

JRPP Number	2014SYW126
DA number	DA14/1111
Capital Investment Value	\$32,810,000
Assessing Officer	Jonathon Wood – Consultant Planner
Local Government	Penrith City Council
Proposed Development	Staged Construction of Four (4) Storey Multi-Deck Car Park including Rooftop Parking & Ground Floor Retail Premises (3), Eight (8) Storey Serviced Apartments Building (83 Apartments), Western Extension of Ransley Street & Associated Works
Property Description	Lot 1 DP 1043008 & Lot 151 DP 863625
Applicant	Panthers Group
Owner	Mulgoa Road (No 1) Pty Ltd
Property Address	73-83 Mulgoa Road, Penrith
Date Received	3 September 2014
Type of Development	Advertised Development
Recommendation	Approval - Deferred Commencement



Assessment Report

Executive Summary

On 3 September 2014 Council received a Development Application proposing the construction of a 4 storey multi deck carpark and an 8 storey serviced apartment building with other minor works including retail space at the ground floor and the extension of Ransley Street on the property known as 73-83 Mulgoa Road, Penrith. It is intended to carry out the development over two distinct stages, as listed below.

Stage 1

- Multi deck carpark comprising four (4) storeys with a capacity of 527 vehicles and 14 bicycles;
- Ground floor retail premises comprising three (3) tenancies with a total area of 327m²;
- Road extension to Ransley Street;
- Pedestrian Link Bridge between the Carpark and the Panthers Club at Level 1 of the carpark.

Stage 2

- Alterations to multi deck carpark to reduce parking from 527 to 479 vehicles and 14 bicycles;
- Construction of an eight (8) storey serviced apartment building containing 83 apartments;
- Reconfiguration to ground floor retail premises to provide for six (6) retail tenancies and a total area of 580m² which sleeves the ground floor areas.

The subject site is located within the Panthers Penrith Precinct and is zoned SP3 Tourist under Penrith Local Environmental Plan 2010. The proposed development is defined as *Tourist and Visitor Accommodation*, *Retail Premises* and a *Carpark*, which are permissible with consent under the provisions of the Penrith Local Environmental Plan 2010.

The proposed development represents the ongoing evolution of the Penrith Panthers site that is generally consistent with the Master Plan Study prepared for the broader site.

The proposed development has a 'capital investment value' (CIV) of \$32,810,000. Given that the CIV is in excess of \$20 million, the proposed development is to be determined by the Joint Regional Planning Panel (JRPP) – Sydney West Region pursuant to Section 23G and Schedule 4A(3) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The subject application was placed on public exhibition and notified to adjoining property owners from 22 September to 7 October 2014. Two (2) submissions were received during 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, this report recommends the JRPP grant a deferred commencement consent to the proposal subject to the imposition of conditions.

There are five appendices to this report, as detailed below.

- Appendix No. 1 – Location Plan
- Appendix No. 2 – Aerial View of Site
- Appendix No. 3 – Architectural Plans
- Appendix No. 4 – Landscape Plans
- Appendix No. 5 – Recommended Conditions of Consent

Background

The Penrith League Club premises has been subject to a number of recent development proposals including the following:

- Construction of an NRL Academy, Sporting Fields and associated car parking (DA13/1304);
- Office Administration Building Addition (DA13/0263);
- Alfresco Terrace Extension and internal refurbishment works (DA13/0267);
- Western Sydney Community & Sports Centre (2014SYW083).

Prior to the submission of the Development Application, a number of meetings were held with the applicant and Council staff to discuss the proposed development.

- Pre-lodgement Meeting held on 15 April 2014;
- Urban Design Review Panel Meeting held on 14 April 2014;
- Access Committee Meeting held on 9 April 2014 and 11 June 2014.

The application submitted to Council has been prepared with regard to the matters raised during the assessment process and by the UDRP. The key issues identified during these initial design meetings related to the urban design merit of the proposal, traffic, stormwater and flooding impacts. These remain key issues through the assessment of the development application.

Site and Surrounds

The subject site is situated on the western side of Mulgoa Road, between Ransley Street to the north and Jamison Road to the south and is identified as part of the broader “Penrith Panthers Club” site.

The site covers five (5) separate landholdings with a total area of 9,276m². The current proposal is located in the central northern portion of the site, immediately adjacent to the ‘I-Fly’ facility and in proximity to the intersection of Retreat Drive and Ransley Street.

Refer to Appendix No. 1 and Appendix No. 2 for a location plan and aerial view of the site.

The portion of the site associated with the proposed development is currently occupied by demountable office buildings, internal road, car parking and a number of large Eucalypt trees which are to be removed as part of the development.

