

SWCPP Ref. No.:	PPSSWC-255
DA No.:	DA22/0545
PROPOSED DEVELOPMENT:	Staged Construction of Mixed Use Residential & Retail Development including Four (4) Buildings (5 to 14 Storeys), 349 Residential Apartments, 18 Retail Premises, Two (2) Levels of Basement Car Parking, Ground Level Car Parking & Associated Site Works
PROPERTY ADDRESS:	123 Mulgoa Road, PENRITH NSW 2750 22 Ransley Street, PENRITH NSW 2750 18 Ransley Street, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750 123 Mulgoa Road, PENRITH NSW 2750
PROPERTY DESCRIPTION:	Lot 59 DP 1256085, Lot 2 DP 1263697, Lot 60 DP 1256085,
ZONING:	RE1 Public Recreation - LEP 2010 RE2 Private Recreation - LEP 2010 SP3 Tourist - LEP 2010
CLASS OF BUILDING:	Class 2 , Class 6 , Class 7a
ASSESSING OFFICER	Wendy Connell
APPLICANT:	Cabe Developments (Nsw) Pty Ltd
DATE RECEIVED:	14 June 2022
REPORT BY:	Wendy Connell, Senior Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a development application from Cabe Developments (NSW) Pty Ltd for the staged construction of a mixed use residential and retail development including four (4) buildings (5 to 14 storeys), 349 residential apartments, 18 retail premises, two (2) levels of basement car parking, ground level car parking and associated site works at 18-22 Ransley Street and 123 Mulgoa Road, Penrith.

The subject site is located within the Panthers Penrith Precinct and the land that is subject to the proposed works is zoned SP3 Tourist under Penrith Local Environmental Plan (LEP) 2010. The proposed development is defined as a 'residential flat building' and 'retail premises' under the LEP and is a permissible land use with consent under Clause 2.5 and Schedule 1 - Additional permitted land uses.

The development application was submitted as integrated development in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Department of Planning and Environment - Water (DPE - Water) under Section 91 of the Water Management Act 2000 due to proposed basement construction resulting in aquifer interference and the site location on waterfront land. General Terms of Approval (GTAs) were issued by DPE - Water via its letter dated 30 March 2023.

The site is affected by two Voluntary Planning Agreements (VPAs), being the Panthers Roadworks Voluntary Planning Agreement dated 28 November 2012 and as amended by an executed Deed of Variation on 16 December 2020, and the Outlet Centre Planning Agreement dated 28 November 2012. The proposed development does not trigger any obligations under either VPA or fetter any obligations in the VPAs.

In accordance with Section 2.122 (Traffic-generating development) of State Environmental Planning Policy (Transport and Infrastructure) 2021, the application was referred to the Transport for NSW (TfNSW) for comment. In its letter dated 30 September 2022, TfNSW acknowledged that a cumulative transport study had been undertaken for the overall Penrith Panthers Precinct Masterplan including mitigation measures on Mulgoa Road and that mitigation measures are being managed via developer contributions in the form of an executed Voluntary Planning Agreement.

Key assessment issues identified and addressed for the proposed development include:

- Delivery of key infrastructure approved via DA18/0999 required to service the proposal;
- Confirmation of land 'borrowed' from Penrith Panthers;
- Retail density across the precinct;
- Urban design matters;
- Cross ventilation;
- Storage allocation and design;
- Appropriate integration of accessible ramps;
- Car park design and car parking numbers;
- Acoustic impacts;
- Waste management;
- Detailed landscaping information;
- Vegetation management;
- Urban heat management; and
- Consistency of information across the various plans and documentation.

The proposal was reviewed by Council's Access Committee on 14 September 2022. The Access Committee requested the inclusion of an adult change facility in the bathroom facilities servicing the public domain. The applicant has incorporated this into the design.

Council's Urban Design Review Panel also reviewed the proposal on a number of occasions, being 17 August 2022, 21 June 2023 and 24 November 2023. Written feedback was provided to the applicant from the meetings held in August 2022 and June 2023 and the majority of issues have been resolved except for cross ventilation compliance and the inclusion of 'wintergardens'. These matters are proposed to be resolved by way of recommended conditions.

The application was advertised in the local newspaper, notified to nearby and adjoining property owners and residents and publicly exhibited between 15 August and 12 September 2022 in accordance with Council's Community Engagement Strategy and Community Participation Plan. In response, three (3) submissions were received. The key issues identified within the submissions were increased traffic, suitability of building heights and the need for land owner's consent for works proposed on Penrith Panthers land. These matters have been given consideration as part of the assessment of the proposal.

In accordance with Section 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel (SWCPP) is the consent authority for the development proposal. The proposed development is identified as being regionally significant in Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is general development and has a Capital Investment Value (CIV) of greater than \$30 million. A briefing meeting was held with the SWCPP on 28 November 2022.

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

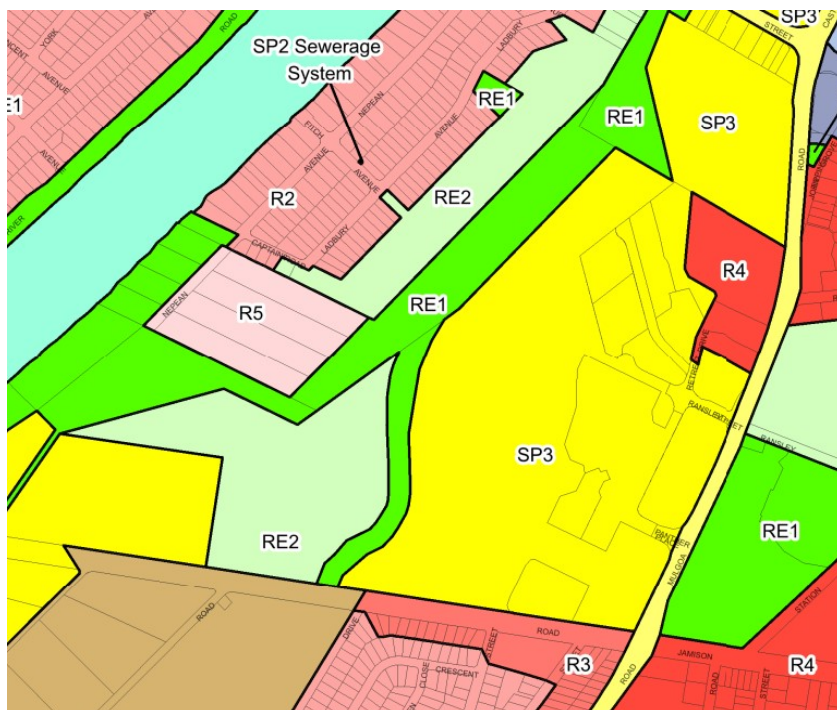
Site & Surrounds

The subject site is situated in the northern area of the Panthers Penrith Precinct and is bounded by Ransley Street, Retreat Drive and Schoolhouse Creek. The site covers three (3) separate allotments with the proposal over a total area of 21,911m². The legal property description of the site is Lot 2 DP 1263697, 123 Mulgoa Road, Lot 59 DP 1256085, 22 Ransley Street and Lot 60 DP 1256085, 18 Ransley Street, Penrith.

The land sizes of the subject allotments are as follows:

- Lot 59 - 8,072m²;
- Lot 60 - 9,605m²; and
- Lot 2 - 46.2 ha, however land owner's consent is provided for use of only 4,234m² as shown on the Survey Plan prepared by Freeburn Surveying, dated 29/09/2023.

The land that is subject to the proposed works is zoned SP3 Tourist under Penrith Local Environmental Plan 2010, as shown below. Lot 2 is also partly zoned RE1 Public Recreation and RE2 Private Recreation beyond the extent of the proposed works.



The site is located within the broader Panthers Penrith Precinct which is located approximately 1.5km south-west of the Penrith City Centre and is approximately 68.1 ha in area and is bounded by Mulgoa Road to the east, aged

care accommodation and residential land uses to the north-east, Council's Carpenters site to the north, residential lots, Peach Tree Creek and Nepean River to the west and Jamison Road to the south.

The area subject to this application is identified as Stages 4 and 5 and currently contains disturbed land including a pavilion structure, gazebo and an access road. Stages 4 and 5 forms part of the western portion of the ESQ (East Side Quarter) 1818 site (north-east of the existing lake) within the northern sub precinct of the Panthers Penrith Precinct, which is part of the larger area known as the Riverlink Precinct.

The Panthers Precinct provides for a wide range of entertainment, function and recreational uses including iFly and Aqua Golf. The surrounding locality includes a mixture of low and medium density housing, Penrith Stadium, Penrith Paceway and open space.

Background - Previous Site Approvals

Planning Proposal and Amendments to Penrith DCP 2014

A Planning Proposal was gazetted on 18 December 2020 which amended Penrith LEP 2010 with respect to the Penrith Panthers site in relation to building heights and corresponding Penrith DCP 2014 changes were made.

Stage 1 - DA17/0766 (As Amended)

DA17/0766 was approved by the Sydney Western City Planning Panel on 29 January 2018 for ESQ Stage 1 development. Stage 1 includes two residential flat buildings ranging in height from 4 to 7 storeys comprising of 12,975m² of residential floor space with 152 dwellings and 189 car parking spaces.

Subdivision - DA18/0207

DA18/0207 was approved by Council on 16 August 2018 for a torrens title subdivision x 5 residue lots to facilitate the staging of the ESQ residential/mixed use development proposal within the northern sub precinct of the Panthers Penrith Precinct.

Stages 2 and 3 - DA18/0999 (As Amended)

DA18/0999 was approved by the Sydney Western City Planning Panel on 27 August 2019 for Stages 2 and 3 of the ESQ development. Stages 2 and 3 includes a mixed use development comprising 1,272m² of retail floor space and 28,376m² of residential floor space with 313 dwellings and 426 car parking spaces.

Proposal

The development application seeks consent for the construction of a series of mixed use and residential buildings consisting of 5 to 14 storey towers over two stages (Stages 4 and 5), including the following aspects:

- A total of 18 retail premises with 2,185m² of floor space;
- A total of 349 dwellings, comprising 110 x 1 bedroom units, 150 x 2 bedroom units, 73 x 3 bedroom units and 16 x 4 bedroom units.
- A total of 597 car parking spaces provided on-site over two basement levels and at-grade, including four electric vehicle car parking spaces, 43 accessible spaces and 8 dedicated car wash bays, as well as 8 motorcycle spaces, 118 bicycle parking spaces and HRV vehicle parking;
- Communal open space on a shared podium and at the roof top on level 6;
- Earthworks and associated excavation of the site;
- Stormwater drainage works; and
- Landscaping within the Stages 4 and 5 area, as well as additional works to the lake foreshore within the Penrith Rugby Leagues Club land to create a high quality precinct along the foreshore area.

Stages 4 and 5 are the final stages of the broader ESQ development noting that demolition works, rehabilitation of existing riparian corridor, major stormwater works and construction of new roads and civil infrastructure has been

addressed via previous development consents, in particular DA18/0999 and DA17/0766.

Staging of Works

Stage 4 - Construction of Buildings K and L

- 171 apartments comprising 51 x 1 bedroom, 68 x 2 bedroom, 36 x 3 bedroom and 16 x 4 bedroom units
- Residential and visitor parking - 257 car parking spaces including two electric vehicle parking spaces provided over two basement levels and at-grade
- Four car wash bays

Stage 5 - Construction of Buildings H and J

- 178 apartments comprising 59 x 1 bedroom, 82 x 2 bedroom and 37 x 3 bedroom units
- Residential and visitor parking - 251 car parking spaces including two electric vehicle parking spaces over a basement level and at-grade
- Four car wash bays

Retail Premises

The development proposes a total of 18 retail premises with a total retail floor space of 2,185m² comprising of:

- Stage 4 - 1,030m²
- Stage 5 - 1,155m²

There are 89 retail car parking spaces provided within Stage 4.

Infrastructure Delivery

The development of Stages 4 and 5 is reliant on access roadways and stormwater drainage infrastructure approved via DA18/0999 (Stages 2 and 3). Land associated with Stages 2 and 3 includes:

- Lot 52 DP 1246141 - road/stormwater lot;
- Lot 53 DP 1246141 - Stage 2A and road;
- Lot 56 DP 1250704 - Stage 2B;
- Lot 57 DP 1250704 - Stage 3;
- Lot 58 DP 1250704 - riparian corridor; and
- Lot 2 DP 1263697 - stormwater basin.

The stormwater drainage infrastructure includes stormwater drainage pipes under the roadways and a community basin and treatment system as part of the stormwater management system for all ESQ stages. The road infrastructure once delivered will provide access to Stages 2A, 2B, 3, 4 and 5. The developer of Stages 2 and 3 and the developer of Stages 4 and 5 have entered into a private Infrastructure Contribution Agreement for the delivery of roads and stormwater systems for all ESQ development sites. The private infrastructure is proposed to be managed under a community title scheme. A development application for the community title scheme is currently being assessed by Council via DA23/0577.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development

Planning Assessment

• Section 4.14 - Bushfire prone land assessment

The subject site is partly identified as bushfire prone land (as shown in the image below) and as such, the proposed development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent - Certain bush fire prone land) of the Environmental Planning and Assessment Act 1979.



In this regard, the application was supported by a Bushfire Protection Assessment prepared by Eco Logical Australia Pty Ltd, dated 3 August 2018. The assessment was undertaken for the purpose of subdivision for the ESQ development lots. The assessment concluded that there are no current or future bushfire hazards and no bushfire asset protection zones are required to be established. The revegetation of the riparian corridor will be required to be established and continually managed by the land owner. The riparian corridor works and landscaping was approved via DA18/0999 (Stages 2 and 3). The ESQ development area is proposed to be managed under a community title scheme, including the riparian corridor. Council is currently assessing a development application for the community title scheme via DA23/0577.

The proposal is therefore considered satisfactory with regard to bushfire protection considerations.

- **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 4.46 - Integrated development**

The development application was submitted as integrated development in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 and seeks concurrent approval from the NSW Department of Planning and Environment - Water (DPE - Water) under Section 91 of the Water Management Act 2000 due to proposed basement construction resulting in aquifer interference and the site location on waterfront land. General Terms of Approval (GTAs) were issued by DPE - Water via its letter dated 30 March 2023. A condition of consent relating to the GTAs is recommended.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The proposed development provides for adequate arrangements for stormwater management and water quality to demonstrate compliance with Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

Council's Development Engineer and Waterways Officer have concluded that adequate information has been submitted with the application to enable an assessment of compliance with the requirements of Section 6.6 (Water quality and quantity) of the SEPP in terms of groundwater and stormwater management.

The development site will be connected to the roadway drainage system approved via DA18/0999 (Stages 2 and 3). This drainage infrastructure contains a community basin and treatment system as part of the stormwater management system for all ESQ stages. Stormwater quality for the proposal can therefore be managed by the precinct system. Based on stormwater treatment being catered for within the community stormwater treatment system, no on-site devices are required.

The proposal is therefore satisfactory with respect to the relevant provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 has recently been repealed by State Environmental Planning Policy (Sustainable Buildings) 2022, commencing on 1 October 2023.

State Environmental Planning Policy (Sustainable Buildings) 2022 does not apply to development applications submitted, but not determined by 1 October 2023, and the BASIX SEPP applies in those cases. The subject application was lodged prior to this date and as such the BASIX SEPP applies in this instance.

An assessment has been undertaken of the proposal against relevant criteria within State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The application was accompanied by a list of commitments contained within the submitted BASIX Certificate as to the manner in which the development will be carried out demonstrating compliance with set sustainability targets for water use, energy efficiency and thermal comfort. Implementation of the BASIX commitments will be secured via consent conditions.

State Environmental Planning Policy (Planning Systems) 2021

The proposed development is identified as being regionally significant under Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is general development and has a Capital Investment Value (CIV) of greater than \$30 million.

In accordance with Section 2.15 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the consent authority for the development proposal. A briefing meeting was held with the SWCPP on 28 November 2022.

State Environmental Planning Policy (Precincts—Western Parkland City) 2021

The subject site is identified as being located within the "Obstacle Limitation Surface Map" area under State Environmental Planning Policy (Precincts - Western Parkland City) 2021. Consideration has been given to Section 4.22 of the SEPP and the proposed development. The objective of Section 4.22 is *"to provide for the effective and ongoing operation of the Airport by ensuring that its operation is not compromised by development that penetrates the prescribed airspace for the Airport"* and to regulate development on land surrounding the Western Sydney Airport site where obstacles may present a risk to the operation of the airport. Development is deemed to be a controlled activity where the construction or alteration of a building or other structure penetrates the prescribed air space. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this section of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

The proposal has been considered against relevant criteria under State Environmental Planning Policy (Resilience and Hazards) 2021, which aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Section 4.6 of the SEPP prevents consent authorities from consenting to a development unless it has considered whether the land is contaminated and is satisfied that the land is suitable (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

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

The proposed development is located within an area previously used as open space. A Stage 1 Contamination Assessment was prepared by Ground Technologies Pty Ltd dated 7 April 2016 to support earlier stage applications. The northern portion of the development site had not been considered as part of this investigation and further detail was provided via additional information prepared by Ground Technologies Pty Ltd dated 11 February 2019. A review of the amended report was undertaken by Council's Environmental Management Officer who was satisfied that the land is suitable for the proposed use.

The proposal is therefore deemed to satisfy the provisions of Section 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021, subject to recommended conditions of consent.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48 - Development likely to affect an electricity transmission or distribution network

Section 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021 relates to development that is likely to impact an electricity transmission or distribution network. The proposal includes works within proximity to electrical infrastructure.

The application was referred to Endeavour Energy after lodgement and in its correspondence dated 6 August 2022, Endeavour Energy raised no objection to the proposed development subject to further investigation by the applicant and Endeavour Energy in relation to carrying out a final load and supply assessment. The application was again referred to Endeavour Energy during the assessment period due to revised landscaping plans being received which proposed a number of large canopy trees to be planted within the Endeavour Energy easement. Endeavour Energy responded on 23 June 2023 stating no impact on Endeavour Energy infrastructure was found. To confirm Endeavour Energy had reviewed the revised landscape plans and proposed canopy tree planting, an email was sent to Endeavour Energy to confirm its assessment of this aspect, given this was the intention of the second referral. In a response email dated 22 August 2023, Endeavour Energy noted their objection to the proposed planting as it would be detrimental to the electricity infrastructure. Endeavour Energy noted its regulations will permit trees to be planted within the easement under the following circumstances:

- Must have a maximum and mature height of 3m.
- Must be located 5m from any pole structure and 10m from any metal tower.
- Must be located at least 5m from the nearest overhead conductor.

The Endeavour Energy email noting the objection was provided to the applicant and further revisions to the landscape plans have been submitted which still do not comply with Endeavour Energy's requirements for planting (e.g. trees to a maximum height of 6m are proposed). From an Endeavour Energy infrastructure preceptive, the proposed planting within the easement area can be managed via conditions of consent to comply with Endeavour Energy's requirements.

