

Statement of Environmental Effects

Demolition of existing dwellings and construction of
a 6 storey residential apartment building of 43 units

32-36 Lethbridge Street Penrith

May 2016



Stimson & Baker Planning

ACN: 167 096 371
ABN: 34 824 672 534

Suite 5,
488 High Street
Penrith NSW 2750

P 02 4731 2730
F 02 4731 2370

www.stimsonandbaker.com.au

This submission has been prepared by



Natasha Baker MPiA
Director

Author	Version	Date
NB	Draft	310516
NB	Final	020616

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Table of Contents

1	INTRODUCTION	1
1.1	Overview	1
1.2	Report Structure	1
1.3	Supporting Documentation	2
1.4	Legislation, Environmental Planning Instruments and Policies to be considered	2
1.5	History of the Application	3
1.6	Consent Authority	4
2	THE SITE AND SURROUNDS	5
2.1	Regional Context	5
2.2	Local Context	6
2.3	The Subject Site	6
2.4	Surrounding Development	8
3	DEVELOPMENT PROPOSAL	9
3.1	Objectives of the Proposal	9
3.2	Details of the Proposal	10
4	STATUTORY CONTEXT	16
4.1	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	16
4.2	State Environmental Planning Policy No 55 – Remediation of Land	16
4.3	State Environmental Planning Policy (Infrastructure) 2007	17
4.4	Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River	17
4.5	State Environmental Planning Policy 65 - Design Quality of Residential Flat Development & Residential Flat Design Code	17
4.6	Penrith Local Environmental Plan 2010	24
4.7	Penrith Development Control Plan 2014	29
5	SECTION 79C ASSESSMENT	35
5.1	Section 79C(1)(a)(i) – Any Environmental Planning Instruments	35
5.2	Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument	35
5.3	Section 79C(1)(a)(iii) – Any Development Control Plan	35
5.4	Section 79C(1)(a)(iia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f	35
5.5	Section 79C(1)(a)(iv) – The Regulations	35
5.6	Section 79C(1)(b) – The Likely Impacts of the Development	36
5.7	Section 79C(1)(c) – The Suitability of the Site	45
5.8	Section 79C(1)(d) – Any Submission Made	46
5.9	Section 79C(1)(e) – The Public Interest	46
5.10	Section 79C(3A) – Development Control Plans	46
6	CONCLUSION AND RECOMMENDATION	47
APPENDIX A	Clause 4.6 variation	
APPENDIX B	Evidence in relation to Site Isolation	

1 Introduction

1.1 Overview

Stimson & Baker Planning has been engaged to prepare a Statement of Environmental Effects in relation to a proposed residential apartment building on the property known as 32-36 Lethbridge Street, Penrith.

The proposed development includes the demolition of three (3) single storey dwellings and associated outbuildings and the construction of a six (6) storey residential apartment building comprising 43 units, two levels of basement car parking for 55 vehicles, associated landscaping and common open space area.

The site is zoned R4 High Density Residential under Penrith Local Environmental Plan 2010 with the proposal being permissible with consent.

Pre-development discussions regarding the proposal have been held with Penrith City Council officers through a pre-lodgement meeting and the Urban Design Review Panel. The matters raised at these meetings is addressed through this report.

The proposal is defined as *development* in Section 4 of the *Environmental Planning and Assessment Act 1979* (EPA Act). Section 76A of the EPA Act stipulates that the development must not be carried out on the subject site until consent has been obtained. Furthermore, the application does not trigger any of the 'integrated development' provisions of the Act and so no third party approvals are required.

This report describes the proposed development and subject site in detail and undertakes an assessment of the proposal against the relevant aims, objectives and development provisions of Penrith Council's LEP and DCP, and Section 79C(1) of the EPA Act.

1.2 Report Structure

This Statement of Environmental Effects is structured as follows:

- Section 1: Introduction – provides an overview of the proposal, planning history for the site and background to the application.
- Section 2: The Site and Surrounds – provides an analysis of the subject site, development within the locality and a consideration of the local and regional context.
- Section 3: Development Proposal – provides a detailed description of the proposed development and its characteristics.
- Section 4: Statutory Context – provides for consideration of the proposal against the specific planning instruments and policies that are applicable.

- Section 5: Section 79C Assessment – provides an assessment against section 79C of the EPA Act.
- Section 6: Conclusion and Recommendation – summarises the report and presents a recommendation.

1.3 Supporting Documentation

The proposal is accompanied by the following documentation:

Documentation	Prepared By
Survey Plan	Precise Surveying
Architectural drawings Architectural Design Statement	Morson Group
Landscape Concept Plan	Ground Ink
Stormwater Concept Plan	S&G Consultants Pty Ltd
Flood Impact Study	S&G Consultants Pty Ltd
Access Report	iAccess Consultants
Traffic Impact Assessment	Traffix

1.4 Legislation, Environmental Planning Instruments and Policies to be considered

This application has been prepared in the context of the following relevant and applicable strategic and statutory instrument and policies:

- *Environmental Planning and Assessment Act 1979*
- *State Environmental Planning Policy No.55 – Remediation of Land*
- *State Environmental Planning Policy No.65 – Design Quality of Apartment Buildings*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Sydney Regional Environmental Plan No.20 – Hawkesbury- Nepean River (No.2- 1997)*
- *Penrith Local Environmental Plan 2010*
- *Penrith Development Control Plan 2014*

1.5 History of the Application

1.5.1 Urban Design Review Panel Meeting

An Urban Design Review Panel Meeting was held on 28 January 2016.

Further comments raised in that meeting have been considered in the final design and preparation of the application as outlined below:

Summary of Issues	Comments in Response
Potential site isolation is an issue in relation to 30 Lethbridge Street. It will be necessary to demonstrate and document that a genuine attempt has been made to acquire this site (refer to Land and Environment Court Planning Principle regarding site isolation).	Please refer to Appendix B and Section 5.6.7
Any Clause 4.6 variation to height will require suitable arguments demonstrating an improved outcome for the site.	Please Refer to Appendix A and Section 4.6.1
The basement is too close to the street. Capacity for tree planting in the front setback is required.	Refer to the accompanying Landscape Plan which demonstrates tree planting within the front setback
The atrium treatment is resulting in reduced side and rear setbacks. Deletion of this element would allow greater open space and landscaping opportunities to side and rear boundaries. A "T" shaped building or compressed building configuration is recommended to achieve improved side and rear setbacks and landscaping.	Options have been provided for different building configurations on the site in response this matter raised. Improved setbacks have resulted with the atrium response.
The atrium space at the ground floor level is not suitable as common open space. It is not usable in the sense and serves to from part of the access sequence for the building.	Better utilisation of at-ground common open space is provided as shown on the Landscape Plan. The Atrium is still included in the common open space area but not required to meet minimum common open space requirements.
A street entry point from the centre of the building should be provided. The current side entry is too deep within the site and this combined with the first storey covering this area will result in safety and security issues.	A side entrance through a wide landscaped common open space area rather than a narrow entry point is preferred and outlined in the accompanying plans.
The elevated rear terraces at the ground floor are 1.4m above ground level; >1m requires a 6m setback or terraced solution. The current arrangement will result in overlooking and ground level interface issues.	The terraces area setback 5m from the rear boundary, this is to accommodate the topography and overland flows on the site. Appropriate privacy measures can be imposed.
Apartment layouts are suitable although direct street entries for street front ground floor apartments should be provided.	Direct street entries are provided for two of the ground floor units.
A review of solar access compliance is required.	Solar Access Complies with the ADGs
Provision of the waste storage area adjacent to the adjoining property is not a suitable outcome and this location should be revised.	Waste collection bays sit between the driveway and the building.
The basement storage bays need to comply with the Apartment Design Guide requirements.	Noted and provided

The side portions of the wraparound balconies at level 5 should be deleted.	Wrap around balconies removed
High quality architectural treatment is required. The use of the natural materials, juxtaposition of differing window treatments and louvered treatments are supported.	The key materials are a combination of brick and black profiles (slab edges, louvres and windows). Materials and finishes are provided in the accompanying plans.

1.5.2 Pre-lodgement Meeting

The proposal was discussed at a pre-lodgement meeting held with the relevant officers at Penrith Council. To date formal meeting minutes have not been received by Council however the range of issues discussed and addressed in the application include:

- Overland Flow Flooding
- Waste Management
- Services in the basement
- Adaptable Units
- Contamination
- Water Pressure
- Access report

1.5.3 Consent Authority

Penrith City Council is the consent authority for this development application.

2 The Site and Surrounds

2.1 Regional Context

The site is located within the Penrith Local Government Area approximately 50km west of Sydney and 30km west of Parramatta.

The Metropolitan Strategy, A Plan for Growing Sydney was released December 2014. Goals of the Plan is to create a city of housing choice with homes that meets needs and lifestyles of its community and it be a great place to live. It also anticipated that this will create communities that are strong, healthy and well connected. The plan recognises the need to accelerate housing supply and local housing choices, particularly, in and around centres that are close to jobs and are serviced by public transport services that are frequent and capable of moving large numbers of people.

Strategically, Penrith has recently increased the densities around the Penrith City Centre through recent LEP amendments, contributing to choice with homes that are of varying types and mix and that are affordable and within well connected communities.

The proposal makes a significant contribution to the expected increase in density for this area and aligns with Council's Strategic direction for this area.

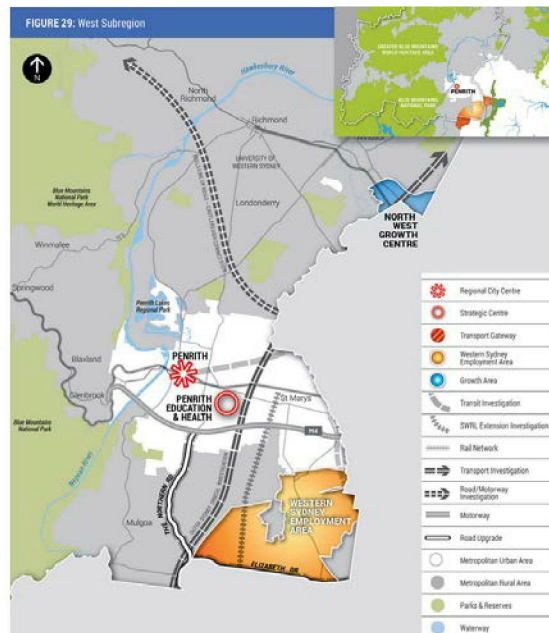


Figure 1: A Plan for Growing Sydney (<http://www.strategy.planning.nsw.gov.au/sydney/the-plan/>)

2.2 Local Context

The subject site is located in the suburb of Penrith and is accessible by walking and cycling to public transport, both rail and bus, the Penrith City Centre, recreation and employment areas.

The subject site is within 200m of the Penrith Health and Education Precinct and within an 800m walking distance to High Street mixed use area.

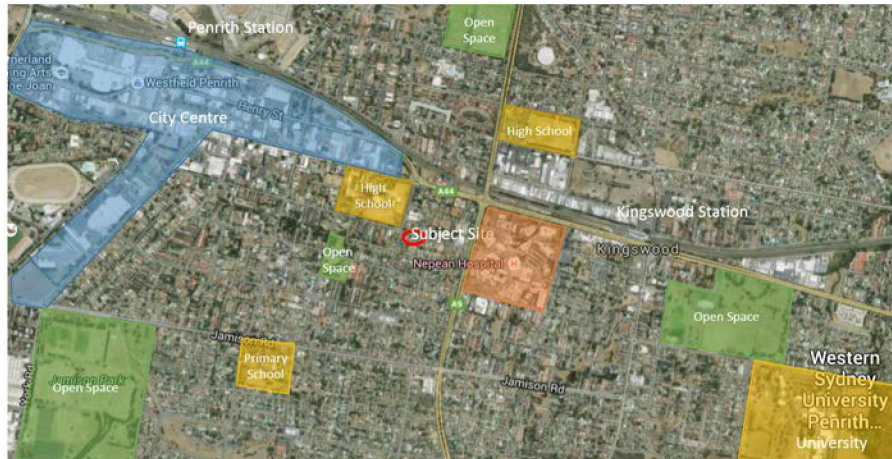


Figure 2: Local Context (Source Base Map: SIX maps)

2.3 The Subject Site

The development site comprises three (3) residential properties located on the southern side of Lethbridge Street.



Figure 3: Subject Site (Source: <http://maps.au.nearmap.com/>)

The development site comprises:

- No.32 Lethbridge Street - single storey brick dwelling with tiled roof and outbuildings
- No.34 Lethbridge Street - single storey weatherboard dwelling with tiled roof and separate garage and awning
- No.36 Lethbridge Street - single storey weatherboard dwelling with tiled roof and carport.

The development site has a combined frontage of 45.72m fronting Lethbridge Street. The site is known as 32-36 Lethbridge Street is legally described as Lots 5, 4, 3 DP 27391. The properties are orientated generally in a north south alignment and the development site creates a rectangular shape with a combined area of approximately 1811.61m².

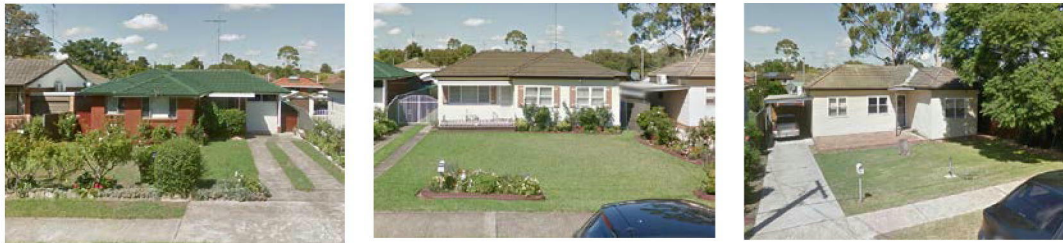


Figure 4: 32-26 Lethbridge St (Source: Google Maps)

Topography

The site falls in a north to south direction and is located in a low lying gully towards the rear of the property. The site is subject to overland flow flooding.

