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| <b>SWCPP Ref. No.:</b>       | 2017SWT014  |
| <b>DA No.:</b>               | DA17/0995   |
| <b>PROPOSED DEVELOPMENT:</b> | Staged Concept Development Comprising Stage 1 Works Involving the Construction of Commercial Shopping Centre Development, Shop Top Housing and Associated Bulk Earthworks, Road Works, Car Parking, Landscaping, Drainage Works and Advertising Signage; and Stage 2 Concept Development for Future Commercial/Retail Tenancies - Lot 100 DP 1194481, Great Western Highway, KINGSWOOD NSW 2747 |
| <b>APPLICANT:</b>            | Western Sydney University <br/>C/- Higgins Planning   |
| <b>REPORT BY:</b>            | Pukar Pradhan, Senior Environmental Planner, Penrith City Council   |

## Assessment Report

### Executive Summary

Council is in receipt of a development application from Higgins Planning on behalf of Western Sydney University for the construction of a shopping centre complex (Caddens Precinct Town Centre) which is being constructed in two (2) Stages at the corner of O'Connell Street and O'Connell Lane, Kingswood . This Precinct Centre will comprise of a Woolworth supermarket, speciality shops, a fitness centre/gym, a café, commercial tenancies, shop top housing (residential apartment building), a community facility and two levels of parking and associated drainage and landscaping works.

The site is zoned B2 - *Local Centre* under Penrith Local Environmental Plan 2010 (LEP). The proposed developments are permitted in the zone with Consent.

The application was notified to adjoining and nearby properties and was on public exhibition from 3 November 2017 to 4 December 2017 and one submission was received in support of the development.

This development provides over 200 onsite parking spaces and also involves over 2,000 sqm of shop area and in accordance with Column 2 of Schedule 3 of SEPP (Infrastructure) 2007, is traffic generating development required to be referred to NSW Roads and Maritime Authority (RMS) for comments. A response on the original proposal (without shop top housing) was received from the RMS on 5 February 2018, which did not raise objection to the proposal and for Council to consider traffic implications from the proposed development in its' assessment of the application.

An assessment under Sections 2.12 and 2.15 (23G), Section 4.46 (S91) and 4.15 (S79C) of the Environmental Planning and Assessment act 1979 has been undertaken and the following key issues emerged during the course of the assessment:

#### **Amendments to Concept Precinct Centre Plan (CPCP)**

Section E 1 of Penrith Development Control Plan 2014 (DCP) is applicable to this site and Figure E1.34 Concept Precinct Centre Plan (CPCP) outlines a site layout plan for any Local Precinct Centre development on the subject site. The CPCP indicates the closure of O'Connell Street I(North-South) and indicative locations of supermarket, community use, residential buildings and on site parking spaces.

The applicant seeks Council's approval to vary the following:

- to keep O'Connell Street (north-south) open to allow and maintain traffic flow through to Caddens residential estate, and
- reorientate the supermarket, community use building, residential building and onsite parking spaces.

The proposed amendments to the CPCP will still deliver the facilities and services as required by the Plan and is considered to satisfy the intent of the CPCP and as such will result in the development being consistent with intent of the concept Precinct Plan. The request to vary this requirement outlined in Figure E 1.34 of the CPCP is supported by both Council's Engineers and Strategic Planning Officers.

### **Building height variation**

Applicant seeks variation to height of building control applicable under Clause 4.3 of the LEP which limits the building heights to 5m part of the front of the site (equates to 15% of the site) and 15m building height limit (applicable to within 85% of the site).

The height variation sought is for community use building and a small part of the mixed use shop top house buildings. The height variation sought is considered to be reasonable and is deemed acceptable as assessed through submitted Clause 4.6 variation request.

### **Commercial Gross Floor Area variation**

Under Clause 7.12 of the LEP 2010, the maximum gross floor area for retail and commercial buildings is limited to 10,000 square metres on this site. The proposed development provides for 10,127 square metres of commercial floor area on this site which is just over the limit by 1.3% set by the LEP. The applicant seeks a variation under Clause 4.6 of the LEP, to the maximum gross floor area for retail and commercial buildings set by Clause 7.12 of the LEP 2010.

This variation is considered to be minor and is unlikely to have significant impact on the hierarchy of Penrith locate Centres and is deemed acceptable as assessed through submitted Clause 4.6 variation request.

An assessment of the proposed development has been undertaken in accordance with Clause 2.12 and 2.15 (previously 23G), Clause 1.46 (previously Section 91) and Clause 4.15 (previously S79C) of the Environmental Planning and Assessment Act 1979.

The assessment of the application has demonstrated that despite of some variations to development standards, the design of the development results in a good contemporary architecture, provides good pedestrian connections to surrounding areas and presents well to both streets resulting in a good urban design outcome.

The development is expected to make an important commercial offering for the local community and provide a positive benefit in regard to social and economic impacts to the residents of Caddens, Kingswood and Penrith as a whole and is unlikely to have significant adverse environmental impact to the area. The application is therefore recommended for approval, subject to the imposition of standard and special conditions.

There are 7 appendices to this report, as detailed below.

- Appendix 1 – Site & Floor Plans, Elevations, Perspectives & Sections;
- Appendix 2 – Landscape Plan;
- Appendix 3 – Concept Precinct Centre Plan;
- Appendix 4 – Height of Building map under LEP 2010;
- Appendix 5 – Clause 4.6 variation submissions;
- Appendix 6 – Comments from RMS;
- Appendix 7 - SEPP 65 & ADG assessment; and
- Appendix 8 - Recommended Conditions of Consent.

## Background

On 27 September 2016 - A first pre-lodgment meeting was held for the Shopping centre contains a Woolworths, various specialty shops/retail outlets and car parking spaces and landscaping.

On 5 October 2017 - A second Pre-lodgment meeting was held to discuss the proposed development.

On 13 December 2017 and 14 February 2018 - Urban Design Review Panel (UDRP) meetings were held to discuss the application. The applicant was required to amend the design by considering the following:

- *The overall design to be consistent with the DCP Concept Precinct plan and/or demonstrate an improved design outcome;*
- *To include shop top housing and a community facility building as envisaged by the Precinct Plan;*
- *To improve its presentations to all three street frontages and activation of internal road network;*
- *To integrate pedestrian pathway linkage to the University located to the north and west of the site or the Caddens residential developments located to the south and southwest of the site.*

On 24 January 2018 - The application amended the design was presented to and discussed with the Sydney Western City Planning Panel (SWCPP). SWCPP advised that the development was required to be amended to consider and include where possible:

- *To introduce residential uses e.g. a shop top housing within the site to activate the site, in particular after hours; ,*
- *A community use/facility building within the site;*
- *Improve internal building layout and function and to provide an improved pathway linkages to surrounding area.*
- *Consideration be given to the importance of the site and particularly the south western corner of O'Connell Street as a future focal point of the locality given its proximity to a major access point of the university and the adjacent new large residential subdivisions.*
- *To increase the connectivity of the site with the adjacent university entrance.*
- *Improve presentation of the site to both sides of O'Connell Street.*
- *Re-configuring the development to internalise the service area and carpark so that they do not dominate the appearance of the development, and so that active uses present to the surrounding streets.*

On 25 June 2018 - The applicant presented an amended design to the Sydney Western City Planning Panel (SWCPP) to confirm the panel of the amendments undertaken.

The latest plans have generally addressed those matters raised by both UDRP and SWCPP. All assessment is now based on the latest amended plans.

## Site & Surrounds

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The site is located at the corner of two O'Connell Streets (north-south) and (east-west) and forms part of the Western Sydney University land. The site is rectangular in shape and has a dimension of 223.73m along the western boundary and 216m along the southern boundary with a total area of 48,499sqm.

The site generally falls to the front western boundary of O'Connell Street (north-west) and contains a large grove of trees located along part of the frontage of the site, several trees along the central part of the southern boundary and along the rear north-eastern part of the site. The site was used as a drive in cinema some 25 years ago but now has ceased and was being used for staff car parking by the University.

The University is located to the west of the site and TAFE is located about 400m to the north of the site. GWH is located about 1km to the north of the site. Caddens residential development area is located on the south-western side of the site.

Residential development land subdivision in the Caddens area is prevalent and contains a mixture of single and two storey dwellings and several two to three storey appearance in building height within the university compound area .

Land adjoining the north of the site is also partly zoned B2 Local Centre and R3 Medium Density Residential. That site has a concept plan approved for residential development. The adjoining site to the east is zoned R4 High Density Residential. Further residential subdivisions are expected to the south of this site and within the southern part of Orchard Hills.

One Bus Stop is located on the western part of the site along O'Connell Street West and one Bus Stop is located on the southern-eastern side of the site along O'Connell Street south.

## Proposal

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The proposal seeks consent for a concept plan involving Staged construction of a Precinct Centre.

### Stage 1

- A mixed-use development involving total floor area of 12,570 square metres which includes;
  - Woolworths Supermarket - 3,566 square metres;
  - BWS Liquor Store 168 square metres;
  - Retail & non-retail tenancies 6,391 square metres;
  - Community/Use Facility building 597 square metres;
  - Back of house and amenities 392 square metres;
- A mixed use shop-top housing building at the south-west part of the site 1,845 square metres, containing:
  - 19 residential units over levels 1 and 2 with the following mix:
    - 8 x 1-bedroom units – 42%;
    - 6 x 2-bedroom units – 32%;
    - 4 x 3-bedroom units – 21%; and
    - 1 x 4-bedroom units – 5%.
  - Roof top garden - communal open space of 316 square metres,
  - Two commercial premises at ground level,
  - Basement car parking for 31 cars, 1 service bay and a car wash bay for apartments;
  - Plant rooms on the roof area ;
- A tenancy unit at basement level 402 square metres;
- Lower level basement for loading dock and ancillary functions associated with waste collection for the commercial and residential component;.
- At-grade car parking area for 506 car parking spaces including shade covered car parking spaces, with 10 accessible parking spaces and 16 bicycle rails;
- Upgrade to O'Connell Street (north-south) road and the inclusion of a new pedestrian /cycle-way link on the eastern side of Precinct Centre frontage;
- Construction of a new road into the Precinct Centre from O'Connell Street (east-west);
- Creation of Green active street frontage for the Precinct Centre building with road footpath/pedestrian area;
- Proposed intersection treatment with a provision of a new roundabout at the intersection of O'Connell Street (north-south) with O'Connell Street (east-west);
- Upgrade to O'Connell Street (north-south) road and the inclusion of a new pedestrian /cycle-way link on the eastern side of precinct centre frontage to improve the public domain for all users of the urban release area beyond the site boundaries;and
- Proposed entry/exit ramp access from O'Connell Street (east-west) at the southern boundary; and - Associated drainage and landscaping works.

Stage 2 - Balance of landscaping, Possible extension to car park and additional mixed use retail and residential offerings.

## Plans that apply

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- 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

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### • **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 23G of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel for the following reason(s):

- The development has a Capital Investment Value (CIV) of the proposal is \$62.402 million being in excess of \$20 million.

### **Section 4.33 (S89) – Crown Developments**

The Development Application was lodged on behalf of the NSW Western Sydney University and therefore the proposal is defined as a Crown Development. In accordance with Section 4.33 (1)(b) the recommended conditions of consent were provided to the applicant for their agreement. The agreement to the conditions can be found at Appendix 11 and therefore the Panel is able to determine the application including the imposition of the agreed conditions.

### • **Section 4.14 - Bushfire prone land assessment**

The site is located within Council's Bushfire Prone Map and as such consideration has been given to the bush fire requirements for the construction of residential building component of the development. The application was referred to RFS for their comments. They have examined the application and have raised no objection to the development subject to building being constructed to 12.5 BAL and to comply with the Section 4.1.3 of Planning for Bush Fire Protection 2006. Recommended conditions of consent have been included.

### • **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following has been identified for further consideration:

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

## **State Environmental Planning Policy (Infrastructure) 2007**

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007) provides direction for proposed development to be considered by relevant public authorities for those listed in the schedules and any representation required in respect to the proposed development.

This development will provide over 200 onsite parking spaces (537 spaces) and also involves over 2,000 sqm of shop area (over 7000m<sup>2</sup> retail area) in this shopping Centre and in accordance with Column 2 of Schedule 3 of SEPP 2007 indicates that this type of development is required to be referred to the NSW Roads and Maritime Authority (RMS) for comments.

The application and accompanying Transport Impact Assessment was referred to the RMS and Council's Transportation Planners for examination and comments. RMS has examined this application and have provided their response letters dated 29 January 2018 and 10 October 2018 as follows:

- Council should ensure that satisfactory arrangements are in place for provision of road upgrade requirements in the area.
- Any installation of new signals will require consent from RMS under Section 87 (4) of the Roads Act 1993.
- The proposed roundabout at the corner of the site on O'Connell Street should cater for the U- turn manoeuvre of buses on O'Connell Street. The proponent would need to consult with TfNSW in this regard.
- Amended SIDRA report to be provided for consideration.

An assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy (Infrastructure) 2007 and the application is satisfactory. The above matters will form part of the recommendations in the consent conditions.

## **State Environmental Planning Policy No 55—Remediation of Land**

State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) provide aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7 of SEPP 55 requires Council to consider prior to determination of the application, whether contamination may be present on site and if contamination is present, if it would be suitable for the proposed use.

