

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA18/0340
Proposed development:	Staged Concept Proposal for Community Facility, Conference Centre, Exhibition Centre, Hotel, Retail Premises & Serviced Apartments and Stage 1 Detailed Proposal for Community Facility, Conference Centre & Associated Car Parking, Public Domain, Stormwater Drainage & Site Works
Property address:	83 Mulgoa Road, PENRITH NSW 2750
Property description:	Lot 2 DP 1216321
Date received:	6 April 2018
Assessing officer	Kathryn Saunders
Zoning:	SP3 Tourist - LEP 2010
Class of building:	Class 9b , Class 7a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a Concept proposal and Stage 1 development at 83 Mulgoa Road, Penrith also known as Panthers Rugby League Club. The Lot is legally described as Lot 2 in DP 1216321 with the subject development site identified as being a 18,463sqm portion of the site with frontage to the western side of Mulgoa Road, Penrith.

The Concept proposal includes a hotel and serviced apartments building with building envelopes of up to 6 storeys, basement and surface car parking for 673 cars and a function centre with retail and exhibition spaces and includes landscaping, open space provision and civil and public domain upgrades.

The Stage 1 development includes the construction of a two storey function centre known as the Western Sydney Community and Conference Centre (WSCCC) basement and surface car parking for 428 cars, open space provision, landscaping and civil, public domain and services upgrades.

Permissibility and Land Use

The uses of 'hotel' and 'serviced apartments' proposed as part of the concept proposal are defined as 'tourist and visitor accommodation', and are permissible within the SP3 Tourist zone under Penrith Local Environmental Plan 2010 (PLEP).

Stage 1 of the proposal which includes the construction of basement car parking and the Western Sydney Conference Community Centre (WSCCC), is defined as 'function centre' and 'retail premises' under PLEP. Function centre is a permissible form of development within the SP3 Tourist zone under PLEP. Retail premises are permissible on the subject lot under Clause 22 of Schedule 1 Additional permitted uses of PLEP.

Key Issues

Key issues identified for the proposed development and site include:

- Traffic generation;
- Execution and an existing Voluntary Planning Agreement (VPA); and
- Deep soil provision.

This application is to be determined by the Sydney Western City Planning Panel as the development has a Capital Investment Value (CIV) of over \$30 million.

An assessment under Section 4.15 (formerly Section 79C) of the *Environmental Planning and Assessment Act 1979* has been undertaken, and the application is recommended for approval, subject to recommended conditions of consent.

The application has been advertised, notified to adjoining properties and land owners and has been exhibited between 20 April and 4 May 2018, in accordance with relevant legislation. One submission was received from an adjacent resident who raised matters related to flooding and the height of the water table.

Compliance Summary

The development proposal complies with the development standards of PLEP including the maximum applicable height of 24m and the applicable floor space ratio of 1:1.

Matters related to future road widening and road works can be adequately managed and are secured via the applicant's existing offer to enter into a planning agreement. The development application is assessed to be reflective of the amended Panthers Precinct masterplan and conditions of consent are recommended to require the execution of the VPA, prior to the issue of a Construction Certificate for the Stage 1 development.

The development proposal is largely compliant with the applicable controls of the Penrith Development Control Plan 2014 (DCP). Minor variances to Section E13 Riverlink Precinct are detailed within this report and are assessed to be acceptable, having regard to the overall Panthers Precinct masterplan and the overarching objectives and preferred planning outcomes of the applicable controls.

Matters for which the consent authority must be satisfied

Penrith Local Environmental Plan 2010 (PLEP)

Clause 7.7 Servicing of PLEP states that the consent authority must be satisfied that the development can be connected to a reticulated water supply and that sewer services are provided that can aptly service the development.

A review of Council's mapped data confirms that a reticulated water supply is available to the site. Further, the development application was referred to Sydney Water who have confirmed in correspondence dated 19 June 2018 (Sydney Water Reference 172330) that the existing trunk system has capacity to service this development and has provided its standard conditions, including the requirement for the proponent to apply for a Section 73 Certificate. It is a recommendation of this report that these standard conditions be included as conditions of consent.

Clause 9.3 Density of retail premises states that development consent must not be granted for development for the purposes of retail premises unless the consent authority is satisfied that the total gross floor area (GFA) will not exceed 12,500sqm's for retail premises, and any part of the development used for retail premises will be integrated with other development on the land, and the development will result in a maximum of 1sqm of GFA used for retail premises for every 10sqm's of GFA used for any other purpose.

A review of the development application confirms that the total GFA proposed for the retail component is 140.88sqm's and the total GFA proposed for the WSCC is 4203sqm's which complies with the requirements of the clause. The retail premises is integrated with the proposed WSCC.

Relevant History

Voluntary Planning Agreement (VPA)

A VPA known as Planning Agreement - Road Works 2012, was entered into between Penrith City Council, Panthers Rugby League Club and Roads and Maritime Services (RMS) on 28 November 2012. The VPA sets out the following:

- (i) the carrying out and the delivery of the Road Works in accordance with the VPA and any applicable Works Authorisation Deed; and
- (ii) the dedication of the Road Works Land in accordance with the agreement.

The Panthers Precinct master plan (diagram of land uses agreed for the site), adopted as part of the VPA, includes a variety of uses and building envelopes across the precinct with trigger points for works largely based on volumes of Gross Floor Area (GFA) achieved, confirmed by the issue of a Construction Certificate for each stage or building.

The Panthers Precinct master plan has since been amended, including the location and mix of uses and building envelopes across the precinct. The amended master plan requires the VPA to be amended to allow trigger points for road works to be realigned with the new uses and gross floor areas proposed. The amended VPA has not been signed by all parties as final traffic modelling is being undertaken. The traffic modelling will assist in confirming the allocation of trigger points for road works within the amended VPA.

Although the amended VPA has not been executed, the development proposal can be supported as sufficient conditions of consent are recommended to ensure compliance with the VPA (as amended) and a letter of offer to enter into a planning agreement related to the amendments and the subject DA has been provided from Panthers Rugby League Club.

The indicative uses and building envelopes included as part of the Concept proposal and the proposed Stage 1 development (which includes the construction of the WSCCC, landscaping and basement carpark), is consistent with the amended masterplan for the Panthers Precinct.

Further to the above, submitted plans and supportive documentation confirms that the development proposal is clear of the area of land identified by RMS to be set aside for the purposes of future road widening. The applicant has provided correspondence from RMS dated 25 October 2017 (RMS Reference SF2014/150686) which confirms that the area indicated for road widening, aligns with their requirements.

The development application was also referred to RMS who have not objected to the proposal, however have stated that *"ideally the concept masterplan DA should not be approved until such time that the planning agreement is executed"*, yet also acknowledge that *"this is ultimately a matter for Penrith Council as the relevant consent authority"*.

Council has also advised RMS of its recommendation with regard to this assessment report.

Voluntary Planning Agreement Summary

Matters related to future road widening of Mulgoa Road and upgrades to roads and intersections in the locality, as detailed within the VPA (as will be amended), can be adequately secured via the applicants offer to enter into a planning agreement, and by the recommended conditions.

Recommended conditions include that the VPA is to be executed prior to the issue of a Construction Certificate for the Western Sydney Community and Conference Centre (Stage 1).

Future development applications lodged with Council for development at the site will provide adequate opportunity to ensure development occurs as per the adopted Panthers Precinct masterplan, Section E13 Riverlink Precinct of the DCP and that road works and civil upgrades are undertaken in accordance with the trigger points within the executed VPA.

