

Statement of Environmental Effects

LOT CONSOLIDATION, DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A 6 STOREY RESIDENTIAL FLAT DEVELOPMENT CONTAINING 45 APARTMENTS OVER BASEMENT CARPARKING FOR 71 VEHICLES AT 26-30 HOPE STREET, PENRITH



Prepared by: Think Planners Pty Ltd
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Consent Authority: Penrith City Council

QUALITY ASSURANCE

PROJECT: Statement of Environmental Effects – 6 Storey RFB

ADDRESS: Lot 34, 35 and 36 DP 31239: 26-30 Hope Street, Penrith

COUNCIL: Penrith City Council

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ARCHITECT: Building Design and Technology

Date	Purpose of Issue	Rev	Reviewed	Authorised
17 April 2018	Draft Issue	Draft	SF	SF
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9 May 2018	Lodgement Issue	Final	JW	JW

<i>Integrated Development (under S91 of the EP&A Act). Does the development require approvals under any of the following legislation?</i>	
<i>Fisheries Management Act 1994</i>	<i>No</i>
<i>Heritage Act 1977</i>	<i>No</i>
<i>Mine Subsidence Act 1992</i>	<i>No</i>
<i>Mining Act 1992</i>	<i>No</i>
<i>National Parks and Wildlife Act 1974</i>	<i>No</i>
<i>Petroleum (Onshore) Act 1991</i>	<i>No</i>
<i>Protection of the Environment Operations Act 1997</i>	<i>No</i>
<i>Roads Act 1993</i>	<i>No</i>
<i>Rural Fires Act 1997</i>	<i>No</i>
<i>Water Management Act 2000</i>	<i>No</i>
<i>Concurrence</i>	
<i>SEPP 1- Development Standards</i>	<i>No</i>
<i>SEPP 64- Advertising and Signage</i>	<i>No</i>
<i>SEPP 71 – Coastal Protection</i>	<i>No</i>
<i>SEPP (Infrastructure) 2007</i>	<i>No</i>
<i>SEPP (Major Development) 2005</i>	<i>No</i>
<i>SREP (Sydney Harbour Catchment) 2005</i>	<i>No</i>

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Executive Summary

This Statement of Environmental Effects has been prepared in support of a Development Application for the consolidation of 3 lots, demolition of existing structures and the construction of a 6 storey '*Residential Flat Building*' at 26-30 Hope Street, Penrith. The proposal consists of 45 residential units with a total of 71 car parking spaces within 2 basement levels. The proposal incorporates the following dwelling mix:

- 1 x studio
- 18 x 1-bedroom units
- 24 x 2-bedroom units
- 2 x 3-bedroom units.

Located within proximity to Nepean Hospital, a large regional hospital servicing Western Sydney, the subject site, known legally as Lots 34, 35 and 36 DP 31239, is located along the southern side of Hope Street, approximately 200m west of the intersection of Parker Street and Hope Street. Nestled between Penrith CBD to the north west, Kingswood Train Station and commercial strip to the north east, the site is also within walking distance to a small neighbourhood shop, medical centres, Penrith High School and local parks. Bus stops with services between Penrith and Mt Druitt (774, 775 & 776) is within a 280m walking distance from the development site.

The site comprises of 3 separate allotments and once consolidated will result in creating a regular shaped land parcel with a frontage of 47m to Hope Street, a site depth of 40m, resulting in a with a total site area of 1,884m². The allotment currently contains a dwelling on each lot. The site has been zoned R4 High Density Residential with a maximum height limit of 18m, under the Penrith Local Environmental Plan 2010.

'*Residential Flat Buildings*' are permissible with consent within the R4 zone. The proposed 6 storey residential flat building has been designed to comply with key planning requirements, and seeks to deliver a high-quality development that will make a positive contribution to the streetscape.

The site is located within a large residential block bounded by the Northern Road (Parker Street to the east, Hope Street to the north, Derby Street to the south and Colless Street to the west. The existing built form character within the residential block comprises predominantly of older style one and two storey residential dwellings of mixed ages and architectural styles on modest lots interspersed by a large multi-dwelling housing complex situated on a corner block to the far south-western portion of the block.

With the Penrith Local Environmental Plan zoning land within the subject residential block for higher residential densities up to 18m it is anticipated that the built form character of existing low-density housing within the subject block will undergo a substantial shift towards higher densities over the medium term. This is evident with multiple DAs currently with Council for comparable RFB and mixed-use development within the wider locality.

The subject area is ideal for future urban intensification as it is located within proximity to a large commercial centre, regional hospital, schools, public transportation and recreational opportunities.

The amalgamation of the two land parcels will permit an orderly development of the site and permitting the site to fulfil its zoning potential while being consistent with Council's vision for this precinct.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well-located land, the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

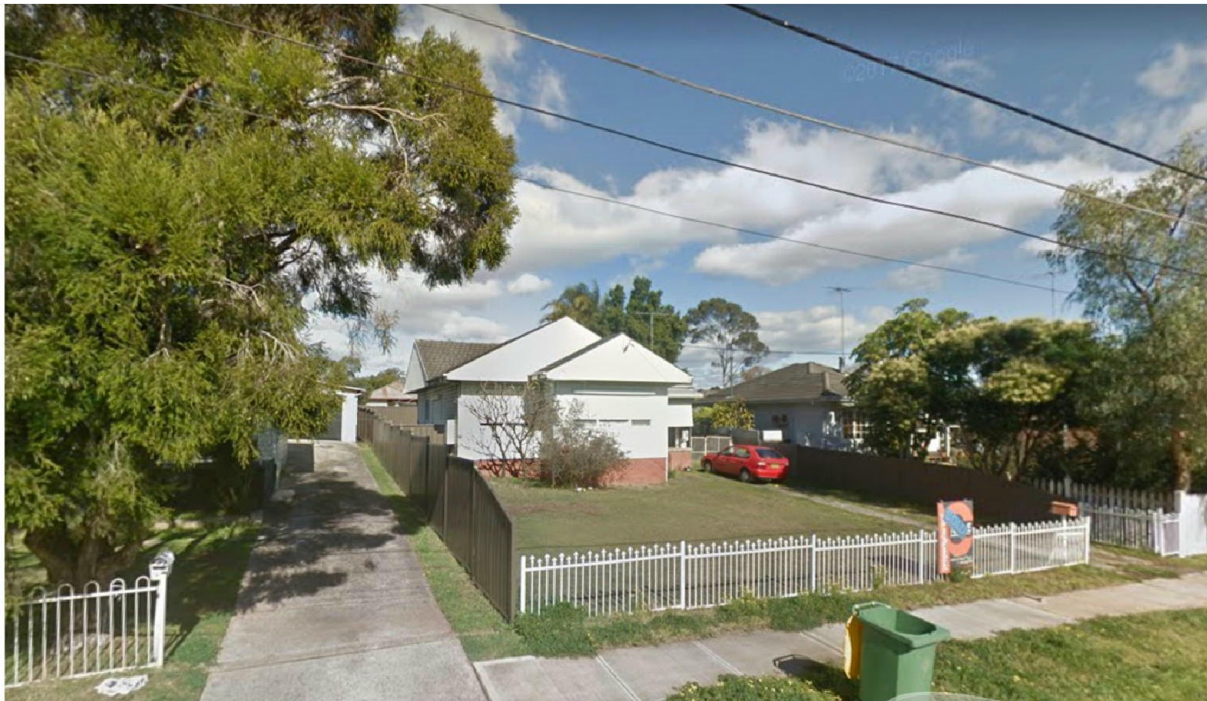
Site and Locality

The subject site is legally described as Lots 34, 35 and 36 DP 31239, known as 26-30 Hope Street, Penrith.

Located within proximity to Nepean Hospital, a large regional hospital servicing Western Sydney, the subject site resides along the southern side of Hope Street, approximately 200m west of the intersection of the Northern Road and Hope Street. Nestled between Penrith CBD to the north west, Kingswood Train Station and commercial strip to the north east, the site is also within walking distance to a small neighbourhood shop, medical centres, Penrith High School and local parks. Bus stops with services between Penrith and Mt Druitt (774, 775 & 776) is within a 250m radius of the development site.

The site comprises of 3 separate allotments and once consolidated will result in creating a regular shaped land parcel with a frontage of 47m to Hope Street, a site depth of 40m, resulting in a with a total site area of 1894.4m² with a dwelling currently located on each lot. The site falls from the rear south east corner (RL 47.63) towards the north western corner of Hope Street (RL 44.23), with a cross-fall of 3.4m. Located within an established residential area, the subject site currently accommodates 3 older style residential dwellings and associated structures, as demonstrated by Photograph 1 below.

Photograph 1: Shows 26 Hope Street, Penrith



The subject site is surrounded by older style single storey residential dwellings with Hope Street separating the site from low density housing to the north. It is noted that the site currently accommodates three single storey residential dwellings and associated structures that are to be demolished as part of the proposal. The site also contains existing trees and vegetation, with the majority of the trees to be removed to accommodate the proposal.