The application was accompanied by a "Contamination Assessment" prepared by Environment Investigation Service dated 15 June 2018. A Phase 2 Environmental Site Assessment has also been carried out in accordance with the requirements of the EPA, SEPP 55 and other relevant guidelines.

This report was examined by Council's Environmental Officer and the following was noted:

- The Geotechnical Investigation Report dated 17 September 2017 identified variable fill material across the site from unknown origins.
- A Stage 2 Environmental Site Investigation (ESA)/Detailed Site Investigation has also been completed.
- The Detailed Site Investigation (DSI) did not identify contamination on the site and concludes that remediation is not required and that the site is suitable for the proposed use.
- The report recommends the submission of an Unexpected Finds Protocol.

In view of the above, it is considered that the site is suitable for the proposed redevelopment and provisions of SEPP 55 have therefore been satisfied subject to recommended conditions of consent.

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

*State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development* (SEPP 65) aims to improve the design quality of residential apartment buildings of three or more storeys and containing four or more self-contained dwellings. SEPP 65 contains ten design quality principles which form the basis for achieving good design and provide a guide for evaluating the merits of development proposals.

SEPP 65 requires any development application for residential flat development to be assessed against the 9 principles contained in SEPP 65 and the matters contained in the Apartment Design Guide (ADG).

*Clause 30 stipulates* that in determining a development application for consent to carry out residential flat development, Council must take into account:

- (a) the advice of the design review panel (if any), and*
- (b) the design quality of the residential flat development when evaluated in accordance with the design quality principles outlining in Part 2 of the SEPP, and*
- (c) the publication Residential Apartment Design Code (a publication of the Department of Planning, September 2002).*

### **Advice of Design Review Panel**

The proposal was referred to the Council's Urban Design Review Panel on 13 December 2017 and 14 February 2018. The UDRP advised the applicant to amend the initial design significantly as the proposed development did not respond to the CPCP or its specific facilities requirements. The applicant was required to ensure that the development was generally consistent with the Concept Precinct Plan and amend the plan to consider and include the following:

- shop top housing;
- a community facility;
- to revise the design and to activate the street by providing retail outlets facing the internal and/or main streets;
- to improve the elevation and presentation to O'Connell Street,
- reconfigure the parking areas; and
- improve pedestrian linkage from the University and Caddens residential area.

The latest amended design/development now provides the following:

- a shop top housing element;
- a community facility building;
- improvement to its presented to all three street frontages and activation of streets;
- integrated pedestrian pathway linkage to the University located to the north and west of the site and the Caddens residential developments located to the south and southwest of the site;
- buildings now provide activation to the streets with retail components at ground levels;
- a good contemporary architectural design that provides a good urban design outcome.

The latest amended plans and elevations are considered to be of good design that is consistent with aims and controls of the Local Precinct Plan and will present well to the area.

The accompanying SEPP 65 regulations require the involvement of a qualified designer throughout the design, approval and construction stages. In this regard, the application has been accompanied by a design verification statement signed from a suitably qualified designer Mr Donal Challoner (Registered No. 9059) stating that the Design Quality Principles contained in the Apartment Design Guide (ADG) have been



addressed and achieved in the documentation for the residential component of the proposed development.

The provisions of Clause 30 of SEPP 65 were amended to the following:

- **30 Standards that cannot be used as grounds to refuse development consent or modification of development consent**

*(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:*

*(a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,*

**Comments:**

A Traffic Report Prepared by Colston Budd Rogers & Kafes Pty Ltd dated 19 July, 2018 was submitted with the application. It concludes that the development requires 506 parking spaces for the retail and commercial premises and 31 parking spaces for the residential component of the development. The car parking calculations show that the development will have a short fall of one (1) parking space only and this is considered be reasonable for this scale of development and hence, the proposal complies with the car parking requirements for this development and is discussed in another part of this report.

*(b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,*

**Comments:**

All developments comply with the minimum apartment sizes as required by the ADG.

*(c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.*

**Comments:**

All ceiling heights of habitable rooms are minimum of 2.70m and compliant with the ceiling height requirements.

*Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.*

*(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:*

*(a) the design quality principles, and*

*(b) the objectives specified in the Apartment Design Guide for the relevant design criteria.*

*(3) To remove doubt:*

*(a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in sub-clause (1), including on the basis of subclause (2), and*

*(b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.*

*Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.*

An assessment has been undertaken of the proposed development in relation to the nine (9) design quality principles and Apartment Design Guidelines of the SEPP. The assessment concludes that the proposed

residential development has been well designed, presents well to both streets, has a good urban design outcome and it is generally consistent with the aims and objectives of SEPP 65 and Apartment Design Guidelines (see Appendix 7).

### **Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River**

This Policy aims to protect the environment of the Hawkesbury-Nepean River, by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to the proposal is the requirement to assess the development in terms of its impact on water quality.

Council's Senior Development Engineer has assessed the concept drainage design and considers that, subject to further details as required by the recommended conditions, the proposal can meet Council's requirements.

In addition, the proposed shops and services within the complex will be appropriately managed and, where necessary, will have oil and grease wastes removed by contractors so as not to allow for disposal into stormwater systems. Other general and recycling wastes will be removed by contractors to avoid litter entering the system. This will ensure that water quality can be maintained and will not adversely impact on aquatic ecosystems.

Council's Water Management Officer has also examined the application and considers that the proposed stormwater treatment measures comply with the requirements of the Water Sensitive Urban Design (WSUD) Policy and has no objections to the proposed application subject to imposition of several recommended conditions.

Subject to conditions requiring the development to provide erosion and sediment control measures prior to the commencement of works and until completion of all works on site, the proposal will be consistent with the Policy, particularly in relation to total catchment management and water quality in the metropolitan area.

### **Local Environmental Plan 2010 (Amendment 4)**

| <b>Provision</b>  | <b>Compliance</b>                |
|---|----------------------------------|
| Clause 2.3 Permissibility                                   | Complies - See discussion        |
| Clause 2.3 Zone objectives                                  | Complies - See discussion        |
| Clause 4.3 Height of buildings                              | Does not comply - See discussion |
| Clause 4.6 Exceptions to development standards              | Does not comply - See discussion |
| Clause 5.9 Preservation of trees or vegetation              | Complies - See discussion        |
| Clause 6.3 Development control plan                         | Complies - See discussion        |
| Clause 7.1 Earthworks                                       | Complies - See discussion        |
| Clause 7.2 Flood planning                                   | Complies - See discussion        |
| Clause 7.4 Sustainable development                          | Complies - See discussion        |
| Clause 7.12 Maximum gross floor area of commercial premises | Does not comply - See discussion |

#### **Clause 2.3 Permissibility**

The site is zoned Zone B2 - Local Centre under Local Environmental Plan 2010. The proposed development included a Woolworths supermarket, BWS liquor store, other specialty shops and shop top housing. It is noted that the terms "*supermarket*" and "*liquor store*" or "*specialty shops*" are not separately and specifically defined under the PLEP, however these uses are considered to be consistent with the definition of "retail premises" which is a subcategory of "commercial premises" which are permitted within the zone.

*Proposed "Shop top housing"* is listed as a permissible land use in the zone subject to Council approval.

The plan submitted also nominates another potential tenancy as a "Community Centre" which is nominated in the Council's master plan for the Local Centre. This is captured by the definition of "Community Facility" which is listed as a permissible land use on this site subject to Council approvals.

### **Clause 2.3 Zone objectives**

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To provide retail facilities for the local community commensurate with the centre's role in the local and regional retail hierarchy.*
- *To ensure that future housing does not detract from the economic and employment functions of a centre.*
- *To ensure that development reflects the desired future character and dwelling densities of the area.*

The proposed design is considered to satisfy the zone objectives as the proposal:

- caters for the range of residential, retail business, some outdoor entertainment and community uses;
- during construction phase and after completion, the development will generate jobs for local and surrounding residents of Penrith area;
- will provide for a shared bicycle pathways to connect to existing bicycle pathway networks outside of the site to encourage walking and cycling to the Centre;
- has considered bus service available along O'Connell street for public to access the Caddens Precinct and it is also stated that WSU will provide access to a mini-bus service for its students and staff at both its Werrington and Kingswood campuses;
- will provide various retail outlets for local residents without significantly having adverse economic impact to other shopping centers in Penrith area consistent with the centre's role in the local and regional retail hierarchy;
- provides for a shop top housing as indicated in the DCP master plan for the Centre that is unlikely to detract from the economic and employment functions of a centre; and
- is considered to reflect the desired future character and dwelling densities of the area.

### **Clause 4.3 Height of buildings**

Clause 4.3 (2) Height of Building (HOB) Map identifies two maximum heights. A small area "C" being a maximum height of 5m for a rectangular portion of the site measuring approximately 52m x 130m (7000m<sup>2</sup>) in dimension located at the frontage of the site along O'Connell Street (north-south) whilst the rest of the site nominated as "O" being limited to 15m (see appendix 6).

The proposed development exceeds the maximum height of the building limit in two areas.

- Front part of the building located in the front part of the supermarket nominated as community facility building being 11.70m located in "C" area which is higher than the 5m height limit located along the frontage of the site; and
- A small portion of the roof top area of the shop top building being 16.70m located within located within "O" area and is also over the building height limit of 15m.

Therefore, the development does not comply with the HOB requirements of the LEP. The applicant has requested a height variation under Clause 4.6 of the LEP. This aspect has been discussed in further detail under Section 4.6 exceptions to development standards.

#### **Clause 4.6 Exceptions to development standards**

Clause 4.6 (2) of the LEP 2010 specifies that consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument.

Clause 4.6 (3) States that:

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

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

Further, Clause 4.6(4) states that:

*Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Secretary has been obtained.*

The applicant has submitted a request to vary the HOB under Clause 4.3 and maximum gross floor area of commercial premises under Clause 7.12 (Appendix 5). These issues will be discussed in turn.

#### **Clause 4.3 Height of Building**

Clause 4.3 (2) Height of Buildings (HOB) specifies that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Building Map. The Height of Building (HOB) Map

identifies two (2) maximum heights on the subject site with the designation of a small area “C” to 5m and the remaining area “O” to 15m (see Appendix 4).

The proposed development exceeds the HOB limit in the two part of two buildings in the development namely, along the front part of the supermarket/community facility building being 11.70m located within nominated “C” area and part of the roof top area of the shop top building being 16.70m located within “O” areas.

The applicant has submitted that compliance with the standard is unreasonable in this circumstance and there are sufficient environmental grounds to justify contravening the development standard as follows:

i) Variation to the maximum Height of Building (HOB) area “C” 5m.

- *The applicant has requested flexibility in applying the 5m HOB limit for this part of the site as the 5m control was originally created to assist with an open detention basin which if flood affected is incompatible with each other and cannot be implemented as part of the project on the site and the open at ground detention basin is no longer required.*
- *An alternative solution has been proposed by applicant’s flood consultants with an interconnected enclosed underground onsite detention system.*
- *The development achieves a better development outcome addressing overland flow flooding, and topography (natural dip of greater than 3.0m) to create an active streetscape presentation to the roads with accessible pathways, while providing a streetscape presentation to O’Connell Street which is consistent and sympathetic with the surrounding streetscape and does not impact on adjoining properties.*
- *The design provides for an improved public domain which has involved setting back the proposal at the O’Connell Street frontage to enable a high quality landscaped setting and good aesthetic of the streetscape.*

ii) Variation to the maximum Height of Building (HOB) area “O” 15m.

- *The applicant has requested flexibility in applying the 15m HOB limit for this part of the building as only the small part of the lift and access area is in excess by 1.20m HOB control.*
- *The proposal minimizes building bulk by designing to include basement parking and loading dock areas and as such the building is compatible with the height, bulk and scale of the existing and desired future character of the locality; and*
- *The proposal will provide a high quality urban form with transitions to its edges and appropriate land use intensity by providing for commercial and retail development as well as residential development within the Precinct.*
- *Strict compliance with the development standard is unnecessary as the development will still achieve the environmental and planning objectives of Clause 4.3.*
- *Strict compliance is unreasonable as no environmental or planning purpose would be served by enforcing the development standard and would not bring about a good planning outcome, as the height of the proposed development is consistent with the objectives of the control and overall the development in average (the building generally has a maximum height of 10.4m) is less than the maximum HOB control for the remainder of the Precinct Centre land of 15m –which is consistent with the character of the B2 zone, provides an improved accessible pathways, a new round about at the intersection of O’Connell Streets, and is expected to provide 640 jobs to the area.*
- *The scale of the desired future surrounding development has been considered carefully and the proposed development is considered to be compatible and will provide a high quality urban form with transitions to its edges and appropriate land use intensity by providing for commercial and retail development as well as residential development within the Precinct.*
- *For these above reasons it is considered that strict application of the HOB control in Clause 4.3 is*

*unreasonable and unnecessary in this circumstance, particularly given that the non-compliance is minor and there are no impacts flowing from the non-compliance and the minor non-compliance with the development standard is far outweighed by the development achieving the aims in Clause 4.3.*

*Council has considered the applicant's request to vary Clause 4.3 maximum HOB as follows:*

Front part of the supermarket building height (community facility)

- The provision of shop top housing and community facility building was a result of ongoing meetings with the applicant to ensure that it provided facilities that were nominated in and was consistent with the Concept Local Precinct Centre.
- The applicable height limit of 5.0m is limited to the frontage of the site for the purpose of on-site detention basins (OSD) which is no longer required for this development as alternative solution is accepted by Council's engineers.
- The intended O'Connell Street road closure is also no longer required and hence redundant. Although, the front building being 11.70m higher than the allowed 5.0m HOB, it has been designed to present well to the O'Connell Street and with the inclusion of additional planting across the frontage of the building, its visual impact is minimised.
- The proposed building has been carefully designed irrespective of the slope of the site, to provide a good architectural façade and good streetscape and maintaining a reasonable bulk and scale of the building.
- The overall building height is less than the maximum allowed building height of 15m or 4 storey outlined by development standard in Section E1.34 of the DCP 2014 applicable for this site.
- It is considered that the overall building design is of a bulk, scale and design of the building has resulted in providing a positive streetscape and good overall design of the development and is appropriate for the site and not dissimilar to similar newly constructed shopping centres in new release areas and is of acceptable design for the area and building height along O'Connell street.