The Panthers Penrith Precinct itself provides for a wide range of entertainment, function space, and recreational uses and food outlets. The broader locality includes a mixture of low and medium density housing, seniors living accommodation, Pepper Stadium, Penrith Paceway and open space.

Proposed Development

The proposal involves the construction of a 4 storey multi deck carpark and an 8 storey serviced apartment building with other minor works including retail space at the ground floor and the extension of Ransley Street on the property known as 73-83 Mulgoa Road, Penrith. It is intended to carry out the development over two distinct stages as described below.

Stage 1 - Multi Deck Carpark, Retail Premises and Carwash

- Multi deck carpark comprising four (4) storeys with a capacity of 527 vehicles and 14 bicycles. The western edge, which will undergo works to facilitate stage 2, is to adopt a temporary perforated screen to the western edge that is consistent with the northern edge of the carpark;
- Ground floor retail premises comprising three (3) suites with a total area of 327m²;
- Carwash in the north-western corner of the site that incorporates a 50m² washing area and a 25m² office;
- Road extension to Ransley Street to service the site that will terminate in a cul-de-sac fronting the northern corner of the serviced apartment location.
- Pedestrian Link Bridge between the Carpark and the Panthers Club at Level 1 of the Carpark that will connect to Level 2 of the existing Panthers Club. It is noted that the link bridge is a temporary measure until the club expands northward to join the multi deck carpark and towards the lake;
- Landscaping is proposed including new street tree plantings (nominated as Watergum in Landscape Report) as well as new turfing and temporary tree and shrub plantings along the western edge of the parking area, noting these will be removed on completion of the serviced apartments.

Stage 2 - Reconfiguration to Multi Deck Carpark and Retail Area and Serviced Apartments

- Alterations to multi deck carpark to reduce parking from 527 to 479 vehicles (including 21 accessible) and 14 bicycles;
- Construction of an eight (8) storey serviced apartment building containing 83 apartments over the ground floor retail and lobby/receptions areas. The serviced apartments feature the following mix:
 - 23 x Studios (including 6 accessible);
 - 34 x 2 bedroom (dual key) apartments;
 - 22 x 1 bedroom apartments;
 - 4 x 2 bedroom apartments (including 4 accessible).
- Reconfiguration to ground floor retail premises to provide for six (6) retail suites and a total area of 580m² which sleeves the ground floor areas;
- Provision of storage areas for the serviced apartments and the Panthers club located behind the ground floor retail and in front of the parking areas;
- Landscaping is proposed including new turfing, removal of planting along the western elevation of the multi-deck carpark, new concrete footpath along the western frontage of the apartment building;

The proposed operating hours of the various uses proposed are as follows:

- Serviced Apartments: 24 hours, seven (7) days per week;
- Multi-Deck Carpark: 24 hours, seven (7) days per week;
- Car wash: 9am-9pm seven (7) days per week;
- Retail Tenancies: 6am – 12 midnight, seven (7) days per week.

It is noted that a separate Development Application will be required for the following works associated with the proposal:

- Advertising Signage;
- Fitout of the Retail Spaces.

The following documents have accompanied the subject application:

- Survey Plan, prepared by Freeburn Surveying
- Architectural Drawings, prepared by Architectus Group
- Architectural Design Statement, prepared by Architectus Group
- Cost Statement, prepared by Rider Levett Bucknall
- Landscape and Public Domain Plan, prepared by Site Image
- Tree Report, prepared by Treescan
- Supplementary Flood Assessment, prepared by J. Wyndham Prince
- External Lighting Plan, prepared by Sylvania
- Flood Response Plan, prepared by Molino Stewart Pty Ltd
- Civil Plans, prepared by Diversi Consulting Pty Ltd
- Services Statement, prepared by Diversi Consulting Pty Ltd
- Access Report, prepared by Morris Goding Accessibility Consulting
- BCA Assessment, prepared by McKenzie Group & WSP Built Ecology
- Fire Engineering Concept, prepared by Arup
- Environmentally Sustainable Design Approach, prepared by WSP Built Ecology
- Acoustic Impact Assessment, prepared by Acoustic Logic
- Traffic Statement, prepared by GHD
- Waste Management Plans, prepared by Waste Audit & Brookfield Multiplex
- Infrastructure and Public Domain Master Plan, prepared by Brookfield Multiplex

Refer to Appendix No. 3 and Appendix No. 4 for copies of the architectural plans and landscape plans submitted with the application.

Planning Assessment

The proposal has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979, with due regard to relevant legislation and planning instruments cited as follows:

- Sydney Regional Environmental Plan No. 20 – Hawkesbury / Nepean River;
- Penrith Local Environmental Plan 2010;
- Penrith Development Control Plan 2014.

