

SWCPP Ref. No.:	2019WCI014
DA No.:	DA18/1260
PROPOSED DEVELOPMENT:	Stage 2 of an Approved Concept Plan Comprising of a 6 Storey Hotel and Ancillary Civil Works - Lot 2 DP 1216321,83 Mulgoa Road, PENRITH NSW 2750
APPLICANT:	Penrith Rugby League Club Ltd
REPORT BY:	Kathryn Saunders, Acting Principal Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application for a 6 storey 153 room hotel development, being Stage 2 of an approved Concept and Stage 1 development of land legally described as Lot 2 in DP 1216321. The subject development site identified as being a 18,463sqm portion of the allotment, which has frontage to the western side of Mulgoa Road, Penrith and is also known as 83 Mulgoa Road, Penrith. The site is owned and operated by the Panthers Rugby League Club.

The approved Concept under DA18/0340 included building with envelopes of up to 6 storeys, basement and surface car parking for 673 cars and included landscaping, open space provision and civil and public domain upgrades.

The approved Stage 1 development, also approved under DA18/0340, included the construction of a two storey function centre known as the Western Sydney Community and Conference Centre (WSCCC) basement and surface car parking for 428 cars, centrally located open space, landscaping and civil, public domain and services upgrades.

Height, Permissibility and Land Use

This Stage 2 development application seeks approval for a 6 storey hotel building. The hotel is proposed to be located above, and integrated with the approved two storey Stage 1 Western Sydney Community and Conference Centre (WSCCC). It is proposed to construct both Stages 1 and 2 concurrently.

The hotel use is defined as 'tourist and visitor accommodation', and is permissible within the SP3 Tourist zone under Penrith Local Environmental Plan 2010 (PLEP). Amended plans were received on 6 June 2019 and result in a reduction of the scale of the hotel building, in terms of height, building length and number of rooms, and also amend the basement car parking, parking access and central green space arrangements.

With regard to the amendments to the basement car parking, parking access, central green spaces arrangements and ancillary civil works, as these were approved as part of the Stage 1 and Concept proposal (under DA18/0340), a modification application has been lodged (under DA18/0340.01) and is being assessed concurrently. The modification application also seeks approval to modify the Concept approval as it relates to the maximum height for the hotel building, and seeks a 300mm increase to the hotel building's building envelope.

A written request under clause 4.6 to vary the Height of Buildings development control under PLEP has been provided and is considered to be acceptable.

Key Issues

Key issues identified for the proposed development and site include:

- Implications of an existing Voluntary Planning Agreement (VPA) which is in the process of being amended.

The key issue above is considered to be resolved through the assessment of the development application and by the recommended conditions of consent.

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

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

The application has been advertised, notified to adjoining properties and land owners and has been exhibited between 18 January and 1 February 2019, in accordance with relevant legislation. No submissions have been received.

Compliance Summary

The development proposal complies with the development standards of PLEP with the exception of clause 4.3 Height of Buildings. The PLEP Height of Buildings map indicates a 24m maximum building height applies to the site. The proposed development does not comply and proposes to exceed the applicable maximum by 0.300m which relates only to the roof top fire stair roof which is located on the south-western arm of the hotel roof.

Matters related to future road widening and road works can be adequately managed and are secured via the applicant's existing offer to enter into a planning agreement. The development application is assessed to be reflective of the amended Panthers Precinct masterplan and a condition of consent is recommended to require the execution of the VPA, prior to the issue of a Construction Certificate for the Stage 2 development. This same condition was applied to the consent for the Stage 1 and Concept application.

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

The applicant has confirmed through correspondence received from their geotechnical consultant that the basement excavation will not require tanking or dewatering, thus the application is not identified as integrated development under the Regulations.

Matters for which the consent authority must be satisfied

Penrith Local Environmental Plan 2010 (PLEP)

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

A review of Council's mapped data confirms that a reticulated water supply is available to the site. The development proposal was referred to Sydney Water who confirmed in correspondence dated 29 May 2019 (Sydney Water Reference 178236) that although it is noted that the proposal may result in a need for augmented utilities, this would be reviewed when the applicant applies for a Section 73 Compliance Certificate under the Sydney Water Act 1994.

It is a recommendation of this report that the Sydney Water standard conditions be included as conditions of consent attached to this development consent, should consent be granted.

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

A review of the plans approved as part of the Concept proposal indicate that the total GFA proposed for the retail component under Stage 1 was 140.88sqm's. Stage 2 does not propose to include any retail floor space. The proposal complies in this regard.

Relevant History

Amended Plans

Amended plans were received during the assessment of the application which comprised the following amendments:

- Reduced the bulk and scale of the hotel development including to reduce the total number of rooms from 190 to 153 rooms,
- Reduced the scale of the conference rooms,
- Reduced the overall height from 27.05m to 24.3m,
- Minor ancillary hotel room reconfigurations,
- Deleted ground floor retail space at the intersection of Mulgoa and Ransley Street,
- Internal alterations related to hotel back of house, waste storage and manoeuvring,
- Deleted the internal service and delivery turntable and introduced a turning bay,
- Various façade changes related to regularising the circular glazed elements,
- Introduced parent room and altered amenities and conference centre back of house,
- Deleted the hotel pool and fitness centre, and
- Minor amendments to ancillary landscaping and hotel entry paving and car access.

The amendments have been reviewed by Council's Urban Design Review Panel and, subject to the recommended conditions of consent are considered to be acceptable.

Voluntary Planning Agreement (VPA)

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

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

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

The Panthers Precinct master plan has since been amended, including the location and mix of uses and building envelopes across the precinct. The amended master plan requires the VPA to be amended, to allow trigger points for road works to be realigned with the new uses and gross floor areas proposed. The amended VPA has not been signed although is in the final stages of being formalised.

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

League Club as part of the Concept and Stage 1 development approval under DA18/0340.

The proposal is consistent with the indicative uses and building envelopes approved as part of the Concept and Stage 1 development and is consistent with the amended masterplan for the Panthers Precinct.

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

The development application was also referred to RMS who have not objected to the proposal.

Voluntary Planning Agreement Summary

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

Recommended conditions include that the VPA is to be executed prior to the issue of a Construction Certificate for the development (as is the requirement for Stage 1 under consent no. DA18/0340). To ensure that issuing of Construction Certificates occurs having regard to the accumulative gross floor area across the whole of the Panthers precinct, it is also recommended that the Principal Certifying Authority be provided with a schedule of development applications, active consents and construction certificates, (issued, yet to be issued and those that have been lodged, yet remain unissued) which indicates a tally of gross floor area and provides written evidence and confirmation that the requirements and obligations required by the executed VPA have been met. It is also recommended that 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.