Site & Surrounds

The subject site is located within the lot legally described as Lot 2 in DP 1216321 also known as 83 Mulgoa Road, Penrith. The Lot is 6.409ha in area and is located on the western side of Mulgoa Road near the intersection with Ransley Street. The portion of the lot to which the application relates (the site), is an area of 18,463sqm's bound by Mulgoa Road to the east, Ransley Street to the north, and Panthers Place to the south and west, and is currently occupied by surface car parking for visitors to the Penrith Panthers Club. The owner of the Lot is Penrith Rugby League Club Ltd.

The site is relatively flat with landscape mounding toward the eastern boundary along the frontage to Mulgoa Road. The site is located close to the intersection of Mulgoa Road and Jamison Road to the south. Penrith Park and Panthers Stadium are located opposite the site to the east, and restaurants such as McDonalds, Krispy Kreme and Silver Spur Steak Ranch are located to the immediate south of the site. The site has a frontage of 218 metres to the western side of Mulgoa Road.

The site is approximately 750 metres south west of the Penrith CBD and is 1.2kms south-west of Penrith Railway Station. The M4 Motorway is located 2kms toward the south and the Nepean River is located approximately 1.2kms to the west.

The 6.409Ha Panthers Precinct includes a mixture of uses related to the Panthers Club and includes the Panthers Club, Aqua Golf, iFly Indoor Sky Diving, a multi-deck carpark and various food premises. Three residential flat buildings have been approved at 65, 69 and 73a Mulgoa Road (also part of the Panthers Precinct) with building heights between 4-7 storeys also known as 'Esq. 1818'.

Proposal

The proposed development involves:

- A concept proposal comprising a serviced apartments building, a hotel, exhibition and retail space, basement parking for 524 vehicles, landscaping, civil and public domain works with building envelopes up to 6 storeys;
- Stage 1 development comprising construction of a two storey function centre known as the Western Sydney Community and Conference Centre (WSCCC), basement car parking for 398 vehicles and central landscaped ground floor open space, temporary surface car parking for 130 vehicles and associated internal road works, public domain works, stormwater drainage and infrastructure services works.
- Removal of existing structures, trees and surface car parking at the site.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

The development application is identified as regionally significant development under Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the development proposal which includes a Concept Proposal and Stage 1 development, has a Capital Investment Value (CIV) of greater than \$30 million. In this respect, and in accordance with the legislation, the application will be determined by the Sydney Western City Planning Panel.

- **Section 79C - Evaluation**

The development proposal 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 issues have been identified for further consideration:

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

State Environmental Planning Policy (Infrastructure) 2007

An assessment of the development application has been undertaken against the applicable provisions within the State Environmental Planning Policy (Infrastructure) 2007 [ISEPP] as detailed below:

Clause 101 Development with frontage to a classified road

Objectives of the clause include:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The clause also states that the consent authority must not grant consent to a development on land that has frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

With regard to the above, access to the development is provided by Ransley Street and Panthers Place which are not classified roads. The safety, efficiency and on-going operation of the classified road (Mulgoa Road) will not be adversely affected by the development as detailed under clause 101(2)(b)(i) through (iii) and (c) for the following reasons:

- (a) The Stage 1 development is not identified within the proposed amended planning agreement, as being of sufficient floor area, to trigger road works required to be undertaken prior to the completion of development within the Panthers Precinct masterplan. As the amended planning agreement has not been executed a condition of consent is recommended to require that the planning agreement be executed prior to the issue of a construction certificate for the Western Sydney Community and Conference Centre (proposed as part of Stage 1) and that prior to occupation certificate any requirements of the planning proposal are to be undertaken.*

This provides assurance, that should traffic modelling currently being finalised in support of the masterplan and amended VPA, indicate that the development proposal triggers road works, necessary road works will be undertaken prior to the issue of an Occupation Certificate or as otherwise required by the VPA.

(b) Should the executed VPA confirm that no road works are required to be undertaken as part of the proposed Stage 1 development, it is confirmed that road works including the widening of Mulgoa Road, upgrades to local intersections and the provision of a slip lane into the site will be undertaken as part of the development of the Panthers Precinct as a whole, and are included within the VPA as part of the identified extent of works.

(c) It is noted that the timing of upgrades to Mulgoa Road and local intersections may not align with the issuing of the Occupation Certificate for the WSCCC. To ensure that event related traffic and access is appropriately managed and to ensure that the efficiency of Mulgoa Road is maintained, a condition of consent is recommended to require the submission of a Event Management Plan to Council for approval, prior to the issue of an Occupation Certificate. Council's review of the submitted Event Management Plan is expected to assess appropriateness of detail regarding traffic marshalling (if required), varied approaches to traffic and pedestrian management based on the level of event intensity and the like.

(d) The proposed development will not negatively impact the classified road with regard to emissions, dust or smoke. Standard conditions of consent are recommended related to dust and sediment control during construction.

(e) The Stage 1 development is not of a type that is sensitive to traffic noise or vehicle emissions. Later stages of the concept proposal which include a hotel and a serviced apartments building, can be assessed against the provisions of this Policy once a development application has been lodged with Council.

Clause 104 Traffic-generating development

Clause 104 of the Policy applies to the proposed development as it is identified as being traffic generating development with Column 1 of the Table to Schedule 3, in that it involves a new premises with parking for 200 or more motor vehicles. The existing at grade carpark on the subject site accommodates parking for 680 vehicles. The concept proposal is for a total of 673 parking spaces across the site, with Stage 1 delivering 428 of these spaces. Whilst it is noted that there is no substantial net increase in parking spaces proposed at the site, the proposal does introduce a new use at the location.

With regard to the above, Panthers has constructed a multi-deck carpark within the Precinct to accommodate displaced parking spaces and provide a consolidated parking structure, associated with the overall intensification of development of the site.

In accordance with the requirements of the clause, the development application was referred to Roads and Maritime Services and their response has been taken into consideration as part of this assessment. As detailed elsewhere in this report, RMS has advised that:

"ideally the concept masterplan DA should not be approved until such time that the planning agreement is executed", yet also acknowledge that "this is ultimately a matter for Penrith Council as the relevant consent authority".

As detailed above, a condition of consent is recommended requiring the VPA to be executed prior to the issue of the Construction Certificate for Stage 1 and hence, the VPA will be executed prior to the construction of various future stages of the Concept proposal.

In addition to taking into consideration the comments provided by RMS, Clause 104 of the ISEPP also requires the consent authority to take into consideration:

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

As detailed above, traffic, access and parking are able to be adequately accommodated and managed at the site, now and into the future, subject to the recommended conditions of consent which include the requirement that a Events Management Plan be submitted to Council and that the VPA be executed prior

to the issue of a Construction Certificate for Stage 1 (the WSCCC).

State Environmental Planning Policy (State and Regional Development) 2011

The development application is identified as regionally significant development under Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, as the development proposal which includes a Concept Proposal and Stage 1 development, has a Capital Investment Value (CIV) of greater than \$30 million. In this respect, and in accordance with the legislation, the application will be determined by the Sydney Western City Planning Panel.

State Environmental Planning Policy No 55—Remediation of Land

The development application was submitted with a Stage 1 Contamination Assessment prepared by Ground Technologies, dated 5 April 2018. The report states that the site was previously used for grazing land or was vacant prior to be development as a car park and that neighbouring uses are not considered to pose a contamination risk to the site.

The Assessment also includes a review of previous contamination reports undertaken at the subject site, a desktop analysis and site walk-over. The Assessment concludes that the site is suitable for commercial use and a detailed Stage 2 Contamination Assessment or Remediation Action Plan are not required.

