

SWCPP Ref. No.:	2018WCI004
DA No.:	DA18/0999
PROPOSED DEVELOPMENT:	Mixed Use Residential & Retail Development - One (1) x Five (5) Storey Mixed Use Building comprising 1,225sq.m of Retail Floor Space & 82 Apartments & seven (7) Residential Flat Buildings comprising Four (4) or Five (5) Storeys containing 246 Apartments, Demolition Works, Earthworks & Associated Excavation, New Roads, Rehabilitation of Existing Riparian Corridor, Stormwater Drainage, and Associated Landscaping - Lot 52 DP 1246141, Lot 53 DP 1246141, Lot 55 DP 1246141, Lot 51 DP 1246141, 2 Retreat Drive, PENRITH NSW 2750
APPLICANT:	Esq1818 Pty Ltd
REPORT BY:	Wendy Connell, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from ESQ1818 Pty Ltd for the Mixed Use Residential & Retail Development - One (1) x Five (5) Storey Mixed Use Building comprising 1,225sq.m of Retail Floor Space & 82 Apartments, and seven (7) Residential Flat Buildings comprising of Four (4) or Five (5) Storeys containing 246 Apartments, Demolition Works, Earthworks & Associated Excavation, New Roads, Rehabilitation of Existing Riparian Corridor, Stormwater Drainage, and Associated Landscaping at 2 Retreat Drive, Penrith.

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

The development site is subject to a Planning Proposal, draft Development Control Plan amendments and a revised Voluntary Planning Agreement for Road Works (VPA). The proposal has been assessed against the draft instruments and is discussed in details further in this report, along with the VPA amendments.

The development application was submitted as integrated development in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Natural Resources Access Regulator under Section 91 of the Water Management Act 2000 due to the proposed works to Schoolhouse Creek. General Terms of Approval were issued in a letter dated 9 January 2019.

In accordance with Clause 104 (Traffic generating development) under State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads Maritime Services (RMS) for comment. In its letter dated 12 November 2018, RMS acknowledged that amendments to the current VPA had not yet been finalised. The amendments to the VPA is underpinned by traffic modelling based on land uses proposed under the revised Masterplan for the Panthers Precinct. For RMS to provide comment on this proposal it would require modelling for this development proposal and the current road conditions in isolation to the broader Precinct. This was considered an unreasonable request considering all parties to the current VPA were in negotiations with new traffic modelling based on achieving a Precinct wide outcome.

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

Key issues identified and addressed for the proposed development include:

- Traffic volumes and movement impacts on existing Local and State roads;
- Amenity impacts on existing residents of Retreat Drive; and
- Impacts associated with works within the riparian corridor.

Traffic Impacts

Council, the Roads and Maritime Services (RMS), and Penrith Rugby League Club Limited have commenced negotiations to amend the current Road Works Voluntary Planning Agreement (VPA) for the Panthers Penrith Precinct. The current VPA prescribes the improvements to be carried out to the road network to support the development of the Panthers Penrith Precinct. The negotiations need to consider the impacts on the road network as a result of the overall land use changes to the Panthers Penrith Masterplan. At the time of this report, negotiations are still ongoing. Further decision regarding the VPA is detailed in the Planning Agreement section of this report.

Amenity Impacts

Through the assessment period, Council strongly advocated for the retention of the existing trees along Retreat Drive and the creek area, as well as increasing setbacks to Buildings E, to minimise impacts on the existing lower density developments adjoining the development site. The development now reflection a larger setback, from the proposed 3m to 7m, for Buildings E to Retreat Drive, as well as the retention of the majority of trees along Retreat Drive and the creek area.

Riparian corridor

NSW Natural Resources Access Regulator has reviewed the proposal and issued GTA's. A Controlled Activity Approval is required under the Water Management Act 2000, and a condition of consent has been recommended. Council's Development Engineer and Waterways Officer have also reviewed the proposal and raises no objections, subject to recommended conditions. Development within the riparian corridor has been supported by a Vegetation Management Plan (VMP). The VMP has been reviewed by Council's Biodiversity Officer who is satisfied, subject to recommended conditions.

The application was exhibited between 19 October to 19 November 2018 in accordance with relevant legislation. In response, two (2) submission were received. The key issues identified within the submissions were access and traffic impacts.

In accordance with Section 2.12 and 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the determining authority as the proposal has a Capital Investment Value (CIV) of \$107,383,623 million.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the key issues identified have been addressed satisfactorily. The application is recommended for approval subject to recommended conditions.

Site & Surrounds

The subject site is situated in the northern area of the Panthers Penrith Precinct and is bounded by Ransley Street, Retreat Drive, and Schoolhouse Creek. The development site covers three (3) separate allotments with a total area of approximately 39,810 square metres. The legal property description of the subject site is Lot 53, Lot 52, Lot 51 in DP 1246141.

The site currently contains a bitumen car park, pavilion, gazebo and an access road.

The Panthers Precinct provides for a wide range of entertainment, function and recreational uses. The locality includes a mixture of low and medium density housing, Pepper Stadium, Penrith Paceway and open space. The Panthers Penrith Precinct sits within the larger area known as the Riverlink Precinct.

Proposal

The development application seeks consent for the following works:-

- Demolition of the existing pavilion and at grade car park;
- Construction of new roads;
- Construction of one (1) mixed use building comprising 1,225sqm of retail floor space and 82 apartments (Stage 2A);
- Construction of 7 residential flat buildings comprising 246 apartments (Stages 2B & 3);
- Earthworks and associated excavation including creek realignment
- Provision of utility services, landscaping works and stormwater drainage works, including bioretention basin on Lot 55 in DP 1246141

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- 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 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

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

The application has been assessed in accordance with Section 2.12 of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel as it has a Capital Investment Value (CIV) of \$107,383,623 million.

- **Section 4.15 - Evaluation**

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

- **Section 4.46 - Integrated development**

The development application was submitted as integrated development in accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, and seeks concurrent approval from the NSW Natural Resources Access Regulator under Section 91 of the Water Management Act 2000 due to the proposed works to Schoolhouse Creek.

General Terms of Approval (GTA) were issued by NRAR in its letter dated 9 January 2019. A condition of consent relating to the GTA's has been included.

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

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

An assessment has been undertaken of the application against relevant criteria within the State Environmental Planning Policy (Building Sustainability index: BASIX) 2004. The application is accompanied by a list of commitments with the submitted BASIX Certificates, as to the manner in which the development will be carried out and the carrying out of residential development pursuant to the recommended development consent or construction certificate will be subject to a condition requiring such commitments to be fulfilled.

Certificate No. 0003679700 Stage 3 (Building F & G)

Certificate No. 0003926800 Stage 2B (Building D & E)

Certificate No. 0003922420 Stage 2A (Building C)

State Environmental Planning Policy (Infrastructure) 2007

Division 5 - Electricity transmission or distribution

Pursuant to Clause 45(2) in Part 2, Division 5, Subdivision 2 of the State Environmental Planning Policy (Infrastructure) 2007, the proposal was referred to Endeavour Energy for comment due to the works being within proximity to electrical infrastructure.

Endeavour Energy in its correspondence dated 10 January 2019 raised no objection to the development subject to further investigation between the applicant and Endeavour Energy to carry out a final load and supply assessment. A condition of consent is recommended.

Division 17 - Roads and Traffic

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

RMS in its correspondence dated 12 November 2018 acknowledged that the draft Voluntary Planning Agreement had not yet been finalised. The amendments to the VPA is underpinned by traffic modelling based on land uses proposes under the revised Masterplan for the Panthers Precinct. For RMS to provide comment on this proposal it would require modelling for this development proposal and the current road conditions in isolation to the broader Precinct. This was considered an unreasonable request considering all parties to the current VPA were in negotiations with new traffic modelling based on achieving a Precinct wide outcome.

Further decision on the current and draft VPA is outlined in another section of this report. Conditions of consent are recommended.

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development is identified as being regionally significant in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2010 as the proposal is General development and has a Capital Investment Value (CIV) of greater than \$30 million.

In accordance with Section 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the consent authority for the development proposal.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) aims to provide a framework for the assessment, management and remediation of contaminated land throughout the State. Clause 7 of SEPP 55 prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

In the past, the Panthers Precinct has been filled to facilitate the use of the land for landscaping, tennis courts, club facilities and car parking. Prior to the Panthers development, the land is understood to have been used for grazing as part of a dairy farm.

The proposed development is located within an area used for car parking and open space. A Stage 1 Contamination Report was prepared by Ground Technologies Pty Ltd dated 7 April 2016 to support application. The northern portion of the development site had not been considered as part of this investigation and further detail was requested through the assessment period. Following this request, additional information from Ground Technologies Pty Ltd dated 11 February 2019 was submitted.

A review of the amended report was undertaken by Council's Environment team who are satisfied that the land is suitable for the proposed use.

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

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

An assessment has been undertaken of the proposal against the relevant criteria within State Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Apartment Development and the table below details the proposal's compliance with the relevant provisions of the Apartment Design Guide (ADG) which complements the SEPP.

