DEVELOPMENT APPLICATION AND STATEMENT OF ENVIRONMENTAL EFFECTS TO PENRITH CITY COUNCIL

Residential Apartment Building

28-32 Evan Street, Penrith

Prepared on behalf of

STEMAA Pty Ltd c/- Marchese Partners

19 DECEMBER 2017

Lockrey Planning & Development Solutions Pty Ltd ABN 24 118 105 589 | ACN 118 105 589
PO Box 2257 Clovelly NSW 2031 **P** 02 9130 3860 **M** 0413 483 120 **E** slockrey@lpds.com.au **www.lpds.com.au**

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1.0 INTRODUCTION

This Statement of Environmental Effects (**SEE**) is submitted to Penrith City Council (the **Council**). The Sydney Western Planning Panel (**SWPP**) is the consent authority (see Section 1.1). It describes a Development Application (**DA**) seeking development consent pursuant to Section 80(1) of the Environmental Planning and Assessment, Act, 1979 (the **Act**) for the demolition of all existing structures and vegetation and the construction of a six storey residential apartment building, excavation for basement car parking, landscaping and site works at 28-32 Evan Street, Penrith (the **site**). A detailed description of the proposal is provided at Section 3.

Lockrey Planning and Development Solutions Pty Ltd (**LPDS**) has prepared this report on behalf of STEMAA Pty Ltd. It is based on plans and technical information provided by Marchese Partners, the registered project architectural practice and supporting documents as referenced below.

This report has been prepared pursuant to Section 78A of the Act and Clause 50 of the Environmental Planning and Assessment Regulation 2000 (**Regulations 2000**). The purpose of the document is to:

- provide a description of the site context, including identification of the site, existing development on the site, and surrounding development;
- provide a detailed description of the proposed development;
- undertake an assessment of the proposed development in terms of the matters for consideration as listed under Section 79(C) of the Act; and
- identify and assesses the issues relevant to the proposed development.

It should be read in conjunction with the following supporting information submitted separately:

- Quantity Surveyors Cost Summary Report, by WT Partnership;
- Survey Plan, by Higgins Surveyors;
- Clause 4.6 Exception to Development Standards submission relative to Height of Buildings at Clause 4.3 of Penrith Local Environmental Plan 2010 (**LEP 2010**), by LPDS;
- Architectural Drawings and related work, Schedule of External Materials and Finishes, State Environmental Planning Policy No. 65: Design Quality of Residential Apartment Development (**SEPP 65**) SEPP 65Design Verification Statement and Design Quality Principles Report, SEPP 65 Apartment Design Guide (**SEPP 65 ADG**) Table of Compliance, Site Isolation Analysis and Photomontages, all by Marchese Partners;
- BCA Assessment Report, by City Plan Services;
- Landscape Plan, by Site Image;
- Stormwater Drainage Layout Plans and Stormwater Drainage Report, by Bekker;
- Statement of Compliance Access for People with a Disability, by Accessible Building Solutions;
- BASIX Certificate and NatHERS Certificate, by Eco Certifiers;
- Traffic and Parking Assessment Report, by Varga Traffic Planning;
- Construction and Demolition Waste Management Plan, by Foresight Environmental;
- Operational Waste Management Plan, by Elephants Foot; and

- Correspondence regarding the purchase of 34 Evan Street, Penrith, by Agile Conveyancing.

1.1 Development cost

As detailed in the Cost Assessment Report by WT Partnership submitted separately, the project has a development cost of $22,600,000. Therefore, the SWPP is the consent authority.

1.2 Referral authorities

The proposal is local development pursuant to Section 76A of the Act. It is our understanding that only 'standard' referrals to Council's internal departments (BCA, engineering, heritage etc) are required.

1.3 Background

The site's redevelopment has been the subject of two separate meetings with Council as follows:

- 26 April 2017 with the Urban Design Review Panel (UDRP 17/11); and
- 6 June 2017 a formal pre-DA meeting (PL 17/48).

Issues raised by Council at each meeting can be summarised as follows:

- site isolation;
- height;
- context and compatibility;
- internal amenity;
- building services (specifically waste management);
- heritage;
- engineering / flooding;
- earthworks; and
- car parking and traffic.

The above issues have been considered and the proposal amended, where deemed necessary with additional justification provided in support of other issues.

2.0 SITE DESCRIPTION AND ANALYSIS

The key characteristics of the site are summarised below:

Site location	– 28-32 Evan Street, Penrith. – The site is located on the eastern side of Evan Street between its roundabout intersection with Lethbridge Street to the south and Higgins Street to its north – The site is located approximately 175 metres to the south east of High Street and the southern portion of the area known as the Penrith Central Business District (**CBD**).
Legal property description	– Lot A in DP 324069 for 28 Evan Street – Lot A in DP 355720 for 30 Evan Street. – Lot 2 in DP 510281 for 32 Evan Street. – Survey Plans by Higgins Surveyors are submitted separately.
Site area by title	– 553.5m^2 for 28 Evan Street. – 521.5m^2 for 30 Evan Street. – 557.6m^2 for 32 Evan Street. – 1,632.6m^2 as a consolidated site.
Shape	– Predominantly rectangular.
Frontage	– 49.18 metres to Evan Street.
Easements	– The site is not affected by any known easements. – Numerous utility pits are located external to the site along Evan Street.
Zoning	– The site is zoned R4 High Density Residential pursuant to the provisions of LEP 2010 and the accompanying land zoning map (#13).
Penrith City Centre provisions	– The site is not located within the area known as the Penrith City Centre. It is not an identified key site and the Penrith City Centre provisions of LEP 2010 do not apply.
Heritage listing:	– The site is not an identified heritage item and is not located within a heritage conservation area. – The site is located within the vicinity of the following identified heritage item: - St Stephen's Anglican Church, Hall and Cemetery (I206) at 258-280 High Street with local significance.
Topography	– The site and surrounding locality are relatively flat. – The site has a consistent RL ranging between 36 and 37.
Flood planning	– Most of the consolidated site is not classified as being floodprone, however, it is known that a portion of 32 Evan Street is flood affected.
Bushfire	– The site is not being bushfire prone.
Acid sulfate soils	– The site and surrounding locality is not subject to acid sulfate soils.

Biodiversity	– The site is not identified as containing biodiversity significance.
Landscape and scenic value	– The site is not identified as containing land with landscape and scenic values.
Existing improvements	– Each property contains a single storey dwelling house (either weatherboard or brick construction with a pitched roof) with associated landscaped front and rear yards. – Garages and sheds are found in the side and backyards of each property. Backyard areas also contain hardstand areas, directly adjacent to the rear of each dwelling. – Each property is provided with a vehicular crossing and concrete driveway accessed via Evan Street. – Combination metal and timber paling fencing is provided to each property.
Vegetation	– The consolidated site contains established landscaped areas and insignificant mature vegetation. – The Evan Street footpath and verge area comprises a mixture of grass and plantings, including street trees.
Surrounding context	– The site is located on the periphery of the Penrith CBD although external to the city centre area pursuant to the provisions of LEP 2010. Currently the prevailing built form character of the surrounding locality comprises ageing single dwelling houses. Some more recent residential apartment buildings are located closer to High Street. Adjoining the site to its east is the St Stephens Anglican Church, Hall and Cemetery. – The surrounding locality has been earmarked for significant medium to high density residential development under the provisions of LEP 2010, given its R4 High Density Residential zoning. Permissible building heights range from 12 metres to 24 metres within the site's visual catchment. The floorspace ratio (**FSR**) for those properties subject to the LEP 2010 Penrith City Centre provisions ranges from 1.6:1 to 3:1. Therefore the existing built form character is not Council's desired (by LEP 2010 zoning) or likely future built form character. – High density residential apartment buildings have been approved and are under construction within the site's visual catchment, including DA 15/1121 at 107-111 Lethbridge Street, Penrith for the purposes of a six storey residential apartment building comprising 44 apartments and two levels of basement car parking.

An aerial location plan follows at **Figure 1**. A Site Analysis Plan is included with the Architectural Drawings by Marchese Partners submitted separately. Photographs of the site and its surrounding context are provided at **Figures 2** to **9** (inclusive).