The proposal will also incorporate high quality landscape embellishment works along with appropriate replacement plantings to help reduce the physical bulk and scale of the development while also enhancing privacy levels and amenity within a garden setting in accordance with the landscape plan.

The dwellings are in a reasonable condition; however, they are significantly underutilising the sites full development potential given the R4 High Density Residential zone permits higher density residential developments such as residential flat buildings of up to 18m. The aerial extract and photographs of the locality below provides context to the development site.



Figure 1: Locality Map (Source: SixMaps)

As outlined above, the development site is zoned R4 High Density Residential under the provisions of the Penrith Local Environmental Plan 2010 as illustrated by Council's zoning map extract below. '*Residential Flat Buildings*' are permissible with consent within the R4 zone and the subject site is permitted a maximum building height of 18m.

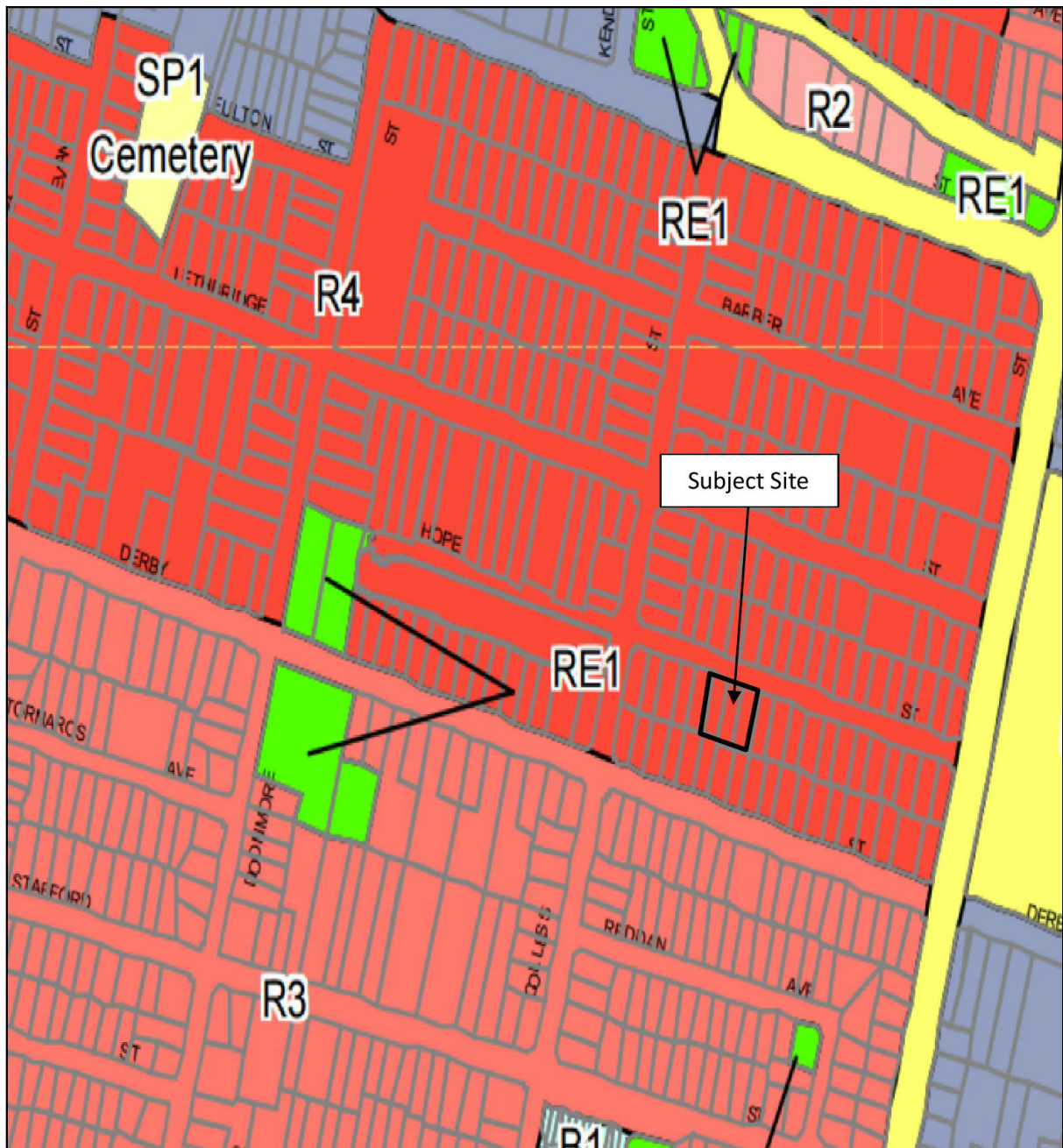


Figure 2: Zoning Map Sheet LZN_013 Extract (Source: Penrith LEP 2010)

The site is located within a large residential block bounded by the Northern Road to the east, Hope Street to the south, Derby Street to the south and Colless Street to the west. The existing built form character within the residential block comprises predominantly of older style one and two storey residential dwellings of mixed ages and architectural styles on modest lots interspersed by a large multi-dwelling housing complex situated on a corner block to the far south-western portion of the block. This is illustrated by an aerial map in the following page.



Figure 3: Aerial Map of Subject Residential Block (Source: Google Maps)

With the Penrith Local Environmental Plan zoning land within the subject residential block for higher residential density with building permitted up to 18m and considering its proximity to both Penrith CBD, Kingswood commercial strip, a major regional hospital and considering the current high demand of housing combined with an absence of heritage items, it is anticipated that the built form character of existing low density housing within the subject block will undergo a substantial shift towards higher densities over the medium term. This is evident with multiple DAs currently with Council for comparable RFBs and mixed-use development within the wider locality.

The Greater Sydney Region Plan and the Western City District Plan support higher density residential developments in strategic locations to accommodate future population growth. The subject area is ideal for future urban intensification as it is located within proximity to a large commercial centre, industrial precincts, regional hospital, schools, public transportation and recreational opportunities. The amalgamation of the 3 land parcels will permit an orderly development of the site and also permitting the site to fulfil its zoning potential while being consistent with Council's vision for the subject area.

The proposal also seeks to provide an important streetscape presence beyond the existing facades currently present in the locality and play a key role in the renewal process by setting the design standard and tone for future character and residential built forms along the southern side of Hope Street and also within the subject residential block.

The development site is also located near key arterial roads such as the Great Western Highway and The Northern Road. An aerial photograph, that demonstrates the sites location within the wider locality, is provided below:



Figure 4: Broader Locality Map (Source: Google Maps)

Photographs are provided below that give context to the locality and also the relationship of the development site with adjoining developments.

Photograph 2: Shows the existing streetscape in Hope Street looking eastwards, noting the narrow width of the road along with construction taking place opposite the subject site.



Photograph 3: Shows the existing streetscape in Hope Street looking westwards, noting the narrow width of the road as well as development under construction at the western end of Hope Street.



Heritage

The site is not identified as a heritage item, it is not located within a heritage conservation area nor is it in the vicinity of any surrounding heritage items as illustrated by the heritage extract map below.



Figure 5: Heritage Map Sheet HER_013 Extract (Source: Penrith LEP 2010)

Description of Proposal

The proposal involves the amalgamation of the existing allotments, demolition of existing structures and construction of a 6-storey residential flat building with the following aspects:

Unit Mix

The proposal incorporates a total of 45 units with the following dwelling mix:

- 1 x studio
- 18 x 1 bedroom units
- 24 x 2 bedroom units
- 2 x 3 bedroom units.

Parking

The development proposal includes a total of 71 parking spaces within two basement levels, and the access ramp to the basement is located on the north-western section of the site. The parking breakdown is as follows:

A total of 71 car parking spaces including 5 accessible parking spaces broken down into:

- 60 residential spaces
- 11 visitor spaces
- Including 1 car wash bay.

Waste Collection

The development provides a garbage truck loading bay, accessed via Hope Street which is at ground level, which also provides a vehicle turning system. The turning mechanism allows the truck to enter and exit in a forward direction.

Key Elements of Proposal

A brief description of the various aspects of the development is provided below.

Level	Inclusions
Basement levels 1-2	Access to the basement levels is via a graded access ramp from the northern eastern corner of the site via Hope Street.
	The basement levels include a total of 71 car parking spaces, composed of the following: <ul style="list-style-type: none"> - 60 residential parking spaces - 11 visitor parking spaces - including 1 car wash bay.
	Residential storage space.
	11 bicycle parking spaces.
	Lift core and stair well.
Ground Floor	The ground floor accommodates a primary pedestrian pathway and ramp that is located at the centre of the site and provides direct access to lobby area of the proposed 6 storey RFB.