In this regard, the development application has been reviewed against the matters for consideration under Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land and is considered to be acceptable for the uses proposed, subject to standard conditions of consent related to unexpected finds and importation and disposal of fill.

State Environmental Planning Policy No 64—Advertising and Signage

No signage is included as part of this development application. It is noted that the submitted photomontage include a large sign with individual letters and lighting spelling 'WSCCC' along the Mulgoa Road frontage, close to the building footprint.

Standard conditions of consent are recommended to ensure that the proposed signage requiring consent from Council, be applied for under a future development application. A condition is also recommended to be included requiring the applicant to submit a signage and way-finding plan and signage strategy for Council's approval, prior to the issue of a Construction Certificate, to ensure that signage is consistent across the site and adequate in its extent.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the development proposal against the relevant criteria with Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) and the proposal is considered to be satisfactory.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.5 Additional permitted uses for particular land	Complies
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	Complies
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies - See discussion
Part 9 Penrith Panthers site	Complies
Clause 9.1 Objectives of Part	Complies
Clause 9.2 Application of Part	Complies
Clause 9.3 Density of retail premises (including outlet premises)	Complies - See discussion
Clause 9.4 Minimum lot size for outlet centers for community title schemes or strata plan	N/A
Clause 9.5 Campus style office development	N/A
Clause 9.6 Development control plan for land to which this Part applies	Complies - See discussion

Clause 7.2 Flood planning

The subject Lot is identified on Council's Flood Planning Map (Sheet FLD_006). However, the area of the subject development proposal is not identified as being effected. Notwithstanding the above, the development application was referred to Council's Development Engineering Units. No objections have been raised with regard to flood affectation and standard conditions of consent are recommended.

Clause 7.7 Servicing

Clause 7.7 Servicing of PLEP requires that the consent authority must be satisfied that the development can be connected to a reticulated water supply and that sewer services are provided that can aptly service the development.

A review of Council's mapped data confirms that a reticulated water supply is available to the site. Further, the development application was referred to Sydney Water who have confirmed in correspondence dated 19 June 2018 (Sydney Water Reference 172330), that the existing trunk system has capacity to service the development and has provided its standard conditions, including the requirement for the proponent to apply for a Section 73 Certificate. It is a recommendation of this report that these standard conditions be included as conditions of consent.

Clause 9.3 Density of retail premises (including outlet premises)

Clause 9.3 Density of retail premises, stipulates that development consent must not be granted for development for the purposes of retail premises unless the consent authority is satisfied that the total gross floor area (GFA) will not exceed 12,500sqm's for retail premises, and any part of the development used for retail premises will be integrated with other development on the land, and the development will result in a maximum of 1sqm of GFA used for retail premises for every 10sqm's of GFA used for any other purpose.

A review of the development application documentation confirms that the total GFA proposed for the retail component is 140.88sqm's and the total GFA proposed for the WSCCC is 4203sqm's which complies with the requirements of the clause ($4203/10=420.3$). The retail premises is adequately integrated into the proposed development of the site (Stage 1) for the WSCCC.

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

Clause 9.6 Development control plan for land to which this part applies, states that development consent must not be granted for development on land to which this part applies unless a development control plan that provides for the following matters has been prepared for the land:

- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,*
- (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,*
- (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,*
- (d) a network of active and passive recreation areas,*
- (e) stormwater and water quality management controls,*
- (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,*
- (g) detailed urban design controls for significant development sites,*
- (h) measures to encourage higher density living around transport, open space and service nodes,*
- (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,*
- (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking,*
- (k) the protection and enhancement of the amenity of residents in the vicinity of the development.*

Part B, Section E13 of the Penrith Development Control Plan 2014, has been adopted and is inclusive of the above matters. Section E13 includes objectives, a structure and landscape plan and controls and objectives related to the various future precincts, urban design and built form, views, connectivity, parking, street hierarchy and public transport, pedestrian and cycle network plans. The Section also includes staging, utilities and flooding and drainage controls and objectives.

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

There are no draft Environmental Planning Instruments that have been placed on public exhibition, that apply to the subject development application.

Section 79C(1)(a)(iii) The provisions of any development control plan**Development Control Plan 2014**

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A
D5.1. Application of Certification System	Complies
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	Complies - see Appendix - Development Control Plan Compliance
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

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

Voluntary Planning Agreement (VPA)

As detailed within the Executive summary attached to this report, a VPA known as Planning Agreement - Road Works 2012, was entered into between Penrith City Council, Panthers Rugby League Club and Roads and Maritime Services (RMS) on 28 November 2012. The VPA sets out development contributions comprising:

- (i) the carrying out and the delivery of the Road Works in accordance with the VPA and any applicable Works Authorisation Deed; and
- (ii) the dedication of the Road Works Land in accordance with the agreement.

The Panthers Precinct master plan (diagram of land uses agreed for the site), adopted as part of the VPA, includes a variety of uses and building envelopes across the precinct with trigger points for works largely based on volumes of Gross Floor Area (GFA) achieved, confirmed by the issue of a Construction Certificate for each stage or building.

The Panthers Precinct master plan has since been amended, including the location and mix of uses and building envelopes across the precinct. The amended master plan requires the VPA to be amended to allow trigger points for road works to be realigned with the new uses and gross floor areas proposed. The amended VPA has not been signed by all parties as final traffic modelling is being undertaken. The traffic modelling will assist in confirming the allocation of trigger points for road works within the amended VPA.

Although the amended VPA has not been executed, the development proposal can be supported as sufficient conditions of consent are recommended to ensure compliance with the VPA (as amended) and a letter of offer to enter into a planning agreement related to the amendments and the subject DA has been provided from Panthers Rugby League Club.

It is further noted that, the indicative uses and building envelopes included as part of the Concept proposal and the proposed Stage 1 development (which includes the construction of the WSCCC, landscaping and basement carpark), is consistent with the amended masterplan for the Panthers Precinct.

Roads and Maritime Services Referral

The development application was referred to the Roads and Maritime Services (RMS) who have not objected to the proposal, however have stated that "*ideally the concept masterplan DA should not be approved until such time that the planning agreement is executed*", yet also acknowledge that "*this is ultimately a matter for Penrith Council as the relevant consent authority*".

Submitted plans and supportive documentation confirms that the Concept Proposal and Stage 1 development are clear of the area of land identified by the RMS to be set aside for the purposes of future road widening and has been designed to address the future site boundaries. The applicant has provided correspondence from the RMS dated 25 October 2017 (RMS Reference SF2014/150686) which confirms that the area indicated for road widening, satisfies their requirements.

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

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The development application was lodged with a BCA compliance report and an Access compliance report. Each report is assessed to be satisfactory having regard to the applicable legislation and each report identifies that the proposal is capable of compliance.

In addition, the development application was referred to Council's building surveyor with no objections raised, subject to standard conditions of consent.

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

Likely impacts of the proposed development proposal, as identified throughout the assessment process including; access, parking and traffic generation, acoustic impacts, site management and public domain impacts, stormwater and construction impacts have been assessed as part of this report. On balance, the development proposal is considered to be acceptable, subject to the recommended conditions of consent.

Conditions include compliance with the submitted acoustic, stormwater and water sensitive urban design reports, submission of an events management plan, compliance with the executed voluntary planning agreement for road works.