Shop top housing

- The applicant's justification for support of the HOB variation has been considered and the building height is greater than 15m in only a small area of the top floor which is recessed from the main building line to visually reduce its bulk and scale when viewed from both streets.
- The shop top house building provides design features along the facades and use of materials to provide good aesthetics of the development that results in reducing its bulk and scale of the buildings so that the building presents well to the streets.
- The development has been designed to result in good urban design and sound environmental outcome and that the development is unlikely to have adverse environmental impact to the existing amenity of the area.
- The building height variation sought is only in a small part of the building and in the scheme of the overall building, this is considered to be of minor nature and results in an acceptable design outcome of the building.
- The variation to the HOB in this case is considered reasonable and acceptable.

The request to vary the Height of Building limit in Clause 4.3 of the LEP 2010 under the provisions of Clause 4.6 of the PLEP 2010 for shop top housing and community use buildings are considered to be reasonable and there are sufficient planning grounds to justify variation and hence is recommended to be supported.

Clause 7.12 "Maximum Gross floor area of commercial premises"

Clause 7.12 of the PLEP limits the "Maximum Gross floor area of commercial premises" (MGFACP) on this site to 10,000sqm. The development provides for 10,127sqm of Gross floor area of commercial premises and therefore, exceeds the maximum allowed "Maximum Gross floor area of commercial

premises” outlined in Clause 7.12 by 127 sqm.

In accordance with Clause 4.6, the development application was lodged with a written request to vary the maximum allowed gross commercial floor area of 10,000 sqm.

The applicant has submitted that compliance with the standard is unreasonable in this circumstance and there are sufficient environmental grounds to justify contravening the development standard as follows:

- *The objective of this clause is to retain the existing hierarchy of Penrith’s local commercial centres by imposing size limitations on certain commercial premises.*
- *The proposed development can cater for more commercial floor area and still retain the existing hierarchy of Penrith’s local commercial centres. The provision of additional 127 sqm will still achieves the above stated objective, notwithstanding the minor non-compliance with the standard. The breach of the standard does not cause inconsistency with this objective and therefore the intent of clause 7.12 of the PLEP is achieved.*
- *There is a stated objective of the standard in Clause 7.12 and as discussed above, the objective of Clause 7.12 is relevant to the development and can be maintained by the proposed variation.*
- *As the stated previously the objective of the standard can still be maintained, and therefore the purpose will not be defeated or thwarted by the variation requested and strict compliance is unreasonable.*
- *The variation sought at 1.3% will not result in the development standard being abandoned or destroyed, and it was envisaged by Council as detailed in the Penrith Development Control Plan that the site would support more than 10,000 square metres of commercial premises gross floor area, therefore a departure from this standard is reasonable on the merits of the case.*

Council has considered the applicant’s request to vary Clause 7.12 “the maximum allowed Maximum Gross floor area of commercial premises” as follows:

- The variation sought of 127 square metres equates to 1.3% increase in commercial gross floor area which in physical terms is considered to be of minor nature.
- The request was referred to Council’s Strategic Office who has advised that with the future plan of a new rail line and station being planned in the vicinity of the site, it will have effect on the outcomes of the University’s and Council’s strategic planning exercises. The applicant’s own demand analysis report indicates that there is a need for greater commercial floor area (up to 15,000sqm) than proposed.
- The objective of this clause would not be jeopardised by allowing to provide an increased floor area of 127sqm.
- The variation sought is considered to be of minor nature that is unlikely to have significant impact on the hierarchy of Penrith local centres and as such is considered to be reasonable for this development.

In accordance with Clause 4.6(4) of the LEP, the applicant’s objection is well founded and is consistent with the aims of the policy. The objection has adequately addressed the matters prescribed in the SEPP, and has demonstrated that full compliance with the maximum building height requirement would be unreasonable and unnecessary in the circumstances of the case. The environmental planning grounds put forward by the applicant are supported in this instance. Of particular importance is the development’s compliance with the relevant objectives of the zone and the superior urban design outcome achieved for the site.

The proposed variation is therefore supported on the basis of its consistency with the matters for consideration outlined under Clause 4.6.

## **Clause 5.9 Preservation of trees or vegetation**

The proposal will result in the loss of thirty three (33) existing trees located mainly along the frontage and some along the northern and western boundaries. The submitted arborist report was referred to Council's Tree management officer for comments and he has raised no objection to the proposal subject to the applicant providing appropriate tree protection measures during all construction works for those to be retained and all new trees to be planted were carried out in accordance to the recommendations made by the Arborist in the Arborist report.

It is noted that the development has proposed to plant over 100 additional trees along the frontage as well within the all boundary frontages and within the carparking areas to compensate for the loss of trees. The combination of retained mature trees and additional new vegetation/trees, it is considered that in long term, it will be result in an enhancement of the streetscape that will contribute positively to the development site and the amenity of the area.

Appropriate conditions will be recommended to ensure that all tree protection measures and tree planting outlined in the Arborist's Report are carried out prior to commencement of any construction works.

### **Clause 6.3 Development control plan**

Figure E1.34 contained in Chapter E1 Caddens of the Penrith Development Control Plan 2014 shows a Concept Precinct Plan for any Local Shopping Centre development on this site which is applicable to this site. The applicant's urban designers from Roberts Day have prepared a submission to seek a minor change to DCP's Precinct Plan mainly with respect to the closure of O'Connell Street west of subject site and detailed assessment and its compliance is discussed under the heading DCP.

Assessment of the proposal and the intent and design controls of the concept Precinct Plan has been considered and concluded that the variation to the road design outlined in the Precinct Plan is unlikely to have adverse impact to the traffic flow of the area and the development will generally meet the intent of the concept Precinct Plan.

### **Clause 7.1 Earthworks**

The potential impacts from the earth works, road works, drainage and ground levels associated with the proposed development have been examined by Council's Development Engineer who is satisfied that the earthwork will not have detrimental impact to the area subject to recommended conditions.

Appropriate conditions recommended will ensure that all proposed drainage works including soil erosion and sediment control plans are carried out prior to commencement and during all phase of the construction of the development and these will form part of the consent.

### **Clause 7.2 Flood planning**

The applicant has submitted a Stormwater Management Report and Amended Stormwater Quality Report and drawings for Council's consideration. These documents have been referred to Council's Development Engineer for examination and comments. They have examined the submitted documents and are satisfied that the proposed OSD system, the road works and other engineering works proposed can meet Council's requirements. They have concluded that the proposal is not expected have detrimental impact with respect to the drainage and flooding to the area.

No objections raised subject to recommended conditions.

### **Clause 7.4 Sustainable development**



The submitted Civil Engineering Works Plans prepared by Woods and Grieve Engineers Reference Number 32763, Drawing Numbers CI-001-01 to CI-526-02 revision K dated 30 August 2018 has been referred to Council's Waterways Officer for comment. They have advised that the stormwater requirements will be achieved with the use of two proposed rainwater tanks totaling 130KL, 30 x Enviropods and a Stormwater360 Jellyfish JF-2250-6-1 device.

The new proposed system is considered to meet the WSUD strategy and Policy and is supported by them subject to recommended conditions.

**Clause 7.12 Maximum gross floor area of commercial premises**

(1) The objective of this clause is to retain the existing hierarchy of Penrith's local commercial centres by imposing size limitations on certain commercial premises and the Clause limits the commercial premises to a maximum gross floor area of 10,000 square metres for this site.

The development proposes a total commercial floor area of 10,127 square metres which is over the maximum allowed Commercial Gross Floor Area on this site. The applicant has submitted a request under Clause 4.6 with justification outlining that this stringent requirement is unnecessary and unreasonable for this site and is seeking Council's support to vary this requirement.

The variation sought is an additional 127 square meters of commercial floor area which equates to only 1.3%. In the scheme of the whole development, it is considered to be of minor nature and is unlikely to have significant impact on the hierarchy of Penrith Local Centres and as such is considered to be reasonable and acceptable for this development as assessed through submitted Clause 4.6 variation request. Detailed assessment is outlined under heading Clause 4.6.

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

There are no draft Environmental Planning Instruments that apply to the proposal.

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

### **Development Control Plan 2014**

| <b>Provision</b>                       | <b>Compliance</b>  |
|--|--|
| C1 Site Planning and Design Principles | Complies - see Appendix - Development Control Plan Compliance        |
| C2 Vegetation Management               | Complies - see Appendix - Development Control Plan Compliance        |
| C3 Water Management                    | Complies   |
| C4 Land Management                     | Complies   |
| C5 Waste Management                    | Complies   |
| C6 Landscape Design                    | Complies - see Appendix - Development Control Plan Compliance        |
| C7 Culture and Heritage                | N/A  |
| C8 Public Domain                       | Complies   |
| C9 Advertising and Signage             | Does not comply - see Appendix - Development Control Plan Compliance |
| C10 Transport, Access and Parking      | Complies - see Appendix - Development Control Plan Compliance        |
| C11 Subdivision                        | N/A  |
| C12 Noise and Vibration                | Complies - see Appendix - Development Control Plan Compliance        |
| C13 Infrastructure and Services        | Complies - see Appendix - Development Control Plan Compliance        |
| 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      | Complies   |
| E1 Caddens controls                    | Does not comply - see Appendix - Development Control Plan Compliance |

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

There are no planning agreements applying to this application.

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

The application was accompanied by a BASIX Report to demonstrate compliance with the Building Code of Australia (BCA) to indicate compliance with the building regulations.

Council's Senior Building Surveyor has assessed the plans and has raised no objection to this development subject to compliance with the requirements of the BCA and other relevant Australian Standards through recommended conditions.

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

### **Built and Natural Environment**

The site falls from the east to the west by about 3m-4m and the proposal seeks to take advantage of the terrain incorporating undercroft loading area, basement residential parking level and maintaining an appropriate height limit of the residential apartment/shop top housing building.

The proposed development responds well to the context and existing and future residential character as envisaged by the Precinct Plan by providing a mixture of high quality shop top housing, supermarket, speciality shops and a community Facility building in the development. The supermarket building has been designed to about 11m across the western elevation due to the existing contour of the site which has resulted in a higher building height along part of the frontage. The proposed development design of the building fronting north-south O'Connell Street has taken into consideration of the site constraint and with the use of existing and additional vegetation/landscaping, has resulted in a good urban design outcome.

The retail space to the ground and a potential gym/other use at lower ground floors of the development will help to activate the O'Connell Street intersection. The residential building is designed to address the intersection and provides a focal point to the South-Western approach to the site.

The built form of the shop top apartment has been orientated to optimise the number of north-facing apartments, thereby maximising the amount of natural daylight into each unit of the development. The height of the residential building is generally all below the 15m height limit except for the residential lift overrun. The composition of the building form of the residential apartment building with the combination of materials, finishes and articulation on the facades has resulted in creating a high quality design that will contribute positively to the desired future character of the locality.

### **Drainage**

The site contains existing stormwater pit and pipe networks and a channel. Penrith City Council DCP requires detention for new developments and redevelopments. In accordance with council's DCP 2014 Section (C3) the On-site Detention basin is required to ensure "that for all rainwater events up to and including the 1:100 ARI event, new developments and redevelopments do not increase stormwater peak flows in any downstream areas".

The existing drainage network drains to O'Connell street towards the west boundary. The existing scenario consists of uncontrolled upstream catchments being directed towards the existing drainage in O'Connell st via existing drainage on the site and overland flow. Council's College Orth and Werrington Creeks Flood study prepared by Catchment Simulation Solutions (November 2016) indicates that the site is impacted by the 100 Year ARI Flood. According to the flood study peak floodwater depths rise to a maximum of 1m along the west boundary of the site during the 100-year flood and needs to provide on-site detention basin (OSD). OSD as a compensatory flood storage has been provided to ensure no adverse impact is made to the flood levels. Culverts under the loading road access ramp (via O'Connell Street to the west) and flood voids under the building have been provided to ensure that the flood extents are not impacted. The runoff

will then be conveyed underground across the site to the on-site detention basin and then the legal point of discharge using gravity and the geometric falls of the pipe system.

