

Statement of Environmental Section 4.55(1A)

115-119 DERBY STREET,
PENRITH

12 NOVEMBER 2021



| QUALITY ASSURANCE | |
|-------------------|--|
| Project: | Section 4.55(1A) to the basement levels of an approved residential flat building |
| Address: | 115-119 Derby Street, Penrith |
| Lot /DP: | Lots 5, 6 & 7 in DP24603 |
| Council: | Penrith City Council |
| Author: | Think Planners Pty Ltd |

| Document Management | | |
|---------------------|--------------------------|-------------------------|
| <i>Prepared by:</i> | <i>Purpose of Issue:</i> | <i>Date:</i> |
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| <i>Adam Byrnes</i> | <i>Final Issue</i> | <i>12 November 2021</i> |

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EXECUTIVE SUMMARY

This Statement of Environmental Effects has been prepared in support of a Section 4.55(1A) modification that proposes to undertake minor modifications to the basement levels of an approved 6 storey residential flat building at 115-119 Derby Street, Penrith.

Penrith Council on the 9th of November 2016, DA 16/0137.01 approved the following:

'The construction of sixty-one (61) residential units in a six-storey building with two (2) basement car parking levels.

A second development application (DA No. 16/0137.03) was approved by Penrith City Council on the 27th of April 2020 for the following:

- The construction of sixty-two (62) residential units in a six-storey building with two (2) basement car parking levels;
- The approved mixture of apartments included:
 - 15 x one-bedroom units;
 - 43 x two-bedroom units;
 - 4 x three-bedroom units; and
 - Six (6) units are allocated as Adaptable Housing Units to AS4299.
- A total of 78 car parking spaces were proposed and approved as follows:
 - 66 residential spaces;
 - 11 visitor parking spaces;
 - 1 car washing bay; and
 - Six (6) car spaces were to be allocated for Adaptable Units.

The proposed Section 4.55 Application seeks Council's approval for the following modifications to the original development consent:

- Minor modifications to address the structural engineering requirements and co-ordination to support the large spaces required for the MRV Garbage Truck;
- Co-ordination with Fire Engineering Report and Building Code of Australia Report to comply with the National Construction Code 2019 (NCC or BCA);

- Basement floor levels amended to eliminate the projecting staircases into the deep soil zones in order to increase deep-soil planting and reduce piling complications;
- Basement Storage enclosures added to provide one for each residential unit and to avoid cages within the car spaces, as approved;
- Minor modifications to floor plan layouts to satisfy the NCC requirements for services for Gas, Water, Electricity, Metering, NBN, Communication, Meter Room, Fire, Garbage Chutes, Mechanical Ventilation Ducts to the basement levels (Fresh Air and Exhaust Air Ducts);
- Integration of building services and cupboards (hydraulic / electrical / gas / communication / mechanical ventilation / fire services, garbage chutes) on basement floor levels;
- Fire Egress Stairways and exit paths of travel from the basement levels to comply with the NCC;
- Fire Stairs with fire services for hydrants and hose reels to comply with the NCC;
- Increased height of basement floor levels to accommodate the waste collection vehicles and achieve the required gradients for compliance with AS2890.2.

The site is zoned R4 High Density Residential under the Penrith Local Environmental Plan 2010, and the residential flat building continues to be permissible with Council consent within the R4 zone.

The approved development to continue to present as a large contemporary six storey building in accordance with the original DA. After a review of the amended plans and consideration of the relevant planning controls, it is recommended that Council grant consent to the modification application.

BRIEF HISTORY

DA HISTORY

Penrith Council on the 9th of November 2016, DA 16/0137.01 approved the following:

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SITE AND LOCALITY DESCRIPTION