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

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

- The site is zoned to permit the proposed uses;
- Proposed uses are compatible with surrounding and adjoining land uses;
- Impacts associated with the proposal are considered acceptable and are not unreasonable in the location;
- The grade and general existing site conditions are suitable for the design and intensity of uses proposed; and
- The site is able to be serviced adequately, and can drain to Council's satisfaction.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application was notified to adjoining residents and property owners and was exhibited and advertised between 20 March and 4 May 2018, in accordance with the requirements of the Regulations and the Penrith Development Control Plan 2014. One submission was received. Matters raised within the submission and the response to those matters are detailed below:

1. Matter - No further development should be approved on this site due to the risk of 1 in 100 year flooding. It is already designed as a flood plain and the water table appears to be extremely close to the surface also given that there is an artificial lake on the property adds to the risk of high level.

Response - The development application was submitted with a set of supportive documentation and reports including civil engineering plans prepared by Wood & Grieve Engineers and a letter with attached flooding review, prepared by J. Wyndham Prince Consulting Civil Infrastructure Engineers. The J. Wyndham Prince letter confirms that the objective of the letter is to review the proposal with respect to the current flood study for the Panthers Precinct and concludes that, *"some local flooding adjacent to the development will occur in the 1% AEP local +5% AEP regional flood event, and as such habitable floor levels need to be 0.5m above adjacent flood levels"* and also states that they *"have assessed the flood evacuation timing of vehicles within the precinct via both Retreat Drive and Panthers Place to the regional flood evacuation route along Mulgoa Road and it is confirmed that the development will not result in any additional burden on traffic evacuating the site in a regional flood event"*.

The development application was also referred to Council's Development Engineering Unit, Traffic Engineering Unit and has been assessed by Council's Senior Water Management Officer with regard to proposed water sensitive urban design principles. No objections have been raised with regard to drainage or flooding at the site, subject to the recommended standard conditions of consent.

In addition to the above, the submitted Panthers Precinct master plan and accompanying documentation has been accepted by Council and informed the creation of Section E13 Riverlink Precinct of the Penrith Development Control Plan 2014 (DCP). This section of the DCP includes objectives and controls related to flooding and drainage, utilities and staging which have been considered as part of the assessment of this development application and the proposal is found to be acceptable.

2. Matter - The Mountainview Retreat Village together with Hardy's Mountainview Nursing Home and a block of townhouses have only one egress and access from the properties.

This all needs to be carefully considered when final decisions are made.

Response - Although the Mountainview Retreat Village and Hardy's Mountainview Nursing Home and other local development may have single exits to the regional flood evacuation route (Mulgoa Road), it is confirmed within submitted documentation that additional traffic generated by the development proposal is able to be accommodated and a review of the submitted plans and reports confirms that the development will not result in negative impacts related to flooding, diversion of floodwaters or stormwater management, impacting adjacent properties.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported, however conditions provided
Landscape Architect	Not supported, however conditions provided
Environmental - Environmental management	Not supported
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Waste Services	Not supported
Traffic Engineer	Awaiting additional information
Community Safety Officer	No objections - subject to conditions
Social Planning	Not supported

Development Engineer

It is raised within the referral advice received from the Development Engineer that the proposed driveway off Ransley Street is not in accordance with access requirements outlined within the Penrith Development Control Plan 2014 - Section E13 Riverlink Precinct. Refer to discussion under the DCP section of this report.

Environmental - Environmental management

It is acknowledged that Council's Environmental Health unit have raised an objection to the proposal and have requested that the existing Stage 1 Contamination Report, prepared by Ground Technologies Geotechnical Testing Services (dated 5 April 2018) is to be amended to include the following information:

- Sampling and analysis plans and methodology
- Field and lab quality assurance/quality control
- Results from sampling.

Notwithstanding the above, a review of the Stage 1 Contamination Report, prepared by Ground Technologies Geotechnical Testing Services (dated 5 April 2018) has been undertaken and it is confirmed that the scope of the report included a desktop study including review of EPA data, historical and current aerial images and data from the Environment Operations Public Register, and also included a review of geotechnical maps, an existing Stage 1 Contamination Report for the adjacent area (to the north-east within the Panthers Precinct) and a site inspection and walkover.

The report concludes that the site is suitable for the use and that no Stage 2 Contamination Report or Remediation Action Plan is required. Notwithstanding the conclusion of the report, a condition of consent is recommended to be included related to unexpected finds protocols.

Waste Services

A review of the internal comments from the Waste Unit against the design documentation has been undertaken and it is confirmed that adequate area can be provided to accommodate commercial waste management and collection within the ground floor back of house area, subject to minor internal rearrangements.

The matter has been discussed with the applicant who has agreed that adequate area (an additional 6sqm's for the storage of 1100l bins) can be provided to expand bin rooms identified in submitted plans as COMM GHR and CONF GHR on the submitted plans.

The proposed waste management arrangement includes a truck turntable and back of house area accessed from Ransley Place. The WSCCC and future hotel above are provided with adequate area and infrastructure to allow for truck and bin loading and associated movements for all streams of waste, future linen collection and deliveries.

Condition summary

A condition of consent is recommended to require the submission to Council, of amended ground floor plans addressing the above mentioned additional storage area required for 1100l bins in the waste rooms and a swept path diagram to confirm a heavy rigid vehicle is provided with adequate clearance whilst on, and accessing the turntable. a condition is also recommended to ensure a bunded bin wash area is provided. In addition, Council's standard commercial waste conditions of consent are recommended which cover matters related to minimum construction standards for waste rooms.

Also refer to internal comments provided under the Development Engineering referral section.

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

An assessment of the development application has been undertaken and the matters under clause 4.15 of the Environmental Planning and Assessment Act 1979 have been taken into consideration and have been addressed within this report. It is not considered that the proposed development will generate any significant issues of public interest, subject to the recommended conditions of consent. Further discussion is provided below:

(a) Matters related to parking, access and traffic generation, local character, landscaping and streetscape impacts, operational management and acoustic impacts have been assessed within this report and subject to recommended conditions, are assessed to be acceptable.

(b) As detailed within this report, conditions of consent are also recommended to require the execution of the amended Voluntary Planning Agreement prior to the issue of a Construction Certificate for the Western Sydney Community and Conference Centre.

Section 94 - Developer Contributions Plans

No development contributions apply to the subject proposal.

Conclusion

In assessing this development application against the relevant environmental planning policies and supportive strategic documents, including the Penrith Local Environmental Plan 2010 and the Penrith Development Control Plan 2014, the proposal primarily satisfies the aims, objectives and provisions of these policies.

In its current form, the proposal will have a positive impact on the surrounding character of the area as the development includes a site responsive development which adequately addresses local character and will result in an improved streetscape and landscaping outcome with acceptable level of impact.

Matters related to future road widening and road works can be adequately managed and are secured via the applicants existing offer to enter into a planning agreement. The development application is assessed to be reflective of the amended Panthers Precinct masterplan and amendments to the existing Voluntary Planning Agreement can be appropriately secured via the recommended conditions of consent.

Support for the development proposal is not contrary to the public interest. It is for the above reasons that the application is worthy of support, subject to recommended conditions of consent.

Recommendation

1. That DA18/0340 for a concept proposal and stage 1 development at 83 Mulgoa Road, Penrith, be approved subject to the attached conditions; and
2. That those making submissions are notified of the determination.

