

## Statement of Environmental Effects

---

LOT CONSOLIDATION, DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A 6 STOREY RESIDENTIAL FLAT BUILDING DEVELOPMENT CONTAINING 44 APARTMENTS OVER BASEMENT CARPARKING FOR 59 VEHICLES AT 41-43 BARBER AVENUE, PENRITH



*Prepared by:* Think Planners Pty Ltd  
*Document Date:* 27 February 2018  
*Consent Authority:* Penrith City Council

**QUALITY ASSURANCE**

**PROJECT:** Statement of Environmental Effects– 6 Storey RFB  
**ADDRESS:** Lots 30 & 31 DP 2296 Section 20: 41-43 Barber Avenue, Penrith  
**COUNCIL:** Penrith City Council  
**AUTHOR:** Think Planners Pty Ltd  
**ARCHITECT:** JS Architects Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
November 2017	Draft Issue	Draft	SK	AB
27 February 2018	Revised for DA	Final	SK/AB	AB

<b><i>Integrated Development (under S91 of the EP&amp;A Act). Does the development require approvals under any of the following legislation?</i></b>	
<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>
<b><i>Concurrence</i></b>	
<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>

## Table of Contents

Executive Summary .....	3
Site and Locality .....	5
Heritage.....	12
Description of Proposal .....	13
Unit Mix.....	13
Parking .....	13
Waste Collection .....	13
Key Elements of Proposal.....	13
Supporting Documentation.....	15
Pre DA Discussions .....	<b>Error! Bookmark not defined.</b>
Planning Controls .....	16
Statutory Controls.....	16
Policy Controls .....	16
Consideration of Planning Controls.....	17
State Environmental Planning Policy BASIX .....	17
State Environmental Planning Policy No. 55- Land Contamination .....	17
SEPP 65 Design Quality of Residential Apartment Development and the Apartment Design Guide.....	17
Sydney Regional Environmental Plan (SREP) No. 20 Hawkesbury Nepean River.....	26
Penrith Local Environmental Plan 2010 .....	27
Penrith Development Control Plan 2014 .....	32
Conclusion .....	45
Annexure 1: Clause 4.6 Variation Request .....	46

## List of Figures

FIGURE 1: LOCALITY MAP (SOURCE: GOOGLE MAP) .....	6
FIGURE 2: ZONING MAP SHEET LZN_013 EXTRACT (SOURCE: PENRITH LEP 2010).....	8
FIGURE 3: AERIAL MAP OF SURROUNDING AREA (SOURCE: GOOGLE MAP).....	9
FIGURE 4: BROADER LOCALITY MAP (SOURCE: GOOGLE MAP) .....	10
FIGURE 5: HERITAGE MAP SHEET EXTRACT (SOURCE: PENRITH LEP 2010).....	12
FIGURE 6: ZONING MAP SHEET LZN_013 EXTRACT (SOURCE: PENRITH LEP 2010).....	27

## Executive Summary

This Statement of Environmental Effects has been prepared in support of a Development Application for the consolidation of two lots, demolition of existing structures, removal of identified trees in-order to construct a 6 storey 'Residential Flat Building' at 41 & 43 Barber Avenue, Penrith.

The proposal consists of 44 residential units with a total of 64 car parking spaces within a double basement level.

The proposal incorporates the following dwelling mix:

- 2 x 1 bedroom units
- 36 x 2 bedroom units
- 6 x 3 bedroom units.

Located within close proximity to Nepean Hospital, a large regional hospital servicing Western Sydney, the subject site, known legally as Lots 30 & 31 Section 20 in DP 2296, resides along the northern side of Barber Avenue, approximately 70m east of the intersection of Colless Street and Barber Avenue. Nestled between Penrith CBD to the north west, Kingswood Station and Kingswood 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) and service to Luddenham (789) is within a 400m radius of the development site.

The site comprises of 2 separate allotments and once consolidated will result in creating a regular shaped land parcel with a frontage of 33.53m to Barber Avenue, a site depth of 50.29m, resulting in a with a total site area of 1686.19m<sup>2</sup>. 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, including building, setbacks, landscaped area and car parking.

The site is located within a large residential block bounded by the Parker Street to the east, High Street to the north, Barber Avenue 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 large multi-dwelling housing development and a number of residential apartments under construction.

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 developments within the wider locality.

The subject area is ideal for future urban intensification as it is located within close 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 also permitting the site to fulfil its zoning potential while being consistent with Council's vision for the subject area.

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.

## Site and Locality

The subject site is legally described as Lots 30 & 31 Section 20 DP 2296. It is proposed to amalgamate 2 lots, demolish existing structures, removal of identified trees and the construction of a 6 storey 'Residential Flat Building' at 41-43 Barber Avenue, Penrith.

Located within close proximity to Nepean Hospital, a large regional hospital servicing Western Sydney, the site resides along the northern side of Barber Avenue, approximately 70m east of the intersection of Colless Street and Barber Avenue. Nestled between Penrith CBD to the north west, Kingswood Train Station and Kingswood 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) and service to Luddenham (789) is within a 400m radius of the development site.

The site comprises of 2 separate allotments and once consolidated will result in creating a regular shaped land parcel with a frontage of 33.53m to Barber Avenue, a site depth of 50.29m, resulting in a with a total site area of 1,686.19m<sup>2</sup> with a dwelling currently located on each lot. The subject site is predominately flat.

The site is located within an established residential area and currently accommodates two residential dwellings and associated structures, as demonstrated by Photograph 1 below.

**Photograph 1:** Shows 41 & 43 Barber Avenue, Penrith.



The development site is surrounded by older style single storey residential dwellings and a duplex to the east, with Barber Street separating the site from a recently constructed flat building and low density housing to south.

It is noted that the site currently accommodates two single storey residential dwellings and associated structures. The site also contains existing trees and vegetation, with the majority of the trees to be removed to accommodate the proposal.

The aerial extract and photographs of the locality below provides context to the development site.



