

SWCPP Ref. No.:	2017SWT011
DA No.:	DA17/0766
PROPOSED DEVELOPMENT:	Demolition of Existing Heritage Listed Dwelling & Construction of Two (2) x Four (4) Storey Residential Flat Buildings & One (1) x Part Five (5) Storey & Part Seven (7) Storey Residential Flat Building containing 152 Apartments, Basement Car Parking & Associated Site Works - Lot 1 DP 1043008, Lot 1021 DP 812335, Lot 1 DP 1064526, 65 Mulgoa Road, PENRITH NSW 2750 1 Retreat Drive, PENRITH NSW 2750 73 a Mulgoa Road, PENRITH NSW 2750
APPLICANT:	Esq1818 Pty Ltd
REPORT BY:	Wendy Connell, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from ESQ1818 Pty Ltd for the demolition of a heritage listed dwelling, the construction of two (2) x four storey residential flat buildings and one (1) x part five (5) and part seven (7) storey residential flat building containing 152 apartments, basement car parking and associated stormwater drainage and landscaping works at 65-73a Mulgoa Road, Penrith.

In accordance with Section 23G of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the determining authority as the proposal has a Capital Investment Value (CIV) of \$50,473,392.

The development application was submitted as integrated development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Department of Primary Industries - Water (the Department) under Section 91 of the Water Management Act 2000 due to the proximity of the proposed works to Schoolhouse Creek. The Department in its letter dated 7 December 2017 advised that a controlled activity approval is not required for the proposal.

In accordance with Clause 104 (Traffic generating development) under State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads Maritime Services (RMS) for comment. In its letter dated 4 October 2017, the RMS raised no objections to the proposal subject to conditions.

The subject site is located within the Panthers Penrith Precinct and is zoned SP3 Tourist under Penrith Local Environmental Plan (LEP) 2010. The proposed development is defined as a residential flat building under the LEP and is a permissible land use with consent under Schedule 1 of the LEP.

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

Key issues identified and addressed for the proposed development include:

- the proposed demolition of a heritage listed dwelling
- proposed future road widening impacts
- traffic volumes and movement impacts on existing Local and State roads

Heritage

Located on the subject site is a heritage listed item known as 'The Willows' cottage. The proposal seeks to demolish the item and construct a residential flat building. Council's records show a building approval was granted for the item in January 1949 and it was constructed shortly thereafter. A heritage assessment and comparative analysis has been undertaken, as well as extensive research of Council's records and the local history section of Penrith City Library. Based on this assessment, no rational and/or reasoning has been able to be substantiated as to why the item is currently listed in Schedule 5 of Penrith Local Environmental Plan 2010. Notwithstanding this, the applicants heritage impact assessment has not identified a level of significance for the structure that would warrant its retention and substantial redesign of the proposed development. Furthermore, the strategic planning documents (including site specific DCP chapter) adopted by Council for this precinct does not recognize the item or require its retention on the site. It is also noted that the proposal and resulting demolition of the heritage item was presented to Council's Heritage Committee during the course of the assessment with no objections raised from the Committee to its removal.

Proposed Road Widening

The RMS advised that the Commonwealth and NSW governments are planning to widen and upgrade Mulgoa Road to support current and future traffic demands and expected growth in the area. This corridor widening and upgrade will have impacts on the development site.

The RMS advised in its letter dated 4 October 2017 that it has no objections to the proposal subject to conditions. Further to this, discussions occurred between the RMS, Panthers Group (the landowner) and CABE (the developer) regarding the Mulgoa Road widening project. The RMS issued a letter to Panthers Group on 25 October 2017 outlining a revised Mulgoa Road corridor boundary. The aim of the boundary revision was to reduce the impact on the Panthers site and resulted in a reduction by 3.6m on the site from the publicity exhibited boundary. However, it needs to be acknowledged that no formal land acquisition is in place and therefore road widening requirements may be subject to change.

The building setback controls within the current and draft Development Control Plan (DCP) for the Panthers Penrith Precinct require a 5m landscaped setback to Mulgoa Road. The Mulgoa Road widening has been considered as part of the development proposal and proposed building setbacks reflect the proposed road boundary and will not impede the delivery of future road upgrade works.

Traffic Impacts

Council, the Roads and Maritime Services (RMS), Panthers and Cabe have commenced negotiations to amend the current Road Works Voluntary Planning Agreement (VPA) for the Panthers Penrith site. The VPA prescribes the improvements to be carried out to the road network to support the development of the Panthers Penrith site. The negotiations will need to consider the impacts on the road network as a result of the overall land use changes to the Panthers Penrith Masterplan. The subject development proposal (Stage 1) will not have adverse traffic impacts on the road network. In addition provision has been made as part of the proposal to accommodate future road widening of Mulgoa Road and Ransley Street which is needed to support the ultimate development scenario for the Panthers Precinct as well as the RMS's strategic road widening project for Mulgoa Road.

The application was exhibited between 8 September and 9 October 2017 in accordance with relevant legislation. In response, four (4) submission were received. The key issues identified within the submissions included:

- the proposed demolition of a heritage listed dwelling
- an oversupply of units in the locality
- privacy, noise and social impacts
- traffic impacts

An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the key issues identified have been addressed satisfactorily. The application is recommended for approval subject to recommended conditions.

Site & Surrounds

The subject site is situated in the northern area of the Panthers Penrith Precinct and is bounded by Mulgoa Road, Ransley Street and Retreat Drive. The development site covers three (3) separate allotments with a total area of 8,676 sq.m.

The site is relatively flat with a landscaping mound through the centre. The site currently contains a bitumen car park, single storey heritage listed dwelling, detached garage and an access road.

The Panthers Precinct 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, Pepper Stadium, Penrith Paceway and open space. The Panthers Penrith Precinct sits within the larger area known as the Riverlink Precinct.

Proposal

The proposed development seeks consent for the demolition of a heritage listed dwelling, the construction of two (2) x four storey residential flat buildings and one (1) x part five (5) storey and part seven (7) storey residential flat building containing 152 apartments, basement car parking and associated stormwater drainage and landscaping works at 65-73a Mulgoa Road, Penrith. The proposal includes the following specific works:-

- Demolition works including the heritage listed dwelling at 65 Mulgoa Road
- Construction of Building A comprising 7,428sqm of residential floor space and Building B comprising 5,415sqm of residential floor space (total being 12,843sqm)
 - Building A is 7 storeys in height and comprises 28 x 1 bed units (32%) and 60 x 2 bed units (68%)
 - Building B is 4 storeys in height and comprises 22 x 1 bed units (34%) and 42 x 2 bed units (67%)
 - The 1 bed units range in size between 52 - 59sqm and the 2 bed units range in size between 76 - 85sqm
- Earthworks and associated excavation
- Provision of utility services, landscaping works and stormwater drainage works including redirected stormwater drainage lines and construction of a rain garden
- Car parking with a capacity for 189 residential and visitor parking spaces including a charging station, 4 x motorcycle parking spaces, 3 x car wash and service bays with vehicular access from Retreat Drive
- Centralised communal open space with barbecue and play equipment facilities
- Waste collection is proposed from Retreat Drive with internal turn table and collection facilities within the ground floor of Building A
- Upgrade to the existing verge and construction of new pedestrian and cycle pathways to Retreat Drive

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
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 23G – Sydney Western City Planning Panel (SWCPP)**

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 an application for development that has a capital investment value of more than \$20 million.

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

- **Section 79C - Evaluation**

The proposed 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 consideration.

- **Section 91- Integrated development**

The development application was submitted as integrated development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Department of Primary Industries - Water (the Department) under Section 91 of the Water Management Act 2000 due to the proximity of the proposed works to Schoolhouse Creek.

The Department in its letter dated 7 December 2017 advised that a controlled activity approval is not required for the proposal.

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

State Environmental Planning Policy (Infrastructure) 2007

Division 17 - Roads and Traffic

Clause 104 of the Infrastructure 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 residential flat buildings meet 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.

State Environmental Planning Policy No 55—Remediation of Land

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 Precinct 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 part of a dairy farm.