Site & Surrounds

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

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

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

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

Further stages (Stage 2a, 2b and 3) of the Esq. 1818 residential development, are proposed to be constructed under concurrent development application no. DA18/0999 under assessment by Council.

Proposal

The development application seeks approval for a 153 room, 6 storey hotel building which is Stage 2 of an approved Stage 1 and Concept development under consent no. DA18/0340. The hotel building will be situated over the approved Stage 1 (yet to be constructed) two storey function centre known as the WSCCC. It is proposed that the Stage 2 hotel building and Stage 1 WSCCC will be constructed as one.

The approved Stage 1 and Concept development under DA18/0340 included:

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

The Stage 2 hotel development is consistent with the Concept plan, with the exception of height. A written request to vary the Height of Buildings development standard by 300mm (related to the roof of a fire stair) accompanies this application and is also addressed in concurrent modification application DA18/0340.01. The modification application under DA18/0340.01 seeks consent to amend the approved Concept plan building envelope, to reflect the additional 300mm attributed to the fire stair for the Stage 2 hotel building.

Plans that apply

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

Planning Assessment

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

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

• **Section 4.15 - Evaluation**

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

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

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 101 Development with frontage to a classified road

Objectives of the clause include:

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

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

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

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

(a) The Stage 2 hotel development is not identified within the proposed amended planning agreement, as being of sufficient floor area alone, to trigger road works required to be undertaken prior to the completion of development within the Panthers Precinct masterplan. As the amended planning agreement has not been executed a condition of consent is recommended to require that the planning agreement be executed prior to the issue of a Construction Certificate for the development and that prior to the issue of any Occupation Certificate any requirements of the VPA are to be completed.

Notwithstanding the above, Council is assessing a number of applications for development within the Panthers Precinct. As the staging of these developments cannot be known (in terms of when each Construction Certificate will be issued) and to avoid concurrent issuing of certificates which may not take into consideration the tally of gross floor area being created within the precinct, a condition is recommended to be imposed to require that the Precinct

This provides assurance, that in the instance where the development proposal triggers works or other contributions outlined in the VPA, these works or contributions, will be undertaken or made prior to the issue of an Occupation Certificate or as otherwise required by the VPA.

(b) Should the executed VPA confirm that no road works are required to be undertaken as part of the proposed Stage 2 development, it is confirmed that road works including the widening of Mulgoa Road, upgrades to local intersections and the provision of a slip lane into the site will be undertaken as part of the development of the Panthers Precinct as a whole, and are included within the VPA as part of the identified extent of works.

(c) It is noted that the timing of upgrades to Mulgoa Road and local intersections may not align with the issuing of the Occupation Certificate for Stage 2. To ensure that event related traffic and access is appropriately managed and to ensure that the efficiency of Mulgoa Road is maintained, a condition of consent is recommended to require the submission of a Event Traffic Management Plan to Council for approval, prior to the issue of an Occupation Certificate. Council's review of the submitted Event Traffic Management Plan is expected to assess appropriateness of detail regarding traffic marshalling (if required), varied approaches to traffic and pedestrian management based on the level of event intensity and the like.

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

(e) The Stage 2 development was submitted with an Acoustic Report which was assessed to be satisfactory. Relevant conditions of consent are recommended to require compliance with the recommendations of the report.

Clause 104 Traffic-generating development

Clause 104 of the Policy applies to the proposed development as it is identified as being traffic generating development with Column 1 of the Table to Schedule 3. The development proposal involves a new food and beverage use greater than 300sqm's in area and is within 90m of a connector road having access to a classified road (Mulgoa Road).

In accordance with the requirements of the clause, the development application was referred to Roads and

Maritime Services (RMS). In response received 13 May 2019 (RMS Ref SYD19/00374/01) the RMA state that:

The RMS notes that a 'Voluntary Planning Agreement is in place for public works including upgrades on State roads associated with the Panthers Precinct. RMS raises no objections to the proposed development subject to the following conditions being included in any consent' The RMS conditions include that no access is provided across the site boundary to Mulgoa Road and that the 'proposed development should be consistent with the Panthers Precinct Masterplan including compliance with residential density, maximum allowed FSRs and access strategy'.

The correspondence also included conditions related to the RMS requirements for plan checking, road occupancy licensing, submission of a Construction Traffic Management plan (CTMP), any alterations to RMS infrastructure and the requirement to liaise with and seek approvals from, the RMS Mulgoa Road project team in relation to road design levels, bulk earthworks, utility plans, drainage and landscaping and mounding. The requirements of the RMS are recommended to be included as conditions of consent, should consent be granted.

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

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

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

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

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

As detailed above, traffic, access and parking are able to be adequately accommodated and managed at the site, now and into the future, subject to the recommended conditions of consent which include the requirement that a Events Traffic Management Plan be submitted to Council and that the VPA be executed prior to the issue of a Construction Certificate for the proposed Stage 2 Hotel works.

In addition, the development proposal was referred to Council's Traffic Engineers with no objections raised subject to the recommended conditions including those of the RMS.

State Environmental Planning Policy No 55—Remediation of Land

The Stage 2 development proposal does not include any earthworks and matters for consideration related to possible land contamination have been addressed in the assessment of the approved Stage 1 and Concept plan under consent no. DA18/0340.

Consent no. DA18/0340 was submitted with a Stage 1 Contamination Assessment prepared by Ground Technologies, dated 5 April 2018. The report included that the site was previously used for grazing land or was vacant prior to be development as a car park and that neighbouring uses were not considered to pose a contamination risk to the site. The assessment also included a review of previous contamination reports undertaken at the subject site, a desktop analysis and site walk-over. The Assessment concluded that the site is suitable for commercial use and a detailed Stage 2 Contamination Assessment or Remediation Action Plan was not required.

The Stage 2 development application has been reviewed against the matters for consideration under Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land and is considered to be acceptable for the uses proposed, subject to standard conditions of consent related to unexpected finds and importation and disposal of fill. Further, the development proposal was referred to Council's Environmental Management unit who have not raised any objections to the proposal, subject to the recommended conditions.

State Environmental Planning Policy No 64—Advertising and Signage

No signage is proposed as part of this development application.

