

SWPP Ref. No.:	2017SWT002
DA No.:	DA17/0125
PROPOSED DEVELOPMENT:	Demolition of existing structures & construction of an eight (8) storey commercial building including three (3) levels of basement car parking - Lot 1122 DP 1106979,46 - 50 Belmore Street, PENRITH NSW 2750
APPLICANT:	Sandran Property Group
REPORT BY:	Wendy Connell, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from Sandran Property Group for the demolition of existing structures and the construction of an eight (8) storey commercial building, including three (3) levels of basement car parking at 46-50 Belmore Street, Penrith.

In accordance with Section 23G of the Environmental Planning and Assessment Act, 1979, the Sydney West Planning Panel is the determining authority as the proposal has a Capital Investment Value (CIV) of \$50,150, 000.

The development application was submitted as integrated development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979, and seeks concurrence from the NSW Department of Primary Industries - Water under Section 91 of the Water Management Act 2000. An aquifer interference approval is required due to the large scale excavation for the three level basement car park. NSW Water issued General Terms of Approval on 7 April 2017.

In accordance with Clause 104 (Traffic generating development) under the State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads Maritime Services (RMS) for comment. In their letter dated 1 May 2017, RMS did not support the proposed development based on the SIDRA modelling provided by the applicant, and requested amended modelling to be undertaken. They also requested that traffic movements be physically restricted to left in/left out movements. These issues are discussed further in the report.

The proposal was also referred to NSW Police for comment. No objections were raised.

The subject site is zoned B3 Commercial Core under Penrith Local Environmental Plan (LEP) 2010. The proposed land use is defined as a 'commercial premises' and is a permissible land use with consent.

Key issues identified for the proposed development and site include:

- Building bulk and scale
- Car parking provision

Public domain treatment

The building bulk and scale achieves design excellence. The proposed building has a maximum height of 34.8 metres, well under the maximum height of 56m allowed under Penrith LEP 2010. The building design has addressed the shape of the site and adjoining development at 2-6 Station Street. The site frontage is curved and the building has been designed with three stepped elements to respond to this. This improves and breaks the massing of the building fronting Belmore Street.

The development proposes 143 car parking spaces on-site, within a three (3) level basement car park. This is 22 car parking spaces in excess of the parking requirements set out in Penrith Development Control Plan (DCP) 2014. The additional car parking over the DCP provision has been calculated in the gross floor area of the development. The applicant has nominated the additional 22 car parking spaces as visitor spaces.

The development has been designed to integrate into the public domain by creating pedestrianised thorough links from Penrith Railway Station through to the proposed City park, and an active edge along the western boundary, shared by 2-6 Station Street. At the ground level is a business conference centre and three food and beverage tenancies along with public domain landscaping elements to provide a practical and engaging landscape outcome.

The application was exhibited between 10 March and 10 April 2017 in accordance with relevant legislation. In response, one (1) submission was received. The submission identified that any additional car parking provided on site that is above the provision required in Penrith DCP 2014 should be included in the gross floor area (GFA) calculation.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the key issues identified have been addressed satisfactorily. The redevelopment of a key City Centre site, with a high quality designed building and public amenity, will help facilitate the revitalisation of the City Centre and encourage investment in the future. The proposal therefore demonstrates a commitment to the strategic aims and vision for the Penrith City Centre.

The application is recommended for approval subject to recommended conditions.

Site & Surrounds

The subject site is described as Lot 1122 in DP 1106979, 46-50 Belmore Street, Penrith. The site is approximately 2,748 square metres (sqm) and is within the commercial centre of Penrith. The site has frontage to Belmore Street. Directly north of the site is a commuter car park and bus and taxi interchange associated with Penrith Railway Station. Adjoining the site, to the south and west, is existing multi-storey commercial buildings. To the east is the Penrith Campus of the Nepean College of TAFE, separated by a carpark and access driveway.

The site is affected by flooding and the adopted flood level is 27.7m AHD based on Penrith CBD Flood Study 2015. Due to the proposed development being commercial, the required freeboard is 0.3m. As such the Flood Planning Levels is 28.0m AHD. All proposed habitable finished floor levels for the development are at 28.0m AHD and are therefore compliant.

A drainage easement, of varying widths, runs along the northern and eastern boundary.

Proposal

The Development Application seeks consent for the following:

- demolition of the existing at-grade carpark,
- excavation, remediation and site preparation works,
- construction of three (3) levels of basement parking,
- construction of an eight (8) storey commercial development, comprising of food and beverage tenancies and a business centre at the ground floor, and seven (7) levels of commercial floor space above, and
- landscaping and public domain treatment consisting of street trees and planter boxes dispersed along the Belmore Street frontage, and paved courtyard, colonnade and plaza along the south-west corner (shared with 2-6 Station Street).