ADG Compliance Table – Stages 2 & 3

Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A written Design Statement explaining how the design of the proposed development has responded to the site has been provided to support the proposal.	Yes.
3B-1	Buildings to address street frontages	The building design of Buildings D, F G adequately addresses the street frontage. Building E sits behind a 'boathouse' type entry gate and building entries are internalised to the individual buildings side elevation.	Partially compliant but acceptable in this instance.
	Solar access to living rooms, balconies and private open spaces of neighbouring properties to be considered.		Yes.

3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to received compliant levels of solar access	Refer discussion under Part 3D and 4A.	Yes.
	Solar access to living spaces and POS of neighbours to be considered.		Yes.
3C-1	Courtyard apartments should have direct street access.	Ground floor apartments are proposed as part of the application. Ground floor courtyards are provided direct access to either the street or pedestrian access paths.	Yes.
	Upper level balconies and windows to overlook the street.	All apartments along the street frontages.	Yes.
	Length of solid walls should be limited along street frontages.		Yes.
	Opportunity for concealment to be minimised.		Yes.
3C-2	Ramping for accessibility should be minimised.	Accessible entry is available at all main entry points.	Yes.
3D-1	Communal Open Space (COS) to have minimum area of 25% of site and 50% of the principle usable part of COS is to have direct access to sunlight for 2 hours min. between 9am and 3pm at June 21		Yes.
	Achieve a minimum of 50% direct sunlight to the principle usable part of the communal open space.		Yes.
	COS to be consolidated into a well-designed, usable area.		Yes.
	COS to be co-located with deep soil.	The majority of COS is co-located with the riparian corridor.	Yes.
3D-2	COS is to be provided with facilities such as barbeque areas and seating.		Yes.
	COS is to be well lit and readily visible from habitable rooms.		Yes.

3D-4	Boundaries should be clearly defined between public open space and private areas.		Yes.
3E-1	Deep soil is to be provided at a rate of 7% of site area with a min. dimension of 3m.	Deep soil is achieved at a rate of 36% which is predominately within the riparian corridor.	Yes.
3F-1	<p>Minimum required separation distances from the building to side and rear boundaries is to be achieved as follows:</p> <p>Up to 4 Storeys –</p> <ul style="list-style-type: none"> • 6m between habitable rooms and balconies • 3m between non habitable rooms <p>5-8 storeys –</p> <ul style="list-style-type: none"> • 4.5m between non habitable rooms • 9m between habitable rooms and balconies 	<p>Building separation between adjoining sites is achieved. However, building separation between the buildings podiums within the site are non-compliant, except for Stage 2A Buildings C.</p> <p>The non-compliant buildings are as follows:</p> <p>Stage 2B Buildings E (2 x 4 Storey) (2 x 4 Storey)</p> <ul style="list-style-type: none"> • Required distance is 12m. • Minimum separation distance proposed is 9m. <p>Stage 3 Buildings F (1 x 4 storey & 1 x 5 storey) (1 x 4 storey & 1 x 5 storey)</p> <ul style="list-style-type: none"> • Required distance is 12m. • Minimum separation distance proposed is 9.5m <p>Stage 3 Buildings G (2 x 5 storey) (2 x 5 storey)</p> <ul style="list-style-type: none"> • Required distance for 4 storey is 12m • Minimum separation distance proposed at 4 storey is 11.2m • Required distance for 5 storey is 18m • Minimum separation distance at 5 storey is 11.4m 	No but acceptable in this instance.
3F-2	Communal open space, common areas and access paths to be separated from private open space and windows to apartments.		Yes.

	Balconies, and private terraces should be located in front of living rooms to increase internal privacy.		Yes.
3G-1	Building entries to be clearly identifiable.	Buildings C, D, F & G - The entryways are articulated with planter boxes and access to the mail boxes is along the walkway to the lobby. Buildings E – The entryways to the building are recessed in the side of the buildings. The 'boathouse' type entry is identifiable at the street level. Wayfinding signage will be required beyond the boatshed entry. Conditions are recommended.	Yes.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.		Yes.
	Steps and ramps to be integrated into the overall building and landscape design.		Yes.
3H-1	Carpark access should be integrated with the building's overall façade.		Yes.
	Clear sight lines to be provided for drivers and pedestrians.		Yes.
3J-1	Car parking is provided based on proximity to public transport.	The development site is located 1.2km from the Penrith rail/bus interchange.	Yes.
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.		Yes.
3J-3	A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.		Yes.

4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	<p>The submitted Shadow Diagrams and Solar Access plans indicate that overall 236 units (72%) receive compliant rates of solar access.</p> <p>There is non-compliance for individual buildings: Building D - 69% achieved Building E - 67% achieved</p> <p>Again, there is overall compliance of 32 (10%) of units not receiving direct sunlight between 9am and 3pm in winter.</p> <p>There is however, non-compliance for individual buildings: Building C – 25% Building D – 16%</p>	Partial non-compliance.
4B-3	60% of apartments are to be naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	The submitted Cross Ventilation Plan indicates that 66% of apartments will have natural cross flow ventilation. Apartment depths are compliant with the maximum depth requirement of 18m.	Yes.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for 3.1m measured from floor to floor.	Yes.
4D-1	<p>Apartments are to have the following min. internal floor areas:</p> <p>1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm</p>		Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.		Yes.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.		Yes.
	Bedrooms to have a minimum dimension of 3m.		Yes.
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.		Yes.

4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	Non-compliance of 38% of units not achieving the minimum balcony areas in Building G (mix of 1 and 2 bed units)	No.
4E-4	Changes in ground levels or landscaping are minimised.	Landscaped elements are proposed to terrace, screen or soften changes in levels across the site.	Yes.
4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.		Yes.
4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m ³ 2 bed – 6m ³ 3 bed – 10m ³ With 50% of the above to be provided within the Units.	A significant number of apartments do not meet the storage requirement. Additional storage allocation has not been provided within the basement.	No.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The development proposes a range of unit sizes, configurations and number of bedrooms to accommodate change over time and cater for differing households. Unit mix is proposed as follows: 1 x studio apartment 110 x 1 bedroom apartments 186 x 2 bedroom apartments 31 x 3 bedroom apartments Inclusive of 34 x adaptable units and 32 livable units.	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	Ground floor apartments are designed to front either the street or communal open space areas. There is 16% (8 of the 50) of the ground floor apartments that do not have direct access to either the street or communal space. This is due to the building design which places access ramps across the front of some apartments, and also due to ground level changes. All ground floor apartments which are provided with a street front or communal space courtyard allowing opportunity for passive surveillance and activation to these areas.	No but acceptable in this instance.

4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal was subject to a review by Council's Urban Design Review Panel and the design is supported. The facades are adequately articulated and propose a range of materials and finishes.	Yes.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The submitted landscape plan prepared by Oculus Landscape Architect indicates a selection of trees, shrubs and ground covers appropriate for the site.	Yes.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council Policy.	The development proposes 34 adaptable and 32 Livable units as part of the development.	Yes.
4U-1	Adequate natural light is provided to habitable rooms.		Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.		Yes.
4W-1	A Waste Management Plan is to be provided.		Yes.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.		Yes.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury/Nepean River (SREP 20) aims to protect the environment of the Hawkesbury/Nepean River by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to this proposal, is the requirement to assess the development in terms of stormwater quality.

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

The proposed development will comply with Council's Stormwater Drainage for Building Development Policy and Water Sensitive Urban Design Policy and conditions of consent are recommended to achieve and verify compliance.

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.5 Additional permitted uses for particular land	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Does not comply - See discussion
Part 9 Penrith Panthers site	Complies
Clause 9.1 Objectives of Part	Complies
Clause 9.3 Density of retail premises (including outlet premises)	Complies
Clause 9.6 Development control plan for land to which this Part applies	Complies - See discussion
Schedule 1 Additional permitted uses	Complies

Clause 2.3 Permissibility

The site is zoned SP3 Tourist, with residential flat buildings and retail premises being permitted with consent under Schedule 1 of Penrith LEP 2010 as additional permitted uses on the subject land.

Clause 2.3 Zone objectives

The objectives of the SP3 zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To provide for diverse tourist and visitor accommodation and activities that are compatible with the promotion of tourism in Penrith.*
- *To create an appropriate scale that maintains important views to and from the Nepean River as well as to the Blue Mountains escarpment, while also improving important connections to the Penrith City Centre and the Nepean River.*

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

Clause 4.3 Height of buildings

Clause 4.3 of PLEP 2010 establishes a 15m and 20m building height for the subject site.

The proposed development is consistent with the maximum building height of 20m. The proposed northern tower of Building G is proposed to exceed the maximum permissible building height of 15m. A Clause 4.6 variation is provided to support the application.

Clause 4.4 Floor Space Ratio

The Floor Space Ratio (FSR) permissible under Clause 4.4 of PLEP 2010 is 1:1.