	The lobby provides access to all ground floor units, waste room including a garbage chute, a lift core and stairwell.
	Each unit is provided with a kitchen, laundry, living area, dining area, and courtyard that is generally accessed from living areas.
	2 x 1 bedroom unit with courtyard.
	5 x 2 bedroom unit with courtyard.
	524m ² (28%) of landscaped area.
	Communal bin storage room.
	Garbage truck loading area and turning table.
	Waste room including a garbage chute.
	Substation.
Level 1	Each unit is provided with a kitchen, laundry, living area, dining area and balcony that is generally accessed from living areas.
	4 x 1 bedroom unit with balcony
	4 x 2 bedroom unit with balcony
	1 x studio unit with balcony
	Common circulation space including a waste room including lift core and stair well per level.
Level 2	Each unit is provided with a kitchen, laundry, living area, dining area and balcony that is generally accessed from living areas.
	3 x 1 bedroom units with balcony
	4 x 2 bedroom units with balcony
	1 x 3 bedroom unit with balcony
Level 3	Each unit is provided with a kitchen, laundry, living area, dining area and balcony that is generally accessed from living areas.
	3 x 1 bedroom units with balcony
	4 x 2 bedroom units with balcony
	1 x 3 bedroom unit with balcony
Level 4	Each unit is provided with a kitchen, laundry, living area, dining area and balcony that is generally accessed from living areas.
	3 x 1 bedroom unit with balcony.
	5 x 2 bedroom unit with balcony.
	Common circulation space including a waste room including lift core and stair well.
Level 5	Each unit is provided with a kitchen, laundry, living area, dining area and balcony that is generally accessed from living areas.
	1 x 1 bedroom unit with balcony
	2 x 2 bedroom units with balcony.
	1 x 3 bedroom units with balcony.
	Common circulation space including a waste room including lift core and stair well.

The proposal also incorporates a number of ancillary elements, including detailed landscape embellishment works and relevant drainage elements as shown on the submitted plans.

Pre DA Discussions

A Pre DA meeting was held on 10 October 2017. The table below provides detail on the key matters raised and how the proposal has addressed the comments.

Key Issue Raised	Response
Urban design matters: <ul style="list-style-type: none"> Balcony elements to be avoided on the side elevations Active frontage to Hope Street is encouraged Useability of communal outdoor area Integration of turntable – ensure it does not dominate the streetscape. 	Compliance with SEPP 65 is achieved, and design verification statement provided. Balcony elements are concentrated on the north and south elevations. An active street frontage is achieved with courtyards and landscaping elements to vastly improve the public domain. Features have been included in the common outdoor open space area including a BBQ and pergolas to enhance the use of the ground floor space. An additional area of common space is provided at the roof top. This area is orientated north and will provide a high-quality space for the residents. The waste vehicle turntable is provided at the ground level, but this is to be hidden from public view, tucked behind the main built form and visually complemented with landscaping.
Waste	The proposed waste management on site has been designed to comply with Council's requirements under Section 4.2 of the DCP.
Solar access	69% of the units meet the ADG requirements for solar access as demonstrated in the development plans. This is addressed in the ADG table of this statement.
Adaptability and accessibility	5 adaptable units are provided within the scheme as well as parking spaces to suit. There is an accessible path of travel to the development provided from Hope Street and lift access within the development.
Proximity to the main road	An acoustic report has been provided.
Submission requirements	Provided as per the advice from the pre DA.

All key issues arising from these meetings have been addressed and details are provided in the plans submitted with this development application.

Planning Controls

Statutory Controls

The relevant Statutory Planning Controls include:

- State Environmental Planning Policy (BASIX)
- State Environmental Planning Policy No.55- Remediation of Land
- State Environmental Planning Policy No.65 –Design Quality of Residential Apartment Development
- Sydney Regional Environmental Plan No. 20- Hawkesbury Nepean River
- Penrith Local Environmental Plan 2010.

Policy Controls

The applicable policy control documents are:

- Penrith Development Control Plan 2014
- The Apartment Design Guide.

Consideration of Planning Controls

The following summarises the relevant planning controls in relation to the proposal and the compliance of each.

State Environmental Planning Policy BASIX

The application has been assessed and is accompanied by a complying BASIX certificate demonstrating a commitment to thermal and water efficiency.

State Environmental Planning Policy No. 55 - Remediation of Land

Given the historical use of the site for urban purposes, land contamination is not likely. Further investigation and reporting under SEPP 55 is not considered necessary given the residential use of the site and no indication of potentially contaminated materials on the site.

Council can be satisfied that the provisions of Clause 7 of the SEPP is satisfied. If any contaminated material or suspected contaminated material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline document will be undertaken.

SEPP 65 Design Quality of Residential Apartment Development and the Apartment Design Guide

The development application is accompanied by a design verification statement prepared, verifying that he has directed and designed the proposal, and that the design quality principles set out in the SEPP are achieved for the residential flat development.

A description of compliance with the applicable development controls such as setbacks, building depth, separation, height, etc. is provided in the local planning controls discussion and tables below. The table below provides a detailed discussion against the relevant provisions of the Apartment Design Guide, noting that a number of these provisions are embodied within the Penrith Local Environmental Plan 2010 and supporting Penrith Development Control Plan 2014.

Clause 6A of the amended SEPP states that development control plans cannot be inconsistent with the Apartment Design Guide for the following matters set out in parts 3 and 4 of the guide:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,
- (g) natural ventilation,
- (h) storage.

The SEPP states that if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which clause 6A applies, those provisions are of no effect.

ADG Element	Design Criteria/Design Guideline	Proposed	Compliance
Part 3 – Siting the Development			
3A Site Analysis	Appendix 1 of the ADG	Provided	Yes
3B Orientation	Building to define the street, by facing it and incorporating direct access from the street	The proposed residential flat building has been designed to address and provide direct pedestrian access via Hope Street. Passive surveillance opportunities are provided from primary living areas and balconies that overlook all streets. Direct pedestrian access to the proposed 6 storey building is provided through the centre of the site.	Yes
	Where an adjoining building does not currently receive 2 hours of sunlight in midwinter, solar access should not be further reduced by > 20%	Not applicable	N/A
	4 hours of solar access should be retained to solar collectors on neighbouring buildings	Adjoining properties do not contain solar collectors	N/A
3C Public Domain Interface	Terraces, balconies should have direct street entry, where appropriate.	Units 1, 2, 3 & 4 have direct access to their courtyards from Hope Street.	Yes
	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided	Appropriate location of mail boxes is provided. Complies.	Yes
	Substations, pump rooms, garbage storage rooms and other service	The garbage storage rooms is located within the ground floor level, it is provided with its own	Yes

	rooms should be located in the basement carpark or out of view	room and is out of view from the street. The room is accessed from the central foyer.	
3D Communal and Public Open Space	<p><u>Design Criteria:</u></p> <p>Communal open space has a minimum area equal to 25% of the site</p>	<p>The development provides a communal open space area of 315m² or 11% of the site area. There is an additional area of 133m² for common open space within the front and rear setback, although it is essentially landscaped common area rather than common open space capable of being 'actively' used.</p> <p>The proposal complies with Council's DCP requirement for common open space. Although the proposed area is undersized the amount of common open space is commensurate with a small to medium sized residential flat building of this nature within Penrith. The quality of additions within the common open space will mean that the residents are able to make effective use of the space for family BBQs and small gatherings. There is a BBQ provided at the ground level with 3 pergola structures to provide adequate shade. The roof top common open space will be embellished as shown in the landscape plan. The combination of these 2 features of common open space will ensure a satisfactory amount of quality and quantum of space is delivered.</p>	No
	50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm	The communal open space will receive adequate levels of sunlight.	Yes

3E Deep Soil Zones	<p><u>Design Criteria:</u></p> <p>A deep soil zone equivalent to 7% of the site area must be provided</p> <p>If the site is between 650m² to 1500m² then the DSZ must have minimum dimensions of 3m</p> <p>If over 1500m² then min dimensions of 6m</p> <p><u>Design Guidelines:</u></p> <p>On some sites, it may be possible to provide larger deep soil zones:</p> <ul style="list-style-type: none"> • 10% of the site as deep soil on sites with an area of 650m²- 1,500m² • 15% of the site as deep soil on sites greater than 1,500m² 	<p>A deep soil area of 455m² or 24% of the site is provided. Complies.</p> <p>N/A</p> <p>Complies with minimum dimension of 6m.</p> <p>It is noted that the proposal provides a total of 24% of the site area for deep soil zones, which exceeds the control that requires 7% and is therefore compliant.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
<p>3F Visual Privacy</p> <p>Building Separation Up to 4 storeys (up to 12m)</p>	<p><u>Design Criteria:</u></p> <p>12m between habitable rooms (6m)</p>	<p><u>Up to 4 storeys</u></p> <p>East – the proposal provides a 7.665m setback to the main built form with minor intrusions into the required 6m setback. Please note that these intrusions are mostly for fire stairs and service areas. There are also 2 balconies on each level that are within the 6m setback area. These balconies are to be treated with louvered windows and privacy screens to enhance and protect privacy for both the future residents and adjoining land.</p> <p>West - the proposal provides a 7.6m setback to the main built form with minor intrusions into the required 6m setback. Please note that these intrusions are mostly for fire stairs</p>	<p>Yes</p>

