

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-134
DA Number	DA21/0047
LGA	Penrith City Council
Proposed Development	Construction & Embellishment of Penrith City Park including Amenities Building, Pergola Structures, Water Features, Seating, Lighting & Signage & Related Landscaping, Utility Servicing, Stormwater Management Infrastructure, Allen Place Car Park Modifications & Road Works
Street Address	134-144 Henry Street and 42-50 Station Street, Penrith
Applicant/Owner	Penrith City Council
Date of DA lodgement	28 January 2021
Total number of Submissions Number of Unique Objections	1x submission
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Council related development that has a capital investment value (CIV) of more than \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No 55- Land Remediation • State Environmental Planning Policy (State and Regional Development) 2011 • Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River • Environmental Planning and Assessment Regulation 2000 • Penrith Local Environmental Plan 2010 • Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Appendix 1 - Statement of Environmental Effects • Appendix 2 - Location Plan • Appendix 3 - Zoning Plan • Appendix 4 - Peer Review • Appendix 5 - Landscape Plan • Appendix 6 - Landscape Analysis and Design Report • Appendix 7 - Architectural Drawings (Amenities building) • Appendix 8 - Civil Plans • Appendix 9 - Stormwater Management Report • Appendix 10 - Access Statement • Appendix 11 - Heritage Impact Statement • Appendix 12 - Consolidation Plan • Appendix 13 - Road Closure Plan • Appendix 14 - Traffic Statement
Clause 4.6 requests	Not applicable
Summary of key submissions	Submission received was in support of the proposal
Report prepared by	Lucy Goldstein
Report date	6 September 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

SWCPP Ref. No.:	PPSSWC-134
DA No.:	DA21/0047
PROPOSED DEVELOPMENT:	Construction & Embellishment of Penrith City Park including Amenities Building, Pergola Structures, Water Features, Seating, Lighting & Signage & Related Landscaping, Utility Servicing, Stormwater Management Infrastructure, Allen Place Car Park Modifications & Road Works - Lot E DP 163176, Lot 1 DP 164798, Lot 1 DP 252457, Lot 1 DP 526304, Lot 10 DP 553665, Lot 11 DP 553665, Lot 2 DP 556075, Lot 3 DP 1200790, 134 - 138 Henry Street, PENRITH NSW 2750 144 Henry Street, PENRITH NSW 2750 140 - 142 Henry Street, PENRITH NSW 2750 46 Station Street, PENRITH NSW 2750 48 - 50 Station Street, PENRITH NSW 2750 42 - 44 Station Street, PENRITH NSW 2750
APPLICANT:	JMD Design
REPORT BY:	Lucy Goldstein, Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Development Application for the construction and embellishment of the Penrith City Park, including an amenities building, pergola structures, water features, seating, lighting, signage, related landscaping, utility servicing, stormwater management infrastructure, Allen Place car park modifications and road works 134-144 Henry Street and 42-50 Station Street, Penrith.

Under the provisions of Penrith Local Environmental Plan 2010 (LEP), the subject site is zoned RE1 Public Recreation and B4 Mixed Use, and the proposal is defined as a 'Recreation Area', 'Road' and 'Car Park' which are permitted uses with consent on the site.

As Penrith City Council is the land owner, the assessment of this application has been peer reviewed by an external planning consultant. The peer review, prepared by Landmark Planning, dated 5 September 2021, has considered Council's assessment report, the application and supporting documentation. The peer review concludes that the *'assessment has suitably considered the key considerations of Section 4.15 of the Environmental Planning & Assessment Act, 1979'* and that the *'recommendation and proposed conditions are considered to be appropriate'*.

In accordance with Section 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel (SWCPP) is the determining authority, as the proposal is for Council related development that has a capital investment value (CIV) of more than \$5 million. It is noted that Penrith City Council is the landowner of the subject site and the proposal has a CIV of \$10,123,241.

The application has been notified to nearby and adjoining properties and advertised in the local newspaper in accordance with Council's Community Engagement Strategy. Council received one submission in support of the proposal.

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

Site & Surrounds

The Site

The subject site is located in the Penrith City Centre, situated approximately 180m south of Penrith railway station. The site comprises of several adjoining allotments, including the following:

- Lot 1 in DP 164798 and Lot 1 in DP 252457, commonly known as 134 to 138 Henry Street;
- Lots 10 and 11 in DP 553665, commonly known as 140 to 142 Henry Street;
- Lot 2 in DP 556075, commonly known as 144 Henry Street;
- Lot 3 in DP 1200790, commonly known as 42 to 44 Station Street;
- Lot 1 in DP 526304, commonly known as 48 to 50 Station Street;
- Lot E in DP 163176, commonly known as 46 Station Street; and
- Portions of the Allen Place car park.

Penrith City Council is the landowner for all allotments as listed above.

On the site currently are several commercial buildings, associated structures, pavement, and public car park. An existing consent applies to the site for the demolition of all buildings and structures and land remediation to facilitate the park development (DA21/0045, approved by the Local Planning Panel on 21 April 2021).

Surrounding Land Uses

The site is bound to the north by Henry Street and numerous commercial premises including a gym, Queens of Hearts Community Foundation and Nepean College. Further north is an open car park and commercial premises on Belmore Street, including Bob Jane T-Marts and a veterinary hospital. To the east of the site is Woodriff Street North, commercial premises and Edwards Place car park. Further east a pathology centre and testing laboratory are present. The site is bound to the south by Allen Place, and multiple commercial properties including cafes, a medical centre and pharmacy. Beyond High Street, commercial premises are present. The site is bound to the west by Station Street, and medium to high density commercial premises. Further to the west is Peach Tree Creek and the Nepean River.

