

|                              |                                                                                                                                                                                                                                                                                                               |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SWCPP Ref. No.:</b>       | PPSSWC-1                                                                                                                                                                                                                                                                                                      |
| <b>DA No.:</b>               | DA18/0340.01                                                                                                                                                                                                                                                                                                  |
| <b>PROPOSED DEVELOPMENT:</b> | Modification of an Approved Stage 1 and Concept Proposal - Alterations and Additions to Stage 1 Community & Conference Centre including Basement Parking and Landscaping Areas, and Amendments to the Height of Buildings under the Approved Concept Plan - Lot 2 DP 1216321,83 Mulgoa Road, PENRITH NSW 2750 |
| <b>APPLICANT:</b>            | Penrith Rugby League Club Limited                                                                                                                                                                                                                                                                             |
| <b>REPORT BY:</b>            | Kathryn Saunders, Acting Principal Planner, Penrith City Council                                                                                                                                                                                                                                              |

## Assessment Report

### Executive Summary

Council is in receipt of a modification application related to an approved Concept and Stage 1 development at 83 Mulgoa Road, Penrith also known as Panthers Rugby League Club. The Lot is legally described as Lot 2 in DP 1216321 with the subject development site identified as being a 18,463sqm portion of the site with frontage to the western side of Mulgoa Road, Penrith. The subject site is currently occupied by a carpark hardstand area and works related to the approved Stage 1 development have not begun.

The Concept proposal included approval of two buildings with height compliant envelopes of 6 storeys and included the uses of hotel and serviced apartments with basement and surface car parking for 673 cars, landscaping, open space provision and civil and public domain upgrades. The approved Stage 1 development included the construction of a two storey function centre known as the Western Sydney Community and Conference Centre (WSCCC), basement and surface car parking, open space provision, landscaping and civil, public domain and services upgrades.

#### Permissibility and Land Use

The modifications sought are ancillary to the approved Stage 1 'function centre' use and are permissible within the SP3 Tourist zone under Penrith Local Environmental Plan 2010 (PLEP) and related to basement construction, internal alterations, simplifying of façade elements, landscaping and deep soil alterations and minor alterations to external materials and finishes. A modification to the overall height of the approved building envelopes of 24m under the Concept plan is also sought. The modification relates to a 300mm increase to the overall height of 24m to 24.300mm and relates to the roof over the lift overrun of the Hotel building.

#### Key Issues

Key issues identified for the proposed development and site include:

- Impacts of alterations on streetscape presentation to Mulgoa Road.

The key issue identified above has been resolved by the submission of an amended ground floor plan. The amended plan indicates that the fire hydrant booster set has been relocated and integrated into the design of the building. The basement design has been reduced in scale away from the northern boundary to allow the provision of greater deep soil landscaping and provide increased screening to the electrical substation and waste bay manoeuvring area. The retail space previously proposed at the corner of Mulgoa Road and Ransley Street has been deleted and alterations to the façade materials and finishes and landscaping in this area have been elevated to improve to building's presentation to the street.

### Urban Design Review Panel

The modification application was assessed by Council's Urban Design Review Panel (UDRP) with no objections raised, however the following summarised matters were raised:

- Greater levels of canopy tree planting may be achievable in the central deep soil area,
- Sections through thresholds indicate impractical landscape solutions that need refinement,
- Tree trunk and interim paving locations to be clear of RMS widening,
- Opportunity exists to provide greater deep soil with frontage to Ransley and Mulgoa Road,
- Preference is that the dry creek bed be utilitarian,
- Signage and wayfinding to be resolved,
- Poor impacts are resultant from the deletion of the turntable and the location of services and turning bay,
- Roof of WSCCC needs to be treated with care and thought and roof screening extents to be justified,
- Greater detail sought as to the materials and finishes schedule, selected paving and how curves will be treated (provide sections),
- No issues raised related to minimal height exceedance of fire stair roof.

With regard to the above, amendments have been received which largely address the matters raised by the UDRP. The applicant has provided justification related to the turn bay and electrical substation and has provided additional areas of deep soil and landscaping in this area to ameliorate the impacts.

### Related Development Application

The modification application is being assessed concurrently with DA18/1260 which seeks approval for a 6 storey hotel building also known as Stage 2 of the Concept plan. With the exception of the Height of Building non-compliance, the Stage 2 hotel application is in accordance with the approved Concept plan for the site. DA18/1260 is accompanied by a written request to vary the Height of Buildings development standard under PLEP which is assessed to be acceptable. The Stage 2 hotel development application is recommended for approval, subject to conditions and will be determined by the Sydney Western City Planning Panel as the proposal has a Capital Investment Value (CIV) of over \$30 million.