5-8 storeys (up to 25m)	18m between habitable rooms (9m)	<p>and service areas. There are also 2 balconies on each level that are within the 6m setback area, which are setback 5.3m. These balconies are to be treated with louvered windows and privacy screens to enhance and protect privacy for both the future residents and adjoining land.</p> <p>South – the separation to this boundary complies and provides a 6.135m setback.</p> <p>The setbacks on the upper level and compliant to the main building. There are some balcony intrusions and these are to be treated with privacy screening which will ensure privacy for both the future residents and the neighbouring land is satisfactory.</p>	Minor variation
Note: When adjacent to a lower density residential zone an additional 3m rear/ side setback is required	The adjoining land is also zoned R4 High Density Residential.	N/A	N/A
3G Pedestrian Access and Entries	Building entries should be clearly identifiable and communal entries should be clearly distinguished from private areas	The building provides clearly distinguishable entry points from Hope Street.	Yes
3H Vehicle Access	<p>Car park access should be integrated with the building's overall façade</p> <p>Car park entry and access should be located on secondary streets or lanes where available</p>	<p>The vehicular access point from Hope Street place is to the side of the building, however integrates with the overall design of the building.</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>

3J Carparking	<p><u>Design Criteria:</u> Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of:</p> <p><u>Design Guidelines:</u> Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas</p>	<p>N/A as not within 800m of a railway station. Designed to Comply with the Penrith DCP 2014.</p> <p>The proposal provides appropriate undercover and secure residential bicycle parking spaces within the upper basement level.</p>	<p>N/A</p> <p>Yes</p>
Part 4 – Designing the Building			
4A Solar Access	<p><u>Design Criteria:</u></p> <p>Living rooms and private open space of at least 70% of units to receive 2 Hours Solar Access between 9am and 3pm Mid-Winter</p>	<p>69% or 32 units achieve the required 2 hours of solar access at mid-winter. The ability to achieve solar access on this site is heavily compromised by Council's requirements for waster servicing of the site. However 80% of units achieve 2 hours to the balconies/POS areas, and it is only a 1% variation to the internal living areas.</p> <p>The proposal does not meet the control at the worst-case scenario where as many other months through the year, these units will achieve a satisfactory level of solar access. The proposal meets the intent of these controls within the ADG, in that the number of apartments receiving sunlight to habitable rooms, primary windows and private open space has been optimized. The proposal has clearly maximised the northern aspect for the entire scheme with the inclusion of roof top common open space further enhancing the amenity for future residents. Further amenity is enhanced with the number of dual aspect apartments combined with the proposed light well and skylights</p>	No

	A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm Mid-Winter	strategically used throughout the development scheme. No single aspect south facing units as there is a lightwell provided within the centre of the building to achieve a level of secondary access to natural light.	Yes
4B Natural Ventilation	<p><u>Design Criteria:</u></p> <p>60% of Units are cross ventilated in a building up to 9 storeys</p> <p>Overall width of a cross over or cross through apartment is < 18m</p> <p><u>Design Guidelines:</u></p> <p>The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths</p>	<p>88% of units are cross ventilated.</p> <p>> 18m complies</p> <p>Development has a mix of dual aspect apartments, single aspect and corner apartments. See attached architectural plans for detail.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4C Ceiling Height	<p><u>Design Criteria:</u></p> <p>2.7m for habitable and 2.4m for non-habitable.</p>	Complies	Yes
4D Unit Sizes	<p><u>Design Criteria:</u></p> <p>Studio 35m² 1 bed 50m² 2 bed 70m² 3 bed 90m²</p> <p>+ 5m² for each unit with more than 1 bathroom.</p> <p>Habitable Room Depths</p> <p>Bedroom sizes Master Other</p>	<p>All units comply with many units exceeding. Where additional bathrooms have been provided unit, sizes have been increased by at least 5m²</p> <p>Every habitable room is provided with a window.</p>	<p>Yes</p> <p>Yes</p>

<p>Living rooms/dining areas have a minimum width of: 3.6m 4m</p> <p>Open plan layouts that include a living, dining room and kitchen.</p>	<p><u>Design Guidelines:</u> Limited to 2.5m x Ceiling Height</p> <p>10m² 9m²</p> <p>Studio/1 br 2br/ 3br</p> <p>8m to a window</p>	<p>N/A as open plan layouts provided</p> <p>Comply Comply</p> <p>Comply Comply</p> <p>Complies given unit depths and design layouts.</p>	<p>N/A</p> <p>Yes Yes</p> <p>Yes Yes</p> <p>Yes</p>
<p>4E Private Open Space</p> <p>Balcony Sizes 1 bed 2 bed 3 bed Ground level/ podium apartments</p>	<p><u>Design Criteria:</u></p> <p>8m² & 2m depth 10m² & 2m depth 12m² & 2.4m depth 15m² & 3m depth</p>	<p>Complies Complies Complies Complies.</p>	<p>Yes Yes Yes Yes</p>
<p>4F Common Circulation and Spaces Common Circulation Units per Plate</p>	<p><u>Design Criteria:</u></p> <p>8 unit per plate</p>	<p>The development provides 1 lift core for a maximum of 8 units on all levels with the exception of the first and second floor where there are 9 units.</p> <p>The proposal remains able to meet the intention of these controls by providing a safe, amenable and durable development. There is only 1 additional unit on these 2 levels within the development which is a very minor variation.</p> <p>The proposed access corridors provide good amenity with the extra lobby space to encourage resident interaction and place making. The access corridor is well lit with natural lighting and the potential for natural ventilation. The access corridor splits off into 2 arms which meet at the lift core.</p>	<p>Minor variation</p>

Corridors > 12m	Are articulated	<p>The effect of this is that the access corridor does not appear as a single gun-barrel hall.</p> <p>The corridors are articulated, vary in width and have access to natural light.</p>	Yes
4G Storage	<p>1 bed 6m³ 2 bed 8m³ 3 bed 10m³</p> <p>Min 50% of required storage is within the apartment</p>	<p>The proposal provides: 1 bed: >6m³ 2 bed: >8m³ 3 bed: >10m³</p> <p>This is provided within the basement/ground floor and within the units themselves, with a minimum of 50% of storage to be provided within each individual unit.</p> <p>The proposed development is considered to offer storage space that aligns with the provisions of the ADG.</p>	Yes
4H Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighboring buildings/adjacent uses</p> <p>Windows and door openings are generally orientated away from noise sources.</p> <p>Noisy areas within buildings including building enters and corridors should be located next to or above each other and quieter areas next to or above quieter areas.</p>	<p>Development has provided adequate separation from neighbor buildings/properties in-line with 3F Visual Privacy – design criteria above.</p> <p>Where appropriate windows and door openings are orientated away from noise sources.</p> <p>The application is designed to create different ‘zones’ with more active areas clustered together and more passive areas also clustered together to maximise acoustic privacy and also take advantage of the lot orientation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4K Apartment Mix	A variety of apartment types is provided	<p>A diversity of apartments is proposed as follows:</p> <p>Studio x 1 18 x 1 bedroom unit 24 x 2 bedroom unit 2 x 3 bedroom unit.</p>	Yes

		The proposed unit mix will offer a variety of housing choice. The proposal is designed with a mix of units to provide a variety of housing choices that responds to market demand, noting that the bedroom numbers and size of units are varied that will provide for a range of sizes to meet the needs of occupants and also provide different pricing points for the alternative sizes which will contribute to affordability.	
4M Facades	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale	<p>The proposed facades are well articulated with a mixture of vertical and horizontal features including windows, projecting walls and balconies and framed elements.</p> <p>Overall the proposed facade is considered a quality design outcome that is compatible with other comparable modern RFB within the wider Penrith LGA.</p>	Yes
4O Landscape Design	1 large tree or 2 medium trees per 80m ² of DSZ	Consistent as per landscaping, noting where appropriate existing trees are to be retained.	Yes
4Q Universal Design 20% of the total apartments	Achieve Liveable House Guidelines silver level universal design features	Meets Penrith DCP of 10% adaptable and 20% Liveable Housing.	Yes
4U Energy Efficiency		<p>The future development application will be accompanied by a BASIX certificate indicating energy efficiency for each residential unit provided.</p> <p>Furthermore, it is noted that ??% of units achieve the minimum 2 hours of solar access at mid-winter and over ??% units achieve natural ventilation.</p>	Yes

4V Water Management and Conservation	Reduce mains consumption, and reduce the quantity of storm water runoff.	The application has been provided with a BASIX certificate indicating energy efficiency for each residential unit provided.	Yes
4W Waste Management	Supply WMP	Provided	Yes
	Allocate storage area	Appropriate waste storage areas are provided.	Yes
4X Building Maintenance	To ensure long life and ease of maintenance for the development.	The proposed material is considered durable which may be easily cleaned.	Yes

Sydney Regional Environmental Plan (SREP) No. 20 Hawkesbury Nepean River

The development proposal incorporates a drainage concept that demonstrates that stormwater can be adequately conveyed to the existing street network. Appropriate erosion and sediment controls can be implemented throughout construction and it is anticipated that conditions of consent will reinforce this. It is noted that the proposal meets the recently adopted WSUD measures required to achieve appropriate water quality for stormwater discharge.