Vehicular Access

There is direct vehicular access to the site from Lethbridge Street for Nos. 32-36 via single concrete driveways with existing vehicular crossings.

Pedestrian Access and Public Transport

There is currently a pedestrian pathway across the frontage of the site on Lethbridge Street.

There are bus stops within 200m walking distance from the site and located on Lethbridge and Derby Street providing services to Penrith station and the wider area including Western Sydney University and Nepean Hospital.

Penrith City Centre is within walking distance from the site, with ALDI located within 800m of the site.

Penrith Station is 1.4km and Kingswood Station is 1.1km from the site.

Utilities and Services

There is existing reticulated sewer, water and electricity services to the site.

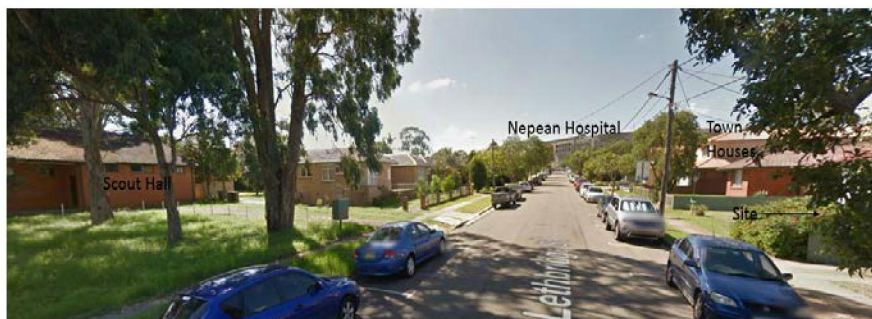
Vegetation

There is typical residential landscaping on the site with no significant trees on the site.

2.4 Surrounding Development

The surrounding locality is characterised by older low density housing stock, however the character of this area is evolving with the recent changes to the LEP to an increase in higher densities in the area due to its close proximity to Penrith City Centre and the Penrith Health and Education Precinct (Nepean Hospital). There are some smaller residential flat buildings and town houses in the area.

The development site is bound by a single dwelling to the east, low density housing to the north, low density housing to the west (but with approval for a six storey residential flat building) and low density housing to the south to which there is known future residential apartment development being designed.



Looking east towards Nepean Hospital



Looking west towards Penrith High School

Figure 5: Surrounding Development (Source: Google Maps)

3.2 Details of the Proposal

The proposal is for a residential apartment buildings providing 43 units with the following apartment mix:

Level	No. of Units	Bedrooms
Ground	1	1
	2	2
	2	3
One	8	2
Two	8	2
Three	8	2
Four	8	2
Five	6	2
TOTAL		43

A full apartment schedule is provided on the accompanying plans. Summary of the apartment mix includes:

- 1 x one (1) bedroom unit
- 40 x two (2) bedroom units
- 2 x (3) bedroom units

Of which four (4) apartments are adaptable in accordance with AS4299, two units located on the ground level and two units located on Level 1.

Built Form and Design

The proposal was presented to the Urban Design Review Panel (UDRP). Since the presentation responses to matters raised have been considered and addressed in the final design.

The design of the proposed development is of high architectural merit and improves and contributes positively to the existing and emerging streetscape. The proposal provides various setbacks and façade treatment to minimise the height, bulk and scale. The proposal has a complimentary colour palate and mix of finishes and materials. The accompanying architectural plans and Figure 7 provides a render of the proposal and schedule of colour, finishes and materials, which demonstrates its visual qualities.

The design has also responded to the overland flow flooding predominately to the rear of the development site.



Figure 7: Perspective (Source: Morson Group)

Access and Internal Circulation

An appropriate level of access is provided to the site, both for vehicular and pedestrian traffic. Vehicular access is provided to the site via a common two-way driveway servicing the basement car parking over two levels from Lethbridge Street, therefore reducing the access points from three to one on this road. The driveway sits under the building at the eastern end and is approximately 6.6m in width.

There is a lift that services each of the residential apartment building from all levels from the basement.

Given the nature of the street, the site and the surrounding development it is proposed to collect waste from the street in a dedicated waste collection bay, this will require the removal of on street car parking. More details regarding the waste arrangements is discussed below.

Accessible requirements in accordance with the provisions of the Disability (Access to Premises) Standard 2010 have been incorporated into the design of the building.

The proposal provides for adaptable and accessible units and accessible car parking spaces. An adaptable unit plan accompanies the application. There are four (4) adaptable units proposed of the three of the two (2) bedroom apartments and one three (3) bedroom apartment, meeting Council's requirements and being 10% of the total number of units.

An access report accompanies the development application. With the detail of the requirements of the Standard to be demonstrated in the detailed design associated with the documentation process.

Traffic and Parking Provision

A detailed *Traffic Impact Assessment* accompanies the application.

Parking is provided over two basement levels for 55 car spaces including visitor and accessible spaces for the building:

- Basement Level 1 – 25 car spaces are provide including visitor and accessible, spaces. There is also provision for storage, waste room, hydro pump room, mechanical ventilation.
- Basement Level 2 – 31 car spaces including visitor and car wash area. There is also provision for storage and bicycle parking/storage area.

Access to the basement parking is via a two-way driveway at the eastern end of the site from Lethbridge Street with details provided above.

There is also provision for twelve (12) dedicated bicycle parking spaces with formalised bicycle parking at the entry to the building and within bicycle storage cages in the basement.

The proposal includes modification to the on-street parking arrangement and introduces an indented waste collection bay at the front of the property adjacent to the footpath. This is discussed in more detail in Section 5.6.6. This arrangement will need to be assessed and approved by Council's Local Traffic Committee.

Landscaping and Open Space

A Landscape Concept Plan accompanies the application and demonstrates high quality landscaping outcomes for the site and in the context of its residential setting. Landscaped areas including the ground level common open space area and atrium (507m²) is provided to the development that improves the streetscape and the amenity of the site. Deep soil zones enable suitable tree planting and integrated landscape design and complies with the Apartment Design Guidelines under SEPP 65.

Open Space is provided to the residents via a private balcony/terrace to each unit and terraces to all of the ground floor levels. There is communal open space provided for the residents which is located on the ground floor with this area offering functional high surveillance areas with amenity. Common Open Space is also provided within an atrium which is a large lobby area, this is viewed from all levels and most units providing for opportunity for resident interaction.

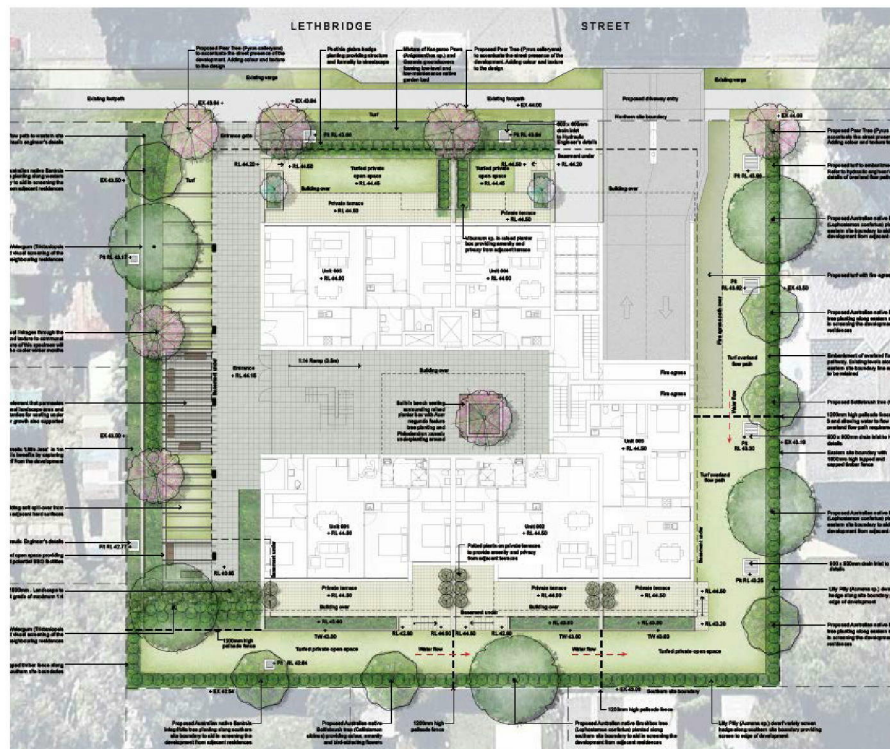


Figure 5: Landscape Plan (Source: Ground Ink)

Stormwater Drainage and Flooding

A *Stormwater Concept Design* accompanies the application and demonstrates compliance with Council's controls. Stormwater drainage and infiltration system together with onsite detention is provided as part of the stormwater management on the site. Further information accompanies the application in regards to the stormwater management on the site including MUSIC modelling.

A *Flood Impact Study* accompanies the application due to the site being subject to overland flow flooding. Further details are outlined in Section 5.6.4.

A *WSUD Strategy* also accompanies the application.

Utilities

The site will be appropriately serviced to accommodate the proposed use. Preliminary discussions with the relevant service providers has indicated that the site can be connected to existing services with some augmentation required and in accordance with the relevant requirements.

Vegetation and Tree Removal

There are no significant examples of vegetation on the site. The removal of any landscaping will be replaced and further enhanced as a result of the proposal and as demonstrated on the accompanying Landscape Concept Plan.

Crime Prevention through Environmental Design

Crime prevention through environmental design has been incorporated into the design of the proposed development. This has been undertaken in such a way that publicly accessible common areas can be viewed from multiple vantage points within the development. Access to common open space will be clearly identifiable and only accessible by residents and their visitors. Access to the residential units will be via a resident passcode, or resident controlled intercom-access system and passive surveillance of the street is undertaken by virtue of direct visual connection from the units fronting Lethbridge Street.

Demolition

Demolition of the dwellings and ancillary structures on the site will be required. Any demolition works will be carried out in accordance with the relevant Work, Health and Safety legislative requirements. It is expected that Council will impose appropriate conditions of consent in this regard. A waste management plan detailing waste generated from demolition and accompanies the application. Details in relation to traffic management, site safety and waste management can be provided prior to the issue of a construction certificate.

Waste Management Strategy

The Waste Management on the site has been carefully designed with consideration specifically to the advice provided by Penrith Council officers, along with additional research and exploration.

The ongoing waste management is through a recycled and residual waste chute system installed within the common circulation area of every level of the building. The chutes discharge to the basement (level 1) into a dedicated chute waste room which has a linear carousel that can hold up to 4 bins at any one time. The chute room is separated from the waste store room.

A caretaker will monitor the waste within the chute room and ensure that the bins are rotated as necessary to ensure the property management and function of this chute system. The caretaker will also be responsible for the transportation of the bins from the waste store room up to the collection point (waste holding room) at ground level which is located underneath the building directly adjacent to the exit side of the vehicle access ramp. A mechanical bin tug device will be used by the caretaker to transport the waste on site.

An indented bay is proposed at the kerb for the parking of the waste truck for waste collection, the driver is to access the waste holding room and then load bins onto the truck. This indented bay will remove one on street parking space.

The caretaker will return the bins back to the basement waste room on the same day as collection.

Whilst it is preferred that Garbage trucks enter and leave the site in a forward direction, the proposed truck collection method is an alternate solution for Council

consideration given the site location, function and future development opportunities including amenity for residents on the site.

Contamination

The site is unlikely to be contaminated given its previous and current use for residential development. SEPP 55 is addressed below.

National Construction Code Compliance

All works will be carried and comply with the National Construction Code (now incorporating the BCA). A Construction Certificate will be required in relation to the proposal and it is expected that Council will require matters relating to NCC compliance.

4 Statutory Context

The following section provides an assessment of the proposed development against the relevant planning instruments and policies.

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

The aim of this policy is to ensure consistency in the implementation of the BASIX Scheme throughout the State. A BASIX assessment accompanies the development application demonstrating that the proposal is committed to environmental sustainable measures. BASIX commitments are detailed on the accompanying architectural plans.

4.2 State Environmental Planning Policy No 55 – Remediation of Land

The aims and objectives of State Environmental Planning Policy 55 (SEPP 55) are to provide a statewide planning approach to contaminated land remediation. It also promotes the remediation of contaminated land to reduce the risk of harm. SEPP 55 applies where consent is being sought for works on potentially contaminated land and/or where remediation works are proposed.

Clause 7 of SEPP 55 requires Council to consider prior to determination whether contamination may be present and if contamination is present if it is suitable for the proposed use. This assessment is applied through consideration of a contamination assessment as specified by SEPP 55.

There is no known contamination on the site. The use of the property and adjoining properties previously and currently for residential development will unlikely generate contaminants that would hinder future development.

Although there have not been any site investigations directly testing contamination, the current use of the site is not identified as an activity that may cause contamination as identified in Table 1 of the SEPP55 Guidelines, therefore Council can consent to the carrying out of development on the land.

4.3 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) provides for specific controls on specified developments and compliance with these controls.

The proposal is not at a scale identified under Schedule 3 Traffic Generating Developments to be referred to the RMS.

4.4 Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River

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

Any nominated strategies in relation to water quality and management is addressed throughout this report. Appropriate conditions of consent would normally be applied to any approval to ensure the health of the river system is not compromised by way of sediment or erosion from the works or use.

4.5 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development & Apartment Design Guidelines

State Environmental Planning Policy No. 65 (SEPP65) was introduced to improve the design quality of residential apartment development in NSW. Supporting SEPP65 is the Apartment Design Guidelines (ADGs) which are relevant to certain residential apartment buildings. This policy and the accompanying Apartment Design Guidelines (ADGs) are relevant to this proposal.

