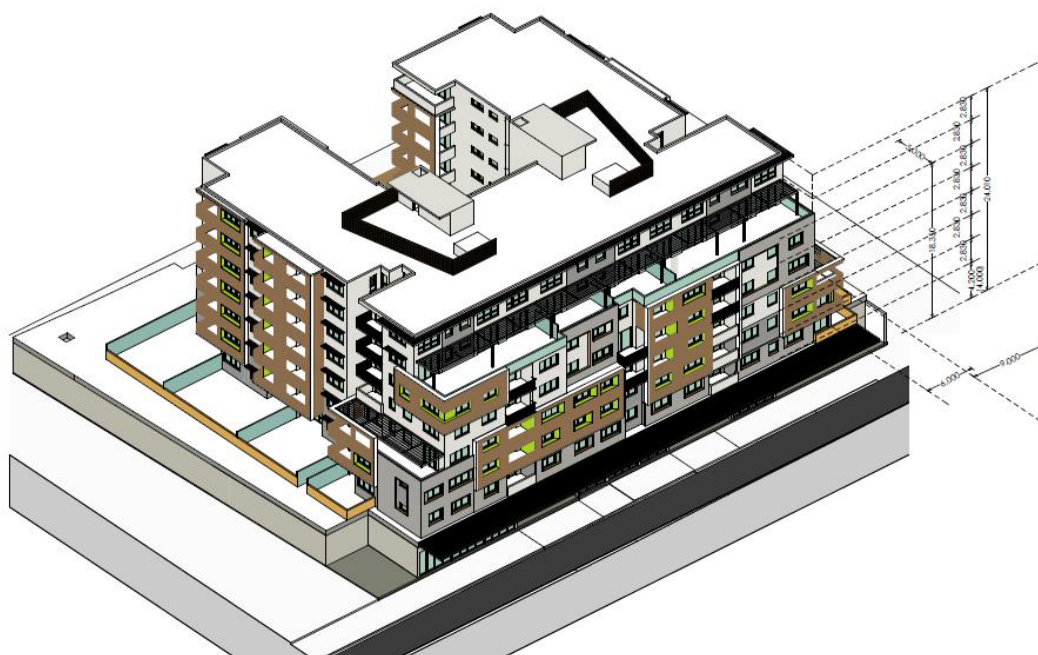


JRPP Number	2010SYW091
Capital Investment Value	\$17,740,000
Assessing Officer	Pukar Pradhan - Senior Environmental Planner
Local Government	Penrith City Council
Proposed Development	Proposed construction of 8 storey building as a Mixed Use Development
Property Description	Lot 1, DP 710350
Property Address	No 37-45 Henry Street, Penrith (Penrith City Council)
Date Received	21 September 2010 (Further amended plans submitted on 25 November 2010 & further amended ground floor and 2 levels of basement plan submitted on 9 February 2011).
Type of Development	Advertised Development
Recommendation	Approval, subject to conditions

Assessment Report and Recommendation



Axonometric of the building source: Puflett Associates

Executive Summary

Council on 21 September 2010 received a Development Application which involves the construction of a mixed use development comprising of eighty (80) residential dwellings and three (3) commercial units with underground parking spaces associated with the use on the above mentioned property.

The proposed development has a 'capital investment value' (CIV) of \$17.740 million. Given that the CIV is in excess of \$10 million, the proposed development is to be determined by the Joint Regional Planning Panel (JRPP) – Sydney West pursuant to Part 3 - Regional Development of the State Environmental Planning Policy (Major Development) 2005.

The subject site is located within the B4 Mixed Use zone pursuant to Penrith Local Environmental Plan 2008- Penrith City Centre. The proposed mixed use development can be defined as *"Office Premises"* and *"Multi Dwelling Housing"* which are permissible in the B4 Mixed use zone.

This site has been nominated as one of the key site in the Penrith City Centre area and the application represents a significant proposal for the Penrith City Centre. It is one of the first major residential developments determined under the Penrith City Centre LEP 2008 and as such, is expected to set the standard of future development for the City Centre. A Design Review Panel (DRP) was created to review the design of the building to achieve a high standard of design to fulfil the City Centre LEP requirements. An amended plan was subsequently prepared and submitted to Council on 26 November 2010 in response to matters raised by the DRP and now forms part of this application.

The subject application was placed on public exhibition and notified to adjoining property owners from 20 December 2011 to 31 January 2011. No submissions were received at the end of the exhibition period.

An assessment under Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 (as amended) has been undertaken. After detailed consideration of all matters, the report recommends that JRPP grants consent to the proposal.

Background to Current Design

A pre-lodgement meeting was held on 20th June 2010 to discuss the initial design proposal. At this meeting matters like the master plan, variety of accommodations to be included in the building, a concept stormwater drainage and overland flow solar efficient building, traffic, garbage collection and its storage area, and the location of the pad mount sub-station were discussed. As the site is one of the key sites within Penrith CBD several meetings were held to improve the overall design of the building.

The LEP incorporated provisions regarding architectural design excellence (in Clause 26) which required applicants to undertake an architectural competition, involving three independent architects, to determine the best possible building design option to be presented in a development application to Council.

After lodgement of the development application, the Department of Planning advised that although the land was nominated as a "Key Site", it acknowledged that a full

architectural competition was not necessary in this instance, and the application should proceed through a Design Review Panel which would be set up in accordance with the Minister's Guidelines to determine whether or not the design demonstrated architectural design excellence. Subsequently, a letter was on 7 September 2010 issued from the Department of Planning to advise that they are waiving the requirement for an architectural design competition on the basis that a design review panel be appointed in lieu of the competition process.

In view of the above, in conjunction with the assessment of the development application by Council staff, the Design Review Panel was established.

Based on the Minister's Guidelines for Design Excellence, the Panel comprised an independent representative nominated by each party as follows:

The Applicant	Ian Craig, Thomson Adsett, Architects
Department of Planning:	Adrian Bonanni, Senior Urban Designer, Centres & Urban Renewal
Council	Gabrielle Norrish, GMU Architects and Urban Designers

The Panel was to consider Clause 26(3) (a)-(f) of Penrith City Centre LEP 2008 which sets out the criteria to be satisfied to achieve Design Excellence. This clause is discussed in more detail later in this report.

There were several Design Review Panel meetings were held at Council's offices in early October 2010. Through much deliberation, the Panel formed the view that the first proposed development did not achieve 'design excellence' in its current configuration and required some amendments to the design. Key issues related to bulk and shape of the upper levels which was requested to be of U shape floor plan, location of the pad mount sub-station, overland flow and solar access and energy efficiency.

The applicant presented an amended plan addressing the above mentioned concerns of the Panel. After examination of these plans by the panel at the meeting held on 30 October 2010, they have all agreed that the amended concept resulted in much improved design however raised concern of the location of substation being at the front of the site but confirmed that it generally achieved a satisfactory design outcome.

The final amended design was lodged on 25 November, 2010 which forms part of this report.

Site and Surrounds

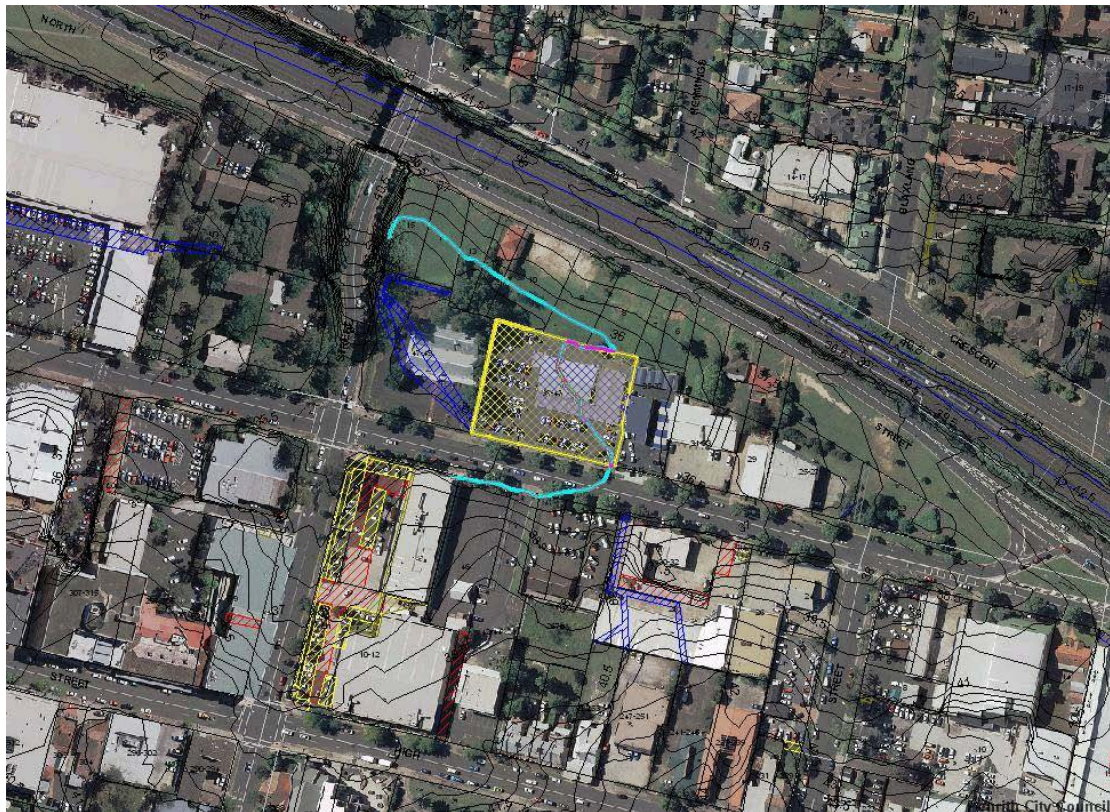
The subject site is situated on Henry Street between Doonmore Street to the east and Evans Street to the west. The site is approximately 1 kilometre to the east of what is referred to as the Penrith Central Business District (CBD).

The site is generally rectangular with a total land area of 3,279.52m² and with the following dimensions:

- 65.225 metres to Henry Street (southern boundary);
- 67.465 metres to the northern boundary;
- irregular 50.27 metres to the eastern boundary; and

- 51.865 metres to the western boundary.

The site is located on the north eastern periphery of the Penrith CBD and the surrounding locality comprises mixed use character with the motor vehicle industry (sales, spare parts, servicing, cleaning etc) and a service station and several commercial buildings located 60m-70m to the southern part of this site. A number of the properties surrounding the site to the east and north east are vacant. Directly to the north of the site is a strip vacant land zoned part B4 and part road widening of public open space and a dwelling house. State Railway line and North Road are located to the north of the vacant land. The site is nominated as one of the Key Site in the Penrith City Centre LEP 2008.



Aerial view of the site - Source: Penrith City Council.

The site is currently occupied by a single storey brick and glass building with a metal roof having a total floor area of about 418.50sqm. The site had been previously used as a motor showroom/car sales yard a covered car park is situated adjacent to the building on its southern and eastern facade. The remainder of the site comprises open hardstand areas which are now used as free public car parking spaces for the surrounding business in the locality. The site is fenced around the perimeter. Vehicular access to the site is via Henry Street.