The proposed development provides a residential flat building that will provide a variety of housing types and contribute towards increasing the housing stock of Penrith, while being consistent with the emerging high-density character of the subject area. The site is well located and provides access to essential services, public transportation, schools, shops and recreation opportunities.

The residential flat development incorporates a contemporary design that achieves good presentation to both streets. The locality has been zoned for high density development and as such it is expected to transform over the next 5 to 10 years with planning controls permitting greater density in the locality. The proposal aims to provide a strong interface to Hope Street while being consistent with the future high-density character of the precinct.

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions.

Penrith Local Environmental Plan 2010 - Compliance Table			
Relevant Clause	Control	Comment	Complies
Zoning	R4 – High Density	Residential Flat Buildings are permissible with Council consent in the R4 – High Density Residential zone.	Yes
Part 2 Permitted or Prohibited Development			
2.3	Zone Objectives and Land Use Table	The proposal is consistent with the zone objectives of the R4 – High Density zone and will provide additional housing in the catchment of public transport and services whilst contributing to range of housing types to suit the needs of residents within a high-density context. The proposal will appropriately fulfil the site's zoning potential, provide an attractive built form that will address the public domain and increase housing stock within the locality.	Yes
2.6	Subdivision – Consent Requirements	No subdivision is proposed. Not applicable.	N/A
2.7	Demolition Requires Consent	Council consent is sought for the demolition of the existing structures on the site.	Yes
Part 4 Principal Development Standards			
4.1A	Minimum Subdivision Lot Size: Residential Flat Building: 800m ²	A minimum lot size of 800m ² is identified for the site under the Penrith Local Environmental Plan 2011 Clause 4.1A.	Yes

		The subject site has a total site area of 1,894.4m ² . Complies.	
4.3	Height of Buildings - 18m	<p>Penrith Local Environmental Plan states that the maximum building height within the subject site is 18m.</p> <p>The development exceeds the maximum height limit; however this is due to the elevation of the ground floor to allow for the garbage truck access from the street to the waste storage area, which has raised the height of the building an additional 1.4m and due to other related design features of this building which are addressed in detail in Annexure A.</p> <p>This proposed variation is addressed in Annexure A through the provisions of Clause 4.6.</p>	Variation
4.4	Floor Space Ratio	No FSR control applies to the subject site. Not relevant.	N/A
4.6	Variations to development standards	Addressed in Annexure A. The proposed building exceeds the maximum building height.	Variation sought under clause 4.6.
Part 5 Miscellaneous Provisions			
5.9	Preservation of trees or vegetation	Repealed	N/A
5.10	Heritage	The site does not contain a heritage item and is not located within proximity to a heritage item or a heritage conservation area.	N/A
Part 7 Additional Local Provisions			
7.1	Earthworks	This application seeks Council consent for the excavation of the site as per the attached plans. It is considered that the proposed excavation will have minimal adverse environmental or amenity impact. The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.	Yes

		<p>The proposal will not adversely affect or disrupt drainage and flood patterns, flood storage or soil stability in the area. The proposed excavation is consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Council's current and proposed planning strategies.</p> <p>It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.</p>	
7.2	Flood planning	The site is not identified as being flood prone by Council's flood planning land map sheet FLD_013. However, the site is affected by local overland flows and the proposed stormwater management design has taken this into consideration to accommodate for these flows. Habitable floor levels are above the levels advised by Council's development engineer.	Yes
7.3	Development on Natural Resources Sensitivity Land	The site is not identified on the Natural Resources Sensitive Map. Not applicable.	N/A
7.4	Sustainable Development	<p>The proposal satisfies the LEP in that:</p> <p><i>(a) conserving energy and reducing carbon dioxide emissions,</i> <i>(b) embodied energy in materials and building processes,</i></p> <p>Proposal incorporates a BASIX certificate relating to energy efficiency.</p> <p><i>(c) building design and orientation,</i> <i>(d) passive solar design and day lighting,</i> <i>(e) natural ventilation,</i></p> <p>The majority of units receive good solar access and natural ventilation.</p> <p><i>(f) energy efficiency and conservation,</i> <i>(g) water conservation and water reuse,</i></p>	Yes

		<p>Proposal incorporates a BASIX certificate relating to energy/water efficiency.</p> <p><i>(h) waste minimisation and recycling,</i></p> <p>Waste management and recycling is addressed through the attached waste management plan.</p> <p><i>(i) reduction of vehicle dependence,</i></p> <p>Proposal is located within a 280m radius of bus stops with regular services to Penrith and Mt Druitt that gives alternative means of transport.</p> <p><i>(j) potential for adaptive reuse.</i></p> <p>Given the zoning of the site as R4 there is limited adaptive re-use potential on the site.</p>	
7.5	Protection of Scenic Character and Landscape Values	The site is not identified on the Land with Scenic and Landscape Values Map. (SLV_013). Not applicable.	N/A
7.6	Salinity	Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not applicable.	N/A
7.7	Servicing	The development site is well serviced by water and sewer and the required utility clearances will be obtained prior to works commencing on site.	Yes

Penrith Development Control Plan 2014

The key DCP controls are contained in the table below.

Penrith Development Control Plan 2014 – Compliance Table			
Clause	Controls	Comment	Complies
C1 Site Planning and Design Principles			
1.1	Site Planning	<u>1.1.1 Site Analysis</u> A Site Analysis has been prepared and is attached as part of this application. The site analysis identifies the relevant considerations required by Council and acknowledges the unique opportunities and constraints of the site that have informed the design of the development proposal.	Yes
		<u>1.1.2 Key Areas with Scenic and Landscape Values</u> The subject site is not located within the Scenic and Landscape Values Map under the Penrith LEP 2010.	N/A
		Not applicable.	
1.2	Design Principles	<u>1.2.2 Built Form – Energy Efficiency and Conservation</u> The proposed development maximise solar access to units and is designed in a manner that achieves natural light and ventilation. A BASIX certificate is attached to this statement.	Yes
		<u>1.2.3 Building Form – Height, Bulk and Scale</u> It is considered that the proposal will result in an appropriate outcome on site that responds to the unique characteristics of the site.	Yes
		The site exceeds the maximum height limit of 18m required by the Penrith DCP, however justification is provided. It is noted that the subject area is currently ongoing a transformation from low density residential dwelling to a high-density housing, with the proposal designed to be consistent with the future high density built form character of the precinct.	

		<p><u>1.2.4 Responding to the Site's Topography and Landform</u></p> <p>The subject site which has a moderate fall from the rear boundary to the street, and will not impact upon the site's ability to accommodate the proposed Residential Flat Development noting the minor excavation proposed at the rear of the site.</p> <p><u>1.2.5 Safety and Security (Principles of Crime Prevention through Environmental Design)</u></p> <p>The proposed development incorporates active façades that will permit casual surveillance of Hope Street as well as the common areas of the proposal.</p> <p>The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area.</p> <p>The proposed landscaping and fencing is appropriate when considering CPTED principles and will not permit easy concealment of intruders.</p> <p>The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.</p> <p><u>1.2.6 Maximising Access and Adaptability</u></p> <p>Proposal has been designed to provide access to and from the site for people with mobility issues.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
C2 Vegetation Management			
2.1	Preservation of Trees and Vegetation	<p>Council consent is sought for the removal of identified trees from the site, noting that where appropriate, existing trees are to be retained.</p> <p>The site is not identified as being located within the Natural Resources Sensitive Map under Penrith LEP 2010.</p>	Yes

		<p>Proposed extensive landscape treatment seek to soften the built form and integrate with the development and the site's context within a high residential density context.</p> <p>It is highlighted that no significant vegetation is to be impacted as part of the proposal.</p> <p>Landscaping of the site is to be undertaken in accordance with the attached Landscape Plan.</p>	
2.2	Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas	The subject site is not identified as being within a Natural Resource Sensitive Land under Penrith LEP 2010. Not applicable.	N/A
2.3	Bushfire Management	Subject site is not identified as being within a Bushfire Prone Land under Penrith LEP 2010. Not applicable.	N/A
C3 Water Management			
3.1	Water Conservation	The development application is accompanied by a complying BASIX certificate that outlines how water usage will be minimised.	Yes
3.2	Catchment Management and Water Quality	<p>Appropriate management of the site during the demolition and construction phases will contribute towards protecting the catchments natural water systems.</p> <p>A Stormwater Management Plan has been prepared and is attached as part of this application.</p>	Yes
3.3	Watercourses, Wetlands and Riparian Corridors	Subject site is not located within proximity to a watercourse, wetland or riparian corridor. Not applicable.	N/A
3.4	Groundwater	The proposed development is to be for an RFB development. Although the proposal contains a 2 level basement it is not considered that the proposal will impede existing ground water flows.	N/A