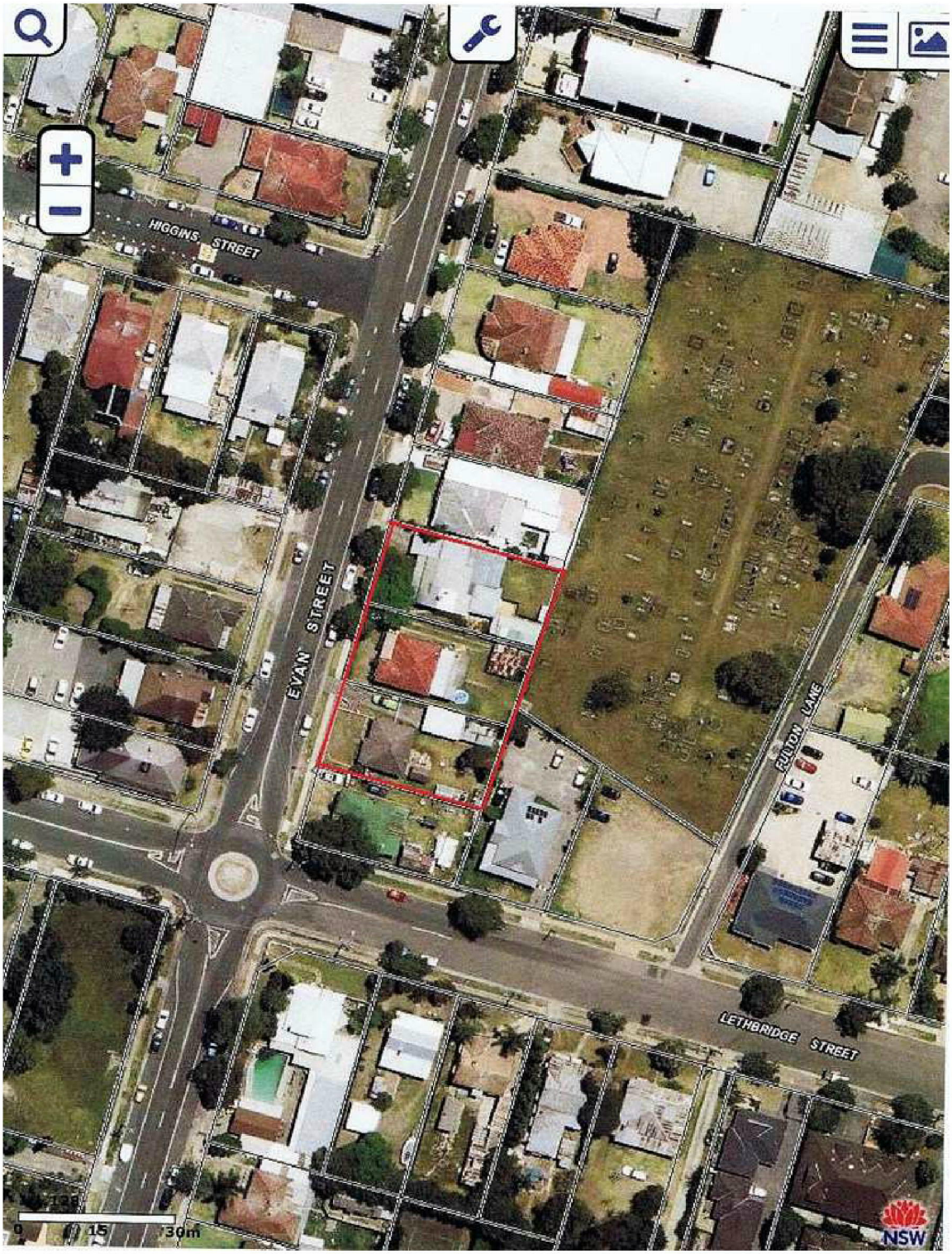

Figure 1– *Aerial location plan with the site outlined approximately in red*

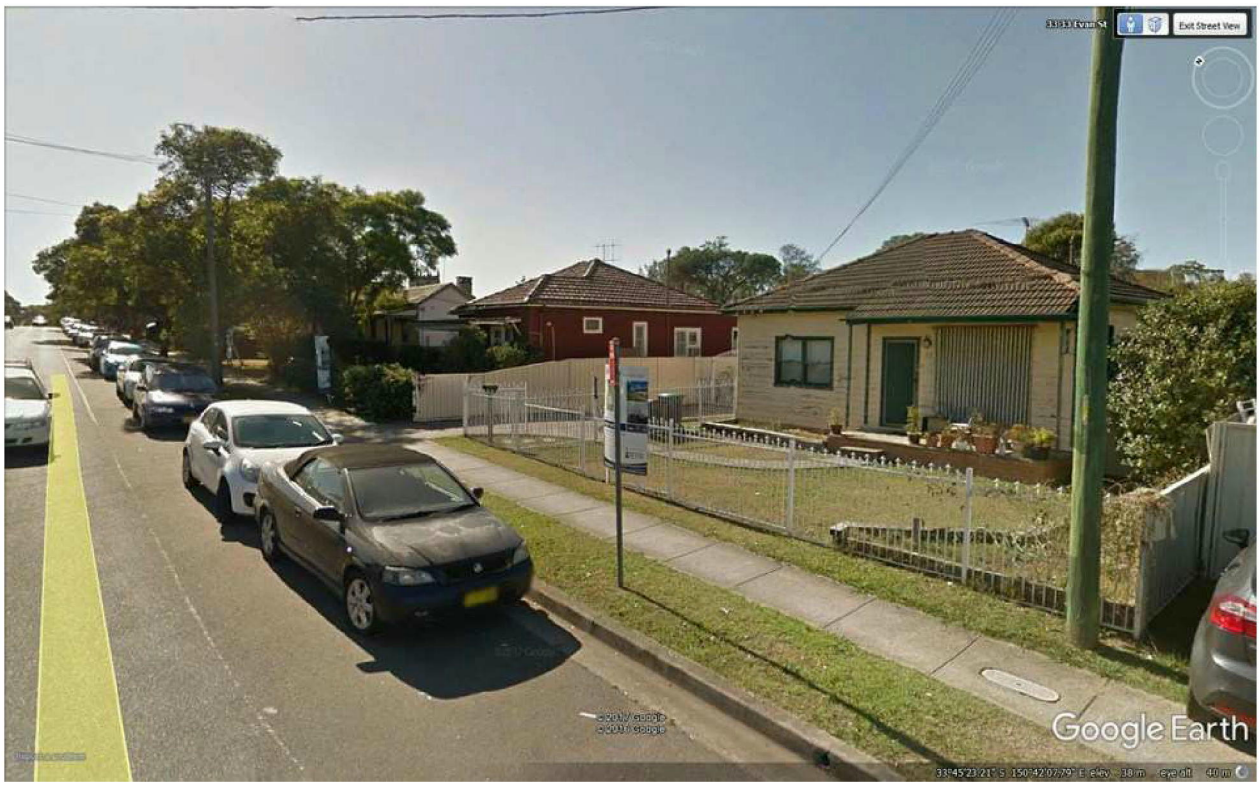

Figure 2 – *The site as viewed from Evan Street looking north*

Figure 3 – *The site as viewed from Evan Street looking south*

Figure 4 – *Residential development to the site's north*

Figure 5 – *34 Evan Street located to the site's east*

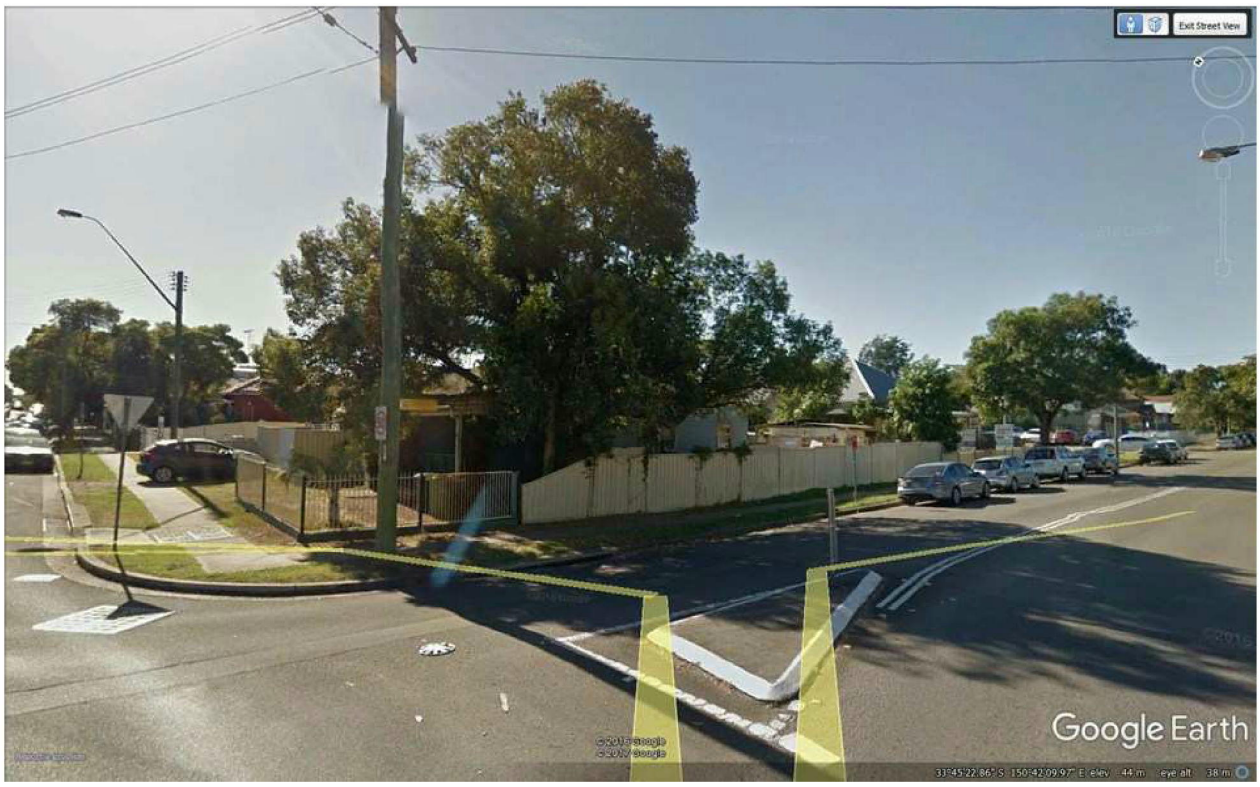

Figure 6 – *Residential development located to the site's south east*

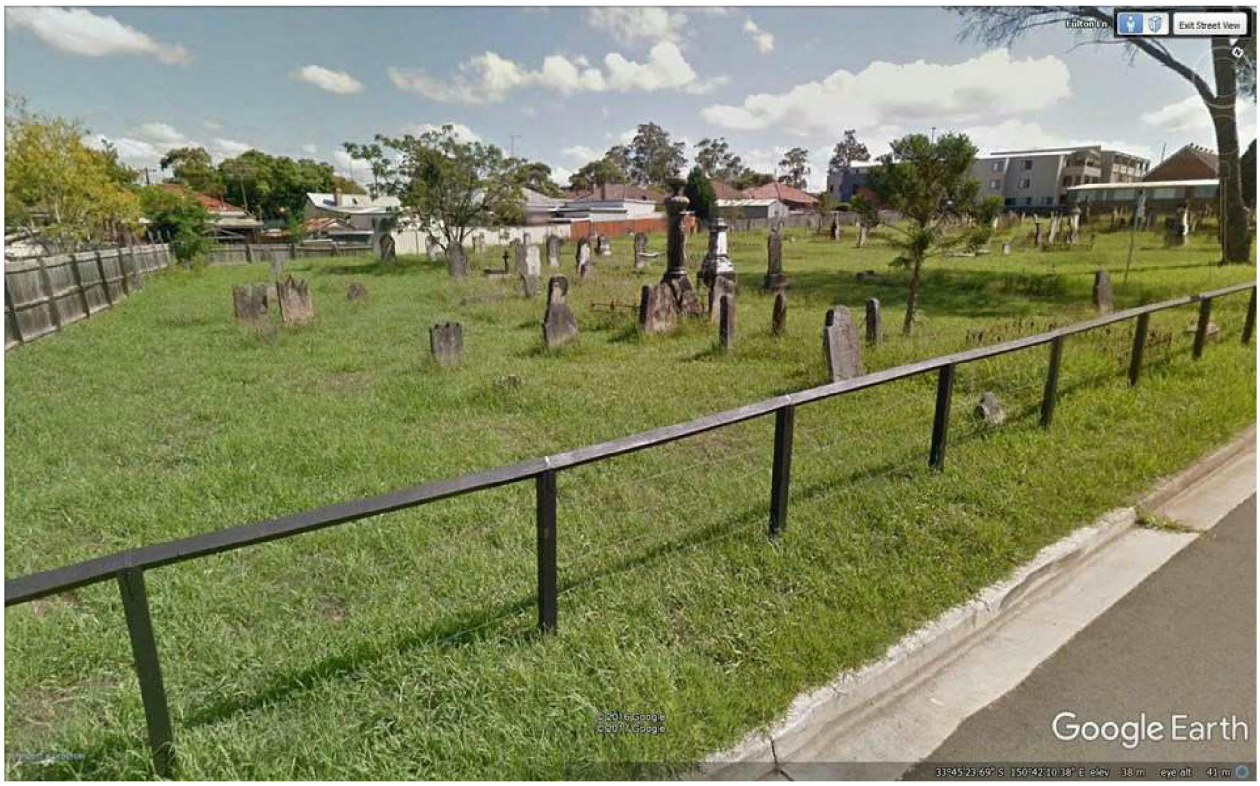

Figure 7 – *St Stephens Church, Hall and Cemetery located to the site's east*

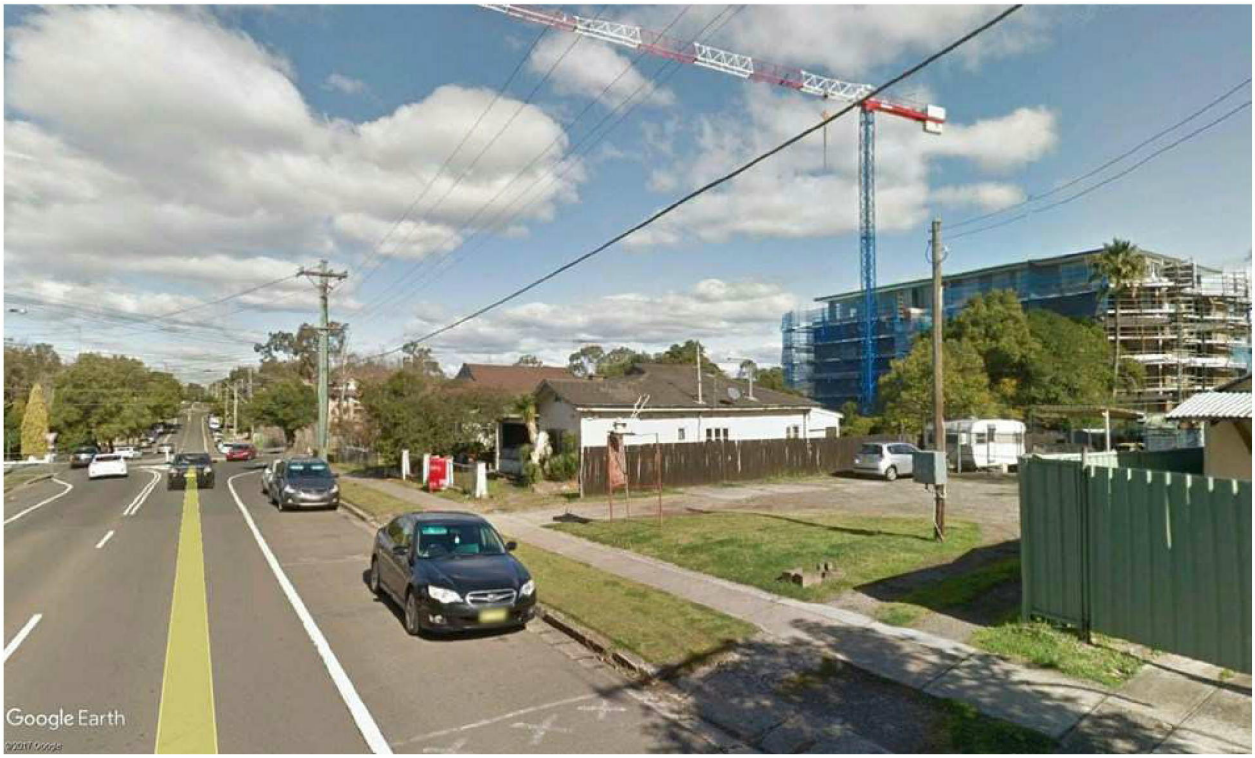

Figure 8 – *Residential development to the site's south west*

Figure 9 – *Residential development to the site's north west*

3.0 DESCRIPTION OF THE PROPOSAL

3.1 Overview

Pursuant to Section 80(1) of the Act, development consent is being sought for the following works at 28-32 Evan Street, Penrith:

- demolition of all existing structures and vegetation;
- excavation to RL 27.10 (Basement Level 3);
- a minimum habitable floor level of RL 36.40;
- a 6 storey building with two separate lobbies and lifts;
- 54 residential strata apartments in a mix of 1, 2 and 3 bedroom configurations (including adaptable apartments);
- 71 car parking spaces (including visitor and disabled) and 14 bicycle spaces within a three-level basement car park;
- singular vehicular access and egress driveway via Evan Street;
- upgrade of the site's infrastructure/utilities (including a new electricity substation); and
- landscaping and site works.

Architectural Drawings of the proposal by Marchese Partners are submitted separately. Marchese Partners has provided all calculations, which are based on the definitions in the relevant planning documents as referenced in the applicable footnote.

3.2 External materials and finishes

Marchese Partners has prepared a swatch of the proposed external materials and finishes for the proposal. They are contained within the architectural drawings submitted separately. The elements of the building will be reflected in a selection of materials and colours consistent with the proposed built form. The proposed building design creates a rectilinear aesthetic. Strong proportions are counter-pointed by feature panels of different materials and colour. The building is highly articulated.

The high quality and durable external materials and finishes are considered to positively add to the character of the surrounding locality which will undergo a substantial transition period from single dwellings to medium and high density residential apartment buildings.

3.3 Utilities

The utility services available to the site including electricity (including a new electricity substation), telecommunications, sewer and stormwater may require some augmentation. It is not anticipated that the proposal will have an adverse impact on the provision or availability of these services.

3.4 Architectural design

Marchese Partners has provided the following architectural design statement in support of the proposal:

In conceptualising the development, the following issues have been identified as important design parameters and goals and have been carefully considered for the proposal;

1. *develop an attractive and modern residential development providing a mix of apartment types and sizes all provided with excellent natural light and amenity;*
2. *the design provides appropriate on site communal open spaces landscaped for the use of the residents;*
3 *a group of landscape pockets are included in the design on the rooftop of the development in order to provide an opportunity for activity to encourage interaction between residents; and*
4 *basement car parking is created fully underground; therefore it doesn't have a visual impact from the street.*

The proposal

The site on Evan St represents a unique opportunity to deliver a well designed residential development that provides for 54 apartments. All units will be of high quality with excellent amenity in close proximity to retail and transport.

The design has been informed by fundamental design principles that have been applied to the current proposal. These include design principles of context, built form and scale, density, sustainability, landscape, amenity, diversity, safety, social interaction and aesthetics. These principles translate to the following design elements that are incorporated into the current design:

- *an impressive arrival point;*
- *communal facilities at the top of the building;*
- *community interaction;*
- *good common, open recreational spaces – landscape pockets; and*
- *well planned modern accommodation with excellent amenity.*

Aesthetics

A concise palette of materials has been carefully selected and implemented creating a warm tactile contemporary building sympathetic to the area the site is located within.

The facades are articulated to break up the form and massing achieving a humanistic scale. The subtly articulated building offers a delicate façade to Evan Street.

The overall design of the building, ground floor and roof garden areas will deliver a project that has far reaching benefits to the future residents of the development and to the wider Penrith community.

Photomontages of the proposed built form are provided overleaf at **Figures 10** and **11**.

Figure 10 *– Photomontage of the proposed built form as viewed from Evan Street*

Figure 11 *– Photomontage of the rear of the proposed built form as viewed from within the cemetery*

3.5 Apartment mix

A total of 54 residential apartments are proposed. The mix of apartments is as follows:

- 1 x studio apartment (2%)
- 29 x 1 bedroom apartment (54%);
- 20 x 2 bedroom apartment (37%); and
- 4 x 3 bedroom apartment (7%).

A total of 5 apartments (9%) are capable of being adapted for use by people with disabilities. These apartments are shown nominated on the Architectural Drawings by Marchese Partners submitted separately.

Each apartment is provided with a balcony and/or terrace (principal area of private open space) which is directly accessible from a primary living room and can serve as an extension to the primary living room(s). Some apartments are also provided with balconies accessed from secondary living spaces (bedrooms). In addition, each apartment is also provided with areas of dedicated storage space. The size of the storage space is commensurate with the size of the apartment to which it is allocated. A schedule of each apartment's quantum of storage area is provided within the Architectural Drawings by Marchese Partners submitted separately.

3.6 Building height

Section BB at **Figure 12**, demonstrates the proposed development as measured from ground level existing[1] has a maximum building height[2] of 21.881 metres (RL 58.70 to the top of the lift overrun). It is noted the built form's height at parapet has a height of just over 19.098 metres. and 19.106 metres All habitable accommodation is contained within the 18 metre height standard.

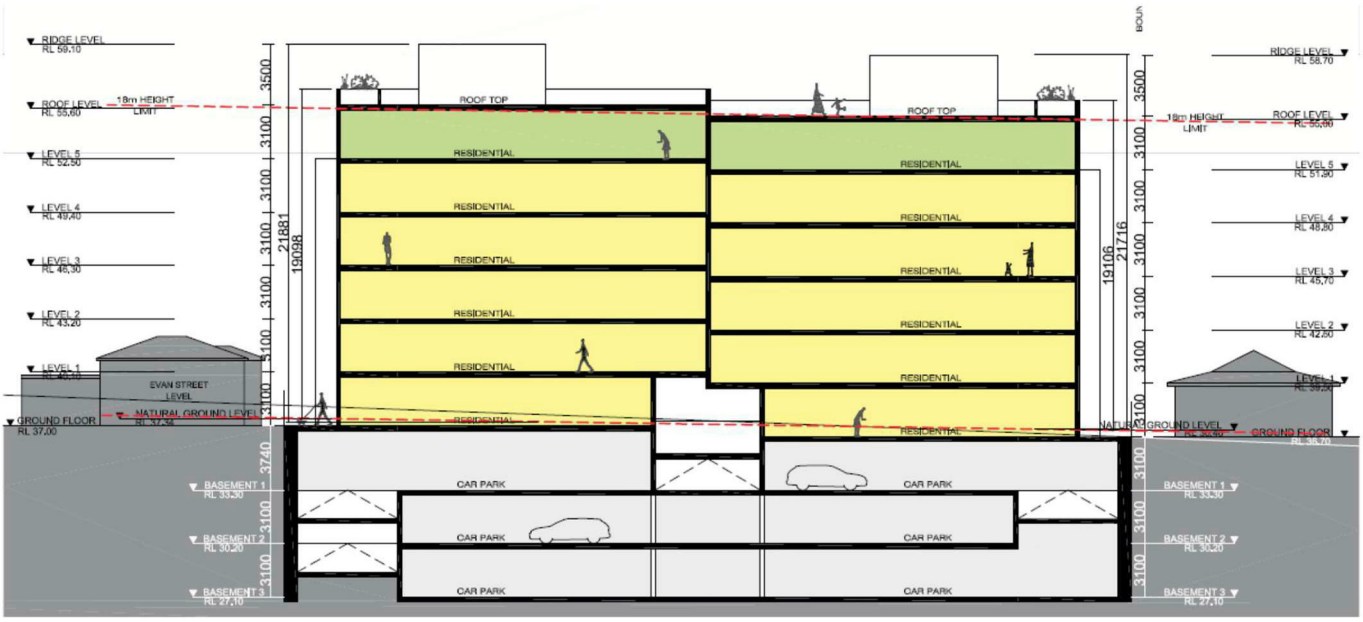

Figure 12 – *Section B demonstrating the proposal's varied maximum building height*

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[1] *Pursuant to the Dictionary in LEP 2010,* ***ground level (existing)*** *means the existing level of a site at any point.*

[2] *Pursuant to the Dictionary in LEP 2010,* ***building height*** *means:*

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

3.7 GFA and FSR

The proposed development has a gross floor area (GFA)[3] of 4,694m^2 which equates to an FSR[4] of 2.88:1.

3.8 Site coverage, landscaped open space, private and communal open space

The proposed development:

- has 745m^2 or 46% site coverage. This is based on a 'ground level' building footprint. It is noted the basement extends across most of the site; and
- is provided with 415m^2 or 25% of the site as landscaped area[5]. This calculation includes ground floor level areas that are landscaped, despite being located above the basement. A total of 3.8% of the site comprises a 'true' deep soil zone. This is located at the site's Evan Street frontage.

A total of 834.7m^2 of private open space has been provided. It is provided for each apartment in the form of balconies/terraces or private gardens which are directly accessible from primary living areas. They are therefore able to serve as an extension to these rooms and have a purposeful functionality. A schedule of each apartment's private open space is provided within the Architectural Drawings by Marchese Partners submitted separately. Communal open space is provided at both the ground floor level (70m^2) and at the rooftop level (720m^2).

Site Image has prepared detailed Landscape Plans with Species Lists (submitted separately) for the proposed development. The ground floor level landscape plan is provided at **Figure 13,** the Level 5 landscape plan is at **Figure 14** and the rooftop communal open space landscape plan is provided at **Figure 15**.

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[3] *Pursuant to the Dictionary in LEP 2010,* ***gross floor area*** *means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*

(a) the area of a mezzanine, and
(b) habitable rooms in a basement or an attic, and
(c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

(d) any area for common vertical circulation, such as lifts and stairs, and
(e) any basement:
(i) storage, and
(ii) vehicular access, loading areas, garbage and services, and
(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
(g) car parking to meet any requirements of the consent authority (including access to that car parking), and
(h) any space used for the loading or unloading of goods (including access to it), and
(i) terraces and balconies with outer walls less than 1.4 metres high, and
(j) voids above a floor at the level of a storey or storey above.