Having regard to the above legislation, planning instruments and policy, the following key issues have been identified for discussion.

Section 23G - Joint Regional Planning Panels

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 Section 23G and Schedule 4A(3) of the EP&A Act given that the Capital Investment Value exceeds \$20 million.

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

State Environmental Planning Policy No 55 – Remediation of Land

In the past, the Panthers site has been filled to facilitate the use of the land for landscaping, tennis courts, club facilities and car parking. Prior to the Panthers development, the land is understood to have been used for grazing as a part of a dairy farm.

The proposed development is located within an area of demountable buildings, car parking and open space areas. It is considered the proposal will not impact upon or be affected by potential contamination.

Having regard for the above, it is considered the site is suitable for the proposed development and therefore a preliminary SEPP 55 report in regard to the remediation of the land is not considered necessary in this circumstance.

Sydney Regional Environmental Plan No. 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.

It is proposed to discharge stormwater from the development to the existing stormwater system. Subject to appropriate conditions relating to stormwater control, and sediment and erosion control during construction, the proposal will be consistent with the policy, particularly in relation to total catchment management and water quality in the metropolitan area. This is confirmed through the receipt of referral comments from Councils Senior Water Management Officer that confirms the proposal is consistent with Councils Water Sensitive Urban Design policy.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of the abovementioned SEPP requires Council to consult with the Roads and Maritime Services as the size of the proposed development has the potential to generate significant volumes of traffic. More specifically sub-clause (3) is as follows:

Before determining a development application for development to which this clause applies, the consent authority must:

- *give written notice of the application to the RTA within 7 days after the application is made, and*
- *take into consideration:*
 - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including:*
 - (a) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (b) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*

The matter was referred to the Roads and Maritime Services and they have advised that they have no objection subject to conditions of development consent relating to the need for a Construction Traffic Management Plan and ensuring that the proposal aligns with the design requirements under AS 2890.1-2004.

Penrith Local Environmental Plan 2010

Permissibility

The subject site is zoned SP3 Tourist under Penrith Local Environmental Plan 2010. The proposed development is defined as *Tourist and Visitor Accommodation, Retail Premises* and a *Carpark*, which are permissible with consent under the provisions of the Penrith Local Environmental Plan 2010 in the SP3 zone and by virtue of Schedule 1 (additional permitted uses) of the LEP. The small carwash component is reasonably considered ancillary to the carpark proposed and the 580m² of retail floor area is permitted by Clause 22 of Schedule 1 of the Penrith LEP 2010 that permits retail premises on the site.

LEP and Zones Objectives

The proposed development is consistent with the aims and objectives of both the LEP and the zones themselves.

Other Relevant Instrument Provisions

The proposed development is consistent with the remaining provisions of the LEP, with detailed discussion provided against those provisions of most relevance to the proposal.

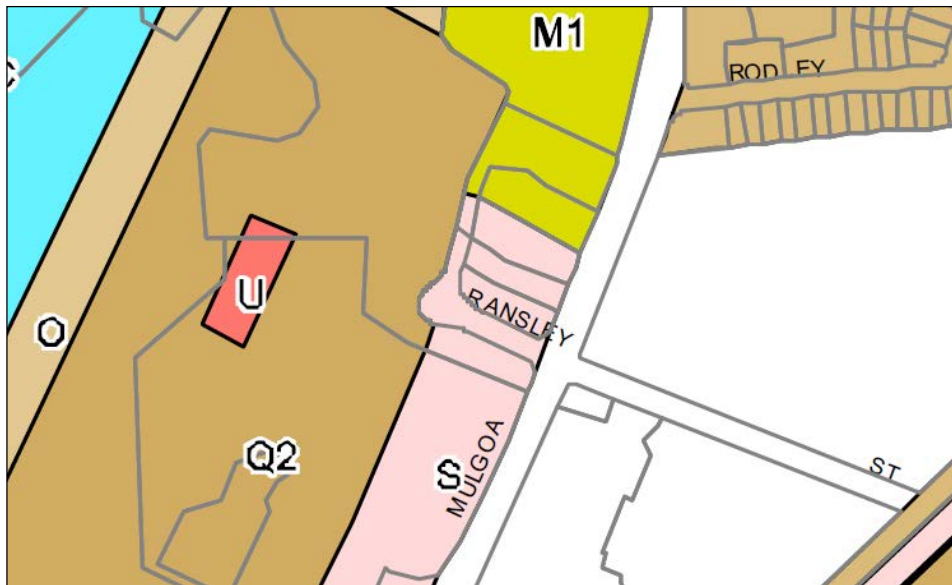
Clause 4.3 Height of Buildings

Clause 4.3 of Penrith Local Environmental Plan 2010 relates to building heights and states the following:

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
 - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*

- (c) *to minimise the adverse impact of development on heritage conservation areas and heritage items,*
 - (d) *to nominate heights that will provide a transition in built form and land use intensity.*
- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map identifies a split height control applying to the site, being partly 32m and partly 20m, across the portion of the site to which the development application relates. This is shown on the height of buildings map extract below.



