separate bathrooms • larger apartments with various living space options • open plan 'loft' style apartments with only a fixed kitchen, laundry and bathroom	Overall Objective Achieved. A variety of apartment layouts, outdoor areas and features have been proposed.

Apartment type	Number
1 bedroom	11
1 bedroom + study	3
2 bedroom	21
3 bedroom	6
TOTAL	**41**

4R ADAPTIVE REUSE

OBJECTIVE 4R-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place		Design solutions may include: • new elements to align with the existing building • additions that complement the existing character, siting, scale, proportion, pattern, form and detailing • use of contemporary and complementary materials, finishes, textures and colours	N/A
		Additions to heritage items should be clearly identifiable from the original building	
		New additions allow for the interpretation and future evolution of the building	
OBJECTIVE 4R-2	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Adapted buildings provide residential amenity while not precluding future adaptive reuse		Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved. Design solutions may include: • generously sized voids in deeper buildings • alternative apartment types when orientation is poor • using additions to expand the existing building envelope	N/A
		Some proposals that adapt existing buildings may not be able to achieve all of the design criteria in this Apartment Design Guide. Where developments are unable to achieve the design criteria, alternatives could be considered in the following areas: • where there are existing higher ceilings, depths of habitable rooms could increase subject to demonstrating access to natural ventilation, cross ventilation (when applicable) and solar and daylight access (see also sections 4A Solar and daylight access and 4B Natural ventilation) • alternatives to providing deep soil where less than the minimum requirement is currently available on the site • building and visual separation – subject to demonstrating alternative design approaches to achieving privacy • common circulation • car parking • alternative approaches to private open space and balconies	

4S MIXED USE

OBJECTIVE 4S-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement		Mixed use development should be concentrated around public transport and centres	N/A
		Mixed use developments positively contribute to the public domain. Design solutions may include: • development addresses the street • active frontages are provided • diverse activities and uses • avoiding blank walls at the ground level • live/work apartments on the ground floor level, rather than commercial	
OBJECTIVE 4S-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents		Residential circulation areas should be clearly defined. Design solutions may include: • residential entries are separated from commercial entries and directly accessible from the street • commercial service areas are separated from residential components • residential car parking and communal facilities are separated or secured • security at entries and safe pedestrian routes are provided • concealment opportunities are avoided	N/A
		Landscaped communal open space should be provided at podium or roof levels	

4T AWNINGS AND SIGNAGE

OBJECTIVE 4T-1	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Awnings are well located and complement and integrate with the building design		Awnings should be located along streets with high pedestrian activity and active frontages	Overall Objective Achieved. There is no street awning proposed, only a clear "Suntuf" awning that spans from the letterbox canopy to the main entry over the main pathway.
		A number of the following design solutions are used: • continuous awnings are maintained and provided in areas with an existing pattern • height, depth, material and form complements the existing street character • protection from the sun and rain is provided • awnings are wrapped around the secondary frontages of corner sites • awnings are retractable in areas without an established pattern	
		Awnings should be located over building entries for building address and public domain amenity	
		Awnings relate to residential windows, balconies, street tree planting, power poles and street infrastructure	
		Gutters and down pipes should be integrated and concealed	
		Lighting under awnings should be provided for pedestrian safety	
OBJECTIVE 4T-2	*DESIGN CRITERIA*	*DESIGN GUIDANCE*	*ARCHITECT'S COMMENTS*
Signage responds to the context and desired streetscape character		Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development	Overall Objective Achieved.
		Legible and discrete way finding should be provided for larger developments	
		Signage is limited to being on and below awnings and a single facade sign on the primary street frontage	

4U ENERGY EFFICIENCY

OBJECTIVE 4U-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Development incorporates passive environmental design	*Passive environmental and energy efficient design is about the ability of an apartment to manage thermal performance (thermal comfort) and daylight access, providing increased amenity to occupants and reducing energy costs.*	Adequate natural light is provided to habitable rooms (see 4A Solar and daylight access)	Overall Objective Achieved. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN
		Well located, screened outdoor areas should be provided for clothes drying	As per the DCP requirement, balconies have moveable or fixed screens.
OBJECTIVE 4U-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	*This section offers guidance on meeting BASIX sustainability requirements and other rating systems through better design practice. For additional design practice linked to passive environmental design and energy efficiency see sections 4A Solar and daylight access, 4B Natural ventilation and 4D Apartment size and layout.*	A number of the following design solutions are used: • the use of smart glass or other technologies on north and west elevations • thermal mass in the floors and walls of north facing rooms is maximised • polished concrete floors, tiles or timber rather than carpet • insulated roofs, walls and floors and seals on window and door openings • overhangs and shading devices such as awnings, blinds and screens	Overall Objective Achieved. There are a mixture of design measures and technologies used to achieve the best possible passive environmental design outcome for this development. Refer to AMENDED Architectural Drawings No. A1.13 VENTILATION PLAN and No. A1.13A SOLAR ACCESS PLAN
		Provision of consolidated heating and cooling infrastructure should be located in a centralised location (e.g. the basement)	
OBJECTIVE 4U-3	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Adequate natural ventilation minimises the need for mechanical ventilation		A number of the following design solutions are used: • rooms with similar usage are grouped together • natural cross ventilation for apartments is optimised • natural ventilation is provided to all habitable rooms and as many non-habitable rooms, common areas and circulation spaces as possible	Overall Objective Achieved. Refer to Architectural Drawings No. A1.13 SOLAR ACCESS AND VENTILATION PLAN . Mechanical ventilation used for non habitable rooms such as bathrooms. Habitable rooms achieve required natural ventilation.

