

JRPP Ref. No.:	2015SYW093
DA No.:	DA15/0504
APPLICANT:	Tulich Aged Care Services
PROPERTY OWNER:	Mulgoa Road (No. 1) Pty. Ltd
PROPOSED DEVELOPMENT:	Six (6) Storey Building comprising 126 Bed Residential Aged Care Facility, 151 Independent Living Units, Associated Facilities, Ancillary Retail & Medical Suites, Basement Car Parking & Associated Works
PROPERTY ADDRESS:	123-135 Mulgoa Road, Penrith
PROPERTY DESCRIPTION:	Lot 13 DP 710086
DATE RECEIVED:	25 May 2015
ASSESSING OFFICER:	Mathew Rawson, Senior Environmental Planner
CATEGORY OF DEVELOPMENT:	Capital Investment Value > \$20 Million = \$55 682 462

Assessment Report

Executive Summary

Penrith City Council is in receipt of a Development Application from Tulich Aged Care Services for a proposed six (6) storey building comprising a 126 bed residential aged care facility, 151 independent living units, associated facilities, ancillary retail and medical suites, basement car parking and associated works at Lot 13 DP 710086, 123-135 Mulgoa Road, Penrith.

The site is zoned SP3 Tourist under the Penrith Local Environmental Plan (LEP) 2010. Seniors housing is prohibited in the SP3 Tourist zone. However Clause 2.5 (Additional permitted uses for particular land) states that additional permitted uses are outlined under Schedule 1 of the LEP. 'Seniors housing' is identified as an additional use permitted with development consent on the subject site.

The proposed development has a capital investment value in excess of \$20 million. As such, the Sydney West Joint Regional Planning Panel has the function of determining the application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

The proposed development has been advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. A total of 247 property owners and occupiers were notified in the surrounding area and were invited to make a submission during the exhibition period from 15 June to 29 June 2015. No submissions were received in response.

An assessment of the proposed development under Section 23G and Section 79C of the

Environmental Planning and Assessment Act 1979 has been undertaken and the following key issues have emerged as a result of this assessment process:

- Building design, context and setting;
- Relationship to the existing, approved and planned works within the Penrith Panthers Precinct including triggers within the Voluntary Planning Agreement;
- Flooding, stormwater and overland flow management.

These matters are discussed in detail in this report.

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan applicable to the subject site and is unlikely to have a negative impact on the surrounding environment. The proposed development will provide care and housing for up to 128 older persons including those with dementia as well as 151 independent living units in an area well serviced by public transport and close to amenities. There will be 21 full time equivalent staff involved in the day to day operations of the facility. The site is suitable for the proposed development and the proposal is in the public interest. This report recommends that the application be approved by way of a deferred commencement determination and subject to the recommended conditions at Appendix 1.

There are 12 appendices to this report, as detailed below.

- Appendix 1 – Recommended Conditions of Consent
- Appendix 2 – Location Plan and Aerial View of Site
- Appendix 3 – Floor Plans, Elevations and Sections
- Appendix 4 – Civil Engineering Drawings
- Appendix 5 – Roads and Maritime Services Authority's Requirements
- Appendix 6 – SEPP 65 Compliance Table
- Appendix 7 – Seniors Living SEPP Compliance Table
- Appendix 8 – Zoning Extract
- Appendix 9 – Applicant's Justification to Vary Building Height Control
- Appendix 10 – Flood Impact Assessment
- Appendix 11 – Development Control Compliance Table
- Appendix 12 – Sydney Water Requirements



View from the north



View from the south (Jamison Road)



Aerial view from the west

Background

The Penrith Panthers site has been subject to a number of recent development approvals including the following:

- 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 and Sports Centre (DA14/0661);
- Multi-Deck Car Park, Retail Premises and Serviced Apartments (DA14/1111).

The initial draft design of the proposed development was considered by staff at two Urban Design Review Panel meetings (19 November and 17 December 2014) and a pre-lodgement meeting (17 December 2014). The key issues identified during these initial design meetings related to building design, waste, stormwater and flooding impacts.