The carpark component is contained to the 20m and 32m height limit and the serviced apartment component is contained to the 32m height limit area of the site. The carpark has a maximum height of 18m (top of service area/overrun), noting that the flood lighting to the rooftop parking area is also approximately 18m in height.

The height of the serviced apartment component incorporates a maximum height of 29.7m, with the top most portion of the building being at RL 54.6m, noting that the I-Fly building adopts a maximum RL of 51.015m which is a consideration given that the rear of the serviced apartments is partly screened by the I-Fly building. Therefore the proposal complies with the maximum building height control applying to the site.

Clause 4.4 Floor Space Ratio

Clause 4.4 of Penrith Local Environmental Plan 2010 relates to maximum floor space ratios for particular parts of the local government area. The broader site is identified as having a maximum FSR of 1:1. The current proposal, when considered in conjunction with the existing buildings on the broader site, incorporates an FSR of 0.18:1 and complies with the FSR control.

Clause 6.3 Flood Planning

Clause 6.3 of Penrith Local Environmental Plan 2010 outlines a number of controls relating to the development of land that is located within a "Flood Planning Area". The

proposed Carpark and Serviced Apartments is located within a flood affected area of the site. The provisions of the LEP outline:

- (4) Development consent must not be granted for development on land that is at or below the flood planning level unless the consent authority is satisfied that the development:*
- (a) is compatible with the flood hazard of the land, and*
 - (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and*
 - (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
 - (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and*
 - (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or affect the restoration and establishment of riparian vegetation, or a reduction in the stability of river banks or waterways, and*
 - (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
 - (h) incorporates appropriate measures to manage risk to life from flood, and*
 - (i) is consistent with any relevant floodplain risk management plan.*
- (5) Development consent must not be granted for development on land identified as "Flood planning land" on the [Clause Application Map](#), unless the consent authority is satisfied that the development will not adversely affect the safe and effective evacuation of the land and the surrounding area.*

The Development Application was accompanied by a supplementary flood impact assessment prepared by J. Wyndham Prince that builds on the existing flood assessment prepared by J. Wyndham Prince in 2013. The report analyses and assessed a pre and post development scenario and confirms that *'the flood level difference mapping indicates that flood levels do not increase outside the Panthers site boundary'*.

The assessment also outlines that the proposed development is in a 'low flood hazard' zone and the floor level of the development is above the current modelled 1 in 100 year flood level of RL 26m, noting that areas at the ground floor are limited to parking, lobby areas and retail with the serviced apartments being at the first floor and above.

Given the location in a low flood hazard area, a flood evacuation and emergency response plan was prepared by Molino Stewart detailing flood evacuation measures and emergency response. Prior to the final operators of the serviced apartments, retail and carwash being confirmed this will need to be updated to reflect the operator to ensure implementation of the flood evacuation plan. Appropriate conditions of consent are recommended addressing this aspect of the proposal.

Comments received from Council's Development Engineers raised concerns that the proposal did not include a holistic flood impact assessment report that takes into account the full redevelopment scenario associated with the Panthers Master plan as well as the associated road works and earthworks. Whilst this is the case, full and accurate modelling requires detailed design and planning to occur for the entire Panthers Master plan area in order to establish levels and the like.

Given the Master plan covers works for the next two decades (to 2035) the modelling of the full redevelopment scenario raises issues in terms of the feasibility of detailed design of all aspects of the master plan and therefore the ability to accurately model the flooding impact. In addition the fluid nature of redevelopment on the Panthers site

means that incremental changes would be expected over the next two decades to the Masterplan that would require revision to the flood modelling.

The implications of proceeding with the current proposal, which meets current flood criteria, is that there is the potential for future proposals associated with the Masterplan to require additional flood mitigation works to occur in order to ensure that there are no off site impacts and that the flood risk for each use is acceptable.

Given the proposal meets the current flood criteria, and that there is the ability to assess future proposals on their merits in terms of flooding, the current proposal is satisfactory in terms of flooding and satisfies Clause 6.3 of the LEP.

Clause 6.6 Servicing

The existing site is serviced, noting that the existing infrastructure will be sufficient to meet the required demand. This has been confirmed by Sydney Water in terms of water reticulation, however in terms of sewer reticulation the comments from Sydney Water indicate that there may be augmentation works required as during wet conditions the sewer main servicing the site is at close to capacity. This issue will be further explored as part of the Section 73 Certificate application process with Sydney Water, noting that there is no doubt that the site is capable of being serviced.