4V WATER MANAGEMENT AND CONSERVATION			
OBJECTIVE 4V-1	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Potable water use is minimised		Water efficient fittings, appliances and wastewater reuse should be incorporated	Overall Objective Achieved. Water efficient fittings and appliances will be installed. Apartments will be individually metered. Appropriate plants selected.
		Apartments should be individually metered	
		Rainwater should be collected, stored and reused on site	
		Drought tolerant, low water use plants should be used within landscaped areas	
OBJECTIVE 4V-2	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Urban stormwater is treated on site before being discharged to receiving waters		Water sensitive urban design systems are designed by a suitably qualified professional	Overall Objective Achieved. There is a Hydraulic Plan submitted as part of this application. Future water design solutions will be provided as part of construction documentation.
		A number of the following design solutions are used: • runoff is collected from roofs and balconies in water tanks and plumbed into toilets, laundry and irrigation • porous and open paving materials is maximised • on site stormwater and infiltration, including bio-retention systems such as rain gardens or street tree pits	
OBJECTIVE 4V-3	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Flood management systems are integrated into site design		Detention tanks should be located under paved areas, driveways or in basement car parks	Overall Objective Achieved.
		On large sites parks or open spaces are designed to provide temporary on site detention basins	

4W WASTE MANAGEMENT

OBJECTIVE 4W-1	DESIGN CRITERIA	DESIGN GUIDANCE	ARCHITECT'S COMMENTS
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents		Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	Overall Objective Achieved. There has been extensive Waste and Garbage Collection discussions with Council. All recommendations have been adopted in this application.
		Waste and recycling storage areas should be well ventilated	
		Circulation design allows bins to be easily manoeuvred between storage and collection points	
		Temporary storage should be provided for large bulk items such as mattresses	
		A waste management plan should be prepared	
OBJECTIVE 4W-2	**DESIGN CRITERIA**	**DESIGN GUIDANCE**	**ARCHITECT'S COMMENTS**
Domestic waste is minimised by providing safe and convenient source separation and recycling		All dwellings should have a waste and recycling cupboard or temporary storage area of sufficient size to hold two days worth of waste and recycling	Overall Objective Achieved. There has been extensive Waste and Garbage Collection discussions with Council. All recommendations have been adopted in this application.
		Communal waste and recycling rooms are in convenient and accessible locations related to each vertical core	
		For mixed use developments, residential waste and recycling storage areas and access should be separate and secure from other uses	
		Alternative waste disposal methods such as composting should be provided	

4X BUILDING MAINTENANCE			
OBJECTIVE 4X-1	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Building design detail provides protection from weathering		A number of the following design solutions are used: • roof overhangs to protect walls • hoods over windows and doors to protect openings • detailing horizontal edges with drip lines to avoid staining of surfaces • methods to eliminate or reduce planter box leaching • appropriate design and material selection for hostile locations	Overall Objective Achieved.
OBJECTIVE 4X-2	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Systems and access enable ease of maintenance		Window design enables cleaning from the inside of the building	Overall Objective Achieved.
		Building maintenance systems should be incorporated and integrated into the design of the building form, roof and facade	
		Design solutions do not require external scaffolding for maintenance access	
		Manually operated systems such as blinds, sunshades and curtains are used in preference to mechanical systems	
		Centralised maintenance, services and storage should be provided for communal open space areas within the building	
OBJECTIVE 4X-3	***DESIGN CRITERIA***	***DESIGN GUIDANCE***	***ARCHITECT'S COMMENTS***
Material selection reduces ongoing maintenance costs		A number of the following design solutions are used: • sensors to control artificial lighting in common circulation and spaces • natural materials that weather well and improve with time such as face brickwork • easily cleaned surfaces that are graffiti resistant • robust and durable materials and finishes are used in locations which receive heavy wear and tear, such as common circulation areas and lift interiors	Overall Objective Achieved.

I believe that the design of this residential apartment development achieves the design quality principles set out in SEPP 65 as addressed in Sections 3 and 4 of the Apartment Design Guide. Signed

Martha Strangas

NSW Architects Registration Number 6900