This modification application is to be determined by the Sydney Western City Planning Panel as the original development had a Capital Investment Value (CIV) of over \$30 million and this modification is lodged under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the Act).

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

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

The application was referred to the Roads and Maritime Services (RMS) and no objections are raised.

### Compliance Summary

The application seeks a approval for a maximum height of 24.3m for Stage 2 (the Hotel building) of the approved Concept plan which exceeds the Height of Buildings development standard of 24m under PLEP. A written request to vary this standard under clause 4.6 of PLEP has been submitted and accompanies both this modification application and the concurrent development application for Stage 2 of the Concept (to which the height non-compliance relates) under DA18/1206.

The applicant's existing offer to enter into a planning agreement is not impacted by the proposed alterations and additions and no additional floor area is attributed the height non-compliance. The modification application is assessed to be consistent with the amended Panthers Precinct master plan and existing conditions of consent require the execution of the VPA, prior to the issue of a Construction Certificate for the Stage 1 development will

remain.

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 were approved under DA18/0340 and were 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 modifications sought do not result in further non-compliances with the DCP.

#### Relevant History

##### *Voluntary Planning Agreement (VPA)*

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

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

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

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

Although the amended VPA has not been executed, the development proposal can be supported as sufficient conditions of consent have been imposed under consent number DA18/0340 which will ensure compliance with the VPA (as amended) and a letter of offer to enter into a planning agreement from Panthers Rugby League Club, related to the VPA amendments was provided.

The alterations and additions sought under this modification application do not impact on the area of land identified by RMS to be set aside for the purposes of future road widening.

## 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 modification application relates (the site), is an area of 18,463sqm's bound by Mulgoa Road to the east, Ransley Street to the north, and Panthers Place to the south and west, and is currently occupied by surface car parking for visitors to the Penrith Panthers Club. The owner of the Lot is Penrith Rugby League Club Ltd.

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

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

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

## Proposal

---

The modification application seeks approval for the following:

- A modification to the approved height of the Stage 2 hotel approved under the concept plan of 300mm,
- A reduction in the approved extent of the single basement level car park approved under the Stage 1 consent and the addition of a second level of basement car parking,
- Minor alterations and additions to the facades and internal arrangements of the approved Stage 1 Western Sydney Community and Conference Centre (WSCCC),
- Alterations to the approved Stage 1 central landscaped open space including deletion of water feature and the introduction of a dry creek bed landscape feature
- Minor alterations to Stage 1 basement access and temporary surface level car parking, and
- Minor alterations to the WSCCC level 2 roof plant.

The modification application is being assessed concurrently with DA18/1260 which relates to Stage 2 of the approved Concept plan and comprises of a 6 storey hotel development to be located above the WSCCC. It is understood that the two buildings (the WSCCC and Stage 2 Hotel) will be constructed together.

## Plans that apply

---

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

## Planning Assessment

---

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

The original development application under DA18/0340 was identified as regionally significant development under Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the proposal which included a Concept Proposal and Stage 1 development, had a Capital Investment Value (CIV) of greater than \$30 million.

This modification application has been lodged under Section 4.55(2) and involves an amendment to the Concept plan and 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 has been assessed in accordance with the matters for consideration under Section 4.15 and 4.55(2) of the Environmental Planning and Assessment Act 1979 (the Act), and having regard to those matters, the following issues have been identified for further consideration:

4.55(2) of the Act states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The Section 4.55(2) modification application is considered to be substantially the same development as the development for which consent was originally granted. The modifications sought are do not materially alter the development that was originally approved and relate to internal and external building and façade changes and alterations to the basement which include a reduction of the extent of the approved single storey basement and the introduction of a second basement level. The modification sought to the overall height of approved building envelopes under the Concept plan are not considered to be such, that the proposal departs significantly from the Concept plan, such that the amendments cannot be considered under Section 4.55(2).

With regard to (b), above the application was referred to the Roads and Maritime Services as the original application was identified under State Environmental Planning Policy (Infrastructure) 2007 to be traffic-

generating development. No objections are raised by the RMS.

With regard to (c) above, the application was notified to adjacent and nearby residents and was exhibited and advertised between 18 January and 1 February 2018 in accordance with Council's DCP and the requirements of the Regulations. With regard to (d) above, no submissions were received as a result of the exhibition of the modification application.