It is recommended that Condition 11 of related consent DA18/0340 for the Concept and Stage 1 development, form part of the recommended conditions of consent attached to this Stage 2 development. Condition 11 requires that signage be submitted under a separate development application and requires the proponent to submit and have approved, a final signage and wayfinding strategy for the site.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	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
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.2 Flood planning	Complies
Clause 7.3 Development on natural resources sensitive land	N/A
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	N/A
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.8 Active street frontages	N/A
Clause 7.12 Maximum gross floor area of commercial premises	Complies
Clause 9.1 Objectives of Part	Complies
Clause 9.2 Application of Part	Complies
Clause 9.3 Density of retail premises (including outlet premises)	N/A
Clause 9.4 Minimum lot size for outlet centers for community title schemes or strata plan	N/A
Clause 9.5 Campus style office development	N/A
Clause 9.6 Development control plan for land to which this Part applies	Complies

Clause 2.3 Permissibility

The Stage 2 hotel proposal is defined as *tourist and visitor accommodation*, and is permissible within the SP3 Tourist zone under Penrith Local Environmental Plan 2010 (PLEP). Level two of the hotel includes a restaurant and bar which is considered to be ancillary to the hotel development. Notwithstanding, *food and drink premises* (which includes the uses of *restaurant or cafe* and *small bar*) are permissible within the SP3 Tourist zone under PLEP.

The concept plan approved under DA18/0340 included 6 story building envelopes for a hotel (Stage 2) at the northern end of the site (above the WSCCC) and a serviced apartments building (Stage 3) at the southern end of the site. This Stage 2 development application is consistent with the approved concept plan. It has been confirmed by the applicant, that it is intended to construction Stage 1 and 2 concurrently.

DA18/0340 - Approved Concept and Stage 1 development

Stage 1 of the Concept plan included the construction of basement car parking and the two storey Western Sydney Conference Community Centre (WSCCC), ancillary retail and landscaping, civil and services works and is defined as *function centre* and *retail premises* under PLEP. *Function centre* is a permissible form of development within the SP3 Tourist zone. Retail premises are permissible on the subject lot under Clause 22 of Schedule 1 Additional permitted uses of PLEP. It is noted that the retail component approved under DA18/0340 is proposed to be deleted under modification application DA18/0340.01 being assessed concurrently.

Clause 4.3 Height of buildings

Clause 4.3 (Height of buildings) of PLEP states that the height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings (HOB) Map. The Height of Buildings Map identifies a maximum height of 24m for the subject site. The proposal is as follows:

The application seeks consent for a maximum height of 24.3m which is 300mm above the maximum under PLEP 2010. The height non-compliance relates to the roof over a fire stair. It is noted that a concurrent modification application has been lodged with Council to amend DA18/0340 which approved a Stage 1 and Concept at the site. The approved building envelope for the hotel building under the concept plan was 24m. The modification application (DA18/0340.01) has been assessed and is recommended for approval, subject to conditions and will be reported to the SWCPP for determination concurrently with this Stage 2 development application.

Objectives of the Height of Buildings development standard include:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
- (d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

The proposal for a height of 24.3m is assessed to comply with the above objectives. The proposed height, bulk and scale is considered compatible with the desired future character of the area. The height non-compliance is considered to be minimal and is isolated to the fire stair roof which is centrally located within the roof plan of the hotel building. The additional height will not be discernable from the street and is screened from the upper level views of adjacent (approved yet not constructed) residential flat buildings to the north.

Views towards west will be maintained along Mulgoa Road and are not detrimentally impacted by the increase in height. Overshadowing impacts related to the height non-compliance are considered to be negligible.

Clause 4.6 Exceptions to development standards

The development application seeks consent for a maximum height of 24.300m which exceeds the maximum height of 24m expressed for the site under PLEP.

Clause 4.6(2) of PLEP states 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. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The application seeks approval for a variation to the Height of Buildings development standard, which is not identified as being expressly excluded from the operation of this clause under PLEP and as such, there is no barrier to the request to vary the height of buildings development standard.

Clause 4.6(3) states that development consent must not be granted for 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 standard 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.

A written request to vary the development standard has been received and has been considered in the assessment of the application. The written request seeks to vary the applicable 24m Height of Buildings development standard under identified for the site under PLEP. The variation relates to the roof over the fire stairs which are located above the most south-western portion of the hotel roof. The extent of the variation is identified as being 300mm.

With regard to 4.6(3)(a), the written request states that the area of roof over the fire stair (being the subject of the height non-compliance) is *'very minor and is recessed from the perimeter of the building'* and states that *'in Wehbe v Pittwater it was set out that compliance can be considered unreasonable or unnecessary where: (i) the objectives of the standard are achieved notwithstanding non-compliance with the standard'*.

The written request also states that *'the proposal, despite the numerical non-compliance identified, remains consistent with the objectives'* of the Height of Buildings development standard, being clause 4.3 of PLEP. Further, the applicant states that *'the building height bulk and scale are compatible with the desired future character in the locality reflected by the fact the building is compliant with the height limit set out in the LEP with the exception of the 1 fire stair noted above. Therefore the departure has no impact on the bulk and scale of the development and the proposal fully aligns with the desired future character of the locality having regard to permitted heights and the provisions of the PDGP 2014 relating to the Panthers Precinct.'*

The applicant also states that view corridors, solar access the relationship of the proposed to other developments is not compromised by the non-compliance and having regard to the matters identified for consideration in *Wehbe v Pittwater*, *the variance satisfies clause 4.6(3)(a) and (b).*

Clause 4.6(4) requires that development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

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

With regard to 4.6(4)(a)(i) the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated under 4.6(3)(a) and (b) of PLEP for the following reasons:

- The written request highlights the reasons as to why the variation to the height of buildings development standard is sought, and relates these reasons back to pertinent environmental planning grounds which include achieving satisfactory urban design outcomes, and achieving required fire safety provisions. Further, the written request details how compliance with this development standard is unreasonable or unnecessary in the circumstances of the case, these being (and as detailed within the written request), that compliance with the 24m height plane in this instance is unnecessary as the encroachment proposed will not be visible from the surrounding streets as the roof over the fire stairs is inset from the building edge, and that the objectives of the height of buildings development standard are achieved notwithstanding the minor encroachment of 0.3m.

With regard to 4.6(4)(a)(ii), the consent authority can be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standards and the objectives for development within the SP2 Tourist zone as follows:

- The development as proposed is assessed to be consistent with the objectives of clause 4.3 Height of buildings under PLEP which include:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
- (c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,*
- (d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.*

- The encroachment into the 24m height plane is limited and is considered to be minor. The location of the fire stair roof is internal to the roof area and will not be highly visible from the surrounding streets. The extent of non-compliance will not set an undesirable precedence in the locality and the development will not, as a result of the non-compliance, be incompatible with the height, bulk or scale of the existing or desired future character of the locality. The Panthers football stadium, iFly, Panthers clubhouse and Esq. and Royce residential developments are located in close proximity to the subject site and are of a similar bulk, scale and density. It is not anticipated that the height non-compliance will result in unacceptable bulk or scale impacts and as detailed above, is considered to be minor in its extent. The variation will not negatively impact views, privacy or solar access when compared to a fully compliant height and will not impact upon design quality or built form transition.