[4] *Pursuant to Clause 4.4(2) of LEP 2010, the* ***floor space ratio*** *of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

[5] *Pursuant to the Dictionary in DCP 2014,* ***landscaped open space*** *means that part of the site not occupied by any building(s), (except swimming pools or open air recreation facilities), which is predominantly landscaped by way of planting of gardens, lawns, shrubs or trees and is available for the use and enjoyment of the occupants of the dwelling(s) erected on the site, but does not include the area used for driveways, parking areas or drying yards.*

Figure 13 – *Ground level landscape plan*

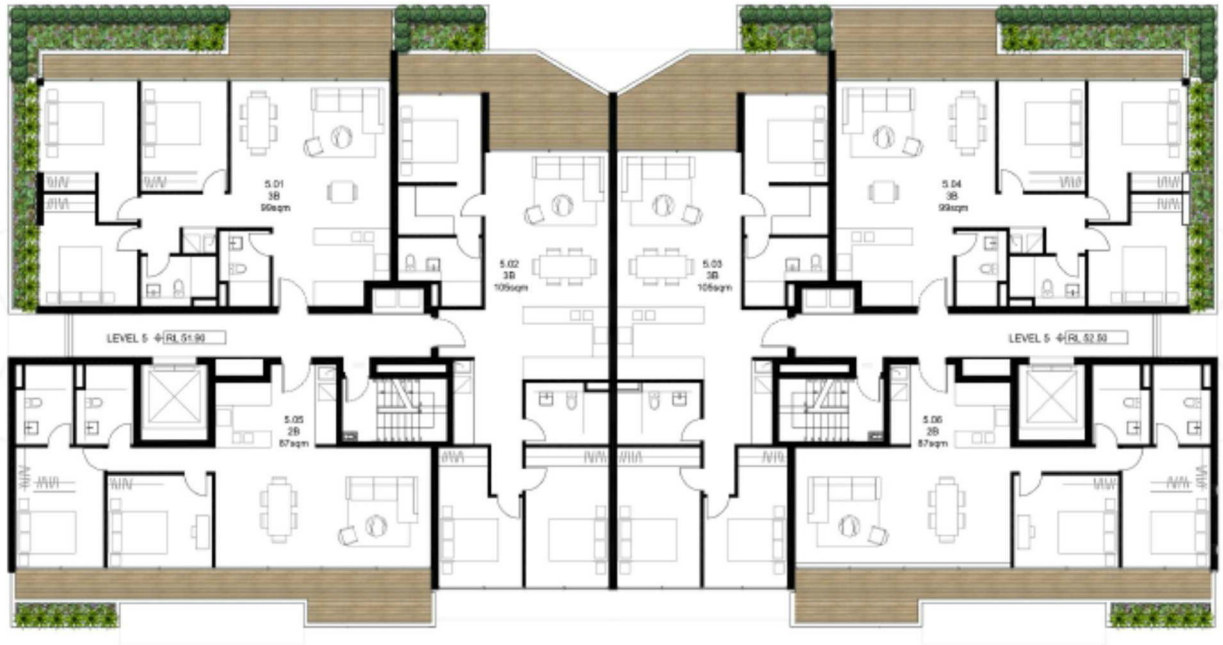

Figure 14 – *Level 5 landscape plan*

Figure 15– *Rooftop communal open space landscape plan*

3.9 Setbacks

Proposed setbacks are as follows:

- minimum of 5.8 metres to Evan Street (western boundary) at the ground floor and Levels 1 to 5;
- ranging from 4.6 metres to 6.4 metres to the rear (eastern) boundary at the ground floor and Levels 1 to 4;
- predominantly 3 metres at the ground floor and Levels 1 to 4 to both the northern and southern boundaries. An articulation zone to each boundary reduces the setback to 2 metres;
- 3 metres at Level 5 to both the northern and southern boundaries;
- ranging from 5.8 metres to 7.4 metres at Level 5 to the rear (eastern) boundary;
- 6 metres at Level 5 to Evan Street (western boundary);
- ranging from 2 metres to 3 metres at the rooftop level to the northern and southern boundaries;
- ranging from 6 metres to 7 metres at the rooftop level to the rear (eastern) boundary; and
- 7.2 metres at the rooftop level to Evan Street (western boundary).

3.10 Car parking, access and design

3.10.1 Car parking and bicycle parking

A total of 71 car parking spaces (including 6 accessible) and a minimum of 14 bicycle spaces are proposed within the three level basement car park. Unrestricted car parking spaces are also available on the surrounding local street network.

3.10.2 Access and design

Vehicular access to the car parking facilities is to be provided via a new entry/exit driveway located approximately mid-way along the Evan Street site frontage.

Garbage collection is expected to be undertaken by Council's waste contractor using a 10.5m long rigid truck. A dedicated loading/servicing bay is proposed on the ground floor level, indented into the site adjacent the western site boundary, and will be accessed directly from Evan Street. The proposed loading/servicing bay will also be equipped with carwash facilities allowing it to be used as a carwash bay outside of garbage collection times.

The geometric design layout of the proposed car parking facilities has been designed to comply with the relevant requirements specified in the Standards Australia publication *Parking Facilities Part 1 - Off-Street Car Parking AS2890.1* in respect of parking bay dimensions, ramp gradients and aisle widths.

3.11 Flooding

Part of the site is classified as being floodprone. Council's CBD Overland Flow Flood Study confirms that 100yrARI flooding is possible around 400 metres from the site along Lethbridge Street. Council has advised the 100 yrARI flood level is RL 35.9.

The site is elevated above this with an average RL of 37 which is more than 1 metre above the 100yrARI flood level. The ground floor level varies from RL 36.4 and RL 37.

The proposal will not be affected by overland flow or inundation flooding in the 100 year ARI storm and Council's flood planning guidelines do not apply.

3.12 Stormwater

Stormwater Drainage Plans and a Stormwater Drainage Report by Bekker (submitted separately) have been prepared in accordance with Council's standard practices and guidelines. For the stormwater management system (**SMS**) it is proposed to provide a concrete on site detention (**OSD**) storage system constructed below ground level adjoining the site's front boundary.

The total stormwater discharge from the OSD will be restricted by a slow release orifice plate in the tank which will drain to a boundary pollution control pit at the site's Evan Street frontage. From there the stormwater will drain directly into the existing gully pit located in Evan Street. The boundary pollution control pit will contain a trash screen and a silt trap.

The OSD tank location allows collection of all rainwater from roofs, pervious and paved areas plus the courtyards. The OSD tank is to be built in an irregular shape of concrete walls with approximate dimensions of 22m L x 2.5m W x 0.6m depth of water providing 40m^3 of storage with a minimum of two 600 x 600 access openings located in the top of the tank to provide maintenance access.

Discharge from the tank will be controlled via the use of a machined orifice plate of 100mm diameter installed over the 150mm diameter discharge pipe draining by gravity directly to the new pollution control pit at the boundary.

Should an unexpected blockage of the OSD tank system occur the emergency overflow will drain through two 100mm diameter emergency overflow pipes into the new pollution control pit at the boundary. The new pollution control pit at the boundary will drain via a 225mm diameter pipe directly into the existing Council drainage pit located in the kerb adjacent to the boundary pit.

Basement seepage waters will be collected by a series of AG lines and in ground pipes and pumped from the lowest basement up into the boundary discharge pit.

OSD bypass rainwater from other pervious areas will also drain directly to the new boundary pollution control pit.

3.13 Waste management

Foresight Environmental has prepared a Demolition and Construction Waste Management Plan (submitted separately) in accordance with Council's standard practices and guidelines.

Elephants Foot has prepared an Operational Management Plan (submitted separately) for the proposal. The report advises the following in relation to the estimated volume (L) of garbage and recycling generated by the proposal:

Table 2: Calculated Waste Generation – Residential

Building/ Core	# Units	Garbage Generation Rate (L/unit/week)	Generated Garbage (L/week)	Recycling Generation Rate (L/unit/week)	Generated Recycling (L/week)
Core A	27	120	3240	120	3240
Core B	27	120	3240	120	3240
TOTAL	54		6480		6480
Collections & Equipment		Garbage Bin Size (L)	1100L	Recycling Bin Size (L)	1100L
		Garbage Collections per Week	2	Recycling Collections per Week	1
		Total Garbage Bins Required	6	Total Recycling Bins Required	8
Waste Rooms		Chute Discharge Equipment	*2 x 2Bin Linear Track Systems for each waste discharge room*		
		Discharge and Storage Room	*Recommended Room size for each waste discharge room - 25msqr*		

The following is noted in relation to on-going waste management:

- Household waste:
  - two (2) garbage chutes and 2 recycling chutes will be installed with access provided on all residential levels of each core;
  - garbage discharges into 1100L MGBs placed on linear tracks and recycling (comingle) into 1100L MGBs placed on linear tracks. The discharge for Core A is in the 24m^2 waste room at Basement Level 1 and the discharge for Core B is in the waste room at the ground floor level. This garbage and recycling is not compacted;
  - residents residing on the ground level of Core A (no chute access) will be required to manually dispose of their garbage and recyclables into 240L MGBs located into the separate waste compartment adjacent to the waste room;
  - on collection days, full garbage and recycling bins from the Core B waste room will be transferred by the bin hoist to the waste room on the ground level. Council will service all MGBs via the designated service vehicle slip lane – off Evan Street;
- Common areas:
  - the lobbies, amenities and circulation areas will be supplied with suitably branded waste and recycling bins where considered appropriate. These areas generate minimal waste, however garbage and recycling receptacles should be provided and located in convenient locations;
  - washroom facilities should be supplied with collection bins for paper towels (if used). Sanitary bins for female restroom facilities must also be arranged with an appropriate contractor;

- General waste (garbage):
  - residents will be supplied with a collection area in each unit to deposit garbage and collect recyclable material suitable for one day's storage. This is typically located generally in the kitchen, under bench or similar alternate area. Residents should wrap or bag their garbage; bagged garbage should not exceed 3kg in weight or 35cm x 35cm x 35cm in dimension;
- Recycling:
  - recycling must not be bagged. It is recommended that residents use a crate or dedicated bin for collecting recyclables within the allocated residential space provided to ensure correct separation;
  - cardboard furniture boxes or large cardboard containers should not be included in the garbage chute – a cardboard collection bin will be made available to residents to deposit flattened cardboard and will be managed by the waste caretaker. Residents should be advised of the location of these bins by building management;
- Green waste:
  - green waste is not typically generated from multi-unit dwellings other than from surrounding building landscaped areas and is removed by the designated maintenance contractor. Should green waste be produced (i.e. trimming of indoor or balcony plants), it may be disposed of via coordination with the building caretaker or cleaner. Very small quantities may be disposed of via the general waste stream.
- Bulky goods:
  - an 8m^2 room is at ground level and is adjacent the ground level 25m^2 garbage/recycling room. It is available for the storage of discarded residential bulky items (e.g. whitegoods, furniture, etc.);
- Movement and transportation of bins:
  - the building manager/waste caretaker is responsible for the transportation of bins from their designated operational locations to their respective collection room/areas prior to scheduled collection times, and returning them once emptied to resume operational use.
  - transfer of waste and all bin movements require minimal manual handling; the operator must assess manual handling risks and provide any relevant documentation to building management;
- Collection of waste:
  - on collection days, the building caretaker will transfer all MGBs from the Core B waste room to the Core A waste room, via the bin hoist;
  - Council collection vehicle will pull up into the designated service vehicle slip lane via Evan Street and will service all MGBs via a wheel-in/wheel-out arrangement;
  - once serviced, the building caretaker will transfer all MGBs back to their allocated storage locations.
- Collection area:
  - where the collection area will be secured, the locking mechanism installed must be an Abloy system employed by Council. Council will provide (at the applicant's cost), the installation of the locking system and the supply of keys.

3.14 BCA compliance

City Plan Services has prepared a BCA Compliance Assessment Report (submitted separately) for the proposal. In relation to the BCA, the following is noted:

- the development is Class 2 (apartments) and 7a (car parking);
- the building has a rise in storeys of seven;
- the effective height is 19.2 metres; and
- Type A construction.

Based on the above, Marchese Partners has prepared the Architectural Drawings (submitted separately). Subject to detailed design as part of the CC process, the proposed built form is capable of compliance with the relevant requirements of the BCA.

4.0 STATEMENT OF ENVIRONMENTAL EFFECTS

The following is our assessment of the environmental effects of the proposed development as described in the preceding sections of this report. The assessment includes only those matters under Section 79C(1) that are relevant to the proposal as identified in **Table 1**.

Table 1 – *Section 79C Checklist*

Matter for Consideration	Comment
– Provisions of relevant Environmental Planning Instruments	– Refer to Sections 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5 and 4.1.6.
– Provisions of relevant Draft Environmental Planning Instruments	– N/A
– Provision of relevant Development Control Plans	– Refer to Sections 4.1.7 and 4.1.8.
– Provisions of relevant Planning Agreements	– N/A
– Any matters pursuant to the Regulations	– N/A
– Provisions of any relevant Coastal Management Plans	– N/A
– The likely impacts of the development	– Refer to Section 4.2.
– The suitability of the site for the development	– Refer to Section 4.3.
– Any submission made in accordance with the Act or the Regulations	– Refer to Section 4.4.
– The public interest	– Refer to Section 4.5.

4.1 S.79C(1)(a) Statutory considerations

The following environmental planning instruments and development control plan are relevant to the proposal:

- State Environmental Planning Policy (State and Regional Development) 2011 (**SEPP 2011**);
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (**BASIX**);
- State Environmental Planning Policy (Infrastructure) 2007 (**Infrastructure SEPP**);
- State Environmental Planning Policy No. 55: Remediation of Land (**SEPP 55**);
- State Environmental Planning Policy No. 65: Design Quality of Residential Apartment Development (**SEPP 65**);
- Penrith Local Environmental Plan 2010 (**LEP 2010**);
- Penrith Development Control Plan 2010 (**DCP 2010**); and
- SEPP 65 Apartment Design Code (**SEPP 65 ADG**).

An assessment of the proposal's compliance with the relevant provisions of these plans follows.

4.1.1 SEPP 2011

A development cost of $22,600,000 is proposed. Clause 3 in Schedule 4A of the Act provides that general development with a value/cost of more than $20 million must be determined by the relevant SWPP, pursuant to the provisions of Section 23G (4) and Clause 21.

4.1.2 BASIX

BASIX applies to the proposal[6], therefore the Environmental Planning and Assessment Regulation 2000 requires a BASIX Certificate to accompany the DA. A BASIX Certificate and NatHERS Certificate by Eco Certifiers is submitted separately. The certificate demonstrates the proposal's compliance with the relevant thermal, water and energy requirements of BASIX as follows:

- 40 for water (target 40);
- pass for thermal comfort (target pass); and
- 28 for energy (target 25).

4.1.3 Infrastructure SEPP

The relevant (and only those specifically relevant to the proposal) clauses of the Infrastructure SEPP are addressed below.

Clause 104 – Traffic generating development

Pursuant to Clause 104, where a consent authority receives an application to carry out development specified in Schedule 3, the consent authority shall, within 7 days of its receipt of the application, forward a copy of the application to the Traffic Authority.

The proposal does not qualify as a development with relevant size or capacity under Clause 104 of the Infrastructure SEPP. Furthermore, it is does not have an access driveway either on to (or within 90m of) a classified State Road under the care and control of the Roads and Maritime Services (**RMS**), and is therefore not required to be referred to the RMS for its consideration.

4.1.4 SEPP 65

SEPP 65 came into force on 26 July 2002. The relevant provisions of SEPP 65 are addressed below.

Clause 4 – Application of policy

Clause 4 of SEPP 65 states:

'(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) The development consists of any of the following:

(i) the erection of a new building, and

(ii) the substantial redevelopment or the substantial refurbishment of an existing building, and

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[6] *Pursuant to the Environmental Planning and Assessment Regulation 2000, a **BASIX affected building** means any building that contains one or more dwellings but does not include a hotel or motel.*

(iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

The provisions of SEPP 65 apply to the proposal as the new building is 6 storeys in height and is provided with 54 apartments.

Clause 6A – Development control plans cannot be inconsistent with the Apartment Design Guide

(1) This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:

(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.

(2) If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

(3) This clause applies regardless of when the development control plan was made.

The provisions of Clause 6A of SEPP 65 are noted. The proposal is consistent with the requirements of the Apartment Design Guide (see Section 4.1.9 for further information).

Clause 28 – Determination of DA's

Clause 28 requires the consent authority to refer an application to the design review panel for their review and comment. The design review panel has 14 days in which to provide comment or otherwise the consent authority can determine the DA without considering any advice from the panel.

The consent authority is to take into consideration the following:

- the advice (if any) received from a design review panel;
- the design quality of the development when evaluated in accordance with the design quality principles; and
- the Apartment Design Guide.

The requirements of the design review panel are noted. An assessment of the proposal against the Apartment Design Guide is contained at Section 4.1.8.

A Design Verification Statement and detailed Design Report (a statement prepared by a qualified designer Clauses 50(1A) and (1AB) of the Regulations 2000), prepared by Steve Zappia of Marchese Partners are

submitted separately. The Design Report provides an explanation of the design in the context of the design quality principles of SEPP 65 and demonstrates how the objectives in Parts 3 and 4 of the SEPP 65 ADG have been achieved.

This Statement, together with the supporting information, provides the additional information required under Clause 2(5) of Schedule 1 to the Regulations 2000. It also allows for the evaluation of the proposal in accordance with Clauses 28(2) and 30(2) of SEPP 65.

The Marchese Partners assessment of the proposal against the design quality principles of SEPP 65 follows below:

Principle 1 – Context and Neighbourhood Character

The site is located at 28-32 Evan Street, Penrith. The project site is located adjacent to single story residences to the north and south, plus a cemetery to the east. The proposed site currently contains 3 single story residences.

The proposed building conforms to the desired future character of the neighbourhood as outlined in the Penrith DCP.

Principle 2 – Built Form and Scale

The new development will be in keeping with the proposed character as defined in Penrith DCP. The new building will consist of a total six levels including the ground level. Facades provide articulation to the main central single level lobby area that provides a breaking up the form and massing to achieve a humanistic scale.

There are a number of elements that have been developed to give the building a sculpted form to delight the eye. Balconies and balustrades, screen, façade, vertical and horizontal material choices, push, pull, extend and recede to create a changing rhythm both horizontally and vertically along the face of the building.

The proposed development will be of a modern design articulated both in massing and materials. It comprises of one building that present a six story frontage on the western façade facing the street.

The building conforms to a shape that is orientated west, facing the street, whilst as the same time provides articulation that works in conjunction with the massing, glazing and landscape elements shaped to give emphasis.

Strong vertical elements help to anchor the building to the ground whilst provide a sequential face to the street. Same glazed pattern wraps internally defining all activity spaces and linking them with the surrounding landscaped communal areas.