The application submitted to Council has been prepared with regard to the matters raised during the pre-lodgement discussions and during the assessment process.

Site and Surrounds

The Panthers Penrith Precinct is situated on the western side of Mulgoa Road, between Ransley Street to the north and Jamison Road to the south. The site covers approximately 40 hectares bounded by Mulgoa Road to the east, Peachtree Creek and the Nepean River to the west, seniors housing and open space land to the north and residential development south of Jamison Road.

The site of the subject proposal is located in the southern portion of the site fronting Jamison Road. Refer to Appendix 2 for a location plan and aerial view of the site. The portion of the site associated with the proposed development is currently vacant land and some at grade car parking.

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

The Proposed Development

The proposed development seeks consent for the construction of a six (6) storey seniors housing development including the following aspects:

- 151 independent living units (ILUs);
- A 126 bed residential aged care facility including aged support services;
- Ancillary retail services (482sq.m) including shared medical suites (GP, chiropractor, physiotherapist), hairdresser, chemist, café and small convenience store;
- Underground car parking for 170 vehicles;
- Ground level central landscaped courtyard, terrace dementia garden, rooftop outdoor spaces and perimeter landscaping;
- Provision of vehicle access and associated infrastructure;

- Staged construction to enable the relocation of on-site stormwater infrastructure.

Refer to Appendix 3 and Appendix 4 for copies of the architectural plans and civil engineering drawings which show details of the proposed works.

The following plans and documents have been submitted to accompany the Development Application:

- Statement of Environmental Effects prepared by Kerry Longford
- Survey Plan prepared by Freeburn Surveyors
- Architectural Plans prepared by Lara Calder
- Three Dimensional Images prepared by Colab Design Group
- Landscape Design Report prepared by Site Image Landscape Architects
- Social Impact Assessment prepared by Kerry Longford
- BCA Compliance Statement prepared by Blacket Maguire + Goldsmith
- Traffic Impact Statement prepared by GHD
- SEPP 65 Report and Design Verification prepared by Lara Calder
- BASIX Certificate
- Concept Stormwater & WSUD Strategy prepared by Diversi Consulting
- Flood Impact Assessment prepared by J. Wyndham Prince
- Flood Management Plan (Evacuation Plan) prepared by Emcorp
- Waste Management Plan prepared by Kerry Longford
- Detailed Cost Statement prepared by Patterson Building Group

Planning Assessment

The proposed development has been assessed against the provisions of Section 23G and Section 79C of the Environmental Planning and Assessment Act 1979 (the Act) and based on this assessment, the following issues have been identified for consideration.

1. Section 23G – Joint Regional Planning Panels

Under Section 23G of the Act, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Development Applications with a Capital Investment Value (CIV) greater than \$20 million are to be determined by the relevant regional panel. The proposed development has a CIV of \$55 682 462. The Sydney West Joint Regional Planning Panel therefore has the function of determining the subject Development Application in accordance with Section 23G of the Environmental Planning and Assessment Act 1979.

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

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

Division 17 - Roads and Traffic

Clause 104 of the SEPP states that any development that meets or exceeds the thresholds in Schedule 3 is required to be referred to Roads and Maritime Services (RMS) for comment. Schedule 3 states that an apartment or residential flat building that has a capacity of 75 or more dwellings with access to a classified road constitutes "traffic generating development". As the proposed seniors living development meets this threshold, the proposal was referred

to the RMS for comment. The RMS raised no objections to the proposal subject to recommended conditions of consent. Refer to Appendix 5 for a copy of the RMS response.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

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 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. Council's Environmental Health Officer has concurred with this position.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat buildings of three or more storeys and containing four or more self-contained dwellings. The 151 independent living units are self-contained and therefore require compliance with this policy. SEPP 65 contains ten design quality principles which form the basis for achieving good design and provide a guide for evaluating the merits of development proposals.

The proposed development is consistent with the aims and objectives of SEPP 65. The accompanying SEPP 65 regulations require the involvement of a qualified designer throughout the design, approval and construction stages. In this regard, the application has been accompanied by a design verification statement from a suitably qualified designer.