Proposed Development

The subject Development Application involves the construction of an 8 storey building with 2 levels of underground parking spaces having a gross floor area of 10,220.78m² comprising the following:

- 80 residential apartments within a 'U' shaped tower courtyard building design with the following mix:
 - 14 x 1 bedroom apartments (17.5%);
 - 58 x 2 bedroom apartments (72.5%); and
 - 8 x 3 bedroom apartments (10%).
 - 3 commercial tenancies located at the ground floor level with frontage to Henry Street;
 - car parking for 158 (147) in a two level basement car parking area;
 - use of the existing vehicular crossing to Henry Street as a combined access/egress driveway; and
 - landscaping and site works.
 - strata subdivision

Details of each floor plan are as follows:

Basement level 2	car parking for 79 vehicles including 8 disabled spaces <ul style="list-style-type: none"> • storage area for apartments • residential garbage room • motorbike and bicycle parking spaces • lifts
Basement level 1	car parking for 65 vehicles including 3 disabled spaces and 2 car wash bays <ul style="list-style-type: none"> • motorbike and bicycle parking • lifts, plant and equipment (including rainwater tanks) and change/shower room
Ground	3 x non-residential tenancies and amenities <ul style="list-style-type: none"> • residential lobby x 2 • loading bay • car park driveway ingress and egress • non-residential garbage area
Levels 1 to 5	12 residential apartments per level
Level 6	10 residential apartments
Level 7	10 residential apartments
Roof	Plant and equipment including the lift overrun

A gross floor area (**GFA**) of 10,220.78m² which equates to a floor space ratio (**FSR**) of 3.12:1 is proposed;



Front elevation - Source: Puflett Associates.

The following reports have accompanied the subject Development Application and used throughout the planning assessment: -

- Existing Site/Survey Plan, by ATS Surveyors;
- Architectural Drawings including site analysis and calculations, by Puflett Associates;
- Schedule of External Materials and Finishes, by Puflett Associates;
- Shadow Diagrams, by Puflett Associates;
- Photomontages, by Puflett Associates;
- SEPP 65 Ten Design Quality Principles Report, by Puflett Associates;
- SEPP 65 Design Verification Statement, by Puflett Associates;
- Traffic Impact Statement by Far West Consulting Engineers;
- BASIX Certificate, by VOS Group;
- ABSA Certificate, by Thermal Performance;
- Hydraulic, Stormwater and Sediment Control Plan, by Far West Consulting Engineers;
- Access Review, by Morris Goding Accessibility Consulting;
- Acoustic Report, by Far West Consulting Engineers; and
- Geotechnical Investigation, by Douglas Partners.

Planning Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The main issues that have arisen in the assessment relate to:

- ☐ design excellence
- ☐ outcomes of Design Review Panel
- ☐ parking calculations and S94 contributions
- Traffic implications
- ☐ impacts to adjoining residents
- ☐ objections received if any

1. Section 23G - Environmental Planning and Assessment Act 1979

A regional panel is taken to be the Council whose functions are conferred on a regional panel. In this case, the Sydney West Joint Regional Planning Panel is the consent authority as conferred on it under State Environmental Planning Policy (Major Development) 2005 as amended.

2. Section 79C (1) (a) (i) – Any Environmental Planning Instrument

Penrith City Centre LEP 2008 (PLEP 2008)

This Plan applies to most of the area known as Penrith City Centre and the aims relevant to the subject development proposal are:

- (a) *to strengthen the regional position of the Penrith City Centre as a multifunctional and innovative centre that encourages employment and economic growth,*

- (c) *to promote employment, residential, recreational and leisure, cultural, social and tourism opportunities within the Penrith city centre,*
- (d) *to respond to the economic and social needs of the region by providing centrally located services and facilities,*
- (e) *to facilitate new commercial and residential development in the Penrith city centre that is consistent with the desired future character of the area as described in the Penrith City Centre Development Control Plan 2007,*
- (g) *to encourage development that contributes to the provision of alternative and sustainable access to the city centre,*
- (h) *to enhance access to the city centre, particularly by public transport, walking and cycling,*
- (i) *to facilitate the development of building design excellence appropriate for a regional city and improve the quality of urban design and ensure the public domain is safe and attractive,*
- (j) *to encourage responsible management, development and conservation of resources and to ensure that the Penrith city centre achieves sustainable social, economic and environmental outcomes,*

The proposal provides a mix of commercial and residential premises close to the City Centre and with easy access to transport networks. The buildings have been designed to maximise environmentally sustainable outcomes in their structure, facilities and fixtures. It will facilitate new development in the vicinity and will provide variety of accommodations to the public and contribute to the economic and social needs of the region. The development proposal therefore satisfies these relevant aims of the Plan.

(i) Permissibility

Under the provisions of PLEP 2008, the property is within Zone B4 Mixed Use in which “*shop top housing*”, “*multi dwelling housing*, *office premises*” are permissible with Council consent.

The proposed development having some commercial units on the ground floor and residential units on upper levels falls in with the definition of “*Shop top Housing*” which is defined as:

Shop top housing means mixed use development comprising one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

The proposed development is therefore permissible with Council's consent.

The B4 Mixed Use zone aims:-

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*
- *To create opportunities to improve the public domain.*
- *To provide for the retention and creation of view corridors.*

The mix of land uses are compatible to City living and working opportunities, close to public transport and allowing for walking and cycling. The public domain will be enhanced with the provision of an 8 storey high building designed in a contemporary architecture that presents well to both the Henry Street and North Street and the State Railway line. The development proposal can satisfy the objectives of the zone.

(ii) Principal Development Standards

The following development standards are relevant to the development assessment. Where the proposal exceeds the development standard, discussion is provided at Clause 26 Design Excellence and Clause 32 Exceptions to development standards.

Clause 21 Height of buildings

The Height of Buildings Map in LEP 2008 identifies a 24 metre height limit for the site.

The maximum heights have been selected in consideration of sunlight access to public areas, appropriateness of the expected building form for a site, and to provide a transition in built form and land use intensity for different areas of the City Centre.

The proposed building height is mainly 24.0m except for the two small areas over the lift overrun at 26.78 metres, which exceeds the standard by 2.78 metres. As there is a breach in the building height the applicant has submitted an objection to vary this requirement. This is addressed under Clause 22 and Clause 32 of LEP 2008.

The variation are only small in area and when viewed from both front and rear streets are not visible nor add any substantial additional overshadowing to adjoining properties. This minor height variation is unlikely to have any detrimental impact on the overall design of the building and has been accepted by the DRP and hence is considered to be satisfactory in this instance.

Clause 22 Architectural Roof Features

The roof design was examined by DPR and considered to be acceptable. The height variation proposed is consistent with Clause 22 (b).

Clause 24 Floor space ratio

Pursuant to the provisions of Clause 24 of LEP 2008, a maximum FSR of 3.5:1 applies to the site.

The subject site has a total area of 3,279.52m². The maximum floor area for this site is 11,478.32m². The total floor space area of the proposed development is 10,220.78 m² which equates to 3.12:1 which is less than the maximum allowable FSR.

Clause 25 Minimum building street frontage

This clause requires a minimum street frontage of 20 metres to at least one street frontage in the B4 Mixed Use zone. The subject site has a frontage to Henry Street of 65.225 and hence is compliant with this Clause.

Clause 26 Design excellence

This site is nominated As a Key Site; and as the building has been designed to have 8 storeys at 24m in height, and is valued more than \$1,000,000, the development application is subject to an architectural design competition and demonstration of design excellence. As discussed earlier in this report, assessment of design excellence was undertaken by the Design Review Panel, established in accordance with the Minister's Guidelines, rather than via an architectural design competition. In the circumstances of this application, this process was recommended by the Department of Planning.

In accordance with Clause 26(3), the Panel considered in detail:

- “(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,*
- (c) whether the proposed development detrimentally impacts on view corridors,*
- (d) whether the proposed development detrimentally impacts on any land referred to in clause 23,*
- (e) the requirements of the city Centre Development Control Plan,*
- (f) how the proposed development addresses the following matters*
 - (i) the suitability of the land for development,*
 - (ii) existing and proposed uses and use mix,*
 - (iii) heritage issues and streetscape constraints,*
 - (iv) the relationship of the proposed building with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*
 - (v) bulk, massing and modulation of buildings,*
 - (vi) street frontage heights,*
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,*
 - (viii) the achievement of the principles of ecologically sustainable development,*
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,*
 - (x) the impact on, and any proposed improvements to, the public domain.”*

The applicant after several meetings with the DRP has responded to issues raised by the Panel and the design was amended to have U shaped upper levels that reduced the mass of the building and assisted to reduce the visual bulk of the residential component. The Panel agreed that the amendments carried out to the building design achieved the above criteria and allowed a satisfactory design outcome.

Clause 27 Car Parking

This clause aims to provide sufficient car parking that is likely to be generated by a development and at a rate which is appropriate for the capacity of the road network and the mix of transport modes for the City Centre.

The parking requirements under PLEP 2008 are as follows:

- ☐ Minimum 1 parking space per 60m² to be provided for commercial tenancies;
- ☐ Minimum 1 space per 30m² for retail tenancies;

In respect to the *Penrith City Centre DCP 2007* the following rates also apply:

- ☐ Maximum 1 space per one or two bedroom apartments,
- ☐ Maximum 1.5 spaces per three bedroom apartments;
- ☐ Maximum 1 visitor space per 20 apartments;
- ☐ Maximum 1 spacer per 50 units for service vehicles and car washing bays, up to 4 spaces.

The proposal provides two levels of basement car parking for three stages of construction, accessed via Henry Street.

The development provides the following car parking spaces required at each stage of the development;

Floor space and/or Nos of residential apartments	Car Parking Required	Car Parking Provided
Commercial/Retail area= 1,980.82m ²	Comm @ 1/60 m ² = 33 spaces	54 spaces (comm.)
1 bdrm = 14 units	@ 1/1 = 14 spaces	90 spaces (res)
2 bdrm = 58 units	@ 1/1 = 58 spaces	
3 bdrm = 8 units	@ 1/1.50 = 12 spaces	
Visitors = 1/20units	@ 1/20 apartments = 4 spaces	
Car wash area 1/50units	2 car wash bay	
Total	123 spaces	144 spaces

As part of the total car parking there will be a total of 10 accessible spaces, 4 visitor parking spaces, 2 wash bays, 8 bicycle spaces and 9 motor bike spaces at level 1 basement and level 2. There are 4 tandem spaces (allocated to 3 bedroom apartments) and Parking/storage and amenities are provided in the basement levels for cyclists.

A total of 123 spaces are required as per Clause 4(e) of DCP 2007. A total of 144 spaces are provided in two basement levels, which exceeds the car parking requirements of City Centre LEP 2008 and DCP 2007. The difference of 21 spaces may be available if commercial floor space is altered to retail floor space.

Clause 28 Ground floor development within Zones B3 and B4

This clause requires that the ground floor of any development has an active street frontage and be used for commercial or retail activities. Exceptions are provided where lobbies, vehicle and fire service access is required.

