Stimson & Baker PLANNING

Statement of Environmental Effects

Demolition of existing structures and construction of a six (6) storey residential apartment building of 61 units

115-119 Derby Street, Penrith

December 2015

Client: Elcon Pty Ltd

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Author	Version	Date
WS	Draft	151215
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1 Introduction

1.1 Overview

Stimson & Baker Planning has been engaged by Elcon Pty Ltd to prepare a Statement of Environmental Effects in relation to a proposed residential apartment building on the property known as 115-119 Derby Street, Penrith.

The proposed development includes the demolition of three (3) dwellings and associated structures over three properties and the construction of a six (6) storey residential apartment building comprising 61 units, two level basement car parking for 80 vehicles and associated landscaping.

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 and the Urban Design Review Panel. The matters raised at this meeting are addressed through this report and accompanying plans.

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 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.

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- 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
Architectural drawings SEPP65 Architects Design Statement Waste Management Plan	CK Design
Stormwater Concept Design	Nastasi and Associates
Survey Plan	Mark Castelletti Surveying
Landscape Concept Plan	Ray Fuggle and Associates
Arborist Report	MacKay Tree Management
Traffic Report	Safeway Traffic Management Solutions

1.4 Legislation, Environmental Planning Instruments and Policies to be considered

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

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

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1.5 History of the Application

1.5.1 Urban Design Review Panel Meeting

An Urban Design Review Panel Meeting was held on 18 November 2015. There was generally positive feedback regarding the proposal with minimal significant changes required. Feedback received has been reflected in the accompanying plans and this Statement of Environmental Effects and outlined in summary below:

Summary of Issues to Address	Section of SEE /Accompanying information
The proposed development displays competent space planning together with a confident manipulation of building forms which is complemented by effective architectural design of facades.	Noted
In terms of urban design quality, there is no serious concerns in relation to setbacks which are less that specified by the Apartment Design Guide, and small portions at the rear of the building which exceed maximum height.	Noted. In terms of planning consideration the setbacks reduction and height exceedance is justified within the architectural design statement and this Statement of Environmental Effects in relation to a Clause 4.6 height variation.
Provide improved analysis of the site and surroundings: - Show the proposed development in the context of existing neighbours and future development which is likely.	Streetscape and Context Analysis is provided on the accompanying plans
Adjust the configuration of deep soil in order to accommodate medium-sized trees that would contribute to streetscape quality and residential amenity: - Provide pockets of deep soil at corners of the site as well as at midpoints of side and rear boundaries. - Reconfigure basement stairs in order to accommodate the desired pockets of deep soil, and indent basement walls in order to accommodate deep soil in conjunction with the indented sides of residential storeys.	The configuration of deep soil zones have been modified to allow for tree planting along boundaries, this has resulted in internalising the fire stairs to accommodate an additional pocket for tree planting.
Adjust the landscape concept to enhance character and amenity: - Existing streetscape character requires varied clusters of trees rather than hedgerow plantings. - Configuration of trees and planting around communal open spaces should create outdoor rooms. - Adjacent to ground level residential terraces, screen and amenity plantings should contribute to transition of territory from public to semi-private, as well as providing privacy and a sense of security.	A Landscape Plan accompanies the application demonstrating additional tree planting and layout of common open space area. Privacy screen planting is provided.
Reconfigure common areas on the ground floor to enhance amenity and provide for servicing: - Delete unit 8 in order to provide direct access from the atrium to the communal open space which is located next to the rear boundary, and design this open undercroft to accommodate communal recreation. - Reconfigure garbage storage and provide for on-site collection in line with the Council's	The units have been reconfigured to provide direct access from the atrium to the communal open space to the north. This direct connection accommodates communal recreation. A loading driveway is provided adjacent to the access driveway to the basement to accommodate garbage trucks and the collection of waste. This is adjacent to the access way

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current policy: delete the one bedroom unit 2 and move unit 1eastwards to provide an open driveway that would accommodate on-site loading of garbage trucks and furniture deliveries – but which can function as a 'part time' pedestrian plaza in conjunction with the main building entry.	
Refine the atrium layout to enhance amenity - Investigate alternative locations for the lift in order to consolidate landscaping and open air space.	The lift has been relocated to accommodate the direct interaction, visual and physical connection to the communal open space.
Refine the layout of certain apartments to achieve reasonable amenity: - Reconfigure one bed units which currently have bedroom windows that open onto the atrium walkways. - Redesign three bed units on levels 4 and 5 which currently have adjoining or opposing windows. - Provide screening along access balconies on levels 4 and 5. - Provide screen plantings together with security fencing around the terraces of ground level apartments.	The location and type of windows within the units particularly adjacent to the walkways areas have been modified to address UDRP comments, including appropriate screening.
Confirm proposed materials and finishes: - Provide large-scale sections and elevations that confirm dimensions, construction, finishes and drainage for typical facades (consistent with Schedule 1 of the *EPA Regulations*).	Details relating to the proposed materials and finishes including sections have been provided on the accompanying plans.