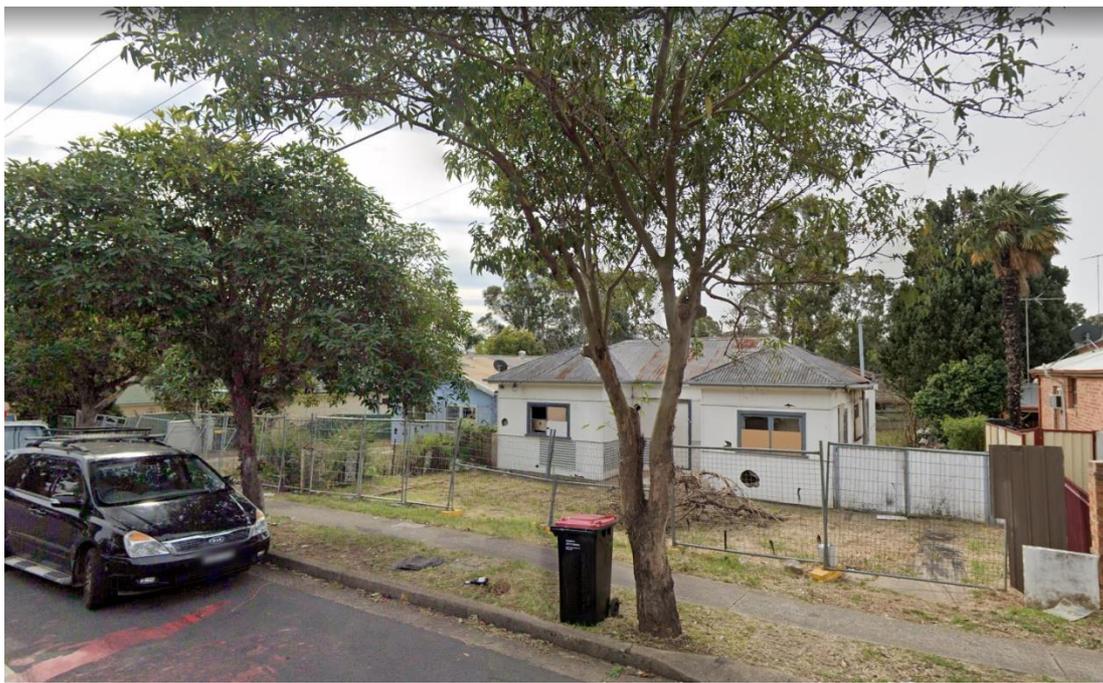
SUBJECT SITE

Located within Penrith City Centre, the subject site is located on the northern side of Derby Street, approximately 100m west from the intersection of Derby Street and Colless Street.

The development site once has a combined street frontage of 45.72m to Derby Street, a site depth of 45.72m, resulting in a site area of 2,090.3m².

Located within an established residential area, the site currently contains 3 dwellings (2 fibro dwellings with metal roofs and 1 clad dwelling with tiled roof) and associated structures, as demonstrated by Photograph 1 below.

Photograph 1: Shows the existing site as viewed from Derby St, Penrith.



It is noted that Council has granted consent via DA16/0137.03 to demolish all existing structures in-order to accommodate the approved residential flat building. Furthermore, council has issued demolition orders for the three existing dwellings occupying the subject site. See the attached letters from council for detail.

The development site bounds land owned by the department of housing to the north, containing a series of townhouses, the site adjoins dual occupancies to its eastern and western boundaries. Derby Street separates the site from a series of townhouses to

the south. An aerial extract of the locality is provided overleaf, showing the context of the development site.

Figure 1: Aerial Map Extract of Subject Site (Near Map).

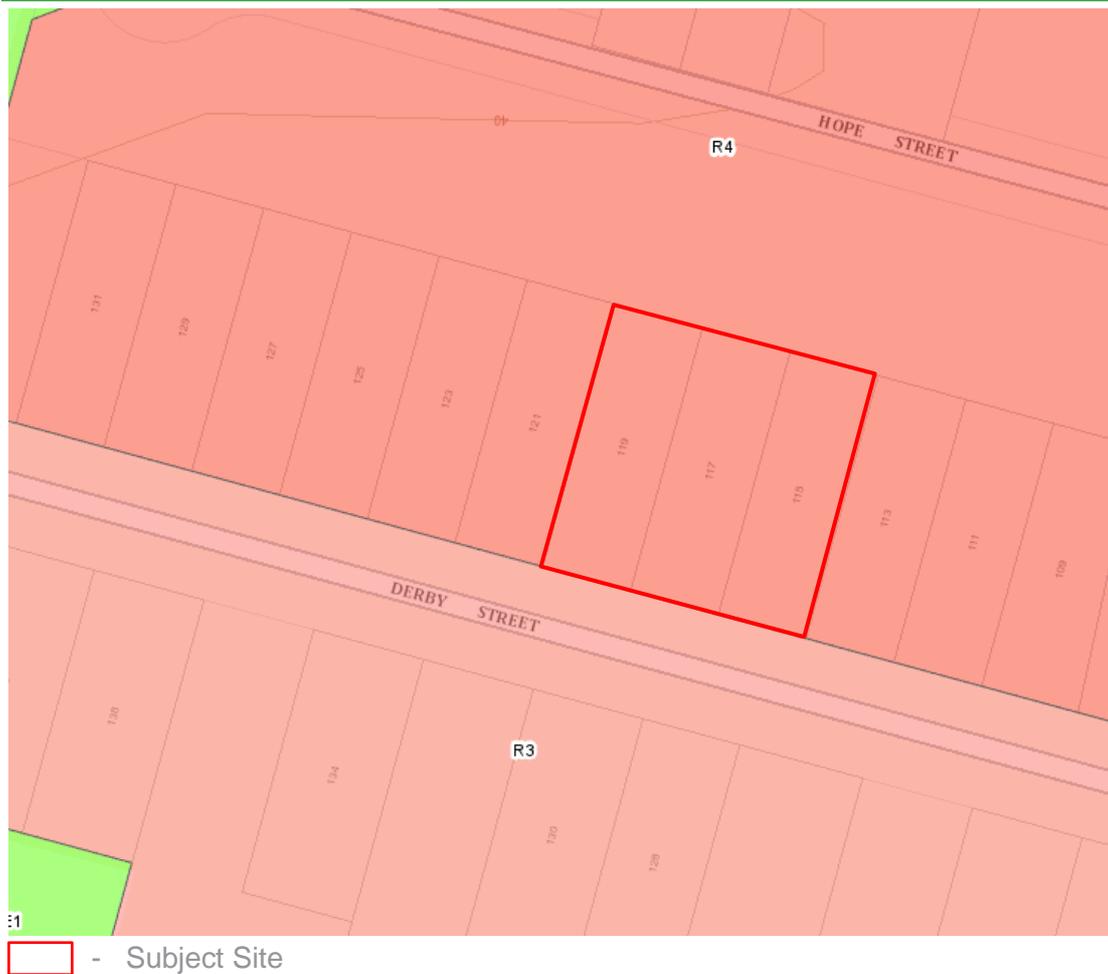


ZONING CONTROL

As outlined in the following page, the subject site is zoned R4 High Residential Density and is permitted a maximum building height limit of 18m under the provisions of the Penrith Local Environmental Plan 2010.