The aims of the policy under Clause 2 are:

- (1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*
- (2) *This Policy recognises that the design quality of residential apartment development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.*
- (3) *Improving the design quality of residential apartment development aims:*
 - (a) *to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) *by providing sustainable housing in social and environmental terms, and*
 - (ii) *by being a long-term asset to its neighbourhood, and*
 - (iii) *by achieving the urban planning policies for its regional and local contexts, and*

(b)	<i>to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and</i>
(c)	<i>to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and</i>
(d)	<i>to maximise amenity, safety and security for the benefit of its occupants and the wider community, and</i>
(e)	<i>to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.</i>
(f)	<i>to contribute to the provision of a variety of dwelling types to meet population growth, and</i>
(g)	<i>to support housing affordability, and (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.</i>
(4)	<i>This Policy aims to provide:</i>
(a)	<i>consistency of policy and mechanisms across the State, and</i>
(b)	<i>a framework for local and regional planning to achieve identified outcomes for specific places.</i>

This SEPP applies to the proposed development under Clause 4 in that it includes:

- (a) *the erection of a new residential apartment building*
- (b) *is greater than 3 or more storeys and*
- (c) *the building contains at least 4 or more dwellings.*

Schedule 1 sets out the design quality principles which are to be considered in the design of the residential apartment building and as outlined below:

Schedule 1 sets out the design quality principles which are to be considered in the design of the residential apartment building:

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 proposal addresses this principle in that it is responding to Council's future direction of this area and its rezoning of the land to R4 High Density. This area is well located to Nepean Hospital, public transport, recreational and cultural activities within the area. The site is within walking distance to Penrith City Centre and the Penrith Health and Education Precinct. The general compliance achieved with the planning controls ensures that the development is consistent with the desired future character of the area. A Context plan is provided in the accompanying architectural plans

demonstrating a future indicative built form in the surrounding area. The local and regional context of the proposal is addressed in Section 2 above.

Principle 2: Built form and scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the 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 general compliance achieved with the planning controls demonstrates that the proposal is of a scale and bulk that is compatible with the existing and intended built form for this locality. This building, along with those proposed as part of the zoning increased density will create a precinct of high density buildings within close proximity to services and facilities. The setbacks are considered appropriate and address Council's DCP and the ADGs design guidance, where there are exceedances in the setbacks these are addressed in the design. There is no FSR for the site and the solar access to neighbouring properties has been responded to in the design and setbacks. The proposed maximum height limit is slightly exceeded to respond to the dip in the topography that exists in the property and this is addressed through a Clause 4.6 as outlined in Appendix A and consistent with the neighbouring property that was recently approved.

The proposed development achieves appropriate built form which is attentive in its design and contribution to the streetscape. Appropriate setbacks, landscaped areas and level of amenity through private gardens, balconies, terraces and direct pedestrian access to Lethbridge Street, where possible, contribute to the streetscape character of the area which is predominately a traditional neighbourhood. The design provides for a six storey appearance which is the intent of the 18m height limit for the area.

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 density proposed as part of this development is representative of the site opportunities and existing development in the locality. There is a range of floor space yields and apartment mix that fits well within the urban context in proximity to infrastructure public transport, community facilities and other natural features.

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

Appropriate energy saving and water efficiency measures have been included into the design of the building. This is confirmed in the accompanying BASIX assessments. The units comply with solar access and cross ventilation requirements. Common open space areas receive appropriate solar access and are co-located with substantial deep soil zones.

Further details are also provided in the accompanying Architects Design Statement.

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

The landscaping proposed on the site is integrated well into the built form and site coverage facilitated through applying the SEPP and planning controls. A Landscape Concept Plan accompanies the application and shows significant contribution of trees to the emerging character of the area and the streetscape. There are deep soil zones which provide opportunity for some tree planting. Private open space areas are landscaped with suitable landscaping along Lethbridge Street where possible and the Common Open Space is landscaped and integrated into the development.

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 proposed design facilitates the outcomes sought by this design principle. This is shown on the accompanying plans and site analysis.

The proposal provides for a range of units that provide appropriate dimensions, access to sunlight, visual and acoustic privacy, a variety of indoor and outdoor space and accessibility. The proposal includes adaptable and accessible units within the mix. The proposed development also provides direct access to private courtyards through living areas on the ground floor which contributes to a garden setting.

An access report accompanies this application.

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

There are no areas of the design that would pose a safety or security risk. In this regard it is noted that there are no entrapment zones or spaces that have poor sight lines. Passive surveillance opportunities have been maximised where possible particularly where the lobby area of all levels overlook the common open space area. All units overlook the lobby area through an atrium. There is direct access and frontage to the street with the balconies fronting the street to add to the activation and liveliness of the area. The apartments fronting Lethbridge Street have the benefit of direct pedestrian access from the street, where possible. The unique design of a shared common open space area and direct sight lines from each of the building lift lobbies to the other provides for high resident interaction and surveillance.

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 proposed responds to the current market demands and SEPP 65, it also responds to the expected demographics, living needs and household budgets. This document contains aims and objectives aspiring to provide a good mix of housing product and one that could be regarded as

being affordable. The proposed development satisfies these design outcomes. All apartments comply with the minimum sizes and dimensions.

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.

It is apparent in the plans presented to Council that there is a high level of quality in the finishes and materials proposed as part of this development. The proposed building is unique and can offer a different visual amenity to the area. It is submitted that the design outcome has been achieved. The proposal has been referred to Council's Urban Design Review Panel feedback received has been addressed throughout this report. The design of the building is a good transition to the existing and emerging local context.

The application is also accompanied by an Architects Design Statement which addresses the above principles and responses to the UDRP feedback as outlined in Section 1.5.1.

The SEPP also requires the consent authority to take into consideration the Apartment Design Guidelines. Under Clause 6A where there is inconsistencies between the SEPP and Council's DCP, the SEPP prevails. The application is accompanied by a detailed SEPP 65 Compliance Table outlined on Sheet DA02 on the accompanying plans.

The proposal predominately complies with the ADGs, there is some minor encroachments to the nominated setbacks in the ADGs, with the separation requirements as addressed below:

- *3F-1- Visual Privacy – Building Preparation*

The proposed building provides for the following boundary setbacks:

- Northern Boundary: Street frontage to Lethbridge St, front setbacks apply and considered consistent with adjoining development to the west.
- Southern Boundary: Ground level - level 4 setback from 5m to 7.3m. Level 5 setback of 7m- 8.45m.
- Western Boundary: Ground level - level 4 setback of 6.00m. Level 5 setback of 8.00m.
- Eastern Boundary: Ground level - level 4 setback of 6.00m. Level 5 setback of 8.00m.

The non-compliances in relation to setbacks are only Ground level to level 4 at the southern boundary by 1m and Level 5 on all boundary by 1m and the southern boundary ranging from 0.5m and 2m. These areas are treated accordingly in the

design through window placement, louvres as privacy screen. The separation to the western approved residential flat building meet the ADGs when measured and combined together. The proposal to the west also provides a number of blank walls which enable limited privacy issues as a result.

The minor encroachments into the setbacks nominated in the guidelines contribute to the façade and elevation treatment and do not alter the bulk and scale or overshadowing from the proposal. Applying the design guidelines, the setbacks are not significant and can incorporate design elements and where there are windows and balconies, treatment has been provided to ensure visual privacy to adjoining properties. Refer to accompanying plans.

As outlined above where the design criteria have not been met, the design guidelines from the Apartment Design Guide have been considered and the design is still considered suitable for the proposal. The application is also accompanied with the Architect's Design Statement as well as a compliance table, apartment and window schedule found on the architectural drawings providing more detail with regards to SEPP 65 compliance.

4.6 Penrith Local Environmental Plan 2010

The LEP is the primary environmental planning instrument relating to the proposed development. The objectives of the LEP are as follows:

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

It is submitted that the proposed development is not inconsistent with these objectives.

The subject site is zoned *R4 High Density Residential*. The objectives of the R4 zone listed in the LEP are:

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

The proposed development is consistent with the objectives in that:

- The proposed residential apartment building provides for the community's housing needs in an emerging high density residential environment. The site location maximises public transport usage and encourages walking and cycling, particularly to the Penrith City Centre and Penrith Health and Education Precinct.
- The proposal provides for a mix of bedroom and apartment styles and arrangements. This mix of housing would suit a range of household types living in close proximity to services and facilities, Penrith City Centre and wider recreation uses.
- A high level of residential amenity is provided for in the design of the proposal through the provision of high architectural design, private courtyards, terraces and balconies and common open space area in a landscaped setting.
- The proposed apartment mix provides affordable housing options within the building.
- The proposal provides for residential apartment buildings which is the type of development emerging in the area as a result of recent zone changes on the area to permit this type of development.

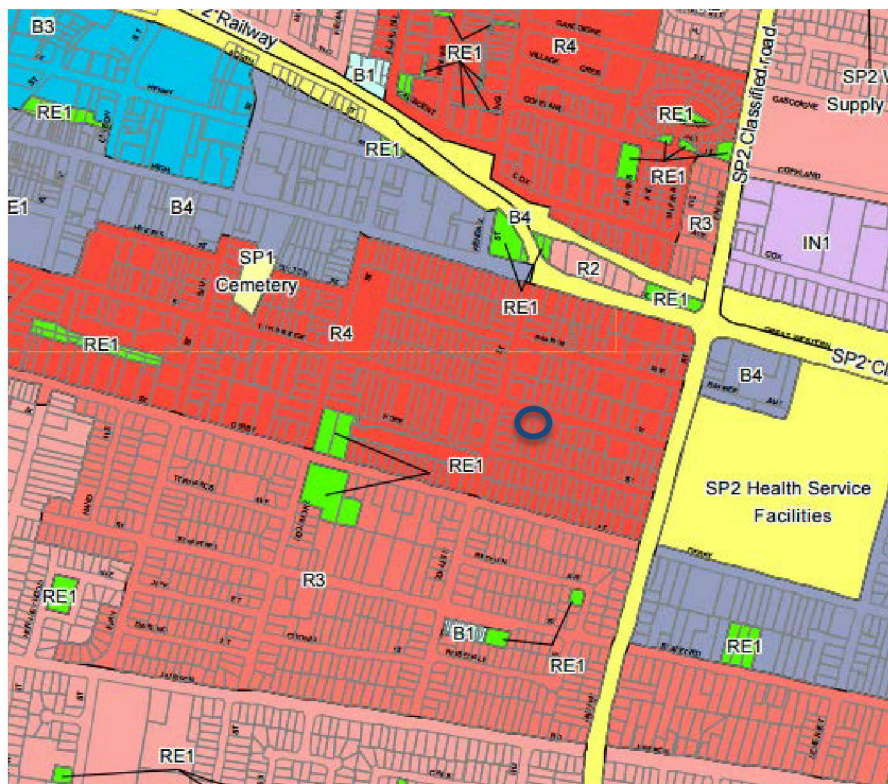


Figure 13: Land Zoning Penrith Local Environmental Plan 2010

The Land Use Table of the LEP nominates a *Residential Flat Building* as a permissible form of development in the R4 zone. The definition is:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The following relevant clauses have also been considered in respect of this development proposal.

Part 4 Principal Development Standards	
Provision	Comment
4.1A Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings	The development site comprises three development lots where combined exceeds the minimum 800sqm required for a Residential Apartment Building. An area of 1811.61m ² is provided.
4.3 Height of buildings	The proposal exceeds the maximum height of 18m due to the low lying gully in the topography and to address overland flow flooding on the site. A form to vary the development standard under Clause 4.6 is provided in Appendix A.
4.4 Floor space ratio	There is no FSR applying to the site.
4.6 Exceptions to development standards	Refer to Section 4.6.1 below and Appendix A
Part 7 Additional Local Provisions	
Provision	Comment
7.1 Earthworks	Earthworks are required for the basement. The proposal will not have a detrimental effect on neighbouring property or the environment as this is appropriately setback and contained from the property boundaries. Appropriate measures will be put in place to avoid, minimise or mitigate any impacts that may arise.
7.2 Flood Planning	The site is affected by the 1in 100 year flood level for overland flow flooding. A Flood Impacts Study accompanies the application and concludes that there are no adverse impacts. This is further outlined below in Section 5.6.4.
7.4 Sustainable Development	The proposal has given consideration to the sustainable development principles referred to in this clause. BASIX accompanies the application. Onsite Detention is proposed as well as treatment of stormwater which is accompanying the application. There are deep soil zones to contribute to substantial tree planting. There is common open space areas and areas for residential interaction.
7.6 Salinity	The proposal is unlikely to have an impact on the salinity processes or salinity likely to impact the development. There is no known salinity on the site.
7.7 Servicing	The proposal will retain all the servicing that occurs on the site and connection to water, sewer and electricity. Upgrades may be required to accommodate the use and this will be confirmed with the relevant agencies prior to construction. Existing infrastructure within the area is considered sufficient to service the proposal in addition to contributions payable for local open space and district facilities.

There are no other clauses relevant to the proposal.

4.6.1 Clause 4.6 – Exceptions to Development Standards

Clause 4.6 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case be unreasonable or unnecessary. The proposal exceeds the development standard in relation to the height of building in this regard.