An assessment has been undertaken of the proposed development in relation to the ten design quality principles and the related Residential Flat Design Code. The proposal is in accordance with the provisions of the SEPP and the Flat Code. Refer to Appendix No. 6 for details of this assessment.

The NSW Department of Planning and Environment has released an amendment to SEPP 65 and introduced an Apartment Design Guide (ADG) to replace the Residential Flat Design Code (RFDC) and associated policies. However, the subject application was lodged with Council on 25 May 2015. Development applications lodged prior to 19 June 2015 and determined after the commencement of the amendments to SEPP 65 are to be assessed against the previous SEPP 65 provisions and the RFDC.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

This Policy ensures the implementation of the BASIX scheme which encourages sustainable residential development. It requires certain kinds of residential development to be

accompanied by a list of commitments to be carried out by applicants.

BASIX Certificate No. 631339M_03 was submitted with the Development Application demonstrating compliance with set sustainability targets for water and energy efficiency and thermal comfort. Relevant BASIX commitments have been nominated on the submitted architectural plans.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP 2004)

As the proposed development is defined as Seniors Housing, being a permissible land use under the Penrith Local Environmental Plan 2010, Chapter 3 of SEPP 2004 applies.

The proposal is in accordance with the provisions of the SEPP including the requirement that the development only provide accommodation for seniors or people who have a disability or people who live within the same household or staff who are employed by the facility. Refer to Appendix 7 for a complete checklist of compliance with the SEPP provisions.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) (SREP 20)

SREP 20 integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas), except for land covered by Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme (SREP 11).

The proposal is in accordance with the general planning considerations set out in SREP 20 as well as relevant specific planning policies and related recommended strategies contained in SREP 20.

Penrith Local Environmental Plan 2010

Clause 2.3 - Permissibility

The subject site is zoned SP3 Tourist under Penrith Local Environmental Plan (LEP) 2010 (refer to the zoning extract at Appendix 8).

Seniors housing is prohibited in the SP3 Tourist zone. However Clause 2.5 (Additional permitted uses for particular land) states that additional permitted uses are outlined under Schedule 1 of the LEP. 'Seniors housing' is identified as an additional use permitted with development consent on the subject site.

Clause 2.3 - Zone Objectives

The objectives of the SP3 zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To provide for diverse tourist and visitor accommodation and activities that are compatible with the promotion of tourism in Penrith.*

- *To create an appropriate scale that maintains important views to and from the Nepean River as well as to the Blue Mountains escarpment, while also improving important connections to the Penrith City Centre and the Nepean River.*

The proposed seniors housing development will provide a land use that is permitted through the additional uses clause and will provide seniors housing that can take advantage of existing and future services, facilities and open space areas within the tourist zoned land.

Additionally, the scale of the proposed seniors housing development is consistent with the FSR provisions of the LEP. A Clause 4.6 variation has been submitted to vary the maximum building height and is recommended for support. The variation will not impact on views to the Nepean River and Blue Mountains. The design of the development will allow for views to the Blue Mountains escarpment for both residents and future neighbouring sites through the retention of the east/west aligned roadways. Therefore this proposal is consistent with the zone objectives.

Clause 4.3 - Height of Buildings

The maximum height of buildings for the subject site is 20m. The proposed development has a variable height up to a maximum of 21.55m. This requires an exception to the development standard to be considered under Clause 4.6 of the LEP, as discussed below.

Clause 4.4 - Floor Space Ratio

Clause 4.4 establishes a maximum floor space ratio (FSR) of 1:1 across the Panthers site. The proposal has a FSR 0.12:1 calculated in accordance with Clause 4.5 of the LEP with the gross floor area calculated as 25,488sq.m and the site area (being the part of Lot 13 DP 710086 on which 'seniors housing' is permissible) being 213 637sq.m.

The proposed FSR is considered appropriate and provides a development that is consistent with the floor space objectives of Clause 4.4.