'Residential Flat Buildings' continues to be a permissible land use within the R4 Zone.

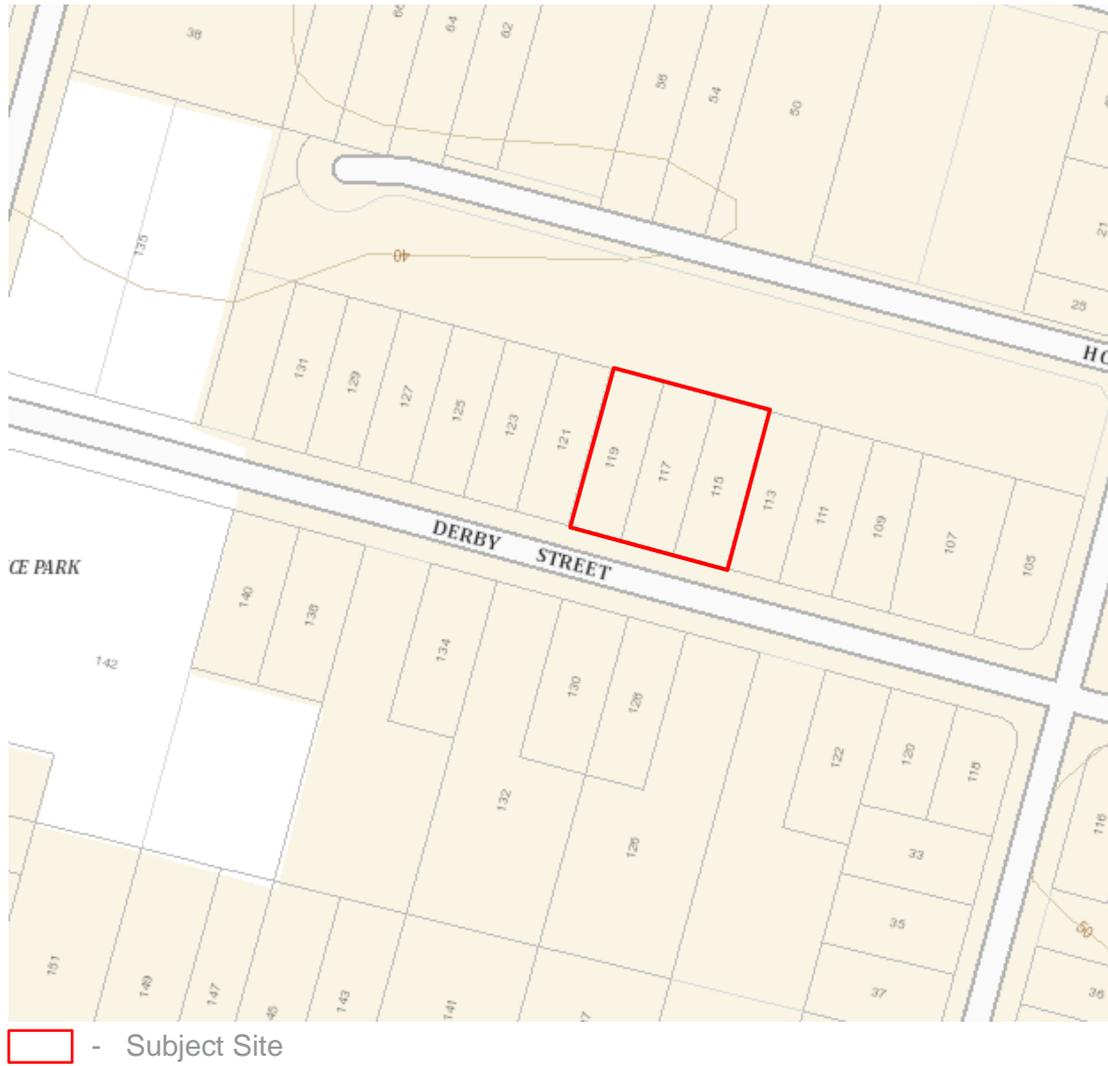
Figure 2: Zoning Map Extract (Source: ePlanning Spatial Viewer).



HERITAGE

The subject site is not identified as containing a heritage item, nor is it located within a heritage conservation area, or within proximity to local heritage items that the development is likely to impact upon, as evident in the heritage map extract below.

Figure 3: Heritage Map Extract (Source: ePlanning Spatial Viewer).



DESCRIPTION OF PROPOSAL

This Statement of Environmental Effects has been prepared in support of a Section 4.55(1A) modification that proposes to undertake minor modifications to the basement levels of an approved 6 storey residential flat building at 115-119 Derby Street, Penrith.

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The proposed Section 4.55 Application seeks Council's approval for the following modifications to the original development consent:

- Minor modifications to address the structural engineering requirements and co-ordination to support the large spaces required for the MRV Garbage Truck;
- Co-ordination with Fire Engineering Report and Building Code of Australia Report to comply with the National Construction Code 2019 (NCC or BCA);

- Basement floor levels amended to eliminate the projecting staircases into the deep soil zones in order to increase deep-soil planting and reduce piling complications;
- Basement Storage enclosures added to provide one for each residential unit and to avoid cages within the car spaces, as approved;
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- Integration of building services and cupboards (hydraulic / electrical / gas / communication / mechanical ventilation / fire services, garbage chutes) on basement floor levels;
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- Fire Stairs with fire services for hydrants and hose reels to comply with the NCC;
- Increased height of basement floor levels to accommodate the waste collection vehicles and achieve the required gradients for compliance with AS2890.2.