Figure 1: Locality Map (Source: Google Map)

An aerial photograph of the current state of development in the vicinity of the site is provided below and shows the extent of development occurring in the locality.

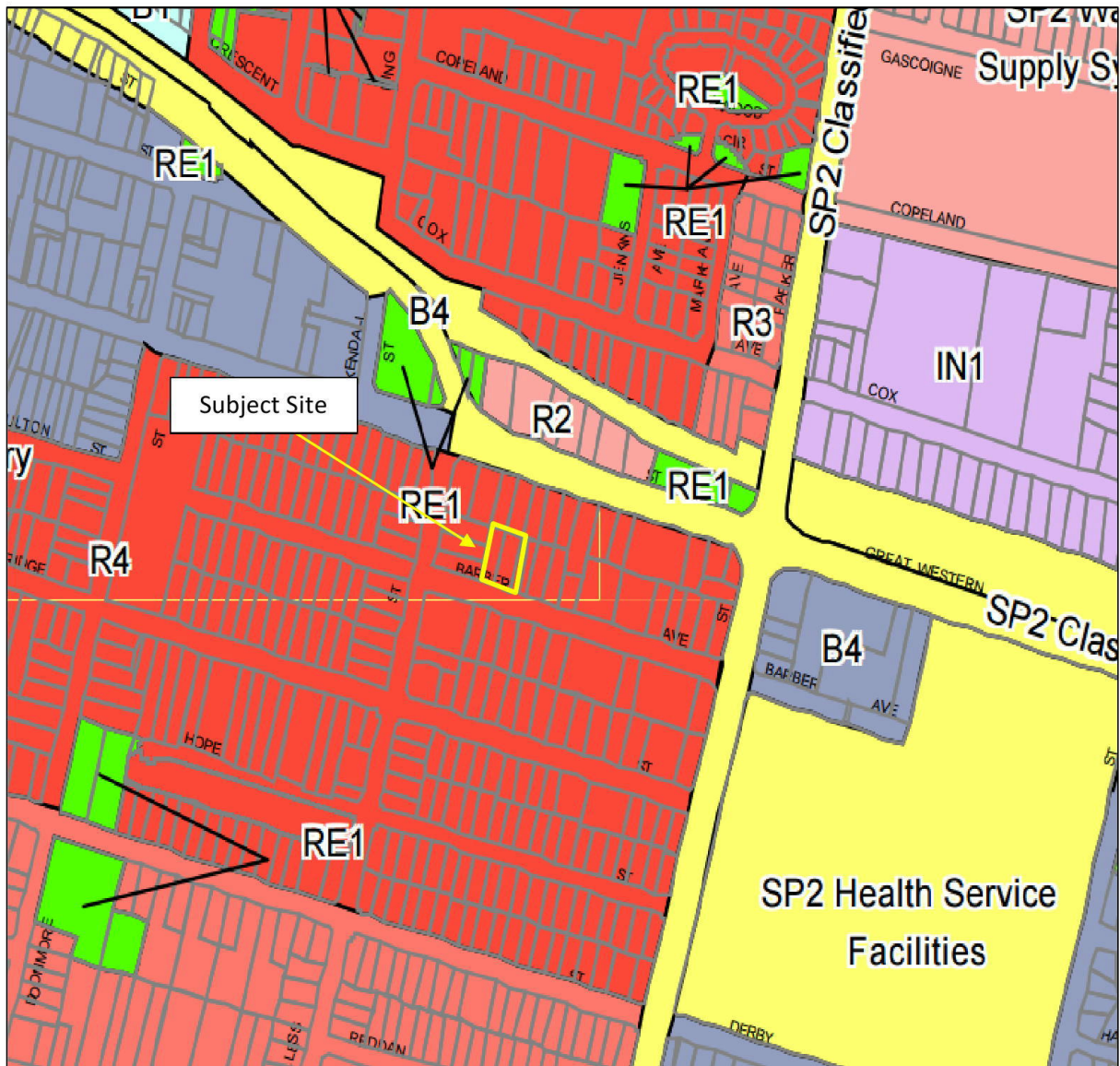


Figure 2: Locality Map (Source: Nearmap)

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 in the following page.

*‘Residential Flat Buildings’* are permissible with consent within the R4 zone and the subject site is permitted a maximum building height of 18m.





**Figure 3:** Zoning Map Sheet LZN\_013 Extract (Source: Penrith LEP 2010)

The 2 x existing 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 site also resides within a large residential block bounded by the Northern Road to the east, Barber Avenue to the south, Colless Street to the west and High Street to the north.

The existing built form character within the residential block comprises predominantly of older style one and two storey residential dwellings of mixed ages with some multi dwelling housing including the development adjoining the site to the east.

This is illustrated by an aerial map in the following page.



**Figure 4:** Aerial Map of Surrounding Area (Source: Google Map)

With the Penrith LEP zoning land within the residential block for higher residential density with building permitted up to 18m and considering its proximity to both Penrith City Centre and Kingwood commercial strip, a major regional hospital and large industrial precinct and considering the current high demand of housing, 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.

A Plan for Growing Sydney supports 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 close proximity to a large commercial centre, industrial precincts, regional hospital, schools, public transportation and recreational opportunities. The amalgamation of the two land parcels will permit an orderly development of the site and also permitting the site to fulfil its zoning potential.

The proposal also seeks to provide an important streetscape presence beyond the existing facades currently present in the locality and play an important role in the renewal process by setting the design standard and tone for future character and residential built forms along Barber Avenue 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 in the following page.



Figure 5: Broader Locality Map (Source: Google Map)

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

**Photograph 2:** Shows the existing multi dwelling housing development located opposite the subject site (8 Colless Street).