The maximum height of the building in this location is 18m under Penrith LEP 2010. The height encroachment over the 18m is shown below, with two figures. One being from natural ground level and the other from hypothetical ground level if there was not a low lying gully through the property and the landform was consistent across the site. This hypothetical landform is consistent and aligned with the adjoining sites. The height exceedance is as follows:

- Natural Ground Level – 1600m-2200m (red line)
- Hypothetical Ground Level – 840mm to 1305mm (blue line)

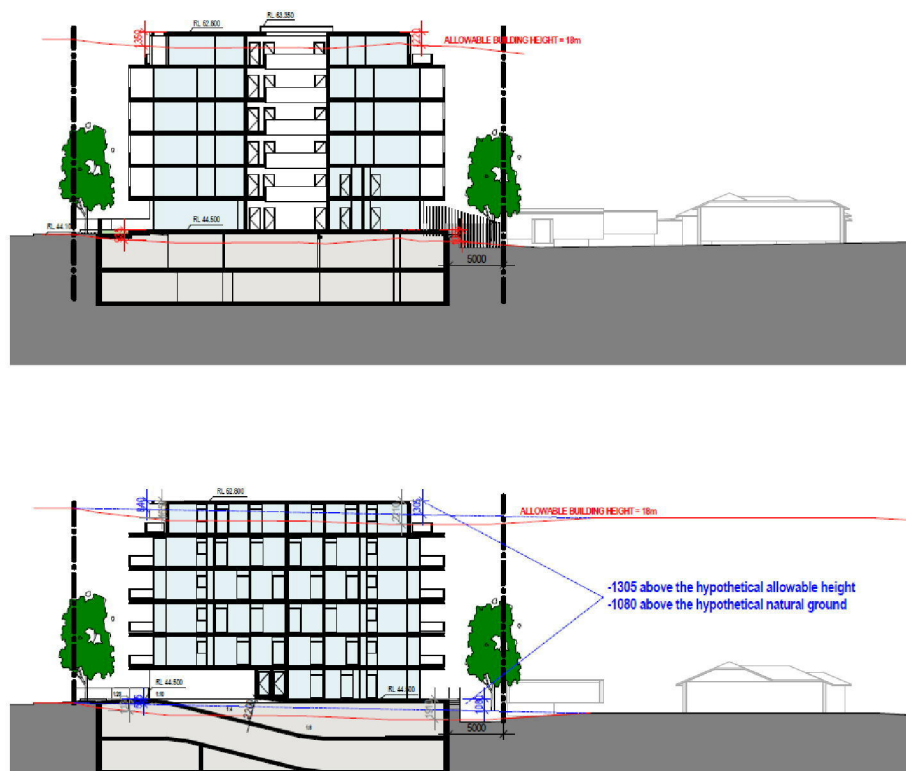


Figure 6: Section showing average height encroachment (Source: Morson Group)

Council has been advising that applications to vary Clause 4.6 is to address *Four2Five Pty Ltd vs Ashfield Council [2015] NSWLEC 90*. Recent court decisions such as that in *Moskiovitch v Waverly Council [2016] NSWLEC 1015* found that in previous cases the Commissioner could be dissatisfied with the environmental

planning grounds relied upon and that this is more specific to the facts of that particular case and was not to be deemed a general principle. It is up to consent authorities' discretion as to the approach they take and consistency to the objectives as outlined in Clause 4.4 (3) (a). In this regard, Clause 4.6 is addressed below and to be read in conjunction with the form to vary a development standard prepared in accordance with *Varying Development Standards: A Guide (August 2011)* prepared by the then Department of Planning and Infrastructure outlined in Appendix A.

The proposal addresses Clause 4.6 in the following manner:

Clause 4.6 Exception to Development Standards

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The proposal is seeking some flexibility in applying the 18m height of buildings limit and the proposal achieves a better development outcome as the height responds to limiting cut and fill, responding to the topography as there is a low lying gully through the property and responding to the overland flow flooding on the site. Addressing these environmental impacts the site still provides for six storeys which is the intent of the height limit for this area and this is also consistent with other development in the vicinity. By allowing flexibility to the height limit in this particular case it allows the development to address and respond to the site constraints but produce the planning outcomes for the site in expected housing delivery.

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

The development standard can be varied under Clause 4.6.

(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.*

Appendix A provides a formal written request to vary the development standard and addresses why the development standard is unreasonable or unnecessary in this case and that there is sufficient environmental planning grounds to justify the contravening of the 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.

Appendix A provides addressed the matters in subclause (3) through a written request and also outlined how the proposal will be in the public interest by addressing the objectives of the development standards and the development within the R4 zone.

(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.*

It is assumed that Council has delegation from the Secretary.

The variation concludes that the development standard is unreasonable and unnecessary in this case as it is appropriate for this site in its context and setting, addresses the relevant objectives and should be supported.

4.7 Penrith Development Control Plan 2014

Development Control Plans contain finer grain planning controls in respect of specific development types. Penrith Development Control Plan 2014 (DCP) applies to the proposal, with the following Parts of the DCP being the most relevant in the case of the proposed residential apartment building:

Part C1: Site Planning and Design Principles

The design methodology was discussed with Council at its Urban Design Review Panel and Pre DA meetings. The site has been responded to with the proposed development and a Context and Site Analysis Plan accompanies the application.

Part C2: Vegetation Management

A Landscape Concept Plan accompanies the application and provides for a mix of planting that better integrates with the development and surrounding area. Substantial deep soil areas can accommodate deep rooted tree planting.

Part C3: Water Management

Appropriate initiatives are proposed for on-site stormwater management and BASIX assessment carried out. These have been incorporated into the design of the development. A Stormwater Concept Plan and Flood Impact Study and WSUD Strategy accompanies the application demonstrating suitable management of stormwater quality and quantity.

Part C4: Land Management

Appropriate measures will be put in place to ensure the site is protected from erosion and sedimentation. An erosion and sedimentation control plan is provided. It is submitted that there are no concerns around potential contamination of the site given the historical residential use.

Part C5: Waste Management

The provision for waste management on site is considered satisfactory and there is provision for a waste chute, waste room plus bulky waste room which is sufficient for this building. A Waste Management Plan accompanies the application outlining the waste requirements together with details provided in Section 3 and Section 5.6.15.

C6: Landscape Design

A detailed Landscape Concept Plan accompanies this application. The provisions of SEPP 65 have been considered in respect of the landscaping proposed.

The plants that will be used in the landscaping will be varieties that require low levels of maintenance and are drought resistant to reduce water use within the development. Refer to accompanying Landscape Concept Plan.

C7: Culture and Heritage

The site is not a heritage item and does not adjoin a heritage item or precinct.

C10: Transport, Access and Parking

The parking requirements are as follows for a Residential Apartment Building:

- 2 (3bed) x 2 = 4
- 41 (1/2bed) x 1 = 41
- 1 per 5 for visitor (43 units) = 8
- 1 per 40 units for service vehicle (43 units) = 1
- 1 space per 50 units car wash bay (43 units) = 1

The proposal requires 55 spaces and provides 55 spaces over two basement levels.

There is provision for 11 bicycle parking areas, with 9 secure resident spaces and 2 visitor spaces.

A detailed Traffic Impact Assessment accompanies the application that addresses this section of the DCP. Also refer to Section 5.6.6.

C12: Noise and Vibration

There is no anticipated noise or vibration generated or land uses adjoining affecting the proposal in this regard. It is considered that a noise report is not required.

C13: Infrastructure and Services

As stated previously, the subject site is already serviced to accommodate the proposed development and any augmentation required will be confirmed with the relevant service providers.

D2 – Residential Development

2.5 Residential Flat Buildings

Control	Comment	
2.5.3. The Development Site		
Determine a minimum lot width for residential flat buildings: a) Adopt a minimum lot width of 20m in the R4 High Density Residential zone.	Combined lot frontages 45.72m which exceeds the minimum 20m width	✓
2.5.4. Urban Form		
For dwellings fronting the street, adopt a traditional orientation: a) living rooms, verandahs and the paths to entrances face the street rather than neighbouring properties; and b) private gardens fill the front setback area; and c) Garages are concealed behind dwellings.	Apartments with frontage to Lethbridge Street on the ground level have direct pedestrian access to the street where possible, with a distinct entry point from this street. There is basement parking provided.	✓

2.5.5. Landscaped Area

<p>Landscaped areas should provide:</p> <ul style="list-style-type: none"> a) effective separation between neighbouring dwellings; i. Where more than 10 dwellings are proposed, a centrally located communal open space area that is accessible and available to all residents of the development, comprising 10% of the minimum landscaped area requirement. 	<p>Effective separation is provided under SEPP65 and discussed in Section 4.5, this allows for suitable landscaped areas and tree planting.</p> <p>Common Open Space is provided that exceeds Council's minimum 10% of Landscaped Area.</p>	✓
<p>Landscaped area must meet the following requirements:</p> <ul style="list-style-type: none"> a) Landscaped areas should be: <ul style="list-style-type: none"> i. R4 High Density Residential – Minimum 35% landscaped area of the site. b) have a minimum width of 2m – with no basement encroachment; and containing unexcavated soil to promote landscaping that is effective and healthy; c) may include terraces and patios located not higher than 0.5m above ground and pedestrian pathways to building and dwelling entrances; d) do not include substantially-paved areas such as buildings, driveways and covered garages; e) should include verges that surround car parking areas and open driveways; f) should provide a reasonable area of private open space in accordance with the part within this section on design; 	<p>Landscaped Area of 507sqm (28%) of the site, which in deep soil zones and the common open space area on the ground level. This is a shortfall of 7%. Further discussion below.</p>	-

2.5.6. Front and Rear Setbacks

<p>Determine the maximum development footprint for your site:</p> <ul style="list-style-type: none"> a) The minimum rear setback for a single storey building (or any single storey component of a building) is 4m b) The minimum rear setback for a two storey building (or any two storey component of a building) is 6m. 	SEPP 65	✓
<p>Within the rear boundary setback:</p> <ul style="list-style-type: none"> a) there shall be no building encroachments either above or below ground (eaves excepted); b) maximise the amount of undisturbed soil, encouraging rapid growth of healthy trees and shrubs; c) Where there are physical encumbrances such as open drains, increase the setback accordingly. 	SEPP 65	✓
<p>Determine an appropriate front setback:</p> <ul style="list-style-type: none"> a) either average the setbacks of the immediate neighbours; or b) 5.5m minimum whichever is the greater dimension. 	<p>The front building setback is 7m with the terraces setback 5m.</p> <p>The front setbacks are considered appropriate in the context of the current and future setting and consistent with the approved development to the west.</p>	✓
<p>Garages and parking spaces are not permissible within the front setback.</p>	Basement parking is provided	✓

2.5.7. Side Setbacks

<p>Cut and fill and maximum ground floor heights:</p> <ul style="list-style-type: none"> a) on sloping sites provide stepping building platforms in line with existing 		✓
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<p>topography with floors no higher than 1m above natural ground level;</p> <p>b) restrict cut-and-fill to a maximum of 500mm; and</p> <p>c) Provide effective sub-soil drainage.</p>		
Pitches for main roofs are not to be in excess of 25 degrees in order to reduce the visual scale.		✓
Zero setbacks from the side boundary are not permissible, other than awnings to main building entrances.		✓
2.5.8. Visual and Acoustic Privacy and Outlook		
Demonstrate a package of measures that achieves reasonable visual privacy between adjacent dwellings:	SEPP 65 building separation	✓
2.5.9. Solar Planning	SEPP 65 applies. Refer to accompanying architectural plans and Section 5.6.10.	✓
2.5.10. Significant Townscapes & Landscapes		
<p>In neighbourhoods with townscape significance, new development should:</p> <p>a) conserve vegetation</p> <p>b) adopt the prevailing configuration of garden areas,</p> <p>c) adopt the predominant width, height, and scale of existing buildings;</p> <p>d) ensure that floor plans are stepped or articulated similar to the shape or form of surrounding buildings;</p> <p>e) adopt roof pitches, ceiling heights and forms that match neighbouring buildings;</p> <p>f) minimise the width and area of driveways visible from public frontages;</p> <p>g) Conceal garages from public frontages (corner sites excepted).</p>	<p>The proposed development is consistent with the intended and emerging development type in this area in close proximity to services and facilities. The current landscaping is of no value and will be improved as a result of the development. The driveway is not dominant and leads to basement parking.</p> <p>Sufficient area for landscaping at front and to common open space areas.</p>	✓
New development should not aim to provide a direct copy of traditional buildings.		✓
2.5.11. Corner Sites and Park Frontages	n/a	n/a
2.5.12. Building Design		
Development should incorporate a variety of architectural features to minimise the apparent scale and bulk of buildings and to reflect typical features of established cottage developments.	Varying architectural features are proposed. Refer to accompanying plans and Section 3 of the report for materials and finishes and details of the built form.	✓
Variety in architectural features should be apparent in all visible facades.	Refer to accompanying plans	✓
Basements for car parks should rise no higher than 1.5m above ground provide a minimum 2.2m vertical clearance for vehicles.	<p>The basement rises 1.9m above NGL. Refer to discussion below.</p> <p>The vertical clearances to the basement complies.</p>	-
2.5.13. Energy Efficiency	BASIX and SEPP 65 applies	✓
2.5.14. Design of Dwellings and Private Courtyards	SEPP 65 applies	✓

2.5.15. Garages	n/a	n/a
2.5.16. Garden Design		✓
2.5.17. Paving Design		✓
2.5.18. Fences and Retaining Walls	Terraces are required and standard balcony fencing will be applied and in accordance with Council's requirements.	✓
2.5.19. Safety and Security	SEPP 65 applies	✓
2.5.20. Accessibility and Adaptability	Council requires 10% of all dwellings to be adaptable in accordance with AS429-1995. The proposal provides 4 units which meets Council's requirements. Refer to Access report and accompanying plans	✓
2.5.21. Storage and Services	SEPP 65 applies	✓

Discussion - Landscaped Areas

The DCP requires landscaped areas of 35% of the site in R4 zones. The proposal provides a Landscaped Area of 507sqm (28%) of the site, which include deep soil zones and the common open space area on the ground level. This is a shortfall of 7%.

The objective of the landscaped areas within the DCP include:

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

The proposal complies with this objective in that it provides for deep soil zones, communal open space areas and building separation on ground level that generally complies with the Apartment Design Guidelines under SEPP65 or can address the design guidelines. There is sufficient area that is provided for landscaped garden areas and this is demonstrated in the accompanying Landscape Concept Plan that is suitable for this site and the surrounding emerging high density zone.

The site is well located in its proximity to services and facilities and sitting centrally to the Penrith City Centre, public transport and recreation areas that are within walking distance.