6.17 Density of Retail Premises

This clause requires that no more than 12,500m² of retail premises is permitted on the site (other than outlet premises) and that development for retail premises is required to be integrated with other development on the land.

The current proposal incorporates 580m² of retail area, noting that the existing retail area within Panthers is 2525m², bringing the total to 3105m² which is significantly below the 12,500m² cap associated with the LEP. In addition the retail premises proposed are suitably integrated with the serviced apartment/carpark development noting that on completion of Stage 2 there is potential for use of the retail areas for a business centre and gymnasium associated with the serviced apartments.

6.19 Development Control Plan (Panthers)

This clause requires the preparation of a development control plan (DCP) prior to development occurring on the site. A DCP has been adopted and is in force and an assessment against the key provisions of the DCP are provided further in this report.

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

Penrith Local Environmental Plan 2010 - Amendment No. 4

The development application was lodged prior to the coming into force of Penrith LEP 2010 (Amendment No. 4) on 25 February 2015. Therefore it is a Draft EPI and a matter for consideration in the assessment of the current proposal. LEP 2010 (Amendment No. 4) was a consolidation of the existing residential and rural/industrial lands and there are no discernible changes to the LEP as it applies to the subject site as compared to the previous LEP. Therefore no further discussion is provided noting that the proposal satisfies the provisions of LEP 2010 (Amendment No. 4).

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

Penrith Development Control Plan 2014

DCP Objectives

It is considered that the objectives of the DCP have been satisfied.

Penrith Development Control Plan 2014 applies to the land. The proposal has been assessed, having regard to the provisions of Part C – Controls applying to all land uses and Part E, Section E13 – Panthers Penrith Precinct of DCP 2014 as detailed below.

C2 - Vegetation Management

A tree management report has been provided detailing the removal of 21 trees in association with the proposed development, noting retention of nine (9) trees. The proposal was referred to Council's Landscape Architect and no objection was raised to the removal of the vegetation due to the proposed level of replacement vegetation associated with the development and the broader Landscape Concept associated with the Panthers Masterplan.

A detailed landscape plan has been provided outlining a planting and paving plan to support the use of the building, the construction of internal roads and car parking areas. The proposed level of planting is sufficient to replace the trees to be removed, subject to conditions of consent.

C3 – Water Management

The development site contains a number of water bodies, including creeks of varying sizes and a number of dams. The development is well removed from the watercourses and the submission of a Soil and Water Management Plan will ensure appropriate measures are implemented during the event to protect the site. Council's Senior Water Management Office has reviewed the proposal and found that the proposal is satisfactory and provides for appropriate Water Sensitive Urban Design measures.

C5 - Waste Management

The key objective of this section is to ensure that the volume of waste generated during the demolition works is minimised and waste is re-used or recycled. A suitable waste management plan has been submitted with the application. Recommended conditions of consent will ensure that the waste management plan is implemented.

C10 - Transport, Access and Parking

The architectural and civil plans detail the construction of the extension of Ransley Street to the west with the following key elements:

- 21m road reserve;
- 10.5m pavement width;
- Upright kerb and gutter and stormwater drainage lines;
- 7m verge width to the south to incorporate a 5m footpath and 2m planting zone;
- 3.5m verge width to the north to incorporate a 2m planting zone and a 1.5m footpath zone that will interface with the future retail outlet centre.

Ultimately Ransley Street will be dedicated to Council in the future and comments from Council's Development Engineers indicate that the proposed road construction will require further detail to confirm that the design is satisfactory. In particular the pavement width is required to be 12m (not the 10.5m provided), however the overall road reserve width of 21m complies (see discussion against Panthers Penrith Precinct section of DCP).

In addition to the extension of Ransley Street the proposal involves the multi deck carpark that will accommodate 527 (Stage 1) and 479 (Stage 2 completion) parking spaces which is part of the broader strategy to consolidate parking across the site in a number of key locations.

The Panthers Precinct Masterplan, Transport Strategy (prepared by GHD for Panthers Group, June 2014) outlines future parking demand for the entire precinct, detailing the masterplan will deliver 4,445 off street parking spaces throughout the precinct, exceeding the expected parking demand of 3,306.

In light of the car parking approach detailed within the Traffic and Parking Assessment Report combined with the Transport Strategy, Council is satisfied with this approach to provide an appropriate level of parking to cater for the development in the context of the future redevelopment of the Panthers site.

The proposed development was referred to the Roads and Maritime Services for consideration under Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 and no objection was raised subject to conditions of consent that have been incorporated into the recommended conditions.