**Photographs 3:** Shows the existing streetscape of Barber Avenue, viewing eastwards.

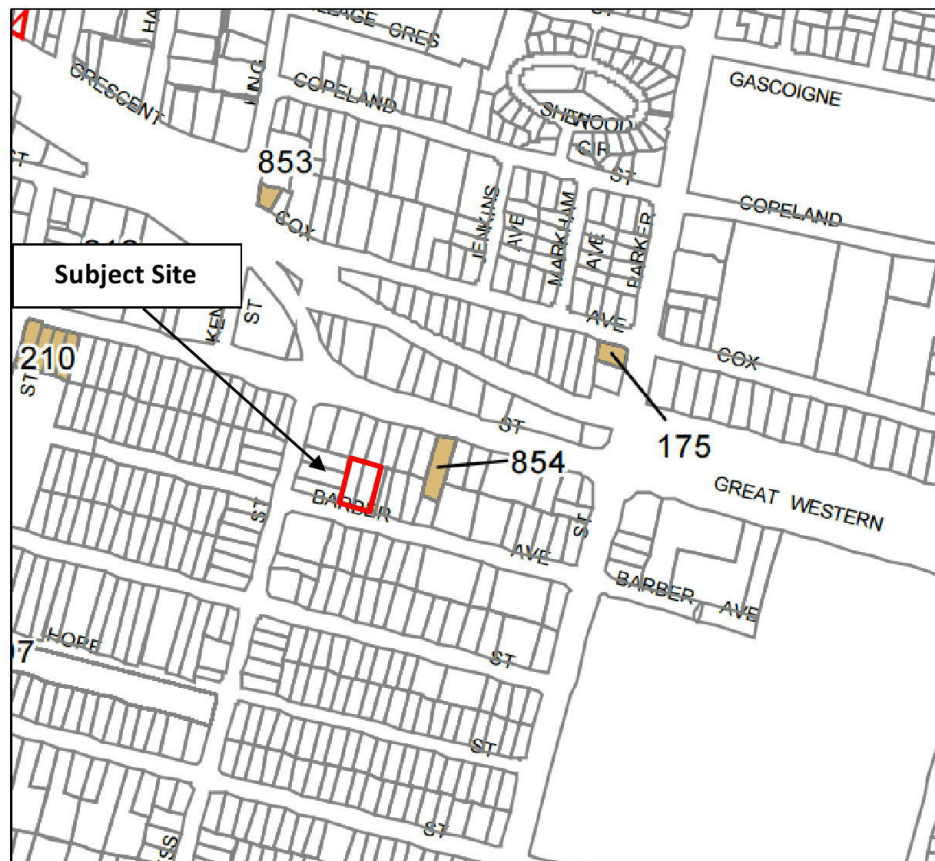


**Photographs 4:** Shows the existing streetscape of Barber Avenue, viewing westwards.



## Heritage

The site is not identified as a heritage item; it is not located within a heritage conservation area. There is a heritage listed item on the block, as illustrated by the heritage extract map below.



**Figure 6:** Heritage Map Sheet Extract (Source: Penrith LEP 2010)

The property at 142 High Street contains the heritage listed dwelling known as “Kelvin Brae” which is a Federation house. There is no available Statement of Significance for the heritage item however, Council’s database states that the house is a good example of a Federation bungalow retaining original details to its slate and terracotta roof. It should be noted that the house has been altered by rendering and enlarging the windows.

There is sufficient separation between the development site and the heritage items with existing and anticipated land uses to provide adequate buffer between the proposed flat building and 142 High Street and as such ensuring the heritage significance of the local heritage item is maintained. As such a statement of heritage impact is not required.

## 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 44 units with the following dwelling mix:

- 2 x 1 bedroom units;
- 36 x 2 bedroom units; and
- 6 x 3 bedroom units.

### Parking

The development proposal includes a total of 59 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:

- 50 residential car parking spaces (including 5 accessible parking spaces); and
- 9 visitor car parking spaces.

### Waste Collection

The proposal has been designed to enable waste to be collected from Barber Avenue with a truck being able to utilise a 'pull in bay' to collect the waste.

No chute system is proposed with waste area provided in every habitable level with 4 bins per level that will be taken by the manager to the ground floor collection area located at the ground floor.

### Key Elements of Proposal

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

Level	Inclusions
Basement Level 2	Access to the lower basement is provided via an internal graded access ramp from the upper basement level.
	The basement levels include double width internal circulation areas with turning areas to allow vehicles to enter and exit the basement in a forward direction.
	33 residential car parking spaces including 2 accessible car parking spaces.
	2 x dedicated foyer including a lift core each.
Basement Level 1	Access to the basement level is provided via an internal graded access ramp from ground level, with graded ramp access to lower basement level provided from this level.
	The basement level includes double width internal circulation areas with turning areas to allow vehicles to enter and exit the basement in a forward direction.

	<p>A total of 31 car parking spaces with the following breakdown:</p> <ul style="list-style-type: none"> <li>• 22 residential car parking spaces including 3 accessible parking spaces.</li> <li>• 9 residential visitor car parking spaces.</li> </ul>
	<p>2 x dedicated foyer including a lift core each.</p>
<p>Ground Floor</p>	<p><b>Access Arrangements</b></p> <p><u>Vehicle</u>                  Vehicular access to the site is via a double width cross-over via Campbell Street that is located to the south western portion of the site.</p> <p>The access arrangements include a double width driveway and graded access ramp to the basement levels.</p> <p>The development also provides a 12.5m slip lane to accommodate waste vehicle on a temporary basis.</p> <p><u>Pedestrian Access</u>                  A pedestrian path run along the site’s southern boundary and provides access to the primary pedestrian pathway located to the south-eastern portion of the site. The pathway provides access to the main entry point to the proposed flat building.</p> <p>A second access point to the waste storage area is also provided by the pedestrian pathway from Barber Avenue.</p> <p>Internal lobby area provides access to all ground floor units, bin storage area, lift cores and stairwells and communal open space area towards the rear of the site.</p> <p><b>Residential Units</b>                  Each unit is provided with a kitchen, laundry, living area, dining area and private open space area that is generally accessed from living areas.</p> <ul style="list-style-type: none"> <li>• 2 x 1 bedroom unit with private open space; and</li> <li>• 6 x 2 bedroom unit with private open space.</li> </ul> <p>442.04m<sup>2</sup> (26.2%) of deep soil zones.</p> <p>651m<sup>2</sup> (38.6%) landscape area.</p> <p>Bin storage area (35m<sup>2</sup>) and on-site bulky waste storage area (15m<sup>2</sup>).</p> <p>Internal lobby area including 2 x lift core and stairwell.</p>