Based on the above, the proposed variation is considered to be warranted in this case.

There are no other aspects of the DCP that are specifically relevant to the proposal or that require detailed consideration.

Discussion – Basements above natural ground level

The objective under Building Design in this part of the DCP that relates to the basement is:

Basement parking enables access from dwellings to private open space, located both at ground level, and/or set upon a podium not higher than 1.5m above ground.

The objective actually includes the control. In addressing the first part of the objective the proposal provides access to the private open space areas directly from the dwellings, although they are terraces on the ground floor level this is sufficient as the design responds to the topography and flooding. The FFL is required to respond to the outcomes as a result of the Flood Impact Study that accompanies the application. The site has a low lying gully through the property and this results in the basement protruding above the natural ground level of 1910mm, this is an exceedance of 410mm. However, if you followed the land form from adjoining properties not taking into account the low lying gully (blue dashed line in Figure 7) the basement would not exceed above the 1500mm and would meet Councils requirements.

This is shown below:

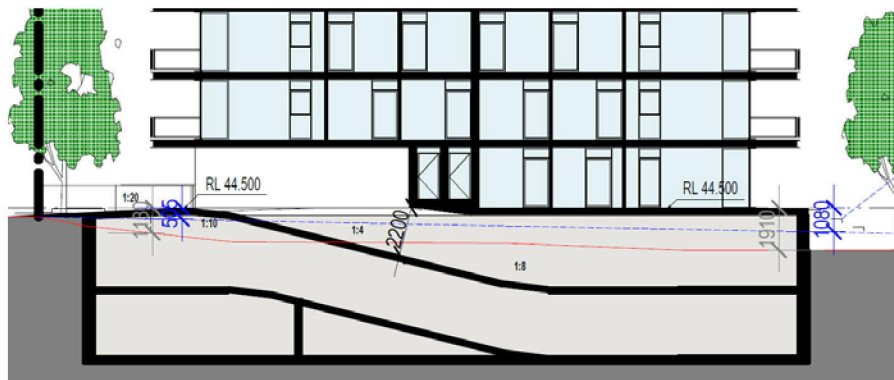


Figure 7: Basement above natural ground level

So given the above it is considered that the exceedance is reasonable in this case,

5 Section 79C Assessment

An assessment of the proposal has been undertaken in accordance with the statutory requirements of the EPA Act. The following assessment against Section 79C of the EPA Act has been undertaken.

5.1 Section 79C(1)(a)(i) – Any Environmental Planning Instruments

The relevant environmental planning instruments have been considered earlier in this report.

The proposal is permissible with consent and is considered satisfactory when assessed against the relevant requirements.

5.2 Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instrument

There are no known draft Environmental Planning Instruments applicable to the subject site.

5.3 Section 79C(1)(a)(iii) – Any Development Control Plan

Compliance against the relevant DCP's has been considered earlier in this report.

5.4 Section 79C(1)(a)(iiia) – Any Planning Agreement or Draft Planning Agreement entered into under Section 93f

There are no known planning agreements that apply to the site or development.

5.5 Section 79C(1)(a)(iv) – The Regulations

5.5.1 Demolition of Buildings

The proposal requires the demolition of a three dwellings and associated outbuildings on the development site. A Demolition Plan accompanies the application. The demolition of the dwelling will take into consideration of the provisions of AS2601 – 1991: The Demolition of Structures, and Council will likely impose appropriate

conditions of consent relating to traffic management, site safety and waste management.

5.6 Section 79C(1)(b) – The Likely Impacts of the Development

The following impacts have been considered in the preparation of this development proposal.

5.6.1 Context and Setting

The proposed development is designed with a high level of architectural merit that is representative of the emerging and desired character of the area around the Penrith City Centre and in areas of high accessibility to services and facilities. The proposal considering and responding to the comments provided at that meeting and the preDA meeting.

The proposal has been assessed against State and local policies in regard to urban design and is considered to have minimal visual impact. In the context of the future development of the surrounding area, this proposal is considered suitable and consistent with the emerging built form.

The development is also cognisant of the older housing stock currently that will be part of the streetscape pending future development, particularly existing and older residential apartment buildings and townhouses unlikely to be redeveloped in the near future.

The design has considered its surroundings by providing for suitable façade treatment that respond to its surroundings. The proposed buildings sit well within the future context of the area. The future context and the relationship of this building to the desired character is evident in the design and its response to the site specific opportunities and constraints. Below is a streetscape plan showing existing and future development adjoining the site.



Figure 14: Future streetscape showing approved development to the west (Source: Morson Group)

It is considered that the proposal sits well within the context and setting of the surrounding area.

5.6.2 Flora and Fauna

There are no flora and fauna issues associated with the site or impacts on biodiversity.

5.6.3 Landscaping and Tree Removal

There are no significant trees or important to the streetscape and context of the site. Additional landscaping is proposed as part of this application to embellish the overall landscaped presentation of the development and integrates with the overall design of the building.

The removal of any vegetation will be replaced and further enhanced as a result of the proposal as there are significant deep soil areas, this is demonstrated on the accompanying Landscape Concept Plan.

A Landscape Concept Plan accompanies the application and demonstrates the landscaping outcomes for the site.

5.6.4 Stormwater and WSUD

A *stormwater drainage concept plan* prepared by *S&G Consultants* has been submitted with the development application and provides for on-site detention and demonstrates general compliance with Council's requirements in this regard.

Penrith City Council has implemented a Water Sensitive Urban Design Policy (WSUD) in 2013. The aim of this policy is to respond to the growth of developable land within the Penrith Local Government Area (LGA) and improve the water conservation, and the quality and quantity of stormwater runoff from both new land development, and redevelopment of existing properties as they are developed. A *WSUD Strategy* prepared by *S&G Consultants* accompanies the application and concludes:

An investigation of the proposed site and stormwater treatment train has been undertaken for 32-36 Lethbridge Street, Penrith.

A detailed MUSIC model was established for the site. The model was based on the parameters provided within the Penrith City Council WSUD Technical Guidelines.

Using a combination of proprietary devices and stormfilters, the proposed stormwater treatment train will meet the WSUD Targets adopted by Penrith City Council.

It is recommended that Council approves the proposed treatment train for the residential development.

5.6.5 Flooding

The site has been identified under Council's Overland Flow Flood Report (2006) as being subject to risk from overland flooding. A *Flood Impact Study* Prepared by *S&G Consultants* accompanies the application. The site is subject to a low lying gully which is traversed by a trunk main at the lower rear end (south) of the site.

The report concludes that *The overall impact on the adjoining properties is minimal as can be seen in the flood impact map. This is because of the proposed overland flowpaths which convey the flows through the site in an effective manner without creating an afflux upstream of the site or increasing the flows and the velocities downstream of the site. It is also because of the proposed drainage along Lethbridge Street and through the site under the proposed side overland flowpath. The proposed drainage has an increased inlet capacity which in turn increases the flows into the existing trunk main hence increasing its capacity as well.*

The following recommendations have been made in relation to the proposal and flooding on the site:

- *Raise the floor level of the ground floor habitable levels to 500mm above the 100-yr flood level;*
- *Provide for a failsafe overland flowpath within the site (2m minimum width) to allow for the overland flow to be carried across the site. This is documented in the stormwater plans issued with the development application;*
- *Flowpath to be 250mm deep on average below the existing natural level along the northern boundary (refer Figure 15); and*
- *Overland flowpath to be rock mulched or grass finish or similar to ensure there are no floatables during heavy rainfall events and to achieve a Manning's n of 0.05 maximum.*

5.6.6 Traffic Generation and Parking

A *Traffic Impact Assessment* has been prepared by *Traffix* addressing car parking requirements and traffic impacts of the proposal.

The proposal provides 55 car parking spaces which generally complies with Council's DCP. This parking is provided over two basement levels and provides resident, visitor, accessible, shared wash bay and service bay. The proposal also provides adequate bicycle parking facilities.

Vehicular access is provided to the site via a common two-way driveway servicing the basement car parking over two levels from Lethbridge Street. Access to the basement is from the eastern end of the development site and sits under the building.

There are bus services that operate in the vicinity that run services between Mount Druitt and Penrith Station and Penrith City Centre is in walking distance.

An assessment against the planning provisions in relation to access, parking and traffic have concluded that no unacceptable impacts are expected as a result of the proposal.

The proposed development requires an alternate solution in relation to the waste servicing methods for the site and will require assessment and approval from Council's Local Traffic Committee. It is proposed to utilise the kerb with a dedicated waste management truck loading bay that has direct access to the waste bin

collection room that is managed by the building caretaker. This will require three on street car spaces to be removed and will require further consideration of Council.

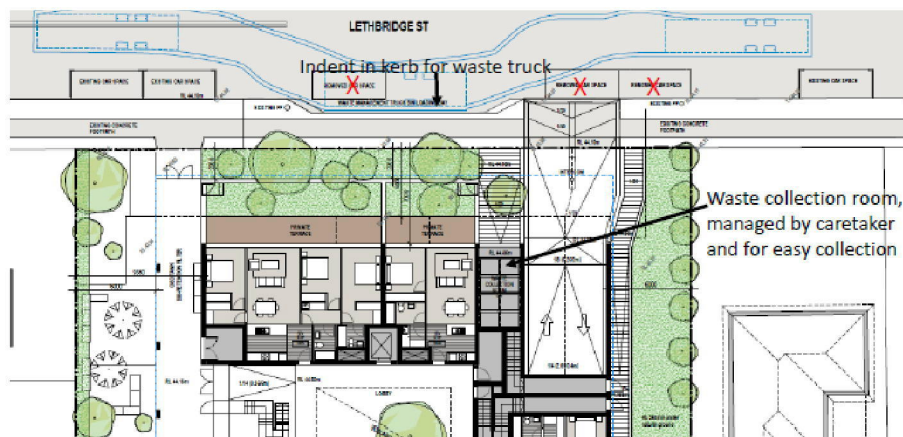


Figure 8: Waste Management Truck Proposal

Vehicle Swept paths are provided in the accompanying traffic report and the report indicates that this solution from a traffic impact assessment that:

Furthermore, this proposed indent loading bay on Lethbridge Street will ensure that sufficient carriageway width for vehicles to pass a waste collection vehicle will be provided. This bay will accommodate waste collection vehicles up to the size of a 10.5 metre from Lethbridge Street. These access arrangements comply with Clause 3.2.2 of AS 2890.2 (2002) and are considered to be an appropriate arrangement given the conditions of Lethbridge Street (being a local road with low traffic and pedestrian volumes) and having regard for the low frequency of waste collection / truck loading movements.

Overall, the report concludes:

- *The proposal seeks approval to construct a five storey residential flat building at 32-36 Lethbridge Street in Penrith, containing 43 apartments and two levels of basement car parking.*
- *The subject site is well connected to the public transport network with reliable access to bus and rail services. These, along with existing and proposed pedestrian and cycle links, ensure the site is ideally situated for a high density residential development as it provides a good opportunity to encourage future tenants / visitors to use alternative transport modes.*
- *The traffic generation arising from the development has been assessed as a net increase over existing conditions, and equates to an additional 6 vehicle trips during the AM peak period and 4 vehicle trips per hour during the PM peak period. These traffic volumes equate to a maximum of one (1) additional vehicle trip generated every ten (10) minutes during the morning peak periods. This will have no material impact on the performance of the*

external road network or on the operation of key intersections in the vicinity of the site and accordingly, no external improvements are required to facilitate the proposed development. The traffic impacts of the development are therefore considered acceptable.

- *The proposed development provides 55 parking spaces, including 45 residential parking spaces, 9 visitor parking spaces and a single service vehicle parking space. The proposed car parking provision and allocation satisfies the requirements of Council's DCP and is considered acceptable.*
- *The basement car park has been assessed to comply with the requirements of AS 2890.1 (2004) and AS 2890.6 (2009), thereby ensuring safe and efficient operation.*
- *This traffic impact assessment therefore demonstrates that the subject application is supportable on traffic planning grounds.*

There are no adverse impacts in relation to traffic and parking.

5.6.7 Site Isolation

Between 32-36 Lethbridge St which is subject to this DA and 20-28 Lethbridge St which is a residential flat building currently being assessed by Council is a single property known as No.30 Lethbridge St. This site is 600m² with a frontage of 15.24m. The site is therefore considered to be isolated from development potential. Given this isolation, regard is given to the planning principles as they apply to site isolation. Principles 1-3 as established by the NSW Land and Environment Court in proceedings of *Melissa Grech vs. Auburn Council [2004] NSWLEC 40* and Principle 4 as established in the Land and Environment Court in *Cornerstone Property Group Pty Ltd vs. Warringah Council [2004] NSWLEC 189*. These planning principles are addressed below:

1. *Firstly, where a property will be isolated by a proposed development and that property cannot satisfy minimum lot requirements then negotiations between the owners of properties should commence at an early stage and prior to the lodgement of the development application.*

Early negotiation during the stages of design of the residential flat building for Nos 32-36 Lethbridge St was undertaken. Evidence of negotiation is outlined in Principle 2 and Appendix B.

In this regard, Principle 1 has been addressed.

2. *Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, it is to be based on at least one recent independent valuation and may include other reasonable expenses*

likely to be incurred by the owner of the isolated property in the sale of the property.

The negotiations included:

- Initially the client sought a valuation of No.30 to identify the market value of the property to commence negotiations with the owner. The valuation prepared by K.D Wood Valuations (Aust) Pty Ltd is attached in Appendix A.
- The valuation is identified a value of \$620,000 for No.30 which is comparable to other recent purchases in the area.
- The valuation was referred to local real estate to commence approach and negotiations with the land owner. The local real estate agent undertook these negotiations with a real estate representative of the land owner on No.30.
- The client offered the owner \$650,000 which was \$30,000 over the valuation.
- Verbal communications were then continued between the opposing agents with a further formal offer of \$682,000. This is now \$62,000 over the valuation price. This price is also over the recently sold properties identified in the valuation.
- A response was provided by the Owner (No.30) agent that indicated that the owner was after \$950,000 which is an unrealistic expectation. There are significant constraints on the site such as overland flooding and easements.
- The email communication between the agents is also found in Appendix B.