The proposed development is located within an area used for car parking, an access road and a residential dwelling. A Stage 1 Contamination Report was prepared by Ground Technologies Pty Ltd dated 7 April 2016 to support application. While this report is indicated as being a "Stage 1" report it contains evidence of borehole logs and on site testing which is more reflective of a Phase 2 (or Stage 2) contamination assessment. The report specifically outlines that the historic land use included market gardening however inspections of the site did not identify any visible observations of soil contamination, plant stress, waste materials, poor water quality (surface ponding) but did identify evidence of filling (but not on the part of the site subject of the proposed development application). The land subject of the application is identified within Figure 7.1 of the report as an area of 'potential environmental concern' as a consequence of this historic land use. To further address SEPP 55 considerations and this potential, 6 boreholes were undertaken on the site of the proposed works (as outlined within Appendix A of the report). The results confirm that the subject site and the material tested were below the adopted assessment criteria established through the Environmental Protection Authority and as such the report draws the conclusion that "the results of the chemical analysis indicate that the Area of Environmental Concern 1 (AEC1) does not present a risk to human health or the environment". The report further confirms that 'the site is suitable for development for "residential" use. No remedial action plan is required.

Council's Environmental Health Officer has reviewed the above mentioned report and concurred with this position that the site is suitable for the proposed development.

As a result of the investigations undertaken and the conclusions identified within the submitted contamination assessment information, the relevant provisions of SEPP 55 have been satisfied.

State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

An assessment has been undertaken of the proposal against the relevant criteria within State Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Apartment Development and the proposal has been found to be satisfactory, subject to recommended conditions of consent.

The proposal is also considered to be acceptable when assessed against the nine Design Quality Principles of Schedule 1 of the SEPP.

The table below details the proposal's compliance with the relevant provisions of the Apartment Design Guide (ADG) which complements the SEPP.

Assessment Against the Apartment Design Guide (ADG)			
Part 2	Design Objective	Discussion	Compliance
3A-1	Each element in the Site Analysis Checklist should be assessed.	A site Analysis Plan was submitted with the application and identifies applicable elements as required within the checklist. The proposed development description and subject site is clearly identified in the Statement of Environmental Effects and accompanying plans and reports.	Yes
3B-1	Building types and layouts respond to the streetscape and site while optimising solar access.	The placement of buildings in an east-west direction results in good solar access to the majority of apartments. Increased setbacks have been provided to the southern boundary, along Ransley Street, and the western boundary along Mulgoa Road to provide greater privacy to the ground floor apartments.	Yes
3B-2	Overshadowing of neighbouring properties is minimised during mid-winter.	The siting of the buildings responds to the orientation of the subject site and the proposal does not result in overshadowing to adjoining properties. The majority of overshadowing from Building A falls towards the south of the site, over Ransley Street. Building B is of a lesser scale and overshadowing will impact the open space between the buildings. Acceptable levels of solar access can be maintained.	Yes
3C-1	Transition between private and public domain is achieved without compromising safety and security.	Residential access points are located along the street frontage and through the communal open space. Building A has direct access to Ransley Street, with lobbies continuing through to the communal open space. Building B is accessed off a shared pathway from Retreat Drive through the landscaped communal open space. Passive surveillance is achieved through apartment design, with windows and balconies overlooking the public domain. Ground floor units have finished floor levels relative to the street or slightly raised and are provided with landscaped areas and fencing to protect unit privacy.	Yes

3C-2	Amenity of the public domain is retained and enhanced.	The landscaping for the public domain integrates with the buildings, softening the hard elements. The design minimises the dominance of car parking and service areas in the public domain by providing basement parking and a separate loading area off the secondary frontage to Retreat Drive.	Yes
3D-1	An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.	Provision has been made on the site for a high quality communal open space area which is generously sized at 45% of the site area, well beyond the 25% ADG benchmark. The communal open space will receive more than 2 hours of mid-winter sun to 50% of its area. The proposed sizing and treatment of this space will encourage outdoor resident congregation in an area with optimised solar access.	Yes
	Communal Open Space (COS) to have minimum area of 25% of site.	Provision has been made on the site for a communal open space area which is 45% of the site area.	Yes
3D-2	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.	The proposal contains communal open space for residents and visitors with dimensions greater than 3m. The communal open space is an engaging space with BBQ facilities, seating, raised planters, pergolas, pathways, a pavilion, timber deck and play space. Proposed landscaping will create ample shade and privacy.	Yes
3D-3	Communal open space is designed to maximise safety.	The communal open space and public domain is visible from habitable and private open space areas.	Yes
3D-4	Boundaries should be clearly defined between public open space and private.	The private open space areas of the development are defined by the use of landscaping, walls, fencing and paving elements.	Yes

3E-1	Deep soil is to be provided at a rate of 7% of site area with a minimum dimension of 3m.	1,671sqm (20.2%) of the subject site is provided as deep soil which complies with the ADG minimum requirement of 7%. The deep soil area achieved with greater than a 6m dimension is 728.8sqm (8.8%). The deep soil area achieved with less than a 6m dimension is 942.5sqm (11.4%). A landscape setback zone along Mulgoa Road allows for significant planting to provide buffering from Mulgoa Road.	Yes
3F-1	Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows: 1-4 storeys – 6m habitable to habitable and 3m for non-habitable. 5-8 storeys – 9m habitable to habitable and 4.5m for non-habitable.	With the exception of a 500mm ground floor terrace point encroachment into the 6m minimum setback for two units (north-eastern corner of Building B), Building B is setback a minimum of 7.37m from the northern property boundary and is compliant. The separation provided between Buildings A and B is a minimum of 19m which is in excess of the ADG distance separation requirements of 12m (up to 4 storeys) and 18m (above 4 storeys).	Yes (minor point encroachment only).
3G-1	Building entries and pedestrian access connects to and addresses the public domain.	Lobby entryways are articulated with landscaping and high quality materials, finishes and signposting. Building A has direct access and connection to Ransley Street, with lobbies continuing through to the communal open space. Building B is accessed off a shared pathway from Retreat Drive along the communal landscaped area.	Yes
3G-2	Access, entries and pathways are accessible and easy to identify.	The proposed building access points include lobbies and are clearly identifiable. Ramps and steps are integrated into the building and public domain design.	Yes
3G-3	Large sites provide pedestrian links for access to streets and connection to destinations.	Through pedestrian links are provided in the communal open space area to connect Mulgoa Road to the east with Retreat Drive to the west.	Yes

3H-1	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscape.	The car parking access is adequately integrated into the design of the proposal with access along Retreat Drive. Adequate sightlines area provided for drivers and pedestrians at the street frontage. The garbage room and servicing is located away from the street to eliminate potential conflict.	Yes
3J-1	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	The subject site is approximately 1.1km from the Penrith bus and rail interchange. The proposal provides a total of 189 car parking spaces with 152 residential spaces, 30 visitor spaces, 3 car wash bays, 4 service vehicle bays and 4 motor bike parking spaces in a secured basement. Car parking provision meets the requirements set out in Penrith DCP 2014.	Yes
3J-2	Parking and facilities are provided for other modes of transport.	A total of 38 bicycle parking spaces are provided within the secured basement.	Yes
3J-3	Car park design and access is safe and secure.	Waste facilities within the basement are located near lift wells. Lobby areas are clearly defined and appropriately located with sufficient safe manoeuvring areas.	Yes
4A-1	Optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	The submitted documentation confirms that 107 units (70.6%) are provided with compliant levels of solar access. However, 45 units (29.6%) receive no direct solar access between 9am and 3pm at mid-winter.	No. Refer to discussion at end of table.
4A-2	Daylight access is maximised where sunlight is limited.	Clerestory windows and skylights are utilised at the upper level to maximise solar access.	Yes
4A-3	Design incorporates shading and glare control, particularly for warmer months.	The design incorporates facade articulation and shading devices to control heat and glare.	Yes
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	The submitted documentation confirms 96 units (63.2%) will receive natural cross flow ventilation.	Yes
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms and 2.4m for non-habitable rooms.	Floor to floor heights of 3.1m are provided to allow for 2.7m ceiling heights to habitable rooms.	Yes