Principle 3 – Density

The proposal would provide for 54 high quality apartments. The apartments as a group are consistent with the SEPP65/ADG requirements for relevant design criteria including ceiling height, solar access and cross ventilation.

The increased size of these apartments allows for a reduction in its number.

The development proposes a Floor Space Ratio that is similar to that permitted in the locality.

Principle 4 - Sustainability

The development will seek appropriate implementation of sustainable principles including water and energy reductions through installation of water efficient fixtures, energy efficient light fittings and appropriate thermal mass of construction materials. A BASIX Certificate has been prepared confirming that the proposed buildings would achieve target marks for water use, thermal comfort and energy.

Stormwater is managed and partially recycled on site and deep soil zones are maximized within the constraints of the site.

Principle 5 – Landscape

The proposal includes an integrated landscape scheme that creates a contemporary landscape setting for the development. Best practices including water sensitive urban design and maximization of deep soil zones are incorporated in the scheme and these contribute significantly to the sustainability of the proposal.

A well designed communal open space with landscape pockets is provided at rooftop level enhancing the opportunities for social interaction.

The landscape scheme will be a major contribution to the development.

Principle 6 – Amenity

The development will provide a variety of apartment types for a wide range of people of varying incomes. The development is located a short distance from a bus stop and several arterial roads making access to the surrounding areas of the city easy.

The architectural design incorporates internal and external design elements to achieve a high quality development. Internal building separation will ensure privacy and adequate solar access both internally and to adjacent sites is achieved.

The singular shape of the building enhances the eastern and western views to the apartments enhancing the solar access and amenity to the maximum number of units.

The design of the apartments will provide residents with a variety of apartment styles offering housing choice and high quality of amenity through the incorporation of wide frontages, good natural light, cross ventilation and good solar access, acoustic and visual privacy as views and outlook.

All units to be provided with generous balconies or gardens.

Principle 7 - Safety

A number of security measures will assist in providing a secure building. Lobbies and lifts will be accessed by security swipe keys at all times. They will be well lit 24 hours a day, and will be surveyed by close circuit television cameras. A security intercom system will also be provided to ensure all visitors are screened by the occupant before being granted access.

The singular building shape of the building enhance the extension and exposure of the which will provide natural surveillance to the front street and back cemetery.

The development has been designed to ensure a high level of legibility with clear definition of public, semi-private and private spaces and maximum opportunities for passive surveillance.

Principle 8 – Housing Diversity and Social Interaction

The types and sizes of apartments proposed within the development will provide potential residents with a choice of apartment styles, sizes, and affordability. The apartments suit the demographic required for a residential development in Penrith.

All apartments are provided with balconies.

This proposal is in proximity to employment opportunities and communal and retail amenities.

Principle 9 – Aesthetics

The proposed development will be of a modern design that is articulated both in massing and materials to achieve a human scale in keeping with the future intent, as described and defined in the Penrith Council DCP.

There are a number of elements that have been developed to give the building a sculpted form to delight the eye. Balconies and balustrades, façade, and planter boxes, as well as the terrace walls, push, pull, extend, and recede to create a changing rhythm both horizontally and vertically along the face of the building. Textures and colours of materials are subtly blended to add variety and visual interest. The play of the planters and foliage will create a wonderful mixture of sensuous visual and olfactory delights to engage the residents as well as passers by all through the day and night.

The shape of the building provides a sequence of vertical elements that help to articulate the façade whilst it anchors the building to the ground. Consideration has been given to the solid void ratio so that the building does not create a "solid vertical wall" presence along the street edge. Opportunities have been taken to create surprise vistas through and into this area and define communal areas for gathering. All of these elements combine into a rich complex that will become an asset to Penrith.

Clause 30 – Standards that cannot be used as grounds to refuse development consent or modification of development consent

(1) If an application satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,

The proposal satisfies Clause 30(1)(a) of SEPP 65 as it meets Design criterion 1 in Part 3J of the ADG in relation to resident and visitor parking. Under the *Guide to Traffic Generating Developments*, the proposal would be categorised as a 'high density residential flat building' as it contains 20 or more dwellings, is more than five storeys and has basement car parking. For that category of development, the rates most applicable to the proposal are those for 'metropolitan subregional centres'. The site is approximately 850 metres from the Penrith Railway Station. Under those rates, the proposal based on its apartment mix would generate a requirement for a minimum of 53 spaces (which is less than that required Council's parking guidelines). The proposal provides a total of 71 spaces.

(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,

The proposal satisfies Clause 30(1)(b) of SEPP 65 as the internal area of each of the apartments is greater than the recommended minimum internal area for the relevant apartment types specified in Part 4D of the ADG.

(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

The proposal generally satisfies Clause 30(1)(c) of SEPP 65 as the proposed ceiling heights are greater than or equal to the recommended minimum ceiling heights specified in Part 4C of the ADG except for the first floor which has a floor to ceiling height of 2.7m (consistent with the requirement for residential habitable rooms) rather than the recommended 3.3m. This is considered satisfactory given the proposed residential use of the first floor of the proposed building.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

(a) the design quality principles, and

(b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

The above is noted. Accordingly, the proposal is considered to satisfy the requirements of SEPP 65 and the ADG. It represents a high quality development which will make a positive contribution to the character and public domain of Penrith through the creation of a contemporary and dynamic development which will provide a benchmark for architectural design in the locality.

4.1.5 SEPP 55

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether it is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Generally land contamination is most often the result of past uses. A planning authority is to consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. Decisions must then be made as to whether the land should be remediated, or use of the land restricted, in order to reduce the risk.

The SEPP 55 guidelines state that as an indicator of potential contamination, an initial evaluation of the history of land use of a site is essential to determine whether contamination is an issue. The initial evaluation can be based on readily available information. Where there is no reason to suspect contamination after acting substantially in accordance with the guidelines, the proposal may be processed in the usual way.

The following assessment has been undertaken substantially in accordance with the initial evaluation process contained in the SEPP 55 guidelines. To our knowledge, no previous investigations of contamination on the land have been undertaken. Also to our knowledge:

- the land is currently occupied by three dwelling houses and has not in the past, been regulated through licensing or other mechanisms in relation to any activity listed in Table 1 of the SEPP 55 guidelines;
- there are no land use restrictions on the site relating to possible contamination, such as notices issued by any regulatory authority.
- the site is zoned R4 High Density Residential pursuant to the provisions of LEP 2010 and has been zoned for the same, or similar purpose for many years. Although a range of development is permissible with consent in the R4 High Density Residential zone, to our knowledge, the land has not at any time been specifically zoned for an industrial or agricultural purpose.

It has long been agreed that the issue of contamination can adequately addressed (rectified) at an appropriate time. It is not an impediment to the redevelopment of a property other than for economic grounds. However, as the economic impact to an owner/developer is not a relevant consideration for Council, and having regard to the above, it is assessed that the site is suitable for its intended high density residential apartment building land use and further site investigations are not warranted.

4.1.6 LEP 2010

The provisions of LEP 2010 specifically relating to the proposal are addressed below in **Table 2**.

***Table 2**- Compliance with LEP 2010*

Clause	Requirement	Proposal/Compliance
Cl. 2.2 – Zoning of land to which plan applies	– Pursuant to Clause 2.2 and the accompanying land use map, the site is zoned R4 High Density Residential.	√ Noted.
Cl. 2.3 Zone objectives and land use table	– The following development is permitted with consent in the R4 High Density Residential zone: *Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Home-based child care; Home businesses; Information and education facilities; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor);* ***Residential accommodation****; Respite day care centres; Roads; Shop top housing (****my emphasis****)*	√ The proposed residential flat building[7] is permissible with development consent as it is contained within the overarching residential accommodation[8] land use.

[7] *Pursuant to the Dictionary in LEP 2010,* ***residential flat building*** *means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

[8] *Pursuant to the Dictionary in LEP 2010,* ***residential accommodation*** *means a building or place used predominantly as a place of residence, and includes any of the following:*

(a) attached dwellings,
(b) boarding houses,
(c) dual occupancies,
(d) dwelling houses,
(e) group homes,
(f) hostels,
(g) multi dwelling housing,
(h) residential flat buildings,
(i) rural workers' dwellings,
(j) secondary dwellings,
(k) semi-detached dwellings,
(l) seniors housing,
(m) shop top housing,

but does not include tourist and visitor accommodation or caravan parks.

Clause	Requirement	Proposal/Compliance
	– The objectives of the R4 High Density Residential zone are: - to provide for the housing needs of the community within a high density residential environment. - to provide a variety of housing types within a high density residential environment. - to enable other land uses that provide facilities or services to meet the day to day needs of residents. - to ensure that a high level of residential amenity is achieved and maintained. - to encourage the provision of affordable housing. - to ensure that development reflects the desired future character and dwelling densities of the area.	√ The proposed residential flat building is consistent with the objectives of the R4 High Density Residential zone as it: - provides for high density residential development an expected built form and land use on a high density residential allotment of land; - replaces an existing inconsistent land use (three, single dwellings, a low residential density built form) with a high density residential apartment building that is specifically consistent with the locality's desired future character; - provides an appropriate mix of housing choice for the community within an identified high density environment and desirable location; - provides a well designed high density residential development in proximity to services, amenities and facilities including the Penrith CBD and its surrounds; - provides a high level of residential amenity for the future occupants within a high quality and architecturally designed built form; - does not affect the amenity of the surrounding area (including adjacent landowners) or the natural or cultural heritage of the area; - does not propose any non-residential land uses but at the same time allows the occupants to work from home as/if required and does not preclude the opportunity for appropriate non-residential development; and - does not preclude the appropriate (for similar purposes) redevelopment of adjacent properties.
Cl. 2.7 – Demolition requires development consent	– Demolition requires development consent.	√ Consent is sought for the demolition of the existing dwelling houses and their surrounds.
Cl. 4.3 – Height of buildings	– 18 metre maximum building height.	X A maximum building height of 21.881 metres is proposed. Refer to the Clause 4.6 discussion below. An Exception to Development Standards submission by LPDS is submitted separately.

Clause	Requirement	Proposal/Compliance
Cl. 4.6 – Exceptions to development standards	– Consent may be granted for development which does not comply with a development standard imposed under LEP 2010. – Consent must not be granted for development which departs from a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the departure 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. – Consent must not be granted for development that departs from a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required above, 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.	√ Noted. The proposed built form departs from the Height of Buildings standard at Clause 4.3. Justification for the departure is contained in the Exception to Development Standards submission by LPDS submitted separately which demonstrates that: - compliance with the standard is unreasonable and unnecessary; - the proposal does not result in any material environmental impacts to adjoining and adjacent properties and the surrounding public domain; - the proposal is in the public interest; - the proposal is consistent with the relevant zone objectives; and - the proposal is consistent with the stated objectives of the standard.
Cl. 7.1 Earthworks	– Council is to consider the following: (a) the likely disruption of or adverse effect on drainage patterns and soil stability, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	√ Bekker has prepared Stormwater Drainage Plans in accordance with Council's standard policies and guidelines. √ The site is not known to contain any items of historical, aesthetic, social or cultural significance. √ Council can impose appropriate conditions of development consent to ensure the integrity of adjoining properties and building including: – a soil and erosion sediment control plan; – structural certificates; – dilapidation report; and – construction management plan. √ Refer to Section 4.2 for further information.

Clause	Requirement	Proposal/Compliance
Cl. 7.2 Flood planting	– The site is identified as being potentially floodprone.	√ Refer to Section 3.11. The Architectural Drawings (submitted separately) demonstrate that the minimum habitable floor level (ground) for the development is RL 36.4 which is above the minimum required.
Cl. 7.4 – Sustainable development	– Council is to have regard to ESD principles as they relate to the development based on a 'whole of building approach by considering each of the following: (a) conserving energy and reducing carbon dioxide emissions, (b) embodied energy in materials and building processes, (c) building design and orientation, (d) passive solar design and day lighting, (e) natural ventilation, (f) energy efficiency and conservation, (g) water conservation and water reuse, (h) waste minimisation and recycling, (i) reduction of vehicle dependence, (j) potential for adaptive reuse.	√ The proposed built form and its surrounds has had specific regard to appropriate ESD principles. Refer to Section 4.2 for further information.
Cl. 7.6 - Salinity	– Council is to consider: (a) whether or not the proposed development is likely to have an impact on salinity processes, and (b) whether or not salinity is likely to have an impact on the proposed development, and (c) appropriate measures that can be taken to avoid or reduce any undesirable effects that may result from the impacts referred to in paragraphs (a) and (b).	√ The site's underground conditions are unlikely to preclude the site's redevelopment. The site has been used continuously for the purposes of single dwellings for many years. Underground conditions have not impacted on the redevelopment (including excavation for basement car parking) of adjacent properties in the surrounding locality. Council can impose appropriate conditions of consent in this regard. Refer to Section 4.2 for further information.
Cl. 7.7 - Servicing	– Council is to be satisfied that: (a) the development will be connected to a reticulated water supply, if required by the consent authority, and (b) the development will have adequate facilities for the removal and disposal of sewage, and (c) if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and (d) the need for public amenities or public services has been or will be met.	√ The utility services available to the site including electricity (including a new substation), telecommunications, sewer and stormwater may require some augmentation. It is not anticipated that the proposal will have an adverse impact on the provision or availability of these services.

4.1.7 DCP 2014

An assessment of the proposal against the specifically relevant guidelines of DCP 2014 is addressed at **Table 3**.

Section 79C(3A) of the Act states:

If a development control plan contains provisions that relate to the development that is subject of a development application, the consent authority:

(a) if those provision set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and

*(b) if those provisions set standards with respect to an aspect of the development and the development does not strictly comply with those standards – **is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development**, and*

*(c) may consider those provisions only in connection with the assessment of that development application. (**our emphasis**)*

The proposal relies on some minor variations to DCP 2014. The proposal is consistent with development already permitted on adjacent land and under the circumstances, dispensation from strict adherence to the controls will enable a better outcome for the site. We also note that the insertion of new Sections 74C(1)(a) and 79C(3A) into the Act clarify that a DCP is only to act as a guideline, and that Council's are to be flexible and allow for alternative solutions where an application does not meet the applicable guidelines in a DCP.

***Table 3** – Compliance with DCP 2014*

Element	Control	Proposal/Compliance
Part C – City Wide Controls		
C1 Site Planning and Design		
Site analysis	– Detailed site analysis plan required.	√ Marchese Partners has prepared a site analysis plan (submitted separately). A written and photographic site analysis has also been undertaken at Section 2.
Energy efficiency and conservation	– Compliance with BASIX required.	√ The proposal is BASIX compliant. Refer to Section 4.1.1 and 4.2 for further information.
Crime prevention through environmental design	– The proposal is to have regard to CPTED principles.	√ Refer to Section 4.2 for further information.
Adaptability	– Access to be provided in accordance with DDA Act 1992 and AS 1428.	√ Refer to Section 4.2 for further information. A total of 5 apartments (9%) are capable of being adapted for use by people with disabilities. These apartments are shown nominated on the Architectural Drawings by Marchese Partners submitted separately. √ In addition to the adaptable units provided apartments 107, 110, 207, 210, 307 and 310 can comply with the features of Silver level of Livable Housing Guidelines. Refer to Section 4.2 for further information.

Element	Control	Proposal/Compliance
C2 Vegetation Management		
Preservation of trees and vegetation	– Tree preservation order applies.	√ Development consent is sought for the removal of all existing vegetation. Appropriate replacement landscaping is proposed which will positively contribute to the locality's landscape and scenic quality. Refer to the Landscape Plan submitted separately.
C3 Water Management		
Flood planning	– As the site is floodprone development is to comply with flood related controls including minimum floor levels.	√ Most of the consolidated site is not classified as being floodprone, however, a portion of 32 Evan Street is flood affected. Council's CBD Overland Flow Flood Study confirms that 100yrARI flooding is possible around 400 metres from the site along Lethbridge Street. √ Council has advised the 100 yrARI flood level is RL 35.9. The site is elevated above this with an average RL of 37 which is more than 1 metre above the 100yrARI flood level. The ground floor level varies from RL 36.4 and RL 37. √ The proposal will not be affected by overland flow or inundation flooding in the 100 year ARI storm and Council's flood planning guidelines do not apply.
Stormwater management and drainage	– WSUD strategy may be required. Stormwater Drainage Plans required.	√ Stormwater Drainage Plans by Bekker are submitted separately. OSD is proposed. Refer to Section 3.12 for further information.
C4 Land Management		
Site stability and earthworks	– Compliance with Clause 7.1 of LEP 2010 is required.	√ Refer to the Clause 7.1 of LEP 2010 assessment at **Table 2**.
Landfill	– All landfill must be clean and not contain any materials that are contaminated and must comply with the relevant legislation.	√ Council can impose an appropriate condition of consent to satisfy this requirement as part of the CC process.
Erosion and sedimentation	– Soil erosion and sediment control plan required.	√ Stormwater Drainage Plans (including soil and erosion sediment control) by Bekker are submitted separately. OSD is proposed. Refer to Section 3.11 for further information.
Contaminated land	– Compliance with SEPP 55 is required.	√ Refer to Section 4.1.5 for further information.
Salinity	– Compliance with Clause 7.6 of LEP 2010 is required.	√ Refer to the Clause 7.6 of LEP 2010 assessment at **Table 2**.
C5 Waste Management		
Waste management	– Waste management plan required.	√ Foresight Environmental has prepared a Demolition and Construction Waste Management Plan (submitted separately) for the proposal. √ Elephants Foot has prepared an ongoing Operational Management Plan (submitted separately) for the proposal. Refer to Section 3.13 for further information.
C6 Landscape Design		
Landscape	– Landscape plan and species list required.	√ Detailed Landscape Plans and Species List by Site Image are submitted separately. Refer to Section 3.8 for further information.