## **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 to be modified, as detailed under clause 101(2)(b)(i) through (iii) and (c) for the following reasons:

- (a) The amendments sought to the Concept and Stage 1 development will not result in any increase in floor area and the approval of the amendments would not in itself trigger road works to be undertaken. The trigger points for road works are tied to the issuing of Construction Certificates and in this regard, the existing condition of consent requiring the execution of the VPA as amended, is sufficient to ensure that road works are undertaken when specific densities are achieved.*

The VPA relates to the whole of the Panthers Precinct. Several development applications are currently under consideration with Council for various development proposals across the precinct. In this regard, it is recommended that the existing condition requiring the execution of the VPA prior to the issue of a Construction Certificate for Stage 1, be amended to request that the Principal Certifying Authority (PCA) is required to be provided with confirmation from Panthers (a party to the VPA) if trigger points are met by the

issue of the applicable Construction Certificate.

(b) As was noted in the assessment report attached to consent DA18/0340, the timing of upgrades to Mulgoa Road and local intersections in the site's vicinity may not align with the issuing of the Occupation Certificate for the Stage 1 WSCCC. In this regard, a condition of consent was imposed under DA18/0340 to ensure that event related traffic and access is appropriately managed, and to ensure that the efficiency of Mulgoa Road is maintained. The condition requires the submission of a Event Management Plan to Council for approval, prior to the issue of an Occupation Certificate. Upon receipt of the Event Management Plan Council will assess the appropriateness of detail regarding traffic marshalling (if required) and the proposed approach to traffic and pedestrian management, based on the level of event intensity and the like.

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

(d) The Stage 1 development as is proposed to be amended, is not of a type that is sensitive to traffic noise or vehicle emissions.

#### **Clause 104 Traffic-generating development**

Clause 104 of the Policy applies to the proposed development as it is identified as being traffic generating development with Column 1 of the Table to Schedule 3, in that the modification application relates to an approved premises with parking for 200 or more motor vehicles. The existing at grade carpark on the subject site accommodates parking for 680 vehicles. The approved concept proposal under DA18.0360 is for a total of 673 parking spaces across the site, with approved Stage 1 delivering 428 of these spaces. The modification application does not propose any reduction to the overall number of parking spaces approved.

A multi-deck carpark within the Precinct is located adjacent to the subject site and will accommodate displaced parking spaces during construction and will provide a consolidated parking structure, associated with the overall intensification of development of the greater Panthers site.

In accordance with the requirements of the clause, the modification application was referred to Roads and Maritime Services who have not raised any objections to the proposal.

In addition to taking into consideration the comments provided by RMS, Clause 104 of the ISEPP also requires that the consent authority 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. Existing conditions of consent which include the requirement that a Events Management Plan be submitted to Council and that the VPA be executed prior to the issue of a Construction Certificate for Stage 1 (the WSCCC) remain.

### **State Environmental Planning Policy (State and Regional Development) 2011**

The original approved Concept and Stage 1 development application is identified as regionally significant development under Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. The modification application has been lodged under Section 4.55(2) and seeks amendments to the Concept plan and in this respect, and in accordance with the legislation, the application will be determined by the Sydney Western City Planning Panel.

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

The original development application under DA18/0340 was submitted with a Stage 1 Contamination Assessment prepared by Ground Technologies, dated 5 April 2018. The report states that the site was previously used for grazing land or was vacant prior to be development as a car park and that neighbouring uses are not considered to pose a contamination risk to the site. The report includes a review of previous contamination reports undertaken at the subject site, a desktop analysis and site walk-over and concludes that the site is suitable for the proposed use, and that a detailed Stage 2 Contamination Assessment or Remediation Action Plan are not required.

In this regard, the modification application has been reviewed against the matters for consideration under Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land and having regard to the previously submitted reports and development approval, and is considered to be acceptable. Existing conditions related to unexpected finds and importation and disposal of fill remain relevant.

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

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



## Local Environmental Plan 2010 (Amendment 4)

| Provision                                                                                 | Compliance                       |
|-------------------------------------------------------------------------------------------|----------------------------------|
| Clause 1.2 Aims of the plan                                                               | Complies                         |
| Clause 2.3 Permissibility                                                                 | Complies                         |
| Clause 2.3 Zone objectives                                                                | Complies                         |
| Clause 2.7 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                                            | N/A                              |
| Clause 7.1 Earthworks                                                                     | Complies                         |
| Clause 7.2 Flood planning                                                                 | Complies - See discussion        |
| Clause 7.4 Sustainable development                                                        | Complies                         |
| Clause 7.6 Salinity                                                                       | Complies                         |
| Clause 7.7 Servicing                                                                      | Complies                         |
| 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)                         | Complies                         |
| 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 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 modification application seeks consent for an alteration to the approved Stage 2 hotel building envelope height of 24m under the Concept plan (approved under DA18/0340). The modification application seeks a maximum height of 24.300m, which exceeds the LEP Height of Buildings (HOB) development standard by 300m. The non-compliance is attributed to the roof over a fire stair.