The ground floor of proposed development primarily consists of commercial activities, residential lobby and the driveway to basement. These commercial uses will provide a continuous active area across the Henry Street frontage. This will allow for passive surveillance across the frontage which in itself assists activation of the space. The DRP has examined this layout and agreed that it achieves a reasonable outcome in this respect.

A small area to the west of the frontage is allocated for the installation of a pad mounted substation. Concern was raised by the DRP of this being located along the western frontage of the building. This substation has been now been relocated to the eastern frontage of the building as the previous location is affected by overland flow as required by Council's Engineer. Integral Energy would generally require substations to be located along the frontage of the site as they require easy access in case of repair works to be carried out in emergency situations. With appropriate design of the front fence it will result in an acceptable streetscape and satisfactory street elevation. The applicant has been required to screen the area with appropriate fence that would be blending with the rest of the building.

The development satisfies the requirements of this clause.

Clause 29 *Building separation*

A separation between the subject buildings and the neighbouring buildings is required to maintain amenity and reduce adverse privacy and shadow impacts between properties as much as possible in a city centre location. The distances from neighbouring buildings and between separate parts of the same building is not to be less than required by the City Centre Development Control Plan.

The rear boundary setback to the residential component equates to 8.50m to 9.0m which are over the minimum 6.0m requirement by the DCP. The side boundary setback to the western boundary is varying from 6m to 11m and hence complies.

Part of the south/east section of the 3 residential level is setback at a zero lot line (equating to a quarter of that elevation to the east) but the remaining 30m of the building is set at a distance of 9.0m setback to eastern boundary.

The section of the residential units at three levels has been designed to have a blank wall facing the eastern boundary so that there is no overlooking impact to eastern adjoining property. The DRP has considered that by having part of the south east part of the building at a zero lot would add more articulation, assists to provide a continuity of buildings along Henry Street frontage which is the desirable streetscape expected in that area. This amendment also results in improving the overall design of the building. This minor variation to the side setback was required by the Panel in order to result in a positive streetscape now and for the future of that area. The upper 6 & 7 levels are setback at 5m or greater from the front boundary as required by the LEP and DCP.

The general extent of building separation was agreed to by the Design Review Panel. It is therefore considered that the design satisfies the intent of this clause. Other setbacks are discussed further in the discussion regarding the City Centre Development Control Plan.

Clause 30 *Ecologically sustainable development*

This Clause requires consideration of ecologically sustainable development (ESD), based on a "whole of building" approach, which includes

- (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 car dependence*
- (j) *potential for adaptive reuse*

The development has made provisions for

- heating and cooling loads; and
- water and energy efficient fixtures and finishes will be used throughout each apartment.

A BASIX certificate was also provided for the residential component of the development.

The requirements of BASIX are to meet targets of 40% water reduction and 20% energy reduction. The proposal achieves 40% water reduction and 20% in energy reduction.

Some of the measures that the residential design incorporates to achieve these levels are as follows:

- rain water storage and re-use for irrigation;
- the construction materials proposed provide high thermal mass to the south in an attempt to minimise
- ☐ provision of water efficient appliances, tapware, fittings and fixtures throughout the building;
- ☐ provision of energy efficient gas and electric appliances in kitchen, laundries; and

The development provides adequate solar access to 82.50% of the apartments which is well over the SEPP 65 requirements.

The development satisfies the intent of this Clause.

Clause 31 *Serviced apartments*

The application is only for strata subdivision of the building(s) but not for serviced apartments, however, should this occur in the future, the design quality principles of *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development* (SEPP 65) and the design principles of the *Residential Flat Design Code* have been satisfied. See further discussion on SEPP 65 below.

Clause 32 *Exceptions to development standards*

The objectives of this Clause are

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Council may grant consent where a development standard is contravened, provided a written request from the applicant has been received justifying the contravention and demonstrating

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

In addition, the development must be in the public interest, be consistent with the objectives of the particular standard and the zone objectives.

(iv) Development Standard to be varied

Clause 21 Height of Building - The proposed building height is 26.78 metres, which exceeds the 24m standard by 2.78 metres.

Clause 29 Building Separation – Part of the three residential levels located at the south-eastern corner are set at zero lot line and not the required 6m setback.

As required pursuant to Clause 32(3) of LEP 2008, the applicant has provided a written request to Council that seeks to justify the departure from the height of buildings and the side setback to east boundary and writes that this development standard is acceptable from an environmental planning point of view and that compliance with the standard is both unreasonable and unnecessary given the circumstances of the case.

The building height standard emerged as part of broader strategic planning and urban design process for the Penrith City Centre by the Cities Taskforce. At the time of this planning, the matter of appropriate height was discussed in the currency of building storey and a height of 8 storeys was generally considered to be an appropriate outcome for the subject site and its adjacent precinct.

The development's ability to satisfy the objectives of the B4 Mixed Use zone and the height standard is not altered by the 2.78m exceedence for the building or minor building side setback. In any event Clause 22 provides for the variation for lift motor rooms where fully integrated into the design.

It is worth noting that the building setback for part of the southeast corner of the building was required by the Panel to be set at zero lot line in order to improve the overall design of the building and the streetscape. The increase in building height is limited to a very small area located within the central part of the building.

As discussed in the earlier in part of this report, the objectives of the B4 Mixed Use zone it was found that the proposal can satisfy those objectives. Council may accept the applicant's submission to vary Clause 21 and Clause 29 in this instance, as strict compliance with the Clause is unreasonable and unnecessary in the circumstances and recommended to be supported for this instance. A recommendation to this effect is at the end of this report. Approval of this proposal is considered to be in the public interest.

Other environmental planning instruments

3. Sydney Regional Environmental Plan 20 – Hawkesbury Nepean River

SREP 20 aims to protect the environment of the Hawkesbury-Nepean River by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to the proposal is the requirement to assess the development in terms of the impact of the development on water quality, particularly as that relates to the water cycle or on flora or fauna. The applicant has provided detailed soil erosion and sediment control measures to ensure that there is minimal adverse impact with respect to erosion of soil and pollutants to the river.

In addition, the site is affected by local overland flows and in particular to the south-western corner of the site. The applicant was required to relocate the pad-mount sub-station proposed at that corner to the other side of the property. This has been indicated on the new amended plan submitted to Council on 8th February 2011.

The applicant will be required to carefully consider any underground water levels during construction of basement levels and appropriate measures would need to be carried out as outlined in the Geotech and hydraulic, stormwater and sediment control plan report by Far West Consulting Engineers and Douglas Partners. A condition will be imposed to ensure that the basement entry levels are designed to prevent entry of stormwater in major storm events.

Subject to appropriate conditions, the proposal will be consistent with the Policy, particularly in relation to total catchment management and water quality in the metropolitan area.

4. State Environmental Planning Policy No.55 (State Environmental Planning Policy 55- Remediation of Land)

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.

As the site has been used for car sale yard and an underground fuel tank requiring to be removed from the site there is likely to be potential for contamination of soil from the fuel tank leak. The Report prepared by David Johnson dated 8 February 2011 was submitted in late January 2011 and referred to Council's Environmental Officer for comments.

The report proposes removal of the underground petroleum storage system (UPSS) and is of the opinion that "it is most unlikely that any significant contamination is present". In addition, he has also outlined in accordance with the UPSS Regulation that sampling is required after the removal of the system, and that if any contamination is found it will be dealt with at that stage. However, technically, should any contaminated soils or waters be found when the UPSS is being removed, any works associated with that contaminated soil/water could be considered remediation works which would then require development consent.

The report also states that the soil would be removed (even if it was not contaminated) due to the underground basement carpark, which would need to be

sampled and classified and taken to an appropriate waste facility. In addition, the report also outlines that any contaminated soil could also be remediated on-site., in our opinion this is considered to be remediation and would require consent. Council's Environmental Office r has considered all this and provided appropriate conditions to ensure that appropriate measures are under take with respect to the removal of the fuel tank, and that remediation of any contamination found on site be properly remediates and an application be submitted to Council for any remediation works.

As a residential land use is proposed and having regard to previous land uses on the site, it is considered necessary to ensure that the site is suitable for the proposed use without the need for any further investigation prior to the release of the Construction Certificate.

Council will require a validation report prepared by the environmental specialist and outlining the work performed, results of testing and confirmation that any contamination has been successfully removed, and that the site is suitable for the proposed redevelopment.

Appropriate conditions of development consent are recommended in the consent in this regard.

5. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings

This Policy aims to improve the design quality of residential flat development. It promotes sustainability, a better built form (Buildings, streetscapes and public domain), housing to match the community's expectations and demand, and also promotes improved amenity and safety for occupants.

SEPP 65 does not contain numerical standards, but refers to "Residential Flat Design Code" (also known as The Orange Book). The Code provides additional detail and guidance for applying the design quality principles outlined in SEPP 65. The SEPP takes precedence over an LEP or DCP where there may be any inconsistencies. Council needs to be satisfied that the proposed development achieves a satisfactory outcome in respect of each of the ten design quality principles as follows:-

- 1 Context
- 2 Scale
- 3 Built form
- 4 Density
- 5 Resource, energy and water efficiency
- 6 Landscape
- 7 Amenity
- 8 Safety and security
- 9 Social dimensions
- 10 Aesthetics

An assessment of the proposal indicating its compliance with the ten design quality principles of SEPP 65 has been undertaken by Puflett Associates.

The applicant concludes his statement by saying that *'The proposal will satisfy SEPP 65 principles at all levels and is consistent with prescriptive items as well as the spirit and intent of SEPP 65'.*

Being of a 8-storey appearance (with residential rooms in the upper 7 levels) the development is appropriate in scale and the built form of the development that is expected to occur in the near future in that area and consistent with the expectation of the LEP for City Centre that is considered generally appropriate for the site.

The development proposes to use some of the materials from the demolition of existing buildings, selected appropriate and sustainable materials, incorporates passive solar design principles and landscaping (including deep planting and adequate associated planted areas). The proposal therefore generally meets the relevant requirements for resource, energy, water efficiency and landscaping.

The proposed units meet the relevant environmental amenity requirements in terms of solar access, ventilation, and privacy.

Safety and security issues have been adequately addressed by orienting commercial areas towards the street frontages in order to provide adequate passive surveillance and with additional conditions being imposed for lighting and security at entrances

The development optimises the provision of affordable housing in Penrith area, close to public transport system and local facilities, where the development proposes a substantial number of one, two and three bedroom dwelling units suitable for small and large families. From a social dimensions point of view and acceptance from the Design Review Panel the proposal is considered appropriate within the context of the area.

The development responds appropriately to the aesthetic environment within the streetscape. The development is considered to respond adequately to its context.

The design was finalised and accepted by the Design Review Panel and is therefore considered that the development proposal is consistent with the design quality principles of SEPP 65.

A statement of design verification from a qualified architect Mr Rob Puflett to indicate that the proposal is satisfactory with respect to the requirements outlined in the SEPP 65 was submitted with the application.