- The development is assessed to be compatible with the objectives of the SP3 Tourist zone which include:

- 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 300mm variation to the height standard is not expected to negatively impede or restrict existing or future views to and from the Nepean River or the Blue Mountains. Views are maintained through the landscaped link between Stages 2 and 3 of the concept plan and via Retreat Drive. The development of a hotel at the site is supportive of zone objectives which relate to the provision of tourist and visitor accommodation, tourist-oriented development and the promotion of tourism in Penrith.

Clause 4.6(4)(b) states that the concurrence of the Secretary is to be obtained. It is confirmed by Planning Circular PS 18-003 dated 21 February 2018, that the SWCPP (being a Regional Panel) may assume the Secretary's concurrence where development standards will be contravened.

Clause 4.6(5) states that *in deciding whether to grant concurrence, the Secretary must consider:*

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

It is not considered that the SWCPP will, in its decision to grant concurrence (as assumed), determine that the contravention will raise any matter of significance for State or regional environmental planning. It is not expected that there will be any discernable public benefit in maintaining strict compliance with the development standard and having regard to the minor nature of the non-compliance with the height of buildings development standard.

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

Draft State Environmental Planning Policy No. 55 - Remediation of Land

The application has been assessed against the provisions of Draft State Environmental Planning Policy No. 55 - Remediation of Land and is considered to be acceptable.

Draft Environmental State Environmental Planning Policy

The application has been assessed against the applicable provisions of the Draft Environmental SEPP. The Draft Policy is a consolidated plan which will incorporate aspects of current and separate existing environmental policies related to conservation of bushland and waterways, protected areas, canal estates and catchment and heritage areas. The heads of consideration identified within the associated Explanation of Intended Effect include:

- Water quality and flows within watercourses,
- Native plants, animals, habitats and ecosystems, and
- Recreational, scenic and environmental amenity.

The proposal is acceptable having regard to the heads of consideration and the intended effects of the Draft plan.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D3.1. Bulky Good Retailing	N/A
D3.2. Sex Services Premises	N/A
D3.3. Restricted Premises	N/A
D5.1. Application of Certification System	Complies
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	Complies
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A
E11 Penrith	Does not comply - see Appendix - Development Control Plan Compliance

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

Voluntary Planning Agreement (VPA)

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

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

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

The Panthers Precinct master plan has since been amended, including the location and mix of uses and building envelopes across the precinct. The amended master plan requires the VPA to be amended to allow trigger points for road works to be realigned with the new uses and gross floor areas expected. The amended VPA has not been signed by all parties although is in the process of being finalised.

Although the amended VPA has not been executed, the development proposal can be supported as sufficient conditions of consent are recommended to be included (as have been included on other approved Stages of the Concept plan). These conditions will ensure compliance with the VPA (as amended) and a letter of offer to enter into a planning agreement related to consent DA18/0340 was provided from Panthers Rugby League Club and applies to the subject Stage of the approved Concept plan.

It is further noted that the use as hotel and proposed building envelopes are consistent with the approved Concept and Stage 1 development, with the exception of a height variance of 300mm (refer to discussion under PLEP clause 4.6), and are consistent with the amended masterplan for the Panthers Precinct to which the VPA relates.

Roads and Maritime Services Referral

The development application was referred to the Roads and Maritime Services (RMS) who have not objected to the proposal.

Further, submitted plans and supportive documentation confirms that the amended proposal remains clear of the area of land identified by the RMS to be set aside for the purposes of future road widening and has been designed to address the future site boundaries. The applicant has previously provided correspondence from the RMS dated 25 October 2017 (RMS Reference SF2014/150686) which confirms that the area indicated for road widening, satisfies their requirements.

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

In accordance with Section 143 of the *Environmental Planning and Assessment Regulation 2000*, an assessment of the fire protection and structural capacity of the proposed building is necessary. The development application was lodged with a BCA Capability Report and an Access Design Assessment report. Council's Building Surveyor has assessed the proposal and accompanying plans and reports and has raised no objection, subject to the recommended standard conditions of consent.

The application has been exhibited, notified and advertised in accordance with the requirements of the Regulation and Appendix F4 of the Penrith DCP 2014.

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

Likely impacts of the proposed development, as identified throughout the assessment process including impacts of the additional height sought to the roof top fire stair, Hotel traffic generation and acoustic impacts, site event management and public domain impacts have been assessed as part of this report and are considered to be acceptable subject to the recommended conditions. Conditions are also recommended related to impacts during site construction.

On balance, the development proposal is considered to be acceptable, subject to the recommended conditions of consent.

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

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

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

- The proposal is compatible with surrounding and adjoining land uses; and
- Impacts associated with the proposed development are considered acceptable and are not unreasonable in the location, and having regard to the applicable development controls.
- The Stage 2 hotel is consistent with the approved Concept plan for the site under DA18/0340 and the written request to vary the Height of Buildings development standard by 300mm is acceptable, noting the concept plan is proposed to be amended to align with the 300mm height increase.

Section 79C(1)(d) Any Submissions

Community Consultation

The application has been advertised, notified to adjoining properties and land owners, and has been exhibited between 18 January and 1 February 2019, in accordance with relevant legislation. No submissions have been received.

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	Not supported
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Waste Services	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections

Environmental - Environmental management

It is noted that Council's Environmental Management department did not support the proposal due to the submitted acoustic report not being comprehensive and including the impacts of Stage 1 (approved under DA18/0340). A condition of consent is recommended to require the submission of a comprehensive acoustic report to be submitted prior to the issue of a Construction Certificate.

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

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

(a) Additional parking generation attributed to the hotel development have been considered as part of the assessment of the approved Stage 1 and Concept development at the site. Local road upgrades and widening is scheduled to be undertaken and is a requirement of the existing VPA. Amendments to the VPA which align land uses to the current Panthers precinct master plan are in the process of being undertaken and it is a recommendation of this consent, that the VPA be executed prior to the issue of a Construction Certificate.

(b) Impacts related to local character and streetscape, and operational management and acoustic impacts have been assessed within this report and subject to the recommended conditions, are assessed to be acceptable.

Section 94 - Developer Contributions Plans

No development contributions apply to the subject proposal.