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 proposed development 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 7.2 Flood planning**

The subject Lot is identified on Council's Flood Planning Map (Sheet FLD\_006). However, the area of the subject development proposal is not identified as being effected. Notwithstanding the above, the development application was referred to Council's Development Engineering Units. No objections have been raised with regard to flood affectation and standard conditions of consent are imposed.

## **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                                                           |
|------------------------------------------------|----------------------------------------------------------------------|
| DGP Principles                                 | Complies                                                             |
| C1 Site Planning and Design Principles         | Complies                                                             |
| C2 Vegetation Management                       | Complies                                                             |
| C3 Water Management                            | Complies                                                             |
| C4 Land Management                             | Complies                                                             |
| C5 Waste Management                            | Complies                                                             |
| C6 Landscape Design                            | Complies                                                             |
| C7 Culture and Heritage                        | N/A                                                                  |
| C8 Public Domain                               | Complies                                                             |
| C9 Advertising and Signage                     | Complies                                                             |
| C10 Transport, Access and Parking              | Complies                                                             |
| C11 Subdivision                                | N/A                                                                  |
| C12 Noise and Vibration                        | Complies                                                             |
| C13 Infrastructure and Services                | Complies                                                             |
| D3.1. Bulky Good Retailing                     | N/A                                                                  |
| D3.2. Sex Services Premises                    | N/A                                                                  |
| D3.3. Restricted Premises                      | N/A                                                                  |
| D5.1. Application of Certification System      | Complies                                                             |
| D5.2. Child Care Centres                       | N/A                                                                  |
| D5.3. Health Consulting Rooms                  | N/A                                                                  |
| D5.4. Educational Establishments               | N/A                                                                  |
| D5.5 Parent Friendly Amenities                 | Complies - see Appendix - Development Control Plan Compliance        |
| D5.6. Places of Public Worship                 | N/A                                                                  |
| D5.7. Vehicle Repair Stations                  | N/A                                                                  |
| D5.8. Cemeteries, Crematoria and Funeral Homes | N/A                                                                  |
| D5.9. Extractive Industries                    | N/A                                                                  |
| D5.10 Telecommunication Facilities             | N/A                                                                  |
| D5.11 Boarding Houses                          | N/A                                                                  |
| E13 Riverlink Precinct controls                | Does not comply - see Appendix - Development Control Plan Compliance |

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

### ***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 being finalised.

Although the amended VPA has not been executed, the development proposal can be supported as sufficient conditions of consent were applied to the original consent under DA18/0340, which ensure compliance with the VPA (as amended) and a letter of offer to enter into a planning agreement related to the DA was provided from Panthers Rugby League Club.

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

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 original development application was lodged with a BCA compliance report and an Access compliance report. Each report is assessed to be satisfactory having regard to the applicable legislation and each report identifies that the proposal is capable of compliance. Council's Building Surveyor has assessed the proposal and is satisfied that existing conditions of consent remain relevant.

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

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

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

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

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

- The proposal as amended is compatible with surrounding and adjoining land uses; and
- Impacts associated with the amended proposal are considered acceptable and are not unreasonable in the location and having regard to the applicable development controls.

## **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 the applicable legislation. No submissions were received.

### **Referrals**

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

| <b>Referral Body</b>                     | <b>Comments Received</b>              |
|------------------------------------------|---------------------------------------|
| 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                         |

### **Development Engineer**

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

### **Environmental - Environmental management**

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

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

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

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

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

An assessment of the modification application has been undertaken and the matters under clause 4.15 and 4.55 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) Amendments that may impact parking, access and traffic generation, local character, landscaping and streetscape impacts, operational management and acoustic impacts have been assessed within this report and subject to the recommended conditions, are assessed to be acceptable.

(b) As detailed within this report, existing conditions of consent will remain and require the execution of the amended Voluntary Planning Agreement, prior to the issue of a Construction Certificate.

## **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 as amended, satisfies the aims, objectives and provisions of these policies.

As amended, the proposal will not result in any unacceptable or unreasonable impacts on the character of the surrounding area. The amended development is assessed to remain site responsive and will result in an improved streetscape and landscaping outcome. The additional 300mm of height attributed to the roof top fire stair, although not compliant with the Height of Buildings development standard is assessed to be acceptable and will not result in unacceptable environmental impacts in the locality.