6. Section 79C (1) (a) (ii) – Any Draft Environmental Planning Instrument

(1) Draft SEPP 66 – Integration of Land Use and Transport

The Draft SEPP aims to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts help achieve the following planning objectives:

- (a) improving accessibility to housing, employment and services by walking, cycling, and public transport;*
- (b) improving the choice of transport and reducing dependence solely on cars for travel purposes*

- (c) *moderating growth in the demand for travel and the distances travelled, especially by car;*
- (d) *supporting the efficient and viable operation of public transport services;*
- (e) *providing for the efficient movement of freight.*

Clause 7 of the Draft SEPP indicates that it relates to developments having a gross floor space of more than 1 000m² and, although not specifically related to mixed use development, includes:-

- 7(a) *development for the purposes of retailing,*
- (c) *offices ...*
- (f) *parking stations having more than 200 spaces*

As such, consideration of the Draft SEPP 66 has been made.

The development is consistent with the objectives of the Draft SEPP 66, being located in the City Centre, close to transport connections, pedestrian networks and ample bicycle parking is available. Employment opportunities will be available during construction and after occupation, reducing the demand for travel to other centres.

If the Draft SEPP is gazetted prior to the determination of the application, transitional provisions apply (Clause 14(d)) which allows the assessment of the application to progress, without the detailed consideration of the provisions of the Plan.

However, the Draft has been in its current form since 2001 and is unlikely to be gazetted for some time.

7. Section 79C (1) (a) (iii) – Any Development Control Plan

(i) Penrith City Centre DCP 2007

This Plan came into effect on 1 February, 2008 in conjunction with the *Penrith City Centre LEP 2008* discussed above. Given the complexity of the DCP, those sections of the DCP not discussed elsewhere in this report, are presented below.

Clause 1.9 City Centre Character Areas

The subject property is located with the *City East Mixed Use Precinct* which suggests that mixed developments can be combined with higher density residential uses combined with commercial outlets to complement and bring additional lift to the civic precinct. The area should have a live-work character. The Plan suggests that there is an opportunity to activate this area with a combination of residential, business and retail activities along Henry Street to make the city centre attractive and vibrant during daytime and after hours.



Front elevation: source Puflett Associates

The proposed building design is considered to be of high standard and the mixed use of residential and commercial would enhance the streetscape and set a bench mark for any future developments at the eastern gateway into the city centre area.

The proposed development will suit the desired future character of this precinct.

Clause 2.2 Street Frontage Heights

This clause aims to provide consistent, comfortable streetscapes with relevant variation through the City Centre.

For this site, at the street frontage, the height of the building is required to be between 16m and 20m and then a 5m setback to upper levels. The proposal provides a height of 19.00m along the street frontage, and a 5m setback to upper residential 6 & 7 levels which complies with the building height requirement..

The consistency of the streetscape in this precinct will be determined as future developments occur, and if those developments contain a mix of land uses, they would be constructed in a similar design and setbacks as this development.

Clause 2.3 Building depth and bulk

This clause notes that mixed use buildings have larger commercial floorplates combined with smaller residential floors, and provides a floorplate maximum area dependent on the height of a building.

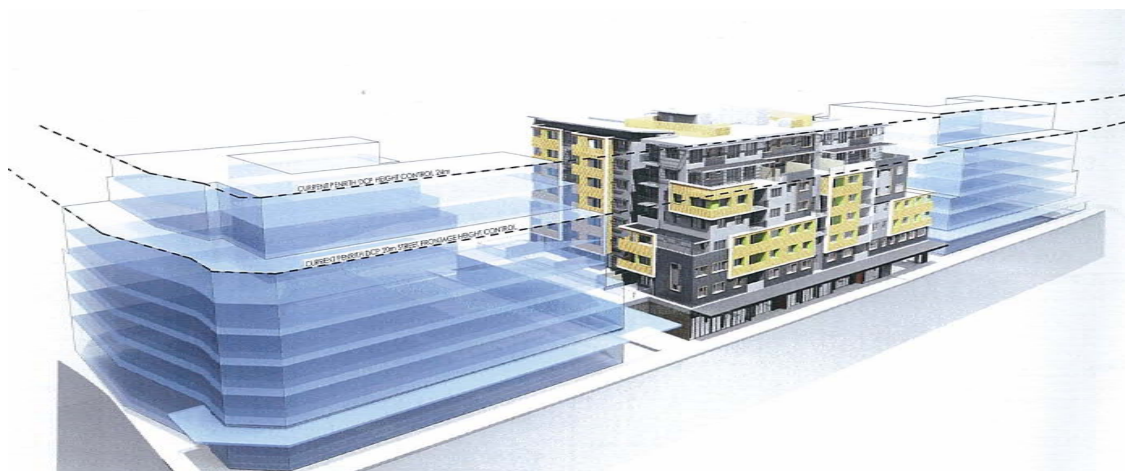
The DCP allows for 750sqm floor plate for residential uses. This development provides for approximately 1000sqm floorplate of residential area above 20m building height. Minor non compliances occur in this section of the assessment, as the residential area above 20m building height is 250sqm greater than stipulated in the DCP. However, they are part of the response to other design constraints. The Design Review Panel accepted the design merit of the proposal, inclusive of building depth and bulk.

Clause 2.4 Side and Rear Building setbacks

The building generally complies with the setback requirements to the rear and side boundaries except for a part of the southeast 3 levels of residential apartment where it is set at a zero lot line. The original design had complied with the side setback requirements.

The DRP was in the view that the street facade wall should be extended to a zero lot line to reinforce the desired street character of Henry Street to be defined by the building edges and not the building boundaries. Consequently a design alteration was undertaken that reinforced the 'street wall' and hence this non-compliance.

The areas of non-compliance are limited to south eastern corner of the building only and include no windows facing the adjoining eastern property. This variation as such are considered minor in the overall scale of the development and are justified through the design improvements the proposal provides.



Expected future developments in the area. Source Puflett Associates.

The areas of setback non-compliance do not generate any additional adverse amenity or overshadowing impacts to adjoining and nearby properties and the outcome can satisfy the objectives of the clause.

As mentioned earlier, the Design Review Panel has considered the proposed setbacks and agreed to support this variation. In view of this it is reasonable to accept this variation.

Clause 2.7 Landscape Design

There are s4 trees located along the footpath at the frontage of the site and one of them is proposed to be removed. These Brush Box trees form part of the streetscape along Henry Street and would be beneficial to be retained where possible. The proposed awning along the street frontage would need to be narrowed in order to maintain these three trees and a condition has been imposed to reduce the width of the awning along Henry Street by appropriately 1.60m from the kerb in order for the trees to survive. This has been recommended in the condition of consent.

The proposal provides for continuous planting along the rear at ground level, and along both side boundaries at podium level. The applicant also provides landscape

area at the central part of the rear podium level one. These planting are considered to be reasonable and will contribute positively to the development and streetscape.

Clause 3.1 Existing and Desired Links

To improve permeability for pedestrians and vehicles in the City Centre, additional pedestrian links such as arcades, lanes, and shared zones are proposed by the DCP as redevelopment occurs.

The map to this clause shows a 'desired new lane' in certain areas of the City Centre. This site is not included in that map.

Clause 6 Residential Development Controls

This section of the DCP requires consideration of the requirements of *State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development* and this has been discussed earlier in the report.

Clause 6.1 requires a mix of living styles, sizes and layouts within each residential development. The development achieves the following which is consistent with the clause.
as follows:

	<i>1 bed</i>	<i>2 bed</i>	<i>3 bed</i>	<i>4 bed</i>	<i>Total</i>
Residences	14	58	8	0	80
<i>Total</i>	<i>17.50%</i>	<i>72.50%</i>	<i>10%</i>	<i>0%</i>	<i>100%</i>

Eight residential units will be required to be designed as adaptable units, through the total development. The proposal provides for 2 x 1 bedroom units on each residential level as accessible units located close to the lift area, (See Schedule A Special Condition 4.11, and Schedule B Special Condition (ix))

The demand of number of bedrooms per residential unit was questioned by the Design Review Panel, however, the mix of housing styles provided in the development responds to the applicant's specific market analysis. The result is considered appropriate in the circumstances and was accepted by the Panel.

(ii) Penrith City Centre Civic Improvement Plan

This Plan is one of the four City Centre plans prepared jointly by the Department of Planning a Council. The Plan outlines the framework for contributions to be made towards funding and provision of infrastructure in association with development in the City Centre.

This Plan came into effect on 5 December, 2008 and applies to the subject site with respect to developer contributions. The Plan outlines City Centre projects and the following rates contribute towards those projects. The following 2006 rates (as exhibited) apply to the development application:

<input type="checkbox"/> Multiple dwelling	\$ 8,212 per dwelling
<input type="checkbox"/> Commercial office	\$ 157 per m ² gfa

Contributions payable by the subject development application are discussed later in this report under *Public Interest*.

(iii) Penrith Development Control Plan 2006

Part 2.2 Crime Prevention through Environmental Design

Consideration has been given to the principles of this section of the DCP 2006. These are to provide a safe and secure development and public domain with adequate lighting, visual access and passive surveillance to all areas of the site.

Mixed use developments can present issues associated with the definition of public and private space. Areas where there is confusion about whether the space is public or private can provide excuse-making opportunities for offenders to use a space and may increase the crime risk of the development. Particularly given the large number of residential apartments proposed by this development, it is important that the design is such that minimised the risk of crimes such as break and enter and property theft. This includes the use of territorial reinforcement measures to inform people of the intended function and ownership of the space/place, such as visual symbolic cues and security measures including signage, paving, lighting, bollards and landscaping.

A mixed use development of this scale would provide the activation and passive surveillance necessary from the ground floor level to the street to reduce, as much as possible, the risk of crime to the complex and the immediate vicinity.

The development application has been considered by Council's Community Safety Co-ordinator. She has raised no objection to the proposal but has advised that should the application be supported, a number of conditions have been recommended and imposed to maintain safety and security as much as possible. These include requirements for under awning, garbage storage area, driveway area to the site and basement lighting, appropriate security locks be provided within the storage areas in the basement, and intercom, code or card locks to be installed at all main entrances to avoid vulnerable break and enter points including the control for roller gate to the basement. . These will be recommended in the condition of consent.

The rear boundary fence will be required to be constructed with "see-through type of material" of 1.80m height that would assist to provide passive surveillance to the adjoining northern vacant land. The side boundaries can be constructed with solid timber or metal fences of same height.

It is acknowledged, however, that although criminal activity may be reduced and safety will be increased through good design and management, there is no guarantee that all risks have been identified or that the areas will be free from criminal activity.

It is considered that the proposal can satisfy the objectives and provisions of this part of DCP 2006.

Part 2.6 Landscape

This has been discussed in the earlier part of the report.

Street frontages

Where appropriate and in conjunction with Council, appropriate street trees may be planted in Henry Street to provide shade and amenity, enhancing the area, with permeable paving along footpaths. The applicant has indicated to maintain 3 of the trees along the footpath. This will be consistent with the other trees along Henry Street.

Sky gardens

The podium level of the development provides common courtyard area with some landscaping features for the benefit of the residents.

It is considered that the landscape proposal can satisfy the objectives of this part of DCP 2006.

Part 2.9 Waste Planning

All demolition works will take place on the site, substantial excavation will be required and that material will be disposed of in accordance with Council's requirements. The Waste Management Plan indicates that wastes will be decreased as much as possible during the construction process. Waste will be separated and stored in bins or specified stockpiles and removed as necessary. Where possible, materials will be sorted for recycling.

