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| <b>SWCPP Ref. No.:</b>       | 2019WCI015                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>DA No.:</b>               | DA18/1244                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>PROPOSED DEVELOPMENT:</b> | <p>Demolition of Existing Structures and Construction of a Seniors Housing Development including Three 6 Storey Buildings Comprising a 120 Bed Residential Aged Care Facility, 74 Independent Living Units, Associated Facilities, Basement Car Parking, Landscaping, Stormwater Management and Site Remediation Works - Lot C DP 154478, Lot D DP 154478, Lot A DP 160027, Lot 21 DP 979866, Lot 22 DP 979866, Lot 23 DP 979866, Lot 24 DP 979866, Lot 1 DP 198621, Lot 2 DP 198621, Lot 106 DP 1215261, Lot B DP 160027, 230 Derby Street, PENRITH NSW 2750</p> <p>228 Derby Street, PENRITH NSW 2750<br/> 226 Derby Street, PENRITH NSW 2750<br/> 222 Derby Street, PENRITH NSW 2750<br/> 3 Reserve Street, PENRITH NSW 2750<br/> 5 Reserve Street, PENRITH NSW 2750<br/> 7 Reserve Street, PENRITH NSW 2750<br/> 106 Woodriff Street, PENRITH NSW 2750</p> |
| <b>APPLICANT:</b>            | Greengate Development Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>REPORT BY:</b>            | Wendy Connell, Senior Environmental Planner, Penrith City Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

## Assessment Report

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## Executive Summary

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Council is in receipt of a development application from Greengate Development Pty Ltd for a Seniors Housing Development - Three (3) six (6) Storey Buildings comprising 120 Age Care Facility, 74 Independent Living Units with associated communal facilities, Demolition Works, Stormwater Drainage, and Associated Landscaping at Reserve Street, Penrith.

The subject site is within Penrith City Centre and is bounded by Reserve, Derby and Woodriff Streets. The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan (LEP) 2010. The proposed development is defined as 'seniors housing' and is a permissible land use with consent in the B4 zone.

The proposal was also referred to NSW Police for comment. No objections were raised.

Key issues identified include:

- Tree Protection and Management
- Waste Management
- Stormwater Management
- Future amenity of occupants

The application was exhibited between 18 January and 1 February 2019, and again due to amendments received, between 26 July and 26 August 2019 in accordance with relevant legislation. In response, one (1) submission was received. The key issues identified within the submission included the increase in population without essential infrastructure, timeframes to complete works and hours of construction works.

In accordance with Section 2.12 and 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the determining authority as the proposal has a Capital Investment Value (CIV) of \$77,564,625 million.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the key issues identified have not been addressed satisfactorily. The application is recommended for refusal.

## Site & Surrounds

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The subject site is situated in the Penrith City Centre and is bounded by Woodriff, Reserve and Derby Streets. The subject site is approximately 4,950 square metres over eleven (11) separate allotments, being:

| Street address      | Title description     |
|---------------------|-----------------------|
| 3 Reserve Street    | Lot B DP 160027       |
| 5 Reserve Street    | Lot A DP 160027       |
| 7 Reserve Street    | Lot 2 DP 198621       |
| 9 Reserve Street    | Lot 1 DP 198621       |
| 222 Derby Street    | Lot 23 & 24 DP 979866 |
| 226 Derby Street    | Lot 21 & 22 DP 979866 |
| 228 Derby Street    | Lot D DP 154478       |
| 230 Derby Street    | Lot C DP 154478       |
| 106 Woodriff Street | Lot 106 DP1215261     |

The subject site currently contains an unformed at grade car park area and vacant dwelling, which was previously used as a Child Care Centre. To the northern of the subject site is Penrith Lawn Bowls Club, to the east is single storey dwellings used for commercial and residential purposes, to the south is Nepean Village Shopping Centre and to the west is a mix of commercial buildings and residential dwellings.

## Proposal

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The development application seeks consent for the following works:

- Remediation of contaminated land.
- Construction of three seniors housing building, with basement parking, incorporating:
  - one (1) Residential Care Facility comprising 120 beds;
  - two (2) residential flat buildings comprising 74 independent living units;
  - basement car parking; and
  - communal and staff facilities.
- Provision of utility services, landscaping works and stormwater drainage works.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 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

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- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 2.12 of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel as it has a Capital Investment Value (CIV) of \$77,564,625 million.