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 23G - Sydney West Planning Panel (SWPP)**

Under Section 23G of the Environmental Planning and Assessment Act 1979, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Under Clause 4 of Schedule 4A of the Environmental Planning and Assessment Act 1979, a regional panel has the function of determining applications for development that has a capital investment value of more than \$5 million on Council owned land.

The application meets the above criteria and as such the Sydney West Planning Panel is the determining authority.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 91- Integrated development**

The development application was submitted as integrated development in accordance with under Section 91 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Department of Primary Industries - Water under Section 91 of the Water Management Act 2000. An aquifer interference approval is required due to the large scale excavation for the three level basement car park.

NSW Water issued General Terms of Approval on 7 April 2017.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

In accordance with Clause 104 (Traffic generating development) under the State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime Services (RMS) for comment.

In response, the RMS provided the following comments:

- **SIDRA Modelling**

"The traffic volumes adopted in the SIDRA modelling for the intersections are not valid and do not reflect actual volumes. The volumes at the intersection should be corrected and provided for a normal weekday. The modelling also needs to be amended and calibrated based on the actual traffic queues and intersections Level of Service (LoS)."

"The traffic modelling shows the traffic generation of the site only at the access driveway. The modelling should be amended reflecting the combined traffic generation of the site and adjoining properties which share the access driveway on Station Street."

In response to the RMS's comments, the applicant has provided the following additional comments:

"The base traffic volumes used in the SIDRA modelling were adopted from recent intersection counts conducted by an independent surveyor. Full results were disclosed in the Traffic Impact Assessment"

report with the survey undertaken outside of the gazette school holiday period.

These volumes are therefore considered to accurately reflect present conditions during regular morning and evening weekday periods. It is emphasized that Belmore Street lies within a highly urban setting, with only one traffic lane provided in each direction and speed limited to 50 km/h. This should be taken into account when comparing traffic volumes from other sections of the Great Western Highway, which would accommodate more traffic lanes and function more as an arterial road between regional centres."

Council's traffic engineers have reviewed the SIDRA modeling and RMS comments, and confirmed that traffic data held by Council indicates that Jane/Belmore Streets carry approximately 14,500 daily vehicle trips, which generally reflects the data presented by TRAFFIX. The TRAFFIX counts have included the vehicle numbers currently using the existing driveway from the adjoining buildings (Government Office Building and Tax Office). For this reason, it is deemed unnecessary for the modelling to be revised and the traffic generation rates are deemed suitable and supportable.

- **Access arrangement**

"..all traffic generated from the subject site will enter/exit the shared access driveway on Station Street via left in/left out traffic movements. As the access driveway is located close to the signalised intersection of Belmore Street and Station Street, any right turn movement to/from the site at the access would adversely affect the operation of the intersection and result in queuing on Belmore Street.

For this reason, RMS requested that all traffic movement to the site be physically restricted to left in/left out movement only (restricting right turns into/out of the site) by way of a raised concrete median on the Station Street centerline and the whole width of the driveway."

Whilst Council's Traffic Engineers acknowledge the RMS's comment in regards to the access arrangements, the road width does not allow for a complying medium. The existing roadway is about 12m wide with three (3) lanes of approximately 3m each. Any provision of a centre medium, which is generally required to be at least 1.2m wide, will require widening of Station Street into one or both footpaths which is not considered to be reasonable or necessary in this instance as the access arrangement is existing and is not proposed to be altered as part of this application.

There is currently a NO RIGHT TURN sign in Station Street at the driveway and another restricting the turning right out of the driveway. This is still considered the most appropriate measure given the road width constraints.

The RMS has no objection to the car parking provision proposed on-site.

Pursuant to Clause 104 (3) of the State Environmental Planning Policy (Infrastructure) 2007, Council has given consideration to the RMS's submission.

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the site against relevant criteria within State Environmental Planning Policy No. 55—Remediation of Land and the proposal is satisfactory subject to recommended conditions of consent.

Previous contamination investigations for the subject land identified that whilst surface soils were not significantly contaminated when assessed against relevant criteria for a broad range of soil contaminants, fibrous asbestos material was identified, with the site subsequently regarded as a 'significant risk to human health and the local environment'. Further assessment to delineate the vertical extent of the asbestos contamination was undertaken, with the contamination found to be generally limited to the uppermost fill

layer. A Remediation and Validation Report completed by Hayes Environmental Consulting (2007), determined that the site remediation works were effective and the site was deemed remediated.

A Preliminary Site Investigation (PSI) prepared by ei Australia dated 21 February 2017, was undertaken as part of this application process, to re-evaluate the environmental and human-health risks associated with the potential for contamination of the site.