Clause 4.6 - Exceptions to Development Standards

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

Comment: As noted above, the development contravenes the development standard for height of buildings under Clause 4.3 of the LEP.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment: The applicant has submitted adequate justification for the proposed contravention of the development standard (refer to Appendix 9). Given the circumstances of the case, the provision of strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard and is

compatible with, and will have no impact on, adjoining development. The variation in height will be largely indiscernible and will not impact on neighbouring development in terms of overshadowing, view loss or privacy as well as maintaining a transition between the higher scale development to the north and the lower scale residential development to the south.

There are sufficient environmental planning grounds to justify contravention of the standard as the design provides accessibility throughout the building by removing the need for ramping between the northern building and the independent living units. Additionally, the height is a consequence of the requirement for the ground floor level to take account of both the flood planning level and the levels required for stormwater infrastructure.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

Comment: The applicant's written request as detailed at Appendix 9 is considered satisfactory to address the matters required by subclause (3). The proposed development represents a suitable development of the site in terms of the desired character for the locality and is therefore considered to be in the public interest.

Department of Planning Circular PS 08–003 notified the assumed concurrence of the Director General for all exceptions to development standards under Clause 4.6 of the standard instrument LEP (aside from some controls relating to subdivision of rural and environmental zones).

Clause 7.1 - Earthworks

The proposed earthworks are integral to the future use and development of the land. Recommended conditions of consent will ensure that any fill material brought on site is subject to a validation certificate and that any material taken off site is disposed of in accordance with Environment Protection Authority (EPA) requirements.

The site is not identified as having any heritage value nor the potential for development to disturb any relics.

Clause 7.2 - Flood Planning

A Flood Impact Assessment prepared by J. Wyndham Prince was submitted in support of the application (refer to Appendix 10). The assessment notes that the majority of the proposed development is not affected by the 1% AEP regional event. The portion that is affected is primarily low hazard with only very small areas impacted by medium to high hazard.

J. Wyndham Prince ultimately found that:

“The flood modelling assessment for the Nepean Seniors Living @ Panthers development demonstrates that the proposed development will not result in any adverse impacts on adjacent properties outside the Panthers Precinct for the

modelled flood events. The previous flood assessment demonstrated that there are no adverse impacts on adjacent properties when the full development of the Panthers Precinct is complete, for the regional and local 1% AEP events."

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 master plan 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 master plan 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 7.2 of the LEP.

Clause 7.4 - Sustainable Development

Clause 7.4 requires the consent authority to have regard to the principles of sustainable development as they relate to the development based on a "whole of building". The proposed development incorporates measures including environmentally sensitive building design to ensure the use of passive ventilation, maximum solar access and shading, efficient glazing, energy efficient lighting and plumbing appliances as well as on site water retention for irrigation of the landscaped areas. The large central area of landscaped open space and deep soil planting provides for both an attractive central feature for the future residents and the environmental benefits of increased water infiltration and vegetation.

A BASIX Certificate has been issued for the proposed development and identifies a range of sustainability features.

Additionally the location of the development within the Panthers Penrith Precinct provides ready access to facilities and services in addition to those provided on site and will reduce vehicle dependence. In addition, public transport and the development's small bus service will provide services to the Penrith City Centre and Penrith Station, again reducing car dependence.

Clause 7.6 - Salinity

The site of the proposed development is within a developed site and does not include a natural hydrological system. Soil disturbance will occur during construction and mechanisms to minimise erosion and control sediment are identified in the Erosion and Sediment Control Plan. The proposal includes a significant area of open space (deep soil) which will assist in water infiltration on the site.

The proposed development will not increase the effects of rising salinity on the land.

Clause 7.7 - Servicing

The proposal will be connected to a reticulated water and sewerage supply. The need for public amenities and public services has been evaluated in the assessment of the application and is considered to be met by the proposed development.

Clause 9.3 - Penrith Panthers Site – Density of Retail Premises

Clause 9.3 states that development consent must not be granted to development for the purposes of retail premises unless the consent authority is satisfied that the total gross floor area of all buildings will not exceed 12 500sq.m for retail premises (other than outlet premises) and 25 000sq.m for outlet centres.