For the purpose of calculating FSR, the development site is considered to be the land identified as 'Area 5' under the current Planning Proposal. The total area of the development site, according to Council's records, is 66,086 square metres.

This application relates to Lot 53, 52, 51 in DP 1246141 with an area of 38,810 square metres. The GFA proposed under this application is 29,410 and has a land area of 39,810.

FSR has already been taken up over the total development site under Stage 1. Stage 1 land area is 8676 square metres and the GFA approved is 12, 975.

To date, Stage 1 and Stages 2A, 2B and 3 will result in a compliant FSR of .87:1 over the development site.

Development Stages	Legal Property Description	Land Area	GFA	Status
Stage 1	Lot 20 DP 1248609	8676 sqm	12,975	Approved under DA17/0766
Stage 2A, 2B & 3 including riparian corridor and Central Road	Lot 53 DP 1246141 Lot 51 DP 1246141 Lot 52 DP 1246141	5942 sqm 28,000 sqm 5868 sqm	29,580	Subject to this DA
	Total	48,486 sqm	42,555	

To avoid uncertainty with regard to Stage 4 & 5, Council has advised the applicant that Stages 4 & 5 development scenario will need to be reviewed in order to achieve a compliant FSR for future stages.

Clause 4.6 Exceptions to development standards

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

The Height of Building (HOB) map identifies a maximum height of 15m to the northern portion of the development site. The proposal, at Building G, does not comply with this HOB standard. Building G has a proposed HOB at 19.7m which exceeds the 15m control by 4.7m or 31.33%.

Clause 4.6 of PLEP states under 4.6(2) that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. Clause 4.6(3) states that development consent must not be granted for a development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development by demonstrating:

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

The applicant has submitted a written request to vary the HOB control in accordance with the requirements of

Clause 4.6 of PLEP. The written request to vary the HOB development standard provides the following summarised justification for the contravention:

- The proposal, despite the numerical non-compliance identified, remains consistent with the objectives based on the following:
 - The building height, bulk and scale are compatible with the desired future character of the locality reflected by the imminent change to the building height control.
 - The additional height proposed is in location that interfaces with the open space area on the subject development site and the Panthers site, therefore the additional height has no discernible additional impact in terms of visual privacy and overshadowing.
 - The proposed height variation continues to respect the form and scale of surrounding buildings within the Panthers Precinct and future desired development.
 - The height and scale of the development will establish a new context for the Panthers Precinct that alters the character and scale of the streetscape.
 - The scale of the proposed buildings is in keeping with the scale of the recently approved ESQ1818 Stage 1 development (DA17/0766) as well as the Multistorey car park and serviced apartment development (DA14/1111).
 - The proposed building will be comparable in both bulk and scale to the recently approved concept proposal incorporating the Western Sydney Community and Conference Centre (DA18/0340).
 - The development provides for a high quality urban form for the development and there is no need for a transition in built form and land use intensity beyond the site given the site context and the additional height has been modelled and considered as being suitable for this location with regard to the LEP amendment.
 - The non-compliance to the height control has no impact on the setting of any items of environmental heritage or view corridors.
 - The proposal does not adjoin any low-density areas or sensitive interfaces and will integrate with future development to the north, east, south and west which will accommodate developments of comparable building heights.
- The below points demonstrate suitable environmental planning grounds:
 - The proposal satisfies the objectives of the SP3 Tourist zone and objectives of the building height standards.
 - Non-compliance with the standard does not contribute to the adverse environmental impacts in terms of overshadowing, visual impacts or view loss.
 - The non-compliance with the standard does not result in a scale of building that is out of character with the surrounding development and streetscape as the proposal will ensure compliant heights upon gazettal of the LEP amendment.
 - The proposed development is generally compliant with the controls, or intent of the controls, contained in Penrith DCP 2014.
 - The development as proposed is consistent with the provisions of orderly and economic development owing to the temporal nature of the departure.

An assessment has been undertaken and the development is deemed satisfactory as the proposal aligns with the strategic planning objectives for the Panthers Precinct, as demonstrated in the endorsement of the LEP amendments regarding HOB by Council. The proposal achieves a better development outcome for the Panthers Precinct with the HOB amendment providing a redistribution of height across the Precinct to achieve a better height transition to the existing lower density residential adjoining the site. In addition, the development proposal will be compliant when the LEP amendments are made.

Clause 7.1 Earthworks

Clause 7.1 of PLEP provides that development consent must not be granted for development involving earthworks unless the consent authority has considered the following:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

In this regard, the application was referred to Council's Senior Development Engineer who has advised that subject to the provision of appropriate conditions the proposal is acceptable in this instance.

Clause 7.2 Flood planning

Clause 7.2 of PLEP 2010 provides that development consent must not be granted for development on land that is at or below the flood planning level unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and*
- (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
- (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and*
- (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or affect the restoration and establishment of riparian vegetation, or a reduction in the stability of river banks or waterways, and*
- (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- (h) incorporates appropriate measures to manage risk to life from flood, and*
- (i) is consistent with any relevant floodplain risk management plan.*

An assessment of the proposed development has identified that the development site is in the floodplain of Peachtree creek. In this regard, the application was referred to Council's Senior Development Engineer who has advised that, subject to the provision of appropriate conditions, raises no objections.

Clause 7.4 Sustainable development

In deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development bases on a 'whole of building' approach by considering the following:

- (a) conserving energy and reducing carbon dioxide emissions,*
- (b) embodied energy in materials and building processes,*
- (c) building design and orientation,*
- (d) passive solar design and day lighting,*
- (e) natural ventilation,*
- (f) energy efficiency and conservation,*
- (g) water conservation and water reuse,*
- (h) waste minimisation and recycling,*
- (i) reduction of vehicle dependence,*
- (j) potential for adaptive reuse.*

The development proposal was submitted with a BASIX Certificate and in this respect, is considered to satisfy matters related to conservation of energy and reduction in emission and the like. The development is largely compliant with the applicable provisions of SEPP 65 and the Apartment Design Guidelines as they relate to provision of natural cross flow ventilation and solar access.

Subject to recommended conditions, the proposal is considered to comply with Clause 7.4 of PLEP.

Clause 7.6 Salinity

The development site is affected by moderate salinity. While so, it is considered that appropriate measures can be taken to avoid or reduce any undesirable effects that may be created as a consequence of the proposed development through recommended conditions.

Clause 7.7 Servicing

Sydney Water

Sydney Water advised in its letter dated 17 December 2018 advised that due to the increase in servicing demand within the Penrith area they were embarking on a business case to carry out options planning works for both water and wastewater servicing for the broader Penrith CBD, and that they were unable to provide comment regarding capacity availability or sizing until the work was complete. Another letter was received on 8 March 2019, stating that no objection was raised to the development and that current options planning was to support development in the wider Penrith area. It was acknowledged within the letter that both existing drinking water mains and sewer mains had limited capacity to service this development and that amplification and extension to the network is required.

Sydney Water has advised that detailed requirements regarding potential extensions or amplifications will be provided once the development proposal is referred to them for a Section 73 application and after the completion of their planning study. A condition of consent is recommended.

Endeavour Energy

Endeavour Energy in its email dated 1 January 2019 raised no objection to the development proposal subject to further application for connect of load to Endeavour Energy.

The applicant was provided copies of correspondence from Sydney Water and Endeavour Energy. Conditions of consent have been recommended.

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

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

Penrith DCP 2014 includes a site specific chapter (E13 Riverlink Precinct, Part B - Panthers Precinct) which addresses the matters specified in Clause 9.6. The provisions of Penrith DCP 2014 are considered in the DCP compliance table provided later within this report.

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

Planning Proposal

In 2012 Council endorsed planning controls for the Penrith Panthers site, located at Mulgoa Road and Retreat Drive, Penrith which provide for the development of an integrated 'entertainment, leisure and lifestyle precinct'. The controls allow outlet centres, general retail, campus style office premises, serviced apartments and high density residential dwellings to be permissible on the site.

Since then, the Panthers Group has been working on options for development of the Penrith Panthers site based on market trends. A proposed residential and general retail development scheme has been prepared for the northern portion of the site by the developer, CABA, which intends to replace the current endorsed Outlet Centre, residential and mixed use development scheme in this area. To facilitate the proposed development scheme, an amendment was sought to the Penrith Local Environmental Plan 2010 (LEP 2010) by way of a Planning Proposal which was lodged with Council in July 2016.

Supporting the proposed changes to planning controls is a proposed development scheme prepared by CABA for the northern portion of the Penrith Panthers site. This scheme proposes a residential, mixed-use precinct incorporating a range of residential tower buildings. It seeks the development of 16 buildings containing apartments, some of which would sit above commercial podiums containing general retail floor space fronting the lake. Prominent gateway buildings are sought on the corner of Ransley Street and Mulgoa Road as well as at the western end of Ransley Street adjacent to the lake. A Stage 1 Development Application for this scheme, located on the corner of Mulgoa Road and Ransley Street, has been approved and is currently under construction.