1.5.2 Pre-lodgement Meeting

It is considered this Statement of Environmental Effects and accompanying information addresses the technical and planning compliance required of this type of development in this location and in accordance with Council's plans and policies.

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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. This aligns with Council's Strategic direction for this area.

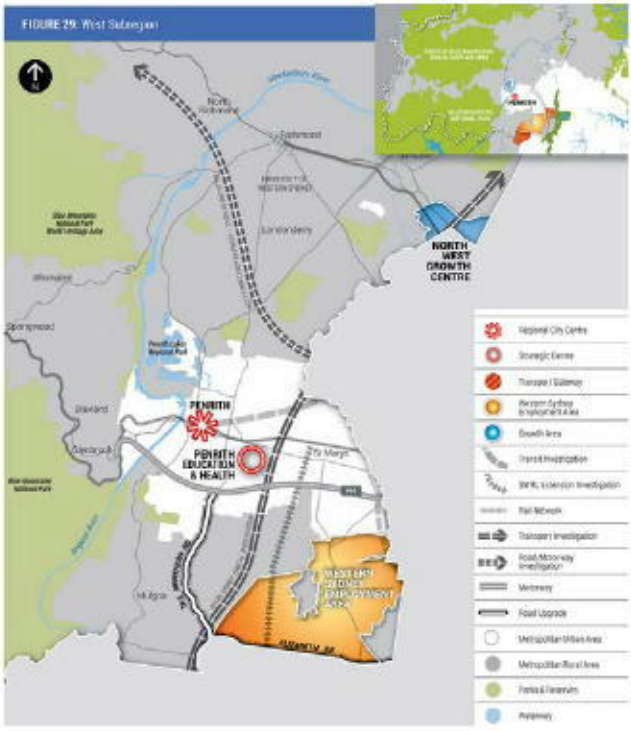

Figure 1: A Plan for Growing Sydney (http://www.strategy.planning.nsw.gov.au/sydney/the-plan/)

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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 600m walking distance of the top of High Street mixed use area, 500m to Penrith Health and Education Precinct, and 300m Penrith High School. There is a bus stop 20m from the property on Derby St providing services to Penrith station and the surrounding region. Spence Park is within 150m walking distance from the site.

Figure 2: Local Context (Source: SIX Maps/Stimson & Baker Planning)

2.3 The Subject Site

The development site comprises three (3) residential lots, with three properties located on the northern side of Derby Street. The development site comprises:

- No. 115 Derby Street - single storey fibro dwelling with metal roof and separate awning.
- No. 117 Derby Street - single storey fibro dwelling with metal roof, separate single fibro garage and metal garden shed.
- No. 119 Derby Street - single storey clad dwelling with tiled roof and timber deck and metal shed.

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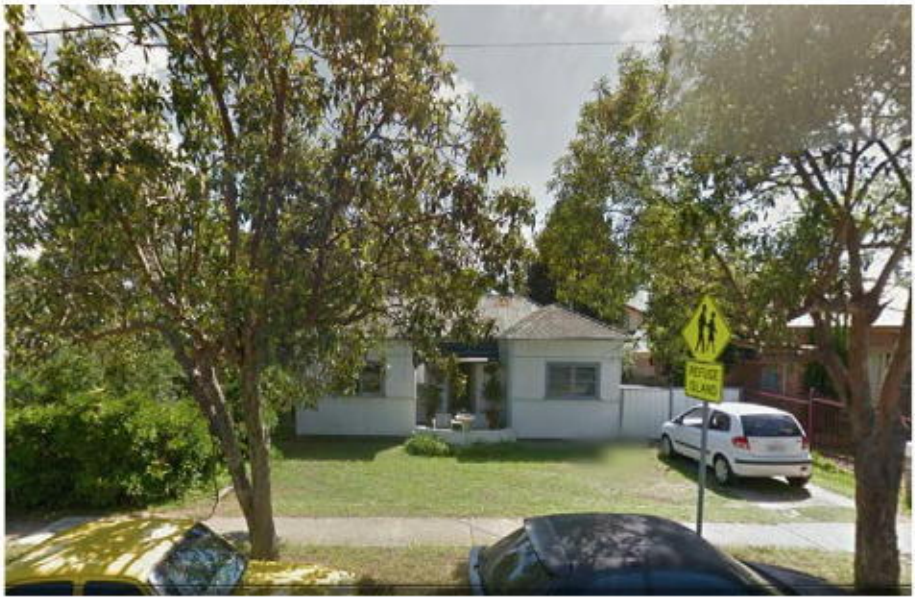

Figure 3: 115 Derby Street Penrith

Figure 4: 117 Derby Street Penrith

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Figure 5: 119 Derby Street Penrith

The development site has a combined frontage of 45.72m fronting Derby Street. The site is known as 115-119 Derby Street, Penrith and is legally described as Lots 5.6 & 7 DP24603, respectively. The properties are orientated generally in a north south alignment and the development site creates a regular shape with a combined area of approximately 2090m2.