The site is zoned R4 High Density Residential under the Penrith Local Environmental Plan 2010, and the residential flat building continues to be permissible with Council consent within the R4 zone.

The approved development to continue to present as a large contemporary six storey building in accordance with the original DA.

ASSESSMENT OF PLANNING ISSUES & CONTROLS

S.4.55(1A) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Pursuant to Section 4.55(1A) of the Act (Previously known as Section 961A), Council may consider an application to amend a development consent provided that it is substantially the same development and of minimal environmental impact.

An extract of Section 4.55(1A) is provided below:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be

The application is substantially the same as the approved development, given that the application proposes minor refinements of the basement scheme to address to address the structural engineering, fire safety, Building Code of Australia (BCA) and National Construction Code (NCC) requirements for the basement levels. The modifications will not alter aspects of the approved development that are likely to cause environmental impacts such as setbacks, height, visual privacy etc. The minor changes to the plans are reasonably and appropriately considered ‘substantially the same development’ and of ‘minimal environmental impact’ when having regard to case law set down by the Land and Environment Court.

Land and Environment Court Judgments

The question as to whether a modified proposal is ‘substantially the same’ as that originally approved has been an ongoing issue dealt with in the Land and Environment Court. It is also important to note that the Court has consistently described the section 96-modification provision of the Act as “beneficial and facultative”. It is designed to assist the modification process rather than to act as an impediment to it; “It is to be

construed and applied in a way that is favourable to those who seek to benefit from the provision” (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the ‘substantially the same’ test. By way of example, and relevant to the current proposal, the following cases were considered in the Court and found to be substantially the same development, with this extract contained in a *Gadens Publication* dated 17 June 2012:

Bassett and Jones Architects Pty Limited v Waverley Council (No 2) [2005]: The modification application sought an additional storey to the approved front building of a mixed commercial and residential development, which would alter the building from three- storeys to four-storeys; and the provision of a zero side setback for a part of the external side walls at all three levels. This resulted in an increase in floor space of 112 square metres, being a 20 per cent increase in floor space, and a 28 per cent increase in height (both of which exceeded the applicable council controls).

The Court found that the test was satisfied albeit only on “a very fine balance”. The Court noted however that the modified design might give rise to privacy impacts that may warrant refusal of the application when the merits of the change are assessed. The application was later refused on its merits, but not before passing the “substantially the same” threshold test.

Davi Developments Pty Ltd v Leichhardt Council [2007]: A modification application sought to change consent for a seven storey residential flat building with two levels of basement parking. There was to be a reduction of one floor, but an increase in the main parapet height by 900mm, and the substantial reconfiguration of the unit mix such that the numbers reduced from 42 to 30, with a rearrangement of the car park plan such that it was “entirely different”.

The Court nevertheless considered that the fundamental characteristics and essence of the building would remain essentially the same.

Bathla Investments Pty Limited v Blacktown City Council [2008]: The original approval was for eight townhouses presenting as four, single-storey buildings. Some of the townhouses were attached.

The modification application sought to change some of the townhouses to two storeys, and also sought to separate the dwellings and made changes to the garage designs and parking layout. The Court noted that there were “numerous differences” between the schemes, however, the townhouse development presented as materially and essentially the same development.

Marana Developments Pty Limited v Botany City Council [2011]: The original approval was for the construction of five residential flat buildings (with basement car

parking) comprising a total of 76 units. The modification application sought 'significant changes to the external appearance and layout of the buildings' including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking.

Despite significant internal changes, the minimal change to the external floor plates and layout was of great significance and the test was satisfied.

Boyd v Bega Valley Council [2007]: It was proposed to add a second storey to a single storey dual occupancy development. Although the application was unsuccessful on merit grounds reasons (visual impact from the waterway caused by poor architectural design), the Court was satisfied that the increase from a single storey to a two storey dwelling satisfied "substantially the same" test.

As can be seen above, particularly in *Bathla v Blacktown*, the Court noted that despite there being "numerous differences" the development presented as materially and essentially the same development. Having regard to the series of minor amendments proposed in this application, it is noted that the proposal remains materially and essentially the same development.

Furthermore, the modifications will not alter aspects of the approved development that are likely to cause environmental impacts such as setbacks, height, visual privacy etc; given that the application proposes only minor refinements of the basement scheme to address the structural engineering, fire safety, Building Code of Australia (BCA) and National Construction Code (NCC) requirements for the basement levels.

Therefore, the proposal is considered to be in essence 'substantially the same' development as that originally approved and of 'minimal environmental impact'.

It is anticipated that the development application will be notified to adjoining property owners and a discussion against the relevant planning controls is provided further in this statement.

STATE ENVIRONMENTAL PLANNING POLICY BASIX

This has been addressed by DA16/0137.03 and will not be altered by the modification.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Potential contamination has been addressed by DA16/0137.03. The current modification is to undertake predominantly internal changes to the approved design scheme. As such no further contamination investigation is required.

STATE ENVIRONMENTAL PLANNING POLICY – (VEGETATION IN NON-RURAL AREAS) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) was introduced in August 2017. The SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and vegetation.