- **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**

The application was accompanied by a list of commitments within the submitted '*NatHERS and BASIX Assessment Report*' (Report No. S-R2018121100 by Thermal Environmental dated 17 December 2018) and '*BASIX Certificate*' (No. 984544M\_02 dated 28 June 2019), however the final design amended were not supported by an update BASIX Certificate. This detail could have been requested, however the application is being recommended for refusal based on other matters.

#### **State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

As the proposed development is defined as Seniors Housing, being a permissible land use under Penrith Local Environmental Plan 2010, Chapter 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

Key issues identified include:

- Visual and Acoustic Privacy
- Solar Access
- Stormwater
- Waste Management

See Appendix 1 for a detailed assessment of SEPP criteria.

## **State Environmental Planning Policy No 55—Remediation of Land**

*State Environmental Planning Policy No. 55 - Remediation of Land* (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 prevents consent authorities from consenting to development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

A 'Detailed Site Investigation for Contamination' ( 85817.01.R001. Rev1.DSI by Douglas Partners dated 25/9/2017), Hazardous Building Materials Register ( 85817.02 R.001.Rev0 by Douglas Partners date June 2019) and Remedial Action Plan ( 85817.02 Rev2.Rev 0 by Douglas Partners dated June 2019 ) was submitted in support of the application.

Council's Environmental Health Officer has reviewed that above mentioned reports and concurred with the findings and recommendations of the report. As a result of the investigations undertaken and the conclusions identified and recommendations made, the relevant provisions of SEPP 55 have been satisfied. Conditions of consent could be applied to ensure compliance however, the application is recommended for refusal based on other reasons

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment buildings of three or more storeys and containing four or more self-contained dwellings. The proposal includes 74 independent living units over two (2) x six (6) storey buildings and one (1) residential care facility with 120 beds. SEPP 65 contains ten design quality principles which forms the basis for achieving good design and provide a quality for evaluating the merit of the development proposal. The proposal is consistent with the aims and objectives of SEPP 65. The application has been accompanied by a design verification statement from a suitably qualified designer. An assessment has been undertaken of the proposed development in relation to the ten design principles and related Apartment Design Guidelines (ADG). The proposal is not in accordance with key provisions of the SEPP and ADG, that being:

- Car parking access
- Cross ventilation
- Solar access
- Storage
- Balcony sizes
- Landscaping
- Water Sensitive Urban Design
- Waste Management

See Appendix 2 for a detailed assessment of SEPP and ADG criteria.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

*Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997)* (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme*. The REP is supported by an Action Plan, which includes actions necessary to improve existing conditions.

During the assessment period additional information was requested on a number of occasions to demonstrate how stormwater will be managed for the proposal and site. Council's Development Engineers and Environmental Management - Waterways Officer reviewed the application and supporting documentation multiple times, and are not satisfied that the proposal will meet the aims of the SREP in regards to water quantity and quality impacts associated with the proposal. Therefore, the application is recommended for refusal.

### 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                         | Complies                         |
| Clause 2.7 Demolition requires development consent | Complies                         |
| Part 8 Local provisions Penrith City Centre        | Complies                         |
| Clause 8.2 Sun access                              | Complies                         |
| Clause 8.3 Minimum building street frontage        | Complies                         |
| Clause 8.4 Design excellence                       | N/A                              |
| Clause 8.5 Building separation                     | Complies                         |
| Clause 8.6 Serviced apartments                     | N/A                              |

#### Clause 1.2 Aims of the plan

Approval of the development proposal would not be supportive of the aims of the plan expressed under Clause 1.2(2) of Penrith LEP 2010. In particular, support for the proposal would be contrary to Clause 1.2(2)(b), (c) and (h) in that the proposal will not promote development that is consistent with Council's vision for Penrith including particulars related to meeting the needs of current and emerging communities and safeguarding residential amenity, environmental protection and enhancement and the sustainable development through the delivery of a balanced social, economic and environment outcomes.