Element	Control	Proposal/Compliance
C10 Transport, Access and Parking		
Traffic and parking	– Traffic and Parking report required.	√ A Traffic and Parking Assessment Report by Varga Traffic Planning is submitted separately. Refer to Section 4.2 for further information.
Road safety	– Provide safe entry and exit for vehicles and pedestrians which reflect the proposed land use, and the operating speed and character of the road. – Minimise the potential for vehicular/pedestrian conflicts, providing protection for pedestrians where necessary	√ Vehicular access to the car parking facilities is to be provided via a new combined entry/exit driveway located approximately mid-way along the Evan Street site frontage. Appropriate sight distances are maintained to reduce the potential for pedestrian/vehicular conflict.
	– Provide suitable off-street parking facilities to accommodate vehicles generated by the development.	√ A three level basement car park for 71 vehicles is proposed.
	– Where feasible, vehicle access for developments should be from service roads/lanes.	√ Vehicular access can only be provided via Evan Street.
	– Provision must be made for all vehicles to enter and leave properties in a forward direction other than for single dwellings.	√ All vehicles can enter and leave the site in a forward direction.
	– The layout and design of parking areas must minimise vehicle to pedestrian impacts, especially where heavy vehicle access to loading docks is proposed.	√ The design and layout of the three level basement car park complies with the requirements of AS 2890. The potential for vehicular and pedestrian conflict has been minimised.
Parking, access and driveways	– Parking provided on site is to meet AS 2890 and where appropriate, AS 1428.	√ The design and layout of the three level basement car park complies with the requirements of AS 2890.
	– Stacked parking will not be permitted for visitor spaces for any development.	√ Stacked parking is not proposed.
	– Where possible, natural ventilation is to be provided to underground parking areas with ventilation grilles and structures that are: i) integrated into the overall façade and landscape design of the development; ii) located away from the primary street façade; and iii) oriented away from windows of habitable rooms and private open space areas.	√ The three level basement will be naturally and mechanically ventilated. It does not protrude above ground level existing. The site's ground floor level contains landscaped areas.
	– Proposals for basement parking areas are to be accompanied with a geotechnical report.	√ Noted. A Geotechnical Investigation is being prepared and will be submitted to Council in due course.
	– 1 space / 1 or 2 bedroom apartment – 2 spaces / 3 or more bedroom apartments. – 1 space / 40 units for service vehicles. – 1 space / 5 apartments for visitors – 1 space for a car wash bay.	√ The proposed mix of apartment generates a parking requirement for 71 vehicles, which are provided. Refer to the Traffic and Parking Report by Varga Traffic Planning submitted separately.
	– Accessible car spaces should be in accordance with the Access to Premises Standards, Building Code of Australia and AS2890.	√ A total of 6 accessible car parking spaces are provided.

Element	Control	Proposal/Compliance
	– Bicycle parking in accordance with the suggested bicycle parking provision rates for different land use types in the document 'Planning Guidelines for Walking and Cycling' (NSW Government 2004). Bicycle parking spaces should comply with AS2890.3:1993 Bicycle Parking Facilities.	√ A total of 14 bicycle spaces are provided. Their design complies with the requirements of AS 2890.
	– On-site parking for residential developments, including the residential component in a mixed use development, is to be accommodated wholly in a basement parking area.	√ The design and layout of the three level basement car park complies with the requirements of AS 2890.
	– Car space dimensions must comply with the relevant Australian Standards.	√ Refer to the above comment.
	– The movement of pedestrians throughout the car park should be clearly delineated and be visible for all users of the car park to minimise conflict with vehicles. The car parking and manoeuvring layout should be in accordance with the provisions of AS 2890.1 - 2004.	√ The design and layout of the three level basement car park complies with the requirements of AS 2890.
	– Provision of parking spaces for disabled persons should be in accordance with the Access to Premises Standards, the Building Code of Australia and AS2890.	√ A total of 6 accessible car parking spaces are provided.
	– Vehicle access is to be integrated into the building design as to be visually recessive.	√ Vehicular access to the car parking facilities is to be provided via a new combined entry/exit driveway located approximately mid-way along the Evan Street site frontage. It is provided with low level landscape surrounds to reduce its visual impact. Its location is the site's most logical.
	– For development in the R4 High Density Residential zone, use semi-pervious materials for all uncovered parts of driveways and parking areas to assist with stormwater infiltration.	√ Noted, refer to the Landscape Plans submitted separately.
	– The design of the car park should ensure that passive surveillance is possible and, where appropriate, incorporate active measures such as cameras and security patrols. Car parks should be designed to minimise dark areas through the provision of appropriate lighting.	√ Noted, refer to Section 4.2 for further information.
Access and driveways	– The road access to the site should provide for safe entry to and exit from the site. All vehicles must enter/exit the site in a forward direction.	√ Vehicular access to the car parking facilities is to be provided via a new combined entry/exit driveway located approximately mid-way along the Evan Street site frontage. Its location is the site's most logical and vehicles can enter/leave the site in a forward direction.
	– The entry and exit from the site should provide for appropriate traffic sight distance in both directions, in accordance with the provisions of AS2890.1 and 2 - 2004 for car parking and commercial vehicles respectively.	√ Refer to the above comment. Appropriate sight distances are maintained to reduce the potential for pedestrian/vehicular conflict.

Element	Control	Proposal/Compliance
	– Driveway widths must comply with the relevant Australian Standards. Driveway grades, vehicular ramp width/grades and passing bays must be in accordance with the relevant Australian Standard (AS2890.1).	√ The design of the driveway and associated ramps and gradients, complies with the requirements of AS 2890. Refer to the Traffic and Parking Assessment Report, by Varga Traffic Planning submitted separately.
Part D Land Use Controls ***D2 Residential development (Residential flat buildings***		
Preferred configuration for residential flat buildings	– New residential flat building development should incorporate the traditional configuration of the cottages and cottage gardens that define the character of Penrith's established neighbourhoods, because: a) traditional development demonstrates social and urban design benefits, particularly the orientation of dwellings and their private open spaces towards the street rather than overlooking neighbouring dwellings and gardens; b) Patterns of buildings and private gardens in established neighbourhoods have visual and symbolic richness that are valued by their community; c) the use of traditional features softens the popular perception that redevelopment is changing the traditional character of Penrith City.	√ A high quality and articulated architecturally designed built form with appropriate landscaped gardens is proposed. Refer to the assessment of the proposal against the design quality principles of SEPP 65 at Section 4.1.4.
Urban form	– For dwellings fronting the street, adopt a traditional orientation: a) living rooms, verandahs and the paths to entrances face the street rather than neighbouring properties; and b) private gardens fill the front setback area; and c) garages are concealed behind dwellings. Parking structures or garages must not be located in front of the building line.	√ Apartments are oriented to Evan Street promoting passive surveillance of the surrounding public domain. √ Combination private garden and service zones are provided at the ground floor level with frontage to Evan Street. √ A three level basement car parking area is proposed. Other than its entrance, it is otherwise not visible from the surrounding public domain.
	– Avoid "gun-barrel" style developments with long rows of attached dwellings, long straight driveways and rows of uniform width side setback:	√ The built form (including its height, bulk and scale) is compatible with the anticipated high density residential apartment building typology that is achievable and has been approved on adjacent properties. The proposal responds and contributes to its context by engaging its desired future character. Gun barrel built form is not proposed. The building comprises a highly articulated façade to provide visual interest, rather than reproduction.

Element	Control	Proposal/Compliance
Landscaped area	– 35% landscaped area required.	**X** A site coverage of 46% is proposed. This is based on a 'ground level' building footprint. It is noted the basement extends across most of the site. A total of 415m^2 or 25% of the site is provided as landscaped area. This calculation includes ground floor level areas that are landscaped, despite being located above the basement. A total of 3.8% of the site comprises a 'true' deep soil zone. This is located at the site's Evan Street frontage. Whilst technically departing from the guideline, the proposed landscaping will positively contribute to the locality's landscape and scenic quality. Refer to Section 4.2 for further information.
Front and rear setbacks	– 6 metre minimum rear boundary setback. – 5.5 metre minimum front boundary setback.	**Predominant compliance –** Refer to Section 3.9 for further information for setbacks. The proposed front and rear boundary setback are appropriate given the site's locational context and lot configuration (irregular at the rear). The front setback is consistent with that required. The rear setback complies towards the northern portion of the site, however, it departs at the southern portion. The adjoining property to the site's rear (eastern boundary) is a heritage listed church and cemetery. Built form within the cemetery is highly unlikely. There is no perception of visual built form dominance or a lack of rear setback given the expanse of the cemetery. The rear setback also does not preclude the appropriate redevelopment of properties to the south and south of the site.
Side setbacks	– 500mm maximum cut and fill.	**X** Excavation to a maximum depth of 9.4 metres for the three level basement car park is proposed. Relative to the lowest (ground floor level) apartment, excavation to a maximum depth of 1 metre is proposed. **√** Council can impose appropriate conditions of development consent to ensure the integrity of adjoining properties and building including: – a soil and erosion sediment control plan; – structural certificates; – dilapidation report; and – construction management plan. **√** A Geotechnical Investigation is being prepared and will be submitted to Council in due course.
	– 25^0 maximum roof pitch.	**√** A parapet flat roof style is proposed.
	– Zero setbacks from the side boundary are not permissible, other than awnings to main building entrances.	**√** A zero side boundary setback is not proposed. Refer to Section 3.9 for further information.
Visual and acoustic privacy and outlook	– Demonstrate a package of measures that achieves reasonable visual privacy between adjacent dwellings:	**√** Refer to Section 4.2 for further information.
Solar planning	– Shadow diagrams required.	**√** Shadow Diagrams by Marchese Partners are included within the Architectural Drawings submitted separately.

Element	Control	Proposal/Compliance
	– The applicant must demonstrate that dwellings meet acceptable solar standards and that existing neighbouring and proposed private open spaces receive adequate solar access. – Ensuring that the proposed development provides 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; – Ensuring that the proposed development provides 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;	√ Refer to Section 4.2 for further information.
Urban design	– In neighbourhoods with townscape significance, new development should: a) conserve vegetation that has visual or historical significance; b) adopt the prevailing configuration of garden areas, particularly the street's predominant front boundary set-back; c) adopt the predominant width, height, and scale of existing buildings; d) ensure that floor plans are stepped or articulated similar to the shape or form of surrounding buildings; e) adopt roof pitches, ceiling heights and forms that match neighbouring buildings; f) minimise the width and area of driveways visible from public frontages; g) conceal garages from public frontages (corner sites excepted).	√ The site is within an identified redevelopment precinct which is evolving from traditional low density single dwellings to multi storey and high density residential apartment buildings. The built form (including its height, bulk and scale) is compatible with the anticipated high density residential apartment building typology that is achievable and has been approved on adjacent properties under the relevant LEP 2010 provisions. √ The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is unlikely to remain in its current built form for long. The future character is currently more critical than the existing context which will enable other site's to contribute to the future character with their own development and thus enable the full realisation of Council's strategic direction for the locality's redevelopment.
Building design	– Development should incorporate a variety of architectural features to minimise the apparent scale and bulk of buildings and to reflect typical features of established cottage developments.	√ A high quality and articulated architecturally designed built form with appropriate landscaped gardens is proposed. Refer to the assessment of the proposal against the design quality principles of SEPP 65 at Section 4.1.4.
	– Basements for car parks should rise no higher than 1.5m above ground provide a minimum 2.2m vertical clearance for vehicles.	√ The three level basement car park is contained completely beneath ground level existing.
Energy efficiency	– Dwellings shall be configured and constructed to minimize the energy required for space heating, cooling or lighting.	√ The proposal is BASIX compliant. Refer to Sections 4.1.2 and 4.2 for further information.

Element	Control	Proposal/Compliance
Design of dwellings and private courtyards	– Common circulation areas should facilitate access by people carrying parcels and removal of furniture: a) corridors at least 1.2m wide; and b) stairs with landings at least 1.2m deep.	√ Noted. The design of the common circulation areas complies with the requirements of the SEPP 65 ADG. Refer to Section 4.1.8 for further information.
	– A reasonable area of private open space should be provided for each dwelling: a) for dwellings at ground level: i) a minimum of $20m^2$; ii) as courtyards at ground level; and / or iv) terraces located not higher than 1.5m above ground level; and v) for street-front dwellings: individual entrances to terraces or courtyards from the street.	√ Private open space for apartments has been provided in accordance with the requirements of the SEPP 65 ADG. Refer to Section 4.1.8 below.
	– $10m^2$ for dwellings above ground level.	√ Refer to the above comment.
Garden design	– The rear boundary setback should provide: a) private garden courtyards; b) a corridor of habitat, and a green backdrop that is visible from the street; c) conservation for any existing corridor of mature trees; or d) an interlocking canopy of low to medium-height trees and shrubs; e) predominantly species indigenous to the soils of Penrith City.	√ The rear boundary setback area provides a combination of private gardens and communal open space. √ The proposed landscape design will positively contribute to the locality's landscape and scenic quality. Refer to the Landscape Plans submitted separately.
	– Alongside boundaries, generally provide: a) small-to medium height canopy trees for sun-shading and privacy separation between dwellings; b) within the verges to any common driveway: hedges fronting windows to any dwelling	√ Refer to the above comment.
	– Street frontage plantings should provide: a) private gardens for street-front dwellings; b) a civic garden frontage appropriate to the established neighbourhood character; and c) mixed species of trees, shrubs, and accent plantings including flowers and ground covers; d) level areas of well-drained turf;	√ The proposed landscape design will positively contribute to the locality's landscape and scenic quality. Refer to the Landscape Plans submitted separately.
Paving design	– Hard paved surfaces should: a) maximise the area available for landscaping and gardens; b) impose no adverse long term effect on any vegetation that Council requires preserved.	√ Noted, the proposal is consistent with these requirements. Refer to the Landscape Plans submitted separately.

Element	Control	Proposal/Compliance
Fences and retaining walls	– Fencing must: a) be structurally adequate, in accordance with the Building Code of Australia, and meets the Dividing Fences Act 1991. b) be sympathetic to the natural setting and character in form, materials and colour; c) maximise natural surveillance from the street to the building and from the building to the street. – A maximum of 1.8 metres in height.	√ Noted, the proposed fencing design complies. Refer to the Landscape Plans submitted separately.
Safety and security	– The proposal is to have regard to CPTED principles.	√ Refer to Section 4.2 for further information.
Accessibility and adaptability	– Access to be provided in accordance with DDA Act 1992 and AS 1428.	√ A Statement of Compliance Access for People with a Disability Report, by Accessible Building Solutions is submitted separately. Refer to Section 4.2 for further information. √ A total of 5 apartments (9%) are capable of being adapted for use by people with disabilities. These apartments are shown nominated on the Architectural Drawings by Marchese Partners submitted separately. √ In addition to the adaptable units provided apartments 107, 110, 207, 210, 307 and 310 can comply with the features of Silver level of Livable Housing Guidelines. Refer to Section 4.2 for further information.
Storage and services	– 10m^3 storage space per dwelling.	√ Storage has been provided in accordance with the SEPP 65 ADG requirements. Refer to Section 4.1.8 for further information.

4.1.8 SEPP 65 ADG

An assessment of the proposal's compliance or otherwise with the key guidelines of the SEPP 65 ADG is undertaken below at **Table 4**. Marchese Partners has also provided an assessment of the proposal against the SEPP 65 ADG. This table of compliance is submitted separately.

***Table 4** – Compliance with the SEPP 65 ADG*

Elements	Guideline	Proposal/Compliance
Part 1 – Identifying the context		
Apartment building types	**Perimeter block apartments** Perimeter block apartments are suited to urban areas and are often integrated into street blocks. This building type is a key component of most European cities and its compact form achieves comparably high urban densities. Typically, perimeter block apartments have elongated plans and apartments are generally arranged along a corridor, with a single or multiple cores depending on the building length. They range from four to nine storeys and are best used when: – an increase in residential density is desired; – a clear definition and continuous street wall edge is desired; – active frontages with commercial and/or retail uses are encouraged at lower levels (see shop top apartment building type); – towers and tall buildings are not desired.	√ Noted, the proposal is consistent with the description of a perimeter block apartment.
Local character and context	**Urban neighbourhoods** Urban neighbourhoods are often located within walking distance of centres. Established urban neighbourhoods may be characterised by existing residential flat buildings ranging from three storey walk-ups to eight storey perimeter blocks or towers. Other urban neighbourhoods may be transitioning from low density residential and/or a mix of larger format commercial and light industrial use. Considerations for residential apartment development in these settings include overshadowing, amenity and privacy impacts between existing and future buildings, open space patterns, existing vegetation, demand for new public domain elements, variety of lot sizes and shapes and changing streetscape and scale.	√ Noted, the surrounding locality is best described as an urban neighbourhood. Refer to the detailed Site Analysis undertaken at Section 2 for further information.
Part 2 – Developing the controls		
Building envelopes	– Development controls establish allowable bulk, height and location. – Ensure development responds to desired scale and character of area.	√ The proposed built form (height, bulk, scale, setbacks, alignment etc.) is anticipated by the controls and not dissimilar to that approved and under construction in the locality. √ The building's predominant envelope complies with the relevant height standard. A minor element (the lift overrun and parapet) exceeds the height limit.