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 modification 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 modification application is worthy of support, subject to recommended conditions of consent.

## Recommendation

---

That modification application DA18/0340.01 which relates to a Concept and Stage 1 development at 83 Mulgoa Road, Penrith, be approved subject to the attached conditions.



## CONDITIONS

### General

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

| Drawing Number | Plan Description                          | Revision |
|----------------|-------------------------------------------|----------|
| S1-DA-001-001  | Title Sheet                               | E        |
| S1-DA-100-001  | Location Plan                             | D        |
| S1-DA-100-002  | Site Analysis Plan                        | D        |
| S1-DA-110-001  | Site Plan                                 | E        |
| S1-DA-110-006  | Basement 02                               | E        |
| S1-DA-110-007  | Basement 01                               | E        |
| S1-DA-110-008  | Ground Level                              | E        |
| S1-DA-110-010  | Level 01                                  | D        |
| S1-DA-110-020  | Roof Plan                                 | D        |
| S1-DA-120-008  | Ground Level-Detailed Plan                | D        |
| S1-DA-120-009  | Ground Level-Detailed Plan                | D        |
| S1-DA-120-010  | Level 1- Detailed Plan                    | D        |
| S1-DA-200-010  | Site Elevations                           | D        |
| S1-DA-200-020  | Mulgoa Road - South East Elevation        | E        |
| S1-DA-200-030  | Panthers Link - North West Elevation      | D        |
| S1-DA-200-040  | Panther Place - South West Elevation      | D        |
| S1-DA-200-050  | Ransley Street - North East Elevation     | E        |
| S1-DA-300-010  | Longitudinal Section H                    | D        |
| S1-DA-300-020  | Section A                                 | D        |
| SA-DA-300-025  | Section J                                 | D        |
| S1-DA-300-030  | Section B                                 | D        |
| S1-DA-300-040  | Section C Panther Link Threshold          | D        |
| S1-DA-300-060  | Loading Dock Entry Section D              | D        |
| S1-DA-300-070  | Carpark Entry East Section E              | D        |
| S1-DA-300-080  | Carpark West Section J                    | D        |
| S1-DA-300-090  | Ransley Street Street Frontages Section G | D        |
| S1-DA-720-007  | GFA Diagrams-Basement + Ground Floor      | D        |
| S1-DA-750-001  | Open Space Amenities + Deep Soil          | E        |
| S1-DA-760-010  | Shadow Diagrams                           | D        |
| S1-DA-830-001  | Material & Finishes                       | D        |
| S1-DA-840-001  | Photomontage                              | C        |
| S1-DA-840-002  | Photomontage                              | C        |
| S1-DA-840-003  | Photomontage                              | C        |

| Concept Architectural Plans |                    |          |          |
|-----------------------------|--------------------|----------|----------|
| Drawing Number              | Plan Description   | Date     | Revision |
| A-001-001                   | Title Sheet        | 10.06.19 | L        |
| DA-100-0                    | Location Plan      | 05.06.19 | K        |
| DA-100-002                  | Site Analysis Plan | 10.06.19 | L        |
| DA-110-007                  | Basement 02        | 05.06.19 | K        |
| DA-110-008                  | Basement 01        | 05.06.19 | K        |

|            |                                       |          |   |
|------------|---------------------------------------|----------|---|
|            |                                       |          |   |
| DA-110-009 | Concept Proposal Ground level         | 05.06.19 | K |
| DA-110-010 | Concept Proposal Level 01             | 05.06.19 | K |
| DA-110-020 | Concept Proposal Level 02             | 10.06.19 | L |
| DA-110-030 | Concept Proposal Level 03 to Level 05 | 10.06.19 | L |
| DA-110-070 | Concept Proposal Roof Plan            | 10.06.19 | L |
| DA-200-001 | Concept Proposal Site Elevations 01   | 10.06.19 | L |
| DA-200-002 | Concept Proposal Site Elevations 02   | 05.06.19 | K |
| DA-300-001 | Concept Proposal Longitudinal Section | 10.06.19 | L |
| DA-720-001 | GFA Diagrams                          | 10.06.19 | L |
| DA-740-001 | FSR Diagrams                          | 05.06.19 | K |
| DA-760-001 | Shadow Diagrams                       | 10.06.19 | L |
| DA-760-002 | Shadow Diagrams                       | 10.06.19 | L |
| DA-800-001 | Staging Diagrams                      | 10.06.19 | L |
| DA-800-001 | Building Height Diagram               | 05.06.19 | K |