Conclusion

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

The proposal will not result in any unacceptable or unreasonable impacts on the streetscape character of the surrounding area and is considered to be well suited to the site and supportive of the overall strategic vision for the precinct.

The Stage 2 hotel development will result in an improved streetscape and landscaping outcome for the site and adequate parking and access to the development is secured through the approval of infrastructure under the Stage 1 and Concept consent under DA18/0340. The additional 300mm of height attributed to the roof top fire stair, although not compliant with the Height of Buildings development standard under clause is assessed to be acceptable having regard to the applicant's written request to vary the standard, and it is considered that the non-compliance will not result in unacceptable environmental impacts in the locality.

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

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

Recommendation

1. That DA18/1260 for a 6 storey hotel building, being Stage 2 of an approved Concept plan at 83 Mulgoa Road, Penrith, be approved subject to the attached conditions;
2. That the submitted variation to a development standard under clause 4.6 of PLEP 2010, be supported, and
3. That the Roads and Maritime Services are notified of the determination.

CONDITIONS

General

- The development must be implemented substantially in accordance with the following listed plans and reports:

Drawing Number	Plan Description	Revision
S2-DA-001-001	Title Sheet	K
S2-DA-100-001	Location Plan	J
S2-DA-100-002	Site Analysis Plan	J
S2-DA-110-001	Site Plan	K
S2-DA-110-006	Basement 02	K
S2-DA-110-007	Basement 01	K
S2-DA-110-008	Ground Level	K
S2-DA-110-010	Level 01	J
S2-DA-110-020	Level 02	J
S2-DA-110-030	Level 03	J
S2-DA-110-040	Level 04	J
S2-DA-110-040	Level 05	J
S2-DA-110-050	Roof Plan	K
S2-DA-110-100	Accessible Rooms	J
S2-DA-200-010	Site Elevations	J
S2-DA-200-020	Mulgoa Road - South East Elevation	K
S2-DA-200-030	Panthers Link - North West Elevation	J
S2-DA-200-040	Ransley Street - North East Elevation	K
S2-DA-300-010	Section H Longitudinal	J
S2-DA-300-020	Section A	J
S2-DA-300-025	Section J	J
S2-DA-300-030	Section B	J
S2-DA-300-040	Section C Conference Centre Threshold	J
S2-DA-300-050	Section D Hotel Foyer Threshold	J
S2-DA-300-060	Section E Loading Dock Entry	J
S2-DA-300-070	Section F Carpark Entry East	J
S2-DA-300-080	Section J Carpark Entry West	J
S2-DA-300-090	Section H Ransley Street Hotel Frontage Section	J
S2-DA-720-007	GFA Diagrams-Basement - Level 1	K
S2-DA-720-008	GFA Diagrams- Level 2-5	K
S2-DA-750-001	Open Space and Deep Soil	K
S2-DA-760-010	Shadow Diagrams	K
S2-DA-760-020	Shadow Diagrams	J
S2-DA-800-010	Building Height Diagram	J
S2-DA-800-020	Conference Centre Plant Within Roof	K
S2-DA-800-020	Ransley Interface	K
S2-DA-800-040	Façade Details	K
S2-DA-800-050	Façade 3D Views	K
S2-DA-830-001	Material & Finishes	J

S2-DA-840-001	Photomontage	
S2-DA-840-002	Photomontage	
S2-DA-840-003	Photomontage	
S2-DA-840-004	Photomontage	
S2-DA-840-005	Photomontage	

Landscape Plans			
Drawing Number	Plan Description	Date	Revision
OC-L-2000	Cover Page	05.07.19	E
OC-L-2100	Landscape Masterplan Concept Proposal	05.07.19	E
OC-L-2101	Landscape Masterplan Concept Tree Integration	05.07.19	E
OC-L-2102	Landscape Masterplan Concept Feature Strategy	05.07.19	E
OC-L-2103	Landscape Masterplan Phase 2 Circulation	05.07.19	E
OC-L-2104	Landscape Masterplan Phase 2 Proposal	05.07.19	E
OC-L-2105	Landscape Masterplan Phase 2 Paving Diagram	05.07.19	A
OC-L-2106	Landscape Detail Plan Phase 2 Civic Central Plan	05.07.19	E
OC-L-2107	Landscape Masterplan Phase 2 Roof Plan	05.07.19	E
OC-L-2300	Landscape Concept Section Phase 2 Civic Central	05.07.19	E
OC-L-2301	Landscape Concept Section Phase 2 Civic Central	05.07.19	E
OC-L-2302	Landscape Concept Section Phase 2 Civic Central	05.07.19	E
OC-L-2303	Landscape Detailed Section Phase 2 Mulgoa Road	05.07.19	A
OC-L-2304	Landscape Detailed Section Phase 2 Civic Central	05.07.19	A
OC-L-2305	Landscape Detailed Section Phase 2 Civic Central	05.07.19	A
OC-L-2306	Landscape Concept Section Phase 2 Civic Central	05.07.19	A
OC-L-2307	Landscape Concept Section Phase 2 Civic Entrance	05.07.19	A
OC-L-2308	Landscape Concept Section Phase 2 Ransley Street	05.07.19	A
OC-L-2400	Materials Schedule - Ground Level	05.07.19	E
OC-L-2402	Indicative plant schedule	05.07.19	E
OC-L-3000	Landscape General Arrangement Plan	05.07.19	A

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

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

- (a) Swept path diagrams indicating movements for a HRV for the loading bay area are to be provided. Swept paths shall indicate a minimum 0.5m clearance to all fixed structures.
- (b) A final plan indicating the layout of the waste management areas is to be provided to Council for endorsement. The plan shall indicate general compliance with Section C5 Waste management of the Penrith DCP, including waste generation rates, numbers of bins and the required storage and manoeuvring areas.

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

Further to the above, a detailed set of public domain plans are to be submitted to, and approved by the Manager of Development Services at Penrith City Council, **prior to the issue of a Construction Certificate** for the Western Sydney Conference and Community Centre. Plans are to include (although may not be limited to) the following:

- (a) Details of all proposed public domain works, pavement locations and design details, landscaping and the interface with internal site layout, wayfinding, and landscaping;
- (b) Detail of all lighting and services locations; and
- (c) The set of public domain plans shall include pre and post road widening design layout and detail.

Plans are to be prepared in accordance with Section C8 Public Domain of the Penrith Development Control Plan 2014, and the Public Domain Lighting Policy, and Council's Engineering Construction Specifications for Civil Works document.