Figure 6: Subject site and surrounds (Source: SIX Maps)

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Topography

The site falls generally in a south east to north west direction of approximately 3m diagonally across the site. There are no other prominent topographical features.

Vehicular Access

There is currently direct vehicular access to the residential lots from Derby Street via standard residential concrete driveways to each individual property.

Pedestrian Access and Public Transport

There is a pedestrian concrete pathway across the frontage of the site on Derby Street.

There is a bus stop within 20m walking distance from the site on Derby Street providing services to Penrith station and the wider area including Western Sydney University and Nepean Hospital. Bus services include Route 774, 775, 776 and 789 offering services between Penrith and Mount Druitt. Penrith City Centre is within walking distance from the site (600m).

Utilities and Services

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

Vegetation

There is typical residential landscaping on the site with a small number of trees of quality and size on the development site. An accompanying arborist report addresses matters relating to tree removal and management.

2.4 Surrounding Development

The surrounding locality is characterised by older medium density town house development, 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.

Located to the north of the site is a large parcel of land at 88 Hope Street which is owned by the Department of Housing and contains townhouses that extend the length of the property (250m), to the east is dual occupancy development, to the south is townhouses and the west is also a dual occupancy development with each dual occupancy being under strata plans. There is a wide range of housing types and land uses in the vicinity.

There are a number of residential flat buildings that are currently being assessed by Council in the vicinity of the site.

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Derby Street townhouse development to the south

Derby Street townhouse development to the south

Department of Housing development to the north on Hope Street

Derby Street dual occupancy development to the east

Figure 7: Surrounding Development (Source: Google Maps)

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3 Development Proposal

3.1 Objectives of the Proposal

The application seeks consent for the demolition of three (3) residential single storey dwellings and associated outbuildings and the construction of a six (6) storey residential apartment buildings comprising 61 units, two levels of basement car parking for 80 vehicles, associated landscaping and common open space. This development is to contribute to the desired future direction for the Council of providing higher density residential development in close proximity to Penrith City Centre and the Penrith Health and Education Precinct.

Figure 8: Site Plan (Source: CK Design)

3.2 Details of the Proposal

The proposal comprises 61 units over six (6) storeys of the following mix:

Level	Units	Bedrooms
Ground	2	1
	7	2
One	4	1
	8	2

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Two	4	1
	8	2
Three	4	1
	8	2
Four	6	2
	2	3
Five	6	2
	2	3
TOTAL	**61**	

In summary this equates to:

- 14 x one (1) bedroom units
- 43 x two (2) bedroom units
- 4 x three (3) bedroom units

Parking is provided on site for 80 vehicles as follows:

Basement Level 1 – 40 car spaces (including 12 visitor, 4 accessible), two service spaces, car wash bay and storage.

Basement Level 2 – 40 car spaces (including 4 accessible) and storage

Built Form

The proposal was presented to the Urban Design Review Panel to which the initial response was that *the proposed development displays competent space planning together with a confidant manipulation of building forms which is complemented by effective architectural design of facades.* There was positive feedback with some recommended changes which have been incorporated into the final design subject to this development application.

The design contributes positively to the existing and emerging streetscape. The proposal has a complimentary colour palate and mix of finishes and materials. The type of materials include painted and metal cladding and painted render and powder coated window and door frames. The accompanying architectural plans identifies a schedule of colour, finishes and materials and Figure 9 provides a 3D Perspective which demonstrates its visual qualities and use of colours and materials.

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Figure 9: 3D Perspective (Source: CK Design)

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 of approximately 6m servicing the basement car parking over two levels from Derby Street.

There is a 3m service driveway directly adjacent to the access driveway to allow garbage trucks to enter the property to collect waste. This service driveway can also accommodate removalist and delivery vehicles.

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

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.

Traffic and Parking Provision

Parking is provided over two basement levels. 80 car spaces including resident parking, visitor, accessible spaces and service and car wash bays are proposed for the building.

There is also provision for bicycle parking spaces within the development.

Landscaping and Open Space

Landscaping is provided for the development that improves the streetscape and the amenity of the site. A Landscape Concept Plan accompanies the application and demonstrates high quality landscaping outcomes for the site and in the context of its residential setting. The street has existing prominent street planting which will be

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retained. The proposed landscaping will improve the streetscape as currently it comprises of hard surfaces for parking and a building with a minimal front setback.