Levels 1-3	<p><b>Residential Units</b></p> <p>Each unit is provided with a kitchen, laundry, living area, dining area and private open space area that is generally accessed from living areas. It is noted that some of the units are provided with a secondary smaller balcony.</p> <p>Unit breakdown is provided below:</p> <ul style="list-style-type: none"> <li>• 2 x 1 bedroom unit with balcony per level (total 1 bed: 6); and</li> <li>• 6 x 2 bedroom unit with balcony per level (total 2 bed: 18).</li> </ul>
Level 4	<p><b>Residential Units</b></p> <p>Each unit is provided with a kitchen, laundry, living area, dining area and private open space area that is generally accessed from living areas.</p> <p>Unit breakdown within the 4<sup>th</sup> level is provided below:</p> <ul style="list-style-type: none"> <li>• 6 x 2 bedroom unit with balcony.</li> </ul>
Level 5	<p><b>Residential Units</b></p> <p>Each unit is provided with a kitchen, laundry, living area, dining area and private open space area that is generally accessed from living areas.</p> <p>Unit breakdown within the 5<sup>th</sup> level is provided below:</p> <ul style="list-style-type: none"> <li>• 6 x 2 bedroom unit with balcony.</li> </ul>

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



## 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

## 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- Land Contamination

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 by Simon Ochudzawa, verifying that he has directed and designed the proposal, and that the design quality principles set out in Part 2 of 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.

An assessment against the relevant objectives and design guidelines contained in parts 3 and 4 of the Apartment Design Guide can be found below.

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
<b>Part 3 – Siting the Development</b>			
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 complex has been designed to address and provide direct pedestrian access via Barber Avenue. Passive surveillance opportunities are provided from primary living areas and balconies that overlook the public domain.	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.	Direct street address is provided to the 2 units that face directly onto Barber Avenue.	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 provided. Complies.	Yes

	Substations, pump rooms, garbage storage rooms and other service rooms should be located in the basement carpark or out of view	The garbage storage room is located within the ground floor level; however it is located within the building and will not be visible from the Street.	Yes
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>50% of the principal COS should receive 2 hours of sunlight between 9am and 3pm.</p>	Council has previously indicated a preference to privatise ground floor courtyards to adopt POS rather than COS. Therefore the ground floor has been allocated as private POS to maximise amenity for these units. This is variation to the COS control however improves amenity for the ground floor units. A rooftop COS was also considered however it would exceed the building height control and therefore the current proposal with no COS was considered preferable. A small 43m <sup>2</sup> area is provided to the rear that could be increased along the rear setback zone to achieve greater COS however this would reduce the large POS areas provided.	Variation
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 650m<sup>2</sup> to 1500m<sup>2</sup> then the DSZ must have minimum dimensions of 3m</p> <p>If over 1500m<sup>2</sup> then min dimensions of 6m</p> <p><u>Design Guidelines:</u></p>	<p>118m<sup>2</sup> required and a deep soil area of 442.04m<sup>2</sup> or 26.22% of the site is provided. Complies.</p> <p>N/A</p> <p>Complies with Minimum Dimension of 6m</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

	<p>On some sites it may be possible to provide larger deep soil zones:</p> <ul style="list-style-type: none"> <li>• 10% of the site as deep soil on sites with an area of 650m<sup>2</sup>- 1,500m<sup>2</sup></li> <li>• 15% of the site as deep soil on sites greater than 1,500m<sup>2</sup></li> </ul>	<p>It is noted that the proposal provides a total of 26.22% of the site area for deep soil zones. Complies.</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>A minimum 6m building separation from the primary building line is provide to the majority of the site’s eastern, northern and western boundaries. It is noted there are encroachments, however these rooms are either blank walls, or they are provided with visual privacy features such as highlight windows and screening devices, there are negligible privacy impacts. Therefore, the proposal is still consistent with the underlying principles of the building separation control. In addition the proposal has adopted a T element to the front and rear with 4.5m separation that then pulls into the required 6m through the middle of the building to align with previous UDRP comments on the ability to consider a 4.5m to the front and rear and 6m through the middle. Those areas within the 4.5m are treated with raised sill heights or limited openings to create a non-habitable condition.</p>	<p>Variation- Design Treatment Provided</p>
<p>5-8 Storeys (up to 25m)</p>	<p>18m between habitable rooms (9m)</p>	<p>The 5<sup>th</sup> and 6<sup>th</sup> fifth floors are recessed with a separation of 9m building separation from the primary building line is provide to the majority of the building. Along the eastern side setback there are minor point encroachments to balconies.</p>	<p>Variation to Front of Building</p>

<p>Note: When adjacent to a lower density residential zone an additional 3m rear/ side setback is required</p>		<p>Parts of the units also encroach the setback however they have blank walls or raises sill heights/screens to mitigate privacy concerns. This is also the same along the western side setback. These point encroachments are very minor are form part of the architectural design of the building.</p> <p>The encroachment will not result in additional privacy impacts to neighbouring properties and therefore the proposal is still consistent with the underlying principles of the building separation control.</p> <p>N/A- R4 Zoning adjoining.</p>	<p>N/A</p>
<p>3G Pedestrian Access and Entries</p>	<p>Building entries should be clearly identifiable and communal entries should be clearly distinguished from private areas</p>	<p>The building provides clearly distinguishable entry point from Barber Avenue.</p>	<p>Yes</p>
<p>3H Vehicle Access</p>	<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 Barber Avenue which integrates with the overall design of the building.</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>
<p>3J Carparking</p>	<p><i>Design Criteria:</i> Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of:</p>	<p>N/A as not within 800m of a railway station. Designed to comply with the Penrith DCP 2014.</p>	<p>N/A</p>

