



Penrith Local Planning Panel

Determination and Statement of Reasons

APPLICATION NUMBER	DA18/0298
DATE OF DETERMINATION	Wednesday 25 July 2018
PANEL MEMBERS	Deborah Dearing (Chair) John Brunton (Expert) Geoff Martin (Community Representative)
APOLOGY	Mary-Lynne Taylor (Expert) Christopher Hallam (Alternate Expert)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKER(S)	Ryan Macindoe – Urbis on behalf of the applicant

Public Meeting held at Penrith City Council on Wednesday 25 July 2018, opened at 5:10pm.

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

Development Application DA18/0298 at Lot 3008, DP 1184498, No. 15 Engineers Place, Penrith – Construction of a Nine (9) Storey Mixed Use Development including Two (2) Ground Floor Commercial Tenancies, 48 Residential Apartments & Ground Floor, Level 1 & Level 2 Car Parking.

Panel Consideration/Reasons for the Decision

The Panel has considered the assessment report prepared by Council Officers, a supplementary memorandum dated 25 July 2018 and a supporting plan of surrounding building heights within the Thornton Estate. As a consequence of the supplementary information and the detail contained within the assessment report, the Panel supports the recommendation for approval for the reasons below;

1. The proposal is permissible development within the B2 – Local Centre Zone under Penrith Local Environmental Plan 2010 noting Schedule 1 – Additional Permitted Uses permits residential flat building development.
2. The proposal provides a supportable variation to the Building Envelope and Village Centre controls within Penrith Development Control Plan 2014, Section E11, Part B – North Penrith Guidelines as the proposal responds to broader strategic plans for increased building height and floor space ratio within the precinct as outlined within the supplementary memorandum referenced above.
3. The development addresses design excellence as outlined within the advice of the nominated Urban Design Review Panel dated 2 July 2018, as empowered by the terms of the waiver to design competition requirements issued by the Office of the

Government Architect NSW. The recommendations of the Urban Design Review Panel are also incorporated into the recommended conditions of consent.

4. In relation to SEPP 65 there is scope to improve the Solar Access to Units on the South East corner across all residential floors by internal re-design. The panel requires re-design of the layout to achieve sunlight in the living areas in accordance with the Apartment Design Guide.
5. The proposal provides a suitable commercial and residential floor space offering which positively contributes to the precinct by way of ground floor commercial floor space to activate the streetscape and diversity in housing choice through upper floor residential units.
6. The proposed height of the building, although inconsistent with the North Penrith controls, is LEP compliant and contextually appropriate providing for a transition in higher built form from the station edge to lower rise housing forms adjacent to the central estate canal.
7. The non-provision of basement parking is acceptable due to the constrained site dimensions, lot shape and limited safe vehicle access points. This in combination with the proposed building edge treatments of the above ground parking areas will result in a development which is contextually responsive. The architectural treatment of the proposed podium parking has demonstrated design excellence as endorsed by the project specific urban design review panel. The Panel noted that the clearance height within the car parking is not consistent with the DCP criteria but accepts the reduced height is appropriate in this circumstance.

In terms of considering community views, the Panel noted there were four (4) submissions received from the public the issues raised relating to Safety, Traffic Entry and Exit, Car Parking, Development Density, Train Services, Kiss and Ride and Commercial Development have been adequately addressed in Council's Assessment Report.

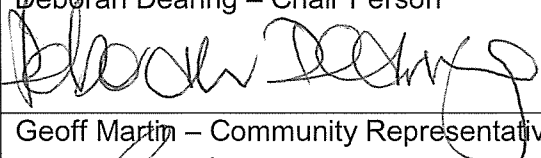

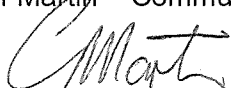
Panel Decision

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA18/0298 for Construction of a Nine (9) Storey Mixed Use Development including Two (2) Ground Floor Commercial Tenancies, 48 Residential Apartments & Ground Floor, Level 1 & Level 2 Car Parking be approved subject to:

- a) The conditions accompanying the assessment report to the Local Planning Panel meeting of Wednesday 25 July 2018; and
- b) Satisfactory redesign of the layout as noted in Item 4 as above subject to the satisfaction of Council's Development Services Manager.

Votes

The decision was unanimous.