		It is considered that the risk of site contamination occurring during construction and future use of the site is low. Not applicable.	
3.5	Flood Planning	The subject site is not identified as being flood prone. Not applicable.	N/A
3.6	Stormwater Management and Drainage	<p>The proposed development incorporates Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of stormwater on site and within the area. The proposed development appropriately addresses the unique characteristics of the site and will allow for the efficient management of stormwater.</p> <p>A Stormwater Management Plan has been prepared and is attached as part of this application.</p>	Yes
C4 Land Management			
4.1	Site Stability and Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans. It is considered that the proposed excavation, will have minimal adverse environmental or amenity impact.</p> <p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>The proposal will not adversely affect or disrupt drainage and flood patterns, flood storage or soil stability in the area.</p> <p>The proposed excavation is consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Councils current and proposed planning strategies.</p>	Yes

		It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.	
4.3	Erosion and Sedimentation	<p>This application seeks Council consent for the excavation of the site as per the attached plans. It is considered that the proposed excavation, will have minimal adverse environmental or amenity impact.</p> <p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>An Erosion and Sediment Control Plan is attached as part of this application.</p>	Yes
4.4	Contaminated Lands	<p>The site is currently used for urban purposes. The land is not known to have been used for any purposes that may give rise to the likelihood of contamination. Nothing on site indicates a previous contaminating use.</p> <p>If any contaminated material or suspected material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline documents will be undertaken.</p>	Yes
4.5	Salinity	Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not relevant.	N/A
C5 Waste Management			
	A bin chute is to be provide to all RFBs over 3 storeys in height.	<p>A Waste Management Plan is attached as part of this application.</p> <p>Notwithstanding this it is noted that waste is to be appropriately managed during the demolition and construction stages of the development.</p> <p>A communal bin area is located within the ground floor level.</p>	Yes

		<p>A chute system is proposed with waste area provided in every habitable level that allow the disposal of waste.</p> <p>There is also a bulk waste storage room at the ground level.</p> <p>Trucks can enter the site and position onto a turning circle to make the required manoeuvres in accordance with AS2890 requirements. Waste trucks are able to enter and leave in a forward direction.</p>	
C6 Landscape Design			
		<p>A landscape concept plan, prepared by a Landscape Architect, accompanies this development application.</p> <p>The concept plan details the landscape embellishment works proposed and these works will substantially improve the streetscape presentation of the site as well as softening the proposed built form.</p>	Yes
C7 Culture and Heritage			
7.1	European Heritage	The site does not contain a heritage item and is not located within proximity to a heritage item or a heritage conservation area. Not relevant.	N/A
7.3	Significant Trees and Gardens	The subject site does not contain any trees or gardens that is considered to be of cultural, historical, scientific or aesthetic significance. Not relevant.	N/A
C10 Transport, Access and Parking			
10.2	Traffic Management and Safety	It is considered that the vehicular access and exit points are clearly defined and provide for the safe and efficient movement of vehicular traffic on site and for entering and exiting the site. The proposed parking area and ancillary driveways will not contribute to the creation of traffic hazards. The proposal provides for the safe and efficient movement of pedestrian and vehicular traffic within the site and both entering and exiting the site. Vehicle and pedestrian routes are clearly indicated and accessible.	Yes

10.3	Key Transport Corridors	The subject site is not located with a key transport corridor. Not relevant.	N/A
10.5	<p>Parking, Access and Driveways</p> <p>Parking Rates</p> <p>1 space per 1 or 2 br unit (45 spaces required) 2 spaces per 3 br unit (4 spaces required) Resident: 49 spaces required. Visitor: 1 space for every 5 dwellings: 9</p> <p>1 space per 40 units for car washing =1</p> <p>Total: 58 required plus wash bay.</p>	<p>Proposed dimensions for car parking spaces are consistent with Council control. See plan for detail.</p> <p>The development proposes the construction of 45 units comprising of:</p> <ul style="list-style-type: none"> - studio x 1 - 18 x 1 bedroom units - 24 x 2 bedroom units - 2 x 3 bedroom units. <p>Utilising the DCP rates, the development requires:</p> <p>Resident Spaces: 49 Visitor Spaces: 9 Carwash bays: 1</p> <p>Total: 59 (including car wash bay)</p> <p>The proposal provides a total of 71 spaces composed of:</p> <ul style="list-style-type: none"> - 60 residential spaces - 11 visitor space - including 1 car wash bay. 	Yes
C11 Subdivision			
D2 Residential Development			
2.5	<p>Residential Flat Buildings</p> <p>New residential flat building development should adopt key features of established suburban design.</p> <p>Within the relevant zones, established development provides parking areas which are concealed from the street and consequently avoids the appearance of "garage architecture"</p>	<p><u>2.4.2 Preferred Configuration for Residential Flat Buildings</u></p> <p>The development has courtyards and private open space areas that front Hope Street</p> <p>The development provides basement level parking.</p> <p>The proposed layout and siting of the units are consistent with the layout patterns of other comparable RFB developments within the Penrith LGA.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>
2.5.3	<p>Development Site</p> <p>Minimum lot width of 20m in the R4 High Density Residential zone.</p>	The proposal has a site frontage of 47m and as such complies with Council's minimum lot width requirements for Residential Flat Buildings within the R4 zone.	Yes

2.5.4	<p>Urban Form</p> <p>1. For dwellings fronting the street, adopt a traditional orientation:</p> <p>a) living rooms, verandahs and the paths to entrances face the street rather than neighbouring properties; and</p> <p>b) private gardens fill the front setback area;</p> <p>and c) garages are concealed behind dwellings.</p> <p>2. Dwellings behind the street frontage should adopt similar principles:</p> <p>a) living rooms and entrances face the street, and / or the landscaped rear boundary setback;</p> <p>and b) private gardens fill the rear setback area.</p> <p>3. Avoid "gun-barrel" style developments with long rows of attached dwellings, long straight driveways and rows of uniform width side setback:</p> <p>a) step the alignment of all facades – generally one corner and a substantial indentation for every 10m run of wall;</p> <p>b) divide buildings into separate wings – a deep indentation located centrally in the longest walls; or a central garden courtyard;</p> <p>c) vary the width of side setbacks – a combination of garden courtyards and access ways; and</p> <p>d) lined by an "avenue" of shady overhanging trees;</p> <p>e) cap the stepped floor plan with a variety of pitched roof forms;</p>	<p>Units 1, 2, 3 and 4 front Hope Street and adopt a traditional orientation with their living room and courtyards addressing the site's front setbacks. Where appropriate, the front setbacks are to be landscaped and parking is provided within the basement so as not to dominate the streetscape.</p> <p>Where appropriate private open space is provided within the rear setback area.</p> <p>The development avoids the visual appearance of a 'gun barrel' style development by adopting the design suggestions within this section of the DCP.</p> <p>The building has a number of steps and indents with a larger indent in the middle of the site that visually breaks up the bulk of the building.</p> <p>The building when viewed from adjoining properties will appear as two wings with a deep indentation implemented in the centre of the building.</p> <p>The development has been articulated through shadow casting features and stepping external walls.</p> <p>Deep rooted landscaping is provided along the perimeter of all boundaries.</p> <p>The indented roof provides visual relief to the development.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	f) Windows should be inserted into every elevation.	Windows are provided along all elevations.	Yes
2.5.5	<p>Landscaped Area</p> <p>Where more than 10 dwellings are proposed, a centrally located communal open space area that is accessible and available to all residents of the development, comprising 10% of the minimum landscaped area requirement.</p> <p>Landscaped area equivalent to 35% of the site with a minimum width of 2m and no basement encroaching.</p>	<p>An area is provided which exceeds 10% of landscaped area.</p> <p>The proposal provides a landscaped area of 524m² or 28% of landscaped area. This represents a minor variation where there is a 139m² shortfall.</p> <p>This minor shortfall is driven by Council's onerous waste vehicle servicing requirements and the need to bring a large waste vehicle into the site which must also enter and leave in the same direction. Overall the proposal complies with the deep soil requirement of the ADG and provides both ground level common open space and an additional 140m² of common open space at the rooftop. The proposal will be highly embellished with good quality landscaping ensuring the scheme meets the intent of the landscape area controls. Thus, the proposal can be supported.</p>	<p>Yes</p> <p>Variation</p>
2.5.6	<p>Front and Rear Setbacks</p> <p>Rear Setback: 6m</p> <p>Front Setback: Average of neighbouring development or 5.5m minimum.</p> <p>Balconies can have a 4.5m setback provided less than 50% of the elevation</p> <p>Garages and parking space are not to be located within the front setback.</p>	<p>6m to the building line. Complies</p> <p>The proposal provides a front setback of 5.5m that is in conjunction with the neighbouring properties.</p> <p>Balconies are setback 4.5m and are less than 50% of the elevation. Complies</p> <p>Garages and parking space are not located within the front setback. Complies.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