The clause states that any part of the development used for retail premises shall be integrated with other development such that a maximum of 1sq.m of gross floor area used for retail premises is provided for every 10sq.m of gross floor area used for any other purpose.

The proposed development does not include outlet premises. The proposed retail floor space located at the ground front entrance is ancillary to the seniors housing development. The retail floor space is less than 500sq.m within the total gross floor area of greater than 25 000sq.m for the seniors housing development.

The existing retail area within the Panthers site is 3 105sq.m (including past development approvals such as DA14/1111), bringing the total to 3 587sq.m which is significantly below the 12 500sq.m cap under the LEP.

Clause 9.6 - Penrith Panthers Site – Development Control Plan

The objective of Clause 9.6 is to ensure that development within the Panthers Precinct occurs in a logical and cost effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

The Penrith DCP 2014 includes a site specific chapter (E13 Riverlink Precinct, Part B – Panthers Precinct) which addresses the matters specified in Clause 9.6. The provisions of the Penrith DCP 2014 are considered in below and in the DCP compliance table provided at Appendix 11.

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

Penrith Development Control Plan 2014

The proposed development is generally in accordance with the relevant provisions of Penrith Development Control Plan 2014 as set out in the DCP Compliance Table provided at Appendix 11. The areas of non-compliance are considered below.

Provision: Vehicular access is not permitted in zones nominated on Figure E13.24 and where practicable, vehicle access is to be from secondary streets.

Part of the northern side of the building is identified as requiring an active edge and having restricted vehicle access in the DCP. A section of this frontage will include the ancillary retail and medical suites which will have an address to the street to the north and also within the development. However, this northern frontage (on the eastern corner) includes the entrance to the basement car park and loading dock. The initial proposal was to provide access to

the basement car park via the western side of the site, however pre-DA consultation with Council restricted the use of the western and southern boundaries for access, resulting in the proposed basement and loading access being provided in the north-eastern corner of the building.

Provision: The location is identified as having a 3m setback at ground level (northern and western side). Street building alignment and street setbacks are specified in Figure E13.25 and E13.26. The location is identified as having a 14m maximum street wall with a 3m setback.

The proposed development does comply with the minimum 3m setback (ground level) required for the northern side of the building, providing a setback to the road edge of approximately 3.5m. This northern boundary is identified as requiring an active street frontage (as considered above) and the setback reflects the nature of the active street frontage component and main entrance to the residential aged care facility from this side of the building. The setback on the western side complies with the minimum requirements and includes both landscaping and a pedestrian pathway. A landscaped setback is provided on both the southern and eastern boundaries.

In relation to the non-compliant street wall height setback, the street wall setback on the northern side of the building complies with the controls, with Level 2 being setback and providing a terrace garden along the northern frontage with controlled accessed from Level 2. Both the nursing home suites and independent living units (Levels 5 and 6) are setback on the northern side and include balconies accessed off each room.

The design of the western side of the building does not comply with the 14m maximum street wall requirement, with a 3m setback. It is noted that the ground level setback on the western side complies with the minimum and includes landscaping (street trees and street lighting) in accordance with the Panthers Precinct Public Domain Report. In addition, a break in the building at Level 3 provides a roof top garden area which is setback approximately 3.5m from the western edge of the building. The non-compliance with the control relates to the balconies of two (2) dwellings on both Levels 5 and 6 (north-western corner) and the two (2) corner dwellings (south-western corner) on these levels. The non-compliance with the control is considered acceptable in this instance and is not contrary to the objectives of the control. A break in the built form on the western side is provided by the roof top garden (Level 3) and the western side of the building does not impact on neighbouring development (existing development and proposed development under the Panthers Master Plan) in relation to overshadowing, overlooking, sun access and view sharing. In addition, the orientation of the dwellings on the south-western corner has been designed to take advantage of the northern view to the roof top garden and consideration of the view of the proposed development from Jamison Road (south elevation).

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

The development site is affected by the Panthers Roadworks Voluntary Planning Agreement (VPA) dated 28 November 2012. The VPA relates to development contributions towards public facilities, with Council, the Penrith Rugby League Club and the Roads and Maritime Services being the parties to this agreement.