Deborah Dearing – Chair Person 	John Brunton - Expert 
Geoff Martin – Community Representative 	

MEMORANDUM

Reference: DA18/0298

To: Penrith City Council Local Planning Panel

From: Kathryn Saunders, Senior Development Assessment Planner

Date: 25 July 2018

Subject: **Construction of a Nine (9) Storey Mixed Use Development including Two (2) Ground Floor Commercial Tenancies, 48 Residential Apartments & Ground Floor, Level 1 & Level 2 Car Parking at 15 Engineers Place, Penrith**

I refer to the above matter scheduled for determination with the Penrith City Council Local Planning Panel on Wednesday 25 July 2018 and a request for further clarification concerning strategic background on the planning of the precinct, applicable guidelines and DCP provisions as follows:-

Strategic Background

The Concept Plan approval for the site (MP 10-0075 approved 9 November 2011) included the Draft North Penrith Development Control Plan. The potential for the site to accommodate a higher density of development had been identified by Council in its submission to the Department of Planning and Environment, in response to the exhibition of the Concept Plan. Council's submission recognised that the concept plan *"does not fully realise the strategic potential for the site in terms of its opportunity to deliver high rise residential development and higher order employment opportunities"*

On 25 November 2011 the SEPP Amendment (North Penrith) 2011 was gazetted which amended Penrith City Centre Local Environmental Plan 2008 which applied a B2 Local Centre zone to the site, permitting residential flat buildings and shop top housing, and applied a 30m Height of Buildings standard. In 2015 Council completed its City Wide LEP which incorporated this standard. The Draft North Penrith Development Control Plan endorsed as part of the concept plan approval was incorporated into the Penrith Development Control Plan 2014 as Section E11, Part B North Penrith.

As part of the suite of amendments accompanying the gazettal of Stage 2 of Council's consolidated Penrith LEP 2010, the LEP Height of Buildings maps were amended to include a maximum permissible height for the subject site of 32 metres. The site was also included within Schedule 1 Additional Permitted Uses and is identified under Clause 23 (Lots 3001-3013 in DP 1184498). Clause 23 identifies that additional permitted uses on the site include development for the purposes of exhibition villages, high technology industries, multi dwelling housing, residential flat buildings and seniors housing.

Urban Growth NSW (formerly Landcom) has worked collaboratively with Council to achieve an appropriate density of development within the estate with a built response reflective of the approved master plan. Achievable densities and permissible uses as per the Penrith LEP 2010 are supportive of the approved pattern of subdivision and allow a transitional built form moving from the city centre towards the three storey terrace housing fronting the estate canal and towards the lower density housing to the east.

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In addition to the above, the Penrith LEP 2010 makes provision for a greater level of density to be achieved on 3 allotments located to the immediate west of the subject site (41, 192 and 184 Lord Sheffield Circuit). Clause 8.7 Community infrastructure on certain key sites, effectively removes the maximum permissible height and FSR expressed for the sites under the LEP maps up to a maximum FSR of 5:1 to allow higher density development on certain land in the City Centre, where the development includes provision of community infrastructure. It is noted that the North Penrith Controls within the DCP also require amending to reflect the maximum permissible height and FSR achievable under the LEP and as available under Clause 8.7.

Council's City Planning Department acknowledge that Section E11, Part B North Penrith of the Penrith Development Control Plan 2014 has not been amended to reflect the higher densities envisaged for the site, and as reflected in amendments to the Penrith LEP 2010 and has clarified that the controls will be updated as part of a future review of the DCP.

The Development Application

The development application seeks the following departures from Section E11, Part B North Penrith Guidelines:

1. **Clause 11.8.3.3 Building Envelopes.**

- Controls of this clause state that the maximum number of storeys for residential development is shown at Figure E11.37. Figure 11.37 identified the subject site for a maximum 6 storey height of building. The development application is seeking approval for 9 storeys. The proposed height complies with the maximum height expressed for the site of 32m under the PLEP 2010.

Figure 11.37 – Maximum building height plan (storeys)