A conceptual site model (CSM), and subsequently a qualitative risk assessment was derived for the subject site, based upon historical and current use of the subject land. The CSM identified several potential contaminating sources and evaluated the likelihood for relevant exposure pathways to be complete during and after the proposed development.

The report concludes that, based upon available information, the site did not identify any evidence to indicate that the site is subject to impacts that would preclude the site for the proposed commercial development, subject to the implementation of the recommendations detailed in Section 7 of the report.

Recommendations include:

- *A site inspection is performed by a suitably qualified environmental consultant at the commencement of site preparatory works to assess exiting ground conditions;*
- *Should fill (i.e. material other than natural undisturbed clay or shale) be confirmed during the inspection, filling soils will be sampled and analysed in accordance with the NSW EPA (2014) Waste Classification Guidelines for excavation and offsite disposal;*
- *Following removal of filling soils from site, a site walkover is to be performed to visually confirm the removal of filling soils, prior to ongoing excavation of underlying natural soils;*
- *Following visual confirmation of the removal of all fill soils, a letter report is to be prepared to confirm the suitability of the site for the intended land use;*
- *Any material to be removed off-site, including virgin excavated natural material (VENM), MUST be classified for off-site disposal in accordance with the NSW EPA (2014) Waste Classification Guidelines. This will include any fill material identified during bulk excavation for the construction of the basement car park and where fill material is identified; and*
- *Any material being imported to the site for backfilling purposes should be assessed for potential contamination in accordance with the EPA guidelines.*

With consideration to the above and the proposed bulk excavation works, an Unexpected Finds Protocol is to be developed by an appropriately qualified environmental consultant and submitted to Council for approval prior to the issue of a Construction Certificate.

The Protocol is to address, at minimum, the management of any contamination found on the site during the excavation phase of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

As the site was previously remediated and validated, the above recommendation are considered precautionary in the event of an unexpected find. The above recommendations are included as recommended conditions of consent and the land is deemed suitable for the proposed development.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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 this application is the requirement to assess the development in terms of stormwater quality.

The proposed development is in accordance with the general planning considerations set out in Clause 5 of the SREP and the relevant planning policies and related recommended strategies set out in Clause 6. In particular, provision will be made for adequate erosion and sediment control measures to ensure sediment as a result of the development is not deposited in the Hawkesbury/Nepean River via the stormwater system.

The proposed development will comply with Council's Water Sensitive Urban Design Policy and Development Control Plan 2014 and conditions of consent are recommended to achieve and verify compliance.

The development proposal has been assessed and subject to conditions of consent, found to be in accordance with the general considerations of the SREP.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Does not comply - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.8 Active street frontages	Complies
Clause 8.3 Minimum building street frontage	Complies
Clause 8.4 Design excellence	Complies - See discussion
Clause 8.5 Building separation	Complies

Clause 4.4 Floor Space Ratio

The maximum Floor Space Ratio (FSR) for the site as prescribed under Clause 4.4 of Penrith Local Environmental Plan 2010 is 4:1.

The total GFA of the development is 12,102 square metres, which results in an FSR of 4.4:1. The applicant is seeking a variation under Clause 4.6 of the Penrith Local Environmental Plan 2010 for an additional 1,081 square metres of GFA, which comprises of 477 square metres of commercial floor space and 609 square metres of additional car parking.

The objectives of Clause 4.4 are as follows:

- (a) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise the adverse impact of development on heritage conservation areas and heritage items,*
- (c) to regulate density of development and generation of vehicular and pedestrian traffic,*
- (d) to provide sufficient floor space for high quality development.*

The proposal is considered to comply with the above objectives as follows:

- the proposal achieves design excellent as determined by the Design Integrity Panel
- the proposal is consistent with the desired future character of the City Centre
- the design is site responsive and compatible with adjoining developments, including heritage items
- the design incorporates key pedestrian linkages from Penrith Railway Station, along the western end of the development through to Henry Street, as well as connections at the rear of the building to the adjoining development at 2-6 Station Street
- the floor plate design provides flexibility and a high quality internal amenity by maximising solar access, natural ventilation and scenic views

Clause 4.6 Exceptions to development standards

Clause 4.6 provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case be unreasonable or unnecessary.

The proposal exceeds the development standard in relation to the FSR on the site as outlined above. The non-compliance relates to 477 square metres of additional commercial floor area and 609 square metres of car parking area. This results in a variation of 1,081 square metres.

The non-complying commercial floor space element of 477 square metres does not contribute to the perceived bulk of the building, which sits 21m below the maximum building height control. The floor space is a result of the stepped building design which complements the streetscape and provides improved internal amenity through the use of a larger flexible floorplate.