The existing street trees fronting Derby Street are underneath overhead wires and are too large of a species (Queensland Brush Box) that they will be affected by the overhead power lines in the long term. Therefore, it is proposed to remove the five (5) existing *Queensland Brush Box* trees and replace them with the smaller growing species *Tristania Laurina luscious*. The replacement trees are considered to adequately integrate and enhance the setting of the building whilst complimenting the landscape character of the neighbourhood. See the landscape plan for detail.

STATE ENVIRONMENTAL PLANNING POLICY – (INFRASTRUCTURE) 2007

Has been addressed by DA16/0137.03, noting that the development site is not located on a classified road. Furthermore, the approved development would not be identified as a traffic generating development and as a result, no concurrency form the RMS is required as per DA16/0137.03.

STATE ENVIRONMENTAL PLANNING POLICY NO. 65 – DESIGN QUALITY OF RESIDENTIAL APARTMENT DEVELOPMENT AND THE APARTMENT DESIGN GUIDE

The development application is accompanied by an updated design verification statement by Architex (Registered Architect: Robert Del Pizzo), verifying that the company has directed and designed the proposal, and that the design quality principles set out in Part 2 of the SEPP are achieved for the residential flat development.

A discussion against the key ADG matters is outlined below, noting that given that the application is a Section 4.55(1A) modification, the controls have been assessed under the approved DA. Therefore, only matters relevant to the modification will be addressed.

| ADG Element | Design Criteria/Design Guideline | Proposed | Compliance |
|-------------------------------|----------------------------------|----------|------------|
| Part 3 Siting the Development | | | |
| 3E Deep Soil Zones | <u>Design Criteria:</u> | | Yes |

| ADG Element | Design Criteria/Design Guideline | Proposed | Compliance |
|---|---|---|------------|
| | <p>A deep soil zone equivalent to 7% of the site must be provided.</p> <p>If the site is between 650m² to 1500m² then the DSZ must have minimum dimension of 3m. If over 1,500m² then minimum dimension of 6m</p> | The deep soil area is to be increased as part of the proposal, through the deletion of external stairs. | |
| 3G Pedestrian Access and Entries | Buildings entries should be clearly identified, and communal entries should be clearly distinguished from private areas. | No change. | N/A |
| 3H Vehicle Access | Car park access should be integrated with the building's overall façade. | No change. | N/A |
| | Adequate separation distance should be provided between vehicle entries and street intersection. | No change, has been addressed via previous DA. | N/A |
| | Garbage collection, loading and service areas are screened. | No change, has been addressed via previous DA. | N/A |
| | Clear sight lines should be provided at pedestrian and vehicle crossing. | No change, has been addressed via previous DA. | N/A |
| 3J Carparking | <p><u>Design Criteria:</u></p> <p>Carparking for sites within 800m of a railway station or light rail stop can provide parking at the rate of:</p> <p><u>Design Guidelines:</u></p> <p>Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas.</p> | No changes, has been addressed via previous DA. | N/A |

| ADG Element | Design Criteria/Design Guideline | Proposed | Compliance |
|---------------------|---|--|------------|
| 4G Storage | <u>Design Criteria:</u> | | |
| | 1 bed: 6m ³ 2 bed: 8m ³ 3 bed: 10m ³ Minimum 50% of required storage is within the apartment. | The proposed modification will continue to comply with this requirement. | Yes |
| 4W Waste Management | <u>Design Guidelines:</u> | | |
| | Supply WMP Allocate storage area | No changes are proposed. | N/A |