2.5.7	<p>Building Envelope and Side Setbacks</p> <p>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;</p> <p>Pitches for main roofs are not to be in excess of 25 degrees in order to reduce the visual scale.</p> <p>Zero setbacks are not permitted</p>	<p>The proposal is within the building envelope.</p> <p>Cut and fill is limited noting that the building is designed mainly to match existing ground levels with the front of the building slightly elevated over the street level which is an appropriate response to provide privacy and passive surveillance over the street.</p> <p>The roof pitch is <25 degrees.</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
2.5.8	<p>Visual and Acoustic Privacy and Outlook</p> <p>Windows oriented towards their own private garden courtyard;</p> <p>At least 9m between any windows that face each other</p>	<p>Windows from primary living are orientated towards private open space areas to provide an appropriate outlook.</p> <p>With the likely redevelopment of the adjoining site to the east and west for future residential flat building a building separation of around 12m is likely to be provided as per the ADG.</p> <p>It is considered that the proposed development produces an appropriate outcome on site that will provide a high level of residential amenity for future residents and will not adversely impact upon residential amenity currently enjoyed by adjoining properties.</p>	<p>Yes</p> <p>Yes</p>
2.5.9	<p>Solar Planning</p> <p>A minimum of 4 hours sunlight between 9am and 3pm on 21 June, to living zones (i.e. areas other than bedrooms, bathrooms, kitchen and laundry) of each</p>	<p>The proposal incorporates appropriate design features including window size and location that will permit adequate solar penetration as well as cross ventilation of the proposed dwellings. It is noted that ??% of dwellings receive a minimum of 2 hours sunlight between</p>	<p>Yes – ADG Prevails</p>

	<p>dwelling, and the living zones of any adjoining dwellings;</p> <p>A minimum of 3 hours sunlight between 9am and 3pm on 21 June, to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings</p> <p>Where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduced sunlight to the specified areas by more than 20%.</p>	<p>9am and 3pm during winter and all private courtyards, which are oriented to the north to receive adequate solar access.</p> <p>The proposal does not result in unacceptable overshadowing of adjoining residential properties. Appropriate setbacks are employed to ensure solar access and privacy to adjoining development.</p>	Yes
2.5.10	Significant Townscapes & Landscapes	The site is not within an area of townscape or landscape significance.	N/A
2.5.12	Building Design	<p>1. The development adopts a variety of architectural features designed to minimise the apparent scale and bulk of the proposed RFB by:</p> <ul style="list-style-type: none"> - Incorporation of stepping alignment of walls; - Indents to the building - Stepping the building, providing greater setbacks for level the upper levels - Projecting balconies and awnings. <p>2. The proposal incorporates physical articulation of the built form and a mixed palette of building materials and finishes that are typical of comparable newer MDH and RFBs within the Penrith LGA.</p> <p>Materials used are consistent with that existing in the area while being contemporary in character, including wall and awning cladding and a mix of brickworks.</p> <p>The range of materials significantly contributes to the articulation of the building and reducing the overall bulk and mass of the building.</p>	<p>Yes</p> <p>Yes</p>

		3. The facades of the proposed units include windows and doors along all visible walls and the use projecting verandahs to provide an attractive built form.	Yes
2.5.13	Energy Efficiency	<p>The application has been provided with a BASIX certificate indicating appropriate energy efficiency for each residential unit is provided.</p> <p>Furthermore, living rooms have been oriented to the north with the proposal incorporates appropriate design features including window size and location that will permit adequate solar penetration as well as natural ventilation.</p> <p>69% of units will achieve more than 2 hours solar access at mid-winter (ADG prevails) and the building depth and apartment design ensures 89% of units are naturally cross-ventilated.</p> <p>Appropriate shading devices including overhanging eaves are proposed to provide adequate shading from the summer sun.</p>	Yes
2.5.14	<p>Design of Dwelling and Private Courtyards</p> <p>Corridors at least 1.2m wide and stairs with landings at least 1.2m deep.</p> <p>Ground floor courtyards minimum 20m²</p> <p>Upper courtyards 10m² and 2.5m x 2.5m and incorporate an outdoor drying area that is screened to 1.5m above floor level.</p>	<p>Comply.</p> <p>Complies.</p> <p>All upper storey apartments have a minimum area > 8m² and have room for an outdoor drying area.</p>	<p>Yes</p> <p>Yes</p> <p>Complies with ADG</p>
2.5.15	<p>Garage Design</p> <p>Basements should have a low appearance, rising no higher than 1.5m above ground;</p>	The basement does not protrude above natural ground level.	Yes

	Vehicle entrances designed to complement the architecture and landscaping of each building:	The vehicle entrance and egress to Hope Street is consistent with the existing character of the area and will assist with ensuring compatibility with the surrounding built form.	Yes
	Individual up and down ramps;	Provided. Complies.	Yes
	undercover storage:	Provided. Complies	Yes
2.5.16	Garden Design	Where appropriate, small to medium trees are to be planted along the sites front and side boundaries. See landscaping plans for detail.	Yes
2.5.17	Paving Design	Where appropriate, hard paved surfaces are minimised to maximise landscaping and gardens. The proposal provides attractive driveways and provide for verge plantings beside driveways and paths.	Yes
2.5.18	Fencing and Retaining Walls	Proposed fencing is to be consistent with that existing within Penrith Local Government Area of similar residential flat buildings. The proposed fencing is compliant with Council controls.	Yes
2.5.19	Safety and Security	The proposed development incorporates an active façade that will permit casual surveillance to Hope Street as well as to driveways and landscaped areas of the proposal. The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area. The proposed landscaping and fencing is appropriate when considering CPTED principles and will not permit easy concealment of intruders. The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.	Yes

2.5.20	Accessibility and Adaptability 10% of dwellings must be adaptable	10% adaptable units are provided. Proposal has been designed to provide access to and from the site for people with a disability.	Yes
2.4.22	Storage and Services 10m ³ of storage per unit	The proposal provides >8m ³ of storage through a combination of basement storage areas and areas within the units and is compliant with the ADG. Letter boxes and other services are provided.	Yes – complies with ADG Yes

Conclusion

Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, and that the proposal represents an appropriate use of well-located land, the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

Annexure A: Clause 4.6 Variation

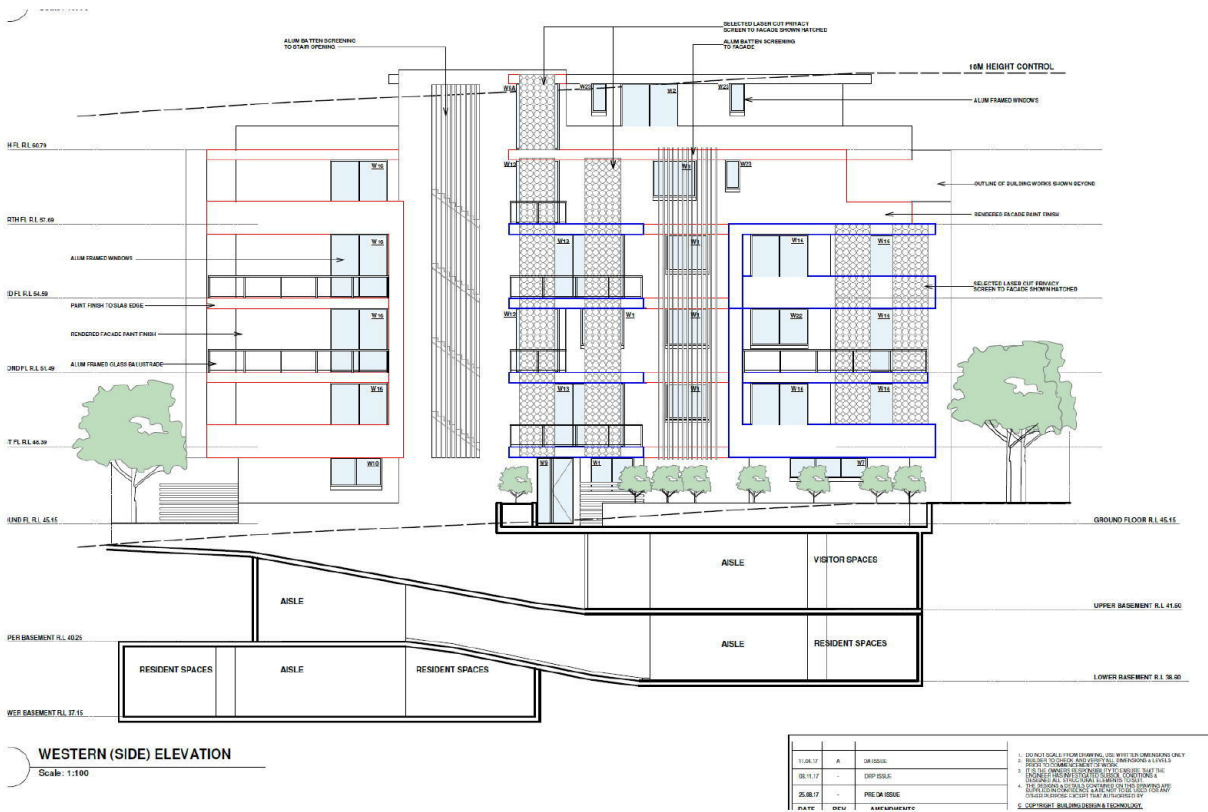
A detailed discussion against the relevant provisions of Clause 4.6 are provided below with further discussion against the relevant case law ‘tests’ set down by the Land and Environment Court.