The 609 square metre is the direct result of the inclusion of an additional 22 car parking spaces being provided on-site. This is over the required amount prescribed in Penrith DCP 2010. All car parking is located within the basement, and will not impact on the bulk or scale of the development. The additional 22 car parking spaces will be nominated as visitor parking, and this will reduce the impact on the City Centre street parking which is currently at capacity during business hours. The applicant has advised that the additional spaces are included as a result of practical basement construction methods. The construction of half a basement is not economically viable.

The applicant has requested flexibility in applying the maximum 4:1 FSR for the site, as required under Clause 4.4 of the Penrith LEP 2010. The following justification has been provided by the applicant for the

variation:

- the proposed design sits 21m below the maximum height control with a stepped design to ensure the building has a smaller appearance
- the additional 607 square metres of additional gross floor area is the result of the inclusion of the additional 22 car spaces. The car spaces are located within the basement and therefore the additional gross floor area has no impact on the scale.
- the proposal is consistent with the public interest and promotes the orderly and efficient use of land.
- the variation is minor
- the proposed development realises the quality of design excellence

An assessment has been undertaken and the development is deemed satisfactory on the following grounds:

- the proposal achieves a better development outcome by addressing design excellence required for a key City Centre site
- the proposal provides community benefit
- the proposal aligns with Penrith City Council's strategic objectives and regional City desires

The proposed development is consistent with the zone objectives of:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of Penrith City Centre as the business, retail and cultural centre of the region

The proposal achieves this by:

- providing an extended public domain area including food and beverage options which will facilitate an enhanced urban space that will contribute to the overall amenity for the local workforce surrounding the site.
- providing a variety of commercial opportunities which will encourage additional employment opportunities in the City Centre.
- being situated less than 400m from Penrith Railway Station, bus and taxi interchange.
- the building design includes flexible floor plate layouts, internal amenity and access to natural light for occupants, and on-site parking provision.

The proposal satisfies the key considerations in the assessment and a Clause 4.6 variation. The proposal therefore achieves design excellence despite the non-compliance and results in a build form and streetscape treatment that surpasses that which could be achieved through an FSR compliant development. The variation is therefore supported.

Clause 8.4 Design excellence

Clause 8.4 of the Penrith LEP provides policy direction on 'Design Excellence' within the Penrith City Centre. A Design Competition is required for development that falls under the following criteria:

- (a) development in respect of a building that is, or will be, greater than 24 metres or 6 storeys (or both) in height,*
- (b) development that has a capital value of more than \$1,000,000 on a key site identified on the key sites map,*
- (c) development for which the applicant has chosen to have an architectural design competition.*

The proposal exceeds 6 storeys and is identified on the key site map. Clause 8.4(3)(a) triggers the requirement for an architectural design competition.

However, Clause 8.4(4) clarifies the above clause does not apply in the following circumstances:

- (4) Subclause (3) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.*

A waiver was sought from the Government Architect's Office (GAO) by the applicant. In granting an exemption from the competition process, the GAO required a Design Integrity Panel (DIP) to be established and comprised of:

- a representatives from the GAO
- a representative of Penrith City Council (Council's Urban Design Consultant)
- a representative from the applicant

The DIP met on 25 October 2016 and 28 November 2016, and undertook a final desktop assessment in May 2017.

Final approval from DIP was granted on 1 August 2017.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments that apply to the proposal.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iia) The provisions of any planning agreement

There are no planning agreements applicable to the proposal.

Section 79C(1)(a)(iv) The provisions of the regulations

Fire Safety

Under Part 9 of the Environmental Planning and Assessment Regulation 2000 owners of the building 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 condition of consent has been recommended 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 Building Code of Australia, has been recommended as conditions of consent where applicable.

Advertising/Notification

Advertising and neighbour notification were carried out in accordance with the requirements of the Regulations and Penrith Development Control Plan 2014.

As such, subject to the recommended conditions of consent, the proposed development complies with the requirements of the Regulations.

Section 79C(1)(b)The likely impacts of the development

Bulk and Scale

The proposed development has been designed to be compatible with surrounding development, in terms of built form and external building material and finishes, and achieves design excellence. The building has a maximum height of 34.8m, which is 21m below the height of building allowed under Clause 4.3 of Penrith LEP 2010. The building design has suitably responded to the shape of the site and adjoining development at 2-6 Station Street. The site frontage is curved and the building has been designed with three stepped elements to respond to this irregular boundary treatment. This improves, and breaks, the massing of the building fronting Belmore Street. The proposed development provides sufficient buffers and pedestrian links between adjoining buildings and will not pose any adverse impact on the existing or future surrounding land uses.