Proposal

The proposal is for the construction and embellishment of a public park, and involves the following aspects:

- Construction and embellishment of Penrith City Park, consisting of several distinct areas, including a central lawn, a civic area with informal stage for community use and informal lawn;
- Construction of an amenities building located in the south-east corner of the park;
- Mass landscaping works, including planting of advanced trees;
- Installation of park furniture, walk-way awning, water features, signage, public art, lighting and associated substation;
- Stormwater and Water Sensitive Urban Design (WSUD) works; and
- Roads works, and reconfiguration of Allen Place car park.

It is noted that the development of the park will be staged, and the current proposal relates to Stage 2 works. Stage 1 works (subject of development consent DA21/0045) include the demolition of existing structures and land remediation of the site to facilitate the park, which was approved by the Local Planning Panel on 21 April 2021.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- 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)**
- **Section 4.15 - Evaluation**

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

- **Section 7.12 - Developer Contributions**

Penrith City Council's Section 7.12 City Wide Development Contributions Plan for Non-Residential Development came into force in August 2020, and applies to non-residential development across the City that has a cost of works that exceeds \$100,000.

The subject proposal is for non-residential development, and has an estimated cost of works greater than \$100,000, being \$10,123,241. As such, Council's Section 7.12 Contribution Plan applies to the proposal. It is noted that advice was sought from Council's Contributions Officer, who confirmed that Council's Section 7.12 Contribution Plan applies to the proposal.

Accordingly, a condition of consent is recommended to be imposed levying a development contribution in accordance with the following calculation:

Section 7.12 Fixed Development Consent Levy

Cost of Works = \$10,123,241

Contribution Rate = 1% of cost of works

Contribution = \$101,232.00

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (State and Regional Development) 2011

The proposal is defined as Regionally Significant Development under Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011. In this regard, the proposal is for Council related development that has a capital investment value (CIV) of more than \$5 million. It is noted that Penrith City Council is the landowner of the subject site and the proposal has a CIV of \$10,123,241. Accordingly, the Sydney Western City Planning Panel (SWCPP) is the determining authority, and the proposal is being reported to the SWCPP.

State Environmental Planning Policy No 55—Remediation of Land

The objective of SEPP 55 is to provide for a statewide planning approach to the remediation of contaminated land. The proposal has been assessed against relevant criteria under State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55), as detailed below.

The proposal has been assessed by Council's Environmental Management Officer in respect to contamination considerations. Importantly, a previous consent, DA21/0045, applies to the site for remediation works to make the site suitable for a park. The overarching remediation strategy as approved by DA21/0045 was to make the site suitable for the City Park through a mix of both off site disposal of contaminated material and on site containment of contaminated material (containment cell).

As identified under DA21/0045, the areas of concern that require remediation include the former dry cleaning shop, former service station, soil underlying transformers, and unknown fill material underlying buildings and pavement on the site. The containment cell as approved under DA21/0045 will be 1309sq.m in area and located within the centre of the site. Condition 9 of DA21/0045 requires the submission to Council of a NSW EPA Accredited Site Auditor prepared Site Audit Statement (SAS) and Site Audit Report (SAR) along with a Site Auditor approved Environmental Management Plan for the site.

As such, remediation of the site is required and issue of the SAS and SAR must occur prior to the commencement of any works associated with the construction of the park.

In this regard, conditions of consent have been recommended to require the approved remediation works under the consent for DA21/0045 to be completed before works can commence for the construction of the park. Importantly, all works proposed by the subject application will need to be completed in accordance with the SAS and Environmental Management Plan issued for the site and approved under DA21/0045.

With consideration to the above, the proposal is considered to meet the provisions of SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 -1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment.

The application includes water management measures to ensure that the development will not result in adverse impacts to the surrounding waterways. Accordingly, the application was accompanied by Water Sensitive Urban Design (WSUD) documentation and associated MUSIC Modelling, which was reviewed by Council's Waterways Management Officer and found to be satisfactory, subject to conditions. In this regard, the proposal includes two passively irrigated areas (rain gardens) on the site to achieve stormwater treatment prior to discharge. In respect to water quality and management, the proposal will be an improvement to the existing site conditions. In relation to construction impacts, a condition of consent has been imposed requiring soil and erosion controls measures to be installed to ensure sediment as a result of the development is not deposited to the stormwater system.

With consideration to the above, the proposal is considered to meet the objectives and controls under SREP 20.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 8.4 Design excellence	Complies

Clause 2.3 Permissibility

Under Penrith LEP 2010, the site is zoned RE1 Public Recreation and B4 Mixed Use. The proposal is for the following purposes:

Development	Definition under Penrith LEP 2010	Proposal
Recreation Area	<i>Recreation area means a place used for outdoor recreation that is normally open to the public, and includes: (a) a children's playground, or (b) an area used for community sporting activities, or (c) a public park, reserve or garden or the like, and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).</i>	The proposal is for the purpose of a 'public park, reserve or garden or the like', and includes an ancillary amenities building and associated works.
Road	<i>Road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.</i>	The proposal includes modification and amendments to existing public roads and construction of a new road around the perimeter of the park.
Car Park	<i>Car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.</i>	The proposal includes car parking, including amendment to the existing Allen Place car park.

A 'Recreation Area', 'Road' and 'Car Park' are permitted uses with consent in the RE1 Public Recreation zone, and B4 Mixed Use zone.