There is further discussion in this report regarding the proposed canopy tree planting in the easement area as relevant to Clause 7.30 (Urban Heat) of the LEP and Chapter C2 (Vegetation Management) of the DCP.

Section 2.122 - Traffic-generating development

Section 2.122 of State Environmental Planning Policy (Transport and Infrastructure) 2021 relates to traffic-generating development. The proposal was referred to Transport for NSW (TfNSW) for comment due to meeting the residential accommodation triggers under Schedule 3 of the SEPP.

TfNSW in its correspondence dated 30 September 2022 acknowledged that a cumulative transport study had been undertaken for the overall Penrith Panthers Precinct Masterplan including mitigation measures on Mulgoa Road and that mitigation measures are being managed via developer contributions in the form of an executed Voluntary Planning Agreement (VPA). Therefore, TfNSW have requirements for the Penrith Panthers Precinct via this VPA. This is discussed further under the Planning Agreements section of this report.

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

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development aims to improve the design quality of residential apartment development in New South Wales. In particular, the SEPP requires consideration of the design quality of residential apartment development when evaluated in accordance with the 'Design Quality Principles' of the SEPP and the Apartment Design Guide (ADG).

Design Quality Principles

An assessment of the proposal against the 'Design Quality Principles' of the SEPP is provided in the table below.

Design Quality Principles		Discussion
Principle 1: Context and Neighbourhood Character	<p>Good design responds and contributes to its context.</p> <p>Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposed land use provides for expected development the northern area of the Penrith Panthers Precinct. The proposal is the final two stages of a five stage residential and mixed use development.</p> <p>The land use complements other mixed use and residential developments in the area and is in accordance with the future vision of the Penrith Panthers Precinct in that it provides residential accommodation and retail uses.</p> <p>The siting of the proposed built form has responded to the adjoining developments in that a linear retail frontage is provided to the lakeside frontage and is a continuation of the retail edge from Stage 2A. The streetscape complements and continues the same theme along the road edge that has been adopted for Stages 2A, 2B and 3.</p> <p>The proposed development is considered appropriate and compatible within the local context.</p>
Principle 2: Built Form and Scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook</p>	<p>The scale, bulk and height of the proposed development is appropriate for its context.</p> <p>The proposal exceeds the permissible building heights in a number of locations across Buildings J, K and L. The height breach is limited to lift and stair overruns at the centre of roof areas with a maximum exceedance of 3m for Building L. The application has been supported by a written request for variation under Clause 4.6 of the LEP.</p> <p>The individual buildings are well articulated and have varying facade designs and treatment.</p> <p>The retail tenancies along the lakeside edge provides for an activated public domain.</p>

Principle 3: Density	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population.</p> <p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The development proposes 349 residential apartments across four towers and 2,185m² of retail floor space at the ground level.</p> <p>The LEP allows for residential development on the northern area of the Penrith Panthers Precinct, which is capped at 850 apartments and 80,400m² of GFA. The proposal does not exceed these caps, with an overall dwelling number across all five stages of 814 apartments with 80,261m² of GFA.</p> <p>The density of residential dwellings under this proposal is appropriate for the location which is adjacent to the Penrith City Centre and near to access to public transport within the Panthers Precinct. The Penrith bus and rail transport interchange is located 1.2km from the site.</p>
Principle 4: Sustainability	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.</p> <p>Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The northern aspect of the development is maximised in the design of apartment living areas and private open spaces, resulting in 70.2% of apartments achieving required solar access.</p> <p>Roof top communal open spaces and the podium open space is provided with extensive landscaping elements. Other landscaping elements are provided along facade edges and at the edges of the site.</p> <p>The proposal is accompanied by a BASIX Certificate attesting to energy efficient lighting and appliances, water efficient fixtures and a photovoltaic system.</p> <p>On-site rainwater detention and re-use is proposed for landscaping via a 10,000 litre central rainwater tank.</p> <p>The development site is in close proximity to public transport (e.g. rail and bus services) and adequate secure bicycle parking is incorporated into residential basement areas and bicycle racks are provided within the public domain.</p>

<p>Principle 5: Landscape</p>	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity.</p> <p>A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>Landscaping elements have been incorporated into the building and site design. The roof top communal spaces and podium communal space are provided with extensive landscaping. The roof top design and landscaping creates various spaces for social gathering, relaxation and/or exercise.</p> <p>Landscaping is also provided within the ground floor pedestrian public domain as well as street tree planting.</p> <p>The public domain area between Stages 4 and 5 will include a central water feature, seating and quality paving.</p> <p>Deep soil area is provided along the north-western edges and a large communal open space area is provided along the riparian corridor approved via Stages 2 and 3 (DA18/0999). This area is proposed to be a shared open space area for Stages 1 to 5.</p>
<p>Principle 6: Amenity</p>	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The proposed apartments generally comply with the core ADG provisions, including solar access, apartment and balcony sizes and storage.</p> <p>However, cross ventilation of apartments is inadequate with only 181 of 349 apartments achieving required cross ventilation. This equates to 51.8% of apartments. In addition, 21 habitable rooms (study rooms) will not have natural ventilation. This matter is outlined in more detail in the ADG table below.</p>

Principle 7: Safety	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promotes safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The buildings have been designed with apartment living and private open space areas overlooking the private road servicing the development (approved via DA18/0999), the western escarpment of the Blue Mountains and/or the lake and open green space adjoining the development site which provides good passive surveillance of these areas.</p> <p>The lobbies are large and subject to lighting, provide clear views to and from the public domain.</p> <p>Secure parking is provided on-site for residents and access is via driveways off a private road.</p> <p>The communal open space areas are for use by residents only. No public access will be permitted.</p> <p>A condition of consent is recommended for lighting provision in common spaces.</p>
---------------------	---	--

<p>Principle 8: Housing Diversity and Social Interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal provides a suitable mix of 1 bedroom units (110), 2 bedroom units (150), 3 bedroom units (73) and 4 bedroom units (16). A mix of unit sizes is provided at each level of each residential tower.</p> <p>The following table provides a summary of Adaptable and Liveable units.</p> <p>SUMMARY TABLE</p> <table border="1"> <thead> <tr> <th></th><th>Adaptable*</th><th>Liveable*</th></tr> </thead> <tbody> <tr> <td>Stage 4</td><td></td><td></td></tr> <tr> <td>Building K</td><td>9</td><td>18</td></tr> <tr> <td>Building L</td><td>10</td><td>27</td></tr> <tr> <td>Total (171 Apts)</td><td>19</td><td>45</td></tr> <tr> <td>Stage 5</td><td></td><td></td></tr> <tr> <td>Building H</td><td>9</td><td>17</td></tr> <tr> <td>Building J</td><td>9</td><td>34</td></tr> <tr> <td>Total (178 Apts)</td><td>18</td><td>51</td></tr> <tr> <td>St 4+5 Total (349 Apts)</td><td>37</td><td>103</td></tr> <tr> <td>Compliance Required:</td><td>10% <i>(Penrith Council DCP)</i></td><td>20% <i>(ADG)</i></td></tr> <tr> <td>Compliance Achieved:</td><td>✓</td><td>✓</td></tr> </tbody> </table> <p>Social interaction opportunities are provided at the roof top and podium communal open space areas. These areas have a mix of spaces including swimming pools, dining spaces and bench areas. Lobby spaces at lift cores are generous and will allow for positive interactions between residents. The public domain at the ground floor retail area will also be a key meeting place for residents and their friends and family members.</p>		Adaptable*	Liveable*	Stage 4			Building K	9	18	Building L	10	27	Total (171 Apts)	19	45	Stage 5			Building H	9	17	Building J	9	34	Total (178 Apts)	18	51	St 4+5 Total (349 Apts)	37	103	Compliance Required:	10% <i>(Penrith Council DCP)</i>	20% <i>(ADG)</i>	Compliance Achieved:	✓	✓
	Adaptable*	Liveable*																																				
Stage 4																																						
Building K	9	18																																				
Building L	10	27																																				
Total (171 Apts)	19	45																																				
Stage 5																																						
Building H	9	17																																				
Building J	9	34																																				
Total (178 Apts)	18	51																																				
St 4+5 Total (349 Apts)	37	103																																				
Compliance Required:	10% <i>(Penrith Council DCP)</i>	20% <i>(ADG)</i>																																				
Compliance Achieved:	✓	✓																																				

Principle 9: Aesthetics	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements, and repetitions of the streetscape.</p>	Council's Urban Design Review Panel has reviewed the proposed development on a number of occasions, pre- and post-lodgement of the application. Feedback provided has been incorporated into the development's design.
----------------------------	--	--

Apartment Design Guide

An assessment of the proposal against the Apartment Design Guide (ADG) is provided in the ADG appendix to this report. The table below highlights areas of non-compliance.

Areas of ADG Non-Compliance																									
Part	Objective	Discussion	Compliance																						
4B-1	All habitable rooms are naturally ventilated.	<p>There are a number of habitable rooms which are either not ventilated or if a window/vent is proposed will have acoustic impacts due to being adjacent to another window/vent within the buildings' slots. In consideration that adjacent windows/vents are not acceptable, the following apartments have habitable rooms which are not ventilated. This is an issue for the Construction Certificate stage as a performance solution under the BCA should provide for a suitable solution.</p> <table><tr><td>J.101 - study</td><td>L.101 - study</td></tr><tr><td>J.201 - study</td><td>L.110 - study</td></tr><tr><td>J.210 - study</td><td>L.210 - study</td></tr><tr><td>J.404 - study</td><td>L.201 - study</td></tr><tr><td>J.504 - study</td><td>L.310 - study</td></tr><tr><td>J.510 - study</td><td>L.410 - study</td></tr><tr><td>J.602 - study</td><td>L.501 - study</td></tr><tr><td>J.703 - study</td><td>L.510 - study</td></tr><tr><td>J.803 - study</td><td>H.209 - study</td></tr><tr><td>J.903 - study</td><td>K.209 - study</td></tr><tr><td>J.1003 - study</td><td></td></tr></table>	J.101 - study	L.101 - study	J.201 - study	L.110 - study	J.210 - study	L.210 - study	J.404 - study	L.201 - study	J.504 - study	L.310 - study	J.510 - study	L.410 - study	J.602 - study	L.501 - study	J.703 - study	L.510 - study	J.803 - study	H.209 - study	J.903 - study	K.209 - study	J.1003 - study		No
J.101 - study	L.101 - study																								
J.201 - study	L.110 - study																								
J.210 - study	L.210 - study																								
J.404 - study	L.201 - study																								
J.504 - study	L.310 - study																								
J.510 - study	L.410 - study																								
J.602 - study	L.501 - study																								
J.703 - study	L.510 - study																								
J.803 - study	H.209 - study																								
J.903 - study	K.209 - study																								
J.1003 - study																									

4B-3	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.</p> <p>The design criteria states that 60% of apartments are naturally ventilated and that inlet and outlet windows are approximately of the same size.</p>	<p>Cross ventilation is assessed as 181 of the 349 apartments achieving cross ventilation, equating to 51.8% of units, which is non-compliant. Individual building compliance is as follows:</p> <ul style="list-style-type: none"> • Building H - 53% • Building K - 47% • Building L - 58% • Building J - 49% <p>A Natural Ventilation Statement prepared by Windtech, dated 28 September 2023, was submitted to support the application. This report has a number of inconsistencies and therefore cannot be relied on as an accurate assessment of the development proposal.</p> <p>It appears from the marked-up plans at Appendix B of the statement that the cross ventilation assessment has been undertaken on a different version of plans as there are inconsistencies in some apartment layouts. The statement makes no reference to the architectural plans set assessed.</p> <p>The executive summary of the statement indicates that 196 of 318 apartments (61.6%) achieve adequate levels of natural cross ventilation, which is greater than the 60% required under the ADG. In this regard, the number of apartments proposed is 349 and based on the number of units stated to comply, 196 units would only result in 56% of units being compliant.</p> <p>In order to achieve the compliance rate noted in the Natural Ventilation Statement, a number of additional windows are required to be included in the building slots. The inclusion of these windows raises acoustic privacy issues between habitable rooms within opposing apartments and between habitable rooms and circulation spaces. The additional windows required to achieve the stated percentage are not acceptable from a residential amenity perspective given the slot widths. The proposed slot width only allows for one window per floor to ensure acoustic privacy is maintained between apartments and this is the basis on which compliance has been assessed.</p> <p>Alternative methods are available which would allow the flow of air through apartments while still maintaining acoustic privacy (e.g. passive acoustic wall ventilators). Given compliance can be achieved, a condition of consent is recommended for an alternative method to be explored and incorporated into the construction plans for a minimum of 29 apartments to ensure a compliance rate of 60% is achieved.</p>	No
------	---	--	----

In addition, Council's Urban Design Review Panel reviewed the proposal on a number of occasions, being

17 August 2022, 21 June 2023 and 24 November 2023. Written feedback was provided to the applicant from the meetings held in August 2022 and June 2023 and the majority of issues have been resolved except for cross ventilation compliance and the inclusion of 'wintergardens' (as discussed in the likely impacts section of this report). These matters are proposed to be resolved by way of recommended conditions.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.5 Additional permitted uses for particular land	Complies - See discussion
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies - See discussion
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 5.21 Flood planning	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.30 Urban Heat	Complies - See discussion
Clause 9.1 Objectives of Part	Complies - See discussion
Clause 9.2 Application of Part	Complies - See discussion
Clause 9.3 Density of retail premises (including outlet premises)	Complies - See discussion
Clause 9.6 Development control plan for land to which this Part applies	Complies - See discussion
Schedule 1 Additional permitted uses	Complies

Clause 2.3 Permissibility

The land that is subject to the proposed works is zoned SP3 Tourist under the LEP. The proposed development is defined as a 'residential flat building' and 'retail premises' under the LEP and is a permissible land use with consent under Clause 2.5 and Schedule 1 - Additional permitted land uses.

Clause 2.3 Zone objectives

The objectives of the SP3 zone are as follows:

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

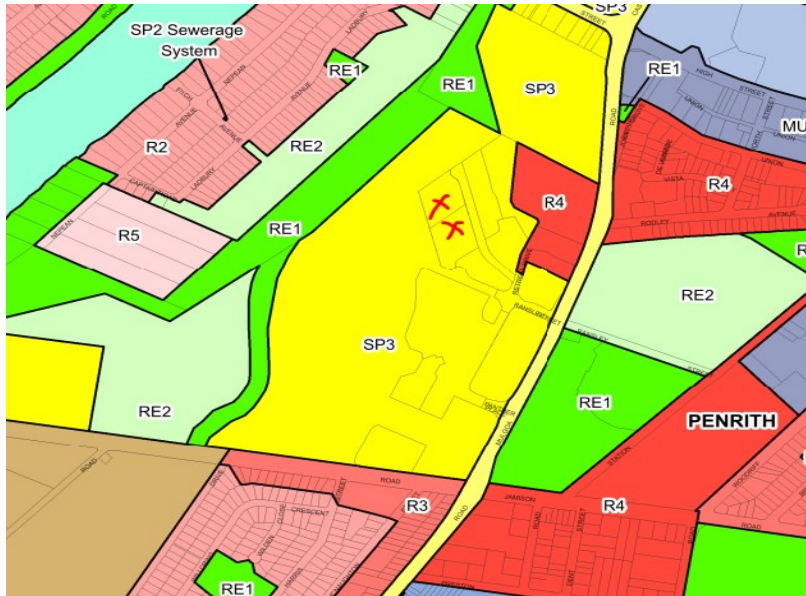
The proposed development is not a tourist oriented development but is not contrary to the SP3 zone objectives. The proposal will provide a suitable transition between the Panthers Precinct, residential development to the north-east and through to the Penrith City Centre. The proposed development will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

Clause 2.5 Additional permitted uses for particular land

Clause 2.5 of the LEP stipulates that development on particular land that is referred to in Schedule 1 may be carried out with development consent. Clause 22 of Schedule 1 states:

- (1) *This clause applies to land in Zone SP3 Tourist in Penrith that is identified as "21" on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of multi dwelling housing, office premises, residential flat buildings, retail premises and seniors housing is permitted with development consent.*

The subject site is zoned SP3 Tourist and is identified within area "21" on the Additional Permitted Uses Map, as shown below.



Clause 4.3 Height of buildings

Clause 4.3 of the LEP establishes a 20m to 50m building height for the subject site, as shown below.



The proposed development is inconsistent with the mapped building height maximums for Buildings K, L and J. In this regard, the application has identified exceedances related to lift overruns, plant and acoustic barriers. A written request for a variation under Clause 4.6 (Exceptions to development standards) is provided in support of the proposal. Refer to the Clause 4.6 discussion below for further details in relation to this matter.

In addition to the abovementioned identified height exceedances, assessment of the proposal has identified other potential height exceedances related to shade structures and pergola structures in the roof top communal open space areas for Buildings L and J. The landscape plans propose three structures for each of the roof top communal open space areas at level 6 of Buildings L and J.

In regard to Building L, the landscape plans show RL 46.7 as the surface level height under the pergola marked with a red x below and the architectural plans indicate a roof height of RL 49.55 for Units J.501 and J502. This would allow for a pergola with a top of roof height 2.85m from the surface level which would remain under the 24m height plane. The 2.85m height limit for the pergola is likely to be too low however to avoid any further height exceedance which has not been assessed. A condition of consent requiring deletion of these structures from the plans is recommended.