Elements	Guideline	Proposal/Compliance
Building height	– Building height controls ensure development responds to the desired future scale and character of the street and local area – Building height controls consider the height of existing buildings that are unlikely to change (for example a heritage item or strata subdivided building) – Adequate daylight and solar access is facilitated to apartments, common open space, adjoining properties and the public domain – Changes in landform are accommodated – Building height controls promote articulated roof design and roof top communal open spaces, where appropriate.	**X** The building's maximum height departs from the LEP 2010 standard. Refer to the Exception to Development Standards submission relative to height by LPDS submitted separately. **√** Permissible building heights range from 12 metres to 24 metres within the site's visual catchment. The resultant built form (height, bulk and scale) is consistent with that under construction within the surrounding locality. All habitable accommodation is contained within the height standard.
FSR	– Test the desired built form outcome against the proposed FSR to ensure its is coordinated with the building envelope, height, depth, setbacks and open space requirements – The GFA should fit comfortably within the building envelope as the envelope needs to also account for building elements and service areas that are not included in GFA calculations	**√** NA – there is no relevant FSR standard applying to the site. It is noted that an FSR of 2.88:1 is proposed. Nearby properties zoned for R4 High Density Residential and subject to FSR standards, have an FSR standard ranging from 1.6:1 to 3:1. **√** The resultant built form (height, bulk and scale) is consistent with that under construction within the surrounding locality.
Building depth	– Maximum 18 metre building depth.	**√** Apartments are less than 18 metres in depth.
Building separation	– Increased separation with increased height, and greater separation for habitable rooms. – 5 to 8 storeys: - 18m separation between habitable rooms and balconies. - 12m separation between habitable rooms/balconies and non-habitable rooms. - 9m separation between non-habitable rooms. – Reduced separation requires adequate justification that daylight access to dwellings and open spaces and protection of amenity can be achieved.	**√** Proposed setbacks are generally in accordance with that envisaged by Council's guidelines. **√** The site is within an identified redevelopment precinct which is evolving from traditional low density single dwellings to multi storey and high density residential apartment buildings. The built form (including its height, bulk and scale) is compatible with the anticipated high density residential apartment building typology that is achievable and has been approved on adjacent properties under the relevant LEP 2010 provisions. **√** The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is unlikely to remain in its current built form for long. The future character is currently more critical than the existing context which will enable other site's to contribute to the future character with their own development and thus enable the full realisation of Council's strategic direction for the locality's redevelopment. **√** The built form's setbacks do not preclude the appropriate redevelopment of properties to the site's north, south and south west. Refer to Section 3.9 for detailed boundary and floor level setbacks.

Elements	Guideline	Proposal/Compliance
Street setbacks	– Street setbacks relate to existing pattern. – Minimise overshadowing of street and buildings. – Consider secondary upper level setbacks to reinforce desired scale. – Underground parking structures, awnings and balconies may encroach on setback.	√ Refer to the above comment.
Side and rear setbacks	– Retain or create rhythm or pattern of development that positively defines streetscape so space is not just left over around building form. – Consider building separation, open space and soil zones. – Relate setbacks to existing streetscape pattern.	√ See above. √ Appropriate separation distances are maintained and the proposed built form's setbacks do not preclude the redevelopment of adjacent properties.
Part 3 – Siting the development		
Site analysis	– Consideration of use, height, circulation, edges, landscaping, access and parking and ESD performance.	√ Noted, the proposal is consistent with the existing and approved built context and likely future built form context.
Orientation	– Orient buildings to maximise north facing walls and provide adequate building separation. – Respond to streetscape and optimise solar access. – Courtyards and setbacks to northern boundaries. – Optimise solar access to living spaces and private open space by orienting them to north. – Building elements to maximise sun in winter and shade in summer.	√ Complies. The site has a north westerly orientation.
Public domain interface	– Terraces, balconies and courtyard apartments should have direct street entry where appropriate. – Respond to the identified architectural character for the street and/or the area. – Delineate private and public domain without compromising safety and security. – Contribute to amenity, beauty and usability of private and communal open spaces. – Retain and enhance amenity of public domain by avoiding continuous lengths of blank walls and using planting to soften edges and reduce scale. – Select durable materials which are easily cleaned and graffiti resistant.	√ Each ground floor apartment has direct and secure entry from Evan Street or the lift lobby. √ The private and public domain is clearly delineated. Ground level apartment have been provided with generous terraces and perimeter planting. The private terraces enable surveillance and visual privacy √ The communal open space areas (ground floor and rooftop) provide additional amenity for the occupants. Green spaces and plantings are proposed to reduce the potential for visual built form dominance. √ A high quality and useable landscape design solution for the site is proposed. Ground floor apartments are provided with terraces or private gardens more than the minimum size required and which are directly accessible from primary living rooms. √ The proposal has been designed having specific regard to the CPTED principles, particularly passive surveillance to Evan Street and the cemetery at the site's rear and within the common accessible landscaped area. √ High quality and durable external materials are proposed which will positively contribute to the locality's built form and streetscape character. Refer to Section 3.2 for further information.

Elements	Guideline	Proposal/Compliance
Communal and public open space	– Provide communal open space appropriate and relevant to context and building setting. – Facilitate use of communal open space by solar access, site features and minimising overshadowing. – Provide private open space for each apartment. – Locate open space to increase residential amenity. – Provide environmental benefits including habitat, microclimate, rainwater percolation, outdoor drying area. – Communal open space should be 25-30% of site area. – Recommended minimum area of private open space for each apartment at ground level is 25m^2 with a min dimension 4m.	√ Communal open space is provided at both the ground floor level (70m^2) and at the rooftop level (720m^2). The overall provision (792m^2) of communal open space equates to 49% of the site's area. √ In addition, each apartment has been provided with private open space in the form of a balcony, terrace or private garden directly accessible from primary living rooms, providing excellent amenity for the future occupants.
Deep soil zones	– 7% of site required as deep soil zone.	X A site coverage of 46% is proposed. This is based on a 'ground level' building footprint. It is noted the basement extends across most of the site. A total of 415m^2 or 25% of the site is provided as landscaped area. This calculation includes ground floor level areas that are landscaped, despite being located above the basement. A total of 3.8% of the site comprises a 'true' deep soil zone. This is located at the site's Evan Street frontage. Whilst technically departing from the guideline, the proposed landscaping will positively contribute to the locality's landscape and scenic quality. Refer to Section 4.2 for further information. √ The landscape design will still encourage infiltration and absorption rather than runoff.

Elements	Guideline	Proposal/Compliance
Visual privacy	– Increased separation with increased height, and greater separation for habitable rooms. – 5 to 8 storeys: - 18m separation between habitable rooms and balconies. - 12m separation between habitable rooms/balconies and non-habitable rooms. - 9m separation between non-habitable rooms.	√ Proposed setbacks are generally in accordance with that envisaged by Council's guidelines. √ The site is within an identified redevelopment precinct which is evolving from traditional low density single dwellings to multi storey and high density residential apartment buildings. The built form (including its height, bulk and scale) is compatible with the anticipated high density residential apartment building typology that is achievable and has been approved on adjacent properties. √ The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is unlikely to remain in its current built form for long. The future character is currently more critical than the existing context which will enable other site's to contribute to the future character with their own development and thus enable the full realisation of Council's strategic direction for the locality's redevelopment. √ The built form's setbacks do not preclude the appropriate redevelopment of properties to the site's north, south and south west. Refer to Section 3.9 for detailed boundary and floor level setbacks.
	– New development should be located and oriented to maximise visual privacy between buildings on site and for neighbouring buildings. – Communal open space, common areas and access paths should be separated from private open space and windows to apartments, particularly habitable room windows	√ Refer to Section 4.2 for further information.
Pedestrian access and entries	– Accessible routes to public and semi-public areas. – Promote equity by entry location and ramps. – Ground floor apartments to be accessible from street and associated open space. – Maximise number of accessible, visitable and adaptable apartments. – Barrier free access to min 20% of dwellings.	√ Noted. A total of 5 out of 54 (9%) of apartments are capable of being adapted for use by people with disabilities. An additional 6 units can be adaptively reconfigured to comply with the Silver level of Livable Housing Guidelines. Refer to Section 4.2 for further information. √ Six accessible car parking spaces are located to ensure safe and efficient access within each basement level. √ Each ground floor apartment has direct and secure entry from Evan Street or the lift lobby.

Elements	Guideline	Proposal/Compliance
Vehicle access	– Ensure adequate separation between vehicle entries and street intersections. – Optimise opportunities for active street frontages and streetscape design. – Improve appearance of car parking entries. – Limit width of driveways to 6m. – Locate vehicle entries away from pedestrian entries and on secondary frontages. – Garbage collection, loading and servicing areas are screened	√ The site is close to a roundabout. Adequate sight distances are provided to reduce the potential for vehicular and pedestrian conflict. Refer to Section 4.2 for further information. √ Passive surveillance of Evan Street and the cemetery is possible from apartments. √ Each ground floor apartment has direct and secure entry from Evan Street or the lift lobby. √ Garbage collection and loading areas are screened from view.
Bicycle and car parking	– Car parking to be provided off street and in accordance with Guide to Traffic Generating Developments	√ Refer to Section 4.2 for further information. The provision of car and bicycle parking on the site is consistent with that required. √ Access to and egress from the car parking area is proposed via Evan Street. There is no reason the proposal will result in pedestrian and vehicle conflict. Appropriate sight lines are provided. √ The ground floor level car wash bay can be used as a loading back as/when required.
Part 4 – Designing the building		
Amenity		
Solar and daylight access	– Min. 70% Living rooms and open space to receive Min. 2 hours direct sunlight between 9am and 3pm midwinter. – Limit no. single aspect apartments with a southerly aspect SW-SE to max. 10% units.	√ 70% of apartments achieve at least 2 hours of solar access between 9am and 3pm during the winter solstice.
Natural ventilation	– Promote and guide natural breezes. – Utilise building layout and section to increase natural ventilation. – Internal layout to minimise disruptions and group rooms with similar usage together. – Select doors and operable windows to utilise air pressure or windows to funnel breezes. – Coordinate design with passive solar design. – Explore innovative technologies to ventilate rooms. – 10-18m building depth for natural ventilation. – 60% of units to be naturally cross ventilated. – 25% of kitchens to have access to natural ventilation.	√ 63% of apartments achieve cross flow ventilation. √ The site has a north-easterly and north-westerly orientation. √ Apartments have an internal depth generally of 11.5 metres. √ Kitchens have access to natural ventilation.
Ceiling heights	– Min floor to ceiling height of 2.7m for residential (3.3m for first level) – Variations to demonstrate satisfactory daylight.	√ A total of 3.1 metres is provided floor to floor. This will allow habitable rooms to have a floor to ceiling height of at least 2.7 metres. More than adequate solar access and natural ventilation is provided to apartments.

Elements	Guideline	Proposal/Compliance
Apartment size and layout	– Studio – 35m^2 – 1 bed – 50m^2 – 2 bed – 70m^2 – 3 bed – 90m^2	√ 39m^2 is proposed for the studio apartment. √ 1 bedroom apartments range from 50m^2 to 76m^2. √ 2 bedroom apartments range from 76m^2 to 87m^2. √ 3 bedroom apartments range from 99m^2 to 105m^2.
	– Determine apartment sizes in relation to location, market, spatial configuration and affordability. – Ensure apartment layouts are resilient over time. – Design layouts to respond to natural and built environments and optimise site opportunities. – Avoid locating kitchen in circulation space. – Include adequate storage in the apartment. – Ensure apartments facilitate furniture removal and placement. – Single aspect apartments to have max depth of 8m from window. – Kitchen to be max 8m from window. – Crossover or cross through apartments >15m deep to have min width of 4m.	√ The proposal complies. A range of apartment sizes and types is provided which will encourage greater housing choice.
Private open space and balconies	– 8m^2 for 1 bedroom apartments (2m minimum depth); – 10m^2 for 2 bedroom apartments (2m minimum depth); – 12m^2 for 3+ bedroom apartments (2.4m minimum depth).	√ All apartments are provided with private open space that exceeds the minimum requirements. Refer to the schedule of areas per apartment within the Architectural Drawings by Marchese Partners submitted separately.
	– Private open space to each apartment. – Min. 2m depth. – Demonstrate mitigation impacts from noise, wind, solar access, privacy – Scaled plans required showing balcony configuration. – Design balustrades to allow views and casual surveillance, while providing safety and privacy. – Coordinate and integrate building services with façade and balcony design.	√ Refer to the above comment. √ Each apartment has been provided with appropriate levels of private open space relative to their internal size. All private open space is directly accessible from primary living rooms. √ 790m^2 (48% site area) of communal open space is proposed at both the ground floor and rooftop level.
Common circulation and spaces	– Max. 8 units accessible from single corridor.	√ The proposal complies. Two lifts are provided enabling a split of apartments to each corridor with each lift servicing between 4 and 5 apartments per floor.
Storage	– Studio – 4m^3 – 1 bed – 6m^3 – 2 bed – 8m^3 – 3 bed – 10m^3 – 50% of storage to be within apartment and accessible from hall or living area, and dedicated storage rooms on each floor and car parks. – Storage to be suitable for local area and able to accommodate larger items (e.g. bicycles). – Storage is secure for individual use.	√ Each apartment has been provided with appropriate levels of storage internal and external to the apartment. Refer to the schedule of areas per apartment within the Architectural Drawings by Marchese Partners submitted separately.

Elements	Guideline	Proposal/Compliance
Acoustic privacy	– Ensure a high level of amenity by protecting the privacy of residents within residential flat buildings both within the apartments and in private open spaces.	√ The site and built form is located within a future and evolving high density residential environment. Refer to Section 4.2 for further information.
Configuration		
Apartment mix	– Provide variety of apartments in larger buildings. – Refine appropriate mix by population trends and proximity to transport, employment and services. – Locate mix of 1 and 3 bed units on ground floor to enable access by disabled, elderly and families. – Optimise accessible and adaptable apartments.	√ The proposed apartment mix is shown at Section 3.5 and which is reflective of the requirements of the SEPP 65 ADG. An appropriate mix is provided including configuration, size, type and adaptability and which enables/encourages greater housing choice.
Ground floor apartments	– Direct street access should be provided to ground floor apartments	√ Each ground floor apartment has direct and secure entry from Evan Street or the lift lobby.
Facades	– Consider relationship between building form and façade or building elements. – Facades to have appropriate scale, rhythm and proportion responding to use and desired character. – Facades to reflect orientation of site using sunshade devices. – Express important corners by giving visual prominence to parts of façade. – Coordinate and integrate building services. – Coordinate security grills, ventilation louvres and car park entry doors with overall façade design.	√ Highly articulated facades are proposed. A careful composition of building elements, colours and materials contribute to the urban character of the area.
Roof design	– Relate roof design to desired built form. – Relate to size and scale of building, elevations, building form. – Respond to orientation of site. – Minimise visual intrusiveness of service elements. – Facilitate use of roof for sustainable functions.	√ Refer to the above comment.
Landscape design	– Improve amenity of open space with landscape design, including shade and screening. – Contribute to streetscape and public domain. – Improve energy efficiency and solar efficiency of dwellings and microclimate of private open spaces. – Design landscape with regard to site characteristics. – Contribute to water and stormwater efficiency. – Provide sufficient depth of soil above pavers – Minimise maintenance by robust landscape elements.	√ Refer to the detailed Landscape Plans and Species List by Site Image submitted separately. A quality landscape design is proposed and which positively contribute to the locality's landscape and scenic quality. √ Bekker has prepared Stormwater Drainage Plans of the proposed civil works in accordance with Council's standard policies and guidelines.
Awnings and signage	– Encourage weather protection and pedestrian activity on street.	√ Noted, the proposal complies.

Elements	Guideline	Proposal/Compliance
Performance		
Energy efficiency	– Incorporate passive solar design to optimise heat storage in winter and heat transfer in summer. – Improve control of mechanical heating and cooling. – Plan for photovoltaic panels. – Improve hot water system efficiency. – Reduce reliance on artificial lighting. – Maximise efficiency of household appliances.	√ The proposal is BASIX compliant. Refer to Section 4.1.2 for further information.
Water management and conservation	– Use AAA rated appliances. – Encourage use of rainwater tanks. – Collect, store and use rainwater on site. – Incorporate local native vegetation in landscape. – Consider grey water recycling.	√ Noted. Refer to Section 4.1.2 and 4.2 for further information.
Waste management	– Incorporate existing built elements where possible. – Recycle and reuse demolished materials. – Specify building materials that can be reused or recycled. – Integrate waste management into all stages of project. – Support waste management by specifying project needs and reducing waste by using standard product sizes. – Locate storage areas for bins away from street frontage. – Provide waste cupboards or temporary storage area. – Incorporate on-site composting where possible. – Prepare waste management plan.	√ A detailed Operational Waste Management Plan by Elephants Foot is submitted separately. √ A Construction and Demolition Waste Management Plan by Foresight Environmental is submitted separately. √ A dedicated waste and recycling room is located within Basement Level 1 and a transfer room is located at the ground floor level. √ Waste chutes are provided adjacent to the lift on all levels and which transfer waste to the waste storage room within Basement Level 1.
Building maintenance	– Design windows to enable internal cleaning. – Select manually operated systems, such as blinds. – Incorporate and integrate building maintenance systems into design of building form, roof and façade. – Select durable materials which are easily cleaned. – Select appropriate landscape elements and vegetation and provide appropriate irrigation systems.	√ High quality and durable external materials are proposed which will positively contribute to the built form streetscape character of the surrounding locality. Refer to Section 4.2 for further information.
Stormwater management	– Retain stormwater on site. – Protect stormwater quality. – Control erosion. – Consider grey water for irrigation	√ Bekker has prepared Stormwater Drainage Plans of the proposed civil works in accordance with Council's standard policies and guidelines.
Safety	– Delineate private and public space. – Optimise visibility, functionality and safety of building entrances. – Improve opportunities for casual surveillance and minimise opportunities for concealment. – Control access to the development.	√ The detailed design has had specific regard to CPTED principles. Refer to Section 4.2 for further information.

4.2 S. 79C(1)(b) Impact on the environment

4.2.1 Strategic context, design character and setting

The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is unlikely to remain in its current built form for long. The future character is currently more critical than the existing context which will enable other site's to contribute to the future character with their own development and thus enable the full realisation of Council's strategic direction for the redevelopment of the locality.