The Planning Proposal recommends the following changes to LEP 2010:

- Adjust the maximum building height controls applying to the northern portion of the Penrith Panthers site to permit increased maximum building heights of 15m, 20m, 24m, 38m and 50m and to reduce building heights in some locations.
- Place a cap on the maximum residential development capacity at the northern portion of the Penrith Panthers site, being a maximum of 850 dwellings and 80,400 square metres of residential gross floor area.
- Remove the ability to develop an Outlet Centre at the Penrith Panthers site.
- Property description updates due to changes related to recent subdivisions.

The Planning Proposal was exhibited in Sep/Oct 2017, and reported to Council for endorsed on 13 Nov 2017. Council's resolution requires an amendment to the Roadworks Planning Agreement (the VPA) for the site to be executed before the Planning Proposal is forwarded to the Department with a request to make the LEP amendment. The negotiation of the VPA amendment is currently being undertaken by relevant parties. Further discussion on the VPA is in another section of this report

The development proposal has been assessed against the Planning Proposal and is found to be compliant.

Draft Development Control Plan

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

- Replacement of the planned Outlet Centre with the CABA residential and mixed-use development scheme.
- Preparation of a revised concept plan and various other diagrams to reflect the new scheme.
- Changes to development layout and structure, including roads, through-site links and building envelopes.
- Addition of landmark building at end of Ransley Street, with associated development controls.
- Addition of street hierarchy controls to prescribe roadway requirements at the northern portion of the Penrith Panthers site.
- Addition of pedestrian and cycleway connections throughout the northern part of the Panthers site, aligning with the new development structure.
- Changes to objectives and controls for various elements.
- Retainment of existing endorsed view corridors and building setback controls
- Inclusion of additional architectural and urban design controls.
- Capping of retail floor space to a maximum of 3,500sqm at the northern portion of the Penrith Panthers site.
- Addition of bushfire risk management controls
- Deletion of the planned zone sub-station at the north-west corner of the Penrith Panthers site, based on advice provided by Endeavour Energy that the site will not be acquired, as it is prone to flooding.

The draft DCP amendment was exhibited in Sep/Oct 2017, and reported to Council for endorsed on 13 Nov 2017. The draft DCP amendments were endorsed by Council but are not to take effect until the publication of the amendment to the Penrith LEP.

The development proposal has been assessed against the draft DCP, and is found to be largely compliance with the draft document, except in the following areas:

Non compliance with draft DCP amendments include:

Section 13.7.5 Public Art Strategy

A Public Art Strategy, dated 10 June 2014, was submitted in support of the development application. The submitted Public Art Strategy pre-dates the development scheme proposed in the Planning Proposal and draft DCP amendments for the Panthers Precinct and therefore the recommendations of the submitted Public Art Strategy does not align with proposed land uses and public spaces. As such, a condition of consent is recommended to require the submission of a Public Art Strategy, prepared by an appropriately qualified and experienced public art and installation consultant, in accordance with the requirements of the draft DCP amendments.

Section 13.9 Built form

The Street Wall height and setbacks outlined in Figure E13.26, Figure E13.29 and E13.30 provide the required maximum street wall height with setbacks, and site boundary setback for the areas along Ransley Street (location 1) and the north-west boundary (location 2).

Location 1 - the proposal is non-compliant with the street wall height of 14m with a 5m setback above the wall height, with a 0m site boundary setback for Building C. The proposal seeks a variation to the 0m site boundary setback for a small portion of the building to accommodate the cul-de-sac, and a variation at Level 3, which has a minor encroachment into the 5m setback to one balcony. These variations are considered acceptable given their minor nature.

Location 2 - the proposal is non-compliant with the street wall height of 14m with a 3m setback above the wall height, and the site boundary setback of 5m for Building G. The wall height of Building G is proposed at 18m, with no stepped articulation, and a 3m site boundary setback. Given the proximity to the adjoining transmission easement and open space, and that the siting of the Buildings, having considered of overshadowing impacts, this variation is considered acceptable.

Draft State Environmental Planning Policy (Remediation of Land) 2018

The proposal has been assessed against the applicable provisions of the Draft State Environmental Planning Policy (Remediation of Land) 2018 and associated guideline document, and is considered to be acceptable. Refer also to the discussion under the State Environmental Planning Policy No. 55 - Remediation of Land section of this report.

The draft amendments were on exhibition from 31 January to 13 April 2018. The draft amendment is currently under consideration.

Draft State Environmental Planning Policy (Environment) 2017

The Explanation of Intended Effect for State Environmental Planning Policy (Environment) 2017 was on exhibition from 31 October 2017 to the 31 January 2018. The intent of the new State Environmental Planning Policy (Environment) 2017 is to combine seven existing State Environmental Planning Policies into a simple, modern and accessible instrument.

The proposal has been assessed against the applicable provisions of the Draft State Environmental Planning Policy (Environment) and is considered to be acceptable. Refer also to discussion under the Sydney Regional Environment Plan No. 20 - Hawkesbury Nepean River (No. 2 - 1997) section of this report.

The Draft State Environmental Planning Policy (Environment) 2017 is currently under consideration.

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

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Does not comply - see Appendix - Development Control Plan Compliance
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A
E13 Riverlink Precinct controls	Does not comply - see Appendix - Development Control Plan Compliance

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

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

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

The parties to the Panthers Roadworks VPA are Council, Penrith Rugby League Club and the Roads and Maritime Services. This VPA relates to road network upgrades associated with the implementation of the Panthers Precinct Masterplan. The Road Works VPA, which prescribes the improvements to be carried out to the road network to support the development of the Penrith Panthers site, was executed in 2012 by Council, Roads and Maritime Services (RMS) and the Panthers Group.

At present, all parties are in discussions to determine the impacts of the proposed CABA development scheme, and broader precinct current and future land uses, on the surrounding road network compared to the current endorsed traffic modelling which underpins the 2012 Road Works VPA.

The key changes to assumptions employed in the updated modelling are:

- Replacement of the current endorsed Outlet Centre with the proposed CABA residential and mixed-use development scheme.
- Investigation of the changes to travel patterns as a result of the change in land use, particularly the consideration of the morning and afternoon peak periods.
- Deletion of a road connection point from the north of the Panthers site to the Great Western Highway, which is currently included in the endorsed traffic modelling assumptions, resulting in a redistribution of traffic flows to the remaining three access points to the Panthers site. Council previously advised the proponent to remove the north access point from the modelling assumptions due to the unknown timing of delivery of the north-south "Riverlink" connection through the Panthers site to ensure that traffic can be appropriately distributed.

All parties have commenced the negotiation to amend the Road Works VPA. The negotiation will determine required internal road improvements, as well as proposed intersection layouts, timing and triggers for delivery of improvements. The planned Mulgoa Road widening will be considered as part of this negotiation.

The latest updated modelling indicates that overall both the current endorsed scheme and the proposed CABA development scheme generate similar traffic volumes. The modelling has identified options for road improvements as a potential means to address deficiencies in the performance of the road network. Modelling will be finalised and refined as part of the detailed VPA negotiations.

Council at its meeting on the 13 November 2017 endorsed the Planning Proposal and DCP 2014 amendment to proceed, however the endorsement stipulated that the amendments to LEP 2010 are not sent to the Department for gazettal, and the DCP 2014 not brought into force, until an amendment to the Road Works VPA has been executed.

Negotiations between all parties are still ongoing, and the VPA is yet to be executed. The proposed development does not trigger works under either VPA or fetter the obligations in the VPAs.

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

Fire Safety

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

Prescribed Conditions

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

Advertising and Notification

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

Clause 92 - Additional Matters

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

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

Context and Setting

The proposed development will contribute to the emerging higher densities expected in the City Centre and surrounds. The proposed form and scale is different from the existing residential developments to the north, yet it is consistent with the desired future character of the area in the north precinct of the site. The scale of the buildings provides a good transission through the Panthers Precinct to the existing lower density residential developments north of the site.

The proposed development has been designed to be compatible with surrounding development in terms of built form. The development has a maximum height of 20m (5 storeys) for Building G at the north-western end, and Building D at the north-western end. Building E scales down to 16m (4 storeys) being under the maximum proposed building height of 20m adjacent existing low density development along Retreat Drive and along the riparian corridor.

The interface between the proposed development and the existing residential development has a matter of considerable negotiations. The retention of the majority of trees along Retreat Drive and the riparian corridor, along with adequate setback requirements to Retreat Drive, ensure the development is not dominating the lower density residential development. The riparian corridor provides a landscape buffer to the adjoining lower density residential development to the north of the site. Additional planting within the riparian corridor will add to, and enhance, the existing landscape buffer.

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

Traffic and parking

As discussed elsewhere in this report, the Panthers Precinct is subject to a VPA for road works. The current VPA is being amended to reflect the change in land uses within the precinct and revised Masterplan.

The car parking allocated to the development is also discussed in another section of this report. The development was occupied by a Traffic Assessment Report, and the proposed car parking numbers for both residential and retail component of the development have been assessed by Council's Traffic engineers and are considered satisfactory.