Consideration has also been given to manoeuvring access for garbage servicing vehicles, (residential and commercial/retail), ramp gradients, and location capacity of storage facilities. Waste management for the retail and commercial tenancies will be located on either sides of the driveway. Some waste buns are located in the basement area for the residents to use. These basement bins will be taken up to the ground level by a care taker with the aid of motorised carts/vehicles to the ground floor storage area for collection. A permanent care taker would be engaged to carry out this task. Appropriate conditions will be recommended to ensure that a care taker will be employed for this purpose.

The applicant states that all wastes will be collected by a private company and not Council. This matter was discussed with Council's Waste Management Officer who advised that the bin location and collection should be designed to enable Council's contractors to collect them and return them to the storage area at the ground level irrespective to bins being collected by a private contractor. Council's past experience for a similar development in High Street where bins were to be collected by private contractors the body corporate has within a short period requested Council to collect the residential bins from the site and this development is likely to request for the same. Accordingly it is recommended that 80 bin storage area of appropriate size be provided at ground level (40 normal + 40recycling) accessible to Council contractors for collection and return. Amended ground floor plan will need to be provided to demonstrate that it can be achieved prior to the release of the construction certificate.

Bins will not be allowed to be placed in the street for collection.

Appropriate conditions of consent have been imposed should the application be supported.

It is considered that the proposal can satisfy the objectives and provisions of this part of DCP 2006.

8. Section 79C (1) (a) (IV) – The Regulations

Environmental Planning and Assessment Regulation 2000

Clause 50 of the Regulation provides that a development application for a residential flat development, lodged on or after 1 December, 2003, must be accompanied by a design verification statement from a qualified designer that confirms that:

- (a) he or she has designed, or directed the design, of the residential flat development, and
- (b) the design quality principles set out in Part 2 of the Environmental Planning Policy No 65 – Design quality of Residential Flat Development area achieved for the residential flat development.

This statement has been received from the Architect Rob Puflett of Puflett Associates Architect satisfying the Regulation. The architect's associated report pursuant to SEPP 65, as discussed earlier in this report, has also been submitted satisfying the Regulation.

9. Section 79C (1) (b) – The Likely Impacts of the Development

Built and Natural Environment

Architectural

As indicated earlier in the report, the architectural aspects of the proposed mixed use complex have been considered in detail by a Design Review Panel, which was set up in accordance with the Minister's Guidelines for Design Excellence. The Panel has found that the proposed design of the building had satisfactorily achieved the architectural requirements set, and agreed to the design and considers this development to be appropriate and of high standard and will set a bench mark for the future developments in Penrith CBD area.

Traffic and Parking

In assessing the development application, consideration has been given to the "Guide to Traffic Generating Developments" prepared by the Roads and Traffic Authority, AS 2890.1 and 2 (2004) in conjunction with the amended report prepared by Far West Consulting Engineers, dated 27 July 2010, for the applicant.

The Traffic Report submitted with the application was referred Council's Transportation Planner for comments. They have advised that the proposed development is estimated to generate 24 vehicle trips during peak hours are expected to be generated from the residential component, as detailed in the RTA's *Guide to Traffic Generating Developments*. Approximately 198 daily vehicle trips are expected to be generated from the commercial component of the development, 40 of those during the peak hours.

Although the proposal does produce a consistent increase in local traffic flow, no adverse traffic generation impacts are expected from the development and it is anticipated that the CBD local road network has adequate spare capacity to cater for this increase.

They have raised no objection to the proposal and advised the following to be considered as part of the recommendation:

- The accessible parking space must be designed in accordance with the provisions of AS 2890.6.2009 and be located in close proximity to the access points (lifts).
- Subleasing of car parking spaces is not permitted by this Consent.
- Clear directional signage will be required at the entrance to the basement car park and also clear signage about the users of the temporary at grade car park.
- A condition to be imposed to ensure that car parking spaces are not sublet and are retained for users of the complex only.
- A condition to be imposed to ensure that spaces for commercial car parking are clearly allocated and marked.
- The proposed "No Stopping" sign along the frontage of the site would not be supported.

The above matters have been recommended in the conditions of consent. (Condition No. 4.21, 4.79, 4.82, 4.84 & 4.85).

Car parking has been discussed in detail under Clause 27 of *Penrith City Centre LEP 2008*.

The development provides adequate on site parking spaces as required by the DCP.

Environmental

The site contains a single storey building and shade structures and paved parking spaces and contains no substantial vegetation.

The subject site is located 2.50 km from the Nepean River, therefore the site may be constrained as a consequence of the water table. The development proposes two levels of basement car parking which may or may not result in adverse impacts, however, appropriate excavation and construction design techniques will be required to safeguard against basement flooding, ground movements and impacts on neighbouring structures and streets.

The geotechnical investigation report prepared by Douglas Partners dated August 2010 has considered all of these issues in detail and has made recommendations for during construction works of excavations, fill placement, retaining structures, floor slabs and footings.

A new report was submitted later prepared by David Johnson dated 8 February 2011 regarding the removal of the underground petroleum storage system (UPSS). This was examined by Council's Environmental Officer for comments and she advised that

The excavation work for the basement would be quite substantial in volume. As the site has under ground fuel tank there is a possibility for site and/or water contamination, therefore it is necessary that during excavation works care should be taken to ensure no contamination occur to the site. If contamination of soil or water is detected then a remedial work should occur and that remediation works maybe necessary prior to removal of it from the site and the applicant will then be required to

obtain approvals from Council and or the relevant Government Authority. Appropriate conditions have been imposed to

- ensure the site is free of contamination and the remediation works are carried out appropriately,
- that the recommendations made in both reports prepared by David Johnson are also adopted in site works and construction design, and
- approval be sought from the relevant Government Authority if required for any of the above works.

The proposal also provides for water storage tank for irrigation, uses energy efficient fixtures and appliances for the development which considered energy efficiency measures and environmental sustainable design initiatives for the commercial component development. A BASIX certificate was also provided for the residential component of the development.

Noise

The applicant has submitted a noise impact report prepared by Far West Consulting Engineers dated 6 July 2010 and followed by additional information dated 31 January 2011 which included construction noise, noise impact from the train and noise from plant and equipment. This report was not considered to be satisfactory and failed to adequately address construction noise in accordance with the relevant guidelines.

The information regarding the impacts of any plant and equipment installed is extremely limited and does not appear to have addressed the relevant guidelines. As with the above environmental concerns, the applicant has been required to address several matters to ensure that there are no adverse noise impact from the construction works to adjoining properties and that all recommendations made in the report prepared by Far West Consulting Engineers dated 6 July 2010 be implemented during construction and that a certificate of compliance be submitted prior to the release of the Occupation Certificate.

A condition has been imposed not to locate individual air conditioning units within the facades of the building where it is visible from both Henry and North Road and that they be appropriately concealed so that they are not visible from the streets.

Excavation and construction noise can be controlled as much as possible through the provisions of the *Protection of the Environment Operations Act 1997* and the *NSW Environment Protection Authority Noise Control Guidelines*. Excavation/construction hours will be limited to

- ☐ Mondays to Fridays, 7am to 6pm
- ☐ Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- ☐ No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above. A condition in this regard is imposed.

The additional traffic generated by the proposed mixed use complex has been considered in detail and has been found to be at acceptable levels for the precinct. The noise created by the traffic, and specifically garbage trucks turning from the loading areas, is difficult to minimise especially as deliveries/servicing will occur in the early hours of the day. In a City Centre environment these activities are reasonable and acceptable.

Noise generated from the loading dock, tenancies and residential apartments is a civil matter, however again, in a City Centre; the mix of activities is accepted.

Vibration

The applicant has not provided sufficient information or properly addressed the vibration impacts from the construction of the development and hence could not be properly assessed. A condition has been recommended that the applicant provide this information prior to the release of the Construction Certificate.

Impacts on External Amenity

Shadow impacts:

The mid winter shadow diagrams provided by the applicant demonstrate that, there will be overshadowing of the footpath across the street. Although it would be advantageous to avoid this the building controls allows a maximum of 24m building heights in this area there is always going to be some overshadowing along that street.

The Design Review Panel carefully considered this matter, and has raised no objection to this.

As outlined in the “rule of thumb” of the Residential Flat Design Code. This “rule of thumb” states that 70% of apartments in a development should receive a minimum of 3 hours direct sunlight between 9am and 3pm. The proposal complies with these requirements. It also indicates that in dense urban areas this could be reduced to 2 hours, and this was considered reasonable to be applied to the City Centre.

The Panel was of the view that shadow cast by complying areas of the building cannot be considered as unreasonable as it is contemplated by the planning policies.

Privacy:

It is considered that the proposed setbacks and building separation provided in the building design maximise privacy between properties as much as possible.

Social and Economic Impacts

As a major development for the City Centre, this proposal is considered to have positive social and economic impacts such as:

- ☐ The development provides for large floor plate, environmentally friendly office space, to attract and retain businesses for a regional city;
- ☐ Significant opportunities for employment will be increased during construction of the building and after occupation of the retail and commercial tenancies;
- ☐ The complex also has the potential to allow employees of the CBD to reside close to their place of employment;

- ☐ Housing choice within the City;
- ☐ The provision of commercial and residential uses close to Penrith's cultural precinct will enable the complex to have high level activation through the day and into evening periods;

10. Section 79C (1) (c) – The Suitability of the Site for the Development

It is acknowledged that this form of development is appropriate to the site due to its connection to the Penrith City Centre. Through its new zoning, the land is nominated as appropriate for a mix of land uses, being within short distance to the retail and commercial hub of the City Centre, the civic and cultural precinct, as well as public transport.

No significant vegetation occurs on the property to restrict development. The site or lands in the immediate vicinity do not contain any identified items of Aboriginal or European heritage. The site is not bushfire prone and all infrastructure services are available. All necessary geotechnical considerations have been given to the proposal. The land size and shape is suitable for the development of a this scale.

The site is located at the eastern fringe of the City Centre, and this development aims to promote the gateway to the City Centre, and add incentive for future redevelopment.

11. Section 79C (1) (d) – Any Submissions made in relation to the Development

Referrals

The application was also referred to the following Council officers and their comments and conditions have formed part of the assessment and report:-

Senior Building Surveyor, Community Safety Co-ordinator, Senior Development Engineer, Senior Environmental Officer, Urban Designer, Landscape and Urban Design Supervisor, Senior Traffic Engineer, Waste Services Co-ordinator.

Drainage

The drainage design required careful consideration as the existing drainage system in Henry Street is at capacity. The applicant has not provided all the information required to be fully examined by the engineer, however, with the available information submitted to Council Council's Senior Development Engineer has assessed the proposal and advised the following:

- Council drainage infrastructure crosses the south west corner of the development site. The applicant will need to locate this infrastructure by survey and ensure that the proposed building is clear of the easement Council will require over this infrastructure. Some allowance has been made for this with the current design but confirmation is required that it is clear.
- Finished ground floor levels cannot be finalised until an overland flow study has been undertaken. It is expected that this will not result in a significant change in floor levels.