**SYDNEY REGIONAL ENVIRONMENTAL PLANNING PLAN (SREP) NO. 20
HAWKESBURY NEPEAN RIVER**

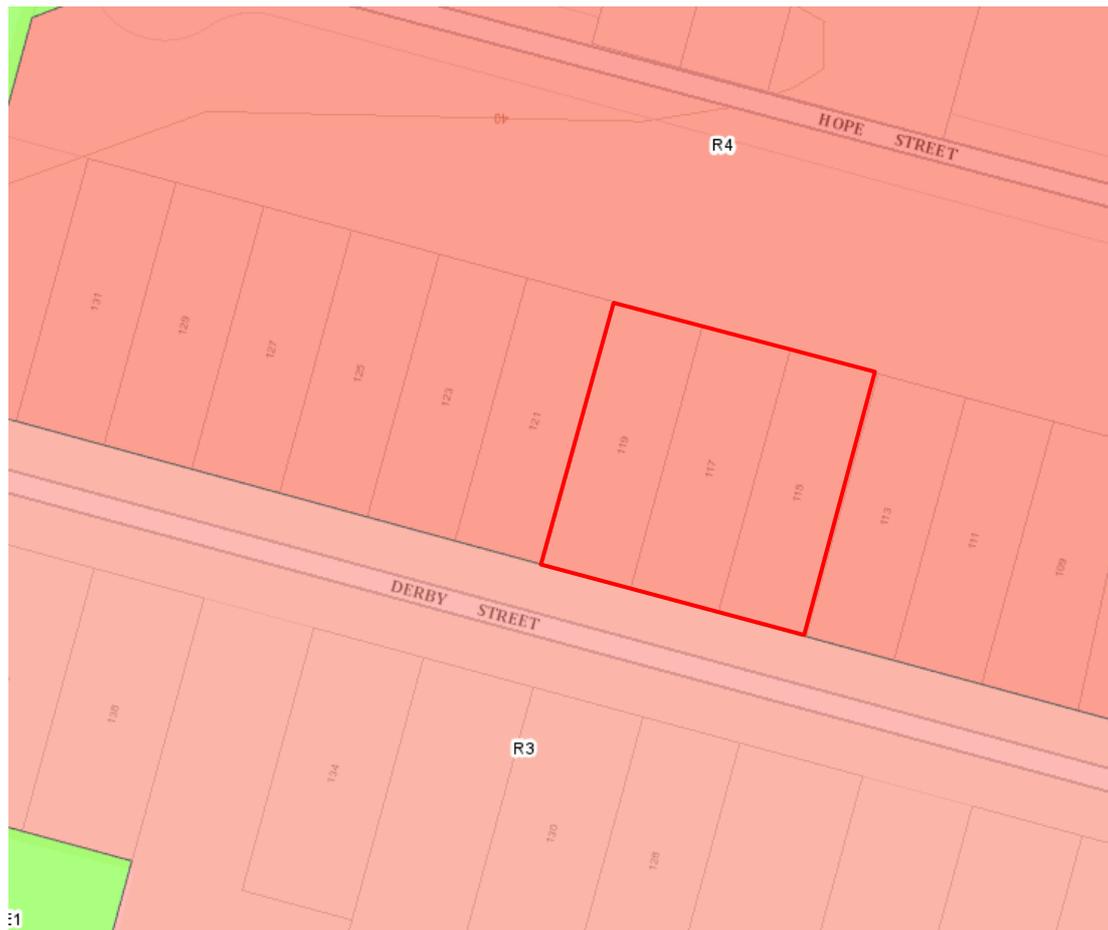
Has been addressed by DA16/0137.03, noting that the approved development will continue to incorporate a drainage concept that demonstrates that stormwater can be adequately conveyed to the existing street network.

It is noted that the approved development meets the WSUD measures required to achieve appropriate water quality for stormwater discharge.

PENRITH LOCAL ENVIRONMENTAL 2010

As outlined below, the subject site is zoned R4 High Residential Density and is permitted a maximum building height limit of 18m under the provisions of the Penrith Local Environmental Plan 2010. ‘Residential Flat Building’ continues to be a permissible land use within the R4 Zone.

Figure 4: Zoning Map Extract (Source: ePlanning Spatial Viewer).



 - Subject Site

The development will continue to be consistent with the zone objectives, given that the modified proposal is ‘substantially the same’ as that originally approved.

The table below provides detail on the development standards relevant to the current proposal.

| Penrith Local Environmental Plan 2010 | | | |
|---------------------------------------|-----------------------------|---|----------|
| Clause | Control | Comment | Complies |
| Zoning | R4 High Density Residential | Residential Flat Buildings continue to be a permissible land use within the R4 High Density Residential Zone. | Yes |

| Part 2 Permitted or Prohibited Development | | | |
|--|--|---|-----|
| 2.3 | Zone Objectives and Land Use Table | The development will continue to be consistent with the zone objectives, given that the modified proposal is 'substantially the same' as that originally approved. | Yes |
| 2.6 | Subdivision Requirements | – Consent No changes are proposed. | N/A |
| 2.7 | Demolition | Council has granted consent via DA16/0137.03 to demolish all existing structures in-order to accommodate the approved residential flat building. Furthermore, council has issued demolition orders for the three existing dwellings occupying the subject site. See the attached letters from council for detail. | N/A |
| Part 4 Principal Development Standards | | | |
| 4.1A | Minimum Subdivision Lot Size: Residential Flat Building: 800m ² | Continues to comply as per DA16/0137.03. | Yes |
| 4.3 | Height of Buildings - 18m | No changes to building height are proposed as part of this application. | N/A |
| 4.4 | Floor Space Ratio | No FSR control applies to the subject site. Not relevant. | N/A |
| Part 5 Miscellaneous Provisions | | | |
| 5.10 | Heritage Conservation | Has been addressed via the original DA, noting that the development is not located within proximity to a heritage item or resides within a heritage conservation area. | N/A |
| 5.21 | Flood Planning | No changes are proposed. | N/A |
| Part 7 Additional Local Provisions | | | |
| 7.1 | Earthworks | No changes are proposed. | N/A |
| 7.3 | Development on Natural Resources Sensitive Land | No changes are proposed. | N/A |
| 7.4 | Sustainable Development | The proposal satisfied that LEP in that: | Yes |

| | | | |
|-----|---|--|-----|
| | | <p>(a) conserving energy and reducing carbon dioxide emission, (b) embodied energy in material and building processes,</p> <p>No changes proposed.</p> <p>(c) building design and orientation, (d) passive solar design and day lighting, (e) natural ventilation</p> <p>No changes to solar access and natural ventilation as per DA16/0137.03.</p> <p>(f) energy efficiency and conservation, (g) water conservation and water reuse,</p> <p>No changes proposed.</p> <p>(h) waste minimisation and recycling,</p> <p>The development continues to provide appropriate waste storage.</p> <p>(i) reduction of vehicle dependance,</p> <p>No changes.</p> <p>(j) potential for adaptive reuse</p> <p>No changes from approved DA.</p> | |
| 7.5 | Protection of Scenic Character and Landscape Values | The existing street trees fronting Derby Street are underneath overhead wires and are too large of a species (Queensland Brush Box) that they will be affected by the overhead power lines in the long term. Therefore, it is proposed to remove the five (5) existing Queensland Brush Box trees and replace them with the smaller growing species Tristania Laurina luscious. The replacement trees are considered to adequately integrate and enhance the setting of the building whilst complimenting the landscape character of the neighbourhood. See the landscape plan for detail. | N/A |
| 7.6 | Salinity | Has been addressed via DA16/0137.03. | N/A |
| 7.7 | Servicing | Has been addressed via DA16/0137.03. | N/A |