Amenity Impacts

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

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

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

- The use compatible with surrounding/adjoining land uses
- The site is located on the edge of the Penrith City Centre and is an ideal location for this form of development
- The site is adequately serviced by public transport, water and sewer infrastructure
- The grade of the site is suitable for the design proposed
- The site is able to drain stormwater to Council's satisfaction

Section 79C(1)(d) Any Submissions

Community Consultation

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

The public exhibition period for the proposal was from 19 October to 19 November 2018. Council received two (2) submissions in response, as detailed below.

Issues Raised	Comment
<i>Traffic impacts</i>	A detailed traffic and parking assessment has been undertaken by the applicant's consultant, GHD, and this has been verified by Council's Traffic Engineer. The assessment has considered the impacts of the subject development proposal and the ultimate development scenario for the whole of the Panthers Precinct on the surrounding road network as well as internal traffic. The Panthers Precinct is subject to a Road Works Planning Agreement. This Agreement outlines the required development contributions for road works associated with the implementation of the Penrith Panthers Masterplan. The subject development proposal does not trigger any works under the Planning Agreement.
<i>Retreat Drive access during construction</i>	Retreat Drive is part public road and part private road. This development proposal is accessed via the public road. All vehicles associated with the construction of the development will access the site via the public road and be contained within the development site. A condition of consent has been recommended.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided
Community Safety Officer	No objections - subject to conditions
Planning and Sustainability	No objections
Tree Management Officer	No objections - subject to conditions
Social Planning	No objections

Traffic Engineer

Council's Traffic Engineers do not support the proposed development due to the VPA not being executed as yet. Conditions of consent have been recommended to ensure the execution of the VPA prior to the issue of a Construction Certificate.

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

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

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

Section 94 - Developer Contributions Plans

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

S.94 Contributions Plan	Contribution Rate x Calculation Rate	Total
District Open Space	647x \$1,980.00	\$1,281,060.00
Local Open Space	647 x \$716.00	\$463,252.00
Cultural Facilities	777.9 x \$173.00	\$134,577.00
	NET TOTAL	\$1,878,889.00

Conclusion

The proposal has been assessed against the relevant sections of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies, Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, Panthers Penrith Planning Proposal, draft Development Control Plan Chapter E13 Riverlink Precinct Part B - Panthers Penrith Precinct, and has been found to be a form of development that is acceptable.

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

Recommendation

1. That DA18/0999 for the demolition of an existing structures and construction of one (1) x five (5) storey mixed use building comprising 1,225 sqm of retail floor space & 82 apartments, seven (7) x four (4) & five (5) storey residential flat buildings containing 246 apartments, basement car parking and associated site works at 2 Retreat Drive, Penrith, be approved subject to the attached conditions.
2. That the submitted variation to the Height of Building, a development standard under Penrith LEP 2010 be supported: and
3. That those individuals who made a submissions be notified of the determination.

CONDITIONS

General

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

Drawing Name	Drawn by	Drawing No.	Dated
Architectural Plans			
General Arrangement Basement 01	Turner	DA-110-010 Rev. P14	12.06.19
General Arrangement Ground Level	Turner	DA-110-020 Rev. P19	14.06.19
General Arrangement Level 01	Turner	DA-110-030 Rev. P13	14.06.19
General Arrangement Level 02	Turner	DA-110-040 Rev. P7	14.06.19
General Arrangement Level 03	Turner	DA-110-050 Rev. P7	14.06.19
General Arrangement Level 04	Turner	DA-110-060 Rev. P7	06.06.19
General Arrangement Roof	Turner	DA-110-070 Rev. P8	06.06.19
General Arrangement Building C Basement Level	Turner	DA-112-010 Rev. P6	22.03.19
General Arrangement Building C Ground Level	Turner	DA-112-020 Rev. P17	14.06.19
General Arrangement Building C Level 1	Turner	DA-112-030 Rev. P11	20.03.19
General Arrangement Building C Level 2	Turner	DA-112-040 Rev. P7	08.03.19
General Arrangement Building C Level 3	Turner	DA-112-050 Rev. P7	08.03.19
General Arrangement Building C Level 4	Turner	DA-112-060 Rev. P7	08.03.19
General Arrangement Building C Roof	Turner	DA-112-070 Rev. P1	08.03.19
General Arrangement Building D & E Basement Level	Turner	DA-112-110 Rev. P14	11.06.19
General Arrangement Building D & E Ground Level	Turner	DA-112-120 Rev. P17	14.06.19
General Arrangement Building D & E Typical Levels	Turner	DA-112-130 Rev. P9	14.06.19
General Arrangement Building D & E Level 4	Turner	DA-112-140 Rev. P9	06.06.19
General Arrangement Building F Basement Level	Turner	DA-112-210 Rev. P9	12.06.19
General Arrangement Building F Ground Level	Turner	DA-112-220 Rev. P12	14.06.19
General Arrangement Building F Levels 1 & 2	Turner	DA-112-230 Rev. P9	06.06.19
General Arrangement Building F Level 3	Turner	DA-112-240 Rev. P9	06.06.19
General Arrangement Building F Level 4	Turner	DA-112-250 Rev. P8	06.06.19
General Arrangement Building F Roof	Turner	DA-112-260 Rev. P2	06.06.19
General Arrangement Building G Basement Level	Turner	DA-112-310 Rev. P12	12.06.19
General Arrangement Building G Ground Level	Turner	DA-112-320 Rev. P14	14.06.19
General Arrangement Building G Level 1	Turner	DA-112-330 Rev. P9	06.06.19
General Arrangement Building G Level 2	Turner	DA-112-340 Rev. P9	06.06.19

General Arrangement Building G Level 3	Turner	DA-112-350 Rev. P9	06.06.19
General Arrangement Building G Level 4	Turner	DA-112-360 Rev. P9	06.06.19
General Arrangement Building G Roof	Turner	DA-112-370 Rev. P3	06.06.19
Site Elevations	Turner	DA-250-010 Rev. P7	06.06.19
Site Elevations	Turner	DA-250-020 Rev. P7	06.06.19
Building C Elevations	Turner	DA-251-010 Rev. P7	06.06.19
Building C Elevations	Turner	DA-251-015 Rev. P8	06.06.19
Building D Elevations	Turner	DA-251-020 Rev. P8	06.06.19
Building E Elevations	Turner	DA-251-030 Rev. P7	06.06.19
Building F Elevations	Turner	DA-251-040 Rev. P7	06.06.19
Building G Elevations	Turner	DA-251-050 Rev. P9	06.06.19
Site Sections	Turner	DA-350-010 Rev. P6	06.06.19
Typical Façade Sections Façade Section 1	Turner	DA-351-010 Rev. P4	22.03.19
Typical Façade Sections Façade Section 2	Turner	DA-351-020 Rev. P3	08.03.19
Ramp Sections	Turner	DA-360-010 Rev. P6	06.06.19
Adaptable & Livable Apartment Plan	Turner	DA-800-010 Rev. P8	06.06.19
Adaptable & Livable Apartment Plan	Turner	DA-800-011 Rev. P2	14.06.19
Materials & Finishes	Turner	DA-910-001 Rev. P3	06.06.19
Landscaping Plans			
Landscape Plan: Overall	Oculus	OC-L-100 Rev. C	14.06.19
Landscape Plan: Address & Loop	Oculus	OC-L-101 Rev. C	14.06.19
Landscape Plan: Building C	Oculus	OC-L-102 Rev. B	14.06.19
Landscape Plan: Riparian Corridor	Oculus	OC-L-103 Rev. C	14.06.19
Landscape Plan: Pocket Park/Pool Podium, Buildings D & E	Oculus	OC-L-104 Rev. C	14.06.19
Landscape Plan: Level 4 Rooftop Garden, Building D	Oculus	OC-L-105 Rev. B	14.06.19
Landscape Plan: Level 1 Podium, Building G	Oculus	OC-L-106 Rev. B	14.06.19
Landscape Plan: Level 4 Rooftop Garden, Building G	Oculus	OC-L-107 Rev. A	14.06.19
Indicative Section AA	Oculus	OC-L-200 Rev. B	14.06.19
Indicative Sections BB and CC	Oculus	OC-L-201 Rev. C	14.06.19
Indicative Section DD	Oculus	OC-L-202 Rev. C	14.06.19
Indicative Section EE	Oculus	OC-L-203 Rev. C	14.06.19
Indicative Section FF	Oculus	OC-L-204 Rev. B	14.06.19
Indicative Materials	Oculus	OC-L-300 Rev. B	14.06.19
Indicative Plant Schedule	Oculus	OC-L-301 Rev. B	14.06.19
Indicative Plant Schedule: Reserve & Level1, Building C	Oculus	OC-L-302 Rev. B	14.06.19
Indicative Plant Schedule: Pocket Park/Pool Podium (Building D & E)	Oculus	OC-L-303 Rev. B	14.06.19
Exiting Tree Summary: Existing Trees to be removed & their replacement	Oculus	OC-L-304 Rev. A	14.06.19
Civil Engineering			
Basement Detail & Cut/Fill Plan Sheet 1	J.Wyndham Prince	110251/DA102 Rev. E	12.06.19