This is evidence that the client went above valuation to offer and acquire the property for consideration to incorporate the site into the development. There has been no evidence from the owner of No.30 that valuation should be at \$950,000 as he expects.

In this regard, Principle 2 has been addressed.

3. *Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*

There is evidence to suggest that negotiations were undertaken to resolve the site isolation issue with the owner of No.30 including an offer made based on a valuation of this property. The owner of No.30 has made a counter offer in implying his expectation of his site being worth \$950,000, but no valuation was provided to justify this valuation.

In this regard, Principle 3 has been addressed.

4. *Can orderly and economic use and development of the separate site be achieved if amalgamation is not feasible?*

Residential Flat Buildings are not the only development that is permissible on the site. It is therefore considered that given the site allows a wide range of land uses such as Boarding houses; Child care centres; Community facilities; Emergency services facilities; Home-based child care; Home businesses; Information and education facilities; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Respite day care centres; Shop top housing that is not limited by site size and dimensions that the site can be developed in an orderly and economic manner. It is important to note that the site has limitations in its own right that may limit future development opportunities.

Given the evidence provided, the client can be considered to have made attempts to purchase the isolated property at a reasonable value and had undergone an independent valuation and made reasonable offers above this valuation and that this offer was not accepted by the isolated property owner. While it is undesirable for Council to create isolated site, it must be accepted that the client has acted in accordance with the Land and Environment Court Principles relating to site isolation and that these attempts were unsuccessful in this instance.

5.6.8 Noise Impacts

Whilst there will be some noise associated with the construction of the development, longer term there is not expected to be any noise impacts above and beyond what might normally be associated with an emerging high density residential zone. There is no other acoustic assessment required for the proposal.

5.6.9 Heritage Issues

The site is not a heritage item and does not adjoin a heritage item or conservation area. There are no impacts anticipated in relation to heritage.

5.6.10 Services

The site is appropriately serviced to allow for the proposed development. Appropriate consultation with service providers will be carried out.

5.6.11 Overshadowing and Solar Access

A shadow diagram accompanies the application and is included in the architectural plans; this plan also indicates the location of adjoining buildings. It is demonstrated on the accompanying architectural plans that adjoining properties will receive at least 2 hours morning sunlight 21 June to the windows and open space areas and meet the requirements of SEPP65 as outlined in Section 4.5.

The communal areas meet the requirements for solar access midwinter in accordance with the provisions under SEPP 65. There are communal spaces along the western boundaries to accommodate provision of solar access in communal areas. The proposal exceeds the common open space areas so the calculation of 2 hours sunlight to a minimum 50% of the common open space area is calculated on

the minimum requirements. The proposal meets the solar access requirements to the common open space area.

There will be no adverse impacts in relation to solar access as a result of the proposed development given the zoning and growth of the area for higher densities.

5.6.12 Privacy

The proposal generally meets the separation requirements under the ADGs and addresses the design criteria in the provision of suitably located windows, balconies and privacy screening. Any overlooking from the property to adjoining neighbours would be filtered and any privacy screens ameliorates privacy impacts and is considered appropriate in this context. The proposal is considered to have no adverse impacts in relation to privacy as shown on the accompanying plans.

5.6.13 Social and Economic

Positive social and economic impacts will arise as a result of this development primarily by the increase in population and housing choice in close proximity to schools, hospitals within the Penrith LGA. The proposal provides for:

- Quality residential apartment design that contributes to the streetscape
- Encourages more walking and cycling
- Provides for a range of dwelling types and choices
- Provides for temporary employment opportunities during construction
- Contributes to the passive surveillance of the surrounding area
- Contributes to the State's dwellings targets.

5.6.14 Crime Prevention Through Environmental Design (CPTED)

The consideration of CPTED issues has been prepared having regard to various published CPTED literature and academic works, and specifically Council's DCP 2014. The NSW Police Force has identified key principles of CPTED being:

- Establish opportunities for **good surveillance**, both casually and technically.
- Provide legible barriers for **access control** for spatial definition.
- Create a sense of ownership over spaces that are also clearly demarcated between public and private ownership for **territorial reinforcement**.
- Establish spaces that are utilised appropriately through **proper space management**, relating to litter and graffiti removal, and ensuring lighting fixtures are working.

When implemented, these measures are likely to reduce opportunities for crime by using design and place management principles.

Surveillance

The proposed development will provide numerous opportunities for surveillance. The following casual surveillance opportunities have been provided through the design of the project:

- Opportunities for visual observance through a high percent of transparent glazing along all frontages allow normal space users to see and be seen by others. Lift lobby areas overlook the common courtyard through glazing on all levels and balcony to overlook the lift lobby. There is opportunity for the lift lobby area to be viewed from all levels through the creation of an atrium.
- Units fronting Lethbridge Street have opportunity for direct pedestrian access and frontage where possible through provision of direct visual connection and physical connection through access gates.
- Entries are located in highly visible locations and directly visible from the street. The side entrances are easily visible and is accessed through a wide common open space area that is visible from the building.
- Active communal areas are well positioned and varied for interest and social interaction. There is passive surveillance of the communal area from the lift lobby area.
- Clear visual pathways within resident areas as well as from public streets to private entrances.
- Areas of entrapment are limited due to multiple exit points from around the development.

Access Control

Access control to public, semi public and private areas of the development is considered to be well managed and effective. Access control to the building can be effectively managed through lockable entry doors. Common areas at all locations and levels should have access control measures in place. The common open space area is only accessible by the residents on the site with no direct public access.

With respect to fire escape points and building services rooms, the location of these access points, the use of lockable doors and other environmental cues will make it clear that these are not public entry points. Access to the basement level will be via lockable roller door.

Territorial Reinforcement

Clear separation exists between public and private space in terms of the relationship between the proposal and the public domain. Appropriate signage, landscaping, site furnishings and paving will provide good environmental cues about the transition or movement from public to private domain.

Space Management

For most modern residential developments, space management is increasingly carried out in a professional manner, often by third party specialist building management businesses. Therefore, the effectiveness of management systems such as light globe replacement, removing graffiti, and fixing broken site furnishings will influence the perceived level of care of the project.

Cleanliness of the project is dependent upon the management practices of individual tenants as well as the implementation of waste removal and street cleaning processes. The selection of lighting should also be vandal proof, and materials facilitate ease of maintenance in the long-term, to delay the appearance of decay.

5.6.15 Waste Management

The proposed waste management on the site and the waste removal method is outlined above in Section 3 in detail. Details regarding the traffic assessment of the waste management on the site is outlined above in Section 5.6.6.

A waste management plan accompanies the application and the waste management regime is considered acceptable for this proposal.

5.7 Section 79C(1)(c) – The Suitability of the Site

The proposal is permissible in the zone and is generally consistent with the planning controls that apply in the zone. Moreover, the objectives of the zone have been satisfied, ensuring that the advancement of the development is consistent with Council's planning direction would not result in any unacceptable impact on any adjoining landowners or buildings.

Furthermore, the site of the proposed development is considered suitable for a number of reasons including: -

- The proposal is an anticipated form of development as envisioned in the revised LEP controls for the locality and it is contended that the development will contribute to the realisation of the strategic vision for the area;
- The proposal complies with the objectives of the R4 zone.
- The site is well located with regard to its proximity to the Penrith City Centre, public transport, public transport routes, recreation areas and Penrith health and Education Precinct;
- The site is well located in the context of the local and regional community with regard to providing and accessing employment opportunities close to home.
- The proposed development is of a scale that would be compatible with the existing residential context and provides a design that is appropriate in this location.

- The proposal is consistent with the provisions of the applicable planning instruments;

For the reasons above, and in this report, the site is considered suitable for this development proposal.

5.8 Section 79C(1)(d) – Any Submission Made

Council will undertake a notification process in accordance with its controls and policies. We welcome the opportunity to provide additional information in response to those.

5.9 Section 79C(1)(e) – The Public Interest

Given the type of development, its general compliance with the planning controls, how the objectives are satisfied and the suitability of the site.

The proposed development is considered to provide a modern building with contemporary finishes that would enhance and embellish the surrounding built environment. The proposed development incorporates quality architectural merit, which is designed to ensure that the site displays substantial visual interest.

The proposal contributes to the strategic direction of the area and the dwelling targets and is in close proximity to the employment, service and facilities.

It is considered that the public interest would not be jeopardised as a result of this development.

5.10 Section 79C(3A) – Development Control Plans

Section 79C (3A) has been considered in respect of this application. The proposal is satisfactory when considered against the provisions of the DCP and not more onerous than the LEP. Council will apply DCP controls flexibly and in the context of the overall development.

6 Conclusion and Recommendation

The proposed development has been assessed against the requirements of the Penrith LEP and DCP and is considered to represent a form of development that is acceptable.

The proposed residential development would not result in any unacceptable impact on the locality. The site is considered quite suitable for a use of this nature and is indicative of the emerging character of the area. The site is also well suited to the planning directions intended for this area.

The proposed development provides for housing choices in close proximity to the Penrith City Centre, schools, large recreation areas and the Penrith Health and Education Precinct.

The proposed development is considered to provide a modern building with contemporary finishes that have considered the context of the surrounding area and contributes to the surrounding built environment. The proposed development incorporates quality architectural merit providing visual interest from the public domain.

The proposal generally complies with relevant State and local policies with the exception of the height which is considered suitable in the context of the site and in this location.

An assessment against section 79C of the EPA Act has not resulted in any significant issues arising.

Accordingly, it is recommended that the proposed development of residential apartment building at 32-36 Lethbridge Street, Penrith, be approved.



Appendix A

Clause 4.6 Variation

Penrith Local Environmental Plan 2010 – Clause 4.6 Exceptions to Development Standards

Application Form to vary a development standard

Based on "Varying Development Standards: A Guide (August 2011)" (Guide)

Written application to provide grounds for variation to development standards to be submitted together with the development application (refer to EP&A Regulation 2000 Schedule 1 Forms).

1. What is the name of the environmental planning instrument that applies to the land?

Penrith Local Environmental Plan 2010

2. What is the zoning of that land?

The subject site is zoned *R4 High Density Residential*

3. What are the objectives of the zone?

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

The proposed development is consistent with the objectives in that:

- The proposed residential apartment building provides for the community's housing needs in an emerging high density residential environment. The site location maximizes public transport usage and encourages walking and cycling, particularly to the Penrith City Centre, wider recreational areas including the Health and Education Precinct.
- The proposal provides for a mix of bedroom and apartment styles and arrangements. This mix of housing would suit a range of household types in close proximity to the City Centre.
- A high level of residential amenity is provided for in the design of the proposal through the provision of high architectural design, private courtyards, terraces and balconies and common open space area in a landscaped setting.
- The proposed apartment mix provides affordable housing options within the building that are in walking distance to service and facilities and employment.
- The proposal provides for a residential apartment building which is the type of development emerging in the area as a result of recent zone changes on the area to permit this type of development.

4. What is the development standard being varied? e.g. FSR, height, lot size

Height of Building

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 Height of Building

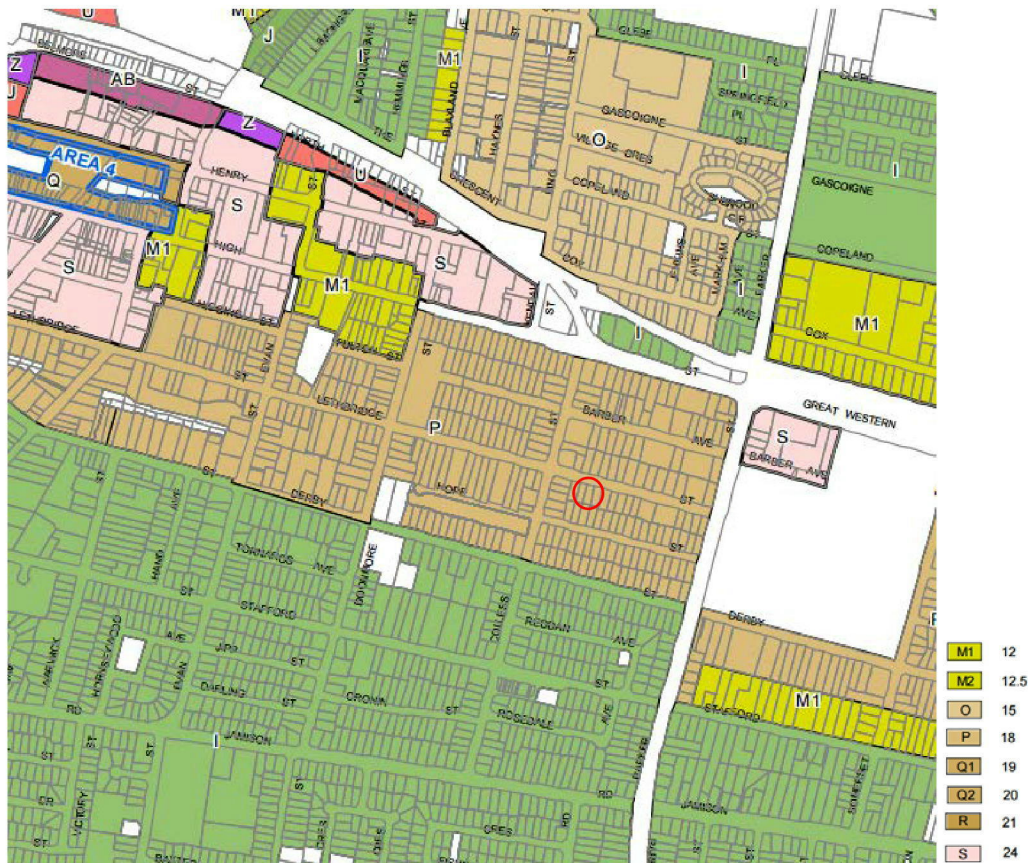


Figure 1: Height of Buildings Map (extract Penrith Local Environmental Plan 2010)

6. What are the objectives of the development standard?

Clause 4.3 Height of building objectives include:

- (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.