Under the current Voluntary Planning Agreement (VPA) the Seniors Living development will not trigger works. However, during the assessment of the Development Application, discussions have been held between the three parties in relation to amending the Voluntary Planning Agreement. These amendments to the VPA were endorsed for public exhibition by Council at its meeting of 23 March 2015 and placed on public exhibition between

7 September and 6 October 2015. The VPA is expected to be executed in the coming months.

The Voluntary Planning Agreement as amended outlines that the issue of Construction Certificates including an individual or combined GFA greater than 23 000sq.m and 28 000sq.m will trigger the requirement for the provision of significant works in and around Jamison Road, including a shared footpath, traffic control signals at the intersection of Jamison Road / the Central Link (Road No. 5) / Harris Street, centre median along Jamison Road from Mulgoa Road to Harris Street and provision of two right turn lanes from Jamison Road to Mulgoa Road.

The Seniors Living development has a Gross Floor Area of 25 448sq.m. However when combined with previously approved developments such as the NRL Academy (3 435 sq.m) will result in a combined GFA well in excess of the 28 000sq.m threshold. The application has been staged so that the GFA of Stage 1 and the NRL academy is less than 23 000sq.m.

Accordingly the application is accompanied by civil plans which detail the construction of extensive roadworks within the site and within Jamison Road, as detailed below:

- New north-south road west of the Seniors Housing connecting south to Jamison Road (Central Link).
- New east-west road located north of the Seniors Housing.
- Existing culvert to be modified to suit the new road at the entrance to the Central Link from Jamison Road.
- New signalised intersection at Jamison Road and Harris Street.
- Widening of Jamison Road between Harris Street and Mulgoa Road to include two continuous eastbound lanes within the existing road reserve.
- Reconstruction of a shared path along the northern side of Jamison Road between Harris Street and Mulgoa Road.
- Extension of existing median along Jamison Road between Mulgoa Road and Harris Street.

A condition of consent is recommended to ensure that the works are undertaken in accordance with these civil drawings subject to detailed amendments as required by Council's Senior Development Engineer and Senior Traffic Engineer (refer to recommended Conditions 76 and 77).

The proposed development is also required to be consistent with the Voluntary Planning Agreement, and as such, appropriate conditions are recommended that the proposed development is consistent with the Voluntary Planning Agreement as amended

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

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of buildings must provide the FRNSW Commissioner with a copy of the Fire Safety Certificate for the building (along with the current Fire Safety Schedule). The Fire Safety Certificate is issued when essential fire safety measures have been assessed by a qualified person as being capable of performing to the standard defined by the Schedule. A recommended condition of consent is proposed to ensure that this occurs on an annual basis.

Prescribed Conditions

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, can be imposed as conditions of consent where applicable.

Advertising and Notification

Advertising and neighbour notification were carried in accordance with the requirements of the Regulations.

Clause 92 - Additional Matters

Any demolition will be conditioned to be in accordance with the provisions of AS 2601.

The development is not subject to the NSW Government's Coastal Policy.

The development is not situated on land subject to an order made under Schedule 5 of the Act (paper subdivisions).

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

Building Design, Context and Setting

The proposal has been reviewed by Council's Urban Design Review Panel with regards to the architectural merit of the proposal. This review of the development indicated that the design did not deal with the length of the proposed buildings nor address the issues resultant from the 'doughnut' layout proposed. Ongoing feedback has been provided to the proponent and significant changes made.

In response the applicant has made revisions to the facade treatment with changes such as altering balcony set outs and treatments to reduce the top heavy appearance, increasing the separation between building wings, revisions to internal layouts to eliminate privacy impacts from balcony and window cross viewing as well as improving the amenity of common open space areas.

It is considered that the amended plans have sufficiently addressed the previous design concerns and that architectural excellence has been achieved.

Natural Environment – Flora and Fauna

The site is not identified as containing any Threatened Species or Endangered Ecological Communities.

Social and Economic Impacts

The proposal poses no potential adverse social or economic impacts. The proposed development is in close proximity to services and public transport, providing the community with an aged care facility and other services to cater for older residents and their families.