| Landscape Plans |                                               |          |
|-----------------|-----------------------------------------------|----------|
| Drawing Number  | Plan Description                              | Revision |
| OC-L-1000       | Cover Page                                    | D        |
| OC-L-1001       | Site Design Context Analysis                  | D        |
| OC-L-1002       | Site Design Site Analysis                     | D        |
| OC-L-1003       | Site Design Principles                        | D        |
| OC-L-1100       | Masterplan Concept                            | D        |
| OC-L-1101       | Masterplan Tree Integration                   | D        |
| OC-L-1102       | Masterplan Landscape Feature Strategy         | D        |
| OC-L-1103       | Landscape Masterplan Concept Circulation      | D        |
| OC-L-1201       | Landscape Masterplan Stage 1 Proposal         | D        |
| OC-L-1202       | Landscape Plan Stage 1 Detailed Civic Central | D        |
| OC-L-1300       | Section Concept Proposal Civic Central        | D        |
| OC-L-1301       | Section Stage 1 Civic Central                 | D        |
| OC-L-1400       | Indicative Materiality                        | D        |
| OC-L-1401       | Indicative Planting Schedule                  | D        |

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.

***As amended by DA18/0340.01 under Section 4.55 of the Environmental Planning and Assessment Act 1979 on 10 July 2019***

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

- (a) The development must provide a minimum 30sqm separated parents room with change and wc facilities. The facilities shall be designed with reference to the minimum requirements of the DCP including provision of change facilities for more than one child, private breast feeding areas, seating, waste storage facilities and nappy disposal unit, power outlets, bench space and sink with hot and cold water, a combined and safe play area for toddlers visible from the breast feeding area, and a microwave. Plans are to include a parent friendly accessible cubicle which includes a child toilet and low height hand washing basin with automatic cut off taps and soap dispenser.
- (b) 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.
- (c) The ground floor waste management and storage areas are to be amended to provide a minimum area of 40sqm for the storage of 1100L bins servicing the development (and future stages).
- (d) The back of house waste and delivery loading area is to be amended to include a bunded waste bin cleaning/wash area. The area is to be provided with a hose and hot and cold water outlet and a fall to a floor waste, connected to the sewer. Surfaces are to be finished to allow easy cleaning i.e. tile.

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.

***As amended by DA18/0340.01 on 10 July 2019 under Section 4.55 of the Environmental Planning and Assessment Act 1979***

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

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

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

The Strategy is to address:

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

- 5 **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.

**Prior to the issue of the Occupation Certificate**, the PCA is to be provided with a registered plan of subdivision indicating that the VPA is noted on title.

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

- 7 **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 1 of the development only. A separate development application shall be submitted to Penrith City Council for any future stages of the development.
- 9 Existing fencing along Mulgoa Road is to be removed prior to the issue of any Occupation Certificate (excluding fencing surrounding the existing Panthers pylon style sign).
- 10 A minimum of four Electronic Vehicle Charging Stations (EVCS) are to be provided within the basement carpark constructed as part of Stage 1 and the Western Sydney Community and Conference Centre. The charging stations are to be designed to accommodate the requirements of commercially available residential vehicles and their required connector types (currently known as Type 1 and Type 2 connectors). A minimum of four additional car parking spaces are to be designed so as to be readily retrofitted as EVCS parking spaces. The installed EVCS car parking spaces are to be sign posted and marked as for the use of electronic vehicles only and are to be located in close proximity to the lift cores.

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

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

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

- 11 A final signage strategy and signage and wayfinding plan is to be submitted to and approved by Council prior to the issue of a Construction Certificate. The Principal Certifying Authority is to be provided with confirmation from Penrith City Council that the submitted plans has been reviewed and are endorsed.

Advisory note

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

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

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

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

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

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

The maximum capacity of the WSCCC is 1000 persons.

**Amended under DA18/0340.01 as per Section 4.55 of the Environmental Planning and Assessment Act 1979 on 10 July 2019.**

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

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

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

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

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

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

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

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

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

- 23 All roof mounted plant, ducting or services infrastructure shall be screened from view. No approval is granted for the installation of ducting, conduit, plant or services infrastructure on the external facades of the building, unless it is indicated on the stamped approved plans.
- 24 No external roller shutters, bars or similar structures are permitted to be installed on the ground floor glazing of the commercial/retail tenancies.



- 25 The surface treatment of all car parking areas is to be a brushed or matt surface to reduce the impact of noise from the turning movements of vehicles.
- 26 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:
- Lighting**
- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.
- Basement Car Parking**
- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lift and stairwell, to minimise opportunities for unauthorised access.
  - All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
  - Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.
- Building Security & Access Control**
- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks and any internal access points requiring restricted access.
  - Australian Standard 220 – door and window locks must be installed in all premises.
  - CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Graffiti/Vandalism**
- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
  - Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- Landscaping**
- All vegetation must be regularly pruned to ensure that sight lines are maintained.
- 27 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**

- 28 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

- 29 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.