General

1 A001

The development must be implemented substantially in accordance with the following architectural plans:

Drawing Number	Plan Description	Revision
S1-DA-001-001	Title Sheet	C
S1-DA-100-001	Location Plan	B
S1-DA-100-002	Site Analysis Plan	C
S1-DA-110-001	Site Plan	D
S1-DA-110-007	Basement 01	D
S1-DA-110-008	Ground Level	E
S1-DA-110-010	Level 01	D
S1-DA-110-020	Roof Plan	D
S1-DA-120-008	Ground Level-Detailed Plan	D
S1-DA-120-009	Ground Level-Detailed Plan	C
S1-DA-120-010	Level 1- Detailed Plan	D
S1-DA-200-010	Site Elevations	C
S1-DA-200-020	Mulgoa Road - South East Elevation	C
S1-DA-200-030	Panthers Link - North West Elevation	B
S1-DA-200-040	Panther Place - South West Elevation	B
S1-DA-200-050	Ransley Street - North East Elevation	C
S1-DA-300-010	Longitudinal Section	B
S1-DA-300-020	Section A	B
S1-DA-300-030	Section B	B
S1-DA-300-040	Section C Panther Link Threshold	B
S1-DA-300-050	Section D Loading Dock Entry	C
S1-DA-300-060	Section E Carpark Entry East	B
S1-DA-300-070	Section F Carpark Entry West	B
S1-DA-300-080	Section G Ransley Street Conference Exhibition Threshold	D
S1-DA-720-007	GFA Diagrams-Basement + Ground Floor	C
S1-DA-750-001	Open Space Amenities + Deep Soil	B
S1-DA-760-010	Shadow Diagrams	C
S1-DA-830-001	Material & Finishes	B
S1-DA-840-001	Photomontage View 1 - Entry	B
S1-DA-840-002	Photomontage View 2 - Mulgoa Road	B
S1-DA-840-003	Photomontage View 3- Central Open Space	B

as stamped approved by Council, the stamped approved landscape plans, application form, and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

2 A001 - Design Amendments

Architectural plans are to be amended to incorporate the following design changes:

- (a) The development must provide a minimum 30sqm separated parents room with change and wc facilities. The facilities shall be designed with reference to the minimum requirements of the DCP including provision of change facilities for more than one child, private breast feeding areas, seating, waste storage facilities and nappy disposal unit, power outlets, bench space and sink with hot and cold water, a combined and safe play area for toddlers visible from the breast feeding area, and a microwave. Plans are to include a parent friendly accessible cubicle which includes a child toilet and low height hand washing basin with automatic cut off taps and soap dispenser.
- (b) Baby change facilities are to be deleted from the accessible wc at ground floor and an adult change table is to be provided for the use of people with a disability and their carers.
- (c) Swept path diagrams indicating movements for a HRV for the loading bay and turntable area are to be provided. Swept paths shall indicate a minimum 0.5m clearance to all fixed structures.
- (b) The ground floor waste management and storage areas are to be amended to provide a minimum area of 40sqm for the storage of 1100L bins servicing the development (and future stages).
- (e) The back of house waste and delivery loading area is to be amended to include a bunded waste bin cleaning/wash area. The area is to be provided with a hose and hot and cold water outlet and a fall to a floor waste, connected to the sewer. Surfaces are to be finished to allow easy cleaning i.e. tile.
- (f) Plans are to be amended to indicate that the area of deep soil fronting Mulgoa Road and Panthers Place, adjacent to the centrally located landscaped green space is to be widened/provided as marked in red on the stamped approved plans.
- (g) Suitable end of trip facilities are to be provided and shown on plans. Facilities are to include change room(s) and showers and are to be suitably co-located near covered bicycle parking.

The amended plans are to be submitted to and approved by the Manager of Development Services at Penrith City Council, prior to the issue of a Construction Certificate.

3 A001a - VPA

The amended Voluntary Planning Agreement in accordance with the letter of offer from Panthers Rugby League Club, dated 15 August 2018 known as 'Planning Agreement - Road Works' is to be executed **prior to the issue of the Construction Certificate** related to the construction of the Western Sydney Community and Conference Centre (WSCCC) and a copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority prior to the issue of that Certificate.

4 A001B - Pubic Art

A Public Art Strategy is to be submitted to the Manager Development Services at Penrith City Council. Confirmation from Penrith City Council, confirming that the Public Art Strategy has been reviewed and is endorsed, is to be provided to the Principal Certifying Authority, **prior to the issue of the Construction Certificate**.

The Strategy is to be prepared in accordance with the requirements of the Penrith Development Control Plan 2014 and in particular, is to comply with the controls of Part B, Section E13 of the DCP. The Strategy be prepared by a specialist art consultant for the whole Precinct and is to specifically focus on public art to be delivered as part of Stage 1, being the construction of the Western Sydney Community and Conference Centre (WSCCC).

The Strategy is to address:

- Context of precinct within Penrith and the Penrith Community
- Community/public artist engagement
- Location of installations/artwork
- Themes and narrative
- Procurement strategies
- Maintenance strategies and,
- Decommissioning strategies.

5 A001b - VPA OC

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to ensure that the amended Voluntary Planning Agreement known as 'Planning Agreement - Road Works' is executed and that all of the applicable requirements of the Planning Agreement - Road Works, have been undertaken and are met.

6 **A002 - Parent room signage**

The Principal Certifying Authority is to ensure that adequate signage has been installed to direct parents and carers to the accessible amenities and to the location of the separated parents and baby change room, prior to the issue of any Occupation Certificate.

7 **A005 - Event Mgmt**

Prior to the issue of a Occupation Certificate (OC), a comprehensive Event Management Plan shall be submitted to and approved by the Manager or Development Services at Penrith City Council. Written confirmation of the Plan's endorsement is to be provided to the Principal Certifying Authority prior to the issue of the OC.

The plans shall include (although not be limited to):

- Risk assessment
- Marshalling or Stewards
- Hierarchy of event types and traffic management procedures for each
- Security
- Barriers
- Signage
- Regulations
- Event Planning Guide Templates
- Communication and Evacuation
- Accessibility
- Traffic Control and Dispersion

The plan shall be accompanied by a Transport Management Accessibility Plan.

8 **A006 - Separate DA for future development stages**

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.

9 **A007 - Fencing**

Existing fencing along Mulgoa Road is to be removed prior to the issue of any Occupation Certificate (excluding fencing surrounding the existing Panthers pylon style sign).

10 **A011 - Special (Electronic Vehicle Charging Stations)**

A minimum of four Electronic Vehicle Charging Stations (EVCS) are to be provided within the basement carpark constructed as part of Stage 1 and the Western Sydney Community and Conference Centre. The charging stations are to be designed to accommodate the requirements of commercially available residential vehicles and their required connector types (currently known as Type 1 and Type 2 connectors). A minimum of four additional car parking spaces are to be designed so as to be readily retrofitted as EVCS parking spaces. The installed EVCS car parking spaces are to be sign posted and marked as for the use of electronic vehicles only and are to be located in close proximity to the lift cores.

EVCS use is to be provided free of charge to customers/visitors of the Panthers Rugby League Club.

Plans indicating compliance with the above, are to be submitted to the Principal Certifying Authority (PCA) **prior to the issue of a Construction Certificate** for Stage 1, being the Western Sydney Community and Conference Centre and associated basement carpark.

Prior to the issue of any Occupation Certificate for Stage 1, being the Western Sydney Community and Conference Centre and associated basement carpark, the PCA is to ensure compliance with this condition is achieved, and details and specifications of the system(s) installed and the location of EVCS car parking spaces are to be provided to Council.

11 **A013 - Signage**

A final 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 has been reviewed and are endorsed.

Advisory note

- All signage requiring consent from Council, shall be subject to a separate development application.

12 **A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)**

The development shall not be used or occupied until an Occupation Certificate has been issued.