Open space is provided to the residents via a private balcony/terrace to each unit and a private courtyard to all of the ground floor levels. There is communal open space provided for the residents to the north which is co-located with substantial deep soil zones for large tree planting. There is also a central common area in the form of an atrium which is visible from the common open space area and overlooked by other levels of the development.

Stormwater Drainage

A stormwater drainage concept plan accompanies the application and demonstrates compliance with Council's controls. Onsite detention is provided.

Further information accompanies the application in regards to the stormwater management on the site including MUSIC modelling.

Utilities

The site will be appropriately serviced to accommodate the proposed use. Some utility upgrades are likely to be required and will be confirmed with the relevant service authority.

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 including the centralised atrium. Access to the residential units is expected to be via a resident passcode, or resident controlled intercom-access system and passive surveillance of the street is provided by the units.

Demolition

Demolition of the dwellings and 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 demolition plan and waste management plan detailing this accompanies the application.

Waste Management Strategy

The Waste Room has been positioned at the western end and front of the building on the ground level to allow frontage to a service driveway and loading dock for a garbage truck to enter the property to collect waste from this room. A garbage room is provided on each level.

A Waste Management Plan accompanies the application.

Contamination

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

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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.

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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. The proposed development has been assessed to optimise its thermal performance using NatHERs and has also been assessed in terms of its ability to conserve water and minimise energy consumption through BASIX tool. The proposal is able to meet the BASIX requirements and is BASIX compliant as shown on the accompanying 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 previously and currently for residential development will unlikely generate contaminates that would hinder future development.

Although there has 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.

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4.3 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.

4.4 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development & Apartment Design Guide

This policy along with the Apartment Design Guidelines for the basis for assessment for residential apartment developments. The aims of the policy under Clause 2 are:

(1) This Policy aims to improve the design quality of residential flat development in New South Wales.

(2) This Policy recognises that the design quality of residential flat 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 flat 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) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- *(c) 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*
- *(d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*

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(e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.

(4) This Policy aims to provide:

(a) consistency of policy and mechanisms across the State, and

(b a framework for local and regional planning to achieve identified outcomes for specific places.

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

(a) the erection of a new residential flat building

(b) the building is 3 storeys, and

(c) contains more than 4 dwellings.

Part 2 of the SEPP contains a range of design quality principles that are to be applied to the proposed development. Schedule 1 outlines those design quality principles that are required for consideration in residential apartment developments. The principles have been addressed below:

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

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. The general compliance achieved with the planning controls ensures that the development is consistent with the desired future character of the area. A Streetscape and Context Analysis 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: Build form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

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Appropriate built form defines the public domain, contributes to the character of streetscape 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 to increase density will create a precinct of high density buildings within close proximity to services and facilities. There is no FSR for the site and the solar access to neighbouring properties has been responded to in the design and setbacks. The site is well orientated. Any variation to height and setbacks have been addressed through the design guidance and under Clause 4.6 as outlined in this Statement.

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 Derby Street 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 the intended density proposed for 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 and community facilities. There is no FSR for this site and the site responds to the ADGs.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes the 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 communal open space and

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landscaped areas achieve adequate solar access and are incorporated with the deep soil zones located in the development.

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, coordinating 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 excessive deep soil zones which provide opportunity for some tree planting. All ground floor private open space areas are landscaped with suitable landscaping along Derby Street.

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, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook 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.

Principle 7: Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private open spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal spaces promote safety.

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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 the visual connection between the atrium and the common open space area. 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 Derby Street have the benefit of direct pedestrian access from the street.

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 suite the existing and future social mix.

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. It is submitted that the design outcome has been achieved. It is deemed that the building will contribute to the desired visual amenity and character intended for the locality. The building design is considered to be a good transition between the existing development and emerging local context.

The SEPP also requires the consent authority to take into consideration the *Apartment Design Guidelines (ADGs)*. Under Clause 6A where there is inconsistencies between the SEPP and Council's DCP, the SEPP prevails. The application is accompanied by an Architects Design Statement addressing SEPP 65 Compliance. The key standards under the SEPP are considered below:

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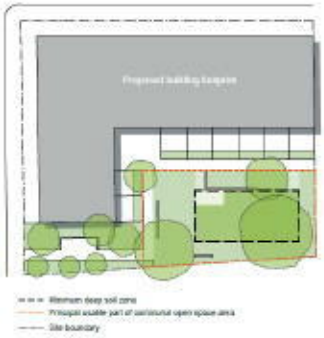
PART 3 – Siting the development

3D Communal and Public Open Space

Objective 3D-1

An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping

Communal open space has a minimum area equal to 25% of the site (see figure 3D.3) 	-	Common open space (COS) is 205m² as nominated on the plans equating to 9.8% of the site, however there are numerous opportunities around the site for passive recreation. The required COS is 522m² The COS includes an area to the north maximising its solar access and amenity. This is co-located with deep soil zones. Private courtyards will provide more intimate recreation spaces with more 'ownership' of the space and maintenance of same.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	✓	Solar access is achieved to the common open space area during the morning sun.