Clause 2.3 Zone objectives

The objectives of the RE1 Public Recreation zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To ensure that development is secondary and complementary to the use of land as public open space, and enhances public use, and access to, the open space.*
- *To provide land for the development of services and facilities by public authorities for the benefit of the community.*

The proposal is considered to be consistent with the zone objectives as outlined above, in that the proposal is for a public recreational space within the Penrith CBD area for the benefit of the community.

The objectives of the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The proposal is considered to be consistent with the zone objectives as outlined above, in that the proposed park is well located close to public transport (approximately 180m from Penrith railway station), and will create opportunity to improve public amenity.

With consideration to the above, the proposal is considered consistent with the relevant zone objectives.

Clause 4.3 Height of buildings

A maximum building height of 20m (AHD) is permitted on the site. The proposal includes a single-storey amenities building that has a maximum height of 5.4m (AHD) inclusive of planted roof and skylight. Therefore, the proposal complies with the maximum building height standard.

Clause 4.4 Floor Space Ratio

A maximum Floor Space Ratio of 3.5:1 applies to the site. The proposal is for the purpose of a public park, and does not exceed the maximum Floor Space Ratio, with only a modest amenities building proposed in terms of new floor space.

Clause 5.10 Heritage Conservation

There are three listed heritage items in the vicinity of the site and proposed works, comprising of the following:

1. Former Penrith Council Chambers (Penrith Local Environmental Plan [LEP] 2010 Item No. 189) located to the north of the subject site;
2. TAFE Building (Penrith LEP 2010 Item No. 689) located to the north-east of the site; and
3. Former Prospect Electricity Building (Penrith LEP 2010 Item No. 701) located to the north-east of the site.

Further, there is one unlisted potential heritage item on the subject site being the former John Price & Son Funeral Home, which is to be demolished as part of the approved works under DA21/0045 to accommodate the park.

The proposal was supported by a Non-Aboriginal Heritage Impact Statement (HIS), prepared by Artifact Heritage Services Pty Ltd, dated 27 January 2021, which assesses potential heritage impacts as a result of the development of the park (including the demolition works subject to DA21/0045). The HIS concludes that the proposal will have varying impact on the surrounding listed heritage items, ranging from neutral to minor direct and indirect impacts. However, for obvious reasons, the demolition of the former John Price & Son Funeral Home will have a major impact on this unlisted item. Demolition of this item was approved via DA21/0045.

Noting that the proposed park will not obstruct or disturb views to the surrounding heritage items, and that it was found to have neutral to minor impact on the surrounding listed items, the proposal is considered acceptable, subject to compliance with the recommendations contained within the HIS. The key recommendations contained within the HIS relevant to this application include:

- The ornamental octagonal fountain from the John Price & Son funeral home must be retained in situ and protected during works, and form part of the park landscaping following the completion of works. The fountain is shown on the landscape plans as being retained in situ.
- During construction works, monitoring of vibration impacts to the locally significant former Council Chambers, TAFE Building and former Prospect Electricity Building should be undertaken by structural engineers or a vibration specialist.

With regard to the above considerations, the proposal is considered satisfactory in regards to the requirements of Clause 5.10, subject to recommended conditions addressing the above requirements.

Clause 5.21 Flood Planning

The site is affected by mainstream flooding from the Nepean River in a Probable Maximum Flood (PMF) event, and affected by 1% AEP local overland flow flooding, based on the Penrith CBD Detailed Overland Flow Flood Study 2015, and Penrith CBD Floodplain Risk Management Study and Plan 2020. As such, the provisions of Clause 5.21 apply, and the proposal has been assessed against relevant criteria, as outlined below.

The objectives of Clause 5.21 include:

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,*
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.*

The proposal is considered consistent with the objectives of the clause, in that the proposal is for the construction of a park and will result in a substantial increase in landscaping and permeable area on the site. In this regard, the proposal is considered an improvement on the current environmental conditions of the site, which currently comprises several buildings and extensive hardstand area.

Further, sub-clause (2) requires that consent must not be granted unless the consent authority considers and is satisfied of a range of matters, including that the development:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*

(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river-banks or watercourses.

Sub-clause (3) goes on to require the consent authority to consider a further range of matters, including:

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

In respect to the considerations under sub-clauses (2) and (3), it is considered that the proposal will have negligible impacts only in relation to flooding, flood evacuation and climate change, and will not adversely affect the environment, given the nature of the development being for the purpose of a park. The proposal is considered to see an improvement to existing environmental conditions. The proposed amenities building is of a minor nature and scale only, and has been designed so that the finished floor level is above the flooding planning level.

Overall, the proposal is deemed satisfactory with regard to flood planning considerations.

Clause 7.4 Sustainable development

Clause 7.4 requires the consent authority to have regard to the principles of sustainable development as they relate to the development. The proposal is considered to meet the principles of sustainable development in that the proposal will provide additional open space and landscaped areas within the Penrith CBD area, including advanced plantings and canopy trees. In terms of water management, the proposal includes two passively irrigated areas (rain gardens) to treat stormwater prior to discharge to improve water quality, and rainwater tanks are included in the park for water re-use. The amenities building design responds to principles of sustainable development, in that the design includes re-used materials, such as salvaged terracotta tiles on the western side of the building. The building will incorporate natural materials (timber boards) on the facade, which will also provide natural ventilation.

With consideration to the above, the proposal satisfies the requirements of Clause 7.4 of the LEP.

Clause 7.7 Servicing

The proposal will be suitably serviced, as reinforced through recommended conditions of consent in regards to water, electricity and communications services.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	Complies
C8 Public Domain	Complies - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
E11 Penrith	Complies - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iv) The provisions of the regulations

The proposal is considered capable of complying with the requirements under the Environmental Planning and Assessment Regulation 2000, subject to recommended conditions that require the development to comply with all relevant requirements under the Building Code of Australia.