13 **A029 - HOURS OF OPERATION AND DELIVERY TIMES**

Approved hours of operation of the Western Sydney Community and Conference Centre are as follows:

7.00am to 11.00pm Monday to Saturday and;
8.00am to 10.00pm Sundays.

Delivery vehicles generated by the development are to be limited to operations between the hours of 7.00am and 9.00pm Monday to Saturday and 8.00am to 9.00pm Sunday.

The operator of the development is to ensure that noise associated with deliveries and waste collection at the site is minimised and where practical, the roller shutter is to be closed whilst waste collection is being undertaken.

14 **A032 - Goods in buildings**

All materials and goods associated with the use shall be contained within the building at all times.

15 **A038 - LIGHTING LOCATIONS**

Prior to the issue of a Construction Certificate, a final lighting layout plan is to be submitted to and approved by the Manager of Development Services at Penrith City Council. The lighting system shall be installed and shall provide uniform lighting across common areas and driveways in accordance with the final endorsed lighting plan.

The lighting plan shall be consistent with the approved landscaping and open space plans for the WSCCC.

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses and to avoid unnecessary light spill. 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).

16 **A039 - Graffiti**

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

17 **A046 - Obtain Construction Certificate before commencement of works**

A **Construction Certificate** shall be obtained prior to commencement of any building works.

18 **A Detailed plans of kitchen required prior to CC**

A detailed plan of the kitchen showing the details below must be submitted to and approved by Council prior to the issue of the Construction Certificate:

- Details of the finish of the walls and ceiling (note acoustic panels not permitted in food preparation areas);
- Details and location of coving to all floor wall joins;
- Details and location of shelving to the storage area for food and packaging;
- Construction material of shelving indicating lowest shelf at least 150mm above ground level;
- Details of materials used on benches in kitchen
- Reference to the construction of the premises being in accordance with the Australian New Zealand Food Standards Code, Food Safety Standard 3.2.3 "Food Premises and Equipment" and the AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";
- Hand wash facilities fitted with a hands free operation warm water through a common spout
- Location of separate sink for (a) washing of vegetables and fruit (b) hand washing (c) washing (required) and sanitizing sinks (if no dishwasher)
- Location of any floor wastes (if being installed) and cleaners sink (may be in laundry);
- Details and location of all equipment in the kitchen including, but not limited to ovens, fridges, freezers, dishwasher etc.;
- Location of personal staff storage area
- Any fluorescent light fittings being fitted with a smooth faced diffuser and identified on the plan;
- Location and information of mechanical ventilation for oven/stove in accordance with Section 2.5.2 of AS 4674 – 2004 "Design, Construction and Fit Out of Food Premises";

No fit out works shall commence on the site will be granted until after the above plan has been supplied to Council and Council has advised the Certifying Authority in writing that it is satisfactory.

19 **A Special - Cranes**

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.

20 **A Special - FHB**

Prior the issue of the Construction Certificate, confirmation and endorsement of the location and design of existing (to be retained) and proposed utility service infrastructure, including fire hydrant booster sets, gas, water and electrical metre/infrastructure, is to be provided to the Manager of Development Services at Penrith City Council.

21 **A Special - Final Materials and Finishes**

A Final Schedule of Materials and Finishes is to be submitted to and approved by the Manager Development Services at Penrith City Council prior to the issue of the Construction Certificate. Roof surface material is to be nominated.

22 **A Special - Hoarding**

Prior to the issue of a Construction Certificate, details and plans of the proposed construction fencing and hoarding are to be submitted to and approved by the Manager of Development Services at Penrith City Council.

Hoarding or site fencing and associated structures are to be of a general high quality and are to be recessive in colour and material. A photomontage or similar is to be provided indicating materials and colours, images and artwork. no advertising is permitted to be installed or included on the hoarding/site fencing.

23 **A Special - Screening of plant**

All roof mounted plant, ducting or services infrastructure shall be screened from view. 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.

24 **A Special - Shutters**

No external roller shutters, bars or similar structures are permitted to be installed on the ground floor glazing of the commercial tenancies.

25 **A Special (car park surface treatment)**

The surface treatment of all car parking areas is to be a brushed or matt surface to reduce the impact of noise from the turning movements of vehicles.

26 **A Special Condition (BLANK)**

Prior to the issue of a Construction Certificate an electronic version of the MUSIC modeling undertaken to support the proposed stormwater treatment (i.e. *.sqz file) must be provided to Council for review and approval.

Modeling parameters for the determination of the size and configuration of WSUD elements must be in accordance with the MUSIC Modeling Guidelines for NSW (eWater User Guide) and with the parameters developed for use in Penrith (refer to Council's *WSUD Technical Guidelines*)

27 [A Special CPTED Requirements](#)

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

Lighting

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

Basement Car Parking

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

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks and any internal access points requiring restricted access.
- Australian Standard 220 – door and window locks must be installed in all premises.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting 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.

Graffiti/Vandalism

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

Landscaping

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

28 [A Special Unexpected Finds](#)

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

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

Heritage/Archaeological relics

29 [C003 - Uncovering relics](#)

If any archaeological relics or items of cultural significance are uncovered during the course of the work, no further work shall be undertaken and Penrith City Council, the NSW Heritage Office or the NSW Office of National Parks and Wildlife (as applicable) shall be contacted for advice.

The applicant is advised that depending on the possible significance of the relics or items of cultural significance, archaeological assessments or further consultation with stakeholders may be required. An excavation permit may be required under the *Heritage Act 1977* and other statutory approvals or applications may apply to the discovery of items or places of cultural significance under the *National Parks and Wildlife Act 1974*.

Environmental Matters

30 [D001 - Implement approved sediment& erosion control measures](#)

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.

31 **D009 - Covering of waste storage area**

All waste materials stored onsite 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 the areas are to be fully enclosed when the site is unattended.

32 **D010 – Appropriate disposal of excavated or other waste**

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

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

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

33 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

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

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

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

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

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

{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, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

BCA Issues

34 [E009 - Annual fire safety-essential fire safety \(Class 2-9 buildings\)](#)

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.

35 [E01A - BCA compliance for Class 2-9](#)

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

36 [F001 - General Fitout](#)

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*.

37 [F012 - Food Act](#)

The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

38 [F019 - Occupation Certificate](#)

A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required **prior to the issue of the Occupation Certificate**. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

39 [F021 - Business Registration](#)

The business is 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.

40 **F022 - Commercial kitchen(exhaust system)**

Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application or as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000 mm above floor level.

Prior to the issuing of an Occupational Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

41 **F025 - Food safety supervisor**

A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.

42 **F026 - Kitchen bar & food prep area-certification**

Details of the kitchen, bar and food preparation and storage areas must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises* to the satisfaction of the Certifying Authority prior to a Construction Certificate being issued.

43 **F027 - Hand basins**

Hand basins to the bar and kitchen must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

44 **F028 - Staff toilets**

Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.

45 **F029 - Hand basin within staff toilets**

A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

46 **F030 - Hot water service**

Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.

47 **F031 - Floor & floor waste**

The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.

48 **F032 - Floor covering**

Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

49 **F033 - Walls – food prep area**

The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.

50 **F034 - Walls – behind cooking appliances**

The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.

51 **F035 - Ceilings**

The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.

52 **F036 - Service pipes**

Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.

53 **F037 - Temperature control**

Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.

54 **F040 - Meter box**

The meter box must be provided with an approved non-absorbent, smooth faced cover. The cover is to be splayed at an angle of 45 degrees to the wall at the top and made tight fitting to the wall surfaces.