3E Deep soil zones

Objective 3E-1

Deep soil zones provide area on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality

Deep soil zones are to meet the following minimum requirements: Site area / Minimum dimensions / Deep soil zone (% of site area) less than 650m² / - / 7% 650m² - 1,500m² / 3m greater than 1,500m² / 6m greater than 1,500m² with significant existing tree cover / 6m	✓	Deep soil zones are well exceeded for the development. The site provides for deep soil zones at 6m of an area of 274.32m² which is 13% of the site. There are other deep soil zones around the perimeter of the site less than 6m and suitable for tree planting. This deep soil zones have been integrated with the communal open space and landscaped areas.

3F Visual privacy

Objective 3F-1

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy

Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Building height / Habitable rooms and balconies / Non-habitable rooms up to 12m (4 storeys) / 6m / 3m up to 25m (5-8 storeys) / 9m / 4.5m over 25m (9+ storeys) / 12m / 6m	-	**Southern Boundary:** Front setback – street boundary **Northern Boundary**: G-Level 3 (4 storeys) • 6m Level 4-5 (fifth/sixth storey): • 9m

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Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2) Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties		**Eastern Boundary:** G-Level 3 (4 storeys) • 3m-6m (generally setback is for two lengths of 11m along this boundary and has no windows) Level 4-5 (fifth/sixth storey): • 6m (has minimal windows) **Western Boundary:** G-Level 3 (4 storeys) • 3m-6m (generally setback is for two lengths of 11m along this boundary and has no windows) Level 4-5 (fifth/sixth storey): • 6m (has minimal windows) Applying the design guide there are blank walls incorporating design elements and where there are windows and balconies treatment has been provided to ensure visual privacy to adjoining properties. The UDRP indicated that the setbacks were appropriate from a design perspective. In addition, the site is adjoined either side by strata plan and to the north Department of Planning indicated a long prospect for future development of these sites.
3J Bicycle and car parking		
Objective 3J-1 Car parking is provided based on proximity to public transport in metropolitan Sydney and centre in regional areas		
For development in the following locations: • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less The car parking needs for a development must be provided off street	✓	Parking is provided that complies with Councils DCP requirements

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PART 4 – Designing the building		
4A Solar and daylight access		
Objective 4A-1 To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space		
Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	✓	71% receives 2 hours which exceeds this requirement Sunlight diagram from SEPP 65 ADG is included in drawings.
In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter	n/a	
A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	-	30% of apartments receive no direct sunlight between 9am and 3pm midwinter.
Objective 4B-3 The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents		
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	✓	89% of apartment are cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	✓	
4C Ceiling Heights		
Objective 4C-1 Ceiling height achieves sufficient natural ventilation and daylight access		
Measured from finished floor level to finished ceiling level, minimum ceiling heights are: **Minimum ceiling height for apartment and mixed use buildings** Habitable rooms: 2.7m Non-habitable: 2.4m For 2 storey apartments: 2.7m for main living area floor; 2.4m for second floor, where its area does not exceed 50% of the apartment area Attic spaces: 1.8m at edge of room with a 30 degree minimum ceiling slope If located in mixed used areas: 3.3m for ground and first floor to promote future flexibility of use These minimums do not preclude higher ceilings if desired	✓	Complies.

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4D Apartment size and layout		
Objective 4D-1 The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity		
Apartments are required to have the following minimum internal areas: Studio: 35m² 1 bedroom: 50m² 2 bedroom: 70m² 3 bedroom: 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each	✓	All apartments comply with this criteria. Where there are additional bathrooms this has been added to the apartments as required. Applying the design guidelines, the units are well designed, usability, function and the layout of the furniture in each of the rooms.
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	✓	Complies.
Objective 4D-2 Environmental performance of the apartment is maximised		
Habitable room depths are limited to a maximum of 2.5 x the ceiling height	✓	Complies.
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	✓	Complies.
Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs		
Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)	✓	Complies.
Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	✓	Complies.
Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	✓	Complies.
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	✓	Complies.