	<u><i>Design Guidelines:</i></u> Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas	The proposal provides appropriate undercover and secure residential bicycle parking spaces within the basement levels.	Yes
<b>Part 4 – Designing the Building</b>			
4A Solar Access	<u><i>Design Criteria:</i></u>  Living rooms and private open space of at least 70% of units to receive 2 Hours Solar Access between 9am and 3pm Mid-Winter  A maximum of 15% of apartments receive no direct sunlight between 9am and 3pm Mid Winter	75% or 33/44 units achieve the required 2 hours of solar access at mid-winter.  < 15% single aspect south facing units.	Yes  N/A
4B Natural Ventilation	<u><i>Design Criteria:</i></u>  60% of Units are cross ventilated in a building up to 9 storeys  Overall width of a cross over or cross through apartment is < 18m  <u><i>Design Guidelines:</i></u>  The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	65.9% or 29/44 units are cross ventilated.  < 18m  Development has a mix of dual aspect apartments, single aspect and corner apartments. See attached architectural plans for detail.	Yes  Yes  Yes
4C Ceiling Height	<u><i>Design Criteria:</i></u>  2.7m for habitable and 2.4m for non-habitable.	Complies	Yes
4D Unit Sizes	<u><i>Design Criteria:</i></u>  Studio 1 bed 2 bed 3 bed	35m <sup>2</sup> 50m <sup>2</sup> 70m <sup>2</sup> 90m <sup>2</sup>  All units comply with many units exceeding except for units; Unit 4.03 – 73m <sup>2</sup> Unit 5.03 – 73m <sup>2</sup>	Variation

+ 5m <sup>2</sup> for each unit with more than 1 bathroom.		Which are only 2m <sup>2</sup> below the requirement for a 2 bedroom unit with an ensuite. However the layouts are useable and functional and the ADG permits units less than the numerical criteria where the unit layouts and furniture layouts achieve adequate amenity and space for users- which is the case with this proposal and the minor departure to 2 units is considered acceptable.	
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10%	Every habitable room is provided with a window.	Yes
Habitable Room Depths	<u>Design Guidelines:</u> Limited to 2.5m x Ceiling Height	N/A as open plan layouts provided	N/A
Bedroom sizes			
Master	10m <sup>2</sup>	Comply	Yes
Other	9m <sup>2</sup>	Comply	Yes
Living rooms/dining areas have a minimum width of:			
3.6m			Yes
4m	Studio/1 br 2br/ 3br	Comply Comply	Yes
Open Plan Layouts that include a living, dining room and kitchen.	8m to a window	Complies given unit depths and design layouts.	Yes
4E Private Open Space	<u>Design Criteria:</u>		
Balcony Sizes			
1 bed	8m <sup>2</sup> & 2m depth	Complies	Yes
2 bed	10m <sup>2</sup> & 2m depth	Complies	Yes
3 bed	12m <sup>2</sup> & 2.4m depth	Complies	Yes
Ground level/ podium apartments	15m <sup>2</sup> & 3m depth	Minimum 15m <sup>2</sup> and > 3m.	Yes



<p>4F Common Circulation and Spaces</p> <p>Common Circulation Units per Plate</p> <p>Corridors &gt; 12m</p>	<p><u>Design Criteria:</u></p> <p>8 Unit per Plate</p> <p>Are articulated</p>	<p>Lift core is to serve a maximum of 8 units per plate.</p> <p>Corridors are articulated.</p>	<p>Yes</p>
<p>4G Storage</p>	<p>1 bed 6m<sup>3</sup> 2 bed 8m<sup>3</sup> 3 bed 10m<sup>3</sup></p> <p>Min 50% of required storage is within the apartment</p>	<p>The proposal provides:</p> <p>1 bed: &gt;6m<sup>3</sup> 2 bed: &gt;8m<sup>3</sup> 3 bed: &gt;10m<sup>3</sup></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>	<p>Yes</p>
<p>4H Acoustic Privacy</p>	<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 source</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:  2 x 1 bedroom unit  36 x 2 bedroom units  6 x 3 bedroom units.</p> <p>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.</p>	Yes
4M Facades	Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale	The proposed facades are well articulated with a mixture of vertical and horizontal features including windows, projecting walls and balconies and framed elements. Overall the proposed facade is considered a quality design outcome that is compatible with other comparable modern RFB within the wider Penrith LGA.	Yes
4O Landscape Design	1 large tree or 2 medium trees per 80m <sup>2</sup> 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	The residential flat building provides 9/44 units as accessible units, or 20.45% of units, and is therefore compliant.	Yes
4U Energy Efficiency		<p>The development application is accompanied BASIX certificate indicating energy efficiency for each residential unit provided.</p> <p>Furthermore, it is noted that more than 70% of units achieve the minimum 2 hours of solar access at mid-winter and over 60% 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.

## Penrith Local Environmental Plan 2010

The subject site is zoned R4 High Density Residential under the provisions of the Penrith LEP 2010 as indicated on the zoning extract map below.