3 **The development is to remain compliant with the conditions of consent provided by the NSW Roads and Maritime Services in correspondence dated 13 May 2019 (RMS Reference SYD19/00374/01).**

4 The amended Voluntary Planning Agreement, in accordance with the letter of offer from Panthers Rugby League Club, dated 15 August 2018 known as 'Planning Agreement - Road Works', is to be executed **prior to the issue of the Construction Certificate** for Stages 1 and 2 being the hotel and Western Sydney Community and Conference Centre (WSCCC). A copy of the signed and executed Planning Agreement is to be provided to the Principal Certifying Authority prior to the issue of that Certificate.

Principal Certifying Authority 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 provide written evidence, detail and confirmation that the requirements and obligations required by the executed VPA have been met. 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 each Stage of the development.

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

- 6 **Prior to the issue of a Construction Certificate** a public art plan and set of documentation is to be provided to Penrith City Council for endorsement. The endorsed public art plan and documentation is to be installed and completed **prior to the issue of an Occupation Certificate**.

Advisory notes:

- Council reserves the right to request alterations and additions to the submitted public art plan and documentation, prior to endorsement.
- The application is advised to liaise with Penrith City Council prior to the submission of the requested documentation.
- The requested documentation is to be prepared generally in accordance with the stamped approved Public Art Strategy Panther Precinct - Public Art Report 008-LA-9562 document, prepared by Site Image Public Art Consultants, dated 10th June 2014, issue 04.

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

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

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

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

- 8 This development consent relates to Stage 2 of the development only. The Principal Certifying Authority is to ensure that Stage 1 and 2 of the concept plan approved under DA18/0340, as amended are constructed concurrently.
- 9 Existing fencing along Mulgoa Road and Ransley Street is to be removed prior to the issue of any Occupation Certificate (excluding fencing surrounding the existing Panthers pylon style sign).
- 10 A final signage strategy and signage and wayfinding plan is to be submitted to and approved by Council **prior to the issue of a Construction Certificate for the relevant Stage**. The Principal Certifying Authority is to be provided with confirmation from Penrith City Council that the submitted plans has been reviewed and are endorsed.

Advisory note

- No signage is approved as part of this development consent. All signage requiring consent from Council, shall be subject to a separate development application.

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

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

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

- 13 Approved hours of operation of the Hotel reception and restaurant and bar areas are as follows:

6.00am to 12.00pm Monday to Saturday and;
6.00am to 11.00pm Sundays.

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

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

- 14 All materials and goods associated with the use shall be contained within the building at all times. All waste bins and bulky items including recyclable waste, are to be stored in the building at all time. Waste collection is to be undertaken within the building. No approval is granted for waste collection to occur on external hard stand areas.

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

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

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses and to avoid unnecessary light spill. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

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

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

- 18 Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council and the Nepean Blue Mountains Local Health District at least 21 days prior to the erection, indicating at least the following:
- Name of responsible company and relevant contact details.
 - Dimensions (height, length, etc.)
 - Position and orientation of boom/jib and counter boom/jib
 - Length of time that such a crane or structure will be erected on site.
 - The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW.

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

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

- 19 **Prior the issue of the Construction Certificate**, confirmation and endorsement of the location and design of existing (to be retained) and proposed utility service infrastructure, including fire hydrant booster sets, gas, water and electrical metre/infrastructure, is to be provided to the Manager of Development Services at Penrith City Council.
- 20 A Final Schedule of Materials and Finishes is to be submitted to and approved by the Manager Development Services at Penrith City Council prior to the issue of the Construction Certificate. Roof surface material is to be nominated.
- 21 **Prior to the issue of a Construction Certificate**, details and plans of the proposed construction fencing and hoarding are to be submitted to and approved by the Manager of Development Services at Penrith City Council.

Hoarding or site fencing and associated structures are to be of 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.

- 22 **Prior to the issue of a Construction Certificate**, a final roof plan with plant and plant screening details is to be provided to Council for endorsement. The plan shall note all materials, finishes and heights of plant equipment and screening structures. The Principal Certifying Authority is to be provided with a copy of the Council endorsed plant and screening plans **prior to the issue of the Construction Certificate**.

All roof mounted plant, ducting or services infrastructure shall be screened from view. No approval is granted for the installation of ducting, conduit, plant or services infrastructure on the external facades of the building, unless it is indicated on the stamped approved plans.

- 23 No external roller shutters, bars or similar structures are permitted to be installed on the ground floor glazing or façade of the development.

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

Building Security & Access Control

- Intercom, code or card locks or similar must be installed for all entries to the buildings including access points from within the car park.
- Australian Standard 220 – door and window locks must be installed in all premises.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Graffiti/Vandalism

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

Landscaping

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

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

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

Heritage/Archaeological relics

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

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

Environmental Matters

- 27 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.

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan(s) for the development (refer Stage 1 under DA18/0340) and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. These measures shall ensure that mud and soil from vehicular movements to and from the site, does not occur during the construction of the development.

- 28 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

- 29 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

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

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

- 31 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.

- 32 **Prior to the issue of a Construction Certificate** an Acoustic Report is to be submitted to and approved by Penrith City Council. The Acoustic report is to address the whole of the development (WSCCC and Hotel) and is to include the following:

- (i) detail as to how the applicable construction noise and vibration criteria is achievable. An assessment of construction noise and vibration is to be undertaken.
- (ii) an assessment of the mechanical equipment for the Stage 1 and Stage 2 development as a whole is required, and
- (iii) traffic noise generation, the accumulated impact of both Stages is to be addressed.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the Council endorsed 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**.

Advisory notes:

- (i) The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- (ii) Council reserves the right to request further amendments to the requested Acoustic report if unsatisfactory.

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

34 Stormwater runoff from parking and open areas shall be directed to the stormwater drainage system.

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

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

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

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

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

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

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

- 37 Amplified music and public address systems associated with the development are not to be audible at the boundaries of the property. No amplified music or public address systems are to be used externally, including in the carpark and open break out or dining areas.

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

- 38 All mechanical plant and equipment is to comply with the noise criteria outlined in Western Sydney Community and Conference Centre Phase 01 Acoustic Report for Development Application prepared by Wood & Grieve Engineers (dated 4/06/2019, ref 35986-SYD-N).

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

- 39 The following waste management requirements must be complied with and details of compliance demonstrated to Council **prior to the issue of a Construction Certificate**:

- An amended 'Plan of Operations' to be submitted in accordance with section 2.2.6 of the 'Industrial, commercial and mixed-use waste management guideline' document
- A ground floor waste collection rooms to be of sufficient size to accommodate the full bin allocation for DA18/0340.01 and DA18/1260 in accordance with section 3.4.1 of the 'Industrial, commercial and mixed-use waste management guideline' document. Bin storage within the chute room is not permitted.
- Supporting documentation outlining waste generation rates for DA18/0340.01 and DA18/1260 is required to be submitted in accordance with section 3.3 of the 'Industrial, commercial and mixed-use waste management guideline' document

BCA Issues

- 40 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.