Public Domain and Amenity

The development has been designed to integrate into the public domain by creating pedestrianised through links to the west and south boundaries and an active edge between the building and adjoining development. At the ground level is a business conference centre and three (3) food and beverage tenancies along with public domain landscaping elements within a generous setback to provide a practical and engaging landscape outcome. Accordingly, the development is not considered to have any adverse impact on the visual amenity of the area. The proposal demonstrates high quality design with appropriate use of colours, interesting architectural elements and a variety of finishes.

Access, Parking and Traffic

The site is directly across the road from the Penrith Railway Station and bus and taxi interchange, which provides excellent public transport options. In addition, a bicycle storage area has been designated within the building with the capacity to store 68 bicycles, and contains end-of-trip facilities.

Vehicle access to the site is via a shared driveway on Station Street and provides access to a three (3) level basement car park consisting of 143 spaces for employees, visitors and service vehicles. The proposed on-site parking numbers are in excess of the requirements of the DCP. The parking provisions for the use is one (1) space per 100 square metres of GFA. This equates to 121 car parking spaces required for the development. Penrith City Centre has additional site specific requirements. This has been further addressed in the report Appendix - DCP Compliance.

The application has been accompanied by a Traffic Impact Assessment prepared by Traffix Traffic and Transport Planners dated February 2017 which concluded that the proposed vehicle access and car parking arrangements are satisfactory.

Council's Traffic Engineers confirmed that the traffic generated by the development can be accommodated by the surrounding road network.

Social and Economic Impacts

The proposal will have a positive social and economic impact providing a key commercial function for the area and a catalyst for further investment in the City Centre. The proposal achieves design excellence whilst respecting the surrounding heritage items, and complements the adjoining commercial buildings.

The proposal will contribute to the provision of much needed employment opportunities in Western Sydney and support the long term aspiration to grow the commercial core of the City and attracting potential government offices, which will provide local jobs and services for residents.

Section 79C(1)(c) The suitability of the site for the development

The site is suitable for the following reasons:

- The site is located within the City Centre and is an ideal location for this form of development
- The site is adequately serviced by transport, water and sewer infrastructure
- The grade of the site is suitable for the design proposed
- The site is able to drain stormwater to Council's satisfaction

Section 79C(1)(d) Any Submissions

Community Consultation

Community consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was advertised in the local newspaper and notified to the owners and occupants of adjoining and nearby properties.

Council notified 11 affected property owners and occupiers in the surrounding area who were invited to make a submission on the proposal during the exhibition period between 10 March and 10 April 2017. Council received 1 submission in response.

Submission

The following issues were raised in the submission received and have formed part of the assessment.

<i>Issue Raised</i>	<i>Comments</i>
<i>The submission asks Council to consistently apply the DCP control which states car parking and associated internal maneuvering areas provided over the requirements of the DCP be calculated as part of the development's GFA.</i>	The applicant has allocated 607 square metres attributed from the additional 22 car parking spaces, and associated manoeuvring area, to GFA. This increase in GFA has been addressed within the Clause 4.6 variation to FSR.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections - subject to conditions
Heritage	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions

Section 79C(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning instruments and in accordance with the prevailing planning controls. The proposed development is considered to be consistent with the relevant planning provisions and represents a suitable development for the site in terms of desired character for the locality.

Section 94 - Developer Contributions Plans

The Penrith City Centre Civic Improvement Plan is applicable to the site. The contributions levied under this Plan are:

11, 493 square metres of commercial office space @ \$179.00 = \$2,057,247.00

11, 493 square metres Administration @ \$1.00 = \$11, 493.00

Total contribution = \$2,068,740.00

A condition of consent has been applied.

Conclusion

The proposed development has been assessed against the relevant heads of consideration contained in Sections 23G, 79C and 91 of the Environmental Planning and Assessment Act 1979, and provisions of the Environmental Planning Instruments and Development Control Plan pertaining to the land.

The site is suitable for the proposed development, the proposal does not conflict with the public interest, and there is unlikely to be negative impacts arising from the development. Accordingly, the application is worthy of support and recommended for approval, subject to recommended conditions.