The drainage plan for this development was referred to Council's Development Engineers who has provided the following comments:

- The Precinct Plan indicates that an On site Detention at ground should be provided along the O'Connell Street frontage.
- The development provides for underground OSD basins at three different location out side of the front part O'Connell Street to cater for the flooding events for the development.
- The proposed alternative system and submitted drainage plan to demonstrate/indicate alternative areas and system have found to satisfactorily provide a drainage system that provides an appropriate drainage solution that will have minimal adverse impact to nearby and adjoining properties.
- The proposed drainage system shows that it can satisfactorily achieve a similar drainage outcome as expected in the Precinct Plan and is considered to be consistent with Council's Policy and is satisfactory.
- Flood evacuation plan has been submitted in the event of a major flood event which shows that all patrons on the site can travel to either the northern or southern car park entrances and finally north bound along O'Connell Street and further to GWH.
- The existing drainage pipe along the frontage of O'Connell Street will need to be upgraded or added with another pipe to cater for this development in the flood event.

No objection is raised to the proposal subject to recommended conditions. Their recommended conditions will form part of the conditions of consent.

### **Social Impacts**

The development will provide employment opportunities and a place to interact that will encourage a social gathering place for the local community. The Precinct Plan also requires a multi purpose Community Facility to be built with a nominated area of 436.5sq.m. The development provides a section of the building with an area of just over 500sq.m located along the frontage of north-south O'Connell Street and adjoins the shopping centre supermarket.

The development provides a shared pathway combined with bicycle pathway along the front part of community building leading to the open public area located at the north-western corner of the site and in to the Precinct Centre's other areas. These area are highly visible to the public and provide connections to the shops and other areas of the Precinct Centre.

Local Bus services and Bus Stops are available along both O'Connell Streets. Accessible pathways and Bicycle ways are also available for the residents and students to access the Precinct.

In order to provide good street furniture and lighting to contribute to safety and amenity within this precinct, appropriate conditions have been recommended.

### **Economic Impacts**

An assessment of retail potential study was submitted with the application which carried out by MacroPlan dated September 2017 and states:

- that at 2017, the main trade area population is estimated at 28,400 people, including 16,300 residents within the primary sector and the main trade area population is projected to grow strongly to 37,500 residents at 2031, reflecting average annual growth of 2.1%, with the primary sector projected to contain 25,000 residents at this time.
- Over the longer term, i.e. by 2036, the main trade area population could exceed 50,000 persons,

including 38,000 persons in the primary sector. In addition to the residential market, the proposed Caddens Precinct Centre will serve the surrounding local worker and student markets. There are approximately 2,600 - 2,700 workers and 16,000 - 17,000 students within the WELL Precinct.

- In this context, a significant amount of retail floorspace could be supported at the Caddens Precinct Centre. An amount of 10,000 sq.m could be sustained in the short-term (i.e. prior to 2021), from a market demand perspective and would be equivalent to around 20% traditional retail floorspace demand or around 12% of all retail floorspace demand.
- Over the long term, 15,000 sq.m of retail floorspace would require a market share of around 15% of all retail floorspace demand and about 25% of traditional retail floorspace demand, meaning that more than 85% of demand generated by main trade area residents would be directed to other centres. Indeed, this amount of floorspace is less than the total growth projected over the next 10 - 15 years.
- Additional non-retail space would also be supportable.

In this context, there appears to be scope for the Caddens Precinct Centre to support more retail than is currently permissible under the existing Penrith LEP and WELL Precinct DCP - noting that there will be future demand growth beyond 2031.

- The report concludes that Net Community Benefits to arise from the proposal include the following:
  - o *Improvement in the range of retail facilities;*
  - o *Providing residents with a range of alternative shopping destinations;*
  - o *Reduced travel times;*
  - o *The creation of additional employment;*
  - o *Significant stimulus to local employment within the area.*
  - o *Additional jobs that will be created result from the shopping Centre and will have a direct economic benefit.*

In view of the above it is concluded that, the proposed commercial floor area of 127 m2 in addition to the 10,000m2 allowed by the LEP within the Shopping Centre would generally be able to sustain its economic viability and is unlikely to have economic dis-benefit to the other retail centres. The proposed Caddens Precinct Centre is unlikely to have adverse impacts on the surrounding retail hierarchy given the expected future population growth across the main trade area.

## **Noise Impacts**

The Noise Impact Assessment prepared by Reverb Acoustics dated October 2017 was examined by Council's Environmental Management Officer. The report concludes:

- *The cumulative noise impact from activities associated with operation of the development will generally be compliant with the criteria at all nearby receivers during all assessed time periods.*
- *It is noted however, that a minor 1 dB(A) exceedance may occur during the shoulder periods (6am-7am and 10pm-12am) at nearest residential boundaries.*
- *Given that it is highly unlikely that all activities will occur at the same time (i.e. maximum vehicle traffic, loading dock delivery), compliance is implied.*
- *Therefore, providing noise control modifications detailed in Section 4 are incorporated into the design, compliance is expected.*
- *Considering the relative constant traffic passing the site it is unlikely that activities associated with the development will cause any disturbance to residents.*

The main noise sources considered include garbage collection, delivery truck movements, noise generated from the mechanical plant and equipment used for the development and general site construction noise.

The submitted documents are considered to address the noise impacts from its operation reasonably well and their recommendations to mitigate potential noises have been required to be complied with as a condition of consent.

As there have been no details provided as to the type of air conditioning units being used for the development it is difficult to gauge the noise impact. It is therefore recommended that the applicant provide a detailed assessment of the noise emissions associated with the mechanical plant and equipment for the development **with the Construction Certificate**.

Delivery of trucks will be restricted to between 7am and 9pm only so that the residents are not impacted upon by truck noise after these hours. Noise generated from demolition and construction works will be limited to those approved hours of operation.

These have been incorporated into recommended conditions of consent.

### ***WSUD - Stormwater Management***

Council's Water Management Officer has examined the submitted documents:

- Civil Engineering Works Plans prepared by Woods and Grieve Engineers Reference Number 32763, Drawing Numbers CI-001-01 to CI-526-02 revision K dated 30 August 2018
- Response to Engineering Queries prepared by Woods and Grieve Engineers, reference 32763 dated 27 August 2018.
- Stormwater Quality Report prepared by Wood and Grieve Engineers reference 32763-SYD-C revision G dated 24 August 2018.
- MUSIC model and MUSIC-link report prepared by Wood and Grieve Engineers reference 32763 revision C dated 23 August 2018.
- Operation and Maintenance Manual included in Appendix B of the Stormwater Management Report prepared by Wood and Grieve Engineers

They have advised that, the amended plans indicate the stormwater requirements will be achieved with the use of two rainwater tanks totalling, 30 x Enviropods and a Stormwater360 Jellyfish JF-2250-6-1 device to meet Council's WSUD Policy. It was noted that calculation for the road drainage from New Road has not been included in the water quality treatment modeling, however this can be resolved by way of a recommended condition of consent.

The proposed development is therefore suitable and acceptable, as it complies with all the relevant stormwater management requirements in relation to Council's WSUD design criteria.

### ***Sustainability***

A sustainability Management Plan prepared by Wood & Grieve Engineering dated 17 July 2018 has been submitted with the application to address the sustainable development principles identified within the Penrith City Council Development Control Plan (2014). The report identifies a number of initiatives to be included within the project design in order to optimise the sustainable development outcome. As the development includes shop top housing, a sustainability management plan has addressed the minimum provisions of a BASIX applicable development for the associated residential component. It is concluded that the following outcome has been achieved:

- Water: 40% (Required target: 40%)
- Thermal Comfort: pass (Required target: pass)
- Energy: 35% (Required target: 35%)

The report recommends several initiatives to provide quality landscaping, use of a number of building management initiatives designed to ensure optimal operations of the installed building services, effective

waste management including suitable provisions for effective recycling, use of energy efficient appliances and equipment through out the development and stormwater pollutants and WSUD..

It concludes that the development is intended to achieve a 5 star rating Green Star Rating for the development.

### ***Accessibility***

Accessibility Assessment Report accompanying the Development Application, prepared by McKenzie Group dated 28 August 2017 and supplementary report on the amended design prepared by Nettleton Tribe dated 25 July 2018 , summarises the accessibility pathway and facility matters for the development in terms of the BCA including Part D3 Access for People with Disabilities. The report reviewed the development to ensure that ingress and egress, paths of travel, circulation areas, car parking and toilets comply with the relevant statutory guidelines. The report indicates that the development has demonstrated a reasonable degree of accessibility for the DA stage of the proposal.

The reports state that the development complies with the relevant requirements of the BCA and Access for People with Disabilities. The application and the access reports were presented to Council's Access Committee on the 13 December 2017 and then again the amended plans on 8th August 2018.

The latest amended pan was examined by the Access Committee who were satisfied with the proposed amendments to the accessible pathways and requested that a change room facility and an adult change room could be included in the development.

The development was also reviewed by Council's Building Surveyor and found to be satisfactory. Appropriate conditions have been recommended to comply with the recommendations of the access report and guidelines and for the applicant to provide a certificate of compliance to Council prior to the issue of an Occupation Certificate.

### ***Waste Management***

A Waste Management Plan has been submitted prepared by Waste Audit and Consultancy Services dated July 2018 detailing all waste services and how they are managed as well as construction waste management. Appropriate standard conditions has been recommended to manage the waste generated during construction phase.

The development proposes all waste collection areas including residential wastes to be located within the basement areas: These include the following:

- 1 x 1100 litre for waste and 1 x 1100 litre recyclable waste bins for the residential building at basement level with a loading area for collection.
- Residential waste will be able to use and drop wastes from a common waste chute available from all levels of the residential apartments.
- A loading and bin storage area for supermarkets and other commercial facilities at the basement level accessible from O'Connell Street.

All retail and non retail and residential wastes will be stored at the loading dock area within the bin storage units for collection. Council's Waste Management Officer has examined the application and have found the waste management to be compliant with Council's requirements. They have raised no objection to the proposal subject to recommended conditions.

### ***Signage***

The development proposes two pylon signs to be located at the two corners of the O'Connell Street

frontages. The proposed dimensions of the pylon signage is 12m x 4m with several tenants names to be placed on the signage. Council's DCP limits the signage to maximum 7.0m in all areas for pylon signs.

The proposed signage is considered to be too large and inconsistent with signage that have been approved in similar shopping centers in Penrith area. The location of these signs are such that it will be quite visible from all directions and hence it is recommended that the signage be reduced to 7m x 2m and amended plans to be submitted with the Construction Certificate for consideration and approval.

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

- The Cadden Precinct Centre site has been earmarked and zoned to facilitate this type of commercial, retail, and shop top housing facilities for the benefit of people living in close proximity of the site and for university students. It will serve the needs of the local community and customers from other areas of Kingswood and Penrith.
- The site is constrained with regard to natural terrain, including localised flooding. The development has been tactfully designed to result in a good urban design outcome and use the natural terrain to suit the building locations and on site parking areas.
- The location and scale of the site presents as suitable for the provision of commercial activities and community use.

### **Section 79C(1)(d) Any Submissions**

#### **Community Consultation**

The application was notified to nearby residents and advertised in the local newspaper with an exhibition period from 3 November 2017 to 4 December 2017. Only one submission was received in support of the application.

#### **Referrals**

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



| Referral Body                            | Comments Received                     |
|--|---------------------------------------|
| Building Surveyor                        | No objections - subject to conditions |
| Development Engineer                     | No objections - subject to conditions |
| Landscape Architect                      | No objections - subject to conditions |
| Environmental - Environmental management | No objections - subject to conditions |
| Environmental - Waterways                | No objections - subject to conditions |
| Environmental - Public Health            | 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 - subject to conditions |
| Tree Management Officer                  | No objections - subject to conditions |
| Social Planning                          | No objections                         |

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

The proposed Precinct Centre is a substantial development for the community by providing shopping facilities, shop top housing, provision for a community facility, outdoor public areas and dining facilities for the residents of Caddens, Kingswood and University students. This is likely to provide positive economic benefit to the public through employment and social attraction for the area.

The proposal is therefore in the public interest.