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

### **Draft State Environmental Planning Policy (Remediation of Land) 2018**

The proposal has been assessed against the applicable provisions of the Draft State Environmental Planning Policy (Remediation of Land) 2018 and associated guideline document, and is considered to be acceptable. Refer also to the discussion under the State Environmental Planning Policy No. 55 - Remediation of Land section of this report.

The draft amendments were on exhibition from 31 January to 13 April 2018. The draft amendment is currently under consideration.

### **Draft State Environmental Planning Policy (Environment) 2017**

The Explanation of Intended Effect for State Environmental Planning Policy (Environment) 2017 was on exhibition from 31 October 2017 to the 31 January 2018. The intent of the new State Environmental Planning Policy (Environment) 2017 is to combine seven existing State Environmental Planning Policies into a simple, modern and accessible instrument.

The proposal has been assessed against the applicable provisions of the Draft State Environmental Planning Policy (Environment). Refer to discussion under the Sydney Regional Environment Plan No. 20 - Hawkesbury Nepean River (No. 2 - 1997) section of this report.

The Draft State Environmental Planning Policy (Environment) 2017 is currently under consideration.

## 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               | Does not comply - see Appendix - Development Control Plan Compliance |
| C3 Water Management                    | Does not comply - see Appendix - Development Control Plan Compliance |
| C4 Land Management                     | Complies - see Appendix - Development Control Plan Compliance        |
| C5 Waste Management                    | Does not comply - see Appendix - Development Control Plan Compliance |
| C6 Landscape Design                    | Does not comply - see Appendix - Development Control Plan Compliance |
| C7 Culture and Heritage                | N/A                                                                  |
| C8 Public Domain                       | Does not comply - see Appendix - Development Control Plan Compliance |
| C9 Advertising and Signage             | N/A                                                                  |
| C10 Transport, Access and Parking      | Does not comply - see Appendix - Development Control Plan Compliance |
| C11 Subdivision                        | N/A                                                                  |
| C12 Noise and Vibration                | N/A                                                                  |
| C13 Infrastructure and Services        | Complies - see Appendix - Development Control Plan Compliance        |
| E11 Penrith                            | Does not comply - see Appendix - Development Control Plan Compliance |

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

There are no planning agreements applying to this proposal.

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



### **Fire Safety**

Under Part 9 of the Environmental Planning and Assessment Regulation 2000, owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A recommended condition of consent could be applied however the application is recommended for refusal based on other reasons.

### **Prescribed Conditions**

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, can be imposed as conditions of consent where applicable. However the application is recommended for refusal based on other reasons.

### **Advertising and Notification**

Advertising and neighbour notification was carried in accordance with the requirements of the regulations and Penrith Development Control Plan 2014.

### **Clause 92 - Additional Matters**

Any demolition could be conditioned to be in accordance with the provisions of AS 2601 however the application is being recommended for refusal.

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

Likely impacts of the proposed development are discussed below:

### **Future Character and Landscaping**

The proposal can not achieve the desired character set under Penrith DCP for the Woodriff Street landscape corridor, and the landscape proposed for the development. This is the result of the building and stormwater designs encroaching into setbacks and conflicting with the landscaping proposed. In addition, the measures proposed for the retention of an existing tree on site are not adequate and will not support the trees future growth and health.

### **Amenity Impacts for Future Occupants**

The development proposal does not demonstrate compliance with key provisions under prescribed planning instruments which are designed to provide quality amenity outcomes for future residents, such as solar access and ventilation, storage, balcony sizes, headlight exposure and appropriate management measures for the entry and exit to the basement and potential noise impacts from basement and loading dock locations.

### **Stormwater Management**

The development application has not been supported by a compliant stormwater management strategy and is not supported by an appropriate level of detail to ensure compliance with Council's Water Sensitive Urban Design Policy.

### **Waste Management**

The proposed waste infrastructure is inadequate for the scale of the development and waste management measures and infrastructure do not comply with the requirements outlined in Penrith DCP.

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

The site is considered to be unsuitable for the scale of development proposed, namely due to the application not being able to demonstrate that essential infrastructure for waste and stormwater can be accommodated on the site. The proposed design cannot achieve the desired landscape corridor of mature trees along Woodriff Street edge due conflicts with the building design and stormwater infrastructure. The ongoing health and growth of a significant tree cannot be guaranteed with the proposed design.