Section 4.15(1)(b) The likely impacts of the development

Strategic Context

There is limited access to public open space within the Penrith CBD. The site has been identified as a suitable location for a public park within various Council strategic plans and policies, including most notably the *Penrith Progression: A Plan for Action* in 2015 and Penrith LEP 2010 Amendment No. 4, as reflected by the zoning of the site, being predominately RE1 Public Recreation. The purpose of the proposal is to provide open space within the Penrith CBD area to enhance the environment and streetscape and to encourage social interaction and activities.

Landscape Design

The proposal has been reviewed by Council's Landscape Architect, who overall supported the proposal and provided the following specific advice (it is noted that the recommendations provided by Council's Landscape Architect have been addressed in the assessment either by way of amended plans and/or conditions, as outlined below):

- Overall, the proposed plant schedule is considered to provide a wide variety of species, including coloured trees/plants to provide visual interest.
- Public art should be incorporated into the park design. In this regard, the application was supported by a high level Cultural Interpretation and Public Art Strategy, which identifies opportunities to include public art and elements of cultural interpretation within the park. While the proposal does not include specific pieces of art (which are anticipated to be commissioned at a later stage), a condition of consent has been recommended to require public art and elements of cultural interpretation to be provided in accordance with the submitted Cultural Interpretation and Public Art Strategy and Section 8.5 - Public Art of Chapter C8 - Public Domain of Penrith Development Control Plan 2014.
- The proposed location of the substation (as originally proposed) is poor, being located adjacent to a pedestrian crossing and entrance to the park. This issue was raised with the applicant and it was requested that the substation be relocated to a less prominent location, away from the pedestrian crossing. However, the proposed location of the substation is needed to meet access requirements (Endeavour Energy requires access by a 30-tonne truck) and the substation cannot be located along the western boundary of the park, due to clearance requirements of the pergola structure. On this basis, there is limited opportunity to relocate the substation elsewhere on the site which would be less prominent. Notwithstanding, to assist in addressing these concerns, the landscape plans have been updated to shift the substation north by approximately 2m, so that it is further setback from the pedestrian crossing by approximately 3.5m. This is considered an improved outcome.
- The proposed park seating is very linear and it was recommended that some group seating be provided to encourage socialisation within the park. The amended landscape plans have provided for group seating options along the northern edge of the park to address this concern.
- The proposal includes the upgrade of street light poles on the perimeter roads. All street light posts should be 'Type A' as identified on the landscape plans as these are the preferred design. A condition to this effect has been recommended.
- Concern was raised regarding the garden bed design located immediately next to car spaces 01-03. This concern has been resolved by the amended landscape plans, which provide for a footpath next to these car spaces to provide an unobstructed path of travel.
- Lighting needs to be provided as per Australian Standards, particularly at pedestrian crossings. This has been addressed via a recommended condition.
- Irrigation points shall be provided in the park. This has been addressed via a recommended condition.

Accessibility

The application was supported by an Access Statement, prepared by an accredited Access Consultant (Funktion, dated 25 January 2021), which provides assessment of the proposal in respect to access considerations and compliance with relevant codes, standards and legislation, including the Disability Discrimination Act 1992 and Australian Standard 1428 Design for Access and Mobility. The Access Statement concludes that at this stage of the design, the proposal is capable of complying with the functional accessibility requirements of the Disability Discrimination Act 1992 and Australian Standards AS 1428.1 - 2009, AS 1428.2 - 1992 and AS 1428.4.1 - 2009. In particular, the proposal includes the following aspects:

- The proposal includes two new accessible car parking spaces located near the south-east entrance to the park, adjacent to the pedestrian crossing. The accessible car parking spaces include an adjoining shared bay in accordance with the requirements of AS 2890.6 - Accessible Car Parking. Level access is provided from the car park spaces into the park.
- The proposed amenities building is located adjacent to the car park, reducing travel distances. The amenities building includes an adult change WC, accessible WC, two unisex WCs, and an ambulant WC. The Access Statement concludes that the amenities design can comply with Australian Standard 1428.1 and Building Code of Australia requirements.
- Several pathways are proposed within the park. The site is relatively flat having a general fall of 0.4%.

All internal pathways are indicated to have accessible gradients, cross falls and edges to meet AS 1428.1, with adequate width and passing space to cater for activity by different users including parents with prams and people using mobility aids. Provision for passing spaces that comply with AS 1428.1 has been included. Internal footpaths provide level connection to existing footpaths located along the perimeter of the site.

- A range of different seating types is proposed to be provided throughout the park, at regular intervals along pathways and under shade. Clear space adjacent to the seats is available to accommodate people who use wheelchairs or prams. A proportion of seats are proposed to include backrests and armrests in accordance with AS 1428.2, Clause 27.2, including chair types 1 and 2 with back and armrests and circular feature seat with backrest.
- The proposal includes sensory planting, providing an opportunity for visitors to interact with the garden using all senses.

Further to the above, a condition of consent has been recommended requiring the development to be carried out in accordance with the recommendations of the Access Statement.