The scale of the proposal will be characterised by the desired future character for the area. The bulk, scale and height are consistent with that approved on surrounding properties and will help the future building grouping along the streetscape corridor. The scale of the built form is broken down by the articulation of the facade with the use of different materials and elements which helps reduce the perception of any apparent bulk. The large scale patterning is appropriate to a building of this scale. The proposal is conservatively designed so it does not materially depart from Council's key density controls, yet delivers the desired character. This provides a walled edge street block pattern strongly defining each frontage (Evan Street and the rear boundary to the cemetery).

Street alignment and appropriate separation distances have guided the building's built form. Taking its cues from this, the development creates a clear base, middle and top form contained by development standards both vertically and horizontally. The proportioned built form offers a strong, articulated and interesting visual form, whilst establishing appropriate setbacks to each boundary. The proposed built form is a considered response to the future character and scale of the locality and will contribute significantly to the future streetscape character.

Internal amenity to the site is enhanced by the private and communal landscape setting provided at the ground floor level and the 720m^2 rooftop level communal open space area and associated perimeter planting at Level 5. The building volume has been designed to be articulated, and to facilitate a contextually appropriate massing. The elevations are highly articulated. In terms of architecture, urban design and streetscape, the proposal will have a positive impact on the built environment in that:

- the building design and facade treatment draw upon applicable recommendations within the SEPP 65 ADG to create a modern facade treatment to the elevations with a variation of materials, colours, patterns and textures which assist in the delineation of zones within the building and create an aesthetically pleasing development that is consistent with desired future character;
- the architectural expression of the development is consistent with modern contemporary interpretations and provides a careful and controlled intervention to the site. It will improve the quality of the area;
- the building does not cause any material impacts to the adjoining properties or the public domain in respect of overshadowing, visual impact, view loss, aural and visual privacy and access to daylight and ventilation and the like;
- a superior level of design is proposed ensuring an excellent standard of residential amenity for the occupants;
- the architecture of each building provides an appropriate height and mass relationship to the likely future character of the locality and thereby maintains a special and positive urban character; and

- the building is oriented to take advantage of its orientation.

4.2.2 Site isolation

It is acknowledged and even desired that a combined redevelopment of the site (as part of the proposal) and 34 Evan Street would result in an appropriate planning outcome. As 34 Evan Street has been excluded from the redevelopment proposal, an assessment of the proposal's consistency with the NSW Land and Environment Court (**NSW LEC**) judgement planning principles is required.

A planning principle is a statement of a desirable outcome from a chain of reasoning aimed at reaching, or a list of appropriate matters to be considered in making, a planning decision. While planning principles are stated in general terms, they may be applied to cases to promote consistency. **Planning principles are not legally binding and they do not prevail over councils' plans and policies**.

The planning principle is *Karavellas v Sutherland Shire Council (2004) NSWLEC 151* – isolation of site by redevelopment of adjacent site(s) – role of Court in assessing consolidation regulations.

The adopted planning principle is addressed below and its key points include (as consolidated from two other previous planning principles):

- where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the DA;
- where no satisfactory result is achieved from the negotiations the DA should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the DA and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property;
- the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the DA. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Act
- is amalgamation of the site's feasible?
- can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

The applicant has met with the owner of 34 Evan Street (the adjoining property to the site's south) on several occasions. The first meeting occurred at the Penrith RSL at the end of January 2017. Within the meeting it is our understanding that the owner of 34 Evan Street expressed a willingness to sell the property for the 'right money'.

Correspondence by Agile Conveyancing (submitted separately) identifies that an offer to buy 34 Evan Street for $850,000 was made on 24 January 2017. This offer was rejected.

A counter offer from the owner of 34 Evan Street of $900,000 plus a unit of own choice was made and formally rejected by the applicant on 24 February 2017 (see Agile Conveyancing correspondence submitted separately) as it was commercially unfounded. An amended offer of $870,00 to the owner of 34 Evan Street

was made with the same correspondence. This offer from the applicant was rejected by the owner of 34 Evan Street by email on 27 February 2017.

A further meeting was held on 6 June 2017 in North Sydney. The owner of 34 Evan Street refused to discuss any other offers which would be less than $900,000 plus a unit of own choice.

The above demonstrates that various negotiations were undertaken without the reaching of an agreement to either sell, obtain a valuation, redevelop concurrently or enter joint venture discussions into the consolidated redevelopment of the properties.

It is acknowledged than an independent valuation has not been undertaken.

It is acknowledged that the amalgamation of the site and 34 Evan Street is feasible, however, due to circumstances (see above), consolidation/amalgamation is currently not an option.

As amalgamation of the site's is not achievable, numerous schemes for the redevelopment of 34 Evan Street have been considered. The most appropriate redevelopment would result in a built form comprising townhouses (or multi dwelling housing or attached dwellings both of which are permissible within the R4 High Density Residential zone). This redevelopment excludes the properties at 93 and 95 Lethbridge Street further to the east of 34 Evan Street, which may also be included with a larger redevelopment site. They form a boundary with the heritage listed church, its grounds and cemetery. The development site of 34 Evan Street and 93 and 95 Lethbridge Street would unquestionably result in an appropriate development/planning outcome.

The standalone redevelopment of 34 Evan Street would be for the purposes of two three storey townhouses. The built form location and its relationship with the site is shown at **Figure 16**.

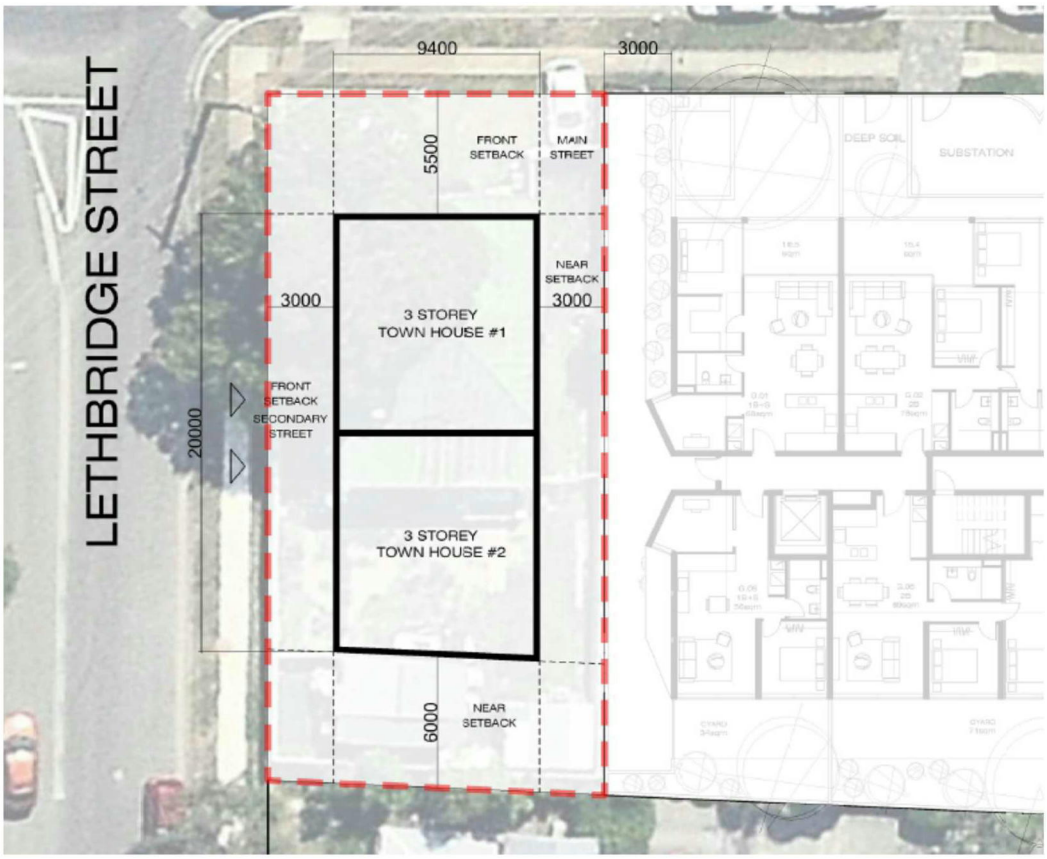

Figure 16 – *Townhouse development concept for 34 Evan Street*

The potential consolidated (albeit standalone) redevelopment of the site and 34 Evan Street (and potentially 93 and 95 Lethbridge Street) responds and contributes to their context by engaging the desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The proposal will help maintain the important street and corner edge to both Evan and Lethbridge Street. It enables the area to develop into a medium to high density residential environment that is strategically located and is within an easy walk to public services, amenities and facilities.

The scale of the proposal is characterised by the desired future character for the area. The bulk, scale and height are consistent (albeit less the maximum based on a standalone proposal for 34 Evan Street) with the intent of Council's key planning controls and will help the future building grouping along the streetscape/corridor. The building's massing responds accordingly as well as considering the site's proposed built form and the potential built form context further to the east. Building envelope drawings by Marchese Partners demonstrating the townhouse redevelopment of 34 Evan Street are submitted separately. They demonstrate that the site and 34 Evan Street (either with or without 93 and 95 Lethbridge Street) can be appropriately or equitably (orderly and economic) redeveloped as standalone developments. The redevelopment potential of 34 Evan Street unquestionably increases should it be amalgamated with a proposal that also includes 93 and 95 Lethbridge Street.

4.2.3 Geotechnical issues

A Geotechnical Investigation is to be submitted in due course. It will address:

- geotechnical issues including salinity;
- basement excavation;
- shoring system;
- shoring design;
- dewatering:
- trafficability;
- footing systems;
- drainage below basement slab; and
- pavements.

4.2.4 Transport, traffic and parking

The road hierarchy in the site's vicinity includes:

- The Great Western Highway (a State road) provides the key east-west road link in the area, linking Sydney CBD and Emu Plains. It typically carries one to three traffic lanes in each direction depending on location, with additional lanes provided at key intersections;
- Jamison Road (a regional road) provides another key east-west road link in the area, linking Mulgoa Road and Bringelly Road. It typically carries two traffic lanes in each direction with opposing traffic flows separated by line marking;
- High Street and Woodriff Street is a local, unclassified road that function as a collector route in the local area, linking Great Western Highway and Jamison Road. It typically carries one lane of traffic in each direction. Kerbside parking is generally permitted along both sides of the road; and

- Evan Street, Lethbridge Street and Higgins Street are local, unclassified road which are primarily used to provide vehicular and pedestrian access to frontage properties. Kerbside parking is generally permitted along both sides of the road.

The existing traffic controls which apply to the road network in the site's vicinity include:

- a 50 km/h speed limit which applies to Evan Street, Lethbridge Street and all other local roads in the area;
- 40 km/h school zone restrictions in local roads near St Nicholas of Myra Primary School and Penrith Public School;
- roundabouts in Evan Street where it intersects with Lethbridge Street and Derby Street; and
- traffic signals in Evan Street where it intersects with High Street and Henry Street.

There are generally no kerbside parking restrictions that applies along the local roads in the immediate vicinity of the site, including along the entire site frontage.

Varga Traffic Planning has prepared a Traffic and Parking Assessment Report (submitted separately) for the proposed development. The parking assessment of this report states (in part):

Projected traffic generation

…

*Application of the above traffic generation rates to the 54 residential units outlined in the development proposal yields a traffic generation potential of approximately 10 vehicle trips per hour (**vph**) during the AM commuter peak period and 8 vph during the PM commuter peak period.*

That projected future level of traffic generation potential should however, be offset or discounted by the volume of traffic which could reasonably be expected to be generated by the existing uses of the site, in order to determine the nett increase (or decrease) in traffic generation potential expected to occur as a consequence of the development proposal.

…

Application of the above traffic generation rates to the three existing residential dwellings on the site yield a traffic generation potential of approximately 3 vph during both the AM and PM commuter peak periods.

Accordingly, it is likely that the proposed development will result in a nett increase in the traffic generation potential of the site of approximately 7 vph during the AM commuter peak period and 5 vph during the PM commuter peak periods.

That projected nett increase in traffic activity as a consequence of the development proposal is minimal, consistent with the zoning objectives of the site, and will clearly not have any unacceptable traffic implications in terms of road network capacity.

Off street car parking provisions

The off-street car parking requirements applicable to the development proposal are specified in the Penrith Development Control Plan 2014, Section C10 Transport Access and Parking document

…

Application of the above car parking rates to the 54 residential units outlined in the development proposal yields a minimum off-street car parking requirement of 58 resident spaces, 11 visitor spaces, 1 service bay and 1 carwash bay

…

The proposed development makes provision for a total of 71 off-street car parking spaces (including 6 accessible spaces) in a multi-level basement car parking area, plus 1 dual use service/car wash bay located on the ground floor level, thereby satisfying Council's car parking requirements.

The geometric design layout of the proposed car parking facilities has been designed to generally comply with the relevant requirements specified in the Standards Australia publication Parking Facilities Part 1 - Off-Street Car Parking AS2890.1:2004 and Parking Facilities Part 6 - Off-Street Parking for People with Disabilities AS2890.6:2009 in respect of parking bay dimensions, aisle widths and overhead clearances.

Off street bicycle parking provisions

The off-street bicycle parking requirements applicable to the development proposal are also specified in the Penrith DCP 2014, Section C10 Transport Access and Parking document

…

Application of the above bicycle parking requirements to the 54 residential units outlined in the development proposal yields a minimum off-street bicycle parking requirement of 11 resident spaces and 3 visitor spaces.

The proposed development makes provision for a total of 14 bicycle parking spaces located in bicycle storage cages spread across the basement levels, thereby satisfying Council's bicycle parking requirements.

Loading/servicing provisions

The proposed new residential apartment building is expected to be serviced by Council's waste contractor using a 10.5 metres long rigid truck.

A dedicated loading/service area is proposed on the ground floor level, indented into the site adjacent the western site boundary, and will be accessed directly from Evan Street. The manoeuvring areas and driveway have been designed to accommodate the swept turning path requirements of these 10.5m trucks, allowing them to enter and exit the site whilst travelling in forward gear at all times, as demonstrated by the attached swept turning path diagrams.

The geometric design layout of the proposed loading/service area has been designed to comply with the relevant requirements specified in the Standards Australia publication Parking Facilities Part 2 - Off-Street Commercial Vehicle Facilities AS2890.2 in respect of loading dock dimensions and service area requirements for 10.5m long rigid trucks.

The conclusion of the report states:

In summary, the proposed parking and loading facilities satisfy the relevant requirements specified in Council's DCP as well as the Australian Standards and it is therefore concluded that the proposed development will not have any unacceptable parking or loading implications.

4.2.5 Overshadowing and solar access

Marchese Partners has prepared Shadow Diagrams (submitted separately) for the proposed development between 9am and 3pm during the winter solstice. In summary, the proposed development will have the following overshadowing impacts and solar access implications:

- there will be no material impact on adjacent properties to the site's north, east and west y at any critical time of the day or year, that is complying levels of sunlight have been retained to the adjacent properties and their primary living rooms and private open space areas. It is noted these properties are generally subject to the same built form (height and density) planning controls as that of the site. The existing built form on these properties will not be the future built form context;
- appropriate design and orientation of the built form enables solar access to the landscaped areas (private and communal) at the ground level;
- 70% of apartments (or 38 of 54) receive more than two hours of direct solar access between 9am and 3pm on June 21 (the winter solstice);
- notwithstanding the above the proposed development casts a shadow over adjacent properties and the surrounding public domain at varying times during the winter solstice. However, in this instance and the given circumstances of the case, the overshadowing is considered immaterial and acceptable for the following reasons:
  - the height, bulk and scale of the proposed built form is expected;
  - appropriate setbacks are provided to each boundary;
  - any property directly to the south of any built form will always be overshadowed irrespective of the built form to its north. The overshadowing impact of the proposed built form does not preclude the appropriate redevelopment of the adjacent properties to the site's south and south east;
  - the height, bulk and scale of the built form is not dissimilar to that on the adjacent properties to the north and south;
  - various parts of the built form are impacted at different times of the day;
  - the predominant building envelope complies with the height standard;
  - properties to the south are only affected during the winter solstice;
  - future higher density development of the surrounding locality will increase overshadowing of the public domain. This is a consequence of urban consolidation and should be expected given the density and heights permitted;
  - the proposal forms part of an inconsistent (but evolving) built environment which establishes the special character of this part of Penrith and the nearby public domain. The limited overshadowing of the proposal is considered acceptable in the circumstances of the case as it occurs for short periods of time and only in the winter arc of the sun;
  - the existing under-utilised built form on the site has resulted in borrowed amenity to the adjoining and adjacent properties, particularly the property located to the site's south; and
  - the proposed built form is expected given the density and height permitted by the planning controls.

The limited overshadowing of the proposal is acceptable in the circumstances of the case as it occurs for short periods of time and in the winter arc of the sun. Furthermore the public benefit of the proposed high quality urban and architectural design more than compensates for the proposed (expected) overshadowing of the property to the site's south during the winter solstice. At no other times are these properties impacted.

4.2.6 Aural and visual privacy

The site is located on the periphery of the Penrith CBD although external to the city centre area pursuant to the provisions of LEP 2010. Currently the prevailing (reflecting the historical) built form character of the surrounding locality comprises ageing single dwelling houses. Some more recent residential apartment buildings are located closer to High Street. Adjoining the site to its east is the St Stephens Anglican Church, Hall and Cemetery.

The surrounding locality has been earmarked for significant medium to high density residential development under the provisions of LEP 2010, given its R4 High Density Residential zoning. Permissible building heights range from 12 metres to 24 metres within the site's visual catchment. The FSR for those properties subject to the LEP 2010 Penrith City Centre provisions ranges from 1.6:1 to 3:1. Therefore the existing built form character is not Council's desired (by LEP 2010 zoning) or likely future built form character. High density residential apartment buildings have been approved and are under construction within the site's visual catchment.