The Traffic and Parking Assessment Report also includes the provision of 14 bicycle parking spaces, which is considered to be appropriate and will promote alternative forms of transport to motor vehicles.

In summary, the Council's Traffic Engineer and the Roads and Maritime Services are satisfied with the proposed access, parking arrangements and traffic related aspects of the proposal subject to the recommended conditions of consent.

E13, Part B - Panthers Penrith Precinct

Vision

Section E13 - Panthers Penrith Precinct applies to the development site, with the proposal being located within the Ransley Street and Club/Hotel Precinct.

The DCP outlines that the Panthers Penrith vision is to create a vibrant entertainment, leisure, lifestyle and sporting precinct that offers a range of activities to attract a diverse mix of locals and intrastate, interstate and international visitors.

The location of the Serviced Apartments, Retail Premises and Carpark is consistent with the intended location of the carpark and serviced apartments/retail.

The proposal activates the future lake location upon completion of Stage 2 and Stage 1 provides for a retail sleeve to Ransley Street at the ground floor with the parking areas behind and above. This aligns with the DCP in providing for active uses along Ransley Street.

Road Layouts

The details submitted as part of the application in terms of road widths align with the DCP requirement for a 21m road reserve width. The proposal does vary the 12m pavement width requirement and provides for a 10.5m pavement width with an increase in the width of the southern side verge to provide for a 5m footpath and 2m planter rather than the 4.5m verge anticipated by the DCP. The northern side of the road incorporates a 3.5m verge rather than the 4.5m verge which is a function of the 2m landscape planter and reduced footpath zone of 1.5m adjacent to the retail outlet centre. The variation to the street width allocations is considered appropriate as it enables greater movement along the activated frontage areas. However the pavement width is required to be 12m to enable on street parking and two way vehicular movement.

Council's Development Engineers and Traffic Engineers have reviewed the proposal and have recommended DCP compliance. However the departure to the road layout is considered appropriate to provide for an improved pedestrian interface along the retail frontages, subject to the pavement width being 12m.

Urban Design Street Alignment, Wall Height and Setbacks

The DCP nominated a 0m street setback to this portion of the site and the proposal is consistent with the 0m street setback after taking into account the extension of Ransley Street.

The DCP also requires a 14m maximum street wall height, with the area above this to be setback 3m from the street. The proposal incorporates a 0m setback to the ground floor and then above this level incorporates a 3m setback. This is technically compliant with the DCP in that a single storey 'street wall' is proposed that does not exceed the maximum 14m (3-4 stories). This also ensures that the carpark is more recessive given the increased setback at all levels of the exposed carpark area, noting it is treated with perforated screening to the north and majority of the eastern facade to mitigate the visual impact from key viewing locations.

The DCP also nominates the Serviced Apartment site as a 'Landmark Gateway Building' that is to adopt an 'Iconic' form *'that will denote and provide emphasis to the main Blue Mountains view corridors from Mulgoa Road'* with buildings required *'to address the corner condition with an emphasis on the approach on Mulgoa Road'*.

The DCP provides that architectural excellence is to be achieved in the following areas:

- 1) How the building reinforces and enhances significant vistas and view corridors.*
- 2) How the building will enliven the public domain it adjoins.*
- 3) Materials are to be selected for durability and quality. In general painted surfaces are not appropriate especially at street 'level'.*
- 4) Particular attention is to be paid to detailing of materials.*
- 5) Buildings are to be simple, elegant and well proportioned.*
- 6) Environmental sustainable initiatives are to be incorporated into new buildings.*

The proposal has been reviewed by Council's Urban Design Review Panel with regards to the architectural merit of the proposal. The review of the development has indicated that the building does not sufficiently integrate the corner of the building in terms of the northern facade which is designed and treated as a 'side' rather than a key element of the proposal. Ongoing feedback has been provided to the proponent however to date the changes have been limited to minor additions of window hoods and some vertical screening to the northern facade. In its current form the proposed development is not considered to satisfy the DCP with particular reference to the northern facade of the building which is a visually prominent face of the building relative to the entry along Ransley Street as well as from some viewlines from Mulgoa Road. An extract of the current photomontages submitted, as two potential options, show the northern facade.



Option 1: Not Supported



Option 2: Improvement but Not Supported

The architectural merit of the carpark (application of perforated screens) and the western facade of the building is not in question, however revisions are required to the roof form and northern facade to satisfy the DCP. This is achievable through facade treatment without the need for significant change to the internal unit planning, with changes such as wrapping balconies around corners, punching additional full height windows into the northern facade, cutting back the edge of the roof form at the upper level and removing the screened elements. To deal with this issue fully a deferred commencement consent condition is recommended requiring the submission of revised plans providing for alternate treatment to the northern facade to achieve architectural excellence.