4D-1	Apartments are to have the following minimum internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Additional bathroom increases minimum area by 5sqm.	Dwelling sizes proposed are as follows: 1 bed – 52-59sqm 2 bed – 76-85sqm No 3 beds are proposed.	Yes
4D-2	Environmental performance of the apartments is maximised.	All apartments comply.	Yes
4D-3	Apartment layouts are designed to accommodate a variety of household activities and needs.	All apartments have a minimum of 10sqm in master bedrooms and 9sqm in other bedrooms. Cross through apartments have a minimum width of 4m. Living rooms have a minimum width of 4m (including 1 bed apartments). Bedrooms have minimum dimensions of 3m (excluding wardrobe space).	Yes
4E-1	Apartments provide appropriately sized private open space and balconies to enhance residential amenity.	All apartments meet or exceed the minimum requirements and 2m depth.	Yes
4E - 2	Primary private open space and balconies are appropriately located to enhance liveability for residents.	All balconies are connected to living areas and are recessed within the building to provide cover.	Yes
4E-3	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	Balconies have been integrated with the facade and design of the buildings, providing undercover all weather areas.	Yes
4F-1	Common circulation spaces achieve good amenity and properly service the number of apartments.	Circulation cores service 7 to 8 apartments. The buildings are 4, 5 and 7 storeys in height and are serviced appropriately by lift cores.	Yes
4F-2	Common circulation spaces promote safety and provide for social interaction between residents.	Lobbies are connected to the facades of the buildings. Building A has through links from Ransley Street to the communal open space.	Yes

4G-1	Adequate, well designed storage is provided in each apartment. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m³ 2 bed – 6m³ 3 bed – 10m³ With 50% of the above to be provided within the units.	Apartments are provided with storage facilities that meet the ADG requirements. A variety of storage types are provided, accessed off living rooms and circulation corridors within the apartments. Apartments that do not accommodate the entire storage volume have a minimum of 50% of the required storage within the apartment, with the remainder located in secured and accessible locations within the basement.	Yes.
4H-1	Noise transfer is minimised through the siting of buildings and building layout.	Adequate building separation is provided within the development and from neighbouring properties and land uses. An excess building setback has been provided to Mulgoa Road, which is a major road corridor.	Yes
4H-2	Noise impacts are mitigated within apartments through layout and acoustic treatments.	Apartments are stacked within the building and will be appropriately insulated in accordance with National Construction Code requirements. SEPP (Infrastructure) 2007, <i>Clause 101 Development with frontage to classified road has been considered as part of this assessment</i> has been considered as part of the assessment.	Yes. Condition to be applied to apartments along Mulgoa Road.
4J-1	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	Same as above – road noise.	Yes
4J-2	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Same as above – road noise.	Yes
4K-1	A range of apartment types and sizes is provided to cater for different household types now and into the future.	The proposed development is within close proximity to Penrith City Centre, public transport and employment options. The development proposes a mix of 1 and 2 bed apartments, including adaptable and liveable designs.	Yes
4K-2	The apartment mix is distributed to suitable locations within the building.	Each level has a mix of 1 and 2 bed apartments.	Yes

4L-1	Street frontage activity is maximised where ground floor apartments are located.	Lobbies and apartments at the ground floor level have direct access to the street or communal open space.	Yes
4L-2	Design of ground floor apartments delivers amenity and safety for residents.	Privacy is achieved to ground floor apartments through the provision of private terraces at a height of up to 650mm above footpath level. The private terraces allow for passive surveillance of the streetscape.	Yes
4M-1	Building facades provide visual interest along the street while respecting the character of the local area.	The building facades comprise of horizontal and vertical elements, articulated building elements and balconies with a variety of external material and finishes.	Yes
4O-1	Landscape design is viable and sustainable.	The application is supported by a landscape plan which incorporates a number of landscape spaces across the site. Layered planting acts as a buffer to neighbouring properties and roads. Planters are also used to screen courtyards and layered planting provides visual quality from the public domain and communal open space.	Yes
4P-3	Planting on structures contributes to the quality and amenity of communal and public open spaces.	The design has incorporated rooftop planting to the waste service area between buildings along with planting over the basement parking area. Raised planters and battered landscaping will be provided to facilitate larger trees.	Yes. Condition applied to for appropriate soil volumes, irrigation, maintenance, etc.
4Q-1	Universal design features are included in apartment design to promotes flexible housing for all community members.	The proposal incorporates the following apartment design: Building A – 4 adaptable & 15 liveable Building B – 11 adaptable & 15 liveable Totals incorporated into the development are: 15 (10%) adaptable apartments 30 (20%) liveable apartments	Yes
4U-1	Development incorporates passive environmental design.	A BASIX report has been submitted to support the proposal. The proposal incorporates passive solar design measures including shading devices and insulation.	Yes
4V-2	Urban stormwater is treated on site before being discharged to receiving waters.	Water Sensitive Urban Design measures have been reviewed by Council's Environmental Waterways Team and conditions are recommended.	Yes. Conditions recommended.
4W-1	Waste storage management facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	A waste management plan has been submitted to support the proposal. Waste chute rooms are located within the basement and the chute system is accessible at each level.	Yes

Objective 4A-1 - Solar and Daylight Access

The ADG stipulates that a maximum of 15% of apartments in a building should receive no direct sunlight between 9am and 3pm at mid-winter. As noted in the preceding ADG assessment table, 29.6% of apartments will not receive direct sunlight during this period. However, the ADG does note that achieving this design criteria may not be possible on some sites. In this particular instance, the following considerations are relevant:

- The site is bounded by Rarlsey Street to the south requiring the development to provide for the activation of this public street edge. This has resulted in greater numbers of apartments in Building A being orientated to the south. The apartments facing Rarlsey Street provide good passive surveillance and activation of the street, albeit with a predominantly southern aspect.
- Building A is positioned to provide a gateway marker to Mulgoa Road and define the street edge to Rarlsey Street in accordance with the DCP requirements for the Panthers Penrith Precinct.
- Provision has been made on the site for a high quality communal open space area which is generously sized at 45% of the site area, well beyond the 25% ADG benchmark. The communal open space will receive more than 2 hours of mid-winter sun to 50% of its area. The proposed sizing and treatment of this space will encourage outdoor resident congregation in an area with optimised solar access.

Site orientation and certain site constraints have precluded the proposed development from meeting the above design criteria. The building orientation is dictated by the requirement for the building to provide street definition and alignment and all measures have been taken to reduce south facing apartments. The proposed development therefore meets the ADG objective of optimising the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.

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 proposal, 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 Cause 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 Stormwater Drainage for Building Development Policy and Water Sensitive Urban Design Policy and conditions of consent are recommended to achieve and verify compliance.

The development proposal has therefore been found to be in accordance with the relevant considerations of the SREP subject to recommended conditions of consent.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Complies
Clause 5.10 Heritage conservation	Complies - See discussion
Part 9 Penrith Panthers site	Complies
Clause 9.1 Objectives of Part	Complies
Clause 9.6 Development control plan for land to which this Part applies	Complies - See discussion

Clause 2.3 Permissibility

The site is zoned SP3 Tourist and residential flat buildings are permitted with consent under Schedule 1 of Penrith LEP 2010 as an additional permitted use on the subject land.

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 development is not a tourist oriented development however it is not contrary to the SP3 zone objectives. The proposal will provide a suitable transition between the Panthers Precinct, residential development to the north-east through to the Penrith City Centre. The development will also contribute to achieving the dwelling targets set by the State government and provides a diversity in housing choice.

Clause 5.10 Heritage conservation

Clause 5.10 of Penrith LEP provides policy direction on heritage conservation within the Penrith area. The proposed development seeks to demolish a heritage listed dwelling. Schedule 5 of Penrith LEP lists the heritage item as 'The Willows' house (Item No. 815) located at 65 Mulgoa Road, Penrith (Lot 1021 DP 812335). The house and setting at 65 Mulgoa Road are an example of post war consolidation of formerly rural land holdings for residential occupation. The house demonstrates typical characteristics of mid-twentieth century residential architecture.