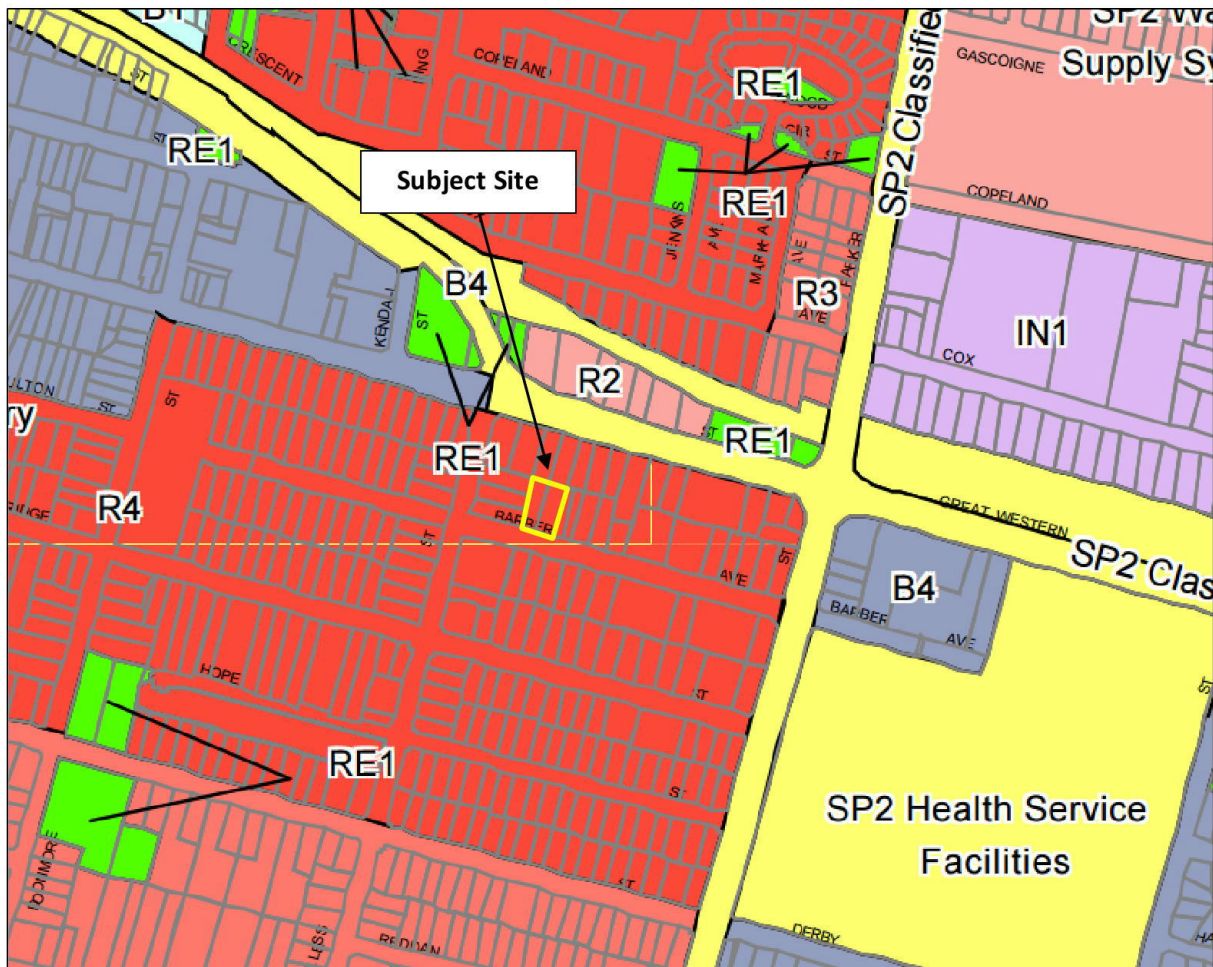


Figure 7: Zoning Map Sheet LZN\_013 Extract (Source: Penrith LEP 2010)

A Residential Flat Building is permissible with consent and the proposal is consistent with the definition contained within the LEP:

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

The development proposal is also consistent with the prescribed R4 zone objectives that are stipulated as:

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that a high level of residential amenity is achieved and maintained.

- To encourage the provision of affordable housing.
- To ensure that development reflects the desired future character and dwelling densities of the area.

The proposed development 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 a good presentation to Barber Avenue. 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 Barber Avenue 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
<b>Part 2 Permitted or Prohibited Development</b>			
<b>2.3</b>	Zone Objectives and Land Use Table	<p>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 while contributing to range of housing types to suit the needs of residents within a high density context.</p> <p>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.</p>	Yes
<b>2.6</b>	Subdivision – Consent Requirements	No subdivision is proposed. Not applicable.	N/A
<b>2.7</b>	Demolition Requires Consent	Council consent is sought for the demolition of the existing structures on the site.	Yes

<b>Part 4 Principal Development Standards</b>			
<b>4.1A</b>	Minimum Subdivision Lot Size:  Residential Flat Building: 800m <sup>2</sup>	A minimum lot size of 800m <sup>2</sup> is identified for the site under the Penrith Local Environmental Plan 2010 Clause 4.1A. The subject site has a total site area of 1,686.19m <sup>2</sup> . Complies.	Yes
<b>4.3</b>	Height of Buildings - 18m	Penrith Local Environmental Plan states that the maximum building height within the subject site is 18m. The building predominately complies with the 18m height limit, except for the lift overrun which is recessed from the building and not visible from the ground floor and equates to 0.8m. See Clause 4.6 variation request at Annexure 1.	Variation
<b>4.4</b>	Floor Space Ratio	No FSR control applies to the subject site. Not relevant.	N/A
<b>Part 5 Miscellaneous Provisions</b>			
<b>5.9</b>	Preservation of trees or vegetation	Council consent is sought for the removal of identified trees from the site, noting that where appropriate, existing trees are to be retained.  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. It is highlighted that no significant vegetation is to be impacted as part of the proposal. Landscaping of the site is to be undertaken in accordance with the attached Landscape Plan.	Yes
<b>5.10</b>	Heritage	The site does not contain a heritage item and is not located within a heritage conservation area. There is a heritage listed item located on the residential block, however there is a sufficient amount of separation between the site and the heritage item, and therefore a Statement of heritage impact is not required, as the development of a Residential Flat Building on the subject site is unlikely to have a negative effect on the heritage listed item as compared to the adjoining development under construction that immediately borders that site.	Yes

<b>Part 7 Additional Local Provisions</b>			
<b>7.1</b>	Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans.</p> <p>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.</p> <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 Councils 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>	Yes
<b>7.2</b>	Flood planning	The site is not identified as being flood prone by Council's flood planning land map sheet FLD_013.	N/A
<b>7.3</b>	Development on Natural Resources Sensitivity Land	The site is not identified on the Natural Resources Sensitive Map. Not applicable.	N/A
<b>7.4</b>	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>	Yes