PENRITH DEVELOPMENT CONTROL PLAN 2010

All relevant Council controls have been identified and considered in the following compliance table.

| Penrith Development Control Plan 2014 Compliance Table | | | |
|--|-------------------|--|----------|
| Clause | Controls | Comments | Complies |
| C1 Site Planning and Design Principles | | | |
| 1.1 | Site Analysis | <p><u>1.1.1 Site Analysis</u> A Site Analysis has been prepared and is attached as part of the original DA.</p> | N/A |
| | | <p><u>1.1.2 Key Areas with Scenic and Landscape Values</u> The existing street trees fronting Derby Street are underneath overhead wires and are too large of a species (Queensland Brush Box) that they will be affected by the overhead power lines in the long term. Therefore, it is proposed to remove the five (5) existing Queensland Brush Box trees and replace them with the smaller growing species <i>Tristania Laurina luscious</i>. The replacement trees are considered to adequately integrate and enhance the setting of the building whilst complimenting the landscape character of the neighbourhood. See the landscape plan for detail.</p> | N/A |
| 1.2 | Design Principles | <p><u>1.2.2 Built Form – Energy Efficiency and Conservation</u> No changes to solar access and cross ventilation will result from the modification.</p> | Yes |
| | | <p><u>1.2.3 Building Form – Height, Bulk and Scale</u> Overall, the building form is retained as approved under DA16/0137.03.</p> | Yes |
| | | <p><u>1.2.4 Responding to the Site's Topography and Landform</u> Has been addressed via the original DA, noting that the current application is limited to undertake minor changes to the design scheme approved under DA16/0137.03.</p> | Yes |
| | | <p><u>1.2.5 Safety and Security (Principles of Crime Prevention through Environmental Design)</u> Has been addressed via the original DA, noting that the approved development will continue to provide active façade that will</p> | Yes |

| Clause | Controls | Comments | Complies |
|---------------------------------|--|--|----------|
| | | <p>permit casual surveillance of Derby Street as well as the driveway areas and open space areas on-site.</p> <p><u>1.2.6 Maximising Access and Adaptability</u> Both access and adaptability features of the development remain as approved under DA16/0137.03.</p> | Yes |
| C2 Vegetation Management | | | |
| 2.1 | Preservation of Trees and Vegetation | Has been addressed as part of the original DA, noting that the current 4.55(1A) application is limited to undertaking minor changes to the approved design scheme. | N/A |
| 2.2 | Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas | Has been addressed via the original DA noting that the subject site is not identified as being within a Natural Resource Sensitive Land under the Penrith Local Environmental Plan 2010. | N/A |
| 2.3 | Bushfire Management | Has been addressed via the original DA noting that the subject site has not been identified as being within a Bushfire Prone Land. | N/A |
| C3 Water Management | | | |
| 3.1 | Water Conservation | The application will be accompanied with an updated BASIX certificate that will outline how water usage will be minimised. | N/A |
| 3.2 | Catchment management and Water Quality | Has been addressed via the original DA noting that the modification will have no impact on the approved stormwater management arrangements approved via DA16/0137.03. | N/A |
| 3.3 | Watercourses, Wetlands and Riparian Corridors | Has been addressed via the original DA noting that the development site is not located within close proximity to a watercourse, wetland or riparian corridor. | N/A |
| 3.4 | Groundwater | N/A – has been addressed via the original DA, noting that the current 4.55(1A) application is limited to undertaking minor changes to the approved design scheme. | N/A |

| Clause | Controls | Comments | Complies |
|--|------------------------------------|---|----------|
| 3.5 | Flood Planning | The proposal achieves compliance with the minimum flood planning level as per the approval. | Yes |
| 3.6 | Stormwater Management and Drainage | No change to the stormwater management arrangements approved under DA16/0137.03. | N/A |
| C4 Land Management | | | |
| 4.1 | Site Stability and Earthworks | No changes. | NA |
| 4.3 | Erosion and Sedimentation | No changes | NA |
| 4.4 | Contaminated Lands | Has been addressed via the original DA, noting that the current 4.55(1A) application is limited to undertaking minor changes to the approved design scheme. | N/A |
| 4.5 | Salinity | Has been addressed via the original DA, noting that the current 4.55(1A) application is limited to undertaking minor changes to the approved design scheme. | N/A |
| C5 Waste Management | | | |
| | | No changes to the waste management scheme within the upper basement level and ground floor. | Yes |
| C7 Cultural | | | |
| 7.1 | European Heritage | Not relevant to this application. | N/A |
| 7.2 | Aboriginal Cultural and Heritage | Has been addressed as part of the original DA. | N/A |
| 7.3 | Significant Trees and Gardens | Has been addressed as part of the original DA noting that the subject site does not contain any trees or gardens that is of cultural, historical, scientific or aesthetic significance. | N/A |
| C10 Transport, Access and Parking | | | |
| 10.2 | Traffic Management and Safety | No changes are proposed. | N/A |
| 10.5 | Parking, Access and Driveways | The proposed dimension for the car parking spaces continue to be consistent with Council requirements. | Yes |