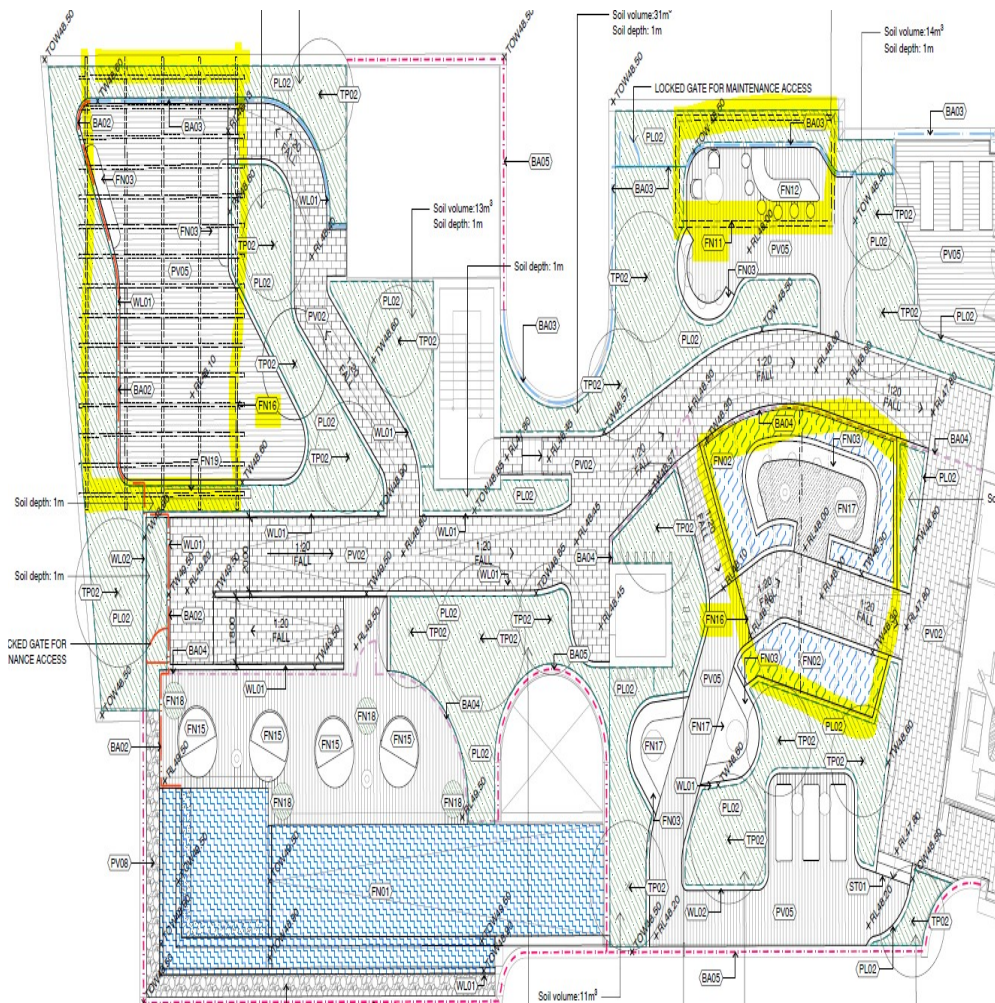


Above: Building L - Landscape plan roof top communal area extract

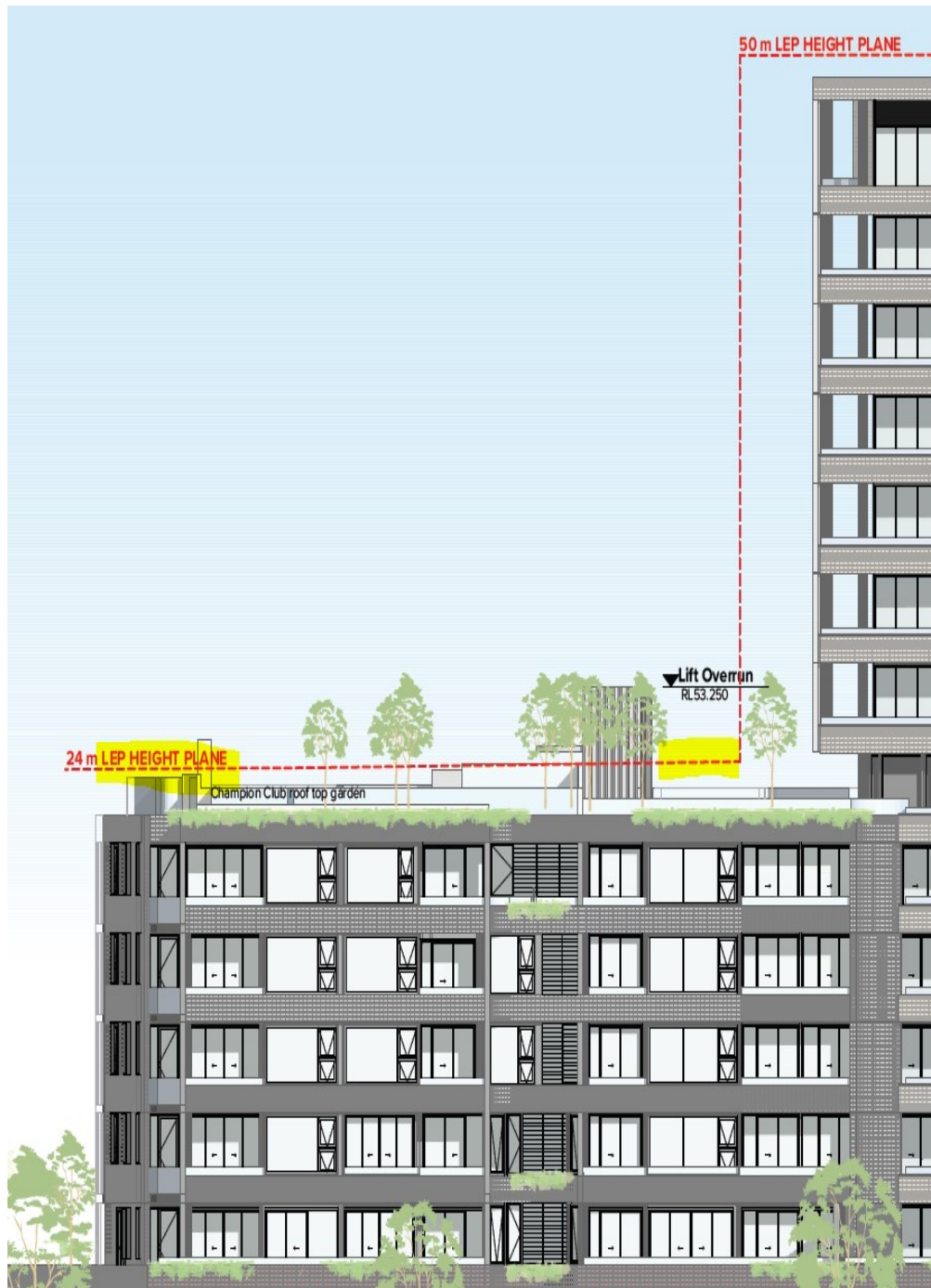


Above: Building L - Elevation extract of roof top communal area

In regard to Building J, it has been assessed that a height breach is likely for the pergola structures at level 6. The TOW RL at the northern end of the swimming pool is RL 49.5 which appears from the elevation plan to include the acoustic barrier which has a height exceedance of 1m as outlined in the Clause 4.6 request. This would result in the 24m height plane being at RL48.5. The RL under the pergola structures is RL 48.10 or RL 48.0 and would require at least a 3m high pergola structure which would result in a height exceedance (RL 51.10 or RL 51.0). These structures have not been identified in the Clause 4.6 request. A condition of consent requiring deletion of these structures from the plans is recommended.



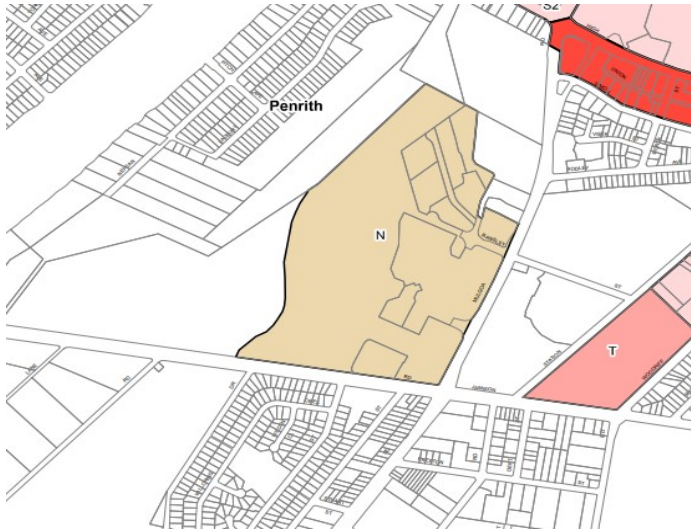
Above: Building J - Landscape plan roof top communal area extract



Above: Building J - Elevation extract of roof top communal area

Clause 4.4 Floor Space Ratio

The maximum permissible floor space ratio (FSR) under Clause 4.4 of the LEP is 1:1 for the Penrith Panthers Precinct, as shown below.



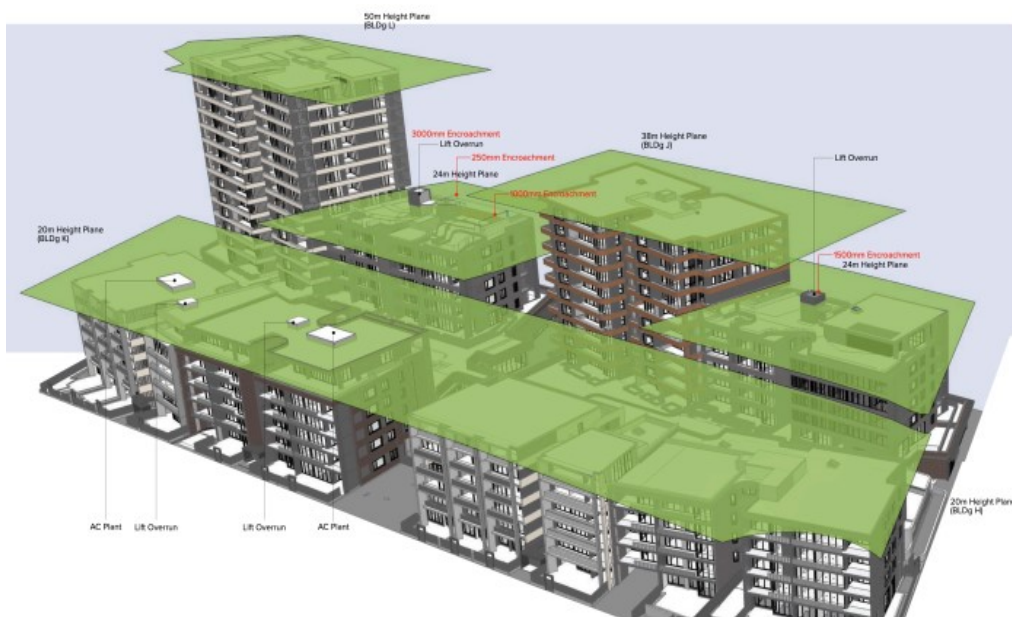
However, despite Clause 4.4, consent can be granted subject to satisfaction of the provisions of Clause 9.7 (Area 5 - Maximum residential density) of the LEP. Refer to the Clause 9.7 discussion below for further details in relation to this matter.

Clause 4.6 Exceptions to development standards

Clause 4.6 of the LEP provides flexibility in the application of planning provisions operating as development standards in circumstances where strict compliance with those standards would, in particular cases, be unreasonable or unnecessary. The height of buildings (HOB) map identifies a maximum height of 20m to 50m for the site.

The proposal does not comply with the HOB standard. The building height breaches to the height standard are as follows:

- Building L (HOB 24m) - lift overrun 3m (12.5%) and acoustic screens 250mm to 1m (4.2%)
- Building K (HOB 20m) - 2 x plant 573mm (2.8%) and 2 x lift overruns 563mm (2.8%)
- Building J (HOB 24m) - lift overrun 1.5m (6.25%) and skylight to Unit J.501 300mm (1.25%)



Clause 4.6 states under sub-clause (2) that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environment planning instrument. Sub-clause (3) states that development consent must not be granted for a development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating *"(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard"*.

The applicant has submitted a written request to vary the HOB standard in accordance with the requirements of Clause 4.6. The written request to vary the HOB development standard provides the following (summarised) justification for the proposed contravention:

The proposal, despite the numerical non-compliance identified, remains consistent with the objectives

Objective (a) - Ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.

- The building height, bulk and scale is compatible with the desired future character of the locality, in that the buildings are compliant with the height limit set by the LEP with the exception of lift overruns, plant, acoustic screening and a skylight for Buildings K, L and J. The habitable areas are below the height limit and therefore the departure has no impact on the bulk and scale of the development.

Objective (b) - 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.

- The additional height proposed is recessed from the perimeter of the building and will not be visible from the public domain or from other key view lines such as Mulgoa Road, Ransley Street or Panther Place. The location and distribution of the additional height has no discernible additional impact in terms of visual privacy and overshadowing when having regard to the lot orientation and location of the exceedance.
- The height variation continues to respect the form and scale of surrounding buildings within the Panthers Precinct and the desired further character.
- The height and form of the development will establish a new context for the Penrith Panthers Precinct which in turn alters the character and scale of the streetscape. The character and identity of the Penrith Panthers Precinct is tied closely to the quality of the architecture and its relationship to surrounding buildings. This relationship is being retained and enhanced, and the height departure has no bearing on the satisfaction of the underlying objectives.
- The height variation does not result in unreasonable shadow impacts to the public domain and areas of open space given the recessed location of the minor breaches.

Objective (c) - Minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance.

- The site is not in a heritage conservation area or in proximity to heritage items.
- The site is not identified on the landscape or scenic quality map under the LEP however there are view corridors towards the Blue Mountains westwards. The additional height proposed is in a location recessed from the perimeter of the buildings and will not be visible from the public domain or view lines from Mulgoa Road, Ransley Street or Panther Place.

Objective (d) - Nominate heights that will provide a high quality urban form for all buildings and a transition

in built form and land use intensity.

- The development provides for a high quality urban form which has considered visual and scenic view corridors, which remain unaffected. Non-compliances have no impact on view corridors.
- The development is consistent with the desired transition in built form as the proposal adopts a series of building heights and forms designed to align with the desired character for the Penrith Panthers Precinct given the height limits are designed to provide a diversity of heights and suitable transitions to adjoining properties.

Environmental Planning Grounds

- The variations are minor, to the extent that the non-compliances will be largely imperceptible as viewed from the public domain and surrounding properties.
- The proposal retains habitable floor spaces below the height limits, meaning the elements above the height limits are ancillary elements necessary for the buildings to function.
- Removal or reduction of the elements breaching the height limits would render the communal spaces inaccessible (lifts and overruns), result in acoustic impacts (glass acoustic barrier) and expose AC plant (no structure surrounding).
- The height breaches and design response enables a suitable design outcome on the site and is consistent with the objectives of the EP&A Act 1979.

The proposed development and height variation is deemed satisfactory as the proposal aligns with the strategic vision for the Penrith Panthers Precinct. This is demonstrated by:

- Consistency with the higher density residential and retail floor space anticipated in the Penrith Panthers Precinct;
- Consistency with the Penrith LEP's anticipated density and land uses in the Penrith Panthers Precinct; and
- The height breaches above the maximum HOB standard generally relate to lift overruns, glazed acoustic screening and plant which are contained within the central section of the roof areas or inset from building edges and will have minimal, if any, visual impacts from the public domain.

Overall, in considering the submitted Clause 4.6 variation request, it is concluded that the applicant's written request has adequately demonstrated that compliance with the applicable development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. Furthermore, the proposed development will be in the public interest as it is not inconsistent with the objectives of the standard or the SP3 zone objectives.

Clause 5.21 - Flood planning

The objectives of Clause 5.21 of the LEP are as follows:

- (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 clause requires that where the consent authority considers the development to be within the Flood Planning Area, consent must not be granted unless 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*

The Flood Planning Area is defined by the *Flood Risk Management Manual (2023)* as the area of land below the Flood Planning Level (FPL). The current adopted FPL for the land subject to the application is 26.1m and it could be considered that this clause does not apply as the land subject to the application is at or above this level. It is recognised however that proposed Stages 4 and 5 form part of a broader ESQ1818 development Masterplan, with Stages 1 to 3 already approved and subject to earthworks to achieve required finished levels. This Masterplan formerly known as Panthers North Precinct was subject to Planning Proposal resulting in the LEP height of buildings map being amended to the current heights and designating Area 5 with a maximum residential density (see Clause 9.7). The heights were increased in the centre of the precinct and reduced adjacent to existing developments to respond to concerns in submissions. The Planning Proposal was supported by a Flood Impact Assessment undertaken by J. Wyndham Prince (2016) and supported by updated TUFLOW Modelling prepared by Worley Parsons (2014) which is again relied on for the subject proposal. A conservative assessment therefore considers this clause as relevant given boundary conditions, some road levels and broader masterplanned land levels prior to current earthworks and construction could be considered to be within the Flood Planning Area.

The Planning Proposal was endorsed by Council in November 2017 with a 'site specific' DCP amendment and subject to an amendment to the Roadworks Voluntary Planning Agreement to increase the capacity of road connections aligning with the proposed Mulgoa Road widening and which is now in place with Panthers, Transport for NSW and Council parties to the agreement. The NSW State Emergency Service (SES) analysed evacuation road capacity in relation to flood risk which included a review of the proponent's flood risk and evacuation assessments and concluded that the Panthers site (with the proposed cumulative density) can evacuate within the flood forecast timeframe. Infrastructure NSW concurred with the SES advice in relation to flood risks from the Planning Proposal and draft amendment to Penrith DCP 2014 as required to enact the LEP amendment.

In July 2021, the Department of Planning and Environment (DPE) established an interim measure for Penrith City Council (as well as Hawkesbury and Blacktown Councils) when assessing against Clause 5.21 of the LEP to determine if a proposal exceeds the capacity of flood evacuation routes. The interim measure, which will conclude once the regional land use planning framework has been finalised, requires any development application proposing to increase the capacity of a development by more than 150 dwellings or 200 employee vehicles for a commercial development, to be referred to Infrastructure NSW (INSW) and the NSW State Emergency Service (SES) to determine if the development will exceed the capacity of flood evacuation routes.

In accordance with the interim measure, the application was referred to Resilience NSW on 18 July 2023 for a coordinated response between INSW and the SES. The referral was followed up by email on 28 September 2023 and 22 November 2023 due to no response being received.

On 29 November 2023, Council received a response from the NSW Reconstruction Authority (NSWRA) which outlined the following matters in relation to flood planning considerations:

- The Flood Impact Assessment and Water Quality Management Report (flood report) prepared by J. Wyndham Prince dated 5 April 2016 indicates flood levels are based on the RMA-2 Nepean River regional flood modelling by Worley Parsons undertaken on behalf of Council in 2008 and based on this

the 1 in 100 year flood level for the site was determined to be 26.1m and the minimum floor level of 26.6m was adopted to provide the required 0.5m freeboard.

- The NSWRA is currently completing the updated flood study for the Hawkesbury-Nepean flood plain which has identified a 0.3m increase in the current 1 in 100 year flood level at Penrith, with the 1 in 100 year level determined at 26.4m. The 1 in 100 level is also forecast to increase with climate change to 27.3m.
- The flood mapping indicates that although the site is currently above 1 in 100 year flood level, the site is on a flood island and there could be 0.3m of water on the Ransley Street and Retreat Drive roundabout, and under climate change conditions the site could be inundated and there could be over 1.0m of water at the roundabout.
- These levels, and the underground car park, means that residents will need to be prepared to evacuate early ahead of a forecasted flood event.
- The flood report also considers the local Peachtree Creek, which could occur separately or together with the Nepean River flood event. Council completed the Peachtree and Lower Surveyors Creek Flood Study in 2019 but the Penrith Panthers area was excluded on the basis that the topography was 'subject to further confirmation once the development is finalised'. Council is still finalising the flood risk study and plan for this catchment.
- The NSWRA advocates that the proposed development should consider the flood levels and evacuation risk from both the new regional Nepean River flood levels and Council's Peachtree and Lower Surveyors Creeks Flood Study, and the combined local and regional flood risk, and not rely on approvals and reports containing outdated information. Consideration should also be given to the potential increase in flood levels with projected climate change.
- Feedback should also be sought from the SES as the responsible authority for managing flood events including flood emergency evacuations.