Road Works, Traffic and Car Parking

The proposal includes the following road works and modifications:

- Provision of a north-south street corridor along the eastern boundary of the proposed park, consisting of the existing Gaymark Lane (which runs one-way southbound) and a new street running one-way northbound from the one-way westbound section of Allen Place.
- Conversion of the section of Allen Place (between Station Street and the new northbound street) from one-way to two-way traffic. A typical width of 9.1m is to be provided for Allen Place comprising two travel lanes and one parking lane and a typical width of 6.1m for the new one-way northbound street, comprising a travel lane and a drop-off / pick-up lane. It is noted that the road layout allows for potential future configuration of a widened footpath of 4.7m along the properties to the south of the park, and 1 x 3m wide shared zone, and 1 x 3m wide lane.
- Installation of pedestrian crossings.
- Removal of approximately 50 car spaces from Allen Place and 3 car spaces from Gaymark Lane. The proposal retains existing parking on Henry Street and Station Street and provides 2 accessible parking spaces on Allen Place.

The proposal (as amended) has been reviewed by Council's Traffic Engineer and Development Engineer, and the proposed road width and arrangement is found to be satisfactory. The proposed loss of car parking spaces in Allen Place and Gaymark Lane is considered acceptable on balance, given the nature of the proposal and the social and environmental benefits of developing the site for a park. In addition, Council's CBD parking strategy provides for several consolidated multi-deck public parking structures in key locations to service the CBD, one of which will be delivered as part of the Soper Place car park proposal which is subject to a current development application. The City Park site is also well located in terms of public transport links. However, Council's Traffic Engineer has raised concerns regarding the proposed road signage and line marking, and accordingly has provided a recommended condition to address these concerns. In this regard, a condition has been recommended that requires an updated road design plan be submitted to, and approved by, Council and Council's Local Traffic Committee prior to the issue of a Construction Certificate.

Asset Management

As the park will be under Council care and control, the proposal has been reviewed by Council's Asset Management Department. Based on this review, the proposal is found to be generally satisfactory with the following comments provided:

Amenities Building Design

Council's Asset - Buildings and Structures Officer has reviewed the architectural drawings (as amended) for the amenities building, and is supportive of the design. While concern was initially raised regarding the use of timber cladding on the facade, due to concerns regarding the durability of timber and potential for damage/graffiti, the design is accepted provided that anti-graffiti treatment is applied to all facades and a maintenance schedule is developed for the building. A condition of consent has been recommended in this regard.

Water-Features

The proposal includes several water features within the park. In this respect, Council's Assets Officer has provided the following recommendations, which have been included as a recommended condition:

- Water features are to have a maximum depth of water of 280mm. Overflows must be set at this height and the maximum water depth shall not exceed this height.
- The walls of raised water features are to have coping with a minimum width of 300mm deep. This is to ensure that people can identify the water from the structure.
- The water must be treated and filtered (capable of controlling legionella and a basic sand filter set-up would be sufficient; UV light treatment for algae).
- Prior to construction, detailed hydraulic designs showing (but not limited to) valves, pumps, filters, treatment systems, backflow prevention, and power is required to be submitted to Council for review and approval.
- Maintenance and operation manuals for the installed asset, including listing warranties, asset details, etc will be required to be submitted to Council on completion.
- An on-site handover meeting with Council's Asset Officer to demonstrate the operation of the system shall occur prior to the operation of the park.

Public Health - Water Features

Advice was sought from Council's Environmental Health Officer in respect to the proposed water features, as this aspect of the proposal has potential public health impacts. In this regard, the following matters were raised by Council's Environmental Health Officer, which have been addressed via recommended conditions:

- The fog fountain, water features and drinking fountains are to be supplied by Sydney Water potable water, and not incorporate any element of water catchment or re-use.
- The fog foundations, water features and drinking fountains are to drain to sewer, and water from these features are not to be captured or re-used.

Section 4.15(1)(c) The suitability of the site for the development

The site is considered suitable for the proposal for the following reasons:

- The proposal is permitted on the site, and is compatible with the surrounding land uses.
- The site is centrally located within the Penrith CBD area and is in close proximity to Penrith railway station and surrounding bus stops, being well connected to public transport services.
- Remediation works are to occur on the site under a previous consent (DA21/0045) to make the site suitable for a public park. Conditions have been imposed to ensure that the remediation works are completed prior to the construction of the park commencing.
- The proposed road works have been designed to the satisfaction of Council's Development Engineer and Traffic Engineer.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's Community Engagement Strategy, the proposed development was advertised and notified to nearby and adjoining properties.

Council notified sixty (60) property owners and occupiers in the area, and the exhibition period occurred between 22 February and 23 March 2021. The proposal was advertised in a local newspaper on 18 February 2021. Council received one submission in support of the proposal, as detailed below.

Submission	Comment
<i>The submission supported the proposal in terms of providing additional green space and amenity for residents. Further, the submission suggests that the park development be continued to connect to the Nepean River.</i>	The submission has been noted. The suggestion to extend the park to connect to other open space areas is acknowledged, however, for the purpose of this assessment, the proposal is limited to the subject site.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	Not supported, however conditions provided
Landscape Architect	No objections - subject to conditions
Heritage	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections

Development Engineer

Council's Development Engineer does not support the proposal on the basis of flooding considerations only, specifically in relation to the proposal addressing the flood planning provisions under Clause 5.21 of Penrith LEP 2010, namely sub-clauses (1)(b), (2)(c) and (3)(a), which relate to flood evacuation and climate change.

Clause 5.21 of the LEP was adopted in July 2021, and Council is currently awaiting clarification and advice from the Department of Planning, Industry and Environment (DPIE) in relation to assessing development proposals against the flood evacuation and climate change provisions of Clause 5.21. As a result, Council's Development Engineer is unable to support the subject proposal until such advice is received from DPIE.