Waste Management

The basement level of the development contains waste storage rooms that will be attended to by caretakers with waste collected by a contracted waste service provider weekly or as needed. The contracted waste management service will manage general residential wastes as well as medical and food wastes.

Waste be collected from the ground level in the loading zone at the north-eastern corner of the site. Bins will be transported from the basement chute rooms to the loading dock by way of a service lift.

The application was referred to Council's Waste Services Section for comment and no objections were raised to the proposal subject to recommended conditions of consent.

Accessibility

The proposal has been designed to respond to the needs of residents, of which there will be a greater proportion with some form of disability. As indicated on the submitted plans, careful consideration has been given to the layout and planning of the facility to ensure that ramp grades are accessible and there are substantial numbers of accessible sanitary facilities. The application has been accompanied by a BCA Compliance Statement prepared by Blackett Maguire + Goldsmith.

The report concludes that subject to detailed design, the proposal will provide equitable access for people with disabilities. The proposal was reported to Council's Access Committee at its meeting held on 12 August 2015. At that meeting, the Committee was supportive of the proposal but requested that the following matters be considered in Council's assessment of the proposal:

- (a) Provision of an adult change table.
- (b) Amend the car parking layout to ensure a shared zone for accessible car parking is provided.
- (c) Address access to the medical consulting room, pharmacy and convenience store to ensure accessibility to main entrances.
- (d) Remove any curved stairs.
- (e) Remove the stairs from the access ramps next to the substation.
- (f) Remove the change in levels between different areas of the same storey.
- (g) Remove stairs providing access to the dementia garden.

These matters have been addressed by way of amended plans which addressed each of the specific requirements aside from the installation of an adult change table which is above and beyond the requirements of the applicable accessibility standards.

Access, Parking and Traffic

The car park area and associated driveway network has been designed to work with the existing built structures and recent development approved on the site, in particular the NRL Academy and the Western Sydney Community and Sports Centre. The development will result in the extension of the pedestrian network within the site and Jamison Road.

Clear pedestrian and vehicle access points have been provided within the design resulting in no conflict between the movement of people and vehicles within the car park.

A total of 170 basement car parking spaces are provided for the aged care facility, independent living units and retail aspects of the development. This provision complies with the requirements of Council's DCP and SEPP (Housing for Seniors and People with a Disability) 2004.

Plans for new internal roads and a new signalised intersection at Jamison Road submitted with the application (refer to Appendix 4) will be subject to detailed amendments as required by Council's Senior Development Engineer and Senior Traffic Engineer (refer to recommended Conditions 76 and 77).

Stormwater Management

The construction of the signalised intersection at Harris Street/Jamison Road requires works within the existing drainage channels traversing the site, including culvert modifications. Additionally the stormwater and overland flows which currently traverse the site of the

proposed development from the north will be directed into the culvert running parallel to Jamison Road to the south of the site (refer to Appendix 4 for further details).

The design of the culvert system is currently undergoing review and revisions as part of meeting the deferred commencement condition for DA14/0661 (2014SYW083) for the Western Sydney Community and Sports Centre. The revised information is required to demonstrate that the culvert modification works (within the Panthers property) do not raise the Hydraulic Grade Line (HGL) at the culvert entry on the eastern side of Mulgoa Road.

The subject proposal will be connecting additional stormwater flows into this culvert infrastructure and will depend on the Harris Street/Jamison Road intersection for access. Accordingly, a deferred commencement condition of consent is recommended to ensure that the culvert design and the requirements of the deferred commencement condition for the Western Sydney Community and Sports Centre are finalised prior to the issue of an operational consent.

Additionally a condition of consent is recommended to be imposed to ensure that the proposed private stormwater pipeline, which disposes of stormwater generated by the subject development, is located clear of the new culverts and the associated easement.

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

The subject site is deemed suitable for the development for the following reasons:

- The use is permissible with consent and consistent with the zone objectives.
- The use is compatible with surrounding/adjoining land uses.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by transport, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.

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

Public Submissions

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 27 April to 11 May 2015.

No submissions were received in response.