## Section 79C(1)(d) Any Submissions

### Community Consultation

In accordance with Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents and was advertised. The exhibition period was between 18 January and 1 February 2019, and again due to amendments received, between 26 July and 26 August 2019. Council received 1 submissions in response.

Concerns raised in the submission included the following:

| Matter raised                                                                                                                                                                   | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>There is a lack of infrastructure to support the growth in the Penrith area.</p> <ul style="list-style-type: none"> <li>- Car parking</li> <li>- Public transport</li> </ul> | <p>The development proposed meets the required car parking to support this type of development.</p> <p>Council acknowledges concerns with regarding the loss of at grade car park within the City Centre however Council continues to work towards achieving the short, medium and long term goals outlined in the Penrith City Centre Parking Strategy, through the completion of identified actions and initiatives.</p> <p>Council continues to advocate to State government on behalf of its community for improved public transport services.</p> |
| Construction noise from new developments                                                                                                                                        | Hours of construction can be controlled via a condition of consent, and compliance with the condition managed via Council's Compliance team, however the proposal is being refused based on other grounds.                                                                                                                                                                                                                                                                                                                                             |

### 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 - subject to conditions |
| Development Engineer                     | Not supported                         |
| Environmental - Environmental management | Not supported                         |
| Environmental - Waterways                | Not supported                         |
| Environmental - Public Health            | No objections - subject to conditions |
| Waste Services                           | Not supported                         |
| Traffic Engineer                         | No objection subject to conditions    |
| Community Safety Officer                 | No objections - subject to conditions |
| Tree Management Officer                  | Not supported                         |
| Social Planning                          | No objections                         |

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

The proposed development is assessed to be contrary to the proposal does not satisfy the aims, objective and specific provisions of specific policies related to the proposal. It is for the above reasoning that approval of the development application would not be in the public interest.

### Conclusion

The development application has been assessed against the applicable environmental planning instruments, including State Environmental Planning Policy (Building Sustainability Index; BASIX) 2004, State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004, State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development, State Environmental Planning Policy No. 55 - Remediation of Land, Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014. The proposal does not satisfy the aims, objective and specific provisions of these policies.

It is for the above reasoning that the development application is not worthy of support. Reasons for refusal area details below.

### Recommendation

That DA18/1244 for the Construction of a Seniors Housing Development including three (3) x six (6) Storey Buildings Comprising a 120 Bed Residential Aged Care Facility, 74 Independent Living Units, Associated Facilities, Basement Car Parking, Landscaping, Stormwater Management and Site Remediation Works, be refused for the reasons attached.

## CONDITIONS

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### Refusal

- 1 The application is not satisfactory for the purposes of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the following provisions:
  - a) State Environmental Planning Policy (Housing for Seniors or People with Disability) 2004
    - Clause 33 - Neighbourhood amenity and streetscape
    - Clause 34 - Visual and acoustic privacy
    - Clause 34 - Solar access and design for climate
    - Clause 36 - Stormwater
    - Clause 39 - Waste Management
  - b) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
    - 3H-1 Vehicle access
    - 4B- 3 Natural ventilation
    - 4G-1 Storage
    - 4O-1 Landscaping design
    - 4V-2 Water management and conservation
    - 4Q-1 Waste management
  - c) Penrith Local Environmental Plan 2010
    - Clause 1.2 Aims of the Plan specifically in relation to Council's vision for Penrith and the protection of the environment.
- 2 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:
  - Section C1 Site Planning and Design Principles.
  - Section C2 Vegetation Management, specifically the retention and ongoing viability of the existing tree on site.
  - Section C3 Water Management, specifically relating to stormwater and drainage.
  - Section C5 Waste Management, specifically adequate infrastructure and management.
  - Section C6 Landscape Design, specifically the enhancement of the neighbourhood character.
  - Section C10 Transport, Access and Parking, specifically relating to the basement access and loading dock.
  - Section E11 Part A Penrith City Centre, specifically the desired future character.
- 3 The development application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of the development, specifically:
  - future resident amenity
  - landscaping and tree management
  - stormwater management
  - waste management

- 4 The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not suitable for the scale of the proposed development.
- 5 Based on the above deficiencies and submissions received, approval of the development would not be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part B - DCP Principles

The development proposal is considered to be contrary to the principles, commitments and objectives of the Penrith Development Control Plan 2014 in particular, the proposal does not demonstrate the long term vision of a sustainable development for Penrith City.