7. What is the numeric value of the development standard in the environmental planning instrument?

The maximum building height is 18m.

8. What is proposed numeric value of the development standard in your development application?

The proposal exceeds the building height at varying heights across the building to accommodate the topography and design.

The height encroachment over the 18m is shown below, with two figures. One being from natural ground level and the other from hypothetical ground level if there was not a low lying gully through the property and the landform was consistent across the site. This hypothetical landform is consistent and aligned with the adjoining sites. The height exceedance is as follows:

- Natural Ground Level – 1600m-2200m (red line)
- Hypothetical Ground Level – 840mm to 1305mm (blue line)

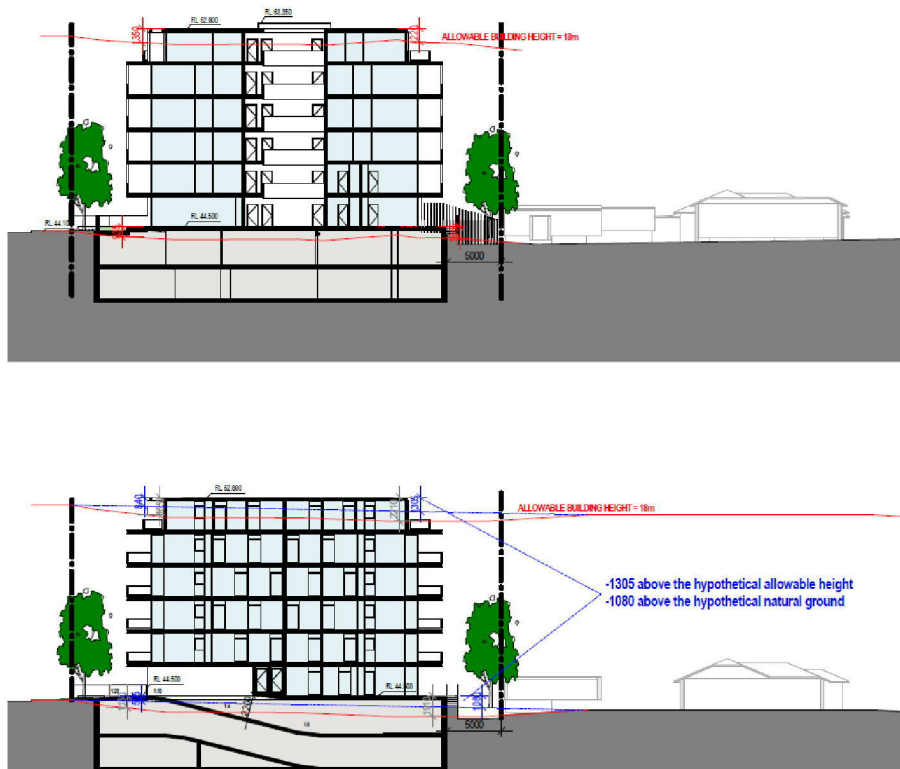


Figure 2: Average height exceedance (Source: Morson group)

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The proposal exceedance of the height limit is difficult to express as a percentage. Based on the measurements above the encroachment as a percentage is as follows:

- Natural Ground Level – 8% - 12%
- Hypothetical Ground Level – 5% - 7%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case

The proposal meets the general intent of clause 4.3 Height of Buildings and complies with the objectives of this development standard as follows:

- The proposal is consistent with the height, bulk and scale of the emerging and desired future character of the locality. A context plan accompanies the application showing the existing and future context. The bulk of the building is under the height limit. The building still maintains a six storey height appearance and complies generally with the building separation requirements under the Apartment Design Guidelines that underpins SEPP No.65.
- The proposal does not impact on the visual amenity, reduces views or minimises loss of privacy or solar access as the height variation is imperceptible given it is only minor. The proposal presents as a six storey building which is the intent of the 18m height limit.
- There are no heritage items adjoining the property.
- The proposal provides a high quality urban form and provides a building that can contribute to a varying skyline given the recent increase in height limit in this area.

It is unreasonable to apply the height limit across the site in this case as the proposal does not impact on the visual amenity nor does it reduce views or minimises loss of privacy or solar access. The building presents as a smaller and lower building than the approved residential flat building to the west so in the context of the streetscape the height variation is imperceptible as shown in Figure 4.

The proposal provides for deep soil zones that meet the minimum requirements. Common Open Space areas also meets the minimum requirements.

The proposed development meets the objectives of the zone and the height of building clause, it contributes to the provision of housing and for housing in locations in close proximity to services and facilities.

It is considered that the proposal is in the public interest and strict compliance with the standard in this instance is both unreasonable and unnecessary.



Figure 3: Extent of development compared to adjacent approved development

The variation sought as part of this development application is quite minor in relation to the constraints on the site and the consideration of the development in the context of the site. The proposed development meets the objectives of the zone and the height of building clause and it is considered that strict compliance with the standard in this instance is both unreasonable and unnecessary.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* provide:

The objects of this Act are:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) the protection, provision and co-ordination of communication and utility services,*
- (iv) the provision of land for public purposes,*
- (v) the provision and co-ordination of community services and facilities, and*
- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) ecologically sustainable development, and*
- (viii) the provision and maintenance of affordable housing, and*
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

It is submitted that the minor height encroachment still maintains an appropriate bulk and scale and also maintains the objectives of the clauses within the LEP that relate to the zone and the height of building. The objects of the Act are not hindered through the proposed variation being supported.

Complying with the height will not improve or alter the outcome in relation to visual bulk and scale which is considered to provide a good planning outcome. Given the minor encroachment, it is against the objects of the Act and not in the public interest to lose an entire storey to comply with the 18m height limit as this would not be orderly and economic use of the land and reduce the opportunity for housing in close proximity to service and facilities.

12. Is the development standard a performance based control? Give details.

No it is prescriptive.

13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

Strict compliance with the standard in this particular case is unnecessary as the variation sought as part of this development application is quite minor in relation to the proposed development in the context of the area. The proposed development meets the objectives of the zone and Clause 4.3, and that it is considered that the objectives of the Act would not be undermined by supporting the variation.

The height variation is a result of achieving a level finished floor level that addresses the topography of the site which is subject to a low lying gully and to address overland flow flooding issue. Item 10 above outlines why strict compliance with the standard is unreasonable in this regard and in summary is outlined below:

- The proposal complies with the R4 zone objectives and Clause 4.3 objectives as it relates to Height of Buildings
- It is consistent with the height, bulk and scale of the emerging and desired future character of the locality. A context plan accompanies the application. The building is lower and consistent with the approved development to the west.

- The building still maintains a six storey height appearance which is the intent of the 18m height limit and generally complies and addresses the design guidelines in relation to building separation requirements under the Apartment Design Guidelines that underpins SEPP No.65.
- The proposal does not impact on the visual amenity, reduces views or minimises loss of privacy or solar access as the height variation is imperceptible given it is only minor.
- The proposal provides a high quality urban form and provides a building that can contribute to a varying skyline given the recent increase in height limit in this area.
- The architectural merit of the proposal reduces the overall bulk and scale and renders the height variation imperceptible.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

This variation should be read in conjunction with the Statement of Environmental Effects and particularly Section 5 where the environmental planning grounds and impacts have been addressed and demonstrate that there is no adverse impacts from supporting the variation of this minor nature.

Conclusion

It is considered that the proposed variation to support an increase in the height limit in this case is warranted as the proposed design and development provides a better planning outcome and any height variation is imperceptible when viewed from a public place as outlined in this Clause 4.6 variation request. Compliance with the development standard in relation to height of building is unreasonable in the circumstances of this development and there are sufficient planning grounds to justify the variations.

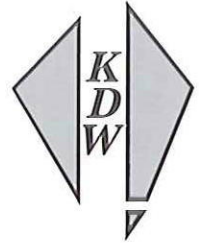


Appendix B

Evidence in relation to Site Isolation

K.D. WOOD VALUATIONS (AUST.) PTY. LTD.

ACN: 098 993 367 ABN: 33 098 993 367



Directors

K.D. Wood F.A.P.I Registered Valuer No. 11
J.M. Wood A.A.P.I Registered Valuer No. 6289

Valuers and Property Analysts

4th May 2016

Ref: JW:16R68

VALUATION REPORT

30 Lethbridge Street, PENRITH NSW 2750

Lot 6 in Deposited Plan 27391



"Millside Cottage" 100 Factory Road, Regentville NSW 2745 P.O. Box 4062, Penrith Plaza, Penrith NSW 2750



TABLE OF CONTENTS

1.0	INSTRUCTIONS.....	3
2.0	EXECUTIVE SUMMARY	4
3.0	PROPERTY PARTICULARS	
3.1	Title Particulars	5
3.2	Area and Dimensions	5
3.3	Registered Proprietor	5
3.4	Easements & Encumbrances	5
3.5	Location	5
3.6	Zoning	6
3.7	Topography	7
3.8	Planning & Environmental Constraints	7
3.9	Existing Improvements General.....	7
3.10	Construction	8
3.11	Accommodation.....	8
3.12	Prime Cost Items.....	8
3.13	Ancillary Improvements	8
4.0	VALUATION RATIONALE	
	Comparable Sales Evidence	9-10
5.0	COMMENT.....	10
6.0	VALUATION.....	10
7.0	LIMITING CONDITIONS & LIABILITIES	11

Appendices:

1. Photographs of Property
2. Location Plan
3. Copy of Title Search
4. Copy of Deposited Plan
5. Aerial Photograph of Property



1.0 INSTRUCTIONS

Instructed by: Mr. Adam Hughes
ICP Pty. Ltd.
26/5 Gladstone Road
CASTLE HILL 2154

Instructions: Our instructions are to determine the Current Market Value of land described as Lot 6 in Deposited Plan 27391 Lethbridge Street, Penrith NSW 2750 for Evidence of Market Value.

**Basis of Valuation
and Market Value:**

The Market Value is defined by The International Assets Valuation Standards Committee as *'the estimated amount for which an asset should exchange at the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion'*.

This definition has been endorsed by the Australian Property Institute (API) and our valuation has been prepared on this basis.

Interest Valued: Our Valuation is of a Fee Simple in Possession Interest.

Date of Valuation: As at the 4th day of May, 2016.



2.0 EXECUTIVE SUMMARY

We are instructed by our client Mr. Adam Hughes to provide a valuation report relating to the Subject property known as 30 Lethbridge Street Penrith NSW 2750 for Evidence of Market Value.

Our valuation has been prepared in accordance with the Australian Property Institute Practice Standards.

We consider the appropriate method of valuation for the purpose of this Report is by Direct Comparison to recent sales evidence of comparable properties located within close proximity to the Subject.

We are of the opinion that property described as Lot 6 in Deposited Plan 27391 Lethbridge Street, Penrith NSW 2750 has a Current Market Value in the sum of:

**Six Hundred & Twenty Thousand Dollars
(\$620,000)**

Being a valuation of a Fee Simple in Possession Interest dated the 4th day of May, 2016.



JAMES M. WOOD
CERTIFIED PRACTICING VALUER
Registered Valuer No. 6289 A.A.P.I.
for K.D. WOOD VALUATIONS (Aust.) Pty Ltd



3.0 PROPERTY PARTICULARS

3.1 Title Particulars

Lot 6 in Deposited Plan 27391
Lethbridge Street
City of Penrith
Parish of Mulgoa
County of Cumberland

3.2 Area and Dimensions

The land is of rectangular shape, the allotment having a frontage to Lethbridge Street of 15.24m and a depth of 39.624m.

The land contains an area of 600.7m².

3.3 Registered Proprietor

As recorded on the First Schedule of Folio Identifier 6/27391, the property is registered in the ownership of **Zhi Li**.

3.4 Easements and Encumbrances

As recorded on the Second Schedule of Folio Identifier 6/27391, title is subject to the following notifications:

1. Reservations and conditions in the Crown Grant(s).
2. G618737 Easement for drainage affecting the piece of land 10 feet wide shown in DP 27391.
3. H896754 Covenant.
4. AJ413214 Mortgage to Westpac Banking Corporation.

Our valuation is of a Fee Simple in Possession Interest.

3.5 Location

The property is located on the southern side of Lethbridge Street approximately 80m east of King Street at Penrith. The Penrith Town Centre, railway station and Nepean Hospital are all located within close proximity to the property.

UBD Ref Sydney Map: 31 Coordinates: L7

3.0 PROPERTY PARTICULARS

3.6 Zoning

Enquiries with the NSW Department of Planning have established that the land is zoned R4 High Density Residential under the City of Penrith Local and Environmental Plan 2010.

Zone R4 High Density Residential

1. Objectives of R4 Zone

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

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

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

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

To encourage the provision of affordable housing.

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

2. Permitted without Consent

Home occupations.

3. Permitted with Consent

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

4. Prohibited

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



3.0 PROPERTY PARTICULARS

3.7 Topography

The land is of good level contour and is considered to be good flood free building land.

3.8 Planning and Environmental Constraints

(i)	Requirement for a Building Certificate	A Building Certificate is recommended.
(ii)	Potential Environmental Affection	See Comments below.
(iii)	Potential Road & Traffic Affection	Not affected.
(iv)	Potential Rail Affection	Not affected.
(v)	Potential Electricity Affection	Not affected.
(vi)	Potential Heritage Affection	Not affected.
(vii)	Potential Flood Affection	Not affected.
(viii)	Potential Pest Affection	A Pest Certificate is recommended.
(ix)	Filling	Not evident.
(x)	Existing use rights	Not affected.
(xi)	Potential aircraft noise	Not affected.