		<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> <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 400m radius of bus stops with regular services to Penrith, Mt Druitt and Luddenham 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>	
<b>7.5</b>	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
<b>7.6</b>	Salinity	Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not applicable.	N/A
<b>7.7</b>	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
<b>C1 Site Planning and Design Principles</b>			
1.1	Site Planning	<p><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.</p>	Yes
		<p><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.</p> <p>Not applicable.</p>	N/A
1.2	Design Principles	<p><u>1.2.2 Built Form – Energy Efficiency and Conservation</u> The proposed development maximises solar access to units and is designed in a manner that achieves natural light and ventilation. A BASIX certificate is attached to this statement.</p>	Yes
		<p><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.</p> <p>The site predominantly complies with the maximum height control that applies for the site under Penrith LEP 2010 and adopts a 6 storey form.</p> <p>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>	Yes

		<p><u>1.2.4 Responding to the Site's Topography and Landform</u> The subject site is predominately flat and is ideal to accommodate the proposed Residential Flat Development.</p> <p><u>1.2.5 Safety and Security (Principles of Crime Prevention through Environmental Design)</u> The proposed development incorporates active façades that will permit casual surveillance of Barber Avenue 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> 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>
<b>C2 Vegetation Management</b>			
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. 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>	Yes

		<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. Not applicable.	N/A
<b>C3 Water Management</b>			
3.1	Water Conservation	The development application is accompanied by a complying BASIC 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 close proximity to a watercourse, wetland or riparian corridor. Not applicable.	N/A
3.4	Groundwater	<p>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.</p> <p>It is considered that the risk of site contamination occurring during construction and future use of the site is low. Not applicable.</p>	N/A
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
<b>C4 Land Management</b>			
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> <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>	Yes
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>	Yes

		<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>	
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
<b>C5 Waste Management</b>			
	A bin chute is to be provide to all RFB's over 3 storeys in height.	<p>A Waste Management Plan is attached as part of this application. Notwithstanding this it is noted that waste is to be appropriately managed during the demolition and construction stages of the development. A communal bin area is located within the ground floor level and a pull in bay is proposed.</p> <p>A chute system is not proposed with waste area provided in every habitable level that allow the disposal of waste, noting 4 bins per level that will be managed by the building manager and waste taken to the ground floor communal area- this is a suitable method of disposing of garbage given the ground floor collection area proposed.</p>	Variation

<b>C6 Landscape Design</b>			
		<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 it can be seen that these works will substantially improve the streetscape presentation of the site as well as softening the proposed built form.</p>	Yes
<b>C7 Culture and Heritage</b>			
7.1	European Heritage	The site does not contain a heritage item and is not located within a heritage conservation area. There is a heritage listed item located on the residential block, however there is a sufficient amount of separation between the site and the heritage item, and therefore a Statement of heritage impact is not required, as the development of a Residential Flat Building on the subject site is unlikely to have a negative effect on the heritage listed item.	Yes
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
<b>C10 Transport, Access and Parking</b>			
10.2	Traffic Management and Safety	<p>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.</p> <p>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.</p>	Yes
10.3	Key Transport Corridors	The subject site is not located within 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 (38 required) 2 spaces per 3 br unit (12 required) Resident: 50 spaces required.</p> <p>Visitor: 1 space for every 5 dwellings: 8.8 (9)</p> <p>1 space per 40 units for service vehicles =1</p> <p>Total: 59 required plus vehicle service 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 49 units comprising 8 x 1 br units, 39 x 2br units and 2 x 3br units.</p> <p>Utilising the DCP rates, the development requires: Resident Spaces: 50 Visitor Spaces: 9 Service bays: 1</p> <p>Total: 59 plus service vehicle bay</p> <p>The proposal provides for 50 residential spaces, 9 visitor spaces, and 1 bay for service vehicles.</p>	Yes
<b>D2 Residential Development</b>			
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>2.5.2 Preferred Configuration for Residential Flat Buildings</u></p> <p>The development has courtyards and private open space areas that front Barber Avenue.</p> <p>Units front Barber Avenue and adopts a traditional orientation with the living room and courtyards to the primary street setback. Parking is provided within the basement and will not result in "garage architecture".</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>Yes</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>	<p>The proposal has a site frontage of 33.53m and as such complies with Council's minimum lot width requirements for Residential Flat Buildings within the R4 zone.</p>	Yes

<p>2.5.4</p>	<p>Urban Form</p> <p>1. 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.</p> <p>2. Dwellings behind the street frontage should adopt similar principles:  a) living rooms and entrances face the street, and / or the landscaped rear boundary setback;  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:  a) step the alignment of all facades – generally one corner and a substantial indentation for every 10m run of wall;  b) divide buildings into separate wings – a deep indentation located centrally in the longest walls; or a central garden courtyard;  c) vary the width of side setbacks – a combination of garden courtyards and access ways; and  d) lined by an "avenue" of shady overhanging trees;</p>	<p>There are 2 units that front Barber Avenue and adopt a traditional orientation with their living room and courtyards addressing the site's front setbacks. Where appropriate, the front setback areas are to be landscaped and garages are within a basement so as not to dominate the streetscape.</p> <p>Given the depth of the site, courtyards and living areas are orientated towards all boundaries. The building design has however, maximised the number of dwellings that have living areas facing the front and rear setbacks.</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 that visually breaks up the bulk of the building.</p> <p>Centrally located indents are proposed from the eastern pedestrian entry and the access from the common open space into the centre of the building from the southern setback. These indentations help to break up the bulk of the building and add visual interest to the building design.</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>Yes</p> <p>Minor Variation</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
--------------	---	---	---



	e) cap the stepped floor plan with a variety of pitched roof forms;	The indented roof provides visual relief to the development.	Yes
	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>43m<sup>2</sup> provided which varies the control as discussed against the ADG provisions- see discussion previously in this statement.</p> <p>The proposal provides for 38% of landscaped area and complies.</p>	<p>Variation</p> <p>Yes</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>Proposal adopts a 5.5m setback which is consistent with the prevailing setback existing on Barber Avenue.</p> <p>Balconies are setback more than 4.5m and are less than 50% of the elevation. Complies</p> <p>Parking is provided with the basements and is not located within the front setback.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.5.7	<p>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>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>	Yes