### Section 94 - Developer Contributions Plans

The following Section 7.11 Werrington Enterprise Living and Learning (WELL) Precinct plans apply to the site:

Calculation for a mixed use Precinct Centre - Caddens

#### Precinct Centre Non Residential

| Type of Contribution              | Qty    | Rate         | Amount         |
|-----------------------------------|--------|--------------|----------------|
| CW - Cultural Facilities          |        | \$164.00     | \$0.00         |
| CW - District Open Space          |        | \$1,942.00   | \$0.00         |
| WELL PP Community Facilities Land |        | \$298.00     | \$0.00         |
| WELL PP Community Facilities Work |        | \$412.00     | \$0.00         |
| WELL PP Open Space Admin          |        | \$31.00      | \$0.00         |
| WELL PP Open Space Land           |        | \$8,652.00   | \$0.00         |
| WELL PP Open Space Works          |        | \$3,790.00   | \$0.00         |
| WELL Precinct Centre Plan Admin   | 4.4974 | \$3,555.00   | \$15,988.00    |
| WELL Precinct Centre Roadworks    | 4.4974 | \$228,746.00 | \$1,028,762.00 |

**Commercial/Retail Contributions****\$1,044,750.00****Precinct Centre - Residential**

| <b>Type of Contribution</b>       | <b>Qty</b> | <b>Rate</b>  | <b>Amount</b> |
|-----------------------------------|------------|--------------|---------------|
| CW - Cultural Facilities          | 45.6       | \$164.00     | \$7,478.00    |
| CW - District Open Space          | 38         | \$1,942.00   | \$73,796.00   |
| WELL PP Community Facilities Land | 38         | \$298.00     | \$11,324.00   |
| WELL PP Community Facilities Work | 38         | \$412.00     | \$15,656.00   |
| WELL PP Open Space Admin          | 38         | \$31.00      | \$1,178.00    |
| WELL PP Open Space Land           | 38         | \$8,652.00   | \$328,776.00  |
| WELL PP Open Space Works          | 38         | \$3,790.00   | \$144,020.00  |
| WELL Precinct Centre Plan Admin   | 0          | \$3,555.00   | \$0.00        |
| WELL Precinct Centre Roadworks    | 0          | \$228,746.00 | \$0.00        |

|                                  |                             |  |                     |
|----------------------------------|-----------------------------|--|---------------------|
| <b>Residential Contributions</b> | <b>19 Residential Units</b> |  | <b>\$582,228.00</b> |
|----------------------------------|-----------------------------|--|---------------------|

|   |           |                    |                     |
|---|-----------|--------------------|---------------------|
| <b>Residential Capped Contributions</b> | <b>19</b> | <b>\$30,000.00</b> | <b>\$570,000.00</b> |
|---|-----------|--------------------|---------------------|

|                                       |  |  |                       |
|---------------------------------------|--|--|-----------------------|
| <b>Total Applicable Contributions</b> |  |  | <b>\$1,614,750.00</b> |
|---------------------------------------|--|--|-----------------------|

The Section 7.11 for the residential component has been capped at a rate of \$30,000.00 per unit as per the direction of the Minister of Planning and Council is unable to apply any more amount than this amount for residential developments. Accordingly, the S7.11 amount of contribution has been capped at \$30,000.00 per unit and the total amount for the residential component payable amounts to \$570,000.00 rather than \$582,228.00.

The total amount of S7.11 contribution will be \$1,615,257.00.

**Community Usage/Facility**

As discussed in earlier parts of the report, the CPCP plan shows that a building with an area of over 400m<sup>2</sup> should be provided for a community usages/facility. Section 94 Contribution Plan for the Werrington Enterprise Living and Learning (WELL) Precinct Development Control Plan includes monetary contributions required for the land acquisition and the construction of the building and is applicable for this development site. Section 94 (now S7.11) contribution applicable for this site is included in the table above.

The applicant has provided a building specifically for the community use/facility within the Precinct site as required by the concept Precinct Plan map. Council is however in the process of carrying out a strategic study to determine whether this location is appropriate or not taking into consideration of the WELL precinct as a whole. As the study will not be completed until the end of the year, it is considered appropriate to proceed with the proposed location of a community use building until such time as the finalisation of the study. It considered appropriate for both Council and applicant to make an appropriate legal agreement for the use and operational of the building as a Community Use/facility. A condition has been recommended for this agreement to occur prior to the construction of the buildings on this site.

## Conclusion

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The application has demonstrated that the proposed development is consistent with intent of the Caddens Precinct Centre Plan and satisfies the relevant provisions of the Environmental Planning Instruments including the requirements of the Penrith Local Environmental Plan 2010 and Development Control Plan 2014. The Precinct Centre is intended to form the hub of the WELL Precinct and to service the residential community, the university and TAFE and surrounding area and which includes facilities such as a major supermarket, speciality retail, food retail, health services and community facility and a shop top housing.

The proposed Stage 1 development with various buildings has been designed in contemporary architecture and considered to be of an acceptable bulk, scale and architectural design that provides street activation, good pedestrian pathways/access to and from the site, a place for community gathering and shopping facilities for the use by the public of the area.

The proposal seeks variation to the maximum height of building and commercial floor area requirements under Clause 4.6 of the LEP 2010 and after examining the design of the development, considering that the building height variation of the shop top housing and front portion of supermarket building has resulted in a good design outcome of the precinct, the variation sought to the height of the building and commercial floor area is unlikely to have detrimental visual impact and hence it is recommended that these variations be supported this instance.

The Roads and Maritime Services and Council's Transportation Planner have considered the proposal in detail with respect to the traffic impacts and parking and found to be acceptable subject to recommended conditions being included in the consent conditions..

The proposed shopping centre will contribute positive social and economic benefit for the community by providing wider shopping choice, more employment, a sense of place for interaction, social gathering and reduce the need to travel outside Caddens and Kingswood area for their normal shopping activities. The proposed Shopping Centre is unlikely to have a detrimental economic impact to other shopping centres in Penrith region. The overall design is on balance considered to be of good architecture and is considered to be as envisaged by the Precinct Plan and is acceptable for the area and is worthy of support. The site is suitable for the proposed development and the proposal is in the public interest.

On balance, the application is considered satisfactory and having regard to the matters discussed in this report, the proposal is recommended for approval, subject to the imposition of recommended standard and special conditions.

## Recommendation

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That:

1. That the submitted variation to the Height of Building standard sought under Clause 4.6 and Gross Commercial Floor area under Clause 7.12 of Penrith Local Environmental Plan 2010 be supported.
2. Development Application DA17/0995 for Stage 1 of the Construction of Commercial Buildings (Caddens Precinct Centre off O'Connell Street) and Associated Bulk Earthworks, Road Construction/Upgrades, Car Parking, Landscaping, Civil Works and Signage at Lot 100 DP 1194481, Great Western High Way, Kingswood, be approved subject to the recommended conditions of consent at Appendix 8.
3. Those making submissions are notified of the determination.



## CONDITIONS

### General

- The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, BASIX Certificate No. 943992M and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

| Drawing Title                | Drawing Reference               | Prepared by    | Dated      |
|------------------------------|---------------------------------|----------------|------------|
| Basement Plan                | 10227_DA009-(Issue F)           | Nettletontribe | 29/08/2018 |
| Site/ Ground Floor Plan      | 10227_DA010-(Issue G)           | Nettletontribe | 29/08/2018 |
| Roof Plan                    | 10227_DA011-(Issue D)           | Nettletontribe | 29/08/2018 |
| Apartments Ground Floor Plan | 10227_DA012-(Issue E)           | Nettletontribe | 17/08/2018 |
| Apartments Level 1 Plan      | 10227_DA013-(Issue E)           | Nettletontribe | 17/08/2018 |
| Apartments Level 2 Plan      | 10227_DA014-(Issue D)           | Nettletontribe | 17/08/2018 |
| Apartments Level 3 Plan      | 10227_DA015-(Issue E)           | Nettletontribe | 17/08/2018 |
| Apartments Roof Plan         | 10227_DA016-(Issue C)           | Nettletontribe | 18/07/2018 |
| Elevations                   | 10227_DA020-(Issue C)           | Nettletontribe | 17/08/2018 |
| Coloured Elevation & Signage | 10227_DA021-(Issue C) - Sheet 1 | Nettletontribe | 17/08/2018 |
| Coloured Elevation & Signage | 10227_DA022-(Issue C) - Sheet 2 | Nettletontribe | 17/08/2018 |
| Apartments Elevations        | 10227_DA023-(Issue E)           | Nettletontribe | 17/08/2018 |
| Signage Pylon Elevations     | 10227_DA025-(Issue C)           | Nettletontribe | 17/08/2018 |
| Sections                     | 10227_DA030-(Issue B)           | Nettletontribe | 16/07/2018 |
| Sections                     | 10227_DA031-(Issue C)           | Nettletontribe | 17/08/2018 |
| Adaptable Unit Plans         | 10227_DA080- (Issue C)          | Nettletontribe | 17/08/2018 |
| Urban Design Review          | Caddens Creek Precinct          | Roberts Day    | May 2018   |

|                                    |   |                           |                        |
|------------------------------------|---|---------------------------|------------------------|
| Landscape Architectural Plan 1 & 2 | L_101 (issue H) & L_102 (issue H)   | Elke Landscape Architects | 30/08/2018             |
| Landscape Architectural Vision     | L_200 (issue C) & L_501 (Issue E)   | Elke Landscape Architects | 30/08/2018             |
| Soil and Erosion Control Plan      | 32763-SYD Sheet Numbers CI-070-01C and CI-070-02H & CI-076-01C  | Wood & Grieve Engineers   | 25/8/2018 & 30/08/2018 |
| Civil Engineering Works Plans      | 32763-SYD Sheet Numbers CI-001-01F, CI-007-01D, CI-050-01F, CI-060-01, CI-100-01D, CI-400-01H, CI-400-02H, CI-400-03E, CI-400-04E, CI-401-01E, CI-402-01E, CI-402-02D, CI-403-01F, CI-403-02G, and CI-406-01D | Wood & Grieve Engineers   | 30/08/2018             |
| Stormwater Quality Report          | 32763-SYD-C (Revision E)  | Wood & Grieve Engineers   | 24/08/2018             |
| Stormwater Drainage Plans          | 32763-SYD Sheet Numbers CI-500-01G, CI-520-01K, CI-520-02K, CI-520-03K, CI-520-04K, CI-522-01D, CI-522-02D, CI-526-01F and CI-526-02D   | Wood & Grieve Engineers   | 30/08/2018             |
| Stormwater Management Report       | 32763-SYD-C (Revision H)  | Wood & Grieve Engineers   | 24/08/2018             |
| BASIX Certificate                  | 943992M (Revision 3)  | Nicholas Johnson          | 17/07/2018             |

- 2 **Prior to the issue of a Construction Certificate**, the following design amendments shall be incorporated into the architectural plans:
  - A change room facility (compliant with the requirements of the Building Code of Australia) shall be provided adjacent to or in close proximity to existing utility facilities
  - The proposed pylon signs shall be reduced in size (to a maximum size of 7m height x 2m wide).
- 3 This development consent relates to Stage 1 of the development only. A separate development application shall be submitted to Penrith City Council for any future stages of the development.
- 4 The relevant **Construction Certificates** shall be obtained prior to commencement of any building works.
- 5 **The development shall not be used or occupied until the relevant Occupation Certificate has been issued.**

- 6 The development shall be implemented and constructed in accordance with the requirements of Planning for Bushfire Protection 2006, the NSW Rural Fire Service's document 'Standards for asset protection zones' and advice issued by the NSW Rural Fire Service dated 8 February 2018.
- An Emergency /Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of
  - Emergency/Evacuation plan'.
  - New construction for the Child Care Centre shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.
  - Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
  - Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.
- 7 A signage strategy and signage and wayfinding plan is to be submitted to and approved by Council **prior to the issue of a Construction Certificate**. The Principal Certifying Authority is to be provided with confirmation from Penrith City Council that the submitted plans have been reviewed and are endorsed.
- Note: All signage requiring consent from Council, shall be subject to a separate development application, other than the approved pylon sign or signage listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.
- 8 The approved operating hours for individual components of the development are limited as follows:
- Supermarket - 6am to Midnight Mondays to Sunday
  - Liquor Store - 9am to 10pm Mondays to Saturdays, and 10am to 10pm Sundays.
- All delivery and service vehicles generated by the development are limited to 5am and 12:00am.
- 9 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 10 **Prior to the issue of the relevant Occupation Certificate**, applicant shall comply with all recommendations made in the Access Report prepared by McKenzie Group dated 28 August 2018 and provide a written document or a certificate of compliance indicating that all recommendations have been satisfactorily completed to Council for information and record.
- 11 **Prior to the issue of the relevant Occupation Certificate**, all recommendations made in the Sustainability Management Plan prepared by Wood & Grieve Engineering dated 17 July 2018 shall be implemented in the development and a written document shall be submitted to Council for information.
- 12 **Prior to the issue of the relevant Construction Certificate and/or relevant Occupation Certificate (as relevant)**, the following community safety and crime prevention through environmental design (CPTED) requirements shall be

satisfied:

#### *Lighting*

- 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).
- All lighting should be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.
- All areas intended to be used at night must allow appropriate levels of visibility. This includes central arcade area, pedestrian pathways, communal areas, access ramps, stairwells, lifts and lift lobbies, bin area, any possible places for intruders to hide internal shop fronts and basement car park must be lit to the minimum Australian Standard of AS1158.
- All shop frontages must be well lit (e.g. under awning lighting) to improve visibility of this area at night and to minimise opportunities for graffiti and malicious damage.

#### *Basement Car Parking*

- A security/boom gate system with access control systems must be installed on vehicle entry points to the car park to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- All areas of the car park must be well lit, with consistent lighting to prevent shadowing or glare.
- All surfaces in the car park must be painted in light coloured paint or finished in light coloured concrete to reflect as much light as possible.
- CCTV cameras should be provided for this development and are recommended for the basement car park, particularly on entry/exit points, including lift lobbies and stairwells.

#### *Landscaping*

- Vegetation throughout the development must be regularly pruned to ensure that sight lines are maintained allowing for natural surveillance.

#### *Communal/Public Areas*

- Vegetation in front planter boxes must be kept at a low level so as not to obstruct surveillance of the building entrances.
- Each individual dwelling should be clearly numbered.