Since receiving the response letter from NSWRA, and noting a coordinated response with the SES was not provided, a referral was sent to the SES on 30 November 2023. At the time of writing this report, no response has been received. It should be noted however that the planned density for the site was assessed by the SES for flood safe evacuation as part of the Planning Proposal and the *Flood Evacuation Model for the Hawkesbury* (May 2023) recognises Panthers as **Committed Development** being development that has been zoned under existing planning instruments.

Council's Senior Development Engineer has considered their flooding assessment with regard to the NSWRA advice and finds the following:

The site has been provided with an increased flood level (from the "currently completing" updated flood study for the Hawkesbury Nepean flood plain) in the 1% AEP event of 26.4m AHD, which is higher than Council's currently adopted flood level of 26.1m AHD. Application of this yet to be adopted flood level has lead to non-compliances in the proposed development, as highlighted below. It is noted that the development is compliant with the currently adopted 1% AEP flood level for the site, being 26.1m AHD as per the Panthers Precinct Master Plan Flood Assessment Report (6/09/2016).

In accordance with clause 5.21(2)(c) of Penrith LEP, Development Consent must not be granted unless the consent authority is satisfied that the development 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.

Satisfaction of this clause is reliant on two factors, being immediate evacuation of the site onto the public road network (safe occupation & efficient evacuation from the site) and equally the regional evacuation capacity.

Safe Occupation & Efficient Evacuation:

Figure 6.7.6 of AR&R2019 (Australian Rainfall and Runoff) presents the Interim Safety Criteria for Vehicles in Variable Flow Conditions, charting flood depth and velocities that will permit the stability of vehicles passing through floodwaters. For small vehicles, a depth of 0.3m up to a velocity of 1m/s is permissible. The flood affectation onsite meets this criteria, being Nepean River backwater. Noting this, the proposed access for Stage 4 has compliant flood safe access and egress to the site, based on the approved levels of ESQ Internal Road 01, which connects to Retreat Drive (road level at the Stage 4 basement access is greater than 26.1m AHD). The road level at the intersection of Retreat Drive and ESQ Internal Road 01 is 26.611m AHD.

However, the current position of the basement access to Stage 5 connects to this road at a location which does not permit flood safe access and egress (road level at the Stage 5 basement access is less than 26.1m AHD).

I note that compliant access can be provided along the frontage of Stage 5, provided that this access is located further south towards Stage 4 along Road 01. I have recommended a condition to this extent.

It should be further noted that the advice from NSW Reconstruction Authority appears to incorrectly quote flood impacts at the Retreat Drive roundabout (flood mapping provided does not show this roundabout to be inundated by flood waters in the 1% AEP event). Further, the advice also includes additional flood impacts from climate change, however such is not presently included in any State nor Local Flood Planning Instruments.

Importantly, the advice highlights the need to consider early evacuation procedures for the proposed development as a result of the potential increase in flood levels from the soon to be released 2023 Hawkesbury/Nepean Flood Study. As such, a proposed condition of consent has been drafted which requires the proponent to liaise with the NSW SES in determining appropriate early evacuation protocols.

Regional Flood Evacuation Capacity:

With regards to the capacity of existing evacuation routes for the surrounding area, feedback was sought from Emma Whale, however her response/advice was silent on this matter. It has been inferred that a cap of 850 dwellings was imposed by the SES through the original planning for the precinct as a limit to meet regional evacuation capacity. From the Panthers Precinct Master Plan Flood Assessment Report (6/09/2016), it is noted that an initial assessment of evacuation for the site was undertaken by Molino Stewart as part of the rezoning process for the development, which included a draft Flood Response Plan. Further to this, a Flood Evacuation Plan was developed for ESQ as part of this Panthers Precinct Master Plan Flood Assessment Report (Emcorp Group, 09/02/2016). Comment from the NSW SES is required to confirm whether current evacuation protocols for the precinct remain consistent with the updated flood study for the Hawkesbury/Nepean flood plain. If not, a new Flood Evacuation Management Plan will need to be developed for the site in accordance with the advice provided by the NSW SES.

I have included a prior to Construction Certificate condition of consent requiring referral to the NSW SES.

Alternatively, should Council determine that it can rely on previous documentation, report, referrals, strategies etc., then it needs to be determined that support for the dwelling cap (850) referred to within the LEP for the site ("Area 5") was previously provided by the NSW SES.

Flooding:

To comply with Council's DCP, basement access points are required to be 300mm above the 1% AEP flood level, which would require crest in each basement access ramp of 26.7m AHD. This has been conditioned. The current development does not comply with this requirement.

The proposed residential premises at the ground floor are at 26.9m AHD, being 500mm above the 1%

AEP flood level issued in the letter. The proposed retail premises are at 26.4m AHD, which does not provide freeboard to this flood level. To comply with the DCP, floor levels below the flood planning level for retail premises can be accepted so long as it can be demonstrated by the applicant that all practical measures will be taken to prevent or minimise the impact of flooding. This has been handled by conditions of consent requiring flood proofing, structural adequacy and the raising of electrical services for the building.

Clause 7.1 Earthworks

Proposed earthworks include excavation works required for construction of basement areas. The proposed earthworks are assessed not to be in conflict with any of the matters listed in Clause 7.1 of the LEP. Council's Development Engineer has reviewed the proposal and raised no concerns with regard to drainage, soil stability or impacts on waterways. The proposed development will not result in negative impacts on likely future uses and does not include a proposal to introduce fill to the site. In addition, the application was lodged with a geotechnical investigation which concludes the site is suitable for the proposed development.

Clause 7.4 Sustainable development

The proposal has been assessed against the principles of sustainable development and is considered to be satisfactory in this regard. The application was accompanied by a list of commitments contained within the submitted BASIX Certificate as to the manner in which the development will be carried out demonstrating compliance with set sustainability targets for water use, energy efficiency and thermal comfort. The proposal provides a site responsive design with suitable solar access and cross ventilation achieved subject to recommended conditions, and is located in reasonably close proximity to Penrith Railway Station, CBD bus interchange and local bicycle networks.

Clause 7.6 Salinity

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

Clause 7.7 Servicing

Sydney Water has advised in its letter dated 6 September 2022 that detailed requirements regarding wastewater and water services will be provided once the development proposal is referred for a Section 73 Certificate application post issue of consent. Endeavour Energy in its letters dated 6 August 2022 and 23 August 2023 raised no objection to the development proposal in regard to energy supply subject to further application to Endeavour Energy for connection of load post issue of consent. Conditions of consent are recommended to address these matters.

Clause 7.30 Urban Heat

The proposal has been assessed to achieve the objectives of Clause 7.30 of the LEP and has incorporated design elements to reduce the urban heat island effect. This is demonstrated by the following:

- Deep soil area is available along the northern and western edges of the site which allows for canopy planting for shade relief from the summer heat for pedestrians and retail users;
- Shade structures are proposed for the podium communal area and over outdoor dining areas along the lake front;
- Landscaping is provided at the roof tops and podium communal spaces and breezeway slots of the buildings; and
- Swimming pools and water features are provided in communal spaces and in the public domain.

It should be noted that Clause 7.30 is applicable to the proposal due to part of the subject land (Lot 2) being zoned for recreation purposes. In this regard, the urban heat assessment has been made in relation to the overall development.

Clause 9.1 Objectives of Part

A key objective of Part 9 of the LEP is to ensure that development within the Panthers Precinct occurs in a logical and cost effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land. Clause 9.6 of the LEP requires the preparation of a development control plan for the Panthers Precinct, and in this regard, site-specific controls are contained within Penrith Development Control Plan 2014 for the precinct in Chapter E13 (Riverlink Precinct, Part B - Panthers Precinct).

Clause 9.2 Application of Part

The land subject to this application is identified within the "Panthers" nominated land on the Clause Application Map.

Clause 9.3 Density of retail premises (including outlet premises)

Clause 9.3 of the LEP imposes a cap on retail floor space across the Penrith Panthers Precinct, as detailed below:

(1) Development consent must not be granted for development for the purpose of retail premises unless the consent authority is satisfied that -

- (a) the total gross floor area of all buildings used for the purposes of retail premises will not exceed 12,500 square metres, and*
- (b) the parts of the development used for retail premises will be integrated with other development on the land, and*
- (c) the development will result in a maximum of 1 square metre of gross floor area used for retail premises for every 10 square metres of gross floor area used for other purposes.*

The applicant has provided the following calculations to demonstrate that the retail cap will not be breached by the proposed development.

Retail Floor Space	GFA (m²)
Retail outlets internal to Panthers Rugby Leagues Club - Italian Street Kitchen, CJ's Crab Shack and Grill, Osso Penrith	1,200
McDonalds, KFC, Five Guys, Outback Steakhouse and Krispy Kreme	2,900
Harrys Cafe	25
Multi Deck Car Park Retail - Stage 1	184
The Royce Ground Floor Cafe	250
Tori Cafe - Ground floor, Pullman Hotel	300
Marcel Restaurant - Level 1, Pullman Hotel	430
Aqua Golf Cafe	80
ESQ Stage 2A	1,272
ESQ Stages 4 and 5	2,185
Total	8,826

Other retail premises associated with the Penrith Rugby Leagues Club are not included in this calculation (such as Kelly's Cafe, Squires Bar and the merchandise store) as they are deemed ancillary to the club operations.

In addition, the proposed retail floor space is suitably integrated with the residential components of the development and the 1:10 ratio expressed in sub-clause (1)(c) above is not exceeded relative to the proposal and the overall precinct.

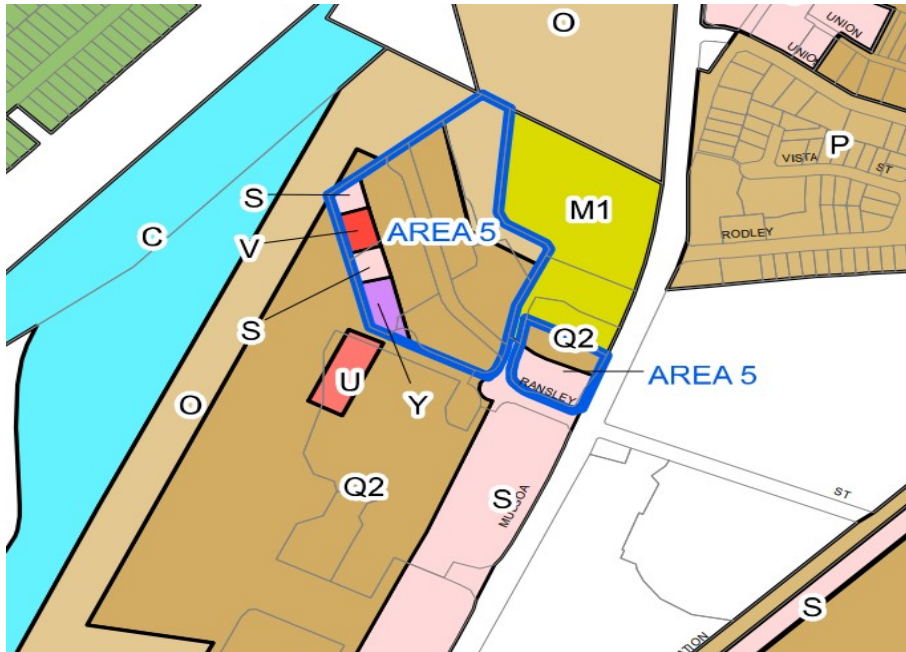
The proposal has therefore been assessed to comply with Clause 9.3 of the LEP.

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

Clause 9.6 of the LEP requires the preparation of a development control plan for the Panthers Precinct, and in this regard, site-specific controls are contained within Penrith Development Control Plan 2014 for the precinct in Chapter E13 (Riverlink Precinct, Part B - Panthers Precinct).

Clause 9.7 Area 5 - Maximum residential density

The objective of Clause 9.7 of the LEP is to limit the density of residential development for certain land within the Penrith Panthers Precinct identified as "Area 5" on the height of buildings map. The ESQ development stages are within Area 5, as shown below.



Clause 9.7(3) states:

(3) Despite clause 4.4, the consent authority may consent to development on land for the purposes of residential accommodation if the consent authority is satisfied that -

- (a) the total gross floor area of all buildings will not exceed 80,400 square metres, and*
- (b) the land to which this clause applies is not developed for more than 850 dwellings.*

The table below outlines the ESQ development stages and demonstrates compliance with Clause 9.7 of the LEP.

Stage	Dwellings	GFA - Residential	DA No.
Stages 4 and 5	349	38,910m ²	DA22/0545 (subject application)
Stage 3	142	12,712m ²	DA18/0999 (as amended)
Stage 2B	95	8,975m ²	DA18/0999 (as amended)
Stage 2A	76	6,689m ²	DA18/0999 (as amended)
Stage 1	152	12,975m ²	DA17/0766 (as amended)
Total	814	80,261m²	

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

There are no draft environmental planning instruments specifically relevant to the proposal.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Does not comply - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Does not comply - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Complies - see Appendix - Development Control Plan Compliance
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Complies
D2.6 Non Residential Developments	N/A
E13 Riverlink Precinct controls	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

The development site is affected by two Voluntary Planning Agreements (VPAs), being the Panthers Roadworks Voluntary Planning Agreement dated 28 November 2012 and as amended by an executed Deed of Variation on 16 December 2020, and the Outlet Centre Planning Agreement dated 28 November 2012.

The parties to the Outlet Centre VPA are Council and Penrith Rugby Leagues Club. This VPA relates to the monitoring of planning impacts of an outlet centre. However, the Panthers Group reviewed development options for the Penrith Panthers Precinct based on market trends and instead proposed a residential and retail development scheme on the northern portion of the site. The ESQ development (Stages 1 to 5) is intended to replace the previously proposed outlet centre in this area of the site.

The parties to the Panthers Roadworks VPA are Council, Penrith Rugby Leagues Club and Transport for NSW. This VPA relates to road network upgrades associated with the implementation of the Penrith Panthers Precinct Masterplan. The Roadworks VPA, which prescribes the improvements to be carried out to the road network to support the development of the Penrith Panthers site, was executed in 2012 and further amended via a Deed of Variation executed on 16 December 2020.

The proposed development does not trigger any obligations under either VPA or fetter any obligations in the VPAs.

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

Section 29 - Residential Apartment Development

The application was accompanied by a SEPP 65 design verification statement from a qualified designer, being registered architect Brian Fong from Turner Architects (Registered Architect 11624).

Section 69 - Compliance with Building Code of Australia

An assessment of the fire protection and structural capacity of the proposed development is necessary. The application was referred to Council's Building Surveyor for assessment in this regard and to ensure compliance with the Building Code of Australia and fire safety provisions. The proposal is deemed satisfactory in this regard subject to recommended consent conditions.

In addition, the application was submitted with an Accessibility Statement concluding that the proposal is capable of complying with the applicable provisions of the Building Code of Australia and relevant Australian Standards in this regard.

Section 75 - Fulfilment of BASIX Commitments

The application was supported by a BASIX Certificate outlining sustainability commitments. A condition of consent has been recommended to ensure the nominated BASIX commitments will be fulfilled.

Overall, the proposed development complies with the applicable requirements of the regulations.

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

Context and Setting

The proposed development will contribute to the emerging higher densities in the Penrith City Centre and surrounding areas. The proposed form and scale is consistent with the desired future character of the ESQ development area in the northern section of the Penrith Panthers Precinct. The proposed development has been designed to be compatible with surrounding development in terms of built form. In this regard, the proposed development is considered appropriate in its context and setting.

Amenity Impacts

The proposed development will not result in any unacceptable amenity impacts on the locality. The site is considered suitable for a mixed residential and retail use and is compatible with nearby and adjoining development. The site is also well suited for the proposed use and the planning directions intended for the provision of higher density residential housing in this part of the Penrith Panthers Precinct.

Accessibility

The proposal was reviewed by Council's Access Committee on 14 September 2022. The Access Committee requested the inclusion of an adult change facility in the bathroom facilities servicing the public domain. The applicant has incorporated this into the design.

Waste Management

The ability for Council to provide a cost effective and efficient waste service to the development has been a key issue throughout the assessment period, with non-compliances identified for vehicle clearance heights and swept paths. The applicant proposed a vehicle clearance height of 3.5m and provided swept paths for a 9.7m waste vehicle. A 9.7m waste vehicle is permitted to be used for developments with under 80 apartments and where waste collection is within a basement. As per Council's Waste Guidelines, the proposed development requires clearances and swept paths for a 10.5m waste vehicle (over 80 apartments and loading dock at ground level).

The applicant has provided additional marked up sketches to demonstrate that Council's 10.5m waste vehicle can service the development without resulting in impacts on building height or form. These sketches have been assessed as satisfactory and conditions of consent are recommended requiring amended architectural plans prior to Construction Certificate issue.

Tree Management and Landscape Design

Management of existing vegetation on the site and details of landscaping have been key assessment issues throughout the assessment of the proposal. The development proposal as designed will impact a large number of existing canopy trees.

The application was supported by concept landscape plans which show the extend, function, general attributes and character desired for the development, however detailed landscape design, particularly focusing on canopy planting to mitigate urban heat, was requested multiple times during the assessment period. Climate change and urban heat impacts have a significant social and economic impact. Landscaping measures to mitigate, manage and reduce urban heat include canopy planting and use of water elements. The development proposes water features and swimming pools in the public domain and communal spaces which is a positive inclusion. However, soil volumes and space to support canopy planting has not been demonstrated. Given that at ground level along the pedestrian promenade or lakeside boardwalk deep soil is available, the proposed development is assessed to be able to achieve canopy planting. A condition of consent is recommended requiring a detailed landscape plan prior to Construction Certificate issue. This condition will also ensure that adequate soil volumes (planter box sizes) are considered and incorporated into the construction plans for the roof top and podium communal spaces to support canopy planting for shading from the summer sun.

Noise Impacts

A revised acoustic assessment was submitted by the applicant in response to concerns raised in the initial assessment of the proposal. Changes have been made to the acoustic criteria for noise emissions established for the proposal. The amenity criteria have now been revised to 'suburban' and this has been used for the 'day' criterion. While this is not strictly in accordance with relevant noise guidelines as it is not the most conservative value, with consideration of the current acoustic environment and the more active setting of the precinct, this approach is considered satisfactory.