- A condition has been provided that there is to be no steps from Henry Street into the building. Any accessible pathway in to the building will be required to be provided by way of a ramp which is to be constructed in accordance with the relevant Australian Standard AS2890.1 & 6.
- The architectural plans indicate that there is a proposed awning over Henry Street. The awning appears to extend to close to the kerb and should be set back by a minimum of 1m in accordance with Council's DCP. The impact on existing street trees will also need to be assessed. The DCP has not proposed street trees on this side of the road and consultation should occur to see if they should be removed as part of this proposal
- Full width path paving in front of the site will be conditioned.
- The building sections appear to indicate some form encroachment onto adjoining lands to the north. The plan submitted with the Construction Certificate should clearly indicate that all structures are wholly contained within the subject site only and no encroachment to any adjoining property will be allowed.
- The electricity substation is not to be located over Council's drainage infrastructure and proposed easement and has been catered for on the revised plans submitted to Council in February 2011.

It is noted that the proposal has not designed the internal driveway to cater for manoeuvring of garbage trucks for bin collections. The applicant advised that all bins would be collected by a private contractor and would be carried out from the kerb of the street frontage. In order to ensure that there is minimum traffic conflict along Henry Street, a condition will be imposed requiring them to provide a loading bay closer to the driveway to the site along the frontage of the site where garbage and other delivery trucks can be accommodated for collect of all bins and goods for this development.

Appropriate conditions recommended by the Engineer have been imposed in the consent.

Community Consultation

In accordance with Part 2.7 Notification and Advertising of DCP 2006, the original design of the application was placed on public exhibition and notified to adjoining property owners from 20 December 2011 to 31 January 2011. No submissions were received at the end of the exhibition period.

8. Section 79C (1) (e) – The Public Interest

Building Code of Australia

The building is classified as Class 2 Apartments, Class 5 Office, Class 6 Shops; Class 7a Car Park and Class 9b Gymnasium under the terms of the Building Code of Australia. Should the application be supported, standard conditions can be imposed, which include compliance requirements for disabled access and facilities, essential services and fire safety certification.

The proposal was examined by Council's Building Surveyor and has raised no objection subject to imposition of several conditions in the consent. These have been recommended in this report.

Access

The development has been designed to satisfy the Building Code of Australia and the relevant Australian Standards in relation to access requirements and can satisfy the requirements of the *Disability Discrimination Act 1992*.

The development application was accompanied by the Access Review, prepared by Morris-Goding Accessibility Consulting dated 30 July 2010. The report found that compliance with statutory requirements, pertaining to site access, common area access, accessible parking and accessible sanitary facilities can be readily achieved. Some minor amendments are required and the author has made some recommendations to provide and make some adjustments to the plan to ensure fully compliance with the relevant standards. . The recommendations made in the report will form conditions of consent, should the application be supported: (Condition 4.21)

Section 94 Contributions

A number of Section 94 plans apply to this development, primarily the Civic Improvement Plan 2008, which took effect from 3 December, 2008; and also the City wide plans relating to residential development, in this case Local Open Space, District Open Space (DOS), and Cultural Facilities.

It is reiterated that in accordance with the Civic Improvement Plan 2008, car parking contributions only apply to spaces not provided on site for commercial floor space.

Assessment of the applicable Section 94 contributions for the first two stages of the proposal is shown in the following tables:

Plan	-Rate	Total		
CIP 2008	m ² / units			
Multiple dwg	80 @ 8,212.00	\$ 656,960.00		
Commercial	(1980.82 -418.5) = 1562.32 @ 157	\$ 245,285.00		
Sub - Total		\$ 902,245.00		

Citywide S94	Rate	Total		
DOS*	160 pers @ 1655	\$ 264,800		
LOS	160 pers @599	\$ 95,840		
Cultural*	160 pers @ 112	\$ 17,920		
Sub Total		\$ 378,560		
Grand Total		\$,1,280,805		

*credit for existing commercial floor space 418.5sqm given only

All rates are subject to indexing on a quarterly basis and the adjustments to the payable contributions are made at time of payment. Contributions are required to be paid prior to the issue of a Construction Certificate.

Conclusion

The development proposal represents a significant proposal for Penrith City Centre, emerging as a regional city. As such, it is expected to set the standard and encourage further redevelopment for the City Centre.

Significant opportunities for employment will be increased during construction of the building and after occupation of the commercial tenancies. The complex also has the potential to allow employees of the CBD to reside close to their place of employment.

The Department of Planning advised that although the land was nominated as a “Key Site”, it acknowledged that a full architectural competition was not necessary in this instance, and the application should proceed through a Design Review Panel which would be set up in accordance with the Minister’s Guidelines to determine whether or not the design demonstrated architectural design excellence.

The Section 79C assessment is based on the amended plans received in 25 November 2010 and final revised plans submitted on 8 February 2011 and the main issues that have arisen relate to design excellence; outcomes of Design Review Panel; parking calculations and S94 contributions; compliance with *Penrith City Centre DCP 2007*; and impacts to adjoining residents. The areas of non-compliance have been adequately justified and have been accepted by the Design Review Panel.

The existing precinct is seeking redevelopment to enhance the character of the City Centre as it emerges as a Regional City. It is hoped that the proposed buildings will generate further development of the precinct, which will ultimately meet the desired future character of the area.

As reported, the Design Review Panel made a number of recommendations to the applicant, and the amended design was accepted. After detailed consideration of all matters, the report recommends that JRPP grant consent to the proposal.

RECOMMENDATION

That:

1. The information contained in the report on Proposed Mixed Use Development at Lot 1, DP 710350, No 37-45 Henry Street, Penrith be received
2. JRPP accept the applicant’s submission to vary Clause 21 Height of Buildings pursuant to Clause 32 of *Penrith City Centre LEP 2008*, as strict compliance with the standard is unreasonable and unnecessary in the circumstances
3. JRPP accept the applicant’s submission to vary Clause 29 Building Separation pursuant to Clause 32 of *Penrith City Centre LEP 2008*, as strict compliance with the standard is unreasonable and unnecessary in the circumstances
4. Development Application DA10/0970 for Mixed Used Buildings consisting of– construction of 8 storey mixed use building with 2 level basement car parking; 80 residential apartments and 3 commercial units mixed use buildings with 2 level basement car parking; and associated works at Lot 1, DP 710350, 37-645 Henry Street, Penrith be granted consent (in accordance with S95 (2) of Environmental Planning and Assessment Act

1979) subject to the following standard and special conditions.:

Part B - Conditions of Consent

- 4.1 The development must be implemented substantially in accordance with the following: -

Drawing Title	Drawing No	Issue	Prepared by	Dated
Site Plan	10 -0010/DA-103	H1	Puflett Associates Architects	25/11/2010
Basement Level 1	10 -0010/DA-201	H2	Puflett Associates Architects	08/02/2011
Basement Level 1	10 -0010/DA-200	H2	Puflett Associates Architects	08/02/2011
Ground floor	10 -0010/DA-202	H1	Puflett Associates Architects	08/02/2011
Level - 1	10 -0010/DA-203	H1	Puflett Associates Architects	10/09/2010
Level - 2	10 -0010/DA-204	H1	Puflett Associates Architects	10/09/2010
Level -3	10 -0010/DA-205	H1	Puflett Associates Architects	10/09/2010
Level - 4	10 -0010/DA-206	H1	Puflett Associates Architects	10/09/2010
Level -5	10 -0010/DA-207	H1	Puflett Associates Architects	10/09/2010
Level - 6	10 -0010/DA-208	H1	Puflett Associates Architects	10/09/2010
Level -7	10 -0010/DA-209	H1	Puflett Associates Architects	10/09/2010
Roof Plan	10 -0010/DA-210	H1	Puflett Associates Architects	10/09/2010
Elevations	10 -0010/DA-300	H1	Puflett	10/09/2010

			Associates Architects	
Elevations	10 -0010/DA-300	H1	Puflett Associates Architects	10/09/2010
Elevations	10 -0010/DA-301	H1	Puflett Associates Architects	10/09/2010
Sections – A-A & D-D	10 -0010/DA-400	H1	Puflett Associates Architects	10/09/2010
Sections –B-B & C-C	10 -0010/DA-401	H1	Puflett Associates Architects	10/09/2010
Axonometric	10 -0010/DA-501	H1	Puflett Associates Architects	10/09/2010
Materials & Finishes	10 -0010/DA-600	H1	Puflett Associates Architects	10/09/2010
Shadow diagram	10 -0010/DA-700	H1	Puflett Associates Architects	10/09/2010
Schedules	10 -0010/DA-800	H1	Puflett Associates Architects	10/09/2010
Street level landscaping	10 -0010/DA-900	H1	Daniel Dagger Design Landscape	01/12/2010
Podium Level landscaping	10 -0010/DA-901	H1	Daniel Dagger Design Landscape	01/12/2010
Podium Level common landscaping	10 -0010/DA-902	H1	Daniel Dagger Design Landscape	01/12/2010

That have been stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 4.2 Subleasing of car parking spaces are not permitted by this Consent.
- 4.3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**

- 4.4 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.
- 4.5 **Prior to the issue of the Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways.] *Delete if not applicable* Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 4.6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 4.7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 4.8 **Prior to the issue of a Construction Certificate** a sample of the material and colour of the roofing material is to be provided to Council to confirm the roof is non reflective and appropriately coloured, especially when viewed from the Blue Mountains escarpment.
- 4.9 The rear fence shall be constructed of metal rods that are "see through type" and shall be a minimum of 1.80m in height. The side boundaries can either be of similar materials or solid metal or timber to be of similar height. Details are to be submitted **with the Construction Certificate** for consideration and approval.
- 4.10 If during excavation works there is evidence of water table that requires excessive pumping out from the site, the applicant is to liaise with Department of Water and Energy to obtain Water Licence and approval. The approval is then required to be submitted to the Private Certifying Authority, before any further construction works can take place. The reason for this is that no works that can impact upon groundwater can commence before a licence is obtained. Approval will be required for a Water Licence for temporary groundwater dewatering from the Department of Water and Energy prior to any further construction work. You also are to note that
- a. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering.
 - b. Tailwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent.
- 4.11 **Prior to the occupation of the commercial tenancies within** the building, a separate development approval is to be obtained from Penrith City Council to use each non-residential tenancy within the building.
- 4.12 **Prior to the issue of an Occupation Certificate**, a Security Management Plan is to be provided detailing the management of the building(s) and strategies to promote safety and deter crime and antisocial behaviour. This includes use of CCTV, access control measures (e.g. swipe cards), building alarms and use of

intercoms for apartment buildings. This Plan shall also include measures to provide security to lifts and commercial operating hours to maintain the safety and security of residents.