As shown on the sections below, the proposed development varies the height control to a portion of the upper level, roof form and lift overrun.

This is a function of the flood level requirement, the waste servicing requirements, topography of the site and architectural features of the proposed building. The proposal presents the following departures to the height controls:

- The height, relative to habitable floor areas, equates to 21.4m or 7% variation.

Two 3D height plans are provided below and the western side elevation drawing to demonstrate the nature of the departure and the portion of the building height control that is exceeded.



Therefore, the proposal is noncompliant with Clause 4.3 – height of buildings that stipulates that the height of a building is not to exceed 18m on the subject site.

The location of the building height departure will ensure that they are not viewable from the street level from Hope Street and the recessed nature of the upper level means it will not be visually dominant.

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

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.**
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
 - (b) the concurrence of the Director-General has been obtained.**
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.**

Each of these provisions are addressed individually below.

Therefore, a Clause 4.6 variation request has been prepared, noting that this request addresses a number of recent Land and Environment Court cases including *Four 2 Five v Ashfield* and *Micaul Holdings Pty Ltd v Randwick City Council* and *Moskovich v Waverley Council*.

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

- The consent authority be satisfied the proposed development will be in the public interest because it is “consistent with” the objectives of the development standard and zone is not a requirement to “achieve” those objectives. It is a requirement that the development be compatible with the objectives, rather than having to ‘achieve’ the objectives.
- Establishing that ‘compliance with the standard is unreasonable or unnecessary in the circumstances of the case’ does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe “test” 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in *Wehbe v Pittwater*.
- When pursuing a clause 4.6 variation request it is appropriate to demonstrate how the proposal achieves a better outcome than a complying scheme; and
- The proposal is required to be in ‘the public interest’.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the building height standard;
- Demonstrating consistency with the R4 zoning; and
- Satisfying the relevant provisions of Clause 4.6.

These matters are addressed below.

Clause 4.6(3)

In accordance with the provisions of this clause it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the underlying objectives of the control are achieved. The objectives of the Height development standard are stated as:

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

- a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*

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

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

- The proportion of the building that protrudes above the 18m height limit contains no habitable floor space and continues to be 6 storeys, reinforcing that the breach to the height standard does not result in the development representing an overdevelopment of the site but rather a suitable contextual response to the topographical fall on the site in order to achieve a suitable ground floor outcome with sufficient amenity for the apartments at this level as well as catering for the additional height required for waste servicing trucks.
- The overall height of the development presents as a compatible form of development to the anticipated high density residential development that are emerging in the locality, noting that the emerging character is for 6 storey residential flat buildings. The 6th storey of the proposal is recessed behind the main building alignment to downplay visual dominance as viewed from the public domain and adjoining residential properties.
- The proposed buildings will present an appropriate bulk and scale on the site which is consistent with other approved and already constructed 6 storey residential flat building developments in Hope Street and surrounding area.
- The additional height does not generate any additional amenity impacts given the location of the site and the surrounding site context.
- Given the scale of the proposal, and the extent of the variation is not perceptible at street level given the upper level of the building is setback behind the first 5 levels which means the additional height will not be seen from a pedestrian level when standing in the public domain.
- The proposal provides for a better planning outcome as the same density of apartments could be achieved in a building that is squashed into 5 levels of development with a bigger floor plate that would be less articulated and would have more single aspect south facing apartments. Therefore the response has been to maximise the amenity of apartments utilising every available area of floor space.
- In the absence of additional height, the ability to deliver a satisfactory waste management and truck turning areas within the site is not achievable or feasible. The additional floor to ceiling height needed for truck turning areas for a heavy rigid vehicle is 4.5m which is significantly larger than the normal requirements for floor to floor heights within a residential development and is a key driver of the extent of the height non-compliance.

- The proposal ensures that the area is provided with high density residential development to support the growth of Penrith and to align with the principles of urban consolidation that seek to ensure the efficient use of community infrastructure by providing higher density residential development at strategic locations, noting that both the Penrith train station and CBD are located within walking distance as well as arterial roads that service the area.
- The proposal has been designed to ensure that privacy impacts are mitigated against and that the proposal will not obstruct existing view corridors.
- The proposal does not result in any discernible increased shadow impact given the orientation of the site and setbacks that fully comply with the requirements of the Apartment Design Guide.
- The non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors.
- The proposal does not adjoin any low-density areas or sensitive interfaces and will integrate with future development to the north, east, south and west.

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

Clause 4.6(4)

In accordance with the provisions of Clause 4.6(4) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3). As addressed the proposed development is in the public interest as it remains consistent with the objectives of the building height control. In addition, the proposal is consistent with the objectives of the R4 zone, being:

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

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

As a result, the development will contribute towards creating a vibrant and sustainable neighbourhood that will support both the function and growth of Penrith.

Furthermore, the proposal will complement and enhance the local streetscape by virtue of the strong articulated built form and recessed upper level and will provide clear legibility building at the street level.

It is understood that the concurrence of the Director-General can be assumed in the current circumstances.

Clause 4.6(5)

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

- a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality. The significant benefits of the proposal must be emphasised in considering the merits of the departure to the height control and the proposal is a site-specific response and is not replicated elsewhere as such 'precedent' issues are not relevant.

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

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

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

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

Land and Environment Court Case Law

The Land and Environment Court, through case law, provides guidelines for the consideration of Clause 4.6 departures.

Two cases that it is appropriate to discuss are:

- *Wehbe v Pittwater Council* (2007) NSWLEC 872; and

- Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 2009.

Wehbe v Pittwater Council Wehbe v Pittwater related to a SEPP 1 objection and outlines that there are 5 methods to establish that the application of a development standard is unreasonable or unnecessary in the circumstances of the case.

1. The development achieves the objectives of the development standard;
2. The underlying objective or purpose of the development standard is not relevant to the development with the consequence that compliance is unnecessary;
3. The underlying objective or purpose of the development standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and
5. The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.

The case law indicates that if **any** of these methods are satisfied then the departure to the standard can be supported. In respect of this site, it is considered that the proposal satisfies method 1 for the reasons outlined above.

Four2Five Pty Ltd v Ashfield Council

Four2Five Pty Ltd v Ashfield Council relates to a consideration of a clause 4.6 departure to a Building height development standard. The court indicated that merely showing that the development achieves the objectives of the development standard will be **insufficient** to justify that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6, (and 4.6(3)(a) in particular). The previous discussion clearly confirms that the objectives of the development standard are achieved.

Further, the requirement in cl4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development. As opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

There are particular circumstances associated with this site and the building height departure. The proposal seeks to deliver a building that is 6 storeys which is consistent with the emerging high-density character of developments along Hope Street and in the surrounding R4 zone. The additional height is needed to comply with Council's stringent on-site waste collection requirements which require a heavy rigid vehicle to gain access to the site for pickup of bulk waste storage. This means that an additional floor to ceiling height is required at the ground floor effectively increasing the overall building height. The proposal provides a better outcome as waste servicing can occur on site to meet Council's requirements.

There are also circumstances that relate to the topographical fall of the site and the relationship to the levels in Hope Street. This fall means that to achieve strict compliance results in the floor levels to be further stepped and cut into the site which results in a poor outcome for the ground floor units and it would result in a suboptimal outcome as compared to the current situation which results in the minor technical non-compliance to the building height control. Strict compliance is clearly not a preferred outcome on environmental planning grounds there are specific grounds to warrant departure to the height control that satisfy the test in *Four2Five V Ashfield*.

Therefore, the current proposal is a preferable outcome from an environmental planning perspective and demonstrates that there is merit in varying the height control to achieve a better design response on the site. Therefore, the departure to the height control satisfies the test set down under Four 2 Five V Ashfield.

Conclusion

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

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