Notwithstanding the recommendation of Council's Development Engineer, in respect to the considerations under sub-clauses (2) and (3) of Clause 5.21 of the LEP, it is considered that the proposal will have negligible impacts only in relation to flooding, flood evacuation and climate change, and will not adversely affect the environment, given the nature of the development being for the purpose of a park. The proposal is considered to see an improvement to existing environmental conditions. The proposed amenities building is of a minor nature and scale only, and has been designed so that the finished floor level is above the flooding planning level. Overall, the proposal is deemed satisfactory with regard to flood planning considerations.

Council's Development Engineer is satisfied that all other engineering matters have been satisfactorily addressed by the proposal or can be dealt with through conditions, which have been recommended where warranted.

Traffic Engineer

Council's Traffic Engineer raised no objection to the proposed road layout and arrangement. However, Council's Traffic Engineer raised concerns regarding proposed line-marking and road signage details, which has lead to their recommendation of '*not supported, however conditions provided*'. Conditions have been recommended to fully address the issues raised by Council's Traffic Engineer regarding line-marking and road signage.

Section 4.15(1)(e)The public interest

The proposal is considered to be in the public interest, being for the purpose of a public park, and will result in additional open space within the Penrith CBD.

Conclusion

In assessing the proposal against the relevant environmental planning policies, including State Environmental Planning Policy No. 55 - Remediation of Land, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

The proposal is compatible with the intended character of the area as envisioned by Penrith Penrith Development Control Plan 2014, and the site is considered suitable for the proposal. Importantly, the site is subject to a previous consent, DA21/0045, for the remediation of the land to make the site suitable for a park, and conditions have been recommended to require the remediation works as approved by DA21/0045 to occur, before any works the subject of this application can commence. The proposal is considered to be in the public interest in providing additional public open space within the Penrith CBD area.

Therefore, the application is recommended for approval, subject to conditions.

Recommendation

That Development Application DA21/0047 for the construction and embellishment of the Penrith City Park, including an amenities building, pergola structures, water features, seating, lighting, signage, related landscaping, utility servicing, stormwater management infrastructure, Allen Place car park modifications and road works 134-144 Henry Street and 42-50 Station Street, Penrith, be approved, subject to the following conditions.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the following approved plans and documents and any other plans, reports or documents approved by Council, except as may be amended in red on the approved plans and by the following conditions:

Drawing Title	Reference	Prepared By	Dated
Landscape Plans	Drawing No. L01 - L16 Revision C	JMD Design	18 August 2021
Design Approach and Strategies	-	JMD Design	August 2021
Architectural Drawings (Amenities Building)	Drawing Nos DA-100 Rev C; DA-110 Rev A; DA-200 Rev C; DA-201 Rev C; DA-300 Rev C; DA-400 Rev C; DA-500 Rev. B	JMD Design	11 August 2021
Civil Engineering Package	Drawing Nos DAC01.01-DAC13.01 Revision 07	Northrop	16 August 2021

- 2 All lots subject of this consent are to be consolidated as one lot. Written evidence that the request to consolidate the lots has been lodged with NSW Land Registry Services is to be submitted to the certifying authority **before the Construction Certificate for the development can be issued by the certifier.**

A copy of the registered plan of consolidation from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of an Occupation Certificate for the development and on practical completion of the park works.**

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued and on practical completion of the park works.**
- 4 **A Construction Certificate** shall be obtained prior to commencement of any building works.

- 5 The development is to be carried out in accordance with the recommendations of the Access Statement, titled '*City Park Penrith, Access & Inclusion Review*', prepared by Funktion, dated 25 January 2021, submitted with the application.

- 6 **Prior to the issue of a Construction Certificate for the development, or prior to the commencement of any works on site, whichever occurs first, all remediation works as approved by development consent DA21/0045 must be completed to the satisfaction of Council.**

In this regard, the approved Site Audit Statement and Site Audit Report prepared by a NSW EPA Accredited Site Auditor and accompanying Environmental Management Plan as required to satisfy conditions of consent DA21/0045 must be submitted to and approved by Council, prior to the issue of a Construction Certificate for the development, or prior to any works commencing on site, whichever occurs first.

- 7 **Prior to the issue of a Construction Certificate**, the road closure of Allen Place is to occur, as shown by the concept plan titled '*Proposed Boundary Layout in a Plan of Subdivision of Lot 1 in DP 1263787 for Road Closure under the Roads Act 1993*' dated 4 August 2021 which accompanied the development application.

A copy of the registered road closure plan from NSW Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, **prior to the issue of a Construction Certificate.**

- 8 **Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works**, the following community safety and Crime Prevention Through Environmental Design (CPTED) provisions are to be implemented:

(a) Lighting

- All outdoor/public spaces throughout the development must meet minimum illumination requirements under Australian Standard 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.

(b) Building Security & Access Control

- Australian Standard 220 door and window locks must be installed to all lockable facilities, in particular throughout the amenities building.
- 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.

(c) Graffiti/Vandalism

- Graffiti resistant coatings must be used to external surfaces, including signage, park furniture, retaining walls, building facades, etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing and common areas. This includes reporting incidents to police and/or relevant authorities.
- All outdoor furniture and fixtures must be sturdy and of high quality to minimise opportunities for vandalism and theft.

- 9 In relation to the water features within the park, the following details and design specifications are to be included on the plans **submitted with the Construction Certificate**:

- (a) The water features are to have a maximum depth of water of 280mm. Overflows must be set at this height and water depth shall not exceed this height.
- (b) The walls of raised water features are to have coping with a minimum width of 300mm deep. This is to ensure that people can identify the water from the structure.
- (c) The water must be treated and filtered (capable of controlling legionella and a basic sand filter setup would be sufficient; UV light treatment for algae).
- (d) Detailed hydraulic design showing all valves, pumps, filters, treatment systems, backflow prevention, power, etc shall be provided.

Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works, the following is to occur:

- (a) A maintenance and operation manual for the installed asset, listing warranties, asset details, etc is required.
- (b) An on site handover meeting with Council's Asset Officers is to occur to demonstrate the operation of the system.

Heritage/Archaeological relics

- 10 The fountain located at the corner of Station and Henry Streets that is associated with the former funeral home building must be preserved in situ, as shown on the approved landscape plans.
- 11 The development is to be carried out in accordance with the recommendations of the 'City Park Penrith Heritage Impact Statement' prepared by Artefact Heritage Services Pty Ltd, dated 27 January 2021, in so far as the recommendations relate to the subject development.

During construction works, monitoring of vibration impacts to the locally significant former Council Chambers, TAFE Building and former Prospect Electricity Building should be undertaken by structural engineers or a vibration specialist.

Environmental Matters

- 12 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. The erosion and sediment control measures are to be installed and maintained in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The erosion and sediment control measures are to be maintained throughout the construction phase of the development until the development works are fully completed to the satisfaction of Penrith City Council.

13 No fill material shall be imported to the site until such time as a certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certificate shall:

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
- clearly state the legal property description of the fill material source site and the total amount of fill tested,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

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 work may be requested. In these circumstances the works shall be carried out prior to any further approved works.

Note: For the purpose of this condition, an appropriately qualified person is defined 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".

14 All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas are to be fully enclosed and secured when the site is unattended.

15 All excavated material and other wastes generated as a result of construction of the development 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.

16 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's *"Interim Construction Noise Guideline" 2009* and the *"Construction Noise & Vibration Management Plan City Park Penrith"* prepared by Acoustic Dynamics and dated 11 December 2020.

17 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

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

19 Construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

20 During earthworks and construction activities, mud and soil from vehicular movements to and from the site must not be deposited on the road.

21 The water features including fog fountains, water features and drinking fountain must be supplied by Sydney Water potable water and not incorporate any element of water catchment or reuse.

Prior to the issue of a Construction Certificate, a statement is to be provided to the Principal Certifying Authority confirming that the wastewater from the water features including fog fountain and drinking fountains drain to sewer, and that wastewater from these installations is not being captured and/or re-used.

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

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

Note: For the purpose of this condition, an appropriately qualified person is defined 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".

- 23 **Prior to issue of a Construction Certificate**, a Construction and Operational Management Plan for the Green Roof is to be submitted to and approved by Penrith City Council. The Management Plan is to address both the construction and ongoing operational stages of the Green Roof. The Management Plan is to detail, but not necessarily be limited to, the following:

- specifications for construction of the Green Roof with supporting documentary evidence demonstrating compliance with associated engineering structural and stormwater management requirements;
- details of the plants (including seeds, rhizomes and the like) to be planted;
- details of the proposed maintenance schedule including maintenance tasks, a detailed description of the tasks and frequency;
- details of growing media to be used, including the nature and source of material and ongoing replenishment requirements;
- details of all chemicals (solid products and liquid) to be used for the establishment and ongoing maintenance of the roof including fertilisers, herbicides and fungicides. Material Safety Data Sheets for each of the chemicals to be used is to be included in the Management Plan along with details of the safeguards to be implemented to protect environmental and public health. This is to address storage, transport and application of chemicals, including consideration of spray drift and PPE requirements
- details of proposed stormwater protection and contingency measures including in the event of severe rain or flood events; and
- waste management plan detailing the collection, management and disposal of waste materials including any soil/growing media, plant cuttings and prunings and dead plants.

The Management Plan is to be prepared by a suitably qualified consultant and is to demonstrate that the Green Roof, its establishment and ongoing maintenance, will not result in any adverse impact to the environment or to public health and safety.

- 24 No utilities, services, infrastructure or building components associated with the construction of this development are to traverse or impact the containment cell located on the site.

- 25 The Council approved and NSW EPA Accredited Site Auditor endorsed Environmental Management Plan for the ongoing management of the site is to be complied with at all times.

BCA Issues

- 26 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).

Health Matters and OSSM installations

- 27 The rainwater tank(s) must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

- 28 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate for the development and on practical completion of the park works.**

- 29 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.

30 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

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

Construction

31 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 on site, 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 and on completion of the park works.

32 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 back-filling 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.

Engineering

- 33 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

34 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, 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) Road opening for utilities
- b) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- c) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- d) 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 Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate and on practical completion of the park works.

- 35 Prior to the issue of any Construction Certificate, the Certifier 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 any civil upgrade works required in the road reserves of Henry Street, Station Street, Gaymark Lane and Allen Place, Penrith.

The following amendments shall be incorporated into the engineering plans, subject to separate approval by the Local Traffic Committee for any regulatory signage and line marking:

- Provision of loading zone signage on the southern side of Allen Place to service businesses for waste collection and deliveries.
- Provision of kiss and drop 'No Parking' signage on either the northern side of Allen Place or the eastern side of Station Street at an appropriate location where sufficient lane widths can be achieved but not opposite any loading zone on Allen Place.
- The proposed pedestrian crossing on Allen Place (east-west) shall be raised and consolidated with the adjacent speed hump so it is consistent with the other raised pedestrian crossing proposed.

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 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate and on practical completion of the park works.