In addition, the acoustic assessment now provides a more detailed assessment of the acoustic impacts

associated with the use of the communal open spaces and the retail spaces proposed as part of the development, as outlined below.

Communal Open Spaces

A number of recommendations have been made to mitigate noise impacts associated with the use of the communal open spaces, including:

- A combination of 1.5m and 1.8m high solid glazed screening around the perimeter of the pool deck on level 1.
- Creation of 'wintergarden' enclosed balcony spaces for apartments facing the communal pool at the podium level for all levels from level 2 to the roof for Buildings H and J.
- 1.8m high solid screens on the balconies of Units J.601 and J.602.
- 1.5m and 1.8m high screens around certain perimeters of the communal roof top garden.

These recommendations are considered to be appropriate, with the exception of the proposed wintergardens. This is considered an extreme measure given the development site is not located within a hostile environment and is well setback in green space and away from road or rail noise. The acoustic assessment did not provide user numbers for the communal area but based the assessment on a 75dBA noise level. It is unclear if the acoustic assessment was attempting to achieve a specific noise level for the balcony areas and hence the wintergarden recommendation.

It would be accepted that balconies do not need to meet a specific noise criteria as long as indoor noise levels could be achieved through a higher level of acoustic glazing and other methods. Residents choosing to live in an apartment style development near the pool area would accept a certain level of noise. Noise levels would also be managed and maintained through strata by laws and a site manager.

In this regard, a condition of consent is recommended for the removal of the wintergardens to all levels to ensure these apartments achieve suitable ventilation and outlook. A condition of consent is also recommended for the development to achieve the indoor noise levels required by the relevant guideline documents, including AS/NZS 2107:2016 - Recommended design sound levels and reverberation times for building interiors.

Retail Spaces

Additional assessment will be required to address the impacts associated with the retail tenancies and this can occur when an approval is being sought for the use of these spaces. However, the acoustic assessment indicates that *"the proposal has been reviewed to determine whether there are opportunities to incorporate reasonable and practical acoustic ameliorative treatments to minimise ongoing acoustic impacts"*. In this regard, the following is outlined:

- Awnings are provided above outdoor seating areas on the ground floor.
- Outdoor seating can be located away from the immediate building facade within cabana-type structures with solid glazed screens.

Conditions of consent have been recommended to address the recommendations of the acoustic assessment.

Water Quality

Additional information was submitted during the assessment period to address concerns raised regarding water quality management, which indicates stormwater treatment for the site will be provided via a precinct sized basin. A stormwater strategy was approved as part of DA18/0999 which included a bioretention basin sized at 685m² and a GPT.

The basin is proposed to be managed privately and will not be dedicated to Council. It will be required to be maintained in perpetuity by the owners of the site. Conditions were included in the consent for DA18/0999 which required the provision of a raingarden to be constructed to treat the stormwater from the site.

Public Health Matters

Council's Public Health Officer reviewed the proposed food and beverage premises, resort and lap pools, kitchen/bar area and gym (including sauna room, steam room and massage room) with respect to applicable public health standards.

Detailed plans of the food and beverage premises have not been provided although it is expected that at this stage tenants have not been finalised for fit-out plans to be known. Plans of the kitchen/bar are not detailed to show compliance with the Food Act and AS 4674, however compliance can be met through recommended conditions of consent.

Submitted details of the gym (including sauna room, steam room and massage room) are satisfactory, however the plans do not show a hand wash basin for staff members to use prior to carrying out massage treatments. A condition of consent is recommended to ensure that a hand wash basin is provided in the massage room with a supply of warm running water through a common spout for compliance to be achieved. Additional conditions of consent are recommended to ensure walls and floors of the wet areas of the gym are smooth, impervious and can be effectively cleaned.

It is not clear at this stage if cooling towers or other regulated systems will be used as a part of heating or cooling of the buildings. Conditions of consent have been recommended in the event that cooling towers or other regulated systems will be used.

Parking, Vehicle Access and Manoeuvring

The number of parking spaces provided is considered satisfactory. Conditions of consent are recommended for compliance with AS 2890, AS 1428 and Penrith DCP 2014. In addition, the small car spaces within the residential parking area are to be allocated as visitor spaces. No small car spaces are to be allocated to residential apartments.

The car parking rate which has been applied for retail uses is one space per 30m² of retail floor space for 17 of the 18 retail tenancies (a higher parking rate for a restaurant use for one tenancy has been applied). While the applied rates are technically DCP compliant, a consideration is that a more appropriate and higher parking rate should be used given the applicant has an expressed vision for the development to include an 'eat street'. The lower parking rate used for 17 of the tenancies may limit future uses due to inadequate parking being available on-site. There is an acknowledgement that there will be shared uses across the Penrith Panthers Precinct, however this overlap could only be relied on to an extent. The applicant has been notified of this matter and wishes to proceed as proposed, understanding the risk of limitations associated with future uses of the retail tenancies.

Traffic Generation and Road Network Impacts

The Penrith Panthers Precinct is subject to a Voluntary Planning Agreement (VPA) for road works. The parties to the Panthers Roadworks VPA are Council, Penrith Rugby Leagues Club and Transport for NSW (TfNSW). The VPA relates to road network upgrades associated with the implementation of the Penrith Panthers Precinct Masterplan.

The Roadworks VPA, which prescribes the improvements to be carried out to the road network to support the development of the Penrith Panthers Precinct, was executed in 2012 and further amended via a Deed of Variation executed on 16 December 2020.

In the formulation of the VPA extensive traffic modelling for all development within the Precinct was undertaken. Upgrade works required to support the Penrith Panthers Precinct Masterplan include works

along Mulgoa Road, Jamison Road and the intersection at Jamison Road and Harris Street.

Council's Traffic Engineer and Transport for NSW have reviewed the development proposal and raised no concerns regarding potential traffic impacts.

Crime Prevention Through Environmental Design

There are no notable Crime Prevention Through Environmental Design (CPTED) related concerns identified and conditions of consent are recommended to enhance user safety and minimise any associated crime risk with the proposed development.

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

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

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

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised in the local newspaper, notified to nearby and adjoining property owners and residents and publicly exhibited between 15 August and 12 September 2022 in accordance with Council's Community Engagement Strategy and Community Participation Plan. In response, three (3) submissions were received. The key issues identified within the submissions were increased traffic, suitability of building heights and the need for land owner's consent for works proposed on Penrith Panthers land, as outlined below.

Issue Raised	Response
<i>Height of proposed buildings</i>	<p>The height of building provisions across the Penrith Panthers Precinct were development through a Planning Proposal process which established maximum building heights of 20m, 24m, 38m and 50m for the land subject to this application.</p> <p>The development proposal includes four buildings ranging from 5 to 14 storeys in height.</p> <p>The proposed development is generally in compliance with the applicable building height provisions with the exception of stairs and lift over runs. This height beach is assessed to be acceptable in this instance.</p>

<p><i>Increased traffic and impacts at the intersection of Jamison Road and Harris Street</i></p>	<p>The Penrith Panthers Precinct is subject to a Voluntary Planning Agreement (VPA) for road works. The parties to the Panthers Roadworks VPA are Council, Penrith Rugby Leagues Club and Transport for NSW (TfNSW). The VPA relates to road network upgrades associated with the implementation of the Penrith Panthers Precinct Masterplan.</p> <p>The Roadworks VPA, which prescribes the improvements to be carried out to the road network to support the development of the Penrith Panthers Precinct, was executed in 2012 and further amended via a Deed of Variation executed on 16 December 2020.</p> <p>In the formulation of the VPA extensive traffic modelling for all development within the Precinct was undertaken. Upgrade works required to support the Penrith Panthers Precinct Masterplan include works along Mulgoa Road, Jamison Road and the intersection at Jamison Road and Harris Street.</p> <p>Council's Traffic Engineer and TfNSW have reviewed the development proposal and raised no concerns regarding potential traffic impacts.</p>
<p><i>No land owner's consent for works on Penrith Panthers land</i></p>	<p>The application was not originally submitted with land owner's consent for works on Lot 2 DP 1263697, being Penrith Panthers land. On 8 March 2023, written land owner's consent was provided with specific conditions. These conditions have been considered as part of the assessment of the proposal.</p>
<p><i>Proposed works stated on Penrith Panthers owned land</i></p>	<p>The original application showed additional embellishment works on the Penrith Panthers site in a document title 'Outer River Corridor Loop' and reflected opportunities to connect the development site and Penrith Panthers Precinct to the Great River Walk.</p> <p>This document and any associated works have not been considered as part of the application. Only works as per Penrith Panthers land owner's consent have been considered.</p>

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	Not supported, however conditions provided
Environmental - Environmental management	No objections - subject to conditions
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
Tree Management Officer	Not supported, however conditions provided

Landscape Architect

Refer to the DCP appendix of this report for further details in relation to landscape design matters.

Tree Management Officer

Refer to the DCP appendix of this report for further details in relation to tree management matters.

Section 4.15(1)(e)The public interest

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

Section 94 - Developer Contributions Plans

The following development contribution plans apply to the proposal:

- Cultural Facilities;
- District Open Space Facilities; and
- Penrith City Local Open Space.

Conditions of consent are recommended with respect to the applicable development contributions as per Council's adopted Section 7.11 Development Contributions Plans.

Conclusion

In assessing the proposed development against the relevant environmental planning instruments, in particular State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal suitably satisfies the aims, objectives and provisions of these planning instruments. The site is suitable for the proposed development, the proposal is in the public interest and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the proposal is worthy of support and the development application is recommended for approval, subject to recommended conditions.

Recommendation

1. That the submitted Clause 4.6 variation request in relation to the height of buildings development standard under Clause 4.3 of Penrith Local Environmental Plan 2010 be supported.
2. That DA22/0545 for the staged construction of a mixed use residential and retail development including four (4) buildings (5 to 14 storeys), 349 residential apartments, 18 retail premises, two (2) levels of basement car parking, ground level car parking and associated site works at 18-22 Ransley Street and 123 Mulgoa Road, Penrith, be approved subject to the following recommended conditions.
3. That the individuals who made a submission be advised of the decision.

CONDITIONS

General

- The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as may be amended in red on the approved plans or by the following conditions in this consent:

Plan Title	Plan No.	Prepared By	Version	Date
Architectural Plans				
Title Sheet	DA-001-001	Turners	5	22/09/2023
Site Plan	DA-001-002	Turners	5	22/09/2023
GA Basement 01	DA-110-007	Turners	6	28/11/2023
GA Ground Level	DA-110-008	Turners	8	28/11/2023
GA Level 01	DA-110-010	Turners	5	22/09/2023
GA Level 02	DA-110-020	Turners	5	22/09/2023
GA Level 03	DA-110-030	Turners	5	22/09/2023
GA Level 04	DA-110-040	Turners	5	22/09/2023
GA Level 05	DA-110-050	Turners	5	22/09/2023
GA Level 06	DA-110-060	Turners	5	22/09/2023
GA Level 07	DA-110-070	Turners	5	22/09/2023
GA Level 08	DA-110-080	Turners	5	22/09/2023
GA Level 09	DA-110-090	Turners	5	22/09/2023
GA Level 10	DA-110-100	Turners	5	22/09/2023
GA Level 11	DA-110-110	Turners	5	22/09/2023
GA Level 12	DA-110-120	Turners	5	22/09/2023
GA Level 13	DA-110-130	Turners	5	22/09/2023
GA Level Roof Level	DA-110-140	Turners	5	22/09/2023
Building H Ground Level	DA-111-008	Turners	6	22/09/2023
Building H Level 01-03	DA-111-010	Turners	5	22/09/2023
Building H Level 4-Roof Level	DA-111-020	Turners	5	22/09/2023
Building K Ground Level	DA-112-008	Turners	6	22/09/2023
Building K Level 01-04	DA-112-010	Turners	5	22/09/2023
Building K Level 05-Roof Level	DA-112-020	Turners	5	22/09/2023
Building J Ground Level	DA-113-008	Turners	3	22/09/2023
Building J Level 01-03	DA-113-010	Turners	6	22/09/2023
Building J Level 04-05	DA-113-020	Turners	5	22/09/2023
Building J Level 06-08	DA-113-030	Turners	5	22/09/2023
Building J Level 09-Roof	DA-113-040	Turners	5	22/09/2023
Building L Ground Level	DA-114-008	Turners	3	22/09/2023
Building L Level 01-02	DA-114-010	Turners	7	22/09/2023
Building L Level 03-04	DA-114-020	Turners	6	22/09/2023
Building L Level 05-06	DA-114-030	Turners	6	22/09/2023
Building L Level 07-13	DA-114-040	Turners	6	22/09/2023
Building L Roof Level	DA-114-050	Turners	6	22/09/2023
Site Elevations North and South Elevations	DA-210-101	Turners	5	22/09/2023
Site Elevations East and West Elevations	DA-210-201	Turners	5	22/09/2023

Building Elevations Building H Elevations	DA-250-001	Turners	5	22/09/2023
Building Elevations Building J Elevations	DA-250-005	Turners	5	22/09/2023
Building Elevations Building K Elevations	DA-250-010	Turners	5	22/09/2023
Building Elevations Building L East/South Elevations	DA-250-015	Turners	6	22/09/2023
Building Elevations Building L West/North Elevations	DA-250-016	Turners	6	22/09/2023
GA Sections Section AA BB	DA-310-101	Turners	5	22/09/2023
GA Sections Section CC DD EE	DA-310-201	Turners	5	22/09/2023
GA Sections Section FF GG HH	DA-310-301	Turners	3	22/09/2023
Storage Schedule	DA-610-101	Turners	1	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-001	Turners	5	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-002	Turners	5	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-003	Turners	5	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-004	Turners	5	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-005	Turners	5	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-006	Turners	4	22/09/2023
Adaptable Plan Layouts (DA Stage) Livable Adaptable Apartments	DA-810-007	Turners	3	22/09/2023
Materials and Finishes	DA-910-001	Turners	5	22/09/2023
Marked Up Waste Sketch 23.11.27 GL & Level 1 Layout Study Ground Level	23.11.27	Turners	-	-
Marked Up Waste Sketch 23.11.27 GL & Level 1 Layout Study Level 1	23.11.27	Turners	-	-
Marked Up Waste Sketch 23.11.27 GL & Level 1 Layout Study Section	23.11.27	Turners	-	-

Marked Up Waste Sketch 23.11.27 GL & Level 1 Layout Study South Elevation	23.11.27	Turners	-	-
Staging Diagram	Sk-820-001	Turners	-	-
Stormwater Plans				
Cover Sheet	DA4001	J. Wyndham Prince	1	26/11/2021
Index, Legend and General Notes	DA4002	J. Wyndham Prince	3	10/12/2021
Overall Site Plan	DA4003	J. Wyndham Prince	1	26/11/2021
Engineering Plan Sheet 1 Ground Floor	DA4020	J. Wyndham Prince	1	26/11/2021
Engineering Plan Sheet 2 Ground Floor	DA4021	J. Wyndham Prince	1	26/11/2021
Engineering Plan Sheet 3 Basement 1	DA4022	J. Wyndham Prince	2	10/12/2021
Engineering Plan Sheet 4 Basement 2	DA4023	J. Wyndham Prince	2	10/12/2021
Ramp Longitudinal Section and Pump-out Pit Typical Details	DA4100	J. Wyndham Prince	1	26/11/2021
Concept Landscape Plans				
Cover Sheet	OC-L-000	Oculus	F	27/11/2023
Overall Landscape Plan	OC-L-100	Oculus	F	27/11/2023
Ground Level Stage 4	OC-L-101	Oculus	D	13/04/2023
Ground Level Stage 4	OC-L-102	Oculus	E	21/09/2023
Ground Level Stage 5	OC-L-103	Oculus	F	27/11/2023
Ground Level Stage 5	OC-L-104	Oculus	F	27/11/2023
Level One Podium Garden Stage 4	OC-L-201	Oculus	D	21/09/2023
Level One Podium Garden Stage 5	OC-L-202	Oculus	C	13/04/2023
Level 6 Champion's Lounge	OC-L-401	Oculus	D	21/09/2023
Level 6 Communal Terrace	OC-L-501	Oculus	D	21/09/2023
Typical Breezeway & Balcony Edge Planting	OC-L-502	Oculus	A	22/04/2022
Ground Level Section A-A	OC-L-701	Oculus	C	13/04/2023
Ground Level Section B-B	OC-L-702	Oculus	D	21/09/2023
Level One Podium Terrace Section C-C	OC-L-703	Oculus	C	13/04/2023
Level One Section D-D	OC-L-704	Oculus	D	21/09/2023
Level Six Champion's Lounge Section E-E	OC-L-705	Oculus	D	21/09/2023
Level Six Communal Terrace Section E-E	OC-L-706	Oculus	D	21/09/2023
Indicative Materials Public Domain	OC-L-901	Oculus	B	21/09/2023
Indicative Materials Podium Terraces	OC-L-902	Oculus	A	22/04/2022

Indicative Plant Schedule Ground Level	OC-L-903	Oculus	A	22/04/2022
Indicative Plant Schedule Level One Podium	OC-L-904	Oculus	A	22/04/2022
Indicative Plant Schedule Roof Garden/Champion's Lounge	OC-L-905	Oculus	A	22/04/2022
Landscape Area Calculation Diagrams	OC-L-1001	Oculus	D	21/09/2023
Landscape Plans				
Legend	L001	Oculus	B	22/09/2023
Planting Schedule	L002	Oculus	A	13/10/2023
General Arrangement Stage 4 Ground Level	L201	Oculus	E	13/10/2023
General Arrangement Stage 5 Ground Level	L202	Oculus	F	27/11/2023
General Arrangement Stage 4 Podium	L203	Oculus	E	13/10/2023
General Arrangement Stage 5 Podium	L204	Oculus	E	13/10/2023
General Arrangement Stage 4 Champion's Lounge	L205	Oculus	D	13/10/2023
General Arrangement Stage 5 Communal Terrace	L206	Oculus	D	13/10/2023

Document Title	Reference	Prepared by	Version	Dated
NatHERs and Basix Assessment	22/3107R	Efficient Living	B	13/04/2023
BASIX Certificate	705398M_07	Efficient Living	-	13/04/2023
Revised DA Acoustic Assessment	20211365.2/2609A//R2/HD	Acoustic Logic	2	26/09/2023
Traffic Report	12552449	GHD	2	25/09/2023
Flood Impact and Water Quality Management Report	110251_Rpt1B	J. Wyndham Prince	B	05/04/2016
Operational Waste Management Plan	-	Waste Audit & Consultancy Services (Aust) Pty Ltd	-	September 2023
Arboricultural development Impact Assessment Report	-	Birds Tree Consultancy	A	20/09/2023
Accessibility Capability Statement	P216_045	Design Confidence	-	04/09/2023
Geotechnical Report	GTE774-R01	Ground Technologies	1	07/04/2016
Aboriginal Heritage Due Diligence Assessment	-	Baker Archaeology Pty Ltd	-	31/05/2016
Stage 1 Contamination Assessment	GTE774-R02	Geotechnical Testing Services	1	07/04/2016

Stage 1 Contamination Assessment	FTE774-R02	Geotechnical Testing Services	2	11/02/2019
Natural Ventilation Statement	WH648-01F02	Windtech Consultants	3	28/09/2023
Livable Housing Design Guidelines Assessment Report	R216_045-2(LHA_STAGE4&5) FMR	Design Confidence	2	16/12/2021
Statement of Environmental Effects	-	Think Planners	-	17/04/2023
Stormwater Quality Management - Addendum Report	-	J. Wyndham Prince	A	03/04/2023

- 2 The development is approved to be undertaken in stages in accordance with the stamped approved plans. Conditions of consent relevant to each stage must be undertaken prior to the issue of the relevant Construction Certificate and Occupation Certificate.
- 3 A Construction Certificate shall be obtained prior to commencement of any building works.
- 4 The development shall not be used or occupied until an Occupation Certificate has been issued.
- 5 A separate development approval for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be obtained.
- 6 **Prior to the issue of any Construction Certificate**, a positive covenant shall be registered on the land title of Lot 2 DP 1263697 for the 4,234m² area shown on the survey plan prepared by Freeburn Surveying and dated 29/09/2023. In this regard, the registered proprietor of Lots 59 and 60 DP 1256085 shall be responsible for the construction, maintenance, repair and insurance of the public domain and landscape works in this area, as approved by this consent.
- 7 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 - Outdoor Lighting Obtrusive Effects.
- 8 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 9 **Prior to the issue of a Construction Certificate**, compliance with AS 4253-2019 is to be demonstrated including address of Appendix A - Positioning and Numbering of Mailboxes.