55 **F042 - Dishwasher**

Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.

56 **F043 - Hot & cold water at sinks**

All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.

57 **F044 - Sink & splashback construction**

The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.

58 **F045 - Food Prep Sink - clearance area**

The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.

59 **F046 - Cleaners sink**

The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.

60 **F047 - Fixtures & fittings**

All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- a. Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- b. Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- c. Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

NOTE: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

61 **F048 - Food prep benches**

All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.

62 **F049 - Storage cabinets**

All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.

63 **F050 - Light bulbs & tubes**

Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.

64 **F051 - Shelving**

Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).

65 **F052 - Coolrooms**

The coolroom and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.

66 **F053 - Coolrooms – condensation**

Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.

67 **F054 - Coolrooms – doors & alarms**

The coolroom and freezer room must be provided with:

- A door which can at all times be opened from inside without a key and
- An approved alarm device located outside the room, but controlled only from the inside.

68 **F055 - Lockers**

Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.

69 **F056 - Storerooms**

The storeroom must be constructed in accordance with AS4674-2004 by providing the following:

- A smooth, even, non-slip floor surface.
- Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted.
- Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning.
- The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted.
- Shelving or storage racks must be designed and constructed to enable easy cleaning.

70 **F057 - Waste storage**

All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

71 **F058 - Waste storage – surfaces**

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. The area or room must be provided with water service hose connectors to enable easy cleaning.

72 **F059 - Waste storage – cleaning**

Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.

Bins, hoppers and other containers used for storing garbage or recyclable material shall be:

- a) constructed of impervious material such as metal or plastic; and
- b) have tight fitting lids
- c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.

73 **F060 - Grease Arrestor**

The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

Utility Services

74 **G002 - Syney Water Condition**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Applications must be made through an authorised Water Servicing Coordinator. For help visit

www.sydneywater.com.au - plumbing - building and developing - developing - land development, or telephone 13 20 92.

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

Advisory note:

(a) The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can impact on other services and buildings, driveways or landscape designs.

75 **G003 - Syd Water Condition - Comply with requirement of Syd Water Correspondence Attachment 1 and 2**

The proponent must comply with the applicable requirements of Sydney Water as detailed within Attachment 1 and 2 of Sydney Water correspondence dated 19 June 2018 (Sydney Water Reference 172330).

76 **G004 - Integral Energy**

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council's Development Services Unit must be consulted over the proposed location of the substation prior to the issue of a Construction Certificate for the development, as the location of the substation may impact on other services and building, driveway or landscape design as approved by Council.

Construction

77 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

78 H002 - All forms of construction

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.

79 H041 - Hours of work (other devt)

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.

Engineering

80 K101 - Works at no cost to Council

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.

81 **K201 - Infrastructure Bond**

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 any works on site or prior to the issue of any 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.

82 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the issue of any Construction Certificate, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access

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

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

Note:

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

83 **K209 - Stormwater Concept Plan**

The Stormwater management system shall be provided generally in accordance with the Stormwater Management Report and associated concept plan/s lodged for development approval, prepared by Wood & Grieve Engineers, reference 35986, dated 23 July 2018 including the attached drawings CI-000-01 through CI-520-02, dated 20 July 2018.

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

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

84 **K211 - Stormwater Discharge – Basement Car parks**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

85 **K222 - Access, Car Parking and Manoeuvring – General**

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

86 **K224 - Construction Traffic Management Plan**

Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.

87 **K226 - Basement Geotechnical Testing/ Dilapidation Report**

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

88 **K301 - Sediment & Erosion Control**

Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

89 **K302 - Traffic Control Plan**

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

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

Note:

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

90 **K406 - Underground Services**

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.

91 **K501 - Penrith City Council clearance – Roads Act/ Local Government Act**

Prior to the issue of any 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.

92 **K502 - Works as executed – General and Compliance Documentation**

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

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

93 **K504 - Restriction as to User and Positive Covenant**

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

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

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

94 **K504 - Stormwater Compliance**

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

- a) Stormwater management systems (including water sensitive urban design)
 - 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.

95 **K511 - Directional signage**

Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of staff and visitor parking to the satisfaction of the Principal Certifying Authority.

96 **K601 - Stormwater Management system operation and maintenance**

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.

97 **K Special Condition BLANK**

Prior to the issue of an Occupation Certificate, a comprehensive flood evacuation and emergency response plan (for all storms up to and including the PMF) shall be prepared in consultation with State Emergency Service for the overall development by a suitably qualified engineering/hydraulic consultant.

Landscaping

98 L001 - General

All landscape works are to be constructed in accordance with the stamped approved plans prepared by Urbis and Appendix F5, Clause 2.9 of 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 died or was removed.

99 L002 - Landscape construction

The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape architect. Landscaping is to be installed and maintained in accordance with the stamped approved plans.

Advisory Note:

Please refer to conditions of consent that require amendments to the extent of deep soil areas and the associated stamped approved plans, marked in red.

100 L003 - Report requirement

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

(a) Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

Any 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.

(b) Plant Establishment and Maintenance Report

Six months after the issue of the Occupation Certificate, a Plant Establishment and Maintenance Report is to be submitted to Penrith City Council in consultation with the Landscape Architect Supervisor - Design and Projects at Penrith City Council, certifying that the landscape works are in accordance with the development consent and stamped approved plans and that the landscaping is alive and thriving. The report is to be prepared by a qualified Horticulturalist and shall evaluate the success and failure of planter landscaping across the site.

(c) Landscaping Review

A review of the landscaping is to be provided to the Manager of Development Services at Penrith City Council, **24 months after the issue of the Occupation Certificate for the WSCCC**. The review is to be prepared by a qualified landscaping consultant and is to detail the health and status of all planting and is to provide recommendations if required, with regard to the continued success and vitality of the planting and landscaping.

101 L005 - Planting of plant

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

102 L006 - Aust Standard

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.

103 L007 - Tree protection measures—no TMP with DA

All street trees are required to be retained and protected throughout construction, in accordance with the minimum tree protection standards prescribed in Part F, Appendix F5 of Penrith Development Control Plan 2014.

104 [L012 - Existing landscaping \(for existing development\)](#)

The Principal Certifying Authority is to ensure all street trees adjacent the development have been retained and are in good health prior to the issue of the Occupation Certificate. Where street trees have been damaged or destroyed by construction or site works, the street trees are to be replaced like-for like in consultation with Council, at no cost to Council.

No approval is granted for the removal of existing street trees located along the Mulgoa Road verge. These trees shall be retained and protected throughout development, until such time as Mulgoa Road, road widening works are undertaken.

Certification

105 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

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

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

Information to accompany the Notice of Commencement

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C10 Transport, Access and Parking

The DCP requires that for commercial developments employing over 20 people, bicycle parking is to be provided with weather protection and that end of trip facilities are to be provided with change room and shower, close to bicycle parking. Eight uncovered bicycle parking spaces are proposed near the entry to the retail/exhibition space at ground floor. Due to the nature of the proposal and in support of Council's objectives to reduce reliance on cars and promote sustainable development within the Penrith area, a condition of consent is recommended to be included to require the installation of end of trip facilities either within the WSCC or basement parking area.

D5 Other Land Uses

An assessment of the development proposal against Section D5.5 of the Penrith DCP has been undertaken and the development proposal is considered to be acceptable, subject to conditions as detailed below:

Clause 5.5 details Council's commitment to promoting parent friendly spaces. Objectives include to ensure that all development likely to be frequented by parents and children have suitable parenting facilities in public places that support and encourage breast feeding and that amenities suit the needs of all genders. Table D5.2 lists the minimum requirements for development for the purposes of community facilities greater than 2000sqm's and restaurants greater than 30 seats.