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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.

- 41 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

- 42 Detailed plans of the fit out of all food areas are to be forwarded to Council for approval **prior to the issue of a construction certificate**.

The plans must include (but not be limited to) the following:

- Location and details of all hand wash facilities in the both the ground floor and first kitchen and bar areas, including details of hands free tap operation;
- Location and details of all sinks in all kitchen, and bar areas, including food preparation sinks, mop sinks, wash up sinks etc;
- Location and details of any glass washers or dishwashers;
- Location and details of cooking equipment;
- Location and details of all refrigerators, cool rooms and freezers;
- Location of all other fixtures and fittings throughout the kitchens and bar areas (eg hot and cold food storage, preparation benches, staff lockers, storage shelves etc);
- Location of any floor wastes throughout the kitchens and bar areas;
- Location and details of the grease trap, or details of the food proposed to be served if no grease trap is required;
- Details of the surface finish of floors, walls, ceiling, shelves, benches etc;
- Details of all food storage areas including shelves and surface finishes.
- Details of proposed mechanical ventilation (note – mechanical ventilation is to be installed over dishwashers and glass washers, as well as cooking equipment).

Utility Services

- 43 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. Applications must be made through an authorised Water Servicing Coordinator. For help visit www.sydneywater.com.au - plumbing - building and developing - developing - land development, or telephone 13 20 92.

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

Advisory note:

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

- 44 **The proponent must comply with the applicable requirements of Sydney Water** as detailed within Sydney Water correspondence dated 29 May 2019 (Sydney Water Reference 178236) including Attachments 1 and 2.
- 45 **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.

Penrith City Council's Development Services Unit must be consulted over the final location of the substation prior to the issue of a Construction Certificate for the development.

Construction

- 46 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.

47 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.

48 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.

Swimming Pools

- 49 All chemicals shall be stored in adequately labelled containers with tight fitting lids and banded or stored in such a way to prevent the chemical entering the stormwater system.
- 50 Public swimming pool and spa pools (as defined in the Public Health Act 2010) are to be registered with Penrith City Council by completing the registration form for public swimming pool and spa pools. This form is to be returned to Council prior to the issuing of the occupation certificate and operation of the premises.

The occupier of any premises at which a public swimming pool or spa pool is situated must notify Council using the NSW Ministry of Health Notification Form available from www.health.nsw.gov.au prior to the pool or spa being used. The occupier of the premises must notify Council within 7 days of any change of details.

- 51 The construction and operation of the public swimming pool/s and spa pool/s and associated premises shall comply 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
- 52 The occupier of premises at which a public swimming pool or spa pool is situated must not allow a person to use the pool unless the water in the pool is disinfected in such a way as to minimise the transmission of disease to the other users of the pool as required by the Public Health Act 2010 and Public Health Regulation 2012.
- 53 The occupier of premises at which a public swimming pool or spa pool is situated must ensure that the pool surrounds, including any toilets or change rooms, are kept clean and in such condition as to minimise the transmission of disease.
- 54 Chemical treatment of the pool must comply with the Public Health Regulation 2012.

Alkalinity levels, chlorine levels (combined and total chlorine) and the pH of the pool must be tested and recorded each day. All records are to be kept for a minimum of 6 months and maintained on site for inspection by an Authorised Officer if required.

- 55 Copies of response management plans must be made readily available for staff. Response plans should be provided for:
1. Fecal incident - Solid stool in pool
 2. Fecal incident - Loose stool in pool
 3. Hard surface incident (vomit, blood and fecal)
 4. Vomit incident in the pool
 5. Cryptosporidium notification
- 56 For indoor pools, ventilation of the premises must comply with the requirements set out in the Building Code of Australia for efficient removal of chloramines and other air impurities.
- 57 All chemicals in relating to the swimming pool which are stored on site are to be adequately banded to contain any spills and ensure they do not enter the stormwater system.

Engineering

- 58 The stormwater management system shall be provided generally in accordance with the Stormwater Management Report, MUSIC modelling and concept plan/s lodged for development approval, prepared by (Wood & Grieve Engineers), project number 35986, drawings CI-000-01 to CI-076-01 revision C; CI-520-01 to CI-520-02 revision D; CI-526-01 to CI-568-01 revision A dated 12 June 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 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.

- 59 Stormwater drainage from the building shall be discharged to the:

- a) Site drainage system that is connected to the on lot water quality device approved as per DA18/0304.01

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

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

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

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

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

62 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

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

63 Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) 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

64 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

65 **Prior to the issue of any Construction Certificate** the Principal Certifying Authority shall ensure that the plans include dimensions of driveways, ramps, aisles, parking spaces, columns and obstructions, car park headroom, accessible parking, bicycle parking with end of journey facilities and accessible pedestrian paths of travel complying with AS 2890, AS 1428 and Council Development Control Plan (DCP) C10. These details shall include but not limited to:

(a) Minimum driveway, ramp, aisle, vehicle turning swept paths and car space width and lengths in accordance with DCP C10, AS2890., AS 2890.2 and AS2890.6

(b) Minimum headroom (from floor to lowest ceiling obstruction) of 2.2 metres to accessible parking spaces and minimum head room of 2.5 metres above accessible parking spaces.

(c) Swept turn path clearances at driveways (including accordance with AS 2890.1 Table 2.2 and Figure 2.9) External driveway access turning paths are to be provided and be at least 0.3 metres clear of driveway edges, parking and road centrelines and at least 300mm clear of kerbs and medians. Internal aisle and car park manoeuvring area vehicle turning paths are to be at least 0.3 metres clear of obstructions including to walls, bollards and other obstructions.

(d) At least a 1 metre long indent at the end of any dead end aisles.

(e) 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.

(f) Car park ramp headroom clearances including at grade transitions.

(g) 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).

(h) Additional car space clearances from obstructions (including accordance with AS 2890.1 B4.1 minimum additional clearance of 0.3 metres).

(i) 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.

(j) Accessible pedestrian paths of travel from all car parking spaces to the lifts and stairs.

(k) Separate accessible pedestrian paths of travel from the fronting roadway footpaths to access the car park area.

(l) Complying numbers of secure bicycle parking, end of journey facilities, change rooms, showers, and lockers are provided at convenient locations in accordance with DCP C10, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines of Walking and Cycling (NSW Government 2004).

(m) Signage and an electronic car space occupancy system, that 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.