4.13 Prior to the issue of an Occupation Certificate for the building, the development shall be provided with lighting in the following manner:

- Entrances / exits to all residential lobbies, commercial premises, driveway areas, commercial or residential garbage collecting rooms, should be well lit to clearly illuminate potential offenders as well as the areas where people are most vulnerable.
- Lighting shall all be 'vandal resistant' to limit breakage and vandalism;
- Lighting shall be designed in accordance with Australian Standards;
- Lighting shall be consistent in order to reduce the contrast between shadows and illuminated areas;
- Lighting shall be contained within the property boundary and no light shall be projected upwards (uplighting of landscaping shall be restricted to tree canopy only).
- No lighting shall be projected in such a manner that it would create glare issues for vehicles or pedestrians.
- Adequate illumination shall be provided for directional signage and building identification.
- All street awnings shall be fitted with under awning lighting.
- Both levels of the basement car park shall be well lit. Appropriate lighting is paramount at the entrance / exit to the garbage room, lifts, fire stair wells, change / shower room, within the area surrounding the residential storage cages and bicycle storage racks.
- The designs of some of the residential storage areas present potential entrapment spots. In these areas, adequate lighting and mirrors should be used when certain design features are unavoidable.
- All surfaces should be painted in light coloured paint or finished in light grey concrete to reflect as much light as possible.
- Where stairwells are provided, open style or transparent materials are encouraged on doors and/or walls.
- All doors and windows, including those to the residential storage areas shall be treated with suitable locks and fittings to avoid vulnerable break and enter points.
- Intercom, code or card locks or similar to be installed for main entries / exits to the building including the basement car park.

- The main entry points to the building shall be kept locked at all times, accessible only to residents through a security card system (or similar).
 - An alarm system shall be installed to provide additional security for the building and individual apartments.
 - It is noted that blank rendered / brick walls are proposed to surround the development. Anti-graffiti coatings are to be applied for these surfaces.
- 4.14 The development should incorporate the use of materials and fixtures which are resistant to vandalism and therefore minimise ongoing maintenance.
- 4.15 **Prior to the Occupation Certificate**, the basement car park shall be treated in the following manner:
- ☐ Clear signage is to be provided to identify the entrance/exit to the basement car park for tenants/residents/business operators and their authorised guests.
 - ☐ Vehicle access to both levels of the basement car park shall be accessible by tenants/residents/business operators of the building and their authorised guests only. A security gate system shall be installed on the building entry/exit point, e.g. for use with swipe card security system.
 - ☐ A security system shall be installed on the pedestrian entry/exit points to the basement, including lifts and internal/external stair wells, e.g. use with swipe card or appropriate security system.
 - ☐ All surfaces shall be painted in light coloured paint or finished in light grey concrete to reflect as much light as possible.
 - ☐ All potential entrapment points shall be avoided, e.g. under stairs, blind corners and wide columns. Adequate lighting and mirrors should be used when certain design features are unavoidable.
 - ☐ An intercom security system shall be installed in all levels of the car park.
 - ☐ Consideration should also be given to emergency phone/help points in all levels of the basement.
 - ☐ Commercial and residential car parking shall be separated to allow increased safety and security for residential tenants.
- 4.16 **Prior to the Occupation Certificate**, the building shall be clearly identified with street numbers visible to assist visitors and emergency services.
- 4.17 Bin collections are to be carried out between the hours 7pm and 7am only.
- 4.18 The Substation area shall be screened properly and the screen is to be designed in a manner that is compatible and consistent with the rest of the building. Details are to be submitted to council for consideration and approval **with the construction certificate**.
- 4.19 The development shall provide 8 accessible/adaptable apartments located in close proximity to the lift area.
- 4.20 **Prior to the issue of a Construction Certificate**, item listed below shall be submitted to and approved by Council.
- (i) A written of commitment to indicate that the development will utilise a full time

contractor to transport garbage and recycling bins from the basement waste storage area to the ground floor garbage collecting rooms .

- (ii) Design of the front section of driveway, turntable and associated infrastructure must cater for fully laden garbage trucks (21 tonnes).
- (iii) Any proposed access door and roller shutters to the loading dock are to be provided with an ABLOY locking system to be installed by Council at the developer's expense. Council and/or collection contractors will hold the master key.
- (iv) The front half of the garbage collecting room at the ground level is to be utilised as the collection point for the residential bins and is to be separated from the commercial collection point at the rear.
- (v) Basement waste storage rooms at level 2 are to be increased in size internally to 12m X 5.60m and to be designed to separate garbage and recycling bins to facilitate access and use of all bins by residents.
- (vi) The residential garbage and recycling bins must be separated for access by the two collection contractors within the loading dock area.
- (vii) Adequate storage space for unwanted bulky waste must be provided within the site for the interim storage of this material prior to disposal.
- (viii) Sufficient space must be provided in each residential unit & commercial units for the interim storage of garbage and recyclables prior to transfer to the respective bins.

- 4.21 Accessible car parking spaces are to be located in close proximity to the lift area. Recommendations made in the Access Review, prepared by Morris-Goding Accessibility Consulting dated 30 July 2010 are all to be implemented and a certification indication that all these have been satisfactorily provided is to be submitted **prior to the release of the Occupation Certificate.**

Demolition

- 4.22 The structures are to be demolished as part of the approved work.
- 4.23 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition.**

- 4.24 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- ☐ Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- ☐ The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

- 4.25 Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

- 4.26 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 4.27 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 4.28 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- ☐ Mondays to Fridays, 7am to 6pm
 - ☐ Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - ☐ No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

HERITAGE/ARCHAEOLOGICAL RELICS

- 4.29 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

ENVIRONMENTAL MATTERS

- 4.30 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until [the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 4.31 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury-Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

- 4.32 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 4.33 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 4.34 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 4.35 All vehicle washing, engine degreasing and steam cleaning shall be conducted in a wash bay approved, installed and connected to the sewer in accordance with Sydney Water's requirements.

Details of the vehicle wash bay including the Section 73 Certificate issued by Sydney Water for the discharge of trade waste from the premises shall be submitted to the Principal Certifying Authority **before the wash bay can be installed.**

- 4.36 The removal of the underground petroleum storage system is to be undertaken in accordance with the relevant legislation, Guidelines, Technical Notes and

Australian Standards, including the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008, the Guidelines for implementing the Protection of the Environment (Underground Petroleum Storage Systems) Regulation 2008 and the UPSS Technical Note: Decommissioning, Abandonment and Removal of UPSS.

- 4.37 At the time of the removal of the underground petroleum storage system, the excavation pit(s) and excavated soils should be inspected, sampled and tested by an appropriately qualified environmental specialist. The environmental specialist is to ensure that adequate sampling is undertaken of the soil to ensure that any contaminated soil is removed from the site to an approved waste facility.
- 4.38 At the time of the removal of the underground petroleum storage system, if any groundwater is located then this is also to be tested to determine whether it has been contaminated. In the event that contaminated groundwater is identified a NSW Accredited Site Auditor is to be engaged to determine the appropriate procedures to ensure that the site is in a state that is suitable for its intended use. If in the opinion of the Site Auditor remediation works are required, then all works on the site are to immediately cease and a development application is to be lodged and approved by Council for this remediation. Construction works cannot recommence until such time as the remediation have been completed and the site has been validated and deemed suitable for use by the Site Auditor.
- 4.39 A Validation Report prepared by a suitably qualified environmental specialist is to be submitted to Council within sixty (60) days of the removal of the underground petroleum storage system or completion of remediation works.
- 4.40 **Prior to the issue of the Construction Certificate**, an assessment is to be undertaken on any vibration impacts associated with the construction of the development. A report on this assessment is to be prepared and submitted to Council for approval. The assessment is to be undertaken in accordance with the NSW Department of Environment, Climate Change and Water's 'Assessing vibration: a technical guideline'. Should the assessment identify any mitigation measures that are required to ensure that the development does not adversely impact the surrounding properties then these measures are to be implemented during the construction phase of the development.

The Construction Certificate cannot be issued until such time as the above report has been reviewed and approved by Council.

- 4.41 Noise levels from or in the premises shall not exceed the relevant noise criteria detailed in "Acoustic Report for the Assessment Railway/Road Traffic Noise & Vibration Impact on the Proposed Development at the 39-47 Henry Street Penrith" prepared by Far West Consulting Engineers dated 6 July 2010, and their additional correspondence dated 31 January 2011. The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the works have been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of the Compliance Certificate.

The provisions of the Protection of the Environment Operations Act 1997 apply to

the development, in terms of regulating offensive noise.

- 4.42 **Prior to the issue of the Construction Certificate**, further assessment of the construction noise impacts is to be undertaken and a report of this assessment is to be submitted to Council for approval. The assessment is to be undertaken in accordance with the relevant guidelines, including the NSW Department of Environment and Climate Change's Interim Construction Noise Guideline. Should the assessment identify any measures that are required to ensure that the development does not adversely impact the surrounding properties then these measures are to be implemented prior to and during the construction phase of the development.

The Construction Certificate cannot be issued until such time as the above report has been reviewed and approved by Council.

- 4.43 **Prior to the issue of the Occupation Certificate**, details of all plant and equipment including air conditioning units are to be submitted to Council. This plant and equipment are to be selected and designed to meet the following noise criteria:

- a) The operating noise level of plant and equipment shall not exceed 5dB (A) above the background noise level when measured at the boundaries of the premises.
- b) Australian/New Zealand Standard 2107:2000 Acoustics-Recommended design sound levels and reverberation times for building interiors

- 4.44 **Prior to the issue of the Occupation Certificate**, a compliance certificate is to be submitted to Council outlining that all plant and equipment have been installed to comply with:

- The operating noise level of plant and equipment shall not exceed 5dB (A) above the background noise level when measured at the boundaries of the premises.
- Australian/New Zealand Standard 2107:2000 Acoustics-Recommended design sound levels and reverberation times for building interiors.
- Any individual air conditioning units to be included within any of the residential or commercial units of the building are to be appropriately concealed so that they are not visible from both Henry Street and North Road and form integral part of the building elevation. Details should be submitted to Council for consideration and approval **prior to their installation.**

- 4.45 All waste materials stored on-site are to be contained within the designated garbage area. No waste materials are to enter the stormwater system or adjoining properties

BCA ISSUES

- 4.46 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises,

- and
- (b) be given:
- ☐ within 12 months after the last such statement was given, or
 - ☐ if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- ☐ must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
 - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 4.47 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 4.48 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council **prior to the issue of the Construction Certificate**. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:
- ☐ the measures that are currently implemented in the building premises,
 - ☐ and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
- 4.49 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - ☐ complies with the performance requirements, or
 - ☐ is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).
- It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.
- 4.50 Any accessible pathway into the building or within the building shall comply with the AS1428.2.

UTILITY SERVICES

- 4.51 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water's website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- 4.52 **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Integral Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a padmounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 4.53 A completed *Permit Application - for Plumbing and Drainage Work* is to be submitted to Sydney Water **at least two working days before the rainwater tank is installed and associated plumbing work is started on the site.**

CONSTRUCTION

- 4.54 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- ☐ the name of the Principal Certifying Authority, their address and telephone number,
- ☐ the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- ☐ that unauthorised entry to the work site is prohibited,
- ☐ the designated waste storage area must be covered when the site is unattended, and
- ☐ all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- ☐ at the commencement of, and for the full length of the, construction works onsite, and
- ☐ in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed **when the Occupation Certificate has been issued for the development.**

4.55 Prior to the commencement of construction works:

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a standard flushing toilet connected to a public sewer, or
 - if that is not practicable, an accredited sewage management facility approved by the council, or
 - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (b) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
 - if necessary, must underpin and support the building in an approved manner, and
 - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).
- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
 - the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and any such hoarding, fence or awning is to be removed when the work has been completed.