### Part C - City-wide Controls

#### C1 Site Planning and Design Principles

The proposal does not achieve aims and objectives of key principles of site planning. This includes a site responsive design to achieve effective stormwater management, safety measures which provide good amenity for future residents, and respecting key visual landscape corridors in key character areas.

#### C2 Vegetation Management

The removal of the Ficus hilli (Hills Weeping fig) located on the Reserve Street frontage was not supported, and during the assessment period it was recommended that the tree be retained and incorporated into the development as a feature tree within the landscaping design. The proposal was amended and pruning options proposed by the applicant.

Based on Council's Tree Management Officers inspection of the tree and the proposal, it has been concluded that the pruning specifications provided by the applicant appears to underestimate the amount of pruning that is required to facilitate construction. Dimensions of the tree require a Tree Protection Zone (TPZ) of 9.0 metres. The tree has an asymmetric crown with a bias of approximately 11.0 metres to the north. The building has been design to have an inset in alignment to accommodate the canopy of the tree, however it is assessed that the deviation in building line is not sufficient to accommodate for the future growth of the tree and also requires that northern canopy to be reduced in places by half, perhaps even more once the required pruning is undertaken at the appropriate pruning point. This level of pruning is considered to be outside the tolerances of the tree, will leave the tree misshapen and create issues in regards to the future growth habit of the tree.

#### C3 Water Management

Although requested twice during the assessment period, the applicant has not provided sufficient information to demonstrate compliance with Council's Water Sensitive Urban Design Policy. No MUSIC model was provided and not all treatment devices are shown on the plans. A screen shot of the MUSIC Model was within the Stormwater report however this shows a bioretention node, which is not included on the plans. A swale is indicated on the plans however this is not a bioretention swale. Due to the lack of information provided It is unclear what is proposed.

Revisions of the OSD system also occurred during the assessment period however the proposal is still non compliant with Council's specifications. The following has been identified:

- The 200 x 100 wire mesh overflow hole is not acceptable. The emergency should be free flowing and not prone to blocking.
- OSD Tanks 1, 2 and 3 have no provision for maintaining 460mm tall water quality cartridges where the tank only has 750mm headroom, especially once they reach their life and need replacing. The OSD Tanks require a minimum 900mm.

In addition to the above, the top of the OSD Tank 1 & 2 has been designed approximately 1.2m above ground and in front of the building line. This has resulted in the tanks covering windows to Unit 40 and the community room of building 1, and the dinning room of building 2. As

mentioned above, these tanks do not comply with minimal depths or emergency overflow system. Therefore, if compliant, there would be further impact on these rooms.

#### **C4 Land Management**

A 'Detailed Site Investigation for Contamination' ( 85817.01.R001. Rev1.DSI by Douglas Partners dated 25/9/2017), Hazardous Building Materials Register ( 85817.02 R.001.Rev0 by Douglas Partners date June 2019) and Remedial Action Plan ( 85817.02 Rev2.Rev 0 by Douglas Partners dated June 2019 ) was submitted in support of the application.

Council's Environmental Health Officer has reviewed that above mentioned reports and concurred with the findings and recommendations of the report. As a result of the investigations undertaken and the conclusions identified and recommendations made. Conditions of consent could be applied however the application is recommended for refusal based on other reasons

#### **C5 Waste Management**

The waste management infrastructure does not meet minimum standards set under Penrith DCP 2014 as follows:

- Shute rooms to not provide adequate clearance to support the required bin infrastructure.
- Shute rooms in basement indicate a dual shute system however levels throughout building 2 & 3 indicate 1 shute only.
- Shute rooms require opening door. Roller doors not permitted
- 2 lifts should be provided however only one noted on plans.
- Waste room is required to separate residential, medical and commercial waste.
- There is no storage provision for the tug device.
- Swept paths have not been provided to demonstrate how the waste truck can manoeuvre into, and operate, in the loading bay. Refer to C10 Traffic, Access and Parking section for further details regarding the loading dock arrangement.