Recommendation

1. That the submitted variation to the FSR development standard under Clause 4.6 of Penrith Local Environmental Plan 2010 be supported;
2. That DA17/0125 for demolition of existing structures and the construction of a eight (8) storey commercial building with three (3) levels of basement car parking at 46-50 Belmore Street, Penrith, be approved subject to the attached conditions;
3. That those making submissions are notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the following plans, the application form, and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Plan title	Drawing No.	Drawn by	Dated
Site Plan	DA01.01(D)	Bates Smart	9.6.17
Ground Floor Plan	DA03.00(D)	Bates Smart	9.6.17
Level 1 Plan	DA03.01(D)	Bates Smart	9.6.17
Level 2 Plan	DA03.02(D)	Bates Smart	9.6.17
Level 3-6 Plan	DA03.03(D)	Bates Smart	9.6.17
Level 7	DA03.04(D)	Bates Smart	9.6.17
Level 8	DA03.05(E)	Bates Smart	9.6.17
Roof Plan	DA03.06(D)	Bates Smart	9.6.17
Basement B1	DA03.B1(F)	Bates Smart	9.6.17
Basement B2	DA03.B2(F)	Bates Smart	9.6.17
Basement B3	DA03.B3(E)	Bates Smart	9.6.17
North Elevation	DA07.01(D)	Bates Smart	9.6.17
East Elevation	DA07.02(D)	Bates Smart	9.6.17
South Elevation	DA07.03(D)	Bates Smart	9.6.17
West Elevation	DA07.04(D)	Bates Smart	9.6.17
Section BB	DA08.01(D)	Bates Smart	9.6.17
Section AA	DA08.02(D)	Bates Smart	9.6.17
Section CC Loading Dock Section	DA08.03(A)	Bates Smart	9.6.17
Area Plan	DA50.00(D)	Bates Smart	9.6.17
Building Design detail/specification		Bates Smart	February 2017
Landscape Master Plan level 7	LA-DA-04	360 Degrees	20.2.17
Typical Landscape Section A-A	LA-DA-05	360 Degrees	20.2.17
Typical Landscape Section B-B	LA-DA-06	360 Degrees	20.2.17
Typical Landscape Section C-C	LA-DA-07	360 Degrees	20.2.17
Typical Landscape Section D-D	LA-DA-08	360 Degrees	20.2.17
Typical Landscape Section E-E	LA-DA-09	360 Degrees	20.2.17
Planting Palette	LA-DA-010	360 Degrees	20.2.17

Typical Cross Section	DAC006 Iss. A	AT&L	22.2.17
Site works and Stormwater Plan	DAC020 Iss. A	AT&L	22.2.17
Stormwater Drainage Catchment	DAC025 Iss. A	AT&L	22.2.17
Pavement Plan	DAC030 Iss. A	AT&L	22.2.17
Erosion and Sediment Control Plan	DAC040 Iss. A	AT&L	22.2.17
Stormfilter Detention Tank 5 Cartridge Stormwaterfilter System	5C-DET-TANK-STD-690	Stormwater 360 Australia	3.11.16

- 2 The development must be in accordance with the General Terms of Approval issued by Water NSW in its letter dated 7 April 2017.
- 3 The proprietors of the food businesses shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.
- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 **Prior to the issue of an Occupation Certificate**, a Parking Management Plan outlining car parking numbers for commercial office space and visitors, and how the visitor car parking will operate and be accessible, must be submitted and approved by the Development Services Manager of Penrith City Council.
- 7 **Prior to the issue of a Construction Certificate** the applicant must demonstrate compliance with Penrith City Council's Water Sensitive Urban Design Policy. An electronic copy (*.sqz file) of the MUSIC modelling must be submitted for review and approval by the Development Services Manager of Penrith City Council.
- 8 **Prior to the issue of a Construction Certificate** the Civil Plans need to be amended to reflect the 25KL rainwater tank, as per the ESD Water Report prepared by LCI Consultants (revision 03 dated 8 June 2017).

9 The following crime prevention through environmental design requirements are to be complied with:

Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.

Building Security & Access Control

- Australian Standard 220 – door and window locks must be installed in all premises.
- Intercom, code or card locks or similar must be installed for all entries to the building including the car park.
- A monitored alarm system must be installed.
- Building supervisors or security guards should be considered.
- Bollards or landscaping should be incorporated throughout the outdoor public areas on the ground floor to restrict potential vehicle incursions.
- CCTV must be provided to all public space locations. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting should be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting should be consistent in order to reduce the contrast between shadows and illuminated areas and should be designed in accordance with AS4282 – Control of the obtrusive effects of outdoor lighting.

Demolition

10 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 “The Demolition of Structures”. **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

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

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

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

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

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

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

- 12 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

- 13 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

- 14 Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

Heritage/Archaeological relics

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

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

Environmental Matters

- 16 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant. **Prior to the issue of the Construction Certificate**, the Protocol is to be submitted to Council and approved. If Council is not the certifying authority for this development, the report is required to be provided to Penrith City Council for approval.

The Protocol is to address, at minimum, the management of any contamination found on the site during the site preparation, excavation and construction phases of the development, including at minimum, contaminated soils, groundwater, buried building materials, asbestos, odour and staining.

The above Protocol is to be complied with at all times during the site preparation, excavation and construction phases of the development.