By way of background, in 2003 an application was lodged with Council to demolish the dwelling. Consent was granted for the demolition subject to an archival recording being undertaken. The archival recording was completed and lodged with Council. For unknown reasons, the dwelling was not demolished and the consent lapsed.

In 2015, the adoption of the Stage 2 amendment to Penrith LEP 2010 saw the inclusion of the dwelling in Schedule 5 (Environmental Heritage) of the LEP.

The proposal was considered by Council's Heritage Advisor and it was noted that concerns were raised with the proposal and an inadequacy of the design to respond to potential retention of the item. The value of the item however is necessary to first consider if a design response is necessary to addresses retention.

A Heritage Assessment was undertaken by NBRS and Partners Pty Ltd and submitted in support of the subject application and to respond to the concerns raised. The report reviewed the heritage significance of the item and ascertained (or questioned) the rarity of the item by providing a comparative analysis. The assessment undertaken in the heritage report used the methodology and guidelines set down by the NSW Heritage Office. Inclusion/exclusion criteria was used to assess the heritage evolution, associations, aesthetic and social values, rarity and representativeness of the item. By using this criteria it demonstrated that it did not warrant individual listing. A comparative analysis was also undertaken and this confirmed that the dwelling is not a rare example of its type in the Sydney regional albeit sparce within the Penrith Local Government Area.

In addition to the conclusions within the submitted report, extensive research has been undertaken by Council in the review of Council's records as well as the available resources in the local history section of Penrith City Library. No rational and reasoning has been able to be substantiated as to why the item was listed in Schedule 5 of Penrith LEP 2010 noting that development consent for its demolition was granted in 2003 (but did not proceed. This conclusions reached as a result of that investigation correspond with the findings of the Heritage Assessment undertaken by NBRS and Partners.

Although the item is listed in Schedule 5 of Penrith LEP 2010, the results of the most recent research do not support the listing and as such the item does not reflect a level of rarity and significance within the broader region, demolition of the dwelling is considered to be supportable.

Clause 9.6 Development control plan for land to which this Part applies

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.

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 Penrith DCP 2014 are considered in the DCP compliance table provided later within this report.

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

In 2012, Council endorsed planning controls for the Penrith Panthers site which provided for the development of an integrated entertainment, leisure and lifestyle precinct. The controls allowed for outlet centres, general retail, campus style office premises, serviced apartments and high density residential dwellings on the site.

Since this time, Panthers Group has been working on options for development of the Panthers site based on market trends. A proposed residential and general retail development scheme has been prepared for the northern portion of the site which is intended to replace the current endorsed outlet centre, residential and mixed use development scheme in this area.

To facilitate the proposed development scheme an amendment was sought to Penrith Local Environmental Plan 2010 by way of a Planning Proposal and 'Gateway' process. Changes were sought to amend building height controls and remove the ability to develop an outlet centre at the site. An amendment was also sought to Penrith Development Control Plan 2014 to change the masterplan development concept and detailed development controls.

Planning Proposal

The Planning Proposal applies to the land known as 65, 73, 83, 109 and 123-135 Mulgoa Road and Lot 1 Retreat Drive, Penrith. The Planning Proposal recommends the following changes to Penrith LEP 2010:

- Adjustment to the maximum building height controls applying to the northern portion of the Panthers site to permit increased maximum building heights of 15m, 20m, 24m, 38m and 50m and to reduce building heights in some locations.
- Placing a cap on the maximum residential development capacity at the northern portion of the site, being a maximum of 850 dwellings and 80,400 square metres of residential gross floor area.
- Removing the ability to develop an outlet centre at the Panthers site.
- Correction of a minor error in the property description for Lot 1 Retreat Drive (Lot 1 DP 1064526).

DCP 2014 Amendment

An amendment is sought to DCP 2014, Chapter E13 Riverlink Precinct, Part B - Penrith Panthers Precinct. The DCP amendment seeks the following changes:

- Replacement of the planned outlet centre with the Cabe residential and mixed use development scheme.
- Preparation of a revised concept plan and various other diagrams to reflect the new scheme.
- Changes to the development layout and structure, including roads, through-site links and building envelopes.
- Addition of a landmark building at the end of Ransely Street, with associated development controls.
- Addition of street hierarchy controls to prescribe roadway requirements at the northern portion of the site.
- Addition of pedestrian and cycleway connections throughout the northern part of the site, aligning with the new development structure.
- Changes to objectives and controls for various elements.
- Inclusion of additional architectural and urban design controls.
- Capping of retail floor space to a maximum of 3,500sqm at the northern portion of the Panthers site.
- Addition of bushfire risk management controls.
- Deletion of the planned zone sub-station at the north-western corner of the site.

The Planning Proposal and DCP amendments were placed on public exhibition from 4 September to 3 October 2017.

Council at its Policy Review Committee meeting of 13 November 2017 endorsed the Planning Proposal and

DCP amendments subject to the execution of an amended Road Works Voluntary Planning Agreement.

The proposed development is consistent with the Planning Proposal and draft DCP amendments.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies - see Appendix - Development Control Plan Compliance
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A
E13 Riverlink Precinct controls	Complies - see Appendix - Development Control Plan Compliance

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

The development site is affected by two Voluntary Planning Agreements (VPAs), being the Panthers Roadworks Voluntary Planning Agreement dated 28 November 2012 and the Outlet Centre Planning Agreement dated 28 November 2012.

The parties to the Panthers Roadworks VPA are Council, Penrith Rugby League Club and the Roads and Maritime Services. This VPA relates to road network upgrades associated with the implementation of the Panthers Precinct Masterplan. During the assessment of the development application, discussions have occurred between the three parties to the agreement and the applicant regarding a potential amendment to the VPA. These discussions are ongoing.

The parties to the Outlet Centre VPA are Council and Penrith Rugby League Club. This VPA relates to the monitoring of planning impacts of an outlet centre. Recently, the Panthers Group reviewed the development options for the Panthers site based on market trends and have proposed a residential and general retail development scheme on the northern portion of the site. This development is intended to replace the current endorsed outlet centre, residential and mixed use development scheme in this area.

The proposed development does not trigger works under either VPA or fetter the obligations in the VPAs.

In the context of the broader precinct and future predicted development, it should be noted that traffic modelling information and SIDRA intersection analysis has indicated that AM and PM peaks at the Mulgoa Road/Ransley Street intersection can be accommodated by an additional 40m left-turn lane within Ransley Street. The proposed built form has been sufficiently setback to accommodate this future treatment.

However, to accommodate the possibility of future density increases in subsequent Panthers site proposals, as well as to allow for the opportunity for land use trip generation rates to be verified by Council and for final sign-off on an amended Roadworks VPA, the proposed building line (including the basement) could accommodate (i.e. be clear of) a full third lane fronting the site (of approximately 85m in length) if required at a later stage.

Any proposal, including the currently proposed 40m left-turn lane from Ransley Street will also be subject to RMS assessment, comment and concurrence.

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 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 was carried in accordance with the requirements of the regulations and Penrith Development Control Plan 2014.

Clause 92 - Additional Matters

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

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

Context and Setting

The proposed development will contribute to the emerging higher densities expected in the residential area within north-east of the precinct. The proposed form and scale is different from the existing residential developments to the north, yet it is consistent with the desired future character of the area in the north-east and provides a good transition to the Panthers Precinct. The proposed development has been designed to be compatible with surrounding development in terms of built form and external building materials and finishes. The development has a maximum height of 24m (7 storeys) for Building A at the eastern end, which is the nominated 'gateway' building location within Penrith DCP 2014. Building A scales down to 18m (5 storeys) at the western end with Building B being well under the maximum proposed building height of 20m (4 storeys) adjacent existing townhouses to the north.

In this regard, and given its a permissible land use, the proposed development is considered appropriate in its context and setting.

Heritage Impacts

Extensive research has been undertaken of Council's records as well as the local history section of Penrith City Library. No rational and reasoning supporting the heritage item on the site being listed in Schedule 5 of Penrith LEP 2010 can be established. These findings correspond with the Heritage Assessment undertaken by NBRS and Partners. Although the item is listed in Schedule 5 of Penrith LEP 2010 as having local significance, there is no clear evidence to substantiate this position.