- 10 **Prior to the issue of a Construction Certificate**, evidence of compliance with the Design and Building Practitioners - Particulars for Regulated Designs Order 2022 is to be provided to the satisfaction of the Certifying Authority, for any excavation, shoring and anchoring works that traverse a property boundary.
- 11 With respect to development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor, the applicant must at their own expense:
- (a) protect and support any building, structure or work on adjoining land from possible damage from the excavation,
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

These requirements do not apply if:

- (a) the person having the benefit of the development consent owns the adjoining land, or
- (b) the owner of the adjoining land gives written consent to the condition not applying.

Further to the above, and prior to the commencement of any excavation works, a dilapidation report is to be prepared and submitted to Council. The report is to record and detail the existing state of surrounding assets and structures, including those located on adjacent private property and the public domain.

- 12 **Prior to the issue of a Construction Certificate**, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Please refer to the website at <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92.

- 13 The development must be undertaken in accordance with the Endeavour Energy conditions outlined in its letter dated 6 August 2022.
- 14 **Prior to the issue of the any Construction Certificate**, the architectural plans are to be amended to reflect the required changes to Building L in Stage 4, as shown on the marked up waste sketches identified in Condition 1.
- 15 The development must be undertaken in accordance with the General Terms of Approval issued by the Department of Planning and Environment - Water in its letter dated 30 March 2023.
- 16 **Prior to the issue of any Construction Certificate**, the Certifier is to ensure that construction plans show accessible paths of travel from the ground floor retail car park to the public domain.
- 17 **Prior to the issue of any Construction Certificate**, the accessible ramps along the pedestrian promenade (as marked in red on the approved plans) are to be integrated with the stairs.

- 18 Prior to the occupation of retail tenancies within the buildings, a separate development approval is to be obtained for each tenancy. A Noise Impact Assessment carried out by an appropriately qualified acoustic consultant may be required and a Noise Impact Assessment may be required to be submitted as part of any future development application(s) associated with specific retail tenancies within the buildings.
- 19 **Prior to the issue of any Occupation Certificate**, infrastructure (roads and stormwater systems) approved via DA18/0999 (as amended) are to be constructed and operational.
- 20 **Prior to the issue of any Occupation Certificate**, the Certifier is to ensure that the minimum car parking numbers allocated to each apartment are as follows:
- 1 car space per 1 bedroom apartment;
 - 1 car space per 2 bedroom apartment;
 - 2 car spaces per 3 bedroom apartment; and
 - 2 car spaces per 4 bedroom apartment.
- 21 **Prior to the issue of any Occupation Certificate**, the Certifier is to ensure that all small car spaces within the residential car parking areas are marked as visitor spaces. No small car parking spaces are to be allocated to residential apartments.
- 22 **Prior to the issue of any Construction Certificate**, the Certifier is to ensure the following is shown on the construction plans:
- A passive acoustic wall ventilation system for apartments which share an external wall in a building slot at level one and above;
 - No more than one (1) operable window is permitted per building slot, per floor on either side of breezeway lobbies at level one and above: and
 - The operable window mentioned above is to be 3m from the glazed louvres of the breezeways.
- The Certifier is to confirm that the construction plans demonstrate that at least 60% of apartments in each building achieve natural cross ventilation.
- 23 **Prior to the issue of any Construction Certificate**, the construction plans are to show storage as per the approved Storage Schedule, including storage internal to the apartment and within ground floor, parking and basement areas.
- 24 A Public Art Strategy is to be submitted to Penrith City Council's Senior Development Assessment Planner. 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 any Construction Certificate**.
- The strategy is to be prepared in accordance with the requirements of Penrith Development Control Plan (DCP) 2014, and in particular, is to comply with the controls of Part B, Chapter E13 of the DCP.
- 25 **Prior to the issue of any Occupation Certificate**, implementation of the approved Public Art Strategy, including the installation of any art works, is to be completed.
- 26 **Prior to the issue of any Occupation Certificate**, an electronic access and audio/video intercom system is to be installed at all residential accesses points.

- 27 **Prior to the issue of a Construction Certificate**, a way signage strategy shall be submitted to Council for approval in accordance with Penrith Development Control Plan 2014. The strategy is to:
- Identify the preferred locations and quantum of all building identification and business identification signage;
 - Include a palette of preferred materials, signage types and graphic style;
 - Outline any illumination requirements and/or restrictions so as to consider its impact on adjacent properties and uses;
 - Promote a high quality, co-ordinated approach to signage within the Village Centre and minimise visual clutter; and
 - Include details of any way-finding signage.
- 28 **Prior to the issue of an Occupation Certificate**, all wayfinding signage is to be installed in accordance with the approved Wayfinding Strategy.
- 29 **Prior to the issue of any Occupation Certificate**, the Certifier is to ensure that storage for each apartment is provided in accordance with the approved Storage Schedule, including storage internal to the apartment and within ground floor, parking and basement areas.
- 30 **Prior to the issue of any Construction Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the Construction Certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 31 **Prior to the issue of any Occupation Certificate**, a design verification statement from a qualified designer shall be submitted. The design verification statement shall verify that the development achieves the design quality shown in the approved Construction Certificate plans and specifications, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.
- 32 **Prior to the issue of any Construction Certificate and/or Occupation Certificate**, the Principal Certifying Authority is to ensure that any applicable requirements of the Panthers Roadworks Planning Agreement have been undertaken and suitably satisfied.
- 33 A minimum of 35 apartments shall be constructed as adaptable apartments to meet the requirements for persons with a disability. The adaptable units shall each be allocated an accessible car parking space compliant with AS 2890.6. The Construction Certificate application must be accompanied by certification from a person suitably qualified by the Association of Consultants in Access Australia confirming that the adaptable units are capable of being modified, when required by the occupant, to comply with the Australian Housing Standards (AS 4299-2009). A compliance Certificate in this regard shall be provided **prior to the issue of any Occupation Certificate**.
- 34 **Prior to the issue of any Construction Certificate**, the Certifier is to ensure that the pergola structures shown on the approved landscape plan for the roof top communal area of Building L do not exceed a maximum building height of 24m.
- 35 **Prior to the issue of any Construction Certificate**, the landscape plans are to be amended to delete the pergola structures for the roof top communal area of Building J.

- 36 **Prior to the issue of any Construction Certificate**, the 'wintergardens' shown on level 2 to the roof for Buildings H and J are to be deleted.
- 37 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:
- (a) Lighting**
- All outdoor/public spaces throughout the development (in particular the through-site link and pedestrian footpaths) 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 - Outdoor Lighting Obtrusive Effects.
- (b) Basement Car Parking**
- A security system must be installed on any pedestrian and vehicle entry/exit points to the car parks, 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.
- (c) Building Security and Access Control**
- Intercom, code or card locks or similar must be installed for all entries to the buildings including the car parks.
 - Australian Standard 220 door and window locks must be installed in all dwellings.
 - Areas intended for resident/business only access must have secure access and be well sign posted.
 - 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.
 - Mailboxes must be positioned in an area accessible to residents only (i.e. within the lobby) to minimise opportunity for mail theft/fraud.
- (d) Graffiti/Vandalism**
- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls, etc.
 - All outdoor furniture (in particular in the through-site link) must stored away after hours or well secured to minimise theft/vandalism.
 - 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.
- (e) Landscaping**
- All vegetation must be regularly pruned to ensure that sight lines are maintained.

Heritage/Archaeological relics

- 38 If any European and/or Aboriginal archaeological relics are uncovered during the course of the works, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

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

Environmental Matters

- 39 An appropriately qualified person/s shall:
- Supervise all filling works.
 - (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum)
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.
 - Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

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

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

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.

- 40 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 when the site is unattended.

- 41 Waste materials associated with the construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled. Where the disposal location or waste materials have not been identified in an approved 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.

- 42 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in 'ESQ Stage 4 & 5, Penrith: Revised DA Acoustic Assessment' prepared by Acoustic Logic Pty Ltd (dated 26 September 2023, ref. 20211365.2/2609A/R2/HD).

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

- 43 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 suitable waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

Waste licensing requirements apply in NSW. Where required, the waste contractor and waste facility are to be licensed by the NSW Environment Protection Authority. Reference should be made to the NSW Environment Protection Authority for licensing requirements.

- 44 **Prior to the issue of any Construction Certificate**, a Construction Noise and Vibration Impact Assessment and Management Plan, prepared by a suitably qualified acoustic consultant, is to be prepared and submitted to Penrith City Council for approval. This assessment is to consider (at minimum) the noise and vibration impacts associated with the construction phase, as well as details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

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

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 45 **Prior to the issue of any Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria and the approved 'ESQ Stage 4 & 5, Penrith: Revised DA Acoustic Assessment' prepared by Acoustic Logic Pty Ltd (dated 26 September 2023, ref. 20211365.2/2609A/R2/HD).

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 46 Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.
- 47 The recommendations provided in the Council approved 'ESQ Stage 4 & 5, Penrith: Revised DA Acoustic Assessment' prepared by Acoustic Logic Pty Ltd (dated 26 September 2023, ref. 20211365.2/2609A/R2/HD) shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application.**
- 48 A certificate is to be obtained from a qualified acoustic consultant certifying that the development, including mechanical plant and equipment, has been constructed to meet the noise criteria in accordance with the Council approved 'ESQ Stage 4 & 5, Penrith: Revised DA Acoustic Assessment' prepared by Acoustic Logic Pty Ltd (dated 26 September 2023, ref. 20211365.2/2609A/R2/HD). This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 49 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 on the site are considered to be Category 1 works under State Environmental Planning Policy (Resilience and Hazards) 2021. 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.

- 50 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

51 All works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

- 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.

In the event that the work relates to activities inside the building and does not involve external walls or the roof, and does not involve the interim use of equipment that emits offensive 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 also apply to all works.

52 Mud and soil from vehicular movements to and from the site during works must not be deposited on the road.

53 Heavy Rigid Vehicles are not permitted to make deliveries to the retail premises between 6.00pm and 7.00am.

54 The loading dock and retail car park is not permitted to be used between 10.00pm and 7.00am.

55 The gym is not permitted to be used between 10.00pm and 7.00am.

56 The following waste management requirements must be satisfied and details of compliance demonstrated to Council and approved by Penrith City Council's Development Services Manager **prior to the issue of a Construction Certificate**:

- A detailed plan showing the linear track systems to go under each chute for garbage and recycling bins (each linear track is to hold 2 x 1,100L bins with the exception of the chute room servicing Building J East (79 dwellings) and the chute room servicing Building L East (66 dwellings) which will require a larger bin rotation carousel) showing the chutes lining up with each "middle bin" on the linear track, required clearances for maintenance and a 1.8m clearance zone for manoeuvring of bins in front of the linear track systems.
- A detailed plan showing each chute room has incorporated the following requirements into the design:
 - Incorporate linear track system under each individual chute (refer to Section 3.8 of Council's *"Residential Flat Buildings Waste Management Guideline"* for design specifications).
 - Minimum 0.9m clearance around the linear system to allow for manoeuvrability and system maintenance.
 - 1.8m unobstructed clearance zone between the linear/circular track system and the entrance for access and manoeuvrability.
 - The room is to provide suitable dual door access for the service of bins with a minimum width of 1.8m and accessed by a 1.8m unobstructed access corridor.
 - Accommodate two additional 1,100L service bins in each chute room with a minimum access clearance of 1.8m wide for the loading of 1,100L bins onto the track system.
 - The room is to be fully enclosed, walled and not permit through access to other on-site waste infrastructure. Separate unobstructed access is required.
 - The floor is to be waterproofed, non-slip and sealed in accordance with the Building Code of Australia to permit the use of wash facilities.
 - The floor is to be graded to a central drainage point connected to the sewer, enabling all waste to be contained and safely disposed.

- Partitioned and enclosed with a minimum 2.7m unobstructed internal room height in accordance with the Building Code of Australia.
 - The room is to be provided with an adequate supply of water through a centralised mixing valve and hose cock.
 - The room to incorporate adequate lighting and natural/mechanical ventilation in accordance with the Building Code of Australia.
 - The room will need to allow for the permanent storage of 2 service bins per dual chute system, allowing residents access to all waste streams during Council's waste collection periods.
- An Operational Waste Management Plan is to be submitted detailing the management of bins both in the residential and commercial areas to ensure empty bins are placed under the waste chutes and once full, exchanged with full bins taken to the waste collection rooms at ground level adjacent to the loading bay. The Operational Waste Management Plan is to detail the separation of commercially generated waste and recycling from the residential waste and recycling for separate collection by waste collection contractors (commercially funded) and Council domestic waste services respectively.
 - A structural engineer's report is required to be submitted accompanying the Waste Management Plan. The report is to confirm all infrastructure used for waste vehicle ingress and egress movements can support the vehicle's 'gross weight' consistent with Council's heavy rigid waste collection vehicles outlined in Section 2.3.2 (**10.5m vehicle with a gross weight of 28.0 tonnes**).
 - The three waste collection rooms on ground floor adjacent to the loading bay are to be separated rooms each with signage indicating the residential waste collection room, bulky household waste collection room and commercial/retail waste collection room. The residential waste collection room and the commercial/retail waste collection room located at ground floor is to provide sufficient area to store the entire fleet of each respective bin type with bins stacked no more than 2 deep to allow for access and manoeuvrability as per Section 3.5.2 of Council's *'Residential Flat Building Development Waste Management Guideline'*. The total fleet of residential bins is **46 x 1,100L bins**. The total fleet of commercial bins is **30 x 1,100L bins**. The bulky household waste collection room is to be **52m²** in size (for 335 residential units).
 - In basement 01 and on ground floor, plans for a bin tug device storage area to be submitted and route of travel showing swept paths for the bin tug device demonstrated to move full bins from chute rooms to the goods lift and back in basement 01 and from the goods lift to the waste storage area on ground floor (adjacent to the loading bay) and back.
 - All on-site waste collection infrastructure, doors and access points are to be locked through Council's Abloy Key System. System specifications are outlined in Section 3.5.5 of Council's *'Residential Flat Building Development Waste Management Guideline'*.
 - All on-site waste collection infrastructure is to provide wash facilities through the use of a centralised mixing valve and hose cock. Respective drainage and water proofing to be installed to support the use of hose facilities.
 - The chute inlets on each residential level are to be located within cupboards (maximum depth of 150mm) and incorporate dual self-closing sealed doors, ventilation, waterproofing and permit accessible resident access.
 - All on-site waste collection infrastructure is to provide:
 - Automatic lighting and mechanical ventilation.
 - 180-degree outwards opening doors with a width of 1800mm.

- Unobstructed internal height clearances of 2700mm free from external services and utilities.
- An 1800mm unobstructed access pathway is required from the on-site collection infrastructure (waste collection and bulky goods collection rooms) to the rear of Council's standard waste collection vehicle.
- The waste collection room is to provide access of a minimum of 1.8m wide. The room is to be line marked to showing the location of the proposed bin allocation with respective clearances.
- The bulky goods collection room is to provide a minimum of **52m²** area (for 335 residential units) with a minimum access width of 1.8m.
- The kerbside crossover and route to and from the loading bay is to be of sufficient width to permit Council's 10.5m HRV movements into the site to permit unobstructed access.

57 Prior to the issue of an Occupation Certificate, the following matters shall be satisfied:

- The developer is to enter into a formal agreement with Penrith City Council for the utilisation of Council's waste collection service. This is to include Council being provided with indemnity against claims for loss and damage. By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Penrith City Council's Waste Collection and Processing Contracts for Standard Waste Collection. The provision of Council's waste collection service will not commence until formalisation of the agreement.
- Council's Waste and Resource Recovery Department is to conduct a site inspection of the on-site infrastructure with Council's collection contractors. The inspection is to review the on-site waste collection infrastructure for the provision of a safe and efficient waste collection service in accordance with the stamped approved plans and Council's policy provisions.
- The assigned strata manager for the development and direct contact details are to be provided to Council's Waste and Resource Recovery Department.

Council's bin infrastructure and collection service will be provided/commenced for the development on the completion of all on-site waste collection infrastructure and the attainment of an Occupation Certificate.

BCA Issues

58 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

- 59 The construction and finishes of the food premises must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 - Design, Construction and Fitout of Food Premises.
- 60 **Prior to the issue of an Occupation Certificate**, the developer must register their Cooling Towers and Warm Water Systems with Penrith City Council by completing the "Regulated Systems Premises - Registration Form". The occupier of the premises must notify Council within 7 days of any change of details.
- 61 Air-Handling Systems, Hot-Water Systems, Humidifying Systems, Warm-Water Systems and Water-Cooling Systems shall be operated and maintained in accordance with the *Public Health Act 2010*, *Public Health Regulation 2012* and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health. This includes:
- There must be safe and easy access to a regulated system (as defined in the Public Health Act 2010) for the purpose of the cleaning, inspection and maintenance of the system.
 - A water-cooling system must be equipped with a disinfection procedure that is in operation at all times and that is designed to control microbial growth so that:
 - (a) the level of Legionella in the system is not more than 10 colony-forming units per millilitre, and
 - (b) the heterotrophic plate count in the system is not more than 100,000 colony-forming units per millilitre.