#### *Building Security & Access Control*

- Intercom, code or card locks or similar must be installed in all tenancies and areas where public access is restricted.
- Access to the internal mall areas must be restricted after hours.
- Australian Standard 220 – door and window locks must be installed in all tenancies.
- A monitored alarm system must be installed.
- Site supervisors or security guards must be provided.
- CCTV must 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 must 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.
- Entrances to the shops off the central arcade must be clearly identifiable through design treatments and signage. Walls between the shops and the arcade must be glazed/see through.
- The layout of individual shops must support good surveillance of the shop entrances by staff. (i.e. shop counters/reception desks should be located at the front of the store facing the shop entrance).



- Authorised guests should be escorted to apartments by residents or intercom systems could be provided to enable guests to be 'buzzed in'.

#### *Amenities*

- The amenities (male and female toilets and parents room) are not located in a highly visible location with access down a long I-shaped corridor. Mirrors and adequate lighting must be provided in this corridor to allow users to see around corners.

#### *Ownership & Space Management*

- Building management must ensure all areas of the building is well maintained at all times, particularly those areas accessed by the public.
- Practices must be in place to ensure the speedy repair or cleaning of damaged or vandalised property, including the swift removal of graffiti.
- Management should provide information to residents and commercial tenants advertising where to go for help and how to report maintenance or vandalism problems.

#### *Way Finding/Finding Help*

- Signs should be large and legible, and use strong colours, standard symbols and simple graphics. They should indicate where to go for help or assistance.
- Signs should be strategically located at entrances and near activity nodes such as intersections of corridors or paths.
- Location maps and directional signage should be provided for the proposed development to assist with way finding.

#### *Graffiti/Vandalism*

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

13 **Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development**, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details.
- Dimensions (height, length, etc.)
- Position and orientation of boom/jib and counter boom/jib
- Length of time that such a crane or structure will be erected on site.
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counter boom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at all times of the day and night, should be positioned so that when displayed it is visible from all directions.
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible.
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council in consultation with the Nepean Blue Mountains Local Health District. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

## **Heritage/Archaeological relics**

14 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**

15 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.

16 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.

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

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

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

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

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

20 Noise levels from the premises shall not exceed the relevant noise criteria detailed in prepared by Reverb Acoustics dated July 2018 (Report No. 17-2066-R3).

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be **shown on plans accompanying the relevant Construction Certificate application.**

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of the relevant Occupation Certificate.**

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

21 **Prior to issue of Construction Certificate for the fit-out of the proposed gymnasium,** an Acoustic Impact Assessment (AIA) shall be prepared by a qualified person and shall be submitted into council for for consideration and approval.

- 22 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 the appointed PCA.

The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to the appointed Principal Certifying Authority,
- Certify by way of the relevant 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 appointed 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 Contaminated Land Development Control Plan 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."}

- 23 **Prior to the issue of the relevant Construction Certificate or the relevant Occupation Certificate (as relevant)**, the following waste management requirements must be detailed in the architectural plans:
- All residential on-site waste collection infrastructure, doors and access points (including Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Point and Loading bay) are to be locked through Council's Abloy Key System.
  - All residential on-site waste collection infrastructure (including Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) are to be provided with wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing shall be installed to support the use of hose facilities.
  - A linear track system is to be provided under each residential chute inlet in accordance with Council's Waste Management Guidelines.
  - Smooth and impervious surfaces (walls and floors) must be provided to all waste storage areas and rooms.
  - Floor areas must be graded and drained to a floor waste gully connected to the sewer.
  - Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer.
  - Waste storage rooms must be adequately ventilated and proofed against pests.
- 24 **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 and 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.
- 25 Council's residential waste collection service shall commence for the development upon the completion of all approved on-site waste collection infrastructure and once the relevant Occupation Certificate has been issued for the development.
- 26 A bin tug device is required to operate and manoeuvre the 1,100 lt bins. The bin tug device shall be provided and stored within the development. The device specifications, use and operational requirements are required to be submitted to Council **prior to commencement of Council's Waste Service**.

## **BCA Issues**

- 27 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.

- 28 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community.

Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

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

## Health Matters and OSSM installations

- 29 All food businesses are to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the business.
- 30 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*. Details of compliance shall be submitted **prior to the issue of a Construction Certificate**.

- 31 Any cooling towers and warm water systems are to be registered with Penrith City Council by completing the regulated systems registration form.

This form is to be returned to Council **prior to the operation of the system.**

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

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

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

## Utility Services

- 32 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at [www.sydneywater.com.au](http://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 the relevant Occupation Certificate.

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

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

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

## Construction

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

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

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

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

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

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



36 Prior to the commencement of construction works:

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

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

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

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

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

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

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

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

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

The above Protocol is to be complied with at all times during the excavation and construction phase of the development.

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

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

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

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

39 **Prior to the issue of the relevant Construction Certificate**, details of any plant and equipment or unsightly structures required to be installed on the external facades or rooftop shall be shown on the architectural plans and submitted to Council for approval. In this regard, the plant, equipment and/or structures must be screened from view in materials/ finishes complimentary to the developments design. No approval is granted for the installation of ducting, conduit, plant or services infrastructure on the external facades of the building, unless it is indicated on the stamped approved plans.

## Engineering

40 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.

41 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 commencement of the works on site or prior to the issue of the relevant Construction Certificate**, whichever occurs first. 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.

42 **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 provision of the road, drainage works and associated civil works in O'Connell Street, including but not limited to:

- A 1.5m wide concrete footpath shall be provided for full length of street frontages of development site.
- A roundabout is to be constructed (as proposed in the application) at the intersection of O'Connell Street (north/south) & O'Connell Street (east/west) and driveway access to the Western Sydney University site.. Amended plans for the proposed roundabout are to be submitted, for approval by Council's Traffic Engineers, which include a pedestrian refuge on each of the four legs of the roundabouts.
- Bus shelters and boarding points are to be provided to existing Bus Stops fronting the site on O'Connell Street in accordance with Council's requirements. The existing Bus Stop on the western side of O'Connell Street (fronting the site) shall be relocated to a suitable area closer to the proposed roundabout, with a concrete pedestrian footpath link to be provided to the Bus Stop.

All road works within the road reserve of O'Connell Street (East/West) shall integrate with the road works approved by Penrith City Council under Roads Act approval number CCX18/0025 for the upgrade of O'Connell Street.

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: 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. All works associated with the Roads Act approval must be completed **prior to the issue of the relevant Occupation Certificate**.

- 43 A Construction Certificate is to be approved by the Certifying Authority for the provision of a new road and associated drainage works.

**Prior to the issue of the relevant Construction Certificate**, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plans prepared by Wood & Grieve Engineers, project number 32763, revision K, dated 30/08/2018, and that all works have been designed 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.

The engineering works may include but are not limited to the following:

- Public and private roads
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The relevant Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note: Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 44 **Prior to the issue of the relevant Construction Certificate**, the Certifying Authority shall ensure that the proposed road has been designed generally in accordance with Wood and Grieve Drawings in condition 1, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

| Road Reserve Width | Carriageway Width                           | Verge Width               | Footpath (1.5m wide) Min. | ESA               |
|--------------------|---|---------------------------|---------------------------|-------------------|
| 22.6m              | 12m (including two 2.5m wide parking lanes) | 4.8m north and 5.8m south | 1.5m north and 2.5m south | 2×10 <sup>6</sup> |

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer **must accompany the application for the relevant Construction Certificate**.

- 45 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 relevant Construction Certificate or Roads Act application.

**Prior to the issue of the relevant 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.

- 46 The stormwater management system shall be provided generally in accordance with the Stormwater Quality Report prepared by Wood and Grieve Engineers reference 32763-SYD-C revision G dated 24 August 2018, the MUSIC modelling and associated concept plan/s lodged for development approval, prepared by Wood and Grieve Engineers Reference Number 32763, revision K, dated 30 August 2018.

**Prior to the issue of the relevant Construction Certificate**, the stormwater plans shall be amended to ensure the crest of access ramp for apartments carpark entry shall be the greater of 300mm above the top of kerb level.

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 the relevant Construction Certificate.

**Prior to the issue of the relevant 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.

- 47 **Prior to the issue of the relevant 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 AS3500.3 or as amended by Plumbing and Drainage – Stormwater Drainage.
- 48 **Prior to the issue of the relevant 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, AS2890.2 and AS2890.6.
- 49 **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 in O'Connell Street.

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.

50 **Prior to the issue of the relevant Construction Certificate**, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the 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. The development shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms 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 the relevant Construction Certificate and then updated and submitted prior to the issue of the relevant Occupation Certificate** confirming no damage has occurred.

51 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved and relevant 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.

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

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

Note: A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council. 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 the relevant Construction Certificate**.

53 **Prior to the issue of the relevant Occupation Certificate**, street lighting is to be provided along the proposed internal private road and O'Connell Street for the full length of the frontages of development site to Penrith City Council's standards.

54 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

55 **Upon completion of all works in the road reserve**, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

56 **Prior to the issue of the relevant Occupation Certificate**, 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.

- 57 **Prior to the issue of the relevant Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 58 **Prior to the issue of the relevant 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, Water Sensitive Urban Design Technical Guidelines and Stormwater Drainage for Building Developments.

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 relevant Occupation Certificate** where Council is not the Principal Certifying Authority.

- 59 **Prior to the issue of the relevant Occupation Certificate**, the Principal Certifying Authority shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design):
- 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 be undertaken have been satisfactorily completed.

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

- 60 **Prior to the issue of any Occupation Certificate**, a 6m×6m splay corner at the existing and proposed intersections along O'Connell Street is to be dedicated as public road to Penrith City Council on a plan of subdivision registered with Land and Property Information (LPI). The dedication of public road and subsequent registration shall be at no cost to Penrith City Council.
- 61 **Prior to the issue of the relevant Occupation Certificate**, all regulatory/advisory linemarking and signage shall be installed, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee prior to installation.

Notes: Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information on this process. Allow eight (8) weeks for approval by the Local Traffic Committee. Applicable fees are indicated in Council's adopted Fees and Charges

- 62 **Prior to the issue of the relevant Occupation Certificate**, directional signage which is clearly visible from the public road shall be placed within the development site. The signage shall indicate vehicular access throughout the site and appropriately signposted 'Entry/Exit Only'.
- 63 Prior to the issue of the relevant Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

- 64 **Prior to the issue of the relevant Occupation Certificate**, a Maintenance Bond is to be lodged with Penrith City Council for road works and drainage works within O'Connell Street and proposed new road.

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 Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 65 **Prior to the issue of the relevant Occupation Certificate**, the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall 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 Exceedence 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, private or public lands.
- g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
- h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
  - Compaction reports for road pavement construction
  - Compaction reports for bulk earthworks and lot regarding.
  - Soil classification for all residential lots
  - Statement of Compliance
- i) Structural Engineer's construction certification of all structures
- j) A slope junction plan for interallotment drainage lines indicating distances to boundaries and depths.



- 66 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

- 67 **Prior to the issue of a Construction Certificate**, amended plans for the proposed roundabout at the intersection of O'Connell Street (North/South), O'Connell Street (East/West) and the Western Sydney University are to be submitted for approval by Council's Traffic Engineers and Local Traffic Committee, wherein the plans include a pedestrian refuge incorporated into the splitter islands on each of the four legs of the roundabouts, as well as pram ramps and footpath connections to adjacent footpaths.

Note: Local Traffic Committee approvals will take a minimum of 8 weeks from the time plans are received by Council, to allow time for reporting, timing of monthly meeting cycles, subsequent reporting to Council's Ordinary Meeting and the issuing of action sheets facilitating formal approval.

- 68 All vehicles are to enter/exit the site in a forward direction.
- 69 All car spaces are to be sealed/linemarked and dedicated for the parking of vehicles only and not to be used for storage of materials/waste material/products/etc.
- 70 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 71 The proposed service vehicle access driveway to the loading dock area shall be designed to accommodate all service vehicle swept paths for the largest service/delivery vehicle required to enter the site.
- 72 **Prior to the issue of an Occupation Certificate**, bus shelters and boarding points are to be provided at the existing bus stop fronting the site on O'Connell Street (North/South) in accordance with Council's requirements. The existing bus stop on the western side of O'Connell Street (fronting the site) shall be relocated to a suitable area closer to the proposed roundabout, with a concrete pedestrian footpath link provided.
- 73 Detailed cross-section plans for the proposed Stormwater360 Jellyfish treatment device must be submitted **prior to issue of the relevant Construction Certificate**, including all site specific levels.

## Landscaping

74 All landscape works are to be constructed in accordance with the stamped approved plans (as amended by Condition 82 of this consent) and Penrith Development Control Plan 2014.

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 dies or was removed.

75 The approved landscaping for the site must be constructed by a landscape professional or a qualified consultant/profession as suitable to construct landscape works.

76 Upon completion of the landscape works associated with the development and **prior to the issue of an the relevant Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a Landscape Consultants/professional as suitable to design landscape works.

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

77 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

78 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.

79 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

80 As outlined in Part 6 to Part 8 of the Arboricultural Assessment Report and revised Landscape Plans prepared by Elke Landscape Architect dated 21 September 2017, all nominated and required trees required to be retained and duly protected during the construction of the development and shall be fully be implemented **prior to the commencement of the construction works.**

Tree protection measures shall:

- be installed before any works can commence on site including the clearing of site vegetation, and
- comply with the standards prescribed by the Tree Management Plan, and
- be certified by the author of the Tree Management Plan (TMP) before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved TMP. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifying Authority a minimum 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement".