Therefore, the proposed demolition of the dwelling will not have a detrimental impact on the environmental heritage of Penrith.

Amenity Impacts

The proposed development will not result in any unacceptable impacts on the locality. The site is considered suitable for a residential use and is compatible with nearby and adjoining development. The site is also well suited for the proposed use and the planning directions intended for the provision of higher density residential housing in close proximity to the Penrith City Centre.

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

The site is suitable for the proposed development for the following reasons:

- The use is permissible with consent and compatible with surrounding/adjoining land uses
- The site is located on the edge of the Penrith City Centre and is an ideal location for this form of development
- The site is adequately serviced by public 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

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 nearby and adjoining property owners and residents.

The public exhibition period for the proposal was from 8 September to 9 October 2017. Council received four (4) submissions in response, as detailed below.

Issues Raised	Comment
<i>Demolition of heritage item</i>	During the assessment of the development application extensive research was undertaken of Council's records as well as available resources in the local history section of Penrith City Library. No rational or reasoning can be substantiated as to the heritage item's listing in Schedule 5 of Penrith LEP 2010. This conclusion corresponds with the findings of the Heritage Assessment undertaken by NBRS and Partners. Although the item is listed in Schedule 5 of Penrith LEP 2010, the results of the most recent research do not support the listing.
<i>Over supply of residential units</i>	The proposed development will result in the delivery of additional housing and provide for greater diversity in housing choice and affordability within proximity to existing services, facilities and public transport.
<i>Privacy and noise impacts and social issues caused by increased population</i>	The proposed development complies with current planning height controls, with Building B (closest to the existing residential dwellings to the north) well under current height controls. During the assessment phase, plan amendments were made to the position of the buildings and this resulted in an increased setback to the northern boundary and existing residential dwellings. The development proposal has been assessed for compliance against State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) and the supporting Apartment Design Guide and has been found to be satisfactory. The proposal was referred to NSW Police for comment. No objections were raised.

<i>Traffic impacts</i>	A detailed traffic and parking assessment has been undertaken by the applicant's consultant, GHD, and this has been verified by Council's Traffic Engineer. The assessment has considered the impacts of the subject development proposal and the ultimate development scenario for the whole of the Panthers Precinct on the surrounding road network as well as internal traffic. Provision has been made to accommodate additional road widening on Mulgoa Road and Ransley Street to accommodate the ultimate development scenario and the proposed widening of Mulgoa Road as part of the proposal. The Panthers Precinct is subject to a Road Works Planning Agreement. This Agreement outlines the required development contributions for road works associated with the implementation of the Penrith Panthers Masterplan. The subject development proposal does not trigger any works under the Planning Agreement.
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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	Not supported, however conditions provided
Heritage	Not supported
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Planning and Sustainability	No objections
Social Planning	No objections - subject to conditions

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

The proposal is in the public interest as it provides for the orderly and economic use of land for a purpose permissible under the applicable planning regime and in accordance with the prevailing planning controls. The development proposal will provide public benefit in terms of delivering a diverse choice of housing within walkable distances to key transport links and community facilities.

The development represents a suitable development of the site in terms of the desired character for the locality.

Section 94 - Developer Contributions Plans

The following Section 94 contribution's apply to the proposed development.

S.94 Contributions Plan	Contribution Rate x Calculation Rate	Total
District Open Space	300.9 x \$1,906.00	\$573,515.00
Local Open Space	300.9 x \$689.00	\$207,320.00
Cultural Facilities	361.8 x \$160.00	\$57,888.00
	NET TOTAL	\$838,723.00

Conclusion

The proposal has been assessed against the relevant sections of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014 and has been found to be a form of development that is acceptable.

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 proposed development. Accordingly, the application is worthy of support and is recommended for approval subject to recommended conditions.

Recommendation

1. That DA17/0766 for the demolition of an existing heritage listed dwelling and construction of two (2) x four (4) storey residential flat buildings and one (1) x part five (5) and part seven (7) storey residential flat building containing 152 apartments, basement car parking and associated site works at 65-73a Mulgoa Road, Penrith, be approved subject to the attached conditions.
2. That those individuals who made a submissions be notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the stamped approved plans, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.
- 2 The proposal is required to comply with the requirements of the NSW Roads and Maritime Service as outlined within their correspondence dated 4 October 2017.
- 3 Lot 1021 DP 812335, Lot 1 DP 1064526 and Lot 1 DP 1043008 are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with Land and Property Information division of the Department of Lands is to be submitted to the certifying authority before the Construction Certificate for the development can be issued by the certifier.

A copy of the registered plan of consolidation from the Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 7 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 8 A minimum of 15 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability in accordance with the stamped approved plans. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6. **The Construction Certificate must be accompanied by certification** from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Housing Standard (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

- 9 **Prior to the issued of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 10 **Prior to the issued of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 11 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the buildings. Gutters and down pipes shall be integrated into the architecture of the buildings. Any plant or unsightly structures installed on the rooftop must be screened from view.
- 12 **Prior to the issue of a Construction Certificate**, a final schedule of external materials and finishes is to be submitted to and approved by the appointed certifying authority which is consistent with the finishes details depicted on the architectural drawings . Balcony glazing is to be tinted (neutral colour) or otherwise obscure to assist in maintaining privacy. Frosted glass is not permitted.
- 13 **Prior to the issue of an Occupation Certificate**, the developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's Waste Collection Service. This is to include Council being provided with indemnity against claims for loss or damage.

Note:

By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.

- 14 Prior to the issue of a Construction Certificate, details of all proposed fencing and retaining walls are to be provided to Council for approval. The fencing types shall be consistent with the controls for fences for residential flat buildings, as outlined in Penrith Development Control Plan 2014.

- 15 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

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 AS 4282 - Control of the obtrusive effects of outdoor lighting

Basement Car Parking

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the Construction Certificate application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks.
- Australian Standard 220 door and window locks must be installed in all dwellings.
- CCTV is to be provided to cover communal public space areas. 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.
- Letter boxes are to be provided in accordance with that shown on the plans.

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, and common areas. This includes reporting incidents to police and/or relevant authorities.

Landscaping

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Demolition

- 16 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**.

- 17 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**.

- 18 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 Environment Protection Authority to receive asbestos wastes.

- 19 **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.

- 20 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 21 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 22 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
 - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - No demolition work is permitted on Sundays and Public Holidays.
- In the event that the demolition relates to works inside the building and does not involve external walls or the roof, and does 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

- 23 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

- 24 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.
- 25 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

- 26 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority. The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 27 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.
- 28 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.

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

30 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 Penrith Development Control Plan 2014) 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.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soilscience, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 31 All waste infrastructure within the development including the Waste Collection Room, Bulky Waste Room, Chute Rooms and Truck Access areas are to be lockable through an abloy key system to permit access to Council's Waste Collection Contractors.
- 32 The waste collection vehicle is to be given priority access within the site during the designated collection periods as determined by Council.
- 33 Adequate and unobstructed clearance is to be provided during all entry and exit manoeuvres within a minimum 0.5m clearance on either side of the waste collection vehicle during all manoeuvres.
- 34 All waste infrastructure rooms located within the development shall satisfy the light, ventilation, wash room and height provisions of the Building Code of Australia.

35 **Prior to the issue of a Construction Certificate**, a supplementary statement to the Acoustic Report prepared by Acoustic Logic dated 8 March 2017 that clarifies the following matters is to be provided to the satisfaction of the Principal Certifying Authority:

- The location of the noise monitor - distance in metres from Mulgoa Road and other roads.
- Calibration certificate for noise monitor.
- Results of field calibration checks.
- A description of other noise sources that may have impacted on the results and methodologies used to accommodate them.
- A detailed explanation of the LAeq level required to reduce the recorded LAeq level in Table 2 to the noise level criteria explained in Table 1.
- A detailed explanation of the nominated Category of Noise Control Treatment.
- An explanation of how the selected glazing requirements in Table 2 reduces the recorded noise levels in Table 2 to the required noise level criteria in Table 1.
- An explanation as to why the proposed construction materials for the roof/ceiling and walls is acoustically acceptable and will ensure that the noise level criteria in Table 1 will be met.