#### **C6 Landscape Design**

A landscape corridor along Woodriff Street can not be achieved due to awning and swale conflicts. The stormwater design incorporates a 1.6m wide swale along 73% of the Woodriff Street boundary. The architectural plans shows the building overhang protruding into canopy space along 53% of the same boundary. This is not considered an acceptable landscape outcome for a key landscape corridor which is detailed in Section E11 of Penrith DCP.

The swale is also proposed along a smaller portion of Derby Street boundary (8m), at the corner of Woodriff Street. At this point there is also an awning protrusion which results in no ability to incorporate the planting as proposed in the landscaping plans. Protrusion into the setback along Derby Street frontage include basement and OSD tanks, leaving minimal space to achieved canopy planting. None compliance with setbacks result in the ability to achieve meaning landscaping along all street edges.

#### **C10 Transport, Access and Parking**

Although requested during the assessment the loading dock is still proposed on the access ramp. In an attempt to mitigate conflict between reversing service vehicles and residents entering and exiting the basement the proposed mitigation measures proposed are not acceptable or achievable.

Mitigation measures proposed to avoid conflict on the ramp include the use of number plate recognition technology which will identify service vehicles, and automatically lock basement gates so no vehicle can leave until the reverse manoeuvre is complete. This scenario is not achievable. As an example Council's Waste contractor has a large fleet of waste trucks and

the development could be service by any of the vehicles in the fleet. Council's Waste contract will not release the registration numbers for its complete fleet. This is likely to the situation for many service vehicles need to utilise the loading dock for this type of development. This mitigation measure also relies on the service vehicle driver to push a button on the wall of the loading dock when leaving to deactivate the basement gate to enable vehicles to leave.

In addition, the impacts of predicted noise associated with the loading dock has not been assessed with the Noise Impact Assessment Report as it relates to receivers within the proposed development complex, particularly south facing units of Building 3.

### **C13 Infrastructure and Services**

Sydney Water in its letter dated 4 March 2019 has advised that they are undertaking a study in the Penrith CBD with the aim to assess services, sizing and amplification required to service developments. Their servicing investigating indicates that trunk drinking water system has limited capacity to accommodate the proposal and the watermain fronting the development along Derby Street will need to be amplified to meet the minimum requirements for servicing the development.

## **E11 Penrith**



## **E11 Part A Penrith City Centre**

The subject site is located within Penrith City Centre and is located within the City South (mixed use) Character Area. This area is expected to redevelop into a mixed use precinct with its own identity with clear connections to and synergies with the adjoining high density residential precinct and act as the shopping and service hub for the surrounding and intensifying residential area.

### ***E11.2.2 Building to Street Alignment and Street Setbacks***

The average setback along Derby, Woodriff and Reserve Street 2-3m. The proposed development encroaches on the setback requirements with buildings, stormwater infrastructure and substation. This is resulting in the development not being able to achieve a good landscaping along street edges.

### ***E11.2.4 Building Depth and Bulk***

Controlling the size of upper level floor plates of taller buildings allows for good internal amenity, access to natural light and ventilation and reduces potential adverse effects that tall and bulky buildings may have on the public domain.

Building 1 exceeds the maximum floor plate of 750sqm by 210sqm, and building depth of 18m by 2m, above the 20m height however this is considered acceptable as the build is only 21m in height.

## **E11.7 Controls for Special Areas**

The subject site is also nominated within Precinct 3 and additional controls apply.

### ***E11.7.1.3 Precinct 3***

Figure E11.28: Precinct 3 Design Principles identifies the subject site within Area B.

Development of sites within Precinct 3 should achieved the following outcomes:

- Land uses - Area B outcome is to establish retail and commercial land uses only. However, permissibility of Seniors Housing has already been established through Penrith Local Environmental Plan 2010.
- Public domain interface - A landscaped corridor of mature trees on the northern side of Woodriff Street. Due to the proposed 1.6 swale along 73% of the boundary along Woodriff Street and basement and awning impacts 55% of the site could not achieve canopy tree planting. This is not considered an acceptable outcome.