The proposal has adopted the following privacy measures to minimise amenity impacts on adjoining properties whilst providing for passive surveillance of the surrounding public domain:

- consistent building alignment and retention of the garden character;
- built form to the site's east within the cemetery is highly unlikely;
- limited side boundary openings and if provided, offset windows are provided with perimeter landscaping;
- resulting from the locality's flooding constraints, future built form will be provided with a similar minimum habitable floor level RL;
- location, orientation and design of openings to avoid the incidence of direct overlooking between the site and those adjoining and adjacent;
- provision of retaining walls, blade walls, glazing; and window design, privacy screens and adjustable louvres;
- appropriate orientation of primary living rooms;
- new boundary fencing;
- proposed landscaping (trees, shrubs, hedges, planter boxes and climbers) around the built form's perimeter at the ground level and at the rooftop communal open space level; and
- the built form has been designed to ensure appropriate levels of noise/sound transmission in accordance with relevant BCA requirements and Australian Standards. This will maintain existing levels of amenity for adjoining and adjacent properties. Adverse acoustic impacts are therefore not anticipated.

The privacy impacts are created primarily by the building proximity and the relative densities permitted. Given the built form proposed there will be a degree of mutual overlooking, however, due to the above design measures, it is considered the proposal will not increase this mutual overlooking to an unacceptable level.

The nature of such an urban environment is that all future development will seek to maximise amenity and density through design. Furthermore, privacy concerns have not impacted on the redevelopment of other properties in the surrounding locality and it is not considered the proposal will materially increase privacy concerns to unacceptable levels that would be fatal to the DA.

4.2.7 Views

The site and immediate surrounding locality does not contain any significant identified or iconic views/vistas. Views and vistas are generally available because of the historical low density built form, not the desired future built form. Ground level views and vistas are currently not provided. As the principal/predominant building envelope/form is generally consistent with that anticipated by Council's controls and is also consistent with that under construction on adjacent properties, its impact on any existing and filtered long distance vistas is acceptable.

The site is within a targeted future high density residential built form precinct, which permits increased heights and densities. Therefore, the future built forms in the surrounding locality will be similar to that proposed on the site. Accordingly it is considered the impacts of the development in terms of views and vistas is acceptable given the circumstances of the case and the expected future built form which is permissible on adjoining and adjacent properties.

4.2.8 Landscape and scenic quality

The proposed development:

- has 46% site coverage. This is based on a 'ground level' building footprint;
- is provided with 25% of the site at the ground floor level as landscaped area;
- 3.8% of the site comprises a 'true' deep soil zone. This is located at the site's Evan Street frontage;
- a total of 834.7m^2 of private open space has been provided; and
- is provided with a 48% of the site as communal open space at either the ground floor level or the rooftop level.

Private open space has been provided for each apartment in the form of balconies/terraces or private gardens which are directly accessible from primary living areas. They are therefore able to serve as an extension to these rooms and have a purposeful functionality.

In addition to the dedicated private open space for each apartment, communal open space is provided at both the ground level (70m^2) and at the rooftop level (720m^2, see **Figure 15**). The provision of communal open space provides opportunities for various levels of passive (including dining / BBQ) and active recreation. A dedicated deep soil zone is also provided to the site's Evan Street frontage.

The proposed landscaping provides essential softening to the proposed building and additional privacy screening to ground floor residential private gardens and balconies of the building where there is interface with adjacent properties and the surrounding public domain. The proposed landscape assists in reinforcing

the entry to the building and creating a microclimate for the proposed private gardens/terraces of the ground floor apartments.

The provision of landscaped area adds to the site's landscape and scenic quality and positively contributes to the locality's landscape and scenic quality in the following manner:

- the provision of landscaping on the site (external and internal to the built form) reduces any perception of visual built form dominance over landscaping. The proposed apartment building sits comfortably within the likely future streetscape and therefore is considered to maintain a general dominance of landscape over buildings;
- the proposed landscaped area on the site makes a positive contribution to the existing and likely landscape and scenic quality of the Penrith locality and its garden character;
- the site's landscape enhances the vegetated and landscape and townscape character of the precinct;
- the proposed landscaping (and built form location) does not result in the loss of any mature vegetation that is significant enough to warrant its retention. New plantings are proposed which will positively contribute to the landscape and scenic quality of the immediate locality;
- the proposed development exhibits a high quality and ecologically sustainable development through compliance with the BASIX requirements and furthermore represents an imaginative and innovative landscape design;
- high quality, durable and appropriate planting is proposed relative to the site's location and adjacent context;
- the site's landscape solution has been specifically designed for adaptable living or recreation that is suitable for vegetation and able to sustain vegetation growth;
- the provision of planter boxes and garden climbers;
- substantial private open space is proposed for each apartment. Although not technically landscaped area, these areas are nonetheless consistent with its definition as they are designed, constructed and can be adapted for outdoor living or outdoor recreation; and
- the site is near public open spaces which are capable of both passive and active recreation.

4.2.9 ESD

In addition to the standard BASIX requirements (refer Section 4.1.2), the design intent is to create apartments with superior access to natural light and ventilation. The site organisation and the building form have been designed to respond to, not only with urban design rational, but also to make the building efficient in terms of its energy use. Having regard to the aforementioned the following is noted:

- all apartments have been designed to maximise access to natural light and ventilation to minimise use of artificial light, heating and cooling;
- 63% of apartments are naturally cross ventilated;
- 70% of apartments receive more than 2 hours of direct solar access between 9am and 3pm during the winter solstice;
- apartments have living areas and outdoor terraces oriented to achieve maximum access to natural light;

- all outdoor private spaces are designed as extension of the living room to enhance and encourage outdoor and indoor living, while at same time acting as a transition space to modulate temperature in the apartment;
- openings to balconies have an awning, louvers, eave or terrace above to minimise solar gain in summer;
- rainwater tanks and bio retention areas which are capable of being reused for irrigation purposes and grey water;
- the use of energy efficient plumbing fixtures and water systems; and
- the engagement with the outdoors, the natural ventilation, the increase in natural light and the passive solar controls will reduce energy consumption.

4.2.10 Amenity, safety and security

Amenity

As demonstrated at **Table 4** in the SEPP 65 ADG assessment, the proposal complies with the guidelines relative to solar access and cross flow ventilation. In this regard:

- 63% of apartments benefit from cross flow ventilation;
- 70% of apartments receive more than 2 hours of direct solar access between 9am and 3pm during the winter solstice; and
- kitchens are naturally ventilated.

A level of comfort has been provided which strictly does not require the provision of air conditioning to maintain thermal comfort.

All apartments are designed to have their private open space as an extension of the living room creating a much more efficient spatial quality for the unit. Also the kitchens are designed as extensions of the living or dining. Although the kitchen is an autonomous area defined by a clear boundary provided by the benchtop, the visual space created by the visual linkage of the combined living-dining-kitchen areas creates a much larger space. With the private open space on one side and kitchen on the other side, there is a perceived sense of additional living space. All the bedrooms are generous in size with each easily being able to accommodate a queen size bed. The bathrooms are also generous in size. All external private spaces exceed minimum areas and balconies offer good views, passive solar shade, are well proportioned and designed to act as outdoor rooms for dining and living in.

To get good access to light and ventilation, the quality of spaces around and between them has to be good. Appropriate building setbacks are provided. A majority of apartments have living areas and outdoor rooms facing the sun.

The built form is appropriate to the site with the design of the development positively contributing to the future character of the streetscape and providing internal amenity and outlook. The design:

- offers excellent amenity to its occupants and users. Apartments are provided with excellent solar access, as well as access to several significant view corridors and vistas;
- ensures all apartments will enjoy good amenity through the separation of living, sleeping, and service zones;
- provides the opportunity for long distance views and vistas;

- demonstrates satisfactory results for BASIX targets;
- provides direct solar access to the majority of occupants;
- results in an apartment depth generally of 11.5 metres. Furthermore, separation between the development and surrounding buildings achieves the required separation on all floors, ensuring high levels of aural and visual privacy;
- permits disabled access from the street level to residential entries and basement car parks. The vehicle entry is separate to the pedestrian entry and is 6.1 metres wide;
- two lift cores are provided to service all levels of the building. Generally, only 4 or 5 apartments are accessible from each lift core corridor;
- provides dedicated storage space within each apartment and the basement level car parking area for all apartments;
- ensures that private open space is generous in size, appropriately oriented and also directly accessible from primary living rooms; and
- provides floor to ceiling heights of 2,700mm (3,100mm floor to floor) which enable good amenity and daylight to all rooms.

Safety and security

Crime prevention through environmental design (**CPTED**) seeks to influence the design of buildings and places by:

- increasing the perception of risk to criminals by increasing the possibility of detection, challenge and capture;
- increasing the effort required to commit crime by increasing the time, energy or resources which need to be expended;
- reducing the potential rewards of crime by minimising, removing or concealing 'crime benefits';
- removing conditions that create confusion about required norms of behaviour;

There are four principles that need to be used in the assessment of DA's to minimise the opportunity for crime and promote safety and security:

- surveillance;
- access control;
- territorial reinforcement; and
- space management.

The proposal is consistent with CPTED principle of surveillance as follows:

- the design and placement of physical features, activities and people so as to maximise visibility and foster positive social interaction among legitimate users of the private and public domain;
- appropriate lighting;
- secure access points (vehicular and pedestrian);
- adequate sight distances;

- passing vehicular traffic is able to be used as a surveillance asset;
- the landscape design provides surveillance, especially in proximity to the site's designated entry points;
- the landscape design precludes opportunities for concealment;
- appropriate fencing is proposed; and
- changes to the street or pedestrian network are not proposed.

The proposal is consistent with the CPTED principle of access as follows:

- public and private spaces are clearly differentiated and the public spaces have been designed to attract rather than discourage their use;
- entrances and exits, fencing, lighting and landscape has been selectively placed to limit access and control flow. In this regard natural access control occurs;
- pedestrian routes and spaces within the site are clearly defined and have clear and direct sightlines for users and
- clearly identifiable, points of entry (existing) to the site are proposed.

The proposal is consistent with the CPTED principle of territorial reinforcement and space management as follows:

- public and private spaces are clearly differentiated;
- high quality landscaping is proposed;
- regular maintenance or upgrade of facilities as/when required; and
- natural surveillance by the users is casual;
- the proposed use of security cameras.

The entry to the apartment building provides architectural, landscape and spatial interest and a clear address. The clear definition of the private and public domain and the sequences of the landscaped areas positively contribute to the future occupants levels of residential amenity.

4.2.11 Accessibility

Accessible Building Solutions has prepared a Statement of Compliance Access for People with a Disability (submitted separately) for the proposal. The assessment was undertaken to the extent necessary to issue a development consent under the Act. Generally, an assessment has been undertaken regarding the capability of the proposal to achieve the spatial requirements to provide access for people with a disability and it is assumed that assessment of the detailed requirements will occur at CC stage.

Compliance is required with the following:

- The Access provisions of the BCA;
- The Access To Premises Standard;
- AS1428 suite of standards;
- AS2890.6 for car parking;
- AS1735.12 for lifts;
- AS4299 Adaptable Housing;

- SEPP 65 – Part 4Q; and
- Council's DCP relating to Access for People with a Disability.

Five (5) adaptable apartments are proposed as follows - G01, 101, 201, 301 and 401. They are on different levels of the building and are in a one bedroom configuration.

The SEPP 65 ADG requires that 20% (11 based on 54 proposed) apartments are to incorporate the features of the Livable Housing Guidelines Silver level.

As five of the apartments (G01, 101, 201, 301 and 401) already comply with the Adaptable unit requirements, these units are also capable of satisfying the intent of Silver level of Livable Housing Guidelines. In addition to the adaptable units provided the following six apartments - 107, 110, 207, 210, 307 and 310 can comply with the features of Silver level of Livable Housing Guidelines.

The report's statement of compliance is:

On the basis of the above assessment, I am satisfied that the proposal can achieve compliance with the access provisions of the BCA, SEPP 65 and the essential requirements of AS4299 – Adaptable Housing.

In addition to the above Council can impose a standard advising on a determination relative to the applicant's obligations.

4.2.12 Waste management and demolition

Foresight Environmental has prepared a Construction and Demolition Waste Management Plan (submitted separately) for the proposal.

It is estimated that approximately 6,974m^3 of waste will be generated during the demolition/excavation phase of the development and approximately 729m^3 of construction waste will be generated during construction. Civil construction works associated with the proposed built form will utilise normal (standard) site management practices to ensure that the waste material and/or waste generated by the works is re-used on site, or disposed of suitably. All demolition works will be undertaken in accordance with the requirements of AS2601 – The Demolition of Structures.

The report makes recommendations in relation to:

- onsite and offsite systems;
- waste storage and collection;
- site waste control management;
- hazardous wastes;
- contracts and purchasing; and
- training and education.

4.2.13 Social and economic issues

The proposed development will have a number of significant positive social and economic impacts, including:

- the provision of a variety of apartment types, sizes and orientations, along with the provision of adaptable housing will facilitate a variety of household types;
- the supply of a significant contribution towards housing in an area of high demand and low supply means a greater variety of housing is available for all;
- the provision of significant communal open space is also a significant feature in a residential development of this type, and provides an important space for residents to gather in a social manner;
- commercial opportunities also assist in contributing to a social focus for the development. This will help provide casual interactions and meeting places for the local community and emphasise the desired future character of Penrith;
- construction will provide temporary employment opportunities;
- the population on the site will continue patronage to the many facilities within the Penrith CBD and its surrounds, a desired outcome; and
- it increases residential housing on an existing high density residential allotment within the Penrith LGA and may assist in reducing escape expenditure.

In addition to the above, the provision of 54 well-designed apartments, close to public transport, employment opportunities and services, will provide good quality accommodation that is suitable for the intended occupants encouraging equal access to public amenities. These apartments are designed to cater for a mix of households which enriches the diversities within the residential building. A well-designed and socially responsive development will always attract a socially diverse mix of people and in turn improve and enhance for a much richer community life in the area.

4.3 S. 79C(1)(c) The suitability of the site for the proposed development

Having regard to the characteristics of the site and its location, the proposed development is considered appropriate in that:

- the site is zoned to accommodate the proposal;
- the size and dimensions of the land area appropriate for the accommodation of the proposal;
- it will not result in any material environmental impacts to the adjoining properties or surrounding public domain particularly in relation to overshadowing, views, aural and visual privacy and access to natural daylight and ventilation;
- the site is in an area with good access to amenities, facilities, services and public transport;
- the site is fully serviced and existing services can be extended (i.e. the new substation) to accommodate the demand generated by the proposal; and
- the proposed use, density and scale is generally consistent with that of the surrounding approved development and likely future built form.

As detailed throughout this SEE, the proposed development will have many positive impacts whilst not resulting in any material environmental impacts and it is therefore considered that the site is suitable to accommodate the proposal in its current form.

4.4 S 79C(1)(d) Any submissions made in accordance with the Act or Regulations

It is assumed that Council will consider submissions (if any) in its assessment of the proposal and will afford the applicant to respond to such submissions (as/if required).

4.5 S.79C(1)(e) The public interest

The public interest is an overarching concept. The public interest may best be served by the provision of additional, high quality residential built form on land that is zoned for that purpose. The proposal will generate additional employment and economic activity within the Penrith LGA, and thus improved environmental, economic and social benefits will accrue.

Approval of the proposal will result in a high density residential flat building development that has substantial architectural merit and which complements and is consistent with the character of approved and likely future adjacent development. The locality will undergo a significant period of regeneration and redevelopment. Numerous medium to high density residential developments are anticipated.

The project provides a range of benefits that are in the public interest, including:

- use of a targeted strategic allotment of land for high density residential purposes;
- economic and social benefits such as employment during and after construction;
- the promotion of the locality as a strong and healthy place for local business and investment; and
- the enhancement of the locality as an attractive place to live, work or visit.

There are no other reasons as to why the proposal is not in the public interest.

5.0 CONCLUSION

The proposal offers the following unquestionable benefits:

- a high quality and contemporary urban, architectural and landscape design solution which is sympathetic and complementary to its existing and potential future neighbours;
- permits the continued revitalisation of the Penrith CBD fringe, an identified urban regeneration precinct;
- promotes urban consolidation on a site that has good access to public transport and all required amenities and services, a desired outcome;
- significant ESD features and principles;
- BASIX compliant;
- the site is ideally located for the proposed development and is appropriately zoned to accommodate the proposal;
- provision of adaptable apartments, including a mix of apartments, enabling increased housing choice;
- a high standard of residential amenity for the future occupants and no significantly adverse impact for adjacent properties;
- a design, height, bulk and scale that positively relates to the existing and desired future character of development in the surrounding locality;
- an architectural character that will be an appropriate addition to the changing urban landscape of the Penrith LGA;
- generous and useable areas of landscaped areas, communal and private open space;
- soft landscaping which promotes absorption and infiltration rather than runoff;
- appropriate parking arrangements within a three level basement car park; and
- the technical studies of the site's capacity for redevelopment do not indicate any significant obstacles to development of the site for the purposes proposed.

An assessment of the relevant planning issues reveals that the proposal has appropriate merits and does not result in any material environmental impacts to the adjoining and adjacent properties and the surrounding public domain in terms of overshadowing, aural and visual privacy, views, visual impact and access to daylight and natural ventilation. Through the demonstration of a high quality architectural, urban and landscape design, a high level of internal amenity will be afforded to the buildings occupants.

Assessment of the proposal against the relevant planning controls reveals that it is generally consistent with the objectives, standards and guidelines of each planning control. Council can recommend to and the SWPP can approve the development with confidence that its merits are sound. The SWPP as the determining authority unquestionably has the power to approve the proposal as it is empowered to approve a development that departs from development standards (height of buildings in this instance) and development guidelines in DCP 2014, particularly when the departure is not unreasonable and unnecessary and there are sufficient planning grounds to justify the departure. An appropriate (equitable) planning outcome is provided, given the presented circumstances.

Considering the above and the assessment contained herein, it is considered that the proposal is worthy of Council's recommendation of approval and subsequent SWPP consent.