Basement Detail & Cut/Fill Plan Sheet 2	J.Wyndham Prince	110251/DA103 Rev. E	12.06.19
Ground Level Detail Plan Sheet 1	J.Wyndham Prince	110251/DA104 Rev. E	12.06.19
Ground Level Detail Plan Sheet 2	J.Wyndham Prince	110251/DA105 Rev. E	12.06.19
Site Longitudinal Sections	J.Wyndham Prince	110251/DA106 Rev. E	12.06.19
Road Longitudinal Sections Sheet 1	J.Wyndham Prince	110251/DA107 Rev. D	12.06.19
Road Longitudinal Sections Sheet 2	J.Wyndham Prince	110251/DA108 Rev. D	12.06.19
Ramp Details 1,2 & 3	J.Wyndham Prince	110251/DA109 Rev. D	12.06.19
Drainage Strategy Plan Sheet 1	J.Wyndham Prince	110251/DA110 Rev. E	12.06.19
Drainage Strategy Plan Sheet 2	J.Wyndham Prince	110251/DA111 Rev. E	12.06.19
Catchment Plan	J.Wyndham Prince	110251/DA112 Rev. E	12.06.19
Drainage Long Section (20% AEP) Sheet 1	J.Wyndham Prince	110251/DA113 Rev. D	12.06.19
Drainage Long Section (20% AEP) Sheet 2	J.Wyndham Prince	110251/DA114 Rev. D	12.06.19
Drainage Long Section (20% AEP) Sheet 3	J.Wyndham Prince	110251/DA115 Rev. B	12.03.19
Drainage Long Section (20% AEP) Sheet 4	J.Wyndham Prince	110251/DA116 Rev. B	12.03.19
Drainage Long Section (20% AEP) Sheet 5	J.Wyndham Prince	110251/Da117 Rev. D	12.06.19
Drainage Long Section (20% AEP) Sheet 6	J.Wyndham Prince	110251/DA118 Rev. C	12.03.19
Drainage Long Section (20% AEP)	J.Wyndham Prince	110251/DA119 Rev. C	12.03.19
Drainage Long Section (20% AEP)	J.Wyndham Prince	110251/DA120 Rev. C	12.03.19
Channel Works	J.Wyndham Prince	110251/DA121 Rev. E	12.06.19
Soil & Water Management Notes	J.Wyndham Prince	110251/DA122 Rev. C	12.03.19
Soil & Water Management Plan	J.Wyndham Prince	110251/DA123 Rev. E	12.06.19
Existing Services Plan	J.Wyndham Prince	110251/DA124 Rev. E	12.06.19

- 2 Prior to occupation of the retail tenancies within the building, a separate development approval is to be obtained from Penrith City Council to use each tenancy within the building/complex.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 5 The development must be in accordance with the General Terms of Approval issued by Natural Resources Access Regulator in its letter dated 9 January 2019.
- 6 Alternate access arrangements to Council's Gross Pollutant Trap asset, located within the riparian corridor, must be designed to Council's specifications and submitted for approval by the Development Services Manager at Penrith City Council. Confirmation from Penrith City Council, confirming satisfactory arrangements have been made is to be provided to the Principal Certifying Authority, **prior to the issues of a Construction Certificate.**
- 7 A Public Art Strategy is to be submitted to the Development Services Manager 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 release 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 Chapter of the DCP. The Strategy is to be prepared by a specialist art consultant for the whole Panthers Penrith Precinct.

- 8 During the demolition and construction phase, no vehicle access to the development site is permitted from the privately owned section of Retreat Drive.
- 9 **Prior to the issues of an Occupation Certificate**, the Principal Certifying Authority must be satisfied that the boardwalk within the riparian corridor is a minimum of 3m shared pathway width for the full length of the boardwalk.
- 10 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority must be satisfied that effective wayfinding signage is incorporated from the 'gatehouse' entry point for Buildings E to the individual building entry ways.
- 11 **Prior to a Construction Certificate** being issued, Lots created under DA18/1245 must be registered with the NSW Land Registry Services.
- 12 The amended Voluntary Planning Agreement in accordance with the Letter of Offer from Panthers Rugby League Club, dated 15 August 2018 known as the 'Planning Agreement - Road Works' is to be executed **prior to the issue of a Construction Certificate**. A copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority **prior to the issue of a Construction Certificate**.

The Principal Certifying Authority shall be provided with a Schedule of current development applications, active consents and construction certificates (issued, yet to be issued and those that have been lodged, yet remain unissued). The Schedule is to indicate a tally of gross floor area for each development and is to be provide written evidence, details and confirmation that the requirements and obligations required by the executed VPA have been met and if required, have been undertaken and/or completed. A copy of this Schedule is to be provided to all parties being signatory to the VPA, **prior to the issue of the Construction Certificate** for the development.

- 13 **Prior to the issue of a 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 the applicable requirements of the Planning Agreement - Road Works, have been undertaken and are met.
- 14 **Prior to the issue of the Occupation Certificate**, the Principal Certifying Authority is to be provided with a copy of a registered plan of subdivision indicating that the Voluntary Planning Agreement for Road Works is noted on the title.
- 15 **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 Development Services Manager at Penrith City Council.

Hoarding or site fencing and associated structures are to be of high quality and are to be recessive in colour and sturdy and semi-permanent in material. A photomontage or similar is to be provided which indicated all proposed heights, materials and colours, images and artwork. No advertising is permitted to be installed or included on the hoarding/site fencing. Sales and branding information is limited to 20% coverage for each elevation.

- 16 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 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.
- 17 A minimum of 34 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability. The adaptable units shall each be allocated on accessible car parking space compliant with AS 2890.6. The Construction Certificate must be accompanied by certification from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable units are capable of being modified, when required by the occupant, to comply with the Australian Housing Standards (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of an Occupation Certificate**.

- 18 **Prior to the issue of a Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 19 **Prior to the issue of an Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Schedule 1 of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 20 All mechanical ventilation equipment, ducts, air conditioner services and the like shall be shown on the Construction Certificate documentation as being contained within the building. Gutters and down pipes shall be integrated into the architecture of the buildings. Any plants or unsightly structures installed on the rooftop must be screened from view.
- 21 **Prior to the issue of a Construction Certificate**, a final schedule of external materials and finishes is to be submitted to and approved by the appointed certifying authority which is consistent with the finishes detail depicted on the architectural drawings.
- 22 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority must ensure the privacy screens noted on the architectural plan between buildings G, F and H have been incorporated as architectural design elements of the buildings and are consistent with other design elements depicted on the architectural plans.
- 23 All works within the riparian corridor (proposed Lot 58 under DA18/1245) is to be complete **prior to the issue of an Occupation Certificate**.

- 24 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 parks, including the lifts and stairwells, to minimise opportunities for unauthorised access.
- All areas of the car parks must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks.
- Australian Standard 220 – door and window locks must be installed in all dwellings and retail 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.
- Letter boxes must be incorporated within the main entry to each building, with access for residents from the rear (from within a secure building), and with no front flap lock on the boxes that can be easily broken.

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.
- All outdoor furniture in common areas must be well secured to minimise opportunities vandalism/theft.

Landscaping

- All vegetation throughout the site must be regularly pruned to ensure that sight lines are maintained. This is specifically important around the boardwalk area (adjacent to the riparian zone) to minimise opportunities for loitering.

Demolition

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

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

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

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

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

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

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

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

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

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

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

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

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

Heritage/Archaeological relics

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

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

Environmental Matters

- 30 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 No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 32 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 33 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.

- 34 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in 'Aspire, Stages 2 & 3, Penrith Noise Impact Assessment' prepared by Acoustic Logic Consultancy Pty Ltd dated 26 February 2019 (Ref. 20190191.1/2602A/R0/SN).

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

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

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

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

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

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

- 36 An appropriately qualified person/s (as defined in the Penrith Development Control Plans) shall:
- Supervise all filling works.
 - (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person (as defined in the Penrith Development Control Plans) with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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.
 - 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 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

- 37 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 38 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

- 39 **Prior to the issue of the Construction Certificate**, a Construction Noise Impact Assessment and Management Plan is to be prepared by a suitably qualified acoustic consultant and be approved by the Development Services Manager at Penrith City Council. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

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

- 40 All mechanical plant and equipment is to comply with the noise criteria outlined in 'Aspire, Stages 2 & 3, Penrith - Noise Impact Assessment' prepared by Acoustic Logic Consultancy Pty Ltd dated 26 February 2019 (Ref. 20190191.1/2602A/R0/SN).