If these levels are exceeded, remedial action must be taken as soon as practicable by a competent person or a person acting under the supervision of a competent person. The occupier of premises must ensure that any reportable test results are provided, in the approved form, to Council no later than 24 hours after they are received by the occupier.
 - Maintenance carried out on a warm-water system must comply with any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.
 - If maintenance of a regulated system (as defined in the Public Health Act 2010) is being carried out on the premises on which it is installed, the contractor, or any other person carrying out the maintenance otherwise than as an employee, is guilty of an offence if appropriate measures are not taken:
 - a) to minimise contamination of adjoining areas and the ambient environment by aerosols, dust, particulate matter, or effluent, and
 - b) to prevent public access to the area in which the maintenance is being carried out.
 - Any liquid discharge from the Regulated System, resulting from the operation, maintenance and/or cleaning operations, is to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.
 - All chemicals shall be stored in adequately labelled containers with tight fitting lids and banded or stored in such a way to prevent the chemical entering the stormwater system.

- 62 Air-Handling Systems, Hot-Water Systems, Humidifying Systems, Warm-Water Systems and Water-Cooling Systems must be installed in accordance with AS/NZS 3666.1:2011 "Air-Handling and Water Systems of Buildings - Microbial Control - Design, Installation and Commissioning", as applicable to the specific system. An air-handling system must be fitted with supply air filters. This includes:
- The Regulated System shall be thoroughly flushed before being brought into service and shall be located in a position to ensure that the exhaust discharge from the Cooling Tower is a minimum 6m away from occupied areas, pedestrian thoroughfares, trafficable areas, air intakes including lift vents and building openings.
 - When an Air Handling, Hot Water, Humidifying, Warm Water or Water Cooling System is installed a certificate is to be submitted to Council certifying that the system has been installed in accordance with the *Public Health Act 2010*, *Public Health Regulation 2012* and AS/NZS 3666.1:2011 "Air-Handling and Water Systems of Buildings - Microbial Control - Design, Installation and Commissioning".
 - Any liquid discharge from the air handling system, resulting from operation, maintenance and/or cleaning operations, are to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.

- 63 Any communal kitchens and bars shall not be used until an Occupation Certificate has been issued.

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

- 64 Walls and floors of the wet areas of the gym are to be constructed of material that is smooth, impervious and can be effectively cleaned. Communal areas and toilets shall be maintained in a clean and hygienic condition free from a build-up of waste at all times.

A hand basin must be provided in the massage room (for use prior to carrying out massage) on level 6, Building L, 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.

Utility Services

- 65 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.

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

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

- 67 **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.

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

Construction

- 69 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.

70 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.

71 Garbage rooms within buildings shall have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor. The floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock. Access doors to the garbage store shall be tight fitting solid core or of non-combustible construction.

Swimming Pools

72 The swimming pool is to be surrounded at all times by a child-resistant barrier that:

- separates the swimming pool from any residential and commercial tenancy on the premises and from any place (whether public or private) adjoining the premises, and
- is located immediately around the swimming pool, and
- contains within its bounds no structure apart from the swimming pool and such other structures (such as diving boards and pool filtration plants) as are wholly ancillary to the swimming pool, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".

- 73 To promote pool safety awareness in the City and ensure that pool owners are actively ensuring the safety of all users of their pool, the “Backyard Pool Safety” package was developed in conjunction with Penrith City Council and State government agencies.

It is the pool owners’ responsibility to purchase and read the information package prior to using the swimming pool (The package is available for purchase from Council’s Civic Centre, 601 High Street, Penrith).

- 74 A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:
- be erected in accordance with the provisions relating to instructional posters of the document entitled “Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation” published by the Resuscitation Council. (A copy may be purchased from Penrith City Council’s Civic Centre, 601 High Street, Penrith), and
 - bear a notice that contains the words “YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL”, together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled “CardioPulmonary Resuscitation” published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council’s Civic Centre, 601 High Street, Penrith).
- 75 The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au or in person at Penrith City Council (\$10 fee applies when registering at Council).
- 76 All backwash from the swimming pool shall be directed into the mains sewer.
- In areas where sewer is not available, the following requirements apply -
- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
 - Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
 - The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.
- 77 **Prior to the issue of an Occupation Certificate**, the developer must register their swimming pools (as defined in the *Public Health Act 2010*) with Penrith City Council by completing Council’s “Public Swimming Pool, Spa Pool and Splash Parks” Registration Form. Council is to be notified any change of details within 7 days.
- 78 The construction and operation of the swimming pools and associated premises shall comply with the *Public Health Act 2010*, *Public Health Regulation 2012* and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.
- 79 The building manager responsible for the premises at which the swimming pools are situated must not allow a person to use the pool unless the water in the swimming pool is disinfected in such a way as to minimise the transmission of disease to the other users of the pool as required by the *Public Health Act 2010*, *Public Health Regulation 2012* and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.

- 80 The building manager responsible for premises at which a swimming pool is situated must ensure that the surrounds, including any toilets or change rooms, are kept clean and in such condition as to minimise the transmission of disease.
- 81 Prior to the issue of a Construction Certificate, the following design details of the swimming pools must be submitted to Penrith City Council for assessment and approval:
- Details of the disinfection systems;
 - Details of the size and location of balance tanks;
 - Details of the plant and equipment associated with the treatment system and balance tank;
 - Details of all ancillary plant and equipment associated with the chemical balance including but not limited to, the type of dosing equipment to be installed, whether it is a 'continuous dosing system' or an 'automated dosing system' and ORP details;
 - Details of chemical bunding and storage and discharge points to sewer for backwashing; and
 - An Operational Management Plan.

Evidence of consultation with and approval of the above details by Penrith City Council is to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

- 82 The pools shall not be used until an Occupation Certificate has been issued. A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required **prior to the issue of the Occupation Certificate**. Contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

Engineering

- 83 The stormwater management system shall be consistent with the stormwater plans approved by this consent, as prepared by J. Wyndham Prince, project number 110251-10, and the commitments made in the CABA ESQ1818 Development Panthers Site Stormwater Quality Management Report prepared by J. Wyndham Prince, Issue A, dated 3/4/2023.

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.

- 84 Prior to the issue of any Construction Certificate, the Certifier 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 Plumbing and Drainage - Stormwater Drainage.
- 85 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all habitable floor levels are a minimum floor level of RL 26.9m AHD (adopted flood level + 0.5m freeboard).

- 86 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structures below RL 27.8m AHD 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.
- 87 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the structures can withstand the forces of floodwater, including debris and buoyancy, up to the 1% Annual Exceedance Probability event in accordance with the requirements of the Building Code of Australia (BCA).
- 88 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 the Penrith Development Control Plan 2014 provisions relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the adopted flood level of RL 27.8m AHD.
- 89 Prior to the issue of any Construction Certificate, the Certifier shall ensure that any crest in an access ramp to the basement car park is a minimum of RL 26.7m AHD.
- 90 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with Penrith Development Control Plan 2014, AS 2890.1, AS 2890.2 and AS 2890.6. In this regard, the loading dock at the ground floor of Stage 5 shall be deleted.
- 91 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.
- 92 Prior to the issue of any Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The technical direction GTD 2012/001 prepared by Transport for NSW can be used as a guide for preparing the geotechnical investigation report and strategy.
- 93 A dilapidation report shall be prepared for all surrounding buildings and Council owned infrastructure to confirm that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development, the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.

- 94 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.

- 95 A certificate prepared by a registered surveyor verifying that all habitable floor levels are at or above RL 26.9m AHD (adopted flood level + 0.5m freeboard) shall be submitted on completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifier.
- 96 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 Specification 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.

- 97 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management systems:

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

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

- 98 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
- 99 All vehicle parking spaces, parking aisles and driveways/circulating roads must be designed and built in accordance with AS 2890.1, AS 2890.2, AS2890.6 and Council's requirements.
- 100 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials, products, waste materials, etc.
- 101 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

- 102 All vehicles are to enter/exit the site in a forward direction.
- 103 Sub-leasing of car parking spaces is not permitted by this consent.
- 104 Prior to the issue of any Construction Certificate, the applicant shall prepare a Flood Emergency Response and Evacuation Plan. The plan must consider flood levels and evacuation risk from both the updated NSW Reconstruction Authority regional Nepean River flood levels and the Council Peach Tree and Lower Surveyors Creeks Flood Study, and the combined local and regional flood risk. The flood levels provided by the NSW Reconstruction Authority to Council are RL 26.4m AHD (1 in 100 chance per year level). Consideration should also be given to the potential increase in flood levels with projected climate change being RL 27.3m AHD (1 in 100 level as forecast to increase with climate change).

The plan must be submitted to the NSW State Emergency Service (SES) and written advice shall be submitted to Council from the SES confirming that the efficient emergency flood evacuation of people can be achieved, that will not exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood. In addition, the written advice shall include whether safe evacuation of people in the event of a flood can be achieved, with consideration to any early emergency evacuation protocols that may be required to facilitate this safe evacuation.

The Flood Emergency Response and Evacuation Plan must be updated to reflect any advice from the SES and submitted to Council together with the SES advice for Council's review.

- 105 Prior to the issue of any Construction Certificate, the basement access to Stage 5 shall be relocated so as to permit flood safe access and egress to/from the development. In this regard, the driveway leading into the Stage 5 basement shall connect to the internal road at a location where the level at the centreline of this road is no lower than 26.1m AHD.

Landscaping

- 106 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.

- 107 On completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** for the development, a Landscape Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the approved landscaping works for the development. This report shall be prepared by a suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received and endorsed. 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.

- 108 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.
- 109 **Prior to issue of the issue of any Construction Certificate**, a detailed landscape plan is to be submitted and approved by Penrith City Council's Landscape Architect. The detailed landscape plan is to include (but not limited to) the following:
- Species selection and location;
 - Soil volumes and planter box size for canopy plantings;
 - Location of transplant trees as required by other conditions of this consent;
 - Canopy coverage calculations; and
 - Planting specifications.
- 110 **Prior to issue of any Construction Certificate**, a site specific Transplant Plan is to be prepared and approved by Penrith City Council's Senior Development Assessment Planner for trees numbered 207, 210, 213, 214, 215, 216, 219, 220, 221, 222 and 223 as identified in the Arboricultural Development Impact Assessment prepared by Birds Tree Consultancy, dated 20 September 2023. The Transplant Plan is to be prepared by a suitably qualified arborist with a minimum of 5 years experience in advanced tree transplanting and include details as follows:
- The transplanting locations shall provide sufficient space for the continued growth of the trees without impediment to surrounding structures or surfaces. This can be achieved in a number of ways such as setting back infrastructure, providing engineered tree pits, providing root barriers using trafficable but malleable surfaces and providing sufficient growing requirements for the trees. If awnings are required, indents in the awnings to provide for trunk and canopy growth can be provided. The applicant is to demonstrate how the above requirements have been achieved.
 - When providing space within the landscape for transplanting there shall be a requirement for a minimum of 2.0m of natural porous ground (to be mulched or turfed dependent on transplant location) to be retained around the trunk of the tree. (2m measurement shall be from the middle of the trunk).
 - The preparation of the trees for transplanting, movement of the trees to appropriate temporary storage location, temporary storage care, transplant location preparation, transportation to transplant site, internment in the planting location and aftercare for a minimum period of 2 years.
- 111 **Prior to the commencement of works on the site**, the tree protection measures outlined in the Arboricultural Development Impact Assessment prepared by Birds Tree Consultancy, dated 20 September 2023, are to be implemented to trees nominated for transplant by other conditions of this consent. Tree protection measures are to remain in place for the duration of works on the site or until transplantation of the nominated trees.

Development Contributions

- 112 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. A development contribution is applicable under this plan and **is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews).

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 Contributions Plan for Cultural Facilities is available on Council's website.

- 113 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. A development contribution is applicable under this plan and **is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews).

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 Contributions Plan for District Open Space is available on Council's website.

- 114 This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. A development contribution is applicable under this plan and **is to be paid to Council prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews).

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.11 Contributions Plan for Local Open Space is available on Council's website.

Certification

- 115 **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 Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 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 6.6 of the Environmental Planning and Assessment Act 1979.

- 116 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

This section of the DCP sets principles and corresponding objectives which are to be addressed as part of any development application. The principles include:

- Provide a long term vision for cities, based on sustainability; intergenerational, social, economic and political equity; and their individuality.
- Recognise and build on the distinctive characteristics of cities, including their human and cultural values, history and natural systems.
- Build on the characteristics of ecosystems in the development and nurturing of healthy sustainable cities.
- Enable communities to minimise their ecological footprint.
- Achieve long term economic and social security.

An assessment of the proposal against the abovementioned principles has been undertaken and the proposal is found to be acceptable.

The proposed development is to be located in close proximity to a major public transport node and incorporates employment opportunities.

The proposed development is found to be compliant with sustainability targets set by the NSW government including BASIX targets and energy saving design requirements as set out under SEPP 65 and the Apartment Design Guide.

Part C - City-wide Controls

C2 - Vegetation Management

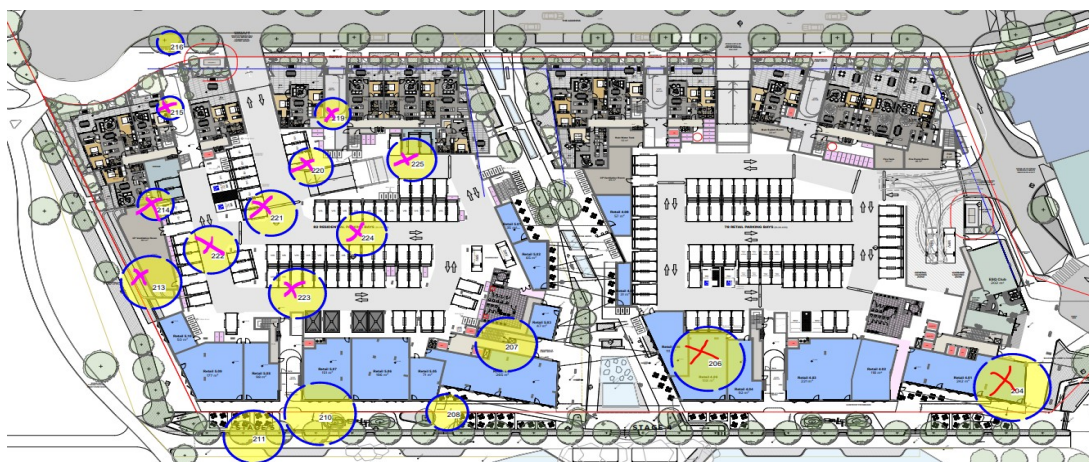
The Statement of Environmental Effects submitted with the application stated that '*the site is predominantly devoid of any vegetation with previous DAs including DA18/0999 permitting the removal of all identified trees on the site*'. Given DA18/0999 was not specifically related to the subject land, no approval for tree removal on the subject site had been issued to date. On 28 October 2022, the applicant was requested to provide an updated Arboricultural Assessment and to have regard for the Arboricultural Assessment prepared by Australian Tree Consultant Pty Ltd, dated 29 February 2016, which was submitted in support of earlier ESQ stages and outlined a number of trees viable for transplantation.

In response, an Arboricultural Development Impact Assessment Report (ADIAR) prepared by Birds Tree Consultancy, dated 4 March 2023, was submitted. The ADIAR states the following trees are in good health and condition and have high retention value and high landscape significance value, however the proposed development has not considered this in its design, and they are proposed to be removed.

- Tree 212 (not shown below) - Eucalyptus crebra
- Tree 204 (marked with a red x below) - Eucalyptus saligna
- Tree 206 (marked with a red x below) - Eucalyptus saligna

In addition, the ADIAR states the following trees have medium retention value and medium landscape significance and the majority are viable for transplantation (marked with a pink x below).

- Tree 207 - Ficus benjamina
- Tree 210 - Ficus benjamina
- Tree 213 - Ficus benjamina
- Tree 214 - Fraxinus oxycarpa 'Raywood'
- Tree 215 - Fraxinus oxycarpa 'Raywood'
- Tree 216 - Fraxinus oxycarpa 'Raywood'
- Tree 219 - Ficus benjamina
- Tree 220 - Ficus benjamina
- Tree 221 - Ficus benjamina
- Tree 222 - Ficus benjamina
- Tree 223 - Ficus benjamina



Above: Image of existing trees - note that there are additional trees on the site which have been assessed in the submitted Arboricultural Assessment but are not shown on this plan (i.e. Trees 212 and 213)

On 18 July 2023, updated landscape plans were submitted showing the transplanted figs within the electrical easement area. Given the existing trees for relocation have a current height of 8m to 12m, and a potential life span of up to 40 plus years, a referral was provided to Endeavour Energy for review. Endeavour Energy do not permit trees to be planted within the easement unless they meet the following requirements:

- Must have a maximum and mature height of 3m.
- Must be located 5m from any pole structure and 10m from any metal tower.
- Must be located at least 5m from the nearest overhead conductor.

The applicant was advised of this advice on 23 August 2023.

A subsequent ADIAR prepared by Birds Tree Consultancy, dated 20 September 2023, was submitted for review. Updates in the report related to the recommendations for tree retention and removal, that being the trees previously noted as viable for transplantation were now not deemed viable in this location due to it being too close to the lake barrier layer and given the ficus roots are likely to impact this layer. The ADIAR did not show the location that was referenced in the report and there was no mention of the reason why the Fraxinus oxycarpa 'Raywood' species were now not viable for transplantation. In addition, the latest landscape plans propose no location(s) for transplanted trees.

In this regard, Council's Tree Management Officer and Landscape Architect do not agree with the recommendations in the ADIAR. Their opinion is that Trees 207, 210, 213, 214, 215, 216,

219, 220, 221, 222 and 223 are of an age where they are starting to provide a strong visual representation within the landscape and develop canopy which is able to provide meaningful shade. They are in good health and have the capacity to live for much longer than the 21-40 years nominated in the arborist's report. These factors suggest retention in-situ would be the best biological outcome, however noting the location of the trees, they do restrict development of the site in the manner that is proposed. The trees have been identified as viable for transplanting by the applicant's arborist and Council's Tree Management Officer. There is no guarantee they will all survive the transplanting process, however every opportunity should be provided for this to occur, especially as high retention value and high landscape significance value trees are proposed for removal (Trees 204, 206 and 212).

In regard to planting locations, Council's experts have identified various locations and systems that will give the best opportunity for survival and continued growth without impact. Use of barriers and engineered tree pits can be used near the lake edge and along the pedestrian promenade. The location of trees along the pedestrian promenade will be a feature of the development and provide for well needed shade from the western sun.