	<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 development proposes a flat roof, which is &lt;25 degrees.</p> <p>N/A</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>The proposal is consistent with the controls within the ADG as discussed previously. 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>An acoustic report is submitted with this application. The recommendations of this acoustic report will be adopted for the proposed development.</p>	<p>Yes</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 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>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 75% of dwellings receive a minimum of 2 hours sunlight between 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>	<p>Yes – ADG Prevails</p> <p>Yes</p>

	Where the existing overshadowing by buildings and fences reduces sunlight to less than the minimums noted above, the development is to not further reduce sunlight to the specified areas by more than 20%.		
2.5.10	Significant Townscapes & Landscapes	There is significant separation between the subject site and the heritage item and therefore the development will not have an impact on it.	Yes
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 five storey RFB by:</p> <ul style="list-style-type: none"> <li>- Incorporation of stepping alignment of walls</li> <li>- Indents to the building</li> <li>- stepping the height of the building with a 6 storey massing in the middle of the site</li> <li>- Projecting balconies and awnings.</li> </ul> <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 MUH along High Street and generally 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 face and painted 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>75% of units will achieve more than 2 hours solar access at mid-winter (ADG prevails) and provides 59.1% 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 20m<sup>2</sup></p> <p>Upper courtyards 10m<sup>2</sup> 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 with ADG</p> <p>All upper storey apartments have a minimum area &gt; 8m<sup>2</sup> and have room for an outdoor drying area.</p>	<p>Yes</p> <p>Complies with ADG</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> <p>Vehicle entrances designed to complement the architecture and landscaping of each building:</p> <p>Individual up and down ramps;</p> <p>undercover storage:</p>	<p>The basement does not protrude above natural ground level.</p> <p>The double width driveway vehicle entrance and egress to High Street is consistent with the existing low density character of the area and will assist with ensuring compatibility with the surrounding built form.</p> <p>Provided. Complies.</p> <p>Provided. Complies</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
2.5.16	Garden Design	<p>Where appropriate, small to medium trees are to be planted along the sites front and side boundaries.</p> <p>See landscaping plans for detail.</p>	Yes
2.5.17	Paving Design	<p>Where appropriate, hard paved surfaces are minimised to maximise landscaping and gardens.</p> <p>The proposal provides attractive driveways and provide for verge plantings beside driveways and paths.</p>	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	<p>The proposed development incorporates an active façade that will permit casual surveillance to Barber Avenue as well as to driveways and landscaped 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>	Yes

		The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.	
2.5.20	Accessibility and Adaptability  10% of dwellings must be adaptable	9 adaptable units (20.5%) 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 <sup>3</sup> of storage per unit	The proposal provides >10m <sup>3</sup> of storage through a combination of basement storage areas and areas within the units.  Letter boxes and other services are provided.	Yes  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 1: Clause 4.6 Variation Request

As addressed previously within this statement and as evident in the section extract below and the architectural plans submitted, the proposed development will comprise a 6 storey residential flat building that predominantly complies with the permitted maximum 18m building height. However as illustrated below a small section of the building protrudes above the 18m control. The building height protrusion is at its maximum 800mm-1000mm above the maximum height control of 18m or 5.5%.

The extent of the variation can be clearly seen in the roof level plan extract included below which demonstrates only a small portion of the roof form exceeds the building height.



Therefore, a Clause 4.6 variation request has been prepared, noting that the 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, noting that the proposal results in an appropriate form of development that responds to a site specific contextual issue- being a discernible fall in the topography on the site in the south-eastern corner of the building envelope.

Clause 4.6 of the Penrith LEP 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 sub clause 3-5 which provide:

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

- a) the consent authority is satisfied that:*
  - i. the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) the concurrence of the Secretary has been obtained.*



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

Each of these provisions are addressed in turn.

**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 building height development standard are stated over the page.

- (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 the 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 seeks to depart from the height control for small portions of the upper storey of the building. Despite this, the proposal remaining consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:

- The overall height of the development presents as a compatible form of development with only a small component of the upper level of the building exceeding the height limit. This upper level of the building is recessed in so that the top of the building will be less visually prominent when viewed from the street level and the height protrusion will be barely detectable when viewed from the adjoining properties which aligns with the intent of the planning controls contained within Penrith LEP 2010.
- The height variation will not be readily seen from Barber Avenue and is largely hidden from view from the public domain. The extent of variation of the upper level will be undetectable from the street level ensuring the development has no negative impact on this residential streetscape.
- The proposed building height as 6 stories is consistent with the building height of approved developments adjoining the site ensuring a suitable built form outcome.

- The proposed building could be constructed with a greater level of cut into the natural landform however, this would result in some of the ground floor units becoming subterranean which would then result in other undesirable impacts on the amenity of these units for future residents.
- The extent of variation does not contribute to any discernible increase in overshadowing as demonstrated by the shadow analysis provided with the application showing both the impact of the proposal and a maximum building height compliant building.
- The minor non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors as demonstrated in the heritage impact statement submitted with this application.

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the minor departure from the control.

The unique circumstances of the case that warrant support of the departure are:

- The height protrusion is a result of the topography of the land.
- The need to provide a development that complies with accessibility requirements and provides suitable address to the street rather than the artificial sinking of the building into the site;
- The height variation will be undetectable from the public domain and the adjoining heritage item.

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

The proposal ensures that the high density nature of the zone is retained and there is not a significant change to the character of the locality. In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development.

It is understood that the concurrence of the Secretary can be assumed in the current circumstances as the extent of variation is less than 10% and therefore full Council is not required to consider the application.

**Clause 4.6(5)**

As addressed it is understood the concurrence of the Secretary 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.

Strict compliance with the prescriptive building height requirement 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, which has been earmarked for future high density development by virtue of its R4 zoning. 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.