Prior to the issue of the Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be approved by the Development Services Manager at Penrith City Council. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

- 41 Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.
- 42 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 Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 43 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority must have written confirmation from Penrith City Council that the following waste management requirements have been complied with:
- All on-site waste collection infrastructure, doors and access points (Waste Chute Rooms, Waste Collection Room, Bulky Household Waste Collection Room and Loading bay) to provide 1.8m wide 180 degree outwards opening dual doors that are locked through Councils Abloy Key System. System specifications are outlined in section 3.5.5 of the 'Residential Flat Building Guideline' document.
 - All on-site waste collection infrastructure (Waste Chute Room, Waste Collection Room, Bulky Household Waste Collection Room, Retail Waste Collection Room and Loading bay) are to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
 - A 1.8m wide dual 180 degree outwards opening door to be installed in Building C (ground floor) to permit unobstructed direct access from the 'retail waste collection room' to the adjacent retail tenancies located to the south
 - The western chute room of Building C (ground floor) to permit an 1.8m wide unobstructed access corridor adjacent to the linear track system to permit access/movement to the service bins (2x 1100L bins)
 - The eastern chute room of building D to provide a 1.8m wide dual 180 degree outwards opening door to permit unobstructed access
 - For the internal movement of 1100L bins (buildings D-G & C) a bin tug device is required to be provided and stored within the developments in accordance with section 3.6 of the 'Residential Flat Building Guideline' document. Device specifications.
- 44 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority must have written confirmation from Penrith City Council that the following matters have been approved by Council:
- The turn tables (Building C & D) to accommodate a 9.7m heavy rigid waste collection vehicle incorporates a hydraulic override system or similar assisted override system to ensure the turn table can be rotated in the event of a systems malfunction.
 - The developer has entered into a formal agreement with Penrith City Council for the utilisation of Councils Waste Collection Service. This is to include Council being provided with indemnity against claims for loss and damage. *Note: By entering into an agreement with Council for Waste Collection, the development will be required to operate in full compliance with Penrith City Councils Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Councils waste collection service will not commence until formalisation of the agreement.*
 - Councils Waste and Resource Recovery Department has conducted a site inspection to ensure all on-site infrastructure has been provided to permit a safe and efficient waste collection service.
- 45 **Prior to the commencement of works**, including the removal of any trees associated with approved development activities, an inspection for resident threatened fauna (including inspection of all hollows) is to be undertaken under the supervision of a fauna ecologist. Any fauna found are to be relocated. Should juveniles be contained within the affected tree then clearing is to be delayed until juveniles have vacated. WIRES are to be contacted in the case of any injured fauna.

BCA Issues

- 46 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.

- 47 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

- 48 Cooling Towers and Warm Water Systems are to be registered with Penrith City Council by completing the “Regulated Systems Premises - Registration Form”. This form is to be returned to Council prior to the issuing of the Occupation Certificate and operation of the system. The occupier of the premises must notify Council within 7 days of any change of details.

Air-Handling Systems, Hot-Water Systems, Humidifying Systems, Warm-Water Systems and Water-Cooling Systems shall be operated and maintained in accordance with the *Public Health Act, 2010*, *Public Health Regulation, 2012* and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health. This includes:

- There must be safe and easy access to a regulated system (as defined in the *Public Health Act, 2010*) for the purpose of the cleaning, inspection and maintenance of the system.
- A water-cooling system must be equipped with a disinfection procedure that is in operation at all times and that is designed to control microbial growth so that:
 - (a) the level of *Legionella* in the system is not more than 10 colony-forming units per millilitre, and
 - (b) the heterotrophic plate count in the system is not more than 100,000 colony-forming units per millilitre.

Air-Handling Systems, Hot-Water Systems, Humidifying Systems, Warm-Water Systems and Water-Cooling Systems must be installed in accordance with AS/NZS 3666.1:2011 “Air-Handling and Water Systems of Buildings—Microbial Control—Design, Installation and Commissioning”, as applicable to the specific system. An air-handling system must be fitted with supply air filters. This includes:

- The Regulated System shall be thoroughly flushed before being brought into service and shall be located in a position to ensure that the exhaust discharge from the Cooling Tower is a minimum 6m away from occupied areas, pedestrian thoroughfares, trafficable areas, air intakes including lift vents and building openings.
- When an Air Handling, Hot Water, Humidifying, Warm Water or Water Cooling System is installed a certificate is to be obtained certifying that the system has been installed in accordance with the *Public Health Act, 2010*, *Public Health Regulation, 2012* and AS/NZS 3666.1:2011 “Air-Handling and Water Systems of Buildings—Microbial Control—Design, Installation and Commissioning”.

Utility Services

- 49 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The proponent is advised to make an early application for this certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and building, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

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

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

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

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

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

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

Construction

- 52 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.

53 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.

54 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

- 55 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.
- 56 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of Road & Public domain works in relation to proposed Road 1 connection and path works in Retreat Drive, Penrith.

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

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

Note:

- a) 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.

- 57 **Prior to the issue of any Construction Certificate**, the Principal Certifying Authority and/ or Certifying Authority shall ensure that an application under Section 68 of the Local Government Act, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council for provision of drainage works in Lot 54 & Lot 55 DP 1246141, in accordance with the stormwater plans by J. Wyndham Prince, numbered 110251/DA100, revision D dated 15/03/2019.

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

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

Note:

- a) All works associated with the S68 Local Government Act Approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 58 A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works (road, drainage, earthworks, subdivision works).

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by J.Wyndham Prince, reference number 110251/DA100, revision D, dated 15/03/2019, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

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

- Public and private roads
- Storm water management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

Note:

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

- 59 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	Road Reserve Width	Carriageway Width	Verge Width	Footpath	ESA
Road 1 Chainage 0-120	16.0m	6.5m	3.5m	3m (RHS) 1.5m (LHS)	5x10 ⁴
Road 1 Chainage 120-322	18.5m	6.5m	3.5m	3m (RHS) 1.5m (LHS)	5x10 ⁴
Road 2	9.5m	4.0m	3.5m (RHS) 2m (LHS)	3m (RHS)	5x10 ⁴
Road 3	9.5m	4.0m	2m (RHS) 3.5m (LHS)	1.5m (LHS)	5x10 ⁴

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

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

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

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

61

The stormwater management system shall be provided generally in accordance with the MUSIC modeling prepared by J. Wyndham Prince reference 110251-05 ESQ1818 Stage1+Stg 2-3 and reference 110251-05 ESQ1818 Ultimate dated March 2019, and the associated concept plan/s lodged for development approval, prepared by J. Wyndham Prince reference 110251, drawings DA100 to DA124 revision D dated 12 March 2019.

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. A GPT and bioretention basin with a minimum filter area of 685 m² must be provided for the stormwater treatment.

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 Policy.

- 62 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by J. Wyndham Prince, reference number 110251/DA100, revision D, dated 15/03/2019.

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

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

- 63 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the foundations of proposed structures adjoining the drainage and/ or services easement have been designed clear of the zone of influence.
- 64 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Flood Report prepared by J. Wyndham Prince Panthers Precinct Master Plan Flood Assessment Report, dated 6 September 2016 and addendum dated 8/03/2019.
- 65 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 26.4m AHD (standard flood level + 0.5m freeboard).
- 66 **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.

67 **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.

68 Prior to the issue of a Roads Act Approval and Section 68 Local Government Act, a Performance Bond is to be lodged with Penrith City Council.

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

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

69 **Prior to the issued of any Construction Certificate** for internal works associated with the development the site must be serviced by a legal point of discharge including and required infrastructure drainage works. The drainage works may include inter-allotment drainage construction, upgrades and / or road drainage extensions located on lands owned by others.

70 **Prior to commencement of any works** associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

71 **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.

- 72 Street lighting is to be provided for all new and existing streets to Penrith City Council's standards.
- 73 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 74 **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.
- 75 **Prior to the issue of a 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 and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

- 76 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
 - c) Flood control works
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

- 77 Prior to the issue of any 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)
 - b) Overland flowpath works
 - c) Flood control works

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

- 78 **Prior to an Occupation Certificate being issues**, the applicant shall grant an easement to Penrith City Council for drainage and overland flow purposes as shown on Plan No. 110251/DA121 Rev. E dated 12 June 2019, and on the basis that no claim for compensation will be made, and that the applicant will meet all associated survey and legal costs.
- 79 **Prior to an Occupation Certificate being issued**, the applicant shall grant an easement to Penrith City Council for stormwater drainage on Lot 52 DP 1246141, and on the basis that no claim for compensation will be made, and that the applicant will meet all associated survey and legal costs.
- 80 All car spaces and access areas are to be sealed / line marked and dedicated for the parking of vehicles only and not to be used for storage of materials / products / waste materials etc.
- 81 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- 82 Driveways, ramps, aisles, vehicle turning swept paths and clearances and car space width and lengths in accordance with DCP C10, AS2890., AS 2890.2 and AS2890.6, and shall include:
- Complying dimensions for car park headroom (from floor to lowest ceiling obstruction) of 2.2 metres to accessible parking spaces and minimum headroom of 2.5 metres above accessible parking spaces.
 - Complying internal aisle and manoeuvring area vehicle turning paths are to be at least 0.3 metres clear of obstructions including to walls, bollards and other obstructions.
 - At least a 1 metre long indent at the end of any dead end aisles in the car parking areas.
 - Complying car park ramp dimensions (including accordance with AS 2890.1 Table 2.2 and Figure 2.9) including additional 0.3 metre clearances to walls and other obstructions.
 - Complying car park ramp headroom clearances including at grade transitions.
 - Complying car park aisle widths, service vehicle areas, car park column locations and clearances (including accordance with AS 2890.1 Figure 5.1 and 5.2).
 - Complying additional car space clearances from obstructions (including accordance with AS 2890.1 B4.1 minimum additional clearance of 0.3 metres).
- 83 Kerb ramps are to be shown at all footpath and shared path road crossing points and the shared path is to include complying signposting and line marking to Council's requirements.
- 84 The bioretention basin is to be maintained by the proponent as a sediment basin until 90% of housing construction is completed and retain in the ownership of the proponent. After 90% of housing has been constructed the sediment basin is to be decommissioned and the bioretention basin completed.