- 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 Noise levels from the premises shall not exceed the relevant noise criteria detailed 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). The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

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

- 35 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."}

- 36 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.

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

- 37 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

- 38 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
- The ground floor waste collection room 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.
- 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
- Swept path models to be submitted for medium and heavy rigid waste collection vehicles in accordance with section 2.2.3 of the 'Industrial, commercial and mixed-use waste management guideline' document

## BCA Issues

- 39 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 40 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

- 41 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.
- 42 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.
- 43 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.
- 44 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council **prior to the issue of an Occupation Certificate** and operation of the business.

- 45 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard 1668, Parts 1 & 2.

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

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

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

**Prior to the issue of an Occupation Certificate**, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

- 46 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business.
- 47 Details of the kitchen, bar and food preparation and storage areas must be prepared by a suitably qualified person and certified in accordance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 *Design, Construction and Fitout of Food Premises* to the satisfaction of the Certifying Authority prior to a Construction Certificate being issued.
- 48 Hand basins to the bar and kitchen must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 49 Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.
- 50 A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.

- 51 Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- 52 The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- 53 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.
- 54 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 55 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 56 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 57 Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.
- 58 Appliances used to store potentially hazardous food must have a capacity to keep foods hotter than 60°C, refrigerated foods less than 5°C, and frozen foods less than 18°C and be provided with a digital thermometer, accurate to 1°C that can be easily observed from outside the appliance.
- 59 The meter box must be provided with an approved non-absorbent, smooth faced cover. The cover is to be splayed at an angle of 45 degrees to the wall at the top and made tight fitting to the wall surfaces.



- 60 Details of the dishwashing/glass washing machines must be submitted to Council and approved prior to installation. All utensils and equipment must undergo a washing, sanitising and rinsing cycle. The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.
- 61 All wash sinks and food preparation sinks must be serviced with hot and cold water through a single outlet. Wash sinks must be supplied with water at a temperature of not less than 54 °C for washing.
- 62 The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.
- 63 The food preparation sink must be separated from all other sinks by a minimum distance of 2 metres or have an approved form of physical barrier that separates the sink.
- 64 The cleaner's sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- 65 All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:
- (a) Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
  - (b) Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
  - (c) Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.
- Note:
- 1. False bottoms under fittings are not permitted (AS 4674-2004 – Section 4.2 and 4.3).
  - 2. All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.
- 66 All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.
- 67 All storage cabinets (internal and external surfaces) must be finished in a smooth and non-absorbent approved material that is free of joints.

- 68 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 69 Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).
- 70 The coolroom and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.
- 71 Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.
- 72 The coolroom and freezer room must be provided with:
- A door which can at all times be opened from inside without a key and
  - An approved alarm device located outside the room, but controlled only from the inside.
- 73 Sufficient lockers must be provided in the food preparation area or store room specifically for the storage of cleaning materials, employees' clothing and personal belongings.
- 74 The storeroom must be constructed in accordance with AS 4674-2004 by providing the following:
- A smooth, even, non-slip floor surface.
  - Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. "Feather edge skirting" and non-rebated coving are not permitted.
  - Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning.
  - The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted.
  - Shelving or storage racks must be designed and constructed to enable easy cleaning.
- 75 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

- 76 Smooth and impervious surfaces (walls and floors) must be provided to all waste storage areas and rooms. Floor areas must be graded and drained to a floor waste gully connected to the sewer. Open waste storage areas must be appropriately covered and bunded to avoid stormwater entering the sewer. Waste storage rooms must be adequately ventilated and proofed against pests. The area or room must be provided with water service hose connectors to enable easy cleaning.
- 77 Rubbish bins must be cleaned regularly to remove the food scraps stuck on the bin surface and to minimise the emission of odour that attracts insects and vermin. Bins may be cleaned either by the rubbish collecting contractors or inside a rubbish room constructed to the above specifications.  
Bins, hoppers and other containers used for storing garbage or recyclable material shall be:
- a) constructed of impervious material such as metal or plastic; and
  - b) have tight fitting lids
  - c) bins that cannot be lifted for draining after cleaning shall have drainage bungs at the base.
- 78 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water's requirements.

## Utility Services

- 79 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](http://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.

- 80 The proponent must comply with the applicable requirements of Sydney Water as detailed within Attachment 1 and 2 of Sydney Water correspondence dated 19 June 2018 (Sydney Water Reference 172330).
- 81 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

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

## Construction

- 82 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.