The recommendations of the Acoustic Logic Report dated 8 March 2017 and supplementary statement required above are to be incorporated into the design of the development.

36 No excavated waste is to be re-used on site during construction.

37 Disposal of the waste soil classified as General Solid Waste in the Stage 1 Contamination Assessment prepared by Ground Technologies dated 7 April 2016 is to be at a lawful waste management facility.

38 Garbage rooms within the buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor and ventilation. The floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock. Access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.

39 Should any "unexpected finds" occur during excavation and earthworks, including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation be required, development consent is to be sought from Penrith City Council prior to remediation works commencing.

40 All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities. The facilities to be implemented prior to the issue of an Occupation Certificate.

41 The Bin Lift (hoist) to be large enough to accommodate 2x 1100L bins with 200mm manoeuvrability clearance between the bins to permit bin movement from the basement to the ground floor loading bay. System specifications to be submitted to Council prior to the issue of an Occupation Certificate.

- 42 For the internal movement of 1100L bins a bin tug device is required to be provided and stored within the development in accordance with section 3.6 of the 'Residential Flat Building Guideline' document. Device specifications, use and operational requirements are required to be submitted to Council for approval prior to the issue of an Occupation Certification.
- 43 The on-site loading bay to provide an unobstructed height clearance of 4.5m during all heavy rigid vehicle manoeuvres on-site.
- 44 Adequate acoustic treatments, mechanical ventilation and lighting to be installed within the loading bay to permit on-site waste collection with the doors closed during collection. Specifications of these systems to be submitted to Council for approval prior to the issue of an Occupation Certificate.
- 45 The turn table for the 10.5m heavy rigid waste collection vehicle to incorporate a hydraulic override system or similar assisted override system to ensure the turn table can be rotated in the event of a systems malfunction. The systems specification to be submitted to Council prior to the issue of an Occupation Certificate.
- 46 Prior to the issue of an Occupation Certificate the 'On-site Waste Collection Application' document is to be signed and submitted to Councils Waste Service Department.
- 47 Councils bin infrastructure and collection service will be provided/commenced for the development upon the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.
- 48 The current on-waste infrastructure provided within the development is to be built in accordance with configurations specified in the plans labelled 'GA Plans A1 Basement 01 & Ground Level', Project no. 14064, Drawing no. DA-110-008 & DA-110-006, revision 5 and dated 12/01/18. On-site waste infrastructure permissible to change only in accordance with conditions stipulated by Councils Waste Service department.
- 49 All on-site waste collection infrastructure doors and access points (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room, Hoist and Loading bay) to be locked through Councils Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Guideline' document. The locking system to be implemented prior to the issue of an Occupation Certificate.

BCA Issues

- 50 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.

- 51 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.

Utility Services

- 52 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.

- 53 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.

- 54 **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.

- 55 In the event that a fire hydrant booster is necessary to service the development, the booster shall be integrated into the design of the development. **Prior to the issue of a Construction Certificate**, Council shall be consulted over the proposed location of the booster as the location of the booster may impact on other services and building, driveway or landscape design already approved. Confirmation is required with regard to any heat shield or other such structures required.

Construction

- 56 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.

57 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 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.

58 Clothes drying facilities are to be positioned and screened from public view.

59 Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

Other construction works carried out inside a building/tenancy 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 all construction works.

Engineering

- 60 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.
- 61 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.

- 62 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application(s), including payment of application and inspection fees, shall be lodged with 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), laybacks and dish crossings
 - b) 3.0 metre wide concrete cycleway along Ransley Street and Retreat Drive frontages
 - 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, waster skips, signs, etc in the road reserve
 - f) Temporary construction access

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.
- 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.

- 63 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for:

(a) Provision of a 3.0 metre wide concrete shared pedestrian cycleway along Retreat Drive and Ransley Street and associated land dedication/road widening. All service adjustments/relocations shall be shown on the plans.

(b) Any drainage works proposed within the public road reserve.

Engineering plans are to be prepared in accordance with the development consent, Development Control Plan, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering 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 or works within close proximity to the traffic signals.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 64 Prior to the issue of any Construction Certificate, the Principal Certifying Authority and/or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council for:

- The proposed stormwater culvert, rain garden and associated drainage works over the downstream property connecting into Showground Creek.
- The relocation/modification of Council's drainage system within the site and the existing 600mm diameter drainage system within Lot 1 DP 1043008.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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

Note:

- a) All works associated with the Section 68 Local Government Act approval must be completed prior to the issue of any Occupation Certificate.

- 65 A Stage 3 (detailed design) Road Safety Audit (RSA) shall be undertaken in accordance with Austroads Guide to Road Safety, Part 6: Road Safety Audit on the proposed roadworks by an accredited auditor who is independent of the design consultant. A copy of the RSA shall accompany the design plans submitted with the Construction Certificate or Roads Act application.

Prior to the issue of the Construction Certificate or Section 138 Roads Act approval, the Certifying Authority shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifying Authority for information purposes.

- 66 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged to address the deferred commencement stormwater concept plan conditions, MUSIC Model 110251, Stormwater Management Statement and Flood Impact Assessment and Water Quality Management Report prepared by JWP, Issue B, dated 5/4/2016.

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.

- 67 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).
- 68 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Impact Assessment Report prepared by J. Wyndham Prince, revision B, dated 5 April 2016.
- 69 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 27.34m AHD (standard flood level + 0.5m freeboard).
- 70 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the structure/s below RL 27.34m AHD (standard flood level + 0.5m 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.
- 71 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).
- 72 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.

- 73 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 be limited to, 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. The CTMP shall ensure that adequate parking is provided for the development and that parking in the area is not severely impacted by the construction of the 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, current Australian Standard and the 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.

- 74 Prior to the issue of a Roads Act approval, a Performance Bond is to be lodged with Penrith City Council for road and drainage works along Ransley Street and Retreat Drive.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.

- 75 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a geotechnical investigation, report and strategy has been conducted to ensure the stability of Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services, as amended. A dilapidation report shall be undertaken for all surrounding buildings and Council owned infrastructure to confirm that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority, the dilapidation report shall be submitted to Council prior to the issue of a Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate to confirm no damage has occurred to Council infrastructure and surrounding developments.
- 76 Prior to the issue of any Construction Certificate for internal works associated with the development, the site must be serviced by a legal point of discharge including any required infrastructure drainage works. The drainage works may include inter-allotment drainage construction, upgrades and / or road drainage extensions located on land owned by others.
- 77 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 78 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 AS 1742.3 "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 the issue of a Construction Certificate.
- 79 A certificate prepared by a registered surveyor verifying that all habitable floor levels are at or above RL 27.34m AHD (standard flood level + 0.5m 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.
- 80 All existing (aerial) and proposed services for the development, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 81 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.
- 82 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments Policy.

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

83 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including water sensitive urban design)
 - b) Overland flowpath works
 - c) Flood control works
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

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

84 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including water sensitive urban design)
- b) Overland flowpath works
- c) Flood control works

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater and Drainage for Building Developments Policy.

85 The applicant shall relocate/modify the existing drainage easement within Lot 1 DP 1043008 and within the site benefiting Penrith City Council for drainage and overland flow purposes on the location shown on the plan accompanying this consent, and on the basis that no claim for compensation will be made, and that the applicant will meet all associated survey and legal costs. The plans are to be approved by Penrith City Council prior to registration.

Prior to the Issue of an Occupation Certificate, the changes to the drainage easement mentioned above shall be created and registered with the NSW Department of Lands and submitted to the Principal Certifying Authority and Penrith City Council (if Council is not the Principal Certifying Authority).

Note:

The drainage easement widths shall be in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments.