- 4.56 No work is to commence on site until such time as a person accredited to prepare traffic control plans in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Traffic Authority's publication "Traffic Control at Worksites" has certified a Traffic Control Plan for the development/site. The Traffic Control Plan shall be implemented during the construction phase of the development and a copy of the plan shall be available on site at all times.

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to be submitted to Penrith City Council **2 days before any work is to commence on site.**

- 4.57 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval **prior to the issue of a Construction Certificate.**
- 4.58 Garbage rooms within buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor. The floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock. Access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.
- 4.59 Clothes drying facilities are to be positioned and screened from public view.
- 4.60 The rainwater tank(s) is to be:
- ☐ erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
 - ☐ structurally sound and constructed in accordance with AS/NZS 3500 1.2-1998: *National Plumbing and Drainage - Water Supply - Acceptable Solutions*,
 - ☐ fully enclosed and all openings sealed to prevent access by mosquitoes,
 - ☐ fitted with a first flush device,
 - ☐ fitted with a trickle system to top up from mains water,
 - ☐ provided with an air gap, and
 - ☐ installed by a licensed plumber in accordance with Sydney Water's "*Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003*" and the *NSW Code of Practice: Plumbing and Drainage*.

Additionally, the following are to be provided:

- ☐ back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- ☐ In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- ☐ The rainwater tank(s) and associated piping is to be labelled 'Rainwater Not for Drinking' in accordance with Sydney Water requirements.
- ☐ The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- ☐ The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- ☐ the manufacturer's specifications, and
 - ☐ Sydney Water and NSW Health requirements.
 - ☐ This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted **prior to the issue of the Occupation Certificate.**
- 4.61 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- ☐ roof catchment areas must be kept clear of overhanging vegetation,
 - ☐ gutters must have sufficient fall to downpipes to prevent pooling of water,
 - ☐ overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
 - ☐ for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
 - ☐ gutter guard must be installed in roof gutters to prevent foreign materials from contaminating the water which enters the rainwater tank.
- 4.62 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 4.63 The pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 4.64 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- ☐ Mondays to Fridays, 7am to 6pm
 - ☐ Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - ☐ No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

ENGINEERING

- 4.65 All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 4.66 **Prior to the issue of a Construction Certificate** a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:
- a) Provision of a heavy-duty vehicular crossing/s.
 - b) Opening the road reserve for the provision of services including stormwater.
 - c) Placing of hoardings, containers, waste skips, etc. in the road reserve.
 - d) Replacement of damaged kerb and gutter for the full property frontage.
 - e) Erection of an awning.
 - f) Utility lead in works.
 - g) Provision of full width path paving in accordance with Council's Draft 'Public Domain Technical Manual'

h) Provision of an awning of 2.0m width or half of the width of the footpath along the frontage of the building.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

- 4.67 Stormwater drainage from the site shall be discharged to the existing site drainage system.

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

- 4.68 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the stormwater drainage system for the basement carpark has been designed in accordance with the requirements for pumped systems in AS3500.3:2003.
- 4.69 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 4.70 **Prior to the issue of a Construction Certificate** a detailed overland flow study shall be prepared for the site to ensure that:
- a) The proposed finished ground floor levels have appropriate freeboard to the water surface level of the overland flowpath.
 - b) The basement car park is protected against the ingress of overland flows and surface runoff with an appropriate freeboard.
 - c) The proposal will not adversely impact upon surrounding properties by the damming, diversion or concentration of overland flows.

The overland flow study must address downstream controls of the built environment including discharge across Henry Street.

The building shall be designed and constructed in accordance with the overland flow report recommendations. Prior to the issue of a Construction Certificate a copy of the overland flow study shall be submitted to Penrith City Council.

- 4.70(a) **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that the building in the south west corner is clear of the proposed easement to drain water over Council's drainage line which is required to be created under this consent.
- 4.71 **Any Construction Certificate** issued by the Principal Certifying Authority or Certifying Authority shall incorporate:

- Specification & installation details of the stormwater pre-treatment system
- The approval of an operation and maintenance manual/ schedule for the proposed device

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Penrith City Council with notification of the Construction Certificate issue.

4.72 A total of 144 off street parking spaces are to be provided, line marked and maintained on the development. This should include 10 accessible parking spaces, and minimum of 4 visitor spaces and dimensions are to comply with AS 2890.1, 2 & 6.

4.73 **Prior to the Commencement of Works** a dilapidation report of all infrastructures fronting the development in Henry Street is to be submitted to Penrith City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 10m either side of the development.

4.74 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

4.75 After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

All structures are to be wholly located within this subject site. No structures are to be located outside the subject site.

4.76 **Prior to the issue of an Occupation** the Principal Certifying Authority shall ensure that the overland flowpath works, flood control works):

- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

4.77 **Prior to the issue of an Occupation Certificate a restriction** as to user and/or positive covenant relating to the on-site detention system/s, stormwater pre-treatment system/s, overland flowpath works, flood control works, shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith

City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

- 4.78 **Prior to the issue of an Occupation Certificate** any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be rectified at no cost to Penrith City Council.

Any rectification works within Henry Street will require a Roads Act application. The application is to be submitted and approved by Penrith City Council prior to such works commencing.

- 4.79 **Prior to the issue of an Occupation Certificate** , and installation of regulatory /advisory linemarking and signage, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee. **Please note that the proposed “No Stopping” sign along Henry Street frontage is not supported.**

Notes:

- 1) Contact Penrith City Council's **Development Engineering Unit** on (02) 4732 7777 for further information on this process.

Allow eight (8) weeks for approval by the Local Traffic Committee.

- 4.80 A dilapidation report of all adjoining buildings and Council owned infrastructure fronting the development in Henry Street is to be submitted to Council prior to the commencement of construction of the building. The report is to include, but not limited to, footpaths, kerb and gutter, pavement and street trees and is to extend 10m either side of the development.
- 4.81 Bicycle parking bays are to be provided in accordance with the relevant sections of Part 10, *AUSTROADS Guide to Traffic Engineering Practice – Part 14 Bicycles*.
- 4.82 The layout of the car parking areas associated with the subject development including driveways, access ramp grades, circulating roadways, turn paths, sight distance requirements, overhead clearances for people with a disability, aisle widths and parking bay dimensions (allowing for full door opening) shall be in accordance with AS 2890.1- 2004 and 2890.6:2009 and Council's requirements.. Full details demonstrating compliance must be submitted with the Construction Certificate.
- 4.83 **Prior to the issue of an Occupation Certificate**, documentation is to be submitted to Council demonstrating appropriate dedication of parking spaces for each land use, including residential visitor and stacked parking arrangements.
- 4.84 All vehicles are to enter and exit the development in a forward direction.
- 4.85 All construction vehicles and activities must be fully contained within the site. No vehicles associated with the construction or demolition activities are to stand on Henry Street.
- 4.86 The required sight lines around the driveway entrance are not to be compromised by landscaping, fencing or signage.
- 4.87 **Prior to the issue of an Occupation Certificate**, documentation is to be

submitted to Council demonstrating appropriate dedication of parking spaces for each land use, including residential visitor and stacked parking arrangements.

- 4.88 The electricity substation is not to be located over Council's drainage infrastructure and proposed easement and has been catered for on the revised plans submitted to Council **prior to the release of the Construction Certificate.**
- 4.89 All works/regulatory signposting associated with the proposed development are to be at no cost to the Roads and Traffic Authority or Council.
- 4.90 The recommendations of the geotechnical report prepared by Douglas Partners dated 10 August 2010 and David Johnson dated 8 February 2011 are to be adopted in site works and construction design. A written documentation shall be submitted Council indicating that all recommended works have been carried out satisfactorily and submitted to Council **prior to the release of the occupation certificate.**

LANDSCAPING

- 4.91 All landscape works are to be constructed in accordance with the stamped-approved plan

Street level landscaping	10 -0010/DA-900	H1	Daniel Dagger Design Landscape	01/12/2010
Podium Level landscaping	10 -0010/DA-901	H1	Daniel Dagger Design Landscape	01/12/2010
Podium Level common landscaping	10 -0010/DA-902	H1	Daniel Dagger Design Landscape	01/12/2010

and Sections F5 "Planting Techniques", F8 "Quality Assurance Standards", F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

Landscaping shall be maintained:

- ☐ in accordance with the approved plan, and
- ☐ in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation, which died or was removed.

- 4.92 The approved landscaping for the site must be constructed by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to construct category [3] landscape works. Existing 3 of the 4 trees along the frontage of the street shall be retained.
- 4.93 The following series of reports relating to landscaping are to be submitted to the

nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (3) landscape works.

i. Implementation Report

- ☐ Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (3) landscape works.
- ☐ An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

- ☐ On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.
- ☐ This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (3) landscape works.

- 4.94 All trees that are to be planted along the rear of the property should be of such species that have high canopy in order to maintain passive surveillance of the area. Details are to be submitted to Council **with the Construction Certificate for consideration and approval.**

SECTION 94

- 4.95 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Multi Dwelling. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$656,960.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Multi Dwelling may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 4.96 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Commercial Office. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$245,285.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Commercial Office may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 4.97 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$264,800.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 4.98 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$95,840.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

- 4.99 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$17,920.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with

the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

CERTIFICATION

4.100 Prior to the commencement of any earthworks, construction or demolition works on site, the proponent is to:

- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

The following documentation shall accompany the "Notice of Commencement" to be submitted to Penrith City Council:

- ☐ Certification that the sediment and erosion control measures has been installed in accordance with condition 4.30.
- ☐ A copy of the Traffic Control Plan for the development/site in accordance with condition 4.56.
- ☐ Details of the qualified conservation architect employed to oversee the development in accordance with condition 4.29.
- ☐ Details of the qualified environmental consultant employed to supervise the development.

4.101 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.**

Before the Occupation Certificate can be issued for the development, [Fire

Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades. In addition, Certification or other documentation deemed suitable to the Principal Certifying Authority (PCA) is to be submitted to the PCA, detailing compliance with:

- ☐ The provisions of AS1428.1 and that any person with disabilities can access the building, including its perimeter. In this regard, the Certification (or other documentation) is to be prepared by an accredited access consultant.
- ☐ Condition No. 4.41 whereupon a qualified acoustic consultant has certified that the development has been constructed in accordance with the approved acoustic report.
- ☐ Condition BASIX whereupon the company or person who installed the ceiling and wall insulation shall submit written documentation to the Principal Certifying Authority certifying that the insulation for the development has the equivalent thermal rating as specified by this condition.
- ☐ Condition No. 4.66 whereupon Council has certified that the works approved under the Roads Act 1993 are satisfactorily completed.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the abovementioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 4.102 The commitments listed in the BASIX Certificate for the dwelling, and forms part of the development consent, is to be maintained during the life of the dwelling. Where the commitments require replacement, the replacement must be identical to or is at a higher star rating to that listed in the BASIX Certificate.