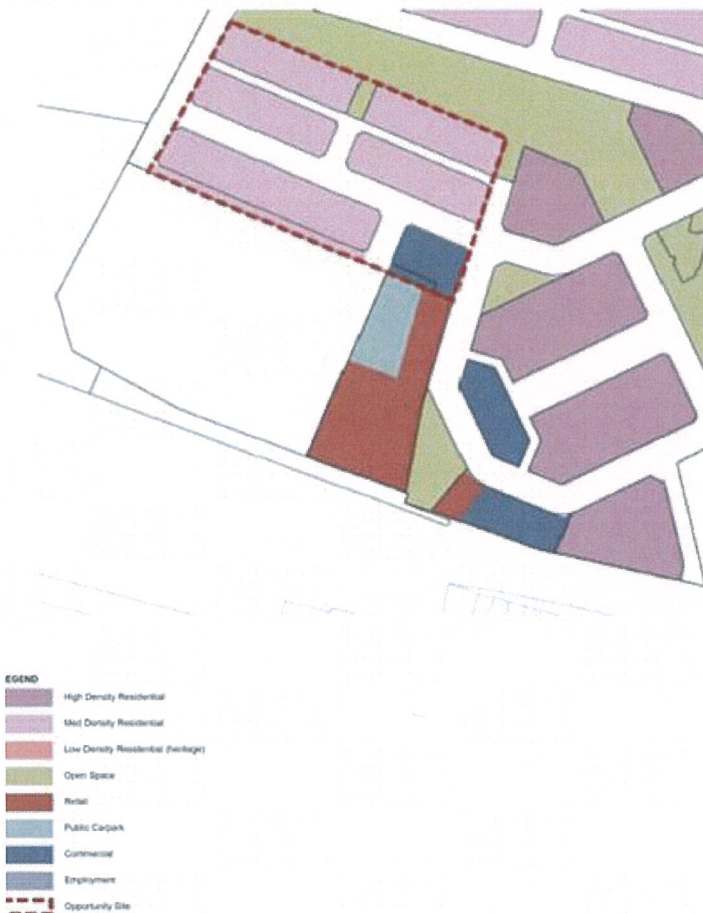


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2. Clause 11.8.4 The Village Centre

- Clause 11.8.4.1, B (1) states that the location of preferred land uses within the Village Centre is to be *generally consistent* with Figure E11.47.
- Clause 11.8.4.1, B (2) stipulates that building heights within the Village Centre are to be a minimum of 2 storeys and a maximum of 6 storeys.
- Clause 11.8.4.1, B (3) requires the ground floor of all mixed use buildings to have a minimum floor to ceiling height of 3.6m for flexibility of future uses.

Figure E11.47 - Village Centre location of preferred land uses



Discussion

Building Envelopes and Village Centre Controls

Section E11, Part B, North Penrith of the DCP requires that the development be 'generally consistent' with Figure E11.47 which identified the site for commercial uses. It is considered that the proposal for a mixed use development with commercial tenancies provided at ground floor is generally consistent with the DCP. In addition, the DCP includes in Figure E11.44, a map of sites nominated for key residential flat development. The subject lot, T6 is not identified in the figure, although controls of the section stipulate that "Residential flat buildings may occur on sites other than those nominated at Figure E11.44". Further, residential flat buildings are permissible on the site under Schedule 1 Additional Permitted Uses of the PLEP 2010.

In addition to the above, the Village Centre controls include specific reference to mixed use development notwithstanding that 'mixed use' is not identified in Figure

MEMORANDUM

E11.47 Village Centre location of preferred uses. By this reference through-out the document, it is taken that mixed uses within the village centre are anticipated and that a strategic level of flexibility is inbuilt into the North Penrith controls to allow Council to assess the suitability of development on a site-by-site basis, taking into consideration the objectives of the DCP and consistency with dwelling and employment targets across the estate, in accordance with the concept plan approval.

In this regard, the proposal is assessed as acceptable and will support the needs of local residents within the estate as well as providing retail and employment options, and the activated and elevated streetscape presence is supportive of the Penrith CBD.

Clause 11.8.1.3 of the DCP sets out its relationship with other Planning Documents and states that *“This section [Section E11, Part B, North Penrith] is to be read in conjunction with any environmental planning instrument which applies to the land, as well as the Planning Agreement for the North Penrith Precinct”*. In this regard, it is not considered that the approved Concept Plan or that controls with Section E11, Part B, North Penrith of the Penrith DCP, as endorsed under the concept plan require amending to permit approval of the allowable maximum height under the Penrith LEP 2010.

The development does not comply with the requirement under Section E11, Part B North Penrith of the DCP to provide a floor to ceiling height of 3.6m for the ground floor of the mixed use building. The floor to ceiling height for the ground floor is proposed to be a 3.3m clear height (finished floor level to underside of ceiling), assuming the 300mm slab thickness. Given that the proposal is for commercial use at the ground floor only and the minimum requirement for mixed use at ground floor would be 3.3m finished floor to underside of ceiling (as per the Apartment Design Guide recommendations), the intent of the condition is considered to be achieved, in that flexibility of use can be provided in the future. As detailed above, the DCP allows for mixed use development within the Village Centre and controls within the DCP do not require greater floor to ceiling heights for upper level residential floors. In this respect, the Objectives and Design Criteria of the ADG are applied.

It is raised for the panel’s consideration that several vacant sites remain within the Village Centre precinct which are anticipated to deliver commercial floor space. Urban Growth NSW retain ownership of two allotments with a maximum height of 32m achievable under the PLEP 2010. These two sites known as 172 and 162 Lord Sheffield Circuit, are suitably positioned and are of an appropriate scale to accommodate commercial floor space, which will assist in delivering the higher end professional employment (such as technology jobs) as envisaged for the estate and as required by the concept plan approval and accompanying Schedule of Commitments.

The development provides a site responsive, mixed use building that complies with the objectives of the DCP and the development standards under the Penrith LEP 2010, inclusive of a compliant building height.



Kathryn Saunders
Development Assessment Planner