86 Prior to the issue of any Occupation Certificate, an easement for drainage and overland flow 4.4m wide and variable (based on 2 x 1.2 x 0.6 RCBC and rain gardens) benefiting the development site shall be provided within the downstream properties and evidence of registration of the easement with Land and Property Information (LPI) shall be submitted to the Principal Certifying Authority and Penrith City Council, if Penrith City Council is not the Principal Certifying Authority. Easement widths shall be in accordance with Penrith City Council's adopted Design Guidelines.

A Positive Covenant shall also be created over the proposed rain garden located within Lot 1 DP 1043008 for maintenance and repairs to be undertaken by the registered proprietor of the development site.

- 87 Prior to the issue of any Occupation Certificate, a boundary realignment and road widening along Ransley Street and at the intersection of Mulgoa Road is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land and Property Information (LPI). The land dedication for the road widening shall be in accordance with the provision of a 3.0m wide cycleway along Retreat Drive and Ransley Street (northern side) and the schedule of works as detailed in the RMS Voluntary Planning Agreement for roadworks (i.e Ransley Street/Mulgoa Road Intersection upgrades) dated 28/11/2012 and as amended. The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.
- 88 Prior to the issue of any Occupation Certificate, signage which is clearly visible from the public road shall be placed within the development site indicating that the waste vehicular access is to be used for ingress and egress purposes for waste vehicles only (i.e. "No Entry" for other vehicles).
- 89 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of resident and visitor parking to the satisfaction of the Principal Certifying Authority.
- 90 Prior to the issue of an Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for modification of Council's stormwater drainage system.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- a) Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 91 Prior to Penrith City Council accepting any of the works associated with the Section 68 and/or Section 138 Approvals, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall also be provided to Penrith City Council where Penrith City Council is not the Principal Certifying Authority:
- a) Works as executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
 - b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
 - c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
 - d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
 - e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
 - f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.
 - g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
 - h) Structural Engineer's construction certification of all structures
 - i) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
- 92 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

- 93 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the approved plans are amended and detailed to comply with AS 2890.1, AS 2890.2, AS 2890.6 and Council's DCP and guidelines for access, car parking and manoeuvring including:
- Dimensions for complying minimum car space width for full opening doors in accordance with Table B1 of AS 2890.1 of at least 2.6m width.
 - Dimensions for AS 2890.1 complying car space clearances to columns beside spaces or to walls and other obstructions.
 - Dimensions for AS 2890.1 complying headroom of at least 2.3m along aisles to accessible car parking spaces.
 - Dimensions of entry / exit driveway and ramp for AS 2890.1 complying width of at least 5.5m roadway with at least 0.3m clearances to obstructions.
 - Dimensions of AS 2890.1 complying indents at the end of dead end aisles of at least 1.0m indent.
 - Dimensions of waste services collection vehicle access and loading in accordance with Council's Residential Flat Building Waste Management Guidelines and to the satisfaction of Council's Waste Services Section.
 - External driveway and roadway access turning paths are to be provided and be at least 300mm clear of driveway edges, parking and road centerlines and at least 300mm clear of kerbs and medians. Internal area vehicle turning paths are to be provided and be at least 300mm clear of obstructions.
 - The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage. This includes AS 2890.1 and / or AS 2890.2, Figure 3.2 Sight distance requirements at access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
 - All vehicles are to enter/exit the site in a forward direction.
- 94 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the approved plans are amended and detailed to include any boundary setbacks and building setbacks for road widening and road works in Retreat Drive, Ransley Street and Mulgoa Road including the intersection of Retreat Drive / Ransley Street and the intersection of Ransley Street / Mulgoa Road to accommodate the Roads and Maritime Services proposed widening of Mulgoa Road and the traffic generated by this development and all future Panthers Voluntary Planning Agreement developments and as identified in the Traffic Modelling Review dated January 2018 to the satisfaction of Council.
- 95 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the approved plans are amended and detailed to include the removal of the marked pedestrian crossing in Ransley Street and its replacement with a pedestrian refuge or other pedestrian facility to the satisfaction of Council.
- 96 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the approved plans are amended and detailed to include any road widening and road works in Retreat Drive, Ransley Street and Mulgoa Road including the intersection of Retreat Drive / Ransley Street and the intersection of Ransley Street / Mulgoa Road to accommodate the traffic generated by this development as identified in the Sidra Network Traffic Modelling Review dated January 2018 to the satisfaction of Council.
- 97 All car spaces are to be sealed, line marked and dedicated for parking of vehicles only and not to be used for the storage of materials, products, waste materials, etc.
- 98 Signage indicating the location of visitor and waste collection access and parking is required at the driveway entrance prior to the issue of an Occupation Certificate.
- 99 Prior to the issue of an Occupation Certificate, secure bicycle parking is to be provided in at convenient locations in accordance with *AS 2890.3:1993 Bicycle Parking Facilities*.

- 100 Prior to the issue of a Construction Certificate, the following information is to be submitted to Council for review and approval:
- Details of the proposed GPT so that considerations of the life cycle costs can be made. The proponent should provide Council with a detailed operation and maintenance manual which includes estimated costing.
 - Detailed construction plans for the GPTs and bio-retention systems including all calculations, drawings and designs which are consistent with the design parameters used in the modelling and approved concept designs.
- 101 **Prior to the issue of a Construction Certificate**, an Operation and Maintenance Manual for the proposed stormwater treatment measures shall be submitted to Council for approval. The manual should include details on cleaning / maintenance requirements as well as provide details on the estimated annual and lifecycle costs associated with the proposed treatment measures. The plan should include details on the following:
- i. Site description (area, imperviousness, land use, annual rainfall, topography, etc)
 - ii. Site access description
 - iii. Likely pollutant types, sources and estimated loads
 - iv. Locations, types and descriptions of measures proposed
 - v. Operation and maintenance responsibility
 - vi. Inspection methods (including inspection checklists)
 - vii. Maintenance methods (frequency, equipment and personnel requirements)
 - viii. Landscape and weed control requirements
 - ix. Operation and maintenance costs
 - x. Waste management and disposal options
 - xi. Reporting
- 102 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall ensure that all works along the site fronting Ransley Street and Mulgoa Road as detailed in the schedule of works (i.e road widening, boundary realignment, etc) within the Voluntary Planning Agreement dated 28/11/2012 and as amended, have been clearly shown on the engineering construction drawings. A table of the schedule of works shall also be shown on the plans detailing the timing/staging of works.
- 103 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that all works triggered by this development within the schedule of works and timings as detailed in the Voluntary Planning Agreement for road works dated 28/11/2012 and as amended, have been completed to the satisfaction of the Roads and Maritime Services and Penrith City Council.

Landscaping

- 104 **Prior to the commencement of works**, a detailed landscape plan and landscape details plan is to be submitted to, and approved by Penrith City Council that reflects the amended architectural drawings approved within this consent, and provides suitable tree and shrub specie selections, plant quantities and pot sizes to achieve the design intention outlined within the approved landscape concept plans.

The design has incorporated rooftop planting to the waste service area between buildings along with planting over the basement parking area. Confirmation of proposed soil depth and volumes and irrigation details are to outlined within the required landscape plans.

A minimum of 25 suitable replacement trees (preferably native trees) capable of and nurtured to grow to approximately 10m in height at maturity shall be planted in suitable locations within the site and are to be detailed on the landscape plans submitted.

All landscape works are to be constructed in accordance with the stamped approved plans and the plans that satisfy this condition.

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.

- 105 The approved landscaping for the site must be constructed by a suitability qualified and experienced landscape professional. This includes the following requirements:-

- All trees approved for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained on the site.

- All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

- 106 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 and experienced 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.

- 107 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.

- 108 **Prior to the issue of a Construction Certificate and during construction**, the planting and tree protection measures and recommendations outlined with Arboricultural Report prepared by Australian Tree Consultants Pty Ltd dated 29 February 2016 are to be implemented.

All trees that are required to be retained as part of the development are also to be protected in accordance with the minimum tree protection standards prescribed in Penrith Development Control Plan 2014.

- 109 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.

The trees to be retained on the site are to be protected in accordance with AS 4970 -2009 Protection of Trees on Development Sites.

Development Contributions

- 110 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$57,888 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

- 111 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$573,515 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

- 112 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$207,320 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

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

Payment of Fees

- 113 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 114 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

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

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the buildings are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

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

- 116 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.