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4E Private open space and balconies

Objective 4E-1

Apartments provide appropriately sized private open space and balconies to enhance residential amenity

All apartments are required to have primary balconies as follows: Dwelling type / Minimum area / Minimum depth Studio apartments / 4m² / - 1 bedroom apartments / 8m² / 2m 2 bedroom apartments / 10m² / 2m 3+ bedroom apartments / 12m² / 2.4m The minimum balcony depth to be counted as contributing to the balcony area is 1m	✓	Balconies provided to apartments that exceed the minimum in accordance with this design criteria.
For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m2 and a minimum depth of 3m	✓	Private open space for the ground level apartments range from 22-116m². Applying the design guidelines in this instance, all ground level private open space areas meet the minimum depth of 3m.

4F Common circulation and spaces

Objective 4F-1

Common circulation spaces achieve good amenity and properly service the number of apartments

The maximum number of apartments off a circulation core on a single level is eight	✓	There are less than eight units of each corridor. There is a "H" shape of corridors around an atrium.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	n/a	

4G Storage

Objective 4G-1

Adequate, well designed storage is provided in each apartment

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Dwelling type / Storage size volu Studio apartments / 4m³ 1 bedroom apartments / 6m³ 2 bedroom apartments / 8m³ 3+ bedroom apartments / 10m³ At least 50% of the required storage is to be located within the apartment	✓	Refer to accompanying plans.

Where the design criteria has not been met, the design guidelines from the Apartment Design Guide have been considered and the design is still considered suitable for the proposal. In addition to the above, the application is also accompanied with the Architect's Design Statement providing more detail with regards to SEPP 65 compliance.

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4.5 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 principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.*

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 R4zone 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.*

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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 proposal provides for a mix of bedroom and apartment styles and arrangements.
- 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 and with high amenity.
- The proposed apartment mix provides affordable housing options within the building.
- 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.

Figure 10: Land Zoning Map Penrith Local Environmental Plan 2010

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

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

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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.
4.3 Height of buildings	The proposal exceeds the maximum height of 18m for a portion of the building. 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 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 not affected by the 1in 100 year mainstream flood level.
7.4 Sustainable Development	The proposal has given consideration to the sustainable development principles referred to in this clause. A BASIX Assessment accompanies the application. Onsite Detention is proposed as well as treatment of stormwater which is accompanying the application. There are significant deep soil zones to contribute to substantial tree planting.
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.

The proposal complies with the provisions of the LEP.

4.5.1 Clause 4.6 Exception 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 for building height in this regard.

The height encroachment over the 18m is minor and limited to one portion of the roof structure. This is difficult to express as a numerical percentage, but is clearly depicted in the elevation drawings presented with the application.

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This variation has been prepared in accordance with *Varying Development Standards: A Guide (August 2011)* prepared by the then *Department of Planning and Infrastructure*. It is assumed Council has delegated authority in relation to the variation for this proposal.

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) is found in Appendix A,

The variation request concludes that the development standard is unreasonable and unnecessary in this case.

4.6 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 is 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. No objection was raised to the approach. The site has been responded to with the proposed development and a Context and Site Analysis Plan accompanies the application.
Part C2: Vegetation Management
Trees proposed to be removed are considered small and do not contribute to the streetscape or the setting of the site. A Landscape Concept Plan accompanies the application and provides for a mix of planting to replace any vegetation removed.
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. The proposal will not result in any impacts on the wider catchment or water quality.
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 garbage rooms on each level which is considered sufficient for this building. A Waste Management Plan accompanies the application outlining the waste requirements.
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 the accompanying Landscape Concept Plan.

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C7: Culture and Heritage
The site is not a heritage item or adjoins a heritage item or conservation area.

C10: Transport, Access and Parking
The parking requirements are as follows: Residential Apartment Building • 4 (3bed) x 2 = 8 • 57 (1/2bed) x 1 =57 • 1 per 5 for visitor (61 units) = 12 • 1 per 40 units for service vehicle (61 units) = 2 • 1 per 50 units for car washing = 1 The proposal requires 80 spaces and provides 80. Space for bicycle parking is provided for in the basement. A detailed Traffic and Parking Assessment accompanies the application that addresses this section of the DCP.

C12: Noise and Vibration
There is no anticipated noise or vibration generated or land uses adjoining affecting the proposal in this regard.

C13: Infrastructure and Services
As stated previously, the subject site is already serviced to accommodate the proposed development.