External Referral Comments

The table below summarises the results of external referrals in relation to the proposal.

<i>Referrals</i>	<i>Comments</i>
Roads and Maritime Services	Satisfactory, subject to conditions of conditions of consent (refer to Appendix 5).
Sydney Water	Satisfactory, subject to the requirement for a Section 73 Certificate under the Sydney Water Act 1994 (refer to Appendix 12).

Internal Referral Comments

The table below summarises the results of internal referrals in relation to the proposal.

Referrals	Comments
Building Surveyor	Satisfactory, subject to recommended conditions.
Development Engineer	Concerns raised regarding flood modelling not taking into account final developed form for the broader Panthers Precinct; see previous discussion.
Senior Traffic Engineer	Concerns raised regarding detailed design of proposed road works; to be addressed by conditions of consent; see previous discussion.
Landscape Architect	Satisfactory, subject to suggested design features for public open space areas part of the Panthers Precinct Masterplan.
Waste Services	Satisfactory, subject to recommended conditions.
Environmental Health Officer – Environmental Management	Satisfactory, subject to recommended conditions.
Environmental Health Officer – Public Health	Satisfactory, subject to recommended conditions.
Senior Water Management Officer	Satisfactory, subject to recommended conditions.
Community Safety Coordinator	Satisfactory, subject to recommended conditions.
Tree Management Officer	Satisfactory.
Senior Social Planner	Satisfactory.
Access Committee	Satisfactory, subject to consideration of matters raised in Section 6 of this report.

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

The site is suitable for the proposed development. The proposed development is permissible with consent and the proposal meets the aims and objectives of the relevant environmental planning instruments. Internal departments of Council and external agencies such as the Roads and Maritime Services and Sydney Water have been consulted. The development proposal will provide for significant public benefit in terms of delivering a state of the art facility catering for the needs of an aging population. For these reasons, the proposal is in the public interest.

Development Contributions

Clause 8 of the Panthers Roadworks Voluntary Planning Agreement states that:

“This Agreement does not exclude the application of sections 94, 94A and 94EF of the Act to the Development.”

A Ministerial Direction under Section 94E of the Act gazetted on 14 September 2007 exempted the levying of Section 94 contributions for public amenities or public services in relation to social housing providers defined in State Environmental Planning Policy (Seniors Living) 2004.

In accordance with this SEPP, a social housing provider means any of the following:

- a) The New South Wales Land and Housing Corporation,
- b) The Department of Housing,
- c) A community housing organisation registered with the Office of Community Housing of the Department of Housing,
- d) The Aboriginal Housing Office,
- e) A registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,
- f) The Department of Ageing, Disability and Home Care,
- g) A local government authority that provides affordable housing,
- h) A not-for-profit organisation that is a direct provider of rental housing to tenants.

Tulich Aged Care Services is a for-profit organisation and therefore is not exempt from the imposition of developer contributions.

The following Contributions Plans and calculations are applicable to the subject development.

- Cultural Facilities - 151 units x 1.5 occupancy rate = 226.5 x \$143 = \$32 390
- District Open Space - 151 units x 1.5 occupancy rate = 226.5 x \$1 842 = \$417 214
- Local Open Space - 151 units x 1.5 occupancy rate = 226.5 x \$666 = \$150 849

Total Contributions = \$600 453

Recommended conditions of consent will require the payment of these contributions prior to the issue of a Construction Certificate.

Conclusion

The proposed development is in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The proposed development is unlikely to have a negative impact on the surrounding environment. 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 support.

Recommendation

That:

1. The submitted height standard variation under Clause 4.6 of Penrith Local Environmental Plan 2010 be supported.

2. Development Application No. DA15/0504 for a Six (6) Storey Building comprising a 126 Bed Residential Aged Care Facility, 151 Independent Living Units, Associated Facilities, Ancillary Retail & Medical Suites, Basement Car Parking & Associated Works at 123-135 Mulgoa Road, Penrith be approved by way of a deferred commencement determination and subject to the recommended conditions at Appendix 1.
3. The RMS be forwarded a copy of the Notice of Determination.