Section 79C(1)(a)(iia) – The provisions of any Planning Agreement

Background

The development site is affected by a Voluntary Planning Agreement, dated 28 November 2012. The Voluntary Planning Agreement relates to development contributions towards public facilities, with Council, Penrith Rugby League Club and the Roads and Maritime Services being the parties to this agreement. In addition an amendment to the VPA, required by previous conditions associated with the Western Sydney Community & Sports Centre, has recently come off exhibition which is a consideration.

In accordance with the Voluntary Planning Agreement, the construction of the Western Sydney Community & Sports Centre (previously granted consent) will trigger the following works:

- Construction of intersection at Harris Street and Jamison Road, with provision for a 15 metre long sheltered right turn bay from Jamison Road into Harris Street and a 30 metre long sheltered right turn bay from Jamison Road into the new Southern Riverlink Access and provision of appropriate traffic signals at the Jamison and Harris Street intersection.
- Widening of Jamison Road between Harris Street and Mulgoa Road to include two continuous eastbound lanes within the existing road reserve.
- Retention and, if necessary reconstruction, of a 3m wide shared path along the northern side of Jamison Road between Harris Street and Mulgoa Road.
- Extension of the existing median along Jamison Road between Mulgoa Road and Harris Street.
- Construction of a second right turn bay from Jamison Road eastbound into Mulgoa Road (30m). Existing right turn bay (45m) to be retained.

Relationship to Current Proposal

The current proposal has no impact in terms of 'triggers' under the Voluntary Planning Agreement as contained in Schedule 3 of the VPA. Therefore the VPA is of limited bearing to the current proposal. However it is noted that the exhibited version of the VPA corrects the 'inputs' associated with Schedule 5 of the VPA to correct the initial 60 serviced apartments proposed to a total of 84 serviced apartments.

Section 79C(1)(a)(iv) – The Regulations

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objection to the proposed development regarding fire safety considerations as prescribed under the *Environmental Planning and Assessment Regulation 2000*.

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

Urban Design

As per the discussion against the Penrith Panthers Chapter of Penrith DCP 2014 the proposal does not achieve architectural excellence in terms of the northern facade of the building with a deferred commencement consent recommended to provide for an improved design to the northern facade.

Landscape Design

The application has been accompanied by a landscape and public domain plan which provides schematic landscaping throughout the site. The proposed landscape works will provide for the high quality embellishment of the site with suitable ground covers, shrubs and trees which, at maturity, will complement the scale, design and function of the development.

Council's Landscape Architect has considered the landscape and public domain plan and has no objections, noting that upon completion of Stage 2 there will be limited landscaping in front of the western facade of the building as this relies on future development within the lake foreshore area. Additional tree plantings in this area would be appropriate to provide visual relief to the built form and to provide for shading to the retail areas and parts of the serviced apartments. However the Landscape Masterplan indicates that additional tree plantings and the like would be provided further to the west of the serviced apartment areas which is considered reasonable.

Noise Impacts

The proposal is located approximately 140m from the nearest residential properties and an Acoustic Report has been prepared by Acoustic Logic detailing the impact of the development on the nearest residential receivers and road noise impacts on the development proposal (serviced apartments). This report concludes that the impact on the serviced apartments will meet the required criteria subject to some additional glazing to the living areas and bedrooms of the majority of the serviced apartments as well as acoustic seals. In addition the impact of the proposal on the nearest residential receivers will not exceed the relevant background noise criteria.

The Acoustic Report was reviewed by Council's Environmental Management Unit and two concerns were raised:

1. Potential impacts of the noise generated by the 'Ifly' facility on the serviced apartments;
2. Potential noise of vehicles utilising the carpark, including visitors, deliveries, and sated collection on nearby residential receivers and the serviced apartments.

These impacts are able to be resolved through revisions to the report and potentially greater noise attenuation measures to the serviced apartments and the potential need for treatment of the carpark area. A deferred commencement condition is recommended that requires a revised Acoustic Report to be prepared and submitted.

Accessibility

The Access Report accompanying the development application, prepared by Morris Goding Accessibility Consulting, concludes that the proposal provides equitable access for people with disabilities so as to comply with the accessibility requirements of the Building Code of Australia, Australian Standard 1428 and the primary objectives of the Commonwealth *Disability Discrimination Act 1992*.

The detailed design recommendations of the Access Report shall be incorporated into the Construction Certificate plans and the works certified accordingly prior to the occupation of the development.

Social and Economic Impacts

Opportunities for employment during the construction and operation of the development are a positive outcome of the proposed development.