D2 – Residential Development 2.5 Residential Flat Buildings		
Control	**Comment**	**Complies**
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.	Lot frontages exceed 20m	✓
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.	Dwellings with frontage to the street will have direct pedestrian access and private gardens fill the front setback where possible. There is basement parking provided.	✓
2.5.5. Landscaped Area		
Landscaped areas should provide: 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.	Effective separation is provided under SEPP65 and discussed in Section 4.4. Common Open Space exceeds the 10% of the Landscaped area refer below, but does not meet the minimum common open space area requirements under the SEPP.	✓

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Landscaped area must meet the following requirements: a) Landscaped areas should be: 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;	Landscaped Area is 813sqm (39%) of the site and includes the atrium	
2.5.6. Front and Rear Setbacks		
Determine the maximum development footprint for your site: 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	✓
Within the rear boundary setback: 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	✓
Determine an appropriate front setback: a) either average the setbacks of the immediate neighbours; or b) 5.5m minimum whichever is the greater dimension.	The front building setback is predominately 6m-8.5m. The setback is consistent with adjoining development.	✓
Garages and parking spaces are not permissible within the front setback.	Basement parking is provided	✓
2.5.7. Side Setbacks		
Cut and fill and maximum ground floor heights: a) on sloping sites provide stepping building platforms in line with existing topography with floors no higher than 1m above natural ground level; b) restrict cut-and-fill to a maximum of 500mm; and c) Provide effective sub-soil drainage.		✓

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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 applies. Refer to Building Separation in Section 4.4.	✓
2.5.9. Solar Planning	SEPP 65 applies	✓
2.5.10. Significant Townscapes & Landscapes		
In neighbourhoods with townscape significance, new development should: a) conserve vegetation b) adopt the prevailing configuration of garden areas, c) adopt the predominant width, height, and scale of existing buildings; d) ensure that floor plans are stepped or articulated similar to the shape or form of surrounding buildings; e) adopt roof pitches, ceiling heights and forms that match neighbouring buildings; f) minimise the width and area of driveways visible from public frontages; g) Conceal garages from public frontages (corner sites excepted).	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. Sufficient area for landscaping at front and to common open space areas.	✓
New development should not aim to provide a direct copy of traditional buildings.		
2.5.11. Corner Sites and Park Frontages		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 Section 3 of the report for materials and finishes and details of the built form. Refer to Architectural Drawings	✓
Variety in architectural features should be apparent in all visible facades.		✓
Basements for car parks should rise no higher than 1.5m above ground provide a minimum 2.2m vertical clearance for vehicles.		✓
2.5.13. Energy Efficiency	SEPP 65 applies	✓
2.5.14. Design of Dwellings and Private Courtyards	SEPP 65 applies	✓

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2.5.15. Garages	n/a	✓
2.5.16. Garden Design		✓
2.5.17. Paving Design		✓
2.5.18. Fences and Retaining Walls		✓
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. This can be accommodated within the proposal.	✓
2.5.21. Storage and Services	SEPP 65 applies	✓

The proposal is generally consistent with the provisions of Penrith Development Control Plan 2014.

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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 three dwellings and associated structures on the development site. A Demolition Plan accompanies the application. The demolition of the dwellings will take into consideration of the provisions of AS2601 – 1991: The

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Demolition of Structures, and Council will likely impose appropriate conditions of consent in this regard.

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 architectural merit that is representative of the emerging and desired character of the area. The proposal was presented to the Urban Design Review Panel which received positive feedback with the design responding to the comments provided at that 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 suitable.

The development is also cognisant of the older housing stock currently that will be part of the streetscape pending future development. Some this housing stock is low-medium density that is subject to strata subdivision or Department of Housing which is unlikely to development in the near future.

The future context and the relationship of this building to the desired character is therefore appropriate to consider.

5.6.2 Flora and Fauna

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

5.6.3 Landscaping and Tree Removal

The proposal requires the removal of some small trees and these will be replaced with more suitable trees in addition to shrubs, ground covers and turf. The proposed landscaping integrates with the development and will provide an improved and positive impact on the streetscape. The street already enjoys an avenue of street trees which will be further enhanced by the proposed landscaping.

A Landscape Concept Plan accompanies the application.

5.6.4 Stormwater Quantity and Quality

A stormwater concept plan has been submitted with the development application demonstrating compliance with Council's requirements.

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5.6.5 Erosion and Sediment Control

It is expected that Council would impose appropriate conditions of consent to ensure that erosion and sediment control measures were installed on the site prior to construction commencing.

5.6.6 Traffic Generation and Parking

A Traffic and Transport Assessment has been prepared addressing car parking requirements and traffic impacts of the proposal.

The site is access by a suitable local road network that ultimately connects to The Northern Road a State road. The additional traffic expected from the proposal is considered reasonable given the current and emerging population expected in the area, the traffic report also addresses the cumulative traffic due to a number of residential flat buildings being proposed and considered by Council in the area.

The proposal provides 80 car parking spaces which generally complies with Councils 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 space to accommodate bicycle parking facilities at basement level.

Vehicular access is provided to the site via a common two way driveway servicing the basement car parking over two levels from Derby Street. Access to the basement from the western 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.

5.6.7 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 are no other acoustic assessment required for the proposal.