Schedule 1 (Deferred Commencement)

117 Prior to this consent becoming operational, the following drainage design detail is to be submitted to and approved by Penrith Council:-

- A Stormwater Concept Plan shall be submitted for the site's internal drainage system. The applicant's engineer shall also complete Council's 'Checklist for Stormwater Concept Plans (SCP)' as an attachment with the amended stormwater plans. The Stormwater Concept Plan Checklist is located in Appendix A of Council's Stormwater Drainage Specification for Building Developments dated 28 November 2016.
- The SCP shall detail all stormwater drainage that is to be installed within the underground basement parking levels along with all surface drainage details.
- An easement to drain water 2.5m wide currently burdens the site as shown in Deposited Plan 1043008. The bulk earthworks, road and drainage plan prepared by J. Wyndham Prince, Rev. B, dated 28 November 2017 does not show what is proposed for this easement (i.e. removed/relocated). An existing drainage pipe is located within this easement and collects runoff from Ransley Street and the Panthers Car Park area (south of Ransley Street). In this regard, full drainage details, pipe size, calculations and a long section shall be provided on the amended engineering drawings for further assessment.
- Full details of the relocation of Council's 600mm diameter RCP and associated drainage pits shall be provided for further assessment. All drainage works shall be located clear of existing trees. It is recommended that the drainage infrastructure be located under the roadway of Lot 2 DP 827455. The designer shall also consider incorporating the stormwater being collected in the existing 600mm diameter pipe into the proposed twin box culverts.
- The proposed twin 1200x600 RCBC, pits and rain garden shall be located clear of the existing trees to be retained. All trees to be removed and retained shall be clearly shown on the plans. It is recommended that the drainage infrastructure be located under the roadway of Lot 2 DP 827455 and clear of the existing trees.
- A long section of all the proposed drainage lines (i.e. 600mm RCP and twin RCBC) shall be shown on the drainage plans.
- The proposed drainage easement and widths shall be shown on the plans. Widths shall be in accordance with Council's Stormwater Drainage Specification for Building Developments. (i.e. for culverts = D+1.0m either side of the culverts measured from the outer edge).
- The typical headwall details shows a singular pipe connection. In this regard, the typical detail shall be based on the twin culverts. The outlet location shall also be clear of the existing 600mm outlet/headwall at Showground Creek. The position of the outlet structure and rip rap shall extend towards the creek line.
- The 1% AEP post development flood extent shall be accurately shown on the stormwater concept plan. Areas that will be inundated with overland flows / flooding (communal landscaped area) are to be designed to provide safe pedestrian movement during these flooding events. Levels and cross-sections shall be provided for further assessment considering any planter beds, retaining walls or structures.

118 Prior to this consent becoming operational, the drainage design is to be amended to ensure the retention of the existing trees along the eastern side of Retreat Drive. The drainage design including pipe and box culverts is to be relocated further west to ensure that the trees along Retreat Drive are retained. Alternatively an amended drainage design scheme is to be submitted to Penrith City Council (and approved by Council) whereby the majority of trees are indicated for retention with suitable verification of this retention and construction methodology to ensure retention from a suitably qualified arborist and hydraulic engineer.

- 119 **Prior to this consent becoming operational**, amended plans are required to be submitted to and approved by Penrith City Council to address waste management requirements. The plans must demonstrate the provision of on-site waste collection and supporting internal waste infrastructure in accordance with Chapter C5 Waste Management of Penrith DCP 2014 and the 'Residential Flat Building Guideline' document as referenced in Section E of Chapter C5 Waste Management of Penrith DCP 2014.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C2 Vegetation Management

The proposal includes the removal of 42 x trees from the site to accommodate the proposed basement construction for the development. The removal of these trees is considered to be supportable as the condition of the trees has been addressed within a submitted arborist report and the proposal is accompanied by a suitable landscape concept plan that provides for embellished landscaping to all three street frontages and embellished plantings within the centralised common open space areas. This planting will provide for replacement planting to offset the proposed removal, improve the streetscape presentation to Ransley Street, Mulgoa Road and Retreat Drive and comply with the objectives of the DCP through the provision of an integrated landscape design for the overall development. A condition of consent is however recommended requiring a detailed landscape planting plan to be submitted to, and approved by, Penrith City Council prior to commencement of works to verify that suitable specie selections, specie quantities and pot sizes for planting are included following finalisation of the detailed design drawings and construction certificate.

The proposal also includes the redirection of an existing stormwater drainage line which dissects the site at the south western corner. The proposed drainage concept plans indicate that this pipeline is to be redirected, a rain garden constructed north west of the site and relocated pipelines and new box culverts are proposed to be constructed on the western side of retreat drive. This would require the removal of a significant stand of trees which separate the existing car parking area from Retreat Drive and residential development to the east. The removal of this vegetation is not considered to be suitable despite these trees being planting on top of existing drainage infrastructure. As a result a condition of consent is recommended that requires the proposed drainage works to be relocated outside the structural root zone of these trees to retain and protect these trees or alternatively, detailed plans and supporting evidence from a hydraulic engineer and arborist is to be submitted which ensure the retention of a suitable number of the trees to maintain a canopy separation between developments and maintain the tree lined streetscape presentation that currently exists.

C3 Water Management

Water conservation requirements will be provided in accordance with BASIX requirements.

The proposed stormwater drainage design has been assessed by Council's development engineers and will be able to ensure compliance with Council's drainage design requirements subject to satisfaction of the deferred commencement requirements outlined within this report. The overall strategy is an appropriate response to the site however details are required to be clarified prior to the issue of an operational consent.

With respect to flooding, the proposal ensures compliance with Council's development requirements of flood liable land in that a suitable 500mm freeboard is provided to the habitable floor levels and basement ramp access for the development. specific floor level requirements are detailed within recommended conditions of consent to be reflected within the plans associated with any construction certificate issued.

The bioretention systems will be pre-treated via the use of two Gross Pollutant Traps (GPTs). Conditions have been applied to provide the detail on the type of system to be used along with

the size of the bioretention basin and maintenance manual details.

C5 Waste Management

There were a number of different waste management options investigated prior to the proposed option of a collection point at ground level. This preferred option was chosen as it:

- provides an enclosed collection area with a green roof
- provides a heavy rigid vehicle turntable which reduces the required space needed for turning paths

C7 Culture and Heritage

The proposal seeks to demolish a heritage listed dwelling identified in Schedule 5 of Penrith LEP 2010.

A heritage assessment including a comparative analysis supported the demolition proposal. Extensive research was undertaken of Council's records and although the item is listed in Schedule 5 of Penrith LEP 2010, there is no valid reason for its listing.

E13 Riverlink Precinct

The proposed development complies with the majority of controls set out in Penrith DCP 2014, Chapter E13 Riverlink Precinct, Part B - Panthers Penrith Precinct with the exception of the maximum street wall height along Ransley Street.

The DCP depicts in Figure E13.26 a maximum built form of 14m with a boundary setback of 3m setback. In conflict with this requirement however, Figure E13.29 of the same DCP chapter indicates that a 14m street wall can be 'built to boundary' with a 5m setback / articulation beyond the 14m wall height.

The proposed development has adopted a minimum of 3m setback along Ransley Street which exceeds the setback indications of Figure E13.29 (being nil) and ensures compliance with Figure E13.26 (being 3m).

The proposed built form is considered to be supportable as the DCP identified this site as requiring a gateway / landmark building which the resulting built form provides. The defined street edge in combination with streetscape planting provides an identifiable address and presentation for the development which is only four storey's to Ransley Street. The proportions of the building, architectural treatment and complimentary landscape design provide an attractive entry into the precinct and a suitable built form presentation to Mulgoa Road and Ransley Street. The proposed setbacks and street wall height is suitable and supportable.

The proposal also provides compliant residential and visitor car parking noting that the DCP requires 1 parking space per 1 or 2 bedroom unit and 1 parking space for visitors per 5 units. The proposal provides compliant residential and visitor parking (inclusive of accessible parking spaces) with additional car washing and service bays provided within the basement.