The facility will boast a wide range of functional uses that are not adequately catered for within the local government area, attracting a wide range of users and contributing to Penrith's role as a destination for social activity, cultural activities, sports, entertainment, lifestyle, health and business. In particular it is noted that there is limited short stay accommodation within the Penrith Region and the Serviced Apartments will provide for a suitable form of accommodation in proximity to the CBD and existing services.

Community Safety

The application was accompanied by a Statement of Environmental Effects prepared by Architectus which considered Crime Prevention through Environmental Design (CPTED) principles of the proposed development.

Consideration of the information provided was undertaken by Council's Community Safety Coordinator who confirmed that the proposal is satisfactory in terms of CPTED subject to conditions. Appropriate conditions of consent have been included in relation to adequate lighting and the provision of CCTV and the like.

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

The site attributes are conducive to the proposed development. The proposal has been designed in a manner consistent with the desired future character of the site as enshrined in the Master Plan and Panthers DCP, subject to resolution of the design of the northern facade of the building.

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

Internal and External Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

<i>Referral Body</i>	<i>Comments Received</i>
<i>Roads and Maritime Services</i>	No objections, subject to conditions.
<i>Building Surveyor</i>	No objections, subject to conditions.
<i>Environmental Health – Environmental Management</i>	Some concerns surrounding Acoustic Report; see previous discussion.
<i>Environmental Health - Waterways</i>	No objections, subject to conditions.
<i>Community Safety Officer</i>	No objections, subject to conditions.
<i>Landscape Architect</i>	No objections.
<i>Traffic Engineer</i>	No objections, subject to conditions.
<i>Development Engineer</i>	Some concerns regarding flood modelling not taking into account final developed form for the broader Panthers Precinct; see previous discussion.

Community Consultation

In accordance with Penrith Development Control Plan 2014, the proposed development was advertised and notified from 22 September to 7 October 2014 to adjoining property owners and occupiers. Two (2) submissions were received in response to the notification process which raised the following concerns:

- Additional traffic generation and suggestions that round-about at Ransley Street and Retreat Drive be changed to a set of Traffic Lights with programming preference to traffic coming from Retreat Drive and into Retreat Drive;
- Concerns around noise and dust during construction;
- Noise impacts from carpark and serviced apartments
- View Loss from Mountain View Retreat Retirement Village and Impact on Property Values.

Detailed traffic modelling prepared as a part of the Masterplan process was required for the preparation of the Panthers Penrith Precinct Development Control Plan. The traffic modelling for the Masterplan requires a number of traffic upgrades, including the widening of Mulgoa Road at points and new intersection treatments at Panther Place as well as on Jamison Road. The traffic report submitted indicates that the traffic impact of the development is acceptable and will not unreasonably impact on the intersection function and upon full redevelopment the traffic impacts will be improved through intersection upgrade works.

In terms of noise and dust during construction appropriate conditions are recommended to manage dust and the EPA regulates construction noise and hours of operation during the construction process which is reinforced by a recommended consent condition.

The concerns around view loss are noted however the proposal fully complies with the building height and setback controls applying to this portion of the site. The extent of view loss is limited to a small part of the Blue Mountains noting the structures are clustered near the existing club and Ifly facility. Extensive views are retained directly west and given the proposal meets the height and setback controls the extent of impact is acceptable. There is no evidence that the proposed development will adversely impact on property values within the locality.

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

The proposal will provide for additional on site parking and 83 serviced apartments for short term accommodation, noting that there is limited short stay accommodation within the Penrith locality and the proposal creates a substantive public benefit subject to the design amendments to the building to ensure that architectural excellence is achieved.

Section 94 Contributions

There are no Section 94 Contributions applicable to the proposed development.

Conclusion

The proposed development represents the continued redevelopment of the Penrith Panthers site in a way that facilitates consolidation of parking areas and also provides for additional retail area and serviced apartments for short stay accommodation. The

proposal is a permissible land use and accords with Council's long term planning for the locality.

Conditions of development consent have been proposed which will ensure the effective operation of the development with minimal impact on the nearby residential development. The proposed development has been assessed against the relevant heads of consideration contained in Section 23G and Section 79C of the *Environmental Planning and Assessment Act 1979* and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of the Joint Regional Planning Panel's support.

Recommendation

1. That DA14/1111 for Staged Construction of Four (4) Storey Multi-Deck Car Park including Rooftop Parking & Ground Floor Retail Premises (3), Eight (8) Storey Serviced Apartments Building (83 Apartments), Western Extension of Ransley Street & Associated Works at 73-83 Mulgoa Road, Penrith be approved by way of a deferred commencement determination and subject to the recommended conditions at Appendix No. 5.
2. That those making submissions be notified of the determination.