

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA19/0664
<b>Proposed development:</b>	Reconstruction of a Part of the Boundary Wall
<b>Property address:</b>	84 - 88 River Road, EMU PLAINS NSW 2750
<b>Property description:</b>	Lot 34 DP 1114973
<b>Date received:</b>	30 September 2019
<b>Assessing officer</b>	James Heathcote
<b>Zoning:</b>	Zone R2 Low Density Residential - LEP 2010
<b>Class of building:</b>	Class 10b
<b>Recommendations:</b>	Approve

## Executive Summary

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***The Development Application is referred to the Local Planning Panel for determination as the application has been lodged by Penrith City Council as the applicant and land owner.***

Council is in receipt of a development application, lodged by Penrith City Council, for the reconstruction of a part of the boundary wall at 84-88 River Road, Emu Plains NSW 2750.

The proposed works are ancillary to the existing gallery operating on the site. The site is locally listed under Schedule 5 of Penrith Local Environmental Plan 2010, titled 'Lewers Bequest and Regional Art Gallery, houses and garden' (Item No.69). The subject site is zoned R2 Low Density Residential.

The subject site is bound by a masonry wall to all 3 boundaries (south-west, north-west and north-east), not including the south-east frontage of the site to River Road. These walls are predominantly concrete block with a section in the south-west corner that is constructed of face brick. The brick section extended from the south-west corner for 30m along the south boundary that is common with 93 River Road from the west corner that is common to 16 Beach Street. A recent weather event caused the brick sections to structurally fail, which has since been cleared and made safe for each adjacent site. The subject application proposes to reinstate the damaged/collapsed section of boundary wall in concrete block to maintain a consistent material and appearance with the existing and structurally sound sections of boundary walls.

Given the heritage significance of the Lewers site, prior to lodgement of a development application and in accordance with Clause 5.10 of Penrith Local Environmental Plan 2010, the proposed works were referred to Council's Heritage Advisor for comment. The advice given was that, due to the significance of the landscaping and garden area for the Lewers Gallery, and the unknown significance of the boundary wall at the time, a development application with a supporting Heritage Impact Statement (HIS) would be required for an appropriate assessment of the boundary wall reinstatement. Additionally, the historic significance of the brick wall, that has since collapsed, would need to be established through historic research and discussions with the Lewers Family. Once this has been completed, appropriate options for boundary wall reinstatement could be suitably evaluated.

The applicant (being Penrith City Council) lodged the subject application on the 30 September 2019, with a supporting HIS and plans illustrating the extent of boundary wall to be reinstated. The HIS provided a detailed historical background of the Lewers site, and also included commentary from discussions with the Lewers family. This documented and demonstrated that the brick boundary walls were constructed in 1972, following Stocks and Holding purchasing the land to the west, with concrete block walls being built when the site was converted into a Gallery. The evidence given has been assessed and it is concluded that, given the historical timeline of the Lewers site, along with when the boundary walls were constructed, the boundary walls have little heritage significance and their reinstatement to match the existing walls that bound the site will not negatively impact the site. As such, from a heritage perspective, there are no objections to the proposal.

The application was also referred to Council's Building Surveyor, who raised no objections subject to recommended building conditions being included in the consent. These conditions have been included in the recommended conditions of consent.

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development has been advertised and notified to nearby and adjoining residents between 4 October and 18 October 2019. Council notified 6 neighbouring residences and 1 submission was received in response thus far. At the time of writing this report the notification period is yet to end. However, any further submissions will be addressed by a supplementary memorandum and circulated to the Local Planning Panel prior to the scheduled Panel meeting.

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

## Site & Surrounds

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### Site Description:

The subject site is situated on the north-western side of River Road, approximately 70m south-west from its intersection with Hunter Street in Emu Plains. The site is rectangular in shape and has a total area of 6437m<sup>2</sup>, with a frontage of 98m to River Road, and a depth of approximately 72m. The land slopes gently toward the front of the site. The middle and rear portions of the site are mostly flat. The property is contained to the south-west by 93 River Road, to the north-west by 6, 8, 10, 12, 14 & 16 Beach Street, and to the north-east by 83 River Road. The site contains a number of buildings forming the gallery with on-site parking in the south-west corner of the site. The subject boundary wall is also located in the south-west corner of the site.

The site has flood related development controls, listed as a Low Flood Island. There is an electricity easement 2.75m wide located at the front of the site.

The site includes Penrith Regional Gallery and Café at Lewers. The site is listed as a local heritage item under Penrith Local Environmental Plan 2010, as Item No.69, titled "Lewers Bequest and Regional Art Gallery, houses and garden".

The surrounding area is comprised of low density residential development. The site is situated approximately 50m north-west from the Nepean River.

### Site History:

- DA19/0664 - Reconstruction of a part of the boundary fence (Subject application).
- CC19/0094 - Construction of a part of the boundary fence.
- DA15/1449.02 - Modification of condition 12 - Café kitchen.
- CC18/0097 - Addition to café kitchen.
- DC18/0253 - Concerns regarding non-compliance with development consent - non commercial exhaust system.
- DA15/1449.01 - Extension of consent period.
- DA15/1449 - Café Kitchen.
- DA04/1079 - Entry feature, covered area. Building renovations (Consent date: 09/08/2004).
- DA00/5463 - Two new buildings linked by a courtyard (Consent date: 19/02/2001).
- DA970318 - Addition to heritage item (Consent date: 24/09/1997).
- DA49/87 - Extension to art gallery (Consent date: 29/05/1987).
- DA324/76 - A memorial gallery (Consent date: 15/11/1979).