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

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

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

- 37 The stormwater management system shall be consistent with the stamped approved engineering plans prepared by Northrop Consulting Engineers, Job No. 192968, revision 4, dated 16/08/2021.

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

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

The Stormwater Maintenance Manual prepared by Northrop, rainwater tank design option 2, shall be installed to comply with Penrith Development Control Plan 2014, Chapter C3, 3.8. Rainwater Storage Tank, (b), which states that rainwater tanks must not collect water from a source other than gutters or down pipes on a building or a water supply service pipe.

- 38 Prior to the issue of any Construction Certificate, the Certifier shall ensure that any structures below the flood planning level (1% AEP flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.
- 39 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan provisions relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the 1% AEP flood level.
- 40 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS 2890.1, AS 2890.2 and AS 2890.6.
- 41 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 Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 42 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for all civil upgrade works in the road reserve.

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 4732 7777 for further information relating to bond requirements.

- 43 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.

- 44 Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works, the Principal Certifier shall ensure that all works associated with any Section 138 Roads Act approval have been inspected and signed-off by Penrith City Council.

- 45 **Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works**, 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.

46 **Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works**, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

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

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

47 Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works, and prior to installation of regulatory/advisory signage and line marking, such plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Note:

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

48 Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works, a Maintenance Bond is to be lodged with Penrith City Council for all civil upgrade works in the road reserve.

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 4732 7777 for further information relating to bond requirements.

Landscaping

- 49 All landscape works are to be constructed in accordance with the stamped approved plans prepared by JMD Design, Revision C, dated August 2021 and Council's 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.

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

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

The Implementation Report shall be prepared by a suitably qualified and experienced landscape professional.

If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is also to be submitted to Council.

- 52 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.

- 53 The existing *Corymbia* sp. (*Corymbia*) on the site is to be protected and retained.

- 54 An irrigation system shall be provided in the park. Details of the irrigation system are to be provided in the Construction Certificate documentation, and include the following:
- (a) the irrigation system is to be automatic;
 - (b) drip irrigation is to be provided in all gardens beds; and
 - (b) pop up irrigation is to be provided for open grassed areas.
- 55 **Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works**, as shown on the approved landscape plans, the two existing street light poles that are located on Henry Street, adjoining the park, are to be upgraded to 'Type A' light poles.
- 56 **Prior to the issue of an Occupation Certificate for the development and on practical completion of the park works**, public art and elements of cultural interpretation within the park are to be carried out in accordance with the submitted Cultural Interpretation and Public Art Strategy outlined in the Landscape Analysis Plan, prepared by JMD Design, dated August 2021.
- 57 All vegetation must be regularly pruned to ensure that sight lines are maintained. Specifically, vegetation proposed around the pergola walkways must be pruned to maintain visibility along these pathways.

Development Contributions

- 58 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$101,232.00 is to be **paid to Council prior to the issue of a Construction Certificate for the development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note:

The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

59 **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.

60 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the development.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning and Design Principles

The proposed design is site responsive, requiring minimal cut/fill works and incorporates an existing mature eucalyptus tree on the site into the landscape design as a 'feature tree'. The proposal has been designed with consideration to Crime Prevention Through Environmental Design (CTEP) principles, including natural surveillance, access control, lighting and space management. In this regard, the main pedestrian entry points to the park are clearly identifiable, plantings have been located to maintain pedestrian sight lines, and the park opens onto Henry and Station Street to maximise views into the park from main roads. The proposal includes lighting across all external areas, and provides way-finding signage to assist with pedestrian legibility. In relation to the amenities building, highly durable materials and finishes have been selected to minimise opportunities for graffiti and damage.

C2 Vegetation Management

The site contains an existing mature *Corymbia* sp. (*Corymbia*), commonly known as Eucalyptus, located at the southern edge of the site. This existing tree is to be retained in accordance with the consent for DA21/0045 for the demolition of structures and land remediation to accommodate the park. The landscape plans submitted with the subject application show the existing eucalyptus tree is to be retained and incorporated into the landscape design.

C8 Public Domain

A high level Cultural Interpretation and Public Art Strategy was provided within the Landscape Analysis Plan, prepared by JMD Design, dated August 2021. The strategy identifies opportunities to include public art and elements of cultural interpretation within the park. While the subject application does not include specific pieces of art, which are anticipated to be commissioned at a later stage, a condition of consent has been recommended to require public art and elements of cultural interpretation to be provided in accordance with the submitted Cultural Interpretation and Public Art Strategy and Section 8.5 - Public Art of Chapter C8 - Public Domain of Penrith Development Control Plan 2014.

C9 Advertising and Signage

The proposal includes four way-finding signs that are located on each corner of the park. Of these, two are main entrance signs located at Station Street/Henry Street and Gaymark Lane/Allen Place; and two are secondary signs located at Station Street/Allen Place and Gaymark Lane. The main entrance signs include the park and Council name, directional information including a location map, and regulatory information. The secondary signs provide the park and Council name, and basic directional information. The signage is considered suitable, being of simple, consistent design with neutral colouring, and being well located at park entrances. The proposed signage does not contain any advertising.

C12 Noise and Vibration

To mitigate potential noise impacts as a result of construction works, a condition of consent has been recommended requiring that construction works are to be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009 and the "Construction Noise & Vibration Management Plan - City Park - Penrith" prepared by Acoustic Dynamics and dated 11 December 2020.

E11 Penrith

The proposal is consistent with the intended character of the area as envisioned by Chapter E11 of Penrith Development Control Plan 2014, as the site is mapped predominately as 'City Square and City Park', and partially 'Mixed Use' within *Figure E11.2 Penrith City Centre Character Areas*.