In this regard, conditions of consent are recommended for the translocation of Trees 207, 210, 213, 214, 215, 216, 219, 220, 221, 222 and 223 and the landscape plans will be marked up to provide suggested locations for transplanting. The recommended conditions require a detailed transplant plan and landscape plans prior to Construction Certificate issue.

C3 - Water Management

The development site will be connected to the roadway drainage system approved via DA18/0999 (Stages 2 and 3). This drainage infrastructure contains a community basin and treatment system as part of the stormwater management system for all ESQ stages. Stormwater quality for the proposal can therefore be managed by the precinct system. Based on stormwater treatment being catered for within the community stormwater treatment system, no on-site devices are required.

C5 - Waste Management

The proposed development includes provision for on-site waste collection by Council's waste service. However, the proposal has not provided adequate vehicle height clearances and swept paths to accommodate Council's 10.5m waste vehicle, which is required by Council's Waste Guidelines for a development of this scale. This matter was raised with the applicant via letters dated 28 October 2022 and 30 June 2023 and via subsequent meetings and discussions. On 30 November 2023, the applicant provided marked up sketches which demonstrate a 10.5m waste truck could be accommodated within the development with minor modifications and no impacts on overall building height.

Council's Waste Management Officer raises no concerns in relation to the proposed arrangement for waste collection as per the sketches provided subject to further detailed design. In this regard, a condition of consent is recommended for the marked up sketch detail to be incorporated into the architectural plans and approved by Council prior to Construction Certificate issue.

C6 - Landscape Design

A concept landscape plan was submitted in support of the application. The applicant was requested to provide a detailed landscape plan in requests made on 28 October 2022 and 30 June 2023. Of particular note was for the landscape plan to demonstrate use of green infrastructure to manage urban heat and to provide shade to public domain areas. To date a consolidated detailed landscape plan has not been submitted.

Recently submitted landscaping documentation is outlined below.

Dated Submitted	Plan Details	Comments
19 October 2023	Planting Schedule Plan No. L002, Version A, dated 13/10/23	Although no concern is raised in relation to the species selection, the schedule of planting does not align with any planting locations on the General Arrangement Plan.
19 October 2023	General Landscape Arrangement Plans L201-L204, Version E, dated 13/10/2023 L206, Version D, dated 13/10/2023	<p>The General Arrangement Plan does not nominate locations for species selected in the Planting Schedule.</p> <p>It is unclear if there is enough soil volume or space to sustain healthy ongoing growth.</p> <p>There is no location nominated for the relocation of existing trees which are viable to transplanting.</p>
29 November 2023	General Arrangement Plan for Stage 5 Plan No. L202, Version F, dated 27/11/2023	<p>No cover letter has been provided as to why this plan was submitted or to outline amendments made. It appears the only change to the plan is the inclusion of soil volumes available on the Panthers land.</p> <p>There are 16 trees proposed within the easement area with a height up to 4m, which is non-compliant with Endeavour Energy's requirements.</p> <p>Species selection is not nominated on the plans so it is unclear if proposed canopy tree planting will have enough soil volume and space to sustain health long term growth.</p>

29 November 2023	Updated Concept Landscape Plan Version F, dated 27/11/2023	Concept plans have a purpose to show the extent, function and attributes of areas to be landscaped. However, given Council's urban heat provisions under the LEP and DCP, further detail is required to demonstrate that the objectives for urban heat management can be achieved. This includes species selection, soil volumes and space to support the species.
------------------	---	--

A recommended condition of consent requires a consolidated detailed landscape plan prior to Construction Certificate issue to address the above outstanding matters.

C10 - Transport, Access and Parking

Parking Rates

The proposal includes a total of 597 car spaces for both residential and retail uses, including four electrical vehicle charging stations and 43 accessible spaces. There is provision for 118 bicycles, 8 motorbike/scooter parking spaces and 8 car wash bays. The residential car parking rate of 1 space per 1 or 2 bedroom unit and 2 spaces per 3 or 4 bedroom unit is achieved. Adequate residential visitor parking per stage is also provided. For the adaptable housing apartments, 35 adaptable parking spaces are required, however 39 accessible spaces are provided.

There are a number of small car spaces allocated for residential apartments which is considered prohibitive and restricts unit owners in vehicle size. All residential car spaces allocated to apartments are to be compliant with the relevant Australian Standards. Small car parking spaces are to be allocated as 'visitor' spaces only. A condition of consent is recommended in this regard.

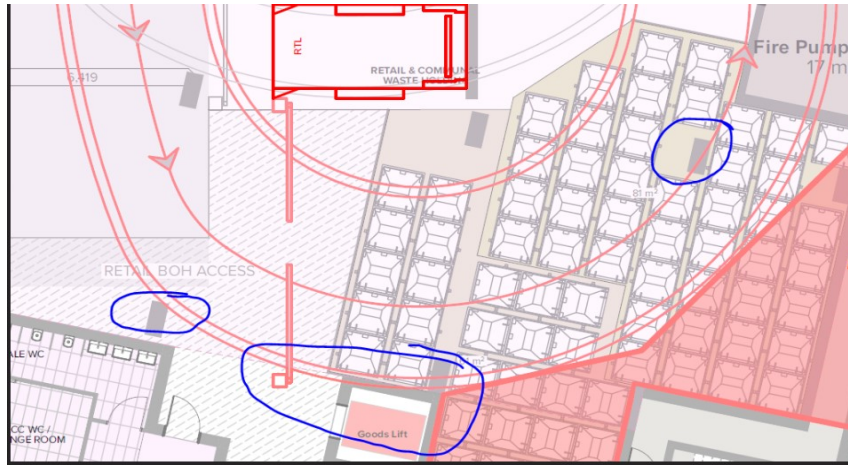
A total of 89 retail parking spaces are proposed, including four accessible spaces. The car parking rate which has been applied for retail uses is one space per 30m² of retail floor space for 17 of the 18 retail tenancies (a higher parking rate for a restaurant use for one tenancy has been applied). While the applied rates are technically DCP compliant, a consideration is that a more appropriate and higher parking rate should be used given the applicant has an expressed vision for the development to include an 'eat street'. The lower parking rate used for 17 of the tenancies may limit future uses due to inadequate parking being available on-site. There is an acknowledgement that there will be shared uses across the Penrith Panthers Precinct, however this overlap could only be relied on to an extent. The applicant has been notified of this matter and wishes to proceed as proposed, understanding the risk of limitations associated with future uses of the retail tenancies.

Loading Docks

The proposed loading docks at the ground floor levels of Stage 4 and Stage 5 do not comply with Section C10.5(C)(5)(t) of the DCP, which requires loading dock areas to be separated from the circulation paths of car parking areas. It is also noted that aisle widths for off-street commercial vehicles are required to comply with Table 3.1 of AS 2890.2. The proposed path of travel through the Stage 5 ground floor parking area to the loading dock does not comply in this

regard. A condition of consent is recommended requiring compliance with AS 2890 in this regard and the deletion of the loading dock within the ground floor parking area of Stage 5.

The loading dock in Stage 4 is required to accommodate a HRV of 10.5m for waste collection. As per the submitted marked up sketch of vehicle swept paths, there appears to be a number of minor conflicts with lifts and columns (see image below). This can be rectified in the detailed architectural plans prior to Construction Certificate issue and is required via a recommended condition of consent.



C14 - Urban Heat Management

The proposal has incorporated design elements to reduce the urban heat island effect. This is demonstrated by the following:

- Deep soil area is available along the northern and western edges of the site which allows for canopy planting for shade relief from the summer heat for pedestrians and retail users;
- Shade structures are proposed for the podium communal area and over outdoor dining areas along the lake front;
- Landscaping is provided at the roof tops and podium communal spaces and breezeway slots of the buildings; and
- Swimming pools and water features are provided in communal spaces and in the public domain.

E13 Riverlink Precinct

Part B - Panthers Penrith Precinct

The development proposal has been assessed against the objectives and controls of this section of the DCP. The proposal is found to be generally compliant with the exception of Section 13.9 Built Form (street wall height), as outlined below.

13.6 Panthers Penrith Precinct Vision

The development proposal is consistent with the indicative land uses indicated in the Panthers Precinct Concept Plan as illustrated on Figure E13.12.

13.7.3 Sub Precincts

The subject site is identified as being in the northern sub precinct. The development proposal is consistent with the indicative land uses shown this sub precinct.

An activated edge is provided to the lakefront that will generate activity throughout the day and night. Residential development will provide additional activity to this area and will offer high

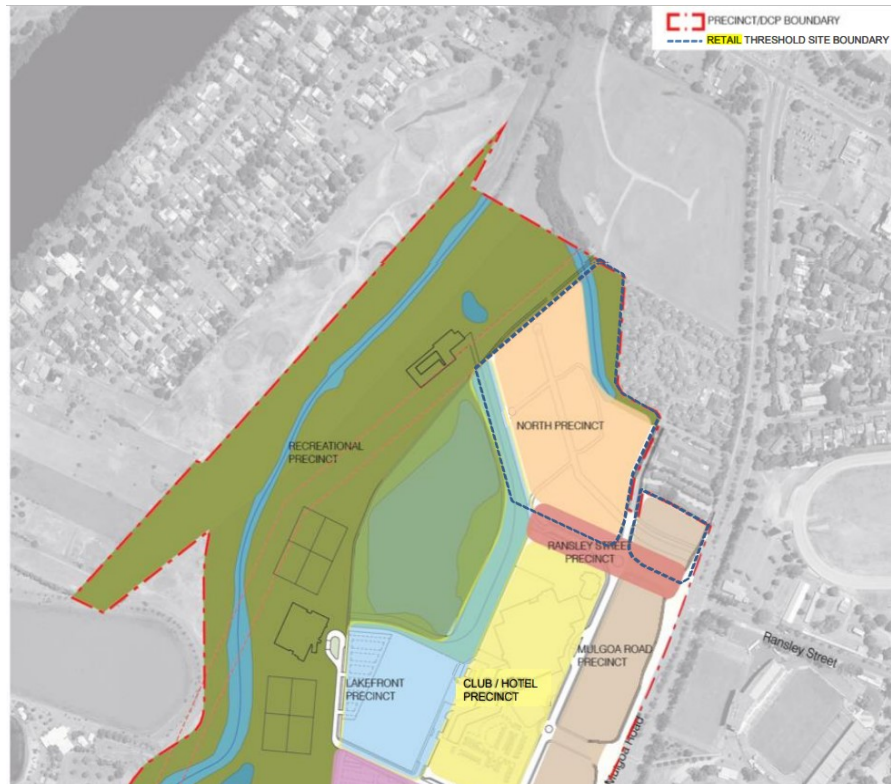
density housing opportunities in a unique urban environment.

Controls - 13.7.3 (5)

- a) The retail tenancies are designed so that flexibility is available in that spaces could be enlarged with the removal of walls.
- b) The ground floor retail spaces have a floor-to-floor height of 4.5m.
- c) Retail and residential activities are separated, however there is one shared loading dock in Stage 5 for all waste collection, removalist and delivery vehicles.
- d) Can comply subject to recommended condition for wayfinding signage.
- e) Complies - retail entries are via the lake side promenade. Residential entry points are either from the private road or lake front via residential lobbies.
- f) Can comply subject to recommended condition for security access system to all entry points.
- g) Complies - buildings either front the private road or the lake front.
- h) Complies - no blank walls are proposed.

Controls - 13.7.3 (10)

- a) Complies - a retail threshold cap of 3,500m² is placed on the ESQ development area as shown in Figure E13.15 (see below for further details).



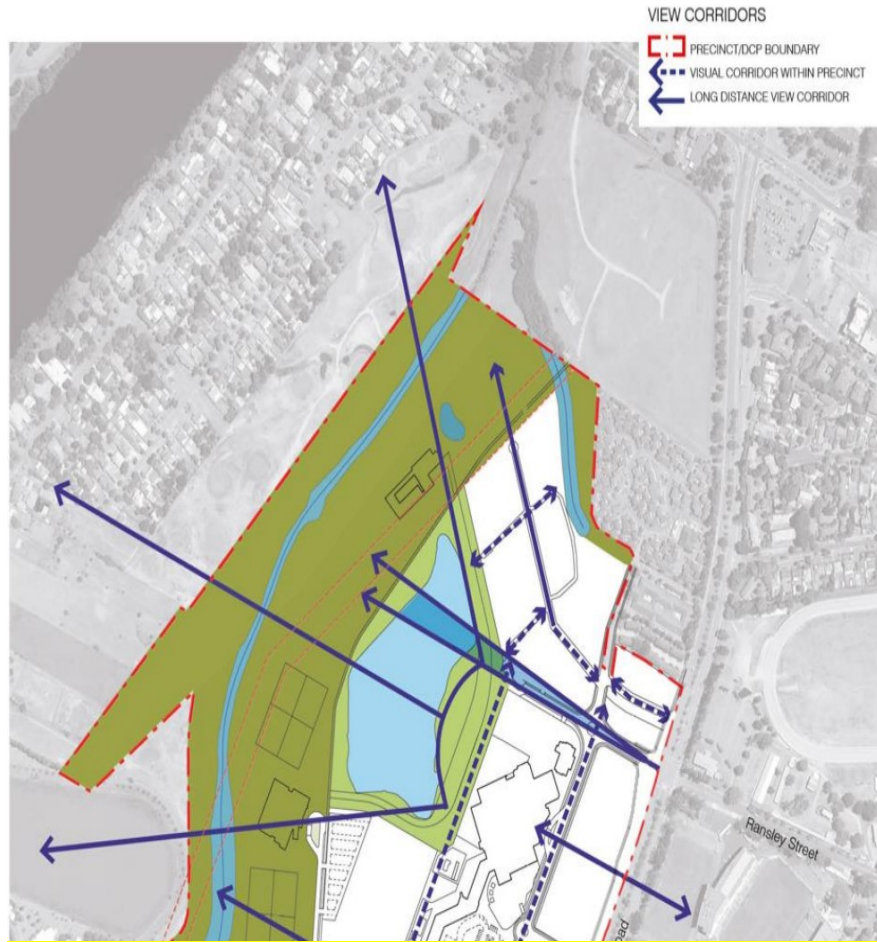
The retail GFA for all ESQ development stages is shown in the table below.

Stage	GFA (m ²)	DA No.
ESQ Stage 2A	1,272	DA18/0999 (as amended)
ESQ Stages 4 and 5	2,185	DA22/0545 (subject application)
Total	3,457	

13.7.15 Views

The proposed design of the development maintains view corridors established under Figure

E13.16.



13.7.5 Public Art Strategy

The overall landscape plan prepared by Oculus, dated 27 November 2023 (plan no. OC-L-100), outlines locations for public art. While location 1A (lake edge) is on Penrith Panthers land which is outside the scope of this application, locations A1 (central viewing deck), 1.1A and 1.2A provide alternate and appropriate locations. In this regard, a condition of consent is recommended requiring a Public Art Strategy, prepared by an appropriately qualified and experienced public art and installation consultant, to be submitted to Council for approval prior to Construction Certificate issue. Implementation of the public art will be required prior to Occupation Certificate issue.

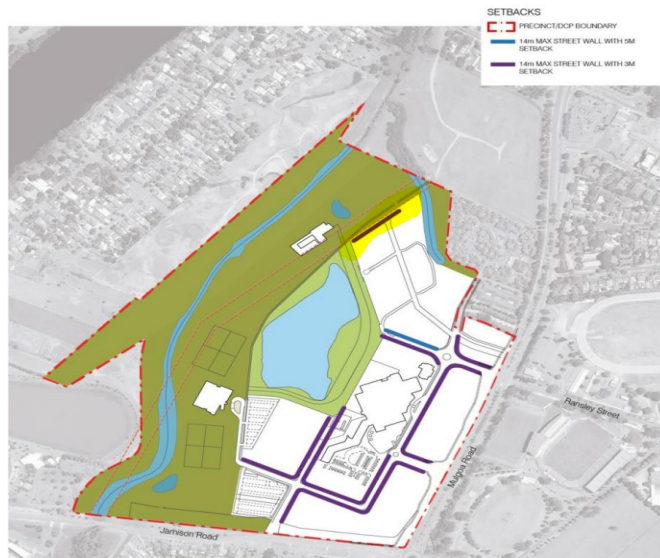
13.8.2 Pedestrian and Cycle Network

The development proposes a pedestrian promenade along the lake frontage. The promenade provides a public domain area with outdoor dining spaces and a lake side boardwalk with viewing decks along the lake.

13.9 Built Form

The street wall height and setbacks outlined in Figure E13.27 show a maximum street wall height of 14m with 3m setbacks along the northern boundary of Lot 59.

Figure E13: 27 Street Wall Height



Buildings J and H do not comply with the above control as the buildings are proposed with street wall heights of 24m with a 0m setback to the boundary (see image below). In considering the objectives and the unique location of the development, a variation to this control for Buildings J and H would not result in a negative impact on the urban character of the area, nor on solar access.



2
West Elevation

13.9.2 Active Street Frontages

The proposed development complies with the controls related to achieving an active frontage along the lake front. Active retail tenancies are proposed at the ground level, entry points will be accessible and there is a vehicular access point for retail uses off the service road.

13.10 Infrastructure Delivery

The development of Stages 4 and 5 is reliant on access roadways and stormwater drainage infrastructure approved via DA18/0999 (Stages 2 and 3). Land associated with Stages 2 and 3 includes:

- Lot 52 DP 1246141 - road/stormwater lot;
- Lot 53 DP 1246141 - Stage 2A and road;
- Lot 56 DP 1250704 - Stage 2B;
- Lot 57 DP 1250704 - Stage 3;
- Lot 58 DP 1250704 - riparian corridor; and
- Lot 2 DP 1263697 - stormwater basin.

The stormwater drainage infrastructure includes stormwater drainage pipes under the roadways and a community basin and treatment system as part of the stormwater management system for all ESQ stages. Stormwater for the proposal can therefore be managed by the precinct system. The road infrastructure once delivered will provide access to Stages 2A, 2B, 3, 4 and 5.

The developer of Stages 2 and 3 and the developer of Stages 4 and 5 have entered into a private Infrastructure Contribution Agreement for the delivery of roads and stormwater systems for all ESQ development sites. The private infrastructure is proposed to be managed under a community title scheme. A development application for the community title scheme is currently being assessed by Council via DA23/0577.

The land owners of Lot 53 have granted consent for access onto the delivered roadway over Lot 53, being the road between Stages 2A and Stages 4 and 5. As there is no timeframe for the delivery of the road and stormwater systems, and the development of Stages 4 and 5 is reliant on another development, a condition of consent has been recommended for the delivery of the road and stormwater system prior to the issue of an Occupation Certificate for Stages 4 and 5.

Conditions of consent are recommended requiring satisfactory arrangements for utility services such as water, electricity and telecommunications.