83 Prior to the commencement of construction works:

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

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

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

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

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

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

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

84 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 that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above. The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

## Roads Act Requirements

- 85 **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.
- 86 The required sight lines around the driveway entrances are not to be obstructed by landscaping, fencing or signage.

- 87 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.

## Engineering

- 88 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 89 **Prior to the issue of any Construction Certificate**, a Section 138 Roads Act application, including payment of application and inspection fees, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- (a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
  - (b) Concrete footpaths and/or cycleways
  - (c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
  - (d) Road occupancy or road closures
  - (e) The placement of hoardings, structures, containers, waste skips, signs, etc in the road reserve
  - (f) Temporary construction access

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

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

### Note:

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

- 90 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with, and approved by Penrith City Council (being the Roads Authority under the Roads Act), for provision of the proposed drainage works and driveway works in Ransley Street, Penrith.

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

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

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- c) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

91

The stormwater management system shall be provided generally in accordance with the Stormwater Management Report, MUSIC modeling and associated concept plan/s lodged for development approval, prepared by Wood & Grieve Engineers reference 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.**

- 92 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Wood and Grieve Engineers, reference number 35986, revision C, 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 any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.



- 93 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).
- 94 **Prior to the issue of any Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.
- 95 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.
- 96 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for the proposed drainage works in Ransley Street, Penrith.

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

Note:

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

- 97 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments.

The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as amended. The applicant shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms no damage has occurred due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate and then updated and submitted prior to any Occupation Certificate confirming that no damage has occurred.

- 98 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.

- 99 Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

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

Note:

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

- 100 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 101 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 102 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 103 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.

- 104 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 been undertaken have been satisfactorily completed.

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

- 105 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

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

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

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

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

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

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

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

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

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

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

110 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

111 All vehicles are to enter and leave in a forward direction.

112 Subleasing of car parking spaces is not permitted by this Consent.

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

## Landscaping

- 114 All landscape works are to be constructed in accordance with the stamped approved Landscape plans prepared by Oculus, Revision B 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.

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

**Advisory Note:**

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

- 116 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 WSCCC**. 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.

- 117 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.
- 118 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.
- 119 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.
- 120 **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

- 121 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

#### D5 Other Land Uses

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

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

Submitted plans have been amended to incorporate a parents room in accordance with the objectives and specific controls of this section of the DCP. Clause 5.5 of the DCP requires that for a development of this scale, accommodating the intended capacity and needs of many community residents and organisations, requires a greater level of amenity for patrons of the facility. The plans indicate a separated parents room with two feeding chairs with screening, 3 additional chairs and a separated parent friendly WC with child toilet. The room has sufficient bench space provided for change and bottle preparation.

Existing conditions of consent require the ground and first floor architectural plans to be amended to provide a minimum 30sqm separated parents room with change facilities. The facilities were required under the condition to be designed with reference to the minimum requirements of the DCP including provision of change facilities for more than one child, private breast feeding bays or areas, seating, adequate waste storage facilities and nappy disposal unit, power outlets, bench space and sink with hot and cold water, a combined and safe play area for toddlers visible from the breast feeding area, and a microwave. Plans were required to include a parent friendly accessible cubicle which includes a child toilet and low height hand washing basin with automatic cut off taps and soap dispenser. Although the plans indicate general compliance, as plans are not fully detailed and dimensioned, the condition is recommend to be amended to require a final detailed plan of the area to be submitted indicating all aspects of the condition are satisfied.

#### E13 Riverlink Precinct

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

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

- (f) *Encouraging views of the Blue Mountains from the public domain;*
- (g) *Encouraging design excellence;*
- (h) *Improving connectivity;*

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

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

#### *Clause 13.7.2 Landscape Structure*

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

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

#### *Ransley Street*

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

#### *Mulgoa Road*

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



#### *Clause 13.7.3 Sub Precincts*

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

Notwithstanding the above, the development is assessed to adequately address Ransley Street and details provided, related to Stage 2 of the Concept plan indicate a restaurant is proposed at level 1 overlooking Ransley Street.

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

#### *Clause 13.7.5 Public Art Strategy*

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

#### *Clause 13.8.4 Traffic, Parking and Site Access*

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

Further to the above, on 13 November 2017, Council passed a resolution in support of amendments to the DCP in support of the amended Panthers 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. Future stages proposed as part of the Concept proposal include a restaurant at level 2, which will overlook the eastern end of Ransley Street.

#### *Clause 13.9.9 Architectural Excellence*

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