From visual inspection the property does not appear to be affected by any of the above items. Should any of the above items be of concern it is recommended that certificates be obtained from relevant authorities to confirm this information.

3.9 Existing Improvements General

Erected upon the land is a single storey brick veneer/tile roofed cottage comprising 4 bedrooms and attached single lock up garage. The cottage is of 1970's design with external laundry. The floor layout is considered to be functional.



3.0 PROPERTY PARTICULARS

3.10 Construction

Flooring:	Brick piers / timber
Main Walls:	Brick
Interior Linings:	Plasterboard
Window Frames:	Aluminium
Roof:	Concrete tile.

3.11 Accommodation

Lounge
Kitchen
Dining
4 bedrooms
Bathroom
External Laundry

3.12 Prime Cost Items

Kitchen:	Laminex benchtops and cupboards, double bowl stainless steel sink, 4 burner gas upright stove, range hood, pantry.
4 Bedrooms:	Built in robe to master.
Bathroom:	Bath with shower over, vanity, low down suite.
Hallway:	Linen press.
Lounge:	Split system air conditioning unit.
External Laundry:	Stainless steel tub and shower recess.

3.13 Ancillary Improvements

Ancillary improvements comprise:

Colourbond clad garden shed
Colourbond fencing to side and rear boundaries
Concrete driveway and paving
General Landscaping



4.0 VALUATION RATIONALE

In assessing the value of the Subject property we have had regard to the most recent sales of comparable properties closely located to the Subject. Sales have been analysed based upon the quality and quantity of improvements on the land, the size and quality of the land, its location and all other relevant factors from which comparison has been made to the Subject property to arrive at Market Value.

Comparable Sales Evidence

Comparable sales to which we have had regard include in assessing the properties market value, excluding the Life Estate interest include:

1. 167 Stafford Street Penrith

Sold by Contract dated November 2015 for \$650,000

A neatly presented 2 storey brick veneer / tile roofed cottage with weatherboard clad "pop top" first floor extension. Accommodation comprises 4 bedrooms, study, 2 bathrooms and detached single lock up garage. Land area 696m².

- *Larger residence of superior presentation*
- *Slightly larger land area*
- *Considered superior to Subject*

2. 153 Stafford Street Penrith

Sold by Contract dated December 2015 for \$590,000

A single storey brick veneer cottage of Mediterranean design comprising 3 bedrooms, 1 bathroom and attached single garage. Poor presentation. Land area 627m².

- *Smaller 3 bedroom residence*
- *Inferior presentation to Subject*
- *Slightly larger building allotment*
- *Considered inferior to Subject*

3. 193 Stafford Street Penrith

Sold by Contract dated January 2016 for \$650,000

A single storey 2 bedroom cottage of weatherboard clad / iron roofed construction with detached 2 bedroom self-contained granny flat. Both dwellings feature modern prime cost items and fitout. Good corner site. Land area 619m².

- *Superior accommodation to Subject*
- *Slightly larger building allotment*
- *Superior to Subject.*



4.0 VALUATION RATIONALE

Comparable Sales Evidence (cont.)

4. 160 Derby Street Penrith

Sold by Contract dated February 2016 for \$650,000

A neatly presented single storey weatherboard clad / tile roofed cottage comprising 3 bedrooms and single lock up garage under main roof line. Land is zoned R3 Medium Density Residential. Good elevated 923m² building allotment.

- *Substantially larger building allotment*
- *Superior to Subject*

5.0 COMMENT

Having regard to the foregoing report, we consider the subject property to have a Current Market Value in the sum of \$620,000.

In the interest of securing purchase of the property and to expedite development of adjoining lands, it is recommended that a **range for negotiation purposes** of between **\$620,000 to \$640,000 is adopted**, which is considered reasonable having regard to all relevant factors.

6.0 VALUATION

We consider the Subject property known as 30 Lethbridge Street, Penrith NSW 2750 to have a Current Market Value in the sum of:

**Six Hundred & Twenty Thousand Dollars
(\$620,000)**

Being a Valuation of a Fee Simple in Possession Interest.

Dated the 4th day of May, 2016.


James M. Wood
CERTIFIED PRACTISING VALUER
Registered Valuer No. 6289 A.A.P.I.
for K.D. Wood Valuations (Aust) Pty Ltd



7.0 LIMITING CONDITIONS AND LIABILITIES

This report and recommendation has been prepared for Mr. Adam Hughes for Evidence of Market Value purposes and is for the use only of the party to whom it is addressed and for no other purpose.

No responsibility is accepted to any Third Party who may use or rely on the whole or any part of the content of this Valuation.

K.D. Wood Valuations (Aust.) Pty Ltd hereby declares that it makes no guarantee, promise, warranty, representation or undertaking that the lodgment of the subject Valuation report with the prospective mortgagee will result in mortgage finance being obtained.

The Valuation has been prepared in accordance with the Australian Property Institute Practice Standards.

Neither the whole nor any part of this report, nor any reference thereto, may be included in any document, circular or statement without our written approval of the form and context in which it will appear.

We hereby confirm that K.D. Wood Valuations (Aust.) Pty Ltd has a Professional Indemnity Insurance Policy with J.U.A. Underwriting Agency Pty Ltd.

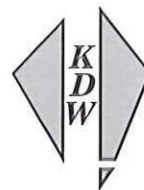
In accordance with the condition of our Professional Indemnity Insurance Policy we advise that this is a Valuation Report and not a Structural Survey.

Mr. James Wood is a Registered Valuer and a member of the Australian Property Institute with the Valuer having the relevant experience and qualifications to value the class of property being valued.

Furthermore, Mr. James Wood has no pecuniary interest in the said property past, present or prospective and the opinion expressed is free of any bias in this regard.

This Valuation is current as at the date of Valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value.

Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this Valuation is relied upon after the expiration of three (3) months from the date of the Valuation, or such earlier date if you become aware of any factors that have any effect on the Valuation.



APPENDIX 1

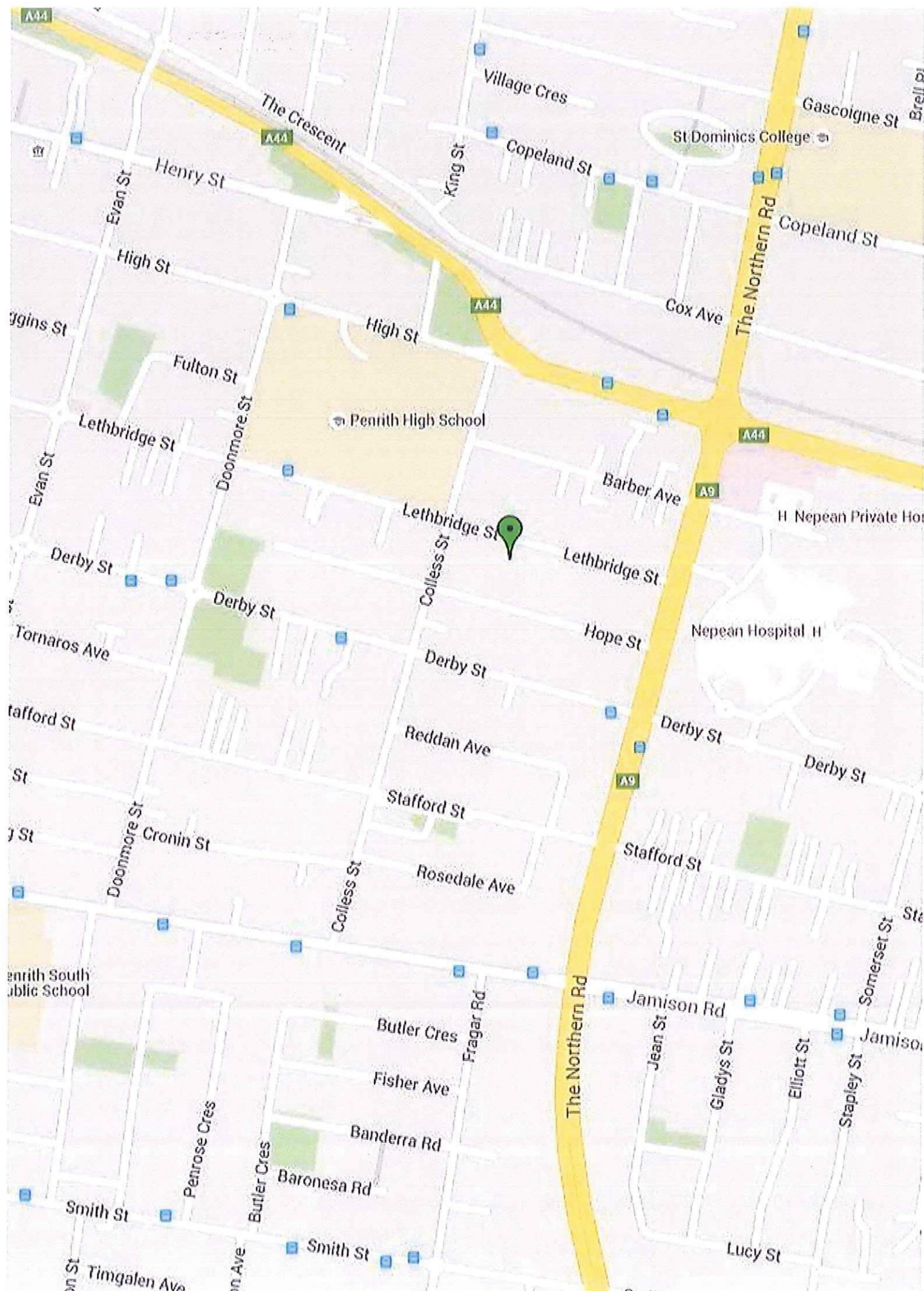
Photographs of Property





APPENDIX 2

Location Plan





APPENDIX 3

Copy of Title Search

LegalStream Australia Pty Ltd

ABN: 80 002 801 498

Level 16, 9 Hunter Street, SYDNEY NSW 2000, AUSTRALIA * DX654, SYDNEY
Tel: (02) 9231 0122 Fax: (02) 9233 6411 www.legalstream.com.au

An Approved
LPI NSW
Information Broker

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 6/27391

SEARCH DATE	TIME	EDITION NO	DATE
3/5/2016	7:52 AM	9	17/4/2015

LAND

LOT 6 IN DEPOSITED PLAN 27391
LOCAL GOVERNMENT AREA PENRITH
PARISH OF MULGOA COUNTY OF CUMBERLAND
TITLE DIAGRAM DP27391

FIRST SCHEDULE

ZHI LI (T AJ413213)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G618737 EASEMENT FOR DRAINAGE AFFECTING THE PIECE OF LAND
10 FEET WIDE SHOWN IN DP27391
- 3 H896754 COVENANT
- 4 AJ413214 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

James Wood

PRINTED ON 3/5/2016

LEGALSTREAM AUSTRALIA hereby certifies that the information contained in this document has been provided electronically
by the Registrar General in accordance with Section 96B(2) of the Real Property Act, 1900.

*ANY ENTRIES PRECEDED BY AN ASTERIX DO NOT APPEAR ON THE CURRENT EDITION OF THE CERTIFICATE OF TITLE
WARNING: THE INFORMATION APPEARING UNDER NOTATIONS HAS NOT BEEN FORMALLY RECORDED IN THE REGISTER



APPENDIX 4

Copy of Deposited Plan



APPENDIX 5

Aerial Photograph



From: [Peter Morson](#)
To: [Natasha Baker](#)
Subject: Fwd: RE: 30 Lethbridge Street Penrith
Date: Tuesday, 31 May 2016 9:08:26 PM
Attachments: [image006.jpg](#)
[image014.jpg](#)
[image004.jpg](#)
[image008.jpg](#)
[image001.jpg](#)
[image002.jpg](#)
[image010.jpg](#)

----- Forwarded message -----

From: "David Reeves" <david@jimaitken.com.au>
Date: 11 May 2016 4:12 pm
Subject: RE: 30 Lethbridge Street Penrith
To: "Darren Latty" <Darren@prd.net.au>
Cc: <peter@morsongroup.com.au>

Hi Darren,

Thanks for the update. Our client is not easy to educate on what is currently happening. He is wanting towards \$950K. He is not highly motivated at this stage. Happy to help where I can.



David Reeves
Partner
Jim Aitken + Partners

Shop 29, Lennox Shopping Centre, Emu Plains NSW 2750
p: 02 4735 2121 | f: 02 4735 4095 | m: 0417 300 900
e: david@jimaitken.com.au | w: jimaitken.com.au

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US ON



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From: Darren Latty [mailto:Darren@prd.net.au]
Sent: Wednesday, 11 May 2016 1:24 PM
To: David John Reeves (david@jimaitken.com.au) <david@jimaitken.com.au>
Cc: Peter Morson (peter@morsongroup.com.au) <peter@morsongroup.com.au>
Subject: FW: 30 Lethbridge Street Penrith

Hey David,

Hope all is well.

Can't believe some agents are complaining it is quiet.

I'm sure like me your phone is permanently attached to your ear!

We have met with the clients again today to discuss Lethbridge Street.

They have agreed to increase their offer to \$682,000.

We have real concerns about the easement & overland flow issues.

The architects have requested we get an answer as soon as you can via email so I have cc'd them in to this email to save going backwards & forwards.

As always your urgent attention is greatly appreciated.

Description: Darren PDH sig



From: Darren Latty
Sent: Thursday, 5 May 2016 4:34 PM
To: David John Reeves (david@jimaitken.com.au)
Subject: 30 Lethbridge Street Penrith

Hi David,

Thanks for arranging the access for the property at 30 Lethbridge Street Penrith for valuation purposes.

We have today received the detailed valuation in writing.

The client has given me instructions to make a formal offer.

For your information the valuation came in at \$620,000.

Our client informs us that he would be willing to make an offer significantly higher than the valuation at \$650,000.

Could you please advise if your client would be interested in selling to ours.

Your urgent attention would be greatly appreciated.

Description: Darren PDH sig