| Clause | Controls | Comments | Complies |
|-----------------------------------|--|---|------------|
| | <p><u>Parking Rates</u></p> <ul style="list-style-type: none"> - 1 space per 1 or 2 bedrooms - 2 space per 3 bedrooms <p>1 space per 40 units for service vehicles</p> <p>Visitor: 1 space per every 5 dwellings</p> <p>1 space per 40 units for car washing up to a maximum of 4 spots.</p> | <p>The development is to retain the existing unit mix.</p> <p>The development is to provide 2 additional car parking spaces, and therefore, complies.</p> | |
| C11 Subdivision | | | |
| | | No subdivision is proposed as part of this Clause 4.55(1A) modification. | N/A |
| D2 Residential Development | | | |
| 2.5 | Residential Flat Buildings | <p><u>2.4.2 Preferred Configuration for Residential Flat Buildings</u></p> <p>No change to the approved building configuration under DA16/0137.03, noting that the current 4.55(1A) application is limited to undertaking minor changes to the approved design scheme.</p> <p>Parking will continue to be provided with the basement levels as per the original DA.</p> | N/A |
| 2.5.3 | Development Site | | |
| | Minimum lot width of 20m in the R4 Zone | Has been addressed as part of the original DA. | Yes |
| 2.5.4 | Urban Form | | |
| | 1. Dwelling fronting the street, adopt a traditional orientation. | Has been addressed as part of the original DA. | N/A |
| | 3. Avoid 'gun-barrel' style development. | Has been addressed as part of the original DA. | N/A |

| Clause | Controls | Comments | Complies |
|--------|--|---|----------|
| | | No changes are proposed to the urban form as part of this application. | |
| 2.5.5 | <p>Landscape Area</p> <p>Where more than 10 dwellings are proposed, a centrally located communal open space area that is accessible and available to all residents of the development, comprising 10% of the minimum landscaped area requirement.</p> <p>Landscaped area equivalent to 35% of the site with a minimum width of 2m and no basement encroachment</p> | Continues to comply. | Yes |
| 2.5.6 | Front and Rear Setback | No changes to the front and rear setback approved under DA16/0137.03. | N/A |
| 2.5.7 | <p>Building Envelope and Side Setbacks</p> <p>Cut and Fill and maximum ground floor heights: a) on sloping sites provide stepping building platforms in line with existing topography with floors no higher than 1m above natural ground level; b) restricts cut-and-fill to be a maximum of 500mm.</p> <p>Pitchers for main roof are not to be in excess of 24 degrees.</p> | No changes proposed. | N/A |
| 2.5.8 | Visual and Acoustic Privacy and Outlook | Potential privacy and acoustic impacts have been addressed via the original DA, noting that the development will continue to comply | N/A |

| Clause | Controls | Comments | Complies |
|--------|--|--|----------|
| | | with the building separation requirements under the ADG. | |
| 2.5.9 | Solar Planning | No changes proposed. | N/A |
| 2.5.10 | Significant Townscape & Landscapes | The existing street trees fronting Derby Street are underneath overhead wires and are too large of a species (Queensland Brush Box) that they will be affected by the overhead power lines in the long term. Therefore, it is proposed to remove the five (5) existing Queensland Brush Box trees and replace them with the smaller growing species <i>Tristania Laurina luscious</i> . The replacement trees are considered to adequately integrate and enhance the setting of the building whilst complimenting the landscape character of the neighbourhood. See the landscape plan for detail. | N/A |
| 2.5.11 | Corner Sites and Park Frontages | No changes proposed. | N/A |
| 2.5.12 | Building Design | No changes to the building design are proposed as part of this application. | N/A |
| 2.5.13 | Energy Efficiency | No changes proposed. | N/A |
| 2.5.14 | Design of Dwellings and Private Courtyards | No changes proposed. | N/A |
| 2.5.15 | Garage design | | |
| | Basement should have a low appearance, rising no higher than 1.5m above ground. | The height of the basement above the ground level will not be affected as part of the proposal, noting that in order to achieve clearance heights, the basement will be further excavated. | Yes |
| | Vehicle entrances designed to complement the architecture and landscaping of each building | Has been addressed as part of the original DA and continues to comply. See the revised plans for detail. | Yes |
| | Undercover storage | Continues to be provided. | Yes |

| Clause | Controls | Comments | Complies |
|--------|---|--|-----------|
| 2.5.16 | Garden Design | Has been addressed as part of the original DA. | N/A |
| 2.5.17 | Paving Design | No changes proposed. | N/A |
| 2.5.18 | Fencing and Retaining Walls | No changes proposed. | N/A |
| 2.5.19 | Safety and Security | Has been addressed via the original DA, noting that the approved development will continue to provide active façade that will permit casual surveillance of Derby Street, the driveway areas and open space areas on-site. | Yes |
| 2.5.10 | Accessibility and Adaptability 10% of dwellings must be adaptable. | No changes proposed. | N/A |
| 2.4.22 | Storage and Services 10m ³ of storage per unit | Development continues to provide storage per unit in accordance with the ADG. | Yes – ADG |

CONCLUSION

It is concluded that following a review of the relevant planning controls, the proposed modification application is an appropriate outcome on site and remains consistent with the design intent of the original proposal.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the modification including the amendment of relevant conditions identified previously in this statement.