- 17 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.
- 18 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 19 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

- 20 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 21 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 22 **Prior to the issue of the Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

Any acoustic treatments/measures recommended by the acoustic consultant to meet relevant noise objectives shall be suitably detailed in the report and clearly shown on revised site plans.

- 23 **Prior to the issue of the Construction Certificate**, a Construction Noise Impact Assessment and Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 24 The recommendations outlined in Section 7.0 of the Preliminary Site assessment for 50 Belmore Street, Penrith NSW prepared by eiaustralia (dated: 21 February 2017, ref: E23202 AA_Rev1) shall be implemented and adhered to during all site preparatory, demolition and construction works.

BCA Issues

- 25 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
- As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
 - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 26 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 27 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

- 28 Cooling towers and warm water systems are to be registered with Penrith City Council by completing the registration form for regulated systems. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the system.

The occupier of premises at which a water-cooling system or warm-water system is installed must notify Council using the NSW Ministry of Health Notification Form available from www.health.nsw.gov.au:

- a. if the system is installed before he or she becomes the occupier, within one month after he or she becomes the occupier, or
- b. if the system is installed after he or she becomes the occupier, within one month after the system is installed.

The occupier of the premises must notify Council within 7 days of any change of details.

- 29 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems must be installed in accordance with AS/NZS 3666.1:2011 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system. An air-handling system must be fitted with supply air filters.

The regulated system shall be thoroughly flushed before being brought into service and shall be located in a position to ensure that the exhaust discharge from the tower is away from occupied areas, air intake and building openings.

When an air handling, hot water, humidifying, warm water or water cooling system is installed a certificate is to be obtained certifying that the system has been installed in accordance with the Public Health Act 2010, Public Health Regulation 2012 and AS3666.1:2011.

- 30 There must be safe and easy access to a regulated system (as defined in the Public Health Act 2010) for the purpose of the cleaning, inspection and maintenance of the system.
- 31 A separate application for the fit out of the food and beverage tenancies must be approved prior to the use of the tenancies.

Utility Services

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

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

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

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

- 34 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

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

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

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

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

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

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

36 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

37 All site preparation, demolition and construction works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

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

Other works that are carried out inside a building that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above. The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to demolition and construction works.

Engineering

38 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

- 39 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 40 **Prior to the issue of any Construction Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Concrete footpaths and or cycleways
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
 - f) Temporary construction access

Prior to the issue of an Occupation Certificate the driveway on Belmore Street is to be removed and the kerb and guttering reinstated.

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- d) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act

- 41 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by AT&L, reference number 16.427, drawing no DAC001, DAC002, DAC006, DAC020, DAC025, DAC030, DAC040, revision A, dated 22/02/17.

The Certifying Authority shall ensure that the stormwater plans have been amended to remove all proposed pits from within the Council drainage easements and that final discharge from the site is perpendicular to the kerb line. This may require locating pits beneath the planter boxes. The Certifying Authority shall ensure that the proposed stormwater management system does not conflict with and has provided adequate cover to Council's existing stormwater drainage infrastructure.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 42 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).
- 43 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence. The Certifying Authority shall ensure that any structures adjoining Council's stormwater drainage infrastructure have been appropriately structurally certified.
- 44 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that ground floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 28.0m AHD (standard flood level + 0.3m freeboard).
- 45 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the structure/s below RL 28.0m AHD (standard flood level + 0.3m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.
- 46 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the structure/s can withstand the forces of floodwater including debris and buoyancy up to the 1% Annual Exceedence Probability Event in accordance with the requirements of the Building Code of Australia (BCA).
- 47 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all proposed penetrations into the basement carpark area are a minimum of RL 28.0m AHD (standard flood level + 0.3m freeboard).
- Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.
- 48 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

- 49 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller for patrons. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The CTMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

- 50 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.
- b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to CC.

- 51 A certificate by a registered surveyor verifying that all ground floor levels are at or above RL 28.0m AHD (standard flood level + 0.3m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.
- 52 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 53 **Prior to the issue of any Occupation Certificate**, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- 54 All car spaces are to be line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc
- 55 Subleasing of car parking spaces is not permitted by this Consent.

56 Prior to the issue of any Occupation Certificate, secure bicycle parking is to be provided at convenient location(s) in accordance with *AS2890.3:2015 Bicycle Parking Facilities*.

57 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that a survey is undertaken by a registered surveyor clearly detailing all existing Council drainage infrastructure (including depth, location and size). CCTV footage in DVD format to Penrith City Council requirements of all existing Council stormwater drainage infrastructure shall also be undertaken and an inspection report in "SEWRAT" format prepared and submitted to the Certifying Authority. A copy of the documentation shall be provided to Penrith City Council.