- 85 **Prior to the issue of a Construction Certificate**, the following information regarding the proposed GPT to pre-treat the bioretention basin is to be submitted to the Development Services Manager at Penrith City Council for approval:
- Detailed construction plans including all calculations, drawings and designs which are consistent with the design parameters used in the modelling and approved concept designs from the Development Application
 - A detailed operation and maintenance manual which includes estimated life cycle costing
- 86 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s
- 87 **Prior to the issue of a Construction Certificate** the Principal Certifying Authority shall ensure that the plans are amended to include:
- Road 1 with a 3.5m wide verge with 1.5m wide footpath along its western side and turn head to connect to a 3.5m wide verge with 3m wide shared path along its eastern side for its full length and connecting to the shared path fronting the 3m shared path fronting ESQ stage 1 on the eastern side of Retreat Drive.
 - Road 1 turn head is to be reduced to 20m diameter between kerb and with at least a 3.5m verge from the road reserve boundary to the turning head kerb line including fronting the northern side building entry location.
 - Road 1 Removalist Truck Parking bay on the eastern side of Road 1 near the turning head set back to provide a 3.5m verge from the road reserve boundary to the end of the removalist bay. The removalist bay is to have complying dimensions shown on the plan.
- 88 Sight distance requirements in accordance with AS 2890.1 and / or AS 2890.2 Figure 3.2 at access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
- 89 Signage is required to be visible from the public road, internal access road and on-site to reinforce designated vehicle circulation, and to direct staff / service vehicle drivers / visitors to on-site parking and service areas
- 90 The required sight lines around the driveway entrances are not to be obstructed by landscaping, fencing or signs.
- 91 **Prior to an Occupation Certificate being issued**, the applicant shall register appropriate easement(s) over the adjoining land (Lot 55 DP 1246141) for the drainage line, and bioretention basin, this must include access for maintenance, on the location shown on the plan accompanying this consent, and on the basis that no claim for compensation will be made, and that the applicant will meet all associated survey and legal costs. Lots benefiting from the easement include Lots 54, 53, 52, Lot 51 and Penrith City Council.

- 92 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the access tracks and hard stand areas for maintenance vehicles are designed for the proposed GPT and Bioretention basin.

Landscaping

- 93 **Prior to the commencement of works**, a detailed landscaping plan and landscaping details plan is to be submitted to, and approved by the Development Services Manager of Penrith City Council.

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

Landscaping shall be maintained:

- in accordance with the approved plan, 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.

- 94 The approved landscaping for the site must be constructed by a suitability qualified and experienced landscape professional.

- 95 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 suitability qualified and experienced landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development, including the riparian corridor, 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.

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

ii. Maintenance Report

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

iii Final Site Arborist's Report (significant tree protection)

This report is to be submitted to Penrith City Council 2 years after the Occupation Certificate was issued. This report is to be prepared by a suitability qualified and experienced Arborist.

iv 3 Year Landscaping Report

3 years after an Occupation Certificate was issued for the development, a Landscaping Report is to be prepared and submitted for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

- 96 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.

- 97 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in section F4 of Council's Landscape Development Control Plan.

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

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

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

- 100 Trees noted on Drawing No. OC-L-304 Rev. A T06, T07, T09, T10, T11 to be removed are to be replaced with trees NT01, NT02, NT03, NT05, NT06 that have at least a 200 litres pot size.
- 101 Trees T18 & T17 noted for removal on Drawing No. OC-L-304 Rev. A are not to be removed.
- 102

Subdivision

- 103 Sub-leasing of car parking spaces is not permitted by this Consent.

Development Contributions

- 104 This condition is imposed in accordance with Penrith City Council's Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$134,577.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The contributions invoice accompanying this consent should accompany the contribution payment. The contributions plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

- 105 This condition is imposed in accordance with Penrith City Council's Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$1,281,060.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The development contributions invoice accompanying this consent should accompany the contribution payment. The contributions plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

- 106 This condition is imposed in accordance with Penrith City Council's Development Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$463,252.00** is to be paid to Council **prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The development contributions invoice accompanying this consent should accompany the contribution payment. The contributions plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith and is also available on Council's website.

Payment of Fees

- 107 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

- 108 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

10.6 Pedestrian Connections

There is limited detail in the Civil Plans to determine compliance with regarding footpaths and shared paths throughout the development. There is sections of the proposed shared path along Road 1 that narrows (at the removalist truck parking bay) or is non-existent (at the cul-de-sac head). To ensure the provision of well connected, safe, and convenient shared pathway to be implemented into the development a condition of consent has been included for the redesign of this section of road, and specification for the design of all road reserves.

C13 Infrastructure and Services

Sydney Water

Sydney Water advised in it's letter dated 17 December 2018 advised that due to the increase in servicing demand with Penrith they were embarking on a business case to carry out options planning works for both water and wastewater servicing for the broader Penrith CBD, and that they were unable to provide comment regarding capacity availability or sizing until the work was complete. Another letter was received on 8 March 2019, stating that no objection was raised to the development and that current options planning was to support development in the wider Penrith area. It was acknowledged within the letter that both existing drinking water mains and sewer mains had limited capacity to service this development and that amplification and extension to the network is required.

E13 Riverlink Precinct

Part E – Key Precincts Chapter

E13 Riverlink Precinct

Part B - Panthers Penrith Precinct

The development application has been assessed against the objectives and controls of Part B – Panthers Penrith Precinct Section of the Penrith Development Control Plan 2014. The development application is found to be non-compliant in the following areas:

13.6 Panthers Penrith Precinct Vision

The development proposal is inconsistent with the indicative land uses indicated within the Panther Precinct Concept Plan as illustrated on Figure E13.12. Although the proposal is inconsistent, in regards to land uses in the northern section of the precinct, the proposal is consistent with the revised development scheme proposed through the Planning Proposal and draft DCP amendments. Further details regarding the Planning Proposal and draft DCP amendment is outlined in another section of this report.

13.7.3 Sub Precincts

The development proposal is inconsistent with the indicative land uses with the north sub precinct. Indicative land uses within the north sub precinct include:

- A retail outlet centre (limited to 25, 000 sqm
- A mix of uses such as cafes, restaurants and ground level retail.

While the proposal incorporates 1,225 sqm of ground floor retail, the outlet centre has since been replaced with residential flat buildings. This new form of land uses is reflected in the Planning Proposal and draft DCP amendments for the site.

13.7.5 Public Art Strategy

A Public Art Strategy, dated 10 June 2014, was submitted in support of the development application. The submitted Public Art Strategy pre-dates the development scheme proposed in the Planning Proposal and draft DCP amendments for the Panthers Precinct and therefore the recommendations of the submitted Public Art Strategy does not align with proposed land uses and public spaces. As such, a condition of consent is recommended to recommended to require the submission of a Public Art Strategy, prepared by an a appropriately qualified and experienced public art and installation consultant, in accordance with the requirements of the draft DCP amendments.

Section 13:9 Built form

The Street Wall height and setbacks outlined in Figure E13.26, Figure E13:29 and E13:30 provide the required maximum street wall height with setbacks, and site boundary setback for the areas along Ransley Street (location 1) and the north-west boundary (location 2).

Location 1 - the proposal is non-compliant with the street wall height of 14m with a 5m setback above the wall height, with a 0m site boundary setback for Building C. The proposal seeks a variation to the 0m site boundary setback for a small portion of the building to accommodate the cul-de-sac, and a variation at Level 3, which has a minor encroachment into the 5m setback to one balcony. These variations are considered acceptable given their minor nature.

Location 2 - the proposal is non-compliant with the street wall height of 14m with a 3m setback above the wall height, and the site boundary setback of 5m for Building G. The wall height of Building G is proposed at 18m, with no stepped articulation, and a 3m site boundary setback. Given the proximity to the adjoining transmission easement and open space, and that the siting of the Buildings, having considered of overshadowing impacts, this variation is considered acceptable.