5.6.8 Heritage Issues

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

5.6.9 Services

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

5.6.10 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 the properties to the east and west of

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the development will received at least 2 hours sunlight 21 June to the windows and open space areas and meet the requirements of SEPP65.

Solar access is provided to the building and the common open space area in accordance with the provisions under SEPP 65.

There will be no adverse impacts in relation to overshadowing and solar access as a result of the proposed development.

5.6.11 Social and Economic

Positive social impacts will arise as a result of this development with the increase in housing choice in the Penrith LGA.

There are no adverse impacts in relation to economic matters.

5.6.12 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 and the through the number of units facing Derby Street.
- Units fronting Derby Street have the benefit of direct pedestrian access and frontage.
- Entries are located in highly visible locations.

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- Active communal areas at the rear of the building are well positioned and integrate with the centralised atrium that can be observed from all levels. There is passive surveillance of the communal area from the lift lobby area on the ground floor and private balconies.
- 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. The accompanying landscape plan identifies these areas.

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.

5.6.13 Waste Management

Appropriate waste management measures would be put in place on the site that are consistent with Council's requirements. A Waste Management Plan accompanies the application. The site provides for a service driveway to allow garbage trucks to stand

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within the property to collect waste minimising the obstruction of traffic on Derby Street.

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 development consistent with Council's planning direction would not result in any unacceptable impact on any adjoining landowners or buildings.

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
- The site is well located with regard to its proximity to the Penrith City Centre, public transport, tertiary education and health facilities and adequate services with numerous public transport routes and options;
- 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 would provide a design suitable to the desired future character of the area.
- 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 proposal is in the public interest.

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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 and a well thought integrated landscaped setting that will contribute to the streetscape.

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. Where there are minor non-compliances, it is requested that Council apply those controls flexibly.

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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 City Centre, schools, large recreation areas, Nepean Hospital and Penrith City Centre.

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 high quality architectural merit providing visual interest from the public domain.

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

Accordingly it is recommended that the proposed demolition of existing structures and construction of a residential flat building at 115-119 Derby Street, Penrith be approved.

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Stimson & Baker PLANNING

Appendix A

Clause 4.6 Submission

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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 d welling 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 proposal provides for a mix of bedroom and apartment styles and arrangements.
- 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 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

Building height

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

Clause 4.3 Height of Building

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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.*

The proposal complies with the objectives:

- The proposal is consistent with the height, bulk and scale of the emerging and desired future character of the locality. The bulk of the building is primarily under the height limit with some sections having a slight encroachment as shown in the attached elevations. 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.

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 majority of the proposal complies with the 18m height limit with the exception of the north west corner of the building. The height encroachment accommodates the slope of the land in this portion of the site. The encroachment will be imperceptible when viewed from the surrounding area, particularly from the south (Derby Street).

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. It is better expressed in the accompanying elevations that follow in this document. It is clear that the encroachment is insignificant.

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Figure 1 Building heights and breach – North Elevation

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

The proposal meets the general intent of clause 4.6 in that it does not affect the overall bulk and scale of the development. The proposal is still presenting as a six (6) storey development which is the intent of the 18m height limit. As shown in the elevation, the encroachment into the building height from the actual building is only very minor and is considered to be imperceptible. The other component exceeding the main building height limit is the lift over run which will not be visible from the public domain.

The elevations demonstrate that the majority of the building is below the 18m height limit.

Figure 2 Building heights and breach – West Elevation

The variation sought as part of this development application is quite minor in relation to the proposed development in the context of the area and the resultant design and amenity outcomes. The proposed

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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 unreasonable and 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 it is considered that the objectives of the Act would not be undermined by supporting the variation.

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The majority of the building is under the height limit and to comply with the height limit would not make a noticeable difference. The height variation is a result of the ground slope on the north western portion of the site. 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 bulk of the building is primarily under the height limit with some sections having a slight encroachment that is imperceptible.
- The building still maintains a six storey height appearance which is the intent of the 18m height limit and complies 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 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 where the environmental planning grounds have been addressed and demonstrate that there is no adverse impacts from supporting the variation of this minor nature.

Summary

The proposed variation is considered unreasonable and unnecessary in the context of this proposal within the R4 zone. In addition to addressing the *Guide*, the proposal also meets the "five part test" established by Lloyd J, in *Winten Property Group Ltd v North Sydney Council* (2001) 130 LGERA 79 at 89, which are:

1.	*Is the planning control in question a development standard?*
2.	*What is the underlying object or purpose of the standard?*
3.	*Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act?*
4(a).	*Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
4(b).	*Is a development which complies with the development standard unreasonable or unnecessary?*
5.	*Is the objection well founded?*

The above questions have been addressed above and within the Statement of Environmental Effects and it is considered that the request to vary the development standard under Clause 4.3 as it relates to the maximum building height is well founded and should be supported.

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