Upon completion of building works and prior to the issue of an Occupation Certificate revised CCTV footage shall be undertaken and the inspection report updated. A copy of the documentation shall be provided to Penrith City Council and any damage that is identified is to be rectified in consultation with Council.

58 **Prior to the issue of a Construction Certificate** the Certifying Authority shall ensure that a management plan for service vehicles is prepared. The service vehicle management plan shall include, but not be limited to, service vehicle sizing restrictions, management of service vehicle manoeuvring and servicing frequency/times. The service vehicle management plan shall be adhered to in perpetuity for the life of the development.

Landscaping

59 All landscape works are to be constructed in accordance with the stamped approved plans Numbered LA-DA-02 to LA-DA-10 Issue C, Plan Number dated 20.2.17 and Penrith Development Control Plan.

Landscaping shall be maintained:

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

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

60 The approved landscaping for the site must be constructed by a suitably qualified landscape professional.

61 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a suitably qualified landscape professional.

62 All plant material associated with the construction of approved landscaping is to be planted in accordance Penrith Development Control Plan.

63 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

64 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan.

65 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

66 Prior to the issue of a Construction Certificate the street tree species along Belmore Street must be approved by Penrith City Council.

Development Contributions

- 67 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Penrith City Centre Civic Improvements. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2,068,740.00 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment. The Section 94 Contributions Plan for Penrith City Centre Civic Improvements may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Payment of Fees

- 68 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 69 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

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

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C10 Traffic, Access and Parking

The proposal is seeking to provide 143 car parking spaces within a three (3) level basement car park. Under the provisions of Penrith DCP 2014, on-site parking requirements for business and office premises is one (1) space per 100 square metres of GFA. This equates to 121 car parking spaces required for this development.

In addition, Penrith City Centre has a site specific requirement being:

A maximum 60% of the total number of commercial parking spaces required by the development, other than for service vehicles, car washing bays and parking spaces allocated to people with a disability, are to be provided on-site.

The balance of the total required number of spaces not provided on-site would need to be subject to a contribution under an adopted Contribution Plan or as set by the terms of a Voluntary Planning Agreement.

The intent of the site specific requirement is to have a strategic approach to parking within the City Centre. Through contributions levied via the Penrith City Centre Civic Improvement Plan, Council seeks to development of a multi deck public car park, on a yet to be identified site, on the edge of the City Centre. Parking contributions provide an alternative option for new commercial developments, who cannot accommodate, or choose not to provide, car parking on-site. The applicant for the proposal has chosen to provide the required car parking on site and this can be accommodated in the three (3) level basement car park. As this site is on the edge of the City Centre, and there is no proposed timeframe to the multi deck car park, the proposed parking provision on-site would not be detrimental to the strategic aims or objectives of the Penrith City Centre Civic Improvement Plan.

In addition to this, the control aims to promote the use of public transport as a more sustainable alternative to the private car for personal travel. This proposal provides other means to encourage sustainable travel such as a 68 capacity bicycle storage area with end-of-trip facilities. The proximity of the development to the Penrith Railway Station and bus and taxi interchange also provides a convenience end-of-journey option. This provides for an ideal outcome as there is no time proposed on the delivery of the multi-deck car park and there is currently high demand for car parking in the City Centre.

The proposal responds to an immediate parking demand for future tenants and occupants of the proposed development,

Penrith DCP 2014 also states:

Car parking and associated internal manoeuvring areas provided over and beyond the requirements of this DCP shall be calculated as part of the development's gross floor area.

The additional car parking to be provided on-site above the one (1) space per 100 square metres has been calculated as gross floor area. This equates to 609 square metres of additional GFA and has been addressed through the Clause 4.6 variation to floor space ratio requirements in the LEP.

E11 Penrith

The proposed development is non-compliant with DCP controls (E11.4) for street frontage heights. There were a number of different floor plate options investigated prior to the preferred options of the campus style. The preferred option was chosen and supported by the DIP as it provides:

- A central space for occupants integration and cohesion,
- A core at the southern end of the building minimizing unusable space and maximizing solar access,
- A central atrium providing natural light throughout each floor level,
- A break out space/common area away from the main work area minimizing noise impacts,
- A flexible common space with access to natural ventilation and views, and
- A flexible floorplate that can be adaptable for multiple or single tenant use

The building envelope has been designed to address the shape of the site while integrating with the adjoining development at 2-6 Station Street. The three separate stepped elements curve with the streetscape and provide a responsive outcome to the urban context of the site, and massing of the building.

The proposal strongly demonstrates a commitment to the strategic aims and vision for the Penrith City Centre. The redevelopment of a key City Centre site, with a high quality designed building and public amenity, will help facilitate the revitalisation of the City Centre and encourage investment in the future.