- 66 The required sight lines around the driveway entrances are not to be obstructed by landscaping, fencing or signage.
- 67 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.
- 68 All vehicles are to enter and leave in a forward direction.
- 69 Subleasing of car parking spaces is not permitted by this Consent.

Landscaping

- 70 All landscape works are to be constructed in accordance with the stamped approved Landscape plans prepared by Oculus and Appendix F5, Clause 2.9 of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

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

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

(a) Implementation Report

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

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

(b) Plant Establishment and Maintenance Report

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

(c) Landscaping Review

A review of the landscaping is to be provided to the Manager of Development Services at Penrith City Council, **24 months after the issue of the Occupation Certificate for the Stage 2 Hotel Building**. The review is to be prepared by a suitably qualified and experienced landscaping consultant and is to detail the health and status of all planting and is to provide recommendations if required, with regard to the continued success and vitality of the planting and landscaping.

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

74 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.

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

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

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

Certification

- 77 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

C5 Waste Management

Clause 5.2.4 Non Residential Development Controls applies to the subject application.

Clause 5.2.4(2) requires that any development above 3 storeys in height provide for a suitable system for the interim storage and transportation of waste and recyclables from each storey to the waste storage/collection area which is to be integrated within the building's design. The proposed hotel includes an internal chute system for waste and linen which is integrated into the design.

The waste area is suitably located away from the primary street frontage of Mulgoa Road and access to the waste and delivery area is via Ransley Street. Although Ransley Street will be visible to the public, in particular from the intersection of Ransley Street and Mulgoa Road, the design of the building in this area is adequately articulated and treated with high quality materials and landscaping, which will reduce the impact of turning areas and roller doors. In this regard the proposal is considered to comply with clauses 5.4.2(3)(a)-(d).

The proposal is capable of complying with the DCP requirements under clause 5.2.4(8) which state that should a collection vehicle be required to enter the property, the driveway and manoeuvring area must be suitable for a collection vehicle in terms of its strength and design. Conditions of consent which require compliance with relevant construction standards will ensure compliance. Adequate swept paths have been provided as per the requirements of clause 5.2.4(10).

Clause 5.3.4 Siting and Design of Waste Storage and Collection Areas

It is assessed that adequate area is provided within the development to enable the storage of the expected volumes of waste which is likely to be generated by the hotel development. Council's Industrial, Commercial and Mixed-Use Waste Management Guidelines provide an estimated waste generation rate of 5L/bed/day. The number of waste bins provided is likely to be sufficient.

E11 Penrith

The development application has been assessed against the objectives and controls of Part B, Section E13 Riverlink Precinct of the Penrith Development Control Plan 2014 and although is not aligned with the indicative land uses indicated within the Panthers Precinct Concept Plan as illustrated at Figure E13.12, the proposal is supportive of the Plan's overarching objectives including:

- (a) Enhancing and activating Mulgoa Road as a significant approach to Penrith City Centre*
- (b) Reinforcing key intersections as gateways to the Precinct and the Penrith City Centre*
- (c) Creating a clear and legible public domain framework of streets and open space;*
- (d) Creating an exciting core of entertainment, leisure and lifestyle uses around the existing club;*

- (e) Incorporating sustainability and best practice;*
- (f) Encouraging views of the Blue Mountains from the public domain;*
- (g) Encouraging design excellence;*
- (h) Improving connectivity;*

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

The development proposal complies with the specific Precinct objectives including to promote quality urban design and architectural excellence and provide for a high quality public domain. The Stage 2 hotel development will be located above the approved Stage 1 Western Sydney Community and Conference Centre (WSCCC), conditions of consent are recommended to require landscaping along Mulgoa Road to be retained until such time as road works and intersection upgrades are undertaken as required by the Voluntary Planning Agreement (VPA) and to ensure adequate pedestrian permeability, a condition of consent is recommended to require the removal of existing fencing along the Mulgoa Road frontage.

Clause 13.7.2 Landscape Structure

The development proposal is consistent with the landscape structure diagram. The central open space approved under DA18/0340 is maintained and enhanced in accordance with figure E13.14.

Ransley Street

It is noted that the development proposal does not fully align with the Ransley Street controls under 13.7.2(4), specifically (a) and (f) in that active uses at ground floor are limited. Amended plans were received which better describe the landscaping and materials and finishes at the gateway intersection of Mulgoa Road and Ransley Street, and back of house areas in this location will be enhanced by the raised planting and increased deep soil provided on amended plans. Amended plans were reviewed by Council's Urban Design Review Panel and, subject to the recommended conditions of consent, are considered acceptable.

Mulgoa Road

The DCP requires a 5m landscaped setback to be provided along this frontage and notes that existing native canopy trees are to be retained. As detailed above, the development proposal will achieve an acceptable level of compliance with the Mulgoa Road landscaping controls.

Clause 13.7.3 Sub Precincts

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

Notwithstanding the above, the development is assessed to adequately address Ransley Street. The development proposal includes a restaurant at level 1 overlooking Ransley Street.

The development complies with the Mulgoa Road sub precinct controls.

Clause 13.7.5 Public Art Strategy

A Public Art Strategy for the Panthers Precinct - Public Art Report 008-LA-9562 was submitted with the application. The Strategy identifies site specific public art opportunities and includes walkways, hotel and serviced apartments and their surrounds. The strategy identifies that the Hotel forecourt as a Public Art Potential location, although no public art is proposed. In this regard, a condition of consent is recommended to require that public art plan be provided to Council for endorsement prior to the issue of a Construction Certificate and that the endorsed public art be installed and completed prior to the issue of an Occupation Certificate.

Clause 13.8.4 Traffic, Parking and Site Access

The development is contrary to the requirements of the clause, in that Figure E13.24 Restricted Vehicle Access, notes that vehicular access is not to be provided from the eastern end of Ransley Street, and the development proposes access in this zone, to the back of house waste collection and delivery area. The non-compliance was considered acceptable given the access will be restricted to service vehicles, is adequately articulated and has an acceptable presentation to Ransley Street, and was approved under related Stage 1 and Concept consent no. DA18/0340.

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

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

Clause 13.9.3 Awnings

It is noted that the development proposal does not provide awnings over the pedestrian paving in accordance with Figure E13.33 Awning locations. The design is setback further than the minimum street wall requirements for Ransley Street and in this respect, providing an awning over the pavement is not achievable. The design adequately addresses the public domain and extensive landscaping and lighting is provided around the WSCCC as approved under related consent DA18/0340. This development proposal does include a restaurant at level 1, which will overlook the eastern end of Ransley Street.

Clause 13.9.9 Architectural Excellence

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