**All landscape works shall be completed prior to the issue of the relevant Occupation Certificate.**

81 **Prior to the release of the Construction Certificate**, the following landscape and other details outlined below shall be submitted to Penrith City Council for consideration and approval:

- In order to minimise the visual impact and improve the landscaping area along the western frontage of the site, the applicant shall provide additional low growth screen planting located along the deck area frontage across the front elevation to O'Connell Street. Details of species and their location shall be prepared by a Landscape architect or an Arborist and provided to Council for consideration and approval **with the construction Certificate.**
- Details of pathway leading from the north-west corner of deck cut out and other outdoor areas, addressing how water and air would be supplied to the roots of these plants and how litter collections beneath the deck would be carried out with the documentation to Council for consideration and approvals with the Construction certificate. Details shall be prepared by a Landscape architect or an Arborist.
- Details of the hand rails along the deck areas.
- Details of the pathway leading from the north-east corner of the site to the deck and how it is connected to the decking area.
- Details of shade provision, including structures and trees and tree canopies suitable for Activity Hub area located at the north-west corner of the site.
- The proposed shading structure within the car park area shall be readjusted and amended as shown in red on the approved plan to ensure better landscaping outcome.

*Planting:*

- Species of street trees are to be identified on plans, minimum 100L pot size for street trees. Street trees shall be located so their canopies do not negatively impact street lighting.
- All plants, including provenance stock, are to be procured through a reputable nursery within 14 days of contract being awarded to secure their supply in the size approved. Provide evidence of this occurring. All trees are to be grown to NATSPEC standards.
- Use of *Grevillea robusta* is not supported. Alternative species shall be provided in their place.
- Planting details are to be provided for the different types of tree plantings in the carpark e.g. use of

structural soil or similar is required in narrow and small planting areas.

- Provision of shade (tree plantings to the north) to pedestrian routes through the carpark.
- To ensure all plant species are suitable for local soils and Western Sydney climatic conditions (heat and low precipitation).
- Provide mulch beds around clusters of existing trees in lieu of mown grass to encourage succession planting, optimal growing conditions and tree health. Indicate extent of mulch on landscape plans.

*Western setback:*

- Details of handrails, materials, slip resistance, anti-skate, levels etc for elevated boardwalk including details relevant to bicycle use and accessibility.
- To remove bulge/ extension at north west end of elevated boardwalk.
- Addition tree plantings are to be provided in the vicinity of the elevated boardwalk to both contribute to the streetscape of O'Connell St and reduce visual impact of the boardwalk. These must be located to ensure lopping or pruning will not be undertaken by Endeavour Energy.
- All proposed trees along O'Connell St (north-south) are to be provenance stock and species consistent with those existing in the same area. Plant schedule shall indicate when species is provenance. Trees shall be an even mixture of 45L and 75L pot sizes.
- No filling or cut is permitted within the rootzones of existing trees to be retained, unless at the express approval of the site arborist.

*General:*

- Extent of irrigation are to be indicated on plans.
- Provide landscape cross sections with spot levels through areas of change of level, providing details of retaining materials, stability, footings, gradients of landscaping, screening of walls, safe maintenance access etc.
- Fencing is not permitted on the boundary and they are to be set back a minimum of 1.5m from boundary with landscaping outside the fence to reduce the visual impact of the fence.
- Provide spot levels on all landscape plans in key locations to illustrate changes in level.
- Throughout all seating areas, including picnic settings, at least a total of 40% of seats should be accessible and inclusive i.e. provide backs, armrests and design adjacent and in-line spaces for people in wheelchairs.
- Apart from pedestrian crossings, ensure public domain elements and planting provide a safe path of travel for pedestrians crossing High Street.
- Any further potential precedent images must be relevant to the scale of the design element represented, with notes explaining the relevance to the design

82 **Prior to the issue of the relevant Construction Certificate,** a Landscape Plan of Management is to be provided detailing how all plants will be maintained and managed for the life of the development in order to ensure that all plants are planted and maintained to be capable of and nurtured to grow to their natural mature height and natural form.

83 All trees approved by Council for removal shall be removed in a manner so as to prevent damage to those trees that are to be retained

- 84 All trees on public property shall be adequately protected against damage during construction. No trees on public property shall be removed, pruned or damaged during construction and this includes the erection of any fences, hoardings or other temporary works without approval from Council.

The placement of construction materials beneath the canopy of street trees is prohibited.

## Development Contributions

- 85 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan(s) for **Werrington Education Living and Learning Precinct, Cultural Facilities and District Open Space**. **Based on the current rates detailed in the accompanying schedule attached to this Notice**, 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 7.11 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 and District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

The use of the multi-purpose community facility space as nominated on the approved plans shall be made available to Council (or as otherwise advised by council) subject to future agreement/negotiation with the developer or landowner.

## Payment of Fees

- 86 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 87 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

- 88 **Prior to the issue of the relevant Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the relevant 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 Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- 89 **Prior to the issue of the relevant Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved relevant Construction Certificate plans and specifications, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

90 **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.

91 The relevant Occupation Certificate are to be obtained from the Principal Certifying Authority on completion of all relevant works.

The relevant Certificate shall not be issued if any of the relevant conditions of this consent, are outstanding.

A copy of the relevant Occupation Certificate and all necessary documentation supporting the issue of the relevant Certificates are to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### *C1 Site Planning and Design Principles*

The Caddens Precinct Centre is located within the Werrington Enterprise Living and Learning (WELL) Precinct. The Precinct Centre is intended to form the hub of the WELL Precinct and to service the residential community of Caddens Residential Estate and Kingswood area, the university and TAFE.

Figure E1.34 of Chapter E1 of the Penrith Development Control Plan 2014 is applicable to this development which provides schematic guideline and controls as to how a development requires to be designed on the site. The initial proposed development design has been examined by Council's UDRP and the Sydney Western City Planning Panel (SWCPP) and did not meet the expectation of the Concept Precinct Plan and Guidelines and was required to be amended to provide an improved pedestrian pathway linking to adjoining developments, provide activation to street and incorporate shop top housing, a community facility and improve parking function and internal building positioning layout.

The latest amended development design was submitted to address the above matters and was designed in a contemporary architecture that reflected other similar local Shopping Centre complexes and included a shop top housing, a community Facility room and amended the floor plan of the development that has activated the street and improved building layout internally. The amended design presented to SWCPP on 27 July 2018 and was considered to be of an acceptable design that is suitable for the site and surround.

The development proposal is now considered to respond positively to the context and Neighbourhood character by providing a good building design of a shop top housing. The location of gym and retail space to the ground and lower ground floors of the development will help to activate the O'Connell Street intersection. The residential building is designed to address the O'Connell Street intersection and provides a focal point to the South-Western approach and to the site.

The proposed design of the Precinct Centre is considered to be of good design responding to the nature of the constrain and contributes to its context. The development is now considered to meet the intent of the Precinct Plan.

#### *C2 Vegetation Management*

The site contains grove of trees located along the frontage of the site and to the north eastern corner of the site. The development proposes to plant many new trees along the perimeter of the site and within the frontage to enhance the frontage and streetscape of the development. The report shows that the development has tried to maximize the retention of existing trees but will result in removal of about 30% of the existing trees and retain and protect the remainder tress onsite.. The arborist's report prepared by Elke Landscape Architect dated 21 September 2017 has been referred to Council's Tree Preservation Officer for comments who has provided the following comments:

- The remnant trees are in varying states of health and condition.
- Some of the trees to be retained are in questionable health and condition.
- A detailed assessment of all trees to be retained with details / specifications for pruning works is required.
- A tree to be retained with decking placed around it would require a protection measures to

- ensure its safety during construction.
- Attempts to be made to retain Oleander trees located on the southern and northern boundaries as these are mature specimens and have high (local) amenity value.
- All tree protection measures / recommendations in the arborist report must be adopted.

The landscape plan proposes to plant many additional trees along the frontage of the site as well within the boundaries and carparking areas. Although there will be loss of several existing trees as a result of this development, the proposal also proposes to plant many additional trees along the frontage of the site as well within the boundaries and carparking areas to compensate for the loss of trees. With the combination of retained mature trees and planting of new vegetation/trees, it is considered that in long term it will be result in an enhance streetscape once the trees are matured and eventually contribute positively to the amenity of the area.

The landscape plan has been examined by Council's Landscape architect as well who has in principal raised no objections to the concept plan but has required some details of planting and on going treatments to be provided as condition of consent.

Appropriate conditions have been recommended for the applicant to take appropriate tree protection measures as outlined in arborist's recommendations and in the landscape plan, provision of Landscape maintenance plan for long term safety of vegetation on site and some adjustment to shading structure within the car park area..

### *C 3 Water Management*

The site is subject to flooding and the applicant is required to ensure and reduce the impacts of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. A flood report and drainage plans were submitted with the application which has been examined by Council's Engineers. They have advised that the proposed drainage system along with appropriate OSD system located in three locations, the development is unlikely to have adverse impact to the adjoining property and provide adequate drainage system to cater for the proposed development.

The application has been referred to Council's Waterways Environmental Officer for comments. They have examined the application and their submitted latest information. The proposed use of two rainwater tanks totaling 130KL, 30 x Enviropods and a Stormwater360 Jellyfish JF-2250-6-1 device will be achieved with the stormwater requirements and now comply with the Council WSUD Strategy and Policy. As such they have raised no objection to the proposal subject to their conditions.

### *C4 Land Management*

The proposed development will involve extensive earth works and will involve excavation and retention wall constructions. The application has provided details of excavation works and details of soil erosion and sediment control measures which has been examined by Council's development Engineer. They have recommended appropriate conditions to ensure that there is no or minimal soil and sediment erosion and to manage the land during all construction phase of the development. Their recommendations will form part of the conditions of consent.

### *C5 Waste Management*

The development requires to provide a waste management system that is responsive to the development's needs and that is able to be integrated with Council's standard waste management service and should ensure new developments are able to access Council's waste service in an efficient and effective manner. The initial waste collection were not appropriate and



information provided has been examined by Council's Waste Management Officer and advised that the proposed system currently does not satisfy Council's requirements with respect to residential waste collection system. It was suggested that the waste storage areas are better located within the basement area and integrated within the loading bay area.

The new plans submitted has now been designed to address this and now provides adequate areas within the basement area and can be easily accessed by Council's garbage trucks. The proposed waste storage and is considered to be satisfactory.

#### *C6 Landscape Design*

The landscape plan submitted with the development has been referred to Council's landscape architect for comments. She has examined the plan and have advised that the proposal does not maximise retention of existing remnant vegetation as a feature of the site. It is noted that, the proposed landscaping proposes to add many suitable tree species within the site in place of those lost due to its layout planning of the development. The landscaping is expected to achieve a high quality landscaped treatment for the site which is considered to be acceptable and would contribute positively to enhance the development in the long term once the trees are matured.

#### *C9 Advertising and Signage*

The proposal involves the erection of a pylon signage to be located at the south-eastern corner of the site. The proposed unified pylon signage is dimensioned 4.0m x 12.0m. This signage is considered to be very large and inconsistent with the maximum allowed signage height of 7.0m allowed by the DCP. A condition will be recommended to reduce the scale of the signage to a maximum of 8m in height and 2m in breadth so that it is generally consistent with other pylon signage we see in Penrith business areas.

#### *C10 Car Parking*

The development provides adequate on site parking spaces. This development required to provide the following number of car parking spaces:

| <b>Description</b>   | <b>DCP requirements</b>  | <b>provision</b>           | <b>comments</b>  |
|--|--|----------------------------|--|
| Supermarket net useable Floor area = 2700m <sup>2</sup><br><br>Liquor shop (168m <sup>2</sup> )<br><br>(GFA 3,566m <sup>2</sup> including amenities) | 1@10sqm = 270 spaces for NLA<br><br>1@30m <sup>2</sup> =5.6spaces        | 270 space<br><br>6.0spaces | Complies<br><br>Complies   |
| Non- Supermarket Retail Tenancies Area (6,391m <sup>2</sup> )  | 1@30sqm=213.03 spaces  | 212 spaces                 | complies   |
| Community use/ facility (597sqm) actual usable space 70% = 417m <sup>2</sup>   | Taking 1 per 30 m <sup>2</sup> same as for tenancies = 19.5 or 20 spaces | 20 spaces                  | Community facility would generally operate outside of other operation hours. |
|  |  |                            |  |

|  |                       |            |  |
|--|-----------------------|------------|--|
| Total parking requirements not considering residential component | 509 spaces            | 506 spaces | Short by 3 spaces but compliant considering community use functions in normally after shop hours' time |
| Residential 19 units   |                       |            | Complies   |
| 1 bedroom x 8  | 1@1 bed = 8spaces     | 8 spaces   | Excess of 2 spaces   |
| 2 bedroom x 6  | 1 @ 2 bed = 6 spaces  | 6 spaces   |  |
| 3 bedroom x 4  | 2@ 3bed = 8 spaces    | 8 spaces   |  |
| 4 bedroom x 1  | 2@ 4 units = 2 spaces | 2 spaces   |  |
| Visitors   | 1@5 units = 4 spaces  | 4 spaces   |  |
| 1 car wash bay   | 1 space               | 31 spaces  |  |
| Total Residential  | 29 spaces             |            |  |
| Total Parking required   | 538 spaces            | 537 spaces | Shortfall of 1 space   |

The development requires to provide a total of 538 on-site parking spaces according to the DCP. The proposed development provides for 537 space including residential and this is a short fall of 1 parking spaces. As the customers are likely to visit one out and follow on to the others and will have an overlap in parking demands. In the scheme of the whole development this equates to about 0.05% shortfall. This is considered to be minimal shortfall considering same customers will be using different facilities available in the development site, This short fall is considered to be reasonable and unlikely to cause parking issue for the development and is supported for this instance.