Submitted plans are in opposition to the objectives and specific controls of this section of the DCP in that the development does not provide separated facilities for baby change (one change table is provided within the accessible wc). As detailed within Clause 5.5 of the DCP a development of this scale, accommodating the intended capacity and needs of many community residents and organisations requires a greater level of amenity for patrons of the facility.

Conditions of consent is recommended to be included requiring ground and first floor architectural plans be amended to provide a minimum 30sqm separated parents room with change facilities. The facilities shall be designed with reference to the minimum requirements of the DCP including provision of change facilities for more than one child, private breast feeding bays or areas, seating, adequate waste storage facilities and nappy disposal unit, power outlets, bench space and sink with hot and cold water, a combined and safe play area for toddlers visible from the breast feeding area, and a microwave. Plans are to include a parent friendly accessible cubicle which includes a child toilet and low height hand washing basin with automatic cut off taps and soap dispenser.

E11 Penrith

The development application has been assessed against the objectives and controls of Part B, Section E13 Riverlink Precinct of the Penrith Development Control Plan 2014 and is found to be compliant with the indicative land uses indicated within the Panthers Precinct Concept Plan as illustrated at Figure E13.12. The proposal is also supportive of the Plan's overarching objectives including:

- (a) Enhancing and activating Mulgoa Road as a significant approach to Penrith City Centre*
- (b) Reinforcing key intersections as gateways to the Precinct and the Penrith City Centre*
- (c) Creating a clear and legible public domain framework of streets and open space;*
- (d) Creating an exciting core of entertainment, leisure and lifestyle uses around the existing club;*
- (e) Incorporating sustainability and best practice;*
- (f) Encouraging views of the Blue Mountains from the public domain;*
- (g) Encouraging design excellence;*
- (h) Improving connectivity;*

as the development proposal is considered to display elements of design excellence in its overall site suitability, public/private domain and streetscape presence and integration into the Panthers Precinct. Views to the Blue Mountains are maintained through the central green space and connectivity is enhanced through the site.

The development proposal complies with the specific Precinct objectives including to promote quality urban design and architectural excellence and provide for a high quality public domain. Due to the staged nature of the concept plans and Stage 2 hotel to be located above the Western Sydney Community and Conference Centre (WSCCC), conditions of consent are recommended to require landscaping along Mulgoa Road to be retained until such time as road works and intersection upgrades are undertaken as required by the Voluntary Planning Agreement (VPA) and to ensure adequate pedestrian permeability, a condition of consent is recommended to require the removal of existing fencing along the Mulgoa Road frontage.

Clause 13.7.2 Landscape Structure

The development proposal is consistent with the landscape structure diagram and provides open space in accordance with figure E13.14. Notwithstanding this, the figure requires substantial '*address planting*' to be provided along the frontage of the site to Mulgoa Road. Submitted plans indicate that the majority of the planting aligned with the centrally located open space fronting Mulgoa Road is sparse and limited deep soil is provided to allow for substantial and sustainable canopy tree planting, in particular after road widening is undertaken.

In this regard, conditions of consent are recommended to require deep soil areas along the Mulgoa Road frontage, in selected locations at strategic corner and gateway locations (as marked in red on the stamped approved plans) to be widened by approximately 5m and to ensure that the back of house areas are adequately screened and shading is provided to large areas of paved surfaces. Implementation of these conditions will ensure that the development of the site will reduce existing heat island effects, improve the exiting microclimate and will ensure compliance with key and strategic controls and objectives of the DCP aimed at providing high quality and shade providing landscaping, site sustainability, provision of a high quality public domain and vegetated buffer to Mulgoa Road and provision of enhanced entries and gateways to the precinct from Mulgoa Road.

Ransley Street

It is noted that the development proposal does not align with the Ransley Street controls under 13.7.2(4) in that active uses at ground floor are limited. Amended plans were received which have included a retail and exhibition space close to the intersection of Mulgoa Road and Ransley Street, and back of house areas in this location will be enhanced by recommended conditions requiring greater provision of deep soil for canopy tree planting.

Mulgoa Road

The DCP requires a 5m landscaped setback to be provided along this frontage and notes that existing native canopy trees are to be retained. As detailed above, the development proposal will achieve an acceptable level of compliance with the Mulgoa Road landscaping controls, subject to the recommended conditions requiring greater provision of deep soil for canopy tree planting in this area. In particular, this requirement will address the loss of the existing and prominent native canopy trees within the verge, due to the proposal to widen Mulgoa Road.

Clause 13.7.3 Sub Precincts

Figure 13.15 Sub Precincts identifies the subject site as being within two sub precincts being the Mulgoa Road Precinct and the Ransley Street Precinct. Ransley Street precinct is identified as being a pedestrian oriented place linked by active ground floor uses with views toward the mountains. It is noted that controls of this section reference the land uses identified on the previous masterplan and it has been acknowledged via Council resolution (at meeting 13 November 2017) that the DCP is to be modified as required to facilitate access requirements to align with the amended VPA and masterplan requirements.

Notwithstanding the above, the development is assessed to adequately address Ransley Street and details provided, related to Stage 2 of the Concept plan indicate a restaurant is proposed at

level 1 overlooking Ransley Street.

The development complies with the Mulgoa Road sub precinct controls subject to conditions related to increasing deep soil in selected locations.

Clause 13.7.5 Public Art Strategy

The proposal was lodged with a Public Domain Report for the Panthers Precinct and includes a public art strategy (Sheet 0016 - 0017) which identifies the proposed central open space as 5B Building forecourt. The Report references a Public Art Strategy. The Public Art Strategy was not included in the package of documentation and as such a condition of consent is recommended to require the submission of a project specific Public Art Strategy, prepared by an appropriately qualified and experienced public art and installation consultant, in accordance with the requirements of the DCP and in particular Section E13 Riverlink precinct.

Clause 13.8.4 Traffic, Parking and Site Access

The development proposal is contrary to the requirements of the clause, in that Figure E13.24 Restricted Vehicle Access, notes that vehicular access is not to be provided from the eastern end of Ransley Street and the development proposes access in this zone, to the back of house waste collection and delivery area. The non-compliance is considered acceptable given the access will be restricted to service vehicles, is adequately articulated and has an acceptable presentation to Ransley Street.

Further to the above, on 13 November 2017, Council passed a resolution in support of amendments to the DCP in support of the amended Panthers master plan which will allow Council's City Planning unit to prepare an amendment to the DCP related to vehicular access controls in this area.

Clause 13.8.4 also requires the submission of a Traffic Plan that addresses Special Event traffic conditions for an DA for event or major sporting facilities on the site. A condition of consent is recommended to require the submission of an Events Management Report.

Clause 13.9.3 Awnings

It is noted that the development proposal does not provide awnings over the pedestrian paving in accordance with Figure E13.33 Awning locations. The design is setback further than the minimum street wall requirements for Ransley Street and in this respect, providing an awning over the pavement is not achievable. The design adequately addresses the public domain and extensive landscaping and lighting is provided around the WSCC. Future stages proposed as part of the Concept proposal include a restaurant at level 2, which will overlook the eastern end of Ransley Street.

Clause 13.9.9 Architectural Excellence

The development application has demonstrated compliance with this clause in the submission of a Design Statement, prepared by Turners Architects addressing the relevant controls of the clause including; how the proposal presents to gateway locations and contributes positively to precinct character and responds to sustainable design objectives.