It is noted from past experience that the community use facility are generally hired for functions in the evenings and mostly outside the hours of operation of the retail facilities. As there are 537 spaces available on site, it is considered that there should not be adverse parking issue for the whole development and variation to car parking is considered reasonable for this instance and recommended for support.

#### *C12 Noise and Vibration*

The likely noise impacts are:

- from construction machines during construction phase of the development;
- trucks movements from construction and loading bay;
- potential noise from plant equipment on the roof area; and
- activities and equipment associated with operation of the Centre will impact on the acoustic amenity of future occupants on proposed apartments in the south west corner of the site.

Noise Impact Assessment (NIA) prepared by Reverb Acoustics dated July 2018 has been submitted with the application. The submitted report provides the following recommendations:

- to use of specific building materials in the construction of residential building (Shop top Housing) to minimise any potential noise from the Commercial usage;
- provision of acoustic barriers around plant equipment located on the roofs;
- use of specific window glazing;
- limiting the time for deliveries of goods; and
- limiting the hours of construction works to day light.

The report concludes that,

- considering the relatively constant traffic on nearby roads and increasing activity in the nearby area,
- noise generated by the site will be audible at times but not intrusive at any nearby residence;
- the operation of the new development will not have any long term adverse impact upon the acoustical amenity of nearby residents subject to compliance with the recommendations outlined in Section 4.1 of the Acoustic Report.

The report has been examined by Council's Environmental Management Officer who has provided the following comments:

- The Revised NIA concludes that "the cumulative noise impact from activities associated with operation of the development will generally be compliant with the criteria at all nearby receivers at all assessed time periods.
- A minor 1dB(A) exceedance may occur during the shoulder periods (6am-7am and 10pm-12am) at nearest residential boundaries.
- Given that it is highly unlikely that all activities will occur at the same time compliance is implied providing noise control modifications detailed in Section 4 are incorporated into the design, compliance is expected".
- The revised NIA identifies that the use of a trolley tractor will result in an exceedance of noise criteria and therefore recommends that a trolley tractor not be permitted to be used after 10pm unless this activity can be shown to produce insignificant noise.
- Based on the information provided, it appears that the use of a trolley tractor will exceed the project specific noise criteria at all times of the day. The Trolley Tractor will be conditioned to only be operated between 7am-7pm.
- Acoustic impacts from the gymnasium has not been addressed in an amended Acoustic Impact Assessment.
- It is recommended that prior to issue of Construction Certificate an Acoustic Impact Assessment to provide recommendations to mitigate the noise impacts associated with the use of the gym needs to be submitted to council for approval.
- No objection to the proposal subject to imposition of recommended conditions.

In view of the above, it is considered that the proposed development will not have significant adverse noise impact to surrounding area with the recommendations of NIA and recommendation from Environmental Management Officer be implemented by the applicant. These conditions form part of the consent conditions.

#### *C13 Infrastructure and Services*

The site is located in an area where all services are available to be connected. Appropriate standard condition will be recommended for the applicant to obtain appropriate required documents and approvals from relevant authorities to service the development.

## **D2 Residential Development**

The proposal is for a mixed development with commercial/retail outlets located at the ground level and residential apartments located on the above upper floor levels with 1 levels of basement parking spaces. The bulk, scale and design has been found to be of good quality that presents well to the street and within its site and considered to be acceptable in that area.

Section D2.5 Residential Flat Buildings is applicable for the residential component of the development. The design of building is generally in accordance with the development standard required by this section D 2.5 of the DCP as:

- it has been designed to provide high amenity and good contemporary design suitable for the area;
- it provides for a residential density and mix of housing types expected by the precinct;
- it provides adequate amount of and good quality of landscaping throughout the development site to provide a good street scape;
- it meets the minimum lot size of 800m<sup>2</sup> and 20m lot width required by the DCP;
- it provides adequate ventilation and solar access in accordance with SEPP 65 which prevails over this DCP; and it provides adequate balcony areas and roof top garden;
- The residential building provides for sufficient setback of 30m from the corner of O'Connell Street and 18m to the western boundary to the community use building; and
- it provides sufficient on-site parking spaces for all apartments in the shop top housing.

Detailed further assessment is outlined in another part of the report specific to Section E1 Caddens - 1.6 The Precinct Centre which is applicable to this site.

## E1 Caddens

Clause E1.6 The Concept Precinct Centre (CPC) is applicable for this site. Figure E1.34 outlines how the Local Precinct Centre (see appendix 3) should be planned out and what facilities are to be included in any development. The main objectives of the CPC are as follow:

- To ensure that urban design and landscaping encourages pedestrian amenity and community activity.*
- To provide an attractive, accessible and lively community focal and gathering point for Caddens and the wider Werrington Enterprise, Living and Learning Precinct and its residents, employees and students.*
- To provide active uses at street level which facilitate safety and passive surveillance.*
- To provide a mix of retail, residential and commercial land uses.*
- To create a retail centre based on traditional 'main street' shopping.*
- To encourage housing forms which provide opportunities for home-based employment and businesses.*
- To provide a rectilinear road pattern that connects the Precinct Centre to the UWS campus and surrounding residential conservation and employment areas.*
- To provide opportunities for the location of UWS and TAFE-related facilities such as student services, libraries, meeting rooms, etc.*

### Comments:

The proposal involves some amendments to the design layout shown in figure E1.34 of the DCP 2014 of the Concept Precinct Centre Plan. The proposed amendments are generally outlined below:

- Amendment to the road network and maintaining vehicle movements along O'Connell Street.

- The front detention basin area with an area of approximately 7,000sqm shown to be used for detention basins and as a “village green” to be modified to include part of the supermarket building and community use building and community activity similar to the village green active space.
- The location of the supermarket building and community use/facility buildings have been shifted towards the central frontage part of the site.
- Provision of mixed use residential medium density housing along the eastern boundary to be provided in Stage two of the development.

The following comments are provided as to how the proposal meets the intent and objectives of the CPCP.

a) The current CPCP shows OSD basin system to be located within the front setback to cater for at ground basins integrated with landscaping. The proposed alternative OSD basins proposed underground located in three different locations outside of the frontage of the site has been examined by Council's Development Engineers and considered to be of acceptable design that would cater for the development in accordance with Council's Policy and supported.

The CPCP shows the closure of the north-south O'Connell Street and to direct the vehicles through the Prentice site. The proposal also seeks to maintain the north-south O'Connell Street as existing. This has also been examined by Council's Traffic Engineer who is supportive of this amended road pattern as this will not have detrimental traffic impact to the precinct intent.

The proposed plan provides a concept street-based urban design with a "Village Green" (as applicant calls it) landscaped area with existing and new vegetation that includes pedestrian/cycle pathway along the main O'Connell Street frontage leading to outdoor activities features, learning areas to the Precinct Centre. A community Use/Facility part of the building is proposed to be located along the frontage of the supermarket building fronting to O'Connell Street (north-south) to that provides passive surveillance and encourage pedestrian amenity and community activity within the proposed Precinct Centre. This is considered to be consistent with the intent of the CPCP.

b) The front "Village Green" area will be the central focus area of the Precinct Centre (located the two intersection streets) which will provide village look and will connect into a broader open space network with pedestrian and cycle paths to walk and cycle to and from the Centre. The proposal also provides a large open areas located at the west-north corner of the site where outdoor activities with play and rest area as well as outdoor eating place to encourage people within the immediate catchment area including the TAFE and WSU students to use when attending the Centre. This is consistent with the objectives of CPCP.

c) The amended plans now provide for ground floor retail outlets to increase active frontages to activate the streets in the development. Appropriate lighting will be included as part of lighting features to enhance the safety and passive surveillance of the complex. It is noted that as part of proposed stage two, the medium density housing that will provide opportunity for a ground floor home-based business to further increase passive surveillance as well as activating the street.

d) The proposed development provides a mixed-use centre integrating retail, residential and commercial land uses in Stage One. The Plan outlines that a minimum of 134 dwelling needs to be provided within the CPC (including those to be provided on the adjoining northern property). This proposal is for Stage 1 of the development of Precinct and Stage 1 will cater for 19 dwellings however, it is indicated and anticipated that in the Stage Two will provide some more

additional residential / mixed-use to be located at the eastern part of the site towards meeting the required yield for the Precinct. It is noted that a concept plan was endorsed by WSCPP for a several residential townhouse type of development on the adjoining northern property which along with this development site, will provide additional residential dwelling within the CPCP as required on the development of this site, it will need to meet the yield requirements of the PCC.

e) The proposed development concept creates a form of main street shopping experience along the side streets and sleeving into internal road with pop up stalls and also includes other uses such as food and beverage outdoor area as an anchor to activate the development site as envisaged by the DCP Precinct Plan. It will also positively contribute to the local economy.

f) The Stage 1 proposal does not provide home based employment but provides residences to live in place close to work within the Shopping complex, however, it does incorporate ground floor commercial shops that activates street and provides service. As mentioned earlier, the applicant is envisaging to provide a similar shop top housing and other type of medium density mixed use residential form of developments as an opportunity for home-based employment and businesses (live / work) as part of the stage two residential precinct.

g) Council has made a decision to keep O'Connell Street west of the site to be open to maintain and improve traffic and vehicular movements and connectivity of the area. The proposed road plan for the development will maintain the existing vehicular movements along the main O'Connell Road and provide a rectilinear road pattern from that road to internal road for customer and staff access. Council's Traffic Engineers have agreed with this and advised that it will not have significant adverse impact to the local traffic and will provide connectivity to adjoining areas. The proposed plan will meet the intent and will be generally consistent with Council's DCP.

h) The CPCP requires a community Use facility with a minimum area of 436.5m<sup>2</sup>) to be provided in the Precinct for the use by public and to cater for WELL precinct and S7.11 Contribution Plan was prepared to cater for its fruition. The proposed development now incorporates a multi-purpose community use/ facility building (having an area of 597m<sup>2</sup>) as required by the Precinct Plan. This will provide opportunities for education activities, as well as other community uses. In addition, the provision of an outdoor public area for the use in conjunction with the outdoor food facilities and activities will also provide additional educational opportunities. Council is in the process of carrying out a study to determine the best location and design of a Community Facility within the WELL precinct and this will take further several months to be finalized. In the meantime, Council's forward planners and Social planners have both agreed to maintain the building within this development in the proposed location until such time the study is finalized. The development includes two unspecified buildings that can be utilized for education purpose in the future and its usage will be subject to future development application. Concept Precinct Plan - controls

The Concept Precinct Plan shown at Figure E1.34 provides an example of how the Precinct Centre might be developed to satisfy controls in this section.

The proposed Precinct Plan (Plan) has been amended to some extent and results in generally to be consistent with the intent of the Concept Precinct Plan. Relevant control non-compliance matters with the concept plan are discussed below.

- The proposed road closure of O'Connell Street fronting to the west of the site has been requested to be removed and to maintain through traffic as existing to allow for normal traffic as existing and also to avoid through traffic within the Precinct development and limit

it to customers and staff only. As discussed earlier, this has been examined by Council's Traffic Engineers and supported the opening of this road as it will not have adverse impact on the local traffic movements by maintaining traffic flow and still achieves the intent of the Plan.

- One of the requirements of the Precinct Plan is to provide street activation and provide active uses where possible in the development. The latest amended design provides street activation and also within the internal areas within the development.
- The development has provided and used most of the street frontage on the west to provide landscaped area and shop top housing to the west and southern corner which provides for a key focal points to promote community identity.
- The development has incorporated some of the buildings generally to be built to the street edge and provide a continuous street frontage. The applicant will be required to provide a continuous non-glazed awning along the buildings located along street edge.
- The total maximum gross floor area for retail and commercial development in the Precinct Centre is 12,500m<sup>2</sup>. The development provides 10,127m<sup>2</sup> of commercial gross floor area which well within the maximum allowed floor area.
- The development does not provide any one shop (retail premises) that is to be greater than 4,000m<sup>2</sup>.
- The maximum allowed height of any development in the Precinct Centre is limited to 4 storeys. This development is compliant with this requirement. The in consistence with the building height requirements under Clause 4.3 of the LEP is discussed earlier under Section 4.3 & 4.6 heading.
- The Plan states that where appropriate the design of medium density housing is to incorporate opportunities for home based employment. The applicant has stated that this will be proposed in the Stage 2 of the development. The applicant will be advised to provide these in the future development application for Stage 2.
- The location of the supermarket has been slightly shifted to western part of the site but this is not considered to be detrimental for the development and will still provide the required facility and is considered to meet the intent of the Plan.

In view of the above, it is considered that the proposed amendments to the Precinct Plan is generally consistent with the existing current concept Precinct Plan outlined in Figure E1.34 and generally meets the intended controls of the DCP 2014. The variation sought is considered reasonable and recommended to be supported.