\*Further history listed for the heritage item and site is discussed further under the C7 Culture and Heritage section of this report.

### Site Attributes / Restrictions (Lot 34, DP 1114973):

- Easement for electricity purposes 2.75m wide registered toward the front of the site. No further detail provided regarding this easement.

## Proposal

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The aim of the proposed works is to reinstate the damaged section of an existing boundary wall in concrete block, maintaining a consistent material and aesthetic appearance with the existing sections of boundary wall that remain structural sound.

Specifically, the proposed works include the following:

- Construction of a 2m high concrete block wall. It is noted that this height matches the existing sections of boundary wall to which this wall shall connect to.

## Plans that apply

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

## Planning Assessment

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### • Section 4.15 - Evaluation

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

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

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

SEPP 55 aims to provide a framework for the assessment, management and remediation of contaminated land throughout the state. Clause 7(1) of SEPP 55 requires a consent authority to be satisfied that the site is suitable for the proposed development, or can be made suitable prior to the determination of the application.

The site is currently used for commercial purposes, which is unchanged as a result of the proposed development. There is no history of contamination or unauthorised earthworks recorded at the subject site.

In consideration of the above, the proposal satisfies the requirements of SEPP 55, subject to conditions.

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

An assessment has been undertaken of the application against relevant criteria with the Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997) and the application is satisfactory subject to recommended conditions of consent.

#### **Local Environmental Plan 2010 (Amendment 4)**

<b>Provision</b>	<b>Compliance</b>
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 5.10 Heritage conservation	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion

### Clause 2.3 Permissibility

The proposed boundary wall reconstruction is ancillary to the existing development on the site. As such, the proposed works are permissible as per the requirements of this Clause.

### Clause 2.3 Zone objectives

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.
- To enhance the essential character and identity of established residential areas.
- To ensure a high level of residential amenity is achieved and maintained.

The subject site includes Lewers Regional Art Gallery, a locally listed heritage item. The proposal only includes the reconstruction of a section of boundary wall that collapsed. The height, materials and colours of the proposed match the existing boundary that currently remains in place. No other works are proposed, nor anything that would impact on the heritage item and its curtilage.

As such, the proposal has been assessed as satisfying the objectives of the R2 zone.

### Clause 5.10 Heritage conservation

Clause 5.10(1) states the objectives of the clause, which includes:

- (a) Conserving the environmental heritage of Penrith, and
- (b) Conserving the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

The subject site is listed under Schedule 5 Environmental Heritage under Penrith Local Environmental Plan 2010 as a heritage item, as follows:

Suburb	Item Name	Address	Property Description	Significance	Item No.
Emu Plains	Lewers Bequest and Regional Art Gallery, houses and garden	84-88 River Road,	Lot 34, DP 1114973	Local	69

The subject application proposes the re-construction of a wall to match and connect to other existing boundary walls. The proposal has been assessed as satisfying the requirements of Clause 5.10 (See discussion under the Chapter C7 Culture and Heritage section of this report for more information).

### Clause 7.2 Flood planning

This Clause applies to the following land:

- (a) land at or below the flood planning level,
- (b) land identified as "Flood Planning Land" on the Clause Application Map.

The subject site is identified as flood planning land as per Clause 7.2(b). However, the proposed development involves the reconstruction of a section of boundary wall to its original state. As such, no flooding concerns are raised for the proposed development.

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

### **Draft Environment State Environmental Planning Policy**

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this Draft Instrument.

### **Draft Remediation of Land SEPP**

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.

The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the Draft SEPP will not alter or affect the findings in respect to contamination of the site.

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

### Development Control Plan 2014

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

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

There are no planning agreements applicable to the subject application.

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

The requirements of the Regulations have been considered in the assessment of the application, with applicable conditions of consent being recommended. Notification has been carried out in accordance with the Regulations. Referral was made to Council's Building Surveyor, who had no objection subject to conditions of consent, which are included to ensure BCA compliance.

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

### Context and Setting

The proposed reconstruction of a section of the boundary wall has been intended to match the existing height, materials and colour of the existing boundary wall. As such, the boundary wall, once rebuilt, should fit appropriately into its setting. Conditions of consent are recommended to ensure this.

### Erosion and Sediment Control

Standard conditions of consent are recommended to ensure appropriate erosion and sediment control measures are in place to avoid any negative impacts to neighbouring properties during construction of the boundary wall.

### Noise and Vibration

Standard conditions of consent are recommended to ensure appropriate hours are adhered to for the construction of the boundary wall.

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

Given the proposal is to reconstruct a boundary wall, similar to how it was before it collapsed, and that no other changes are proposed in this development application, the proposal is considered to be suitable.

## Section 79C(1)(d) Any Submissions

### Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

### Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development has been advertised and notified to nearby and adjoining residents between 4 October and 18 October 2019. Council notified 6 neighbouring residences and 1 submission was received in response thus far. At the time of writing this report the notification period is yet to end. However, any further submissions will be addressed by a supplementary memorandum and circulated to the Local Planning Panel prior to the scheduled Panel meeting.

### Submissions

The following issues were raised in the submission received. Feedback commentary to this submission are detailed below:

Issues Raised	Comments
<p>1. Concern regarding an address error in the notification letter.</p> <p>2. Concern regarding works occurring on an adjacent property (93 River Road, Emu Plains).</p>	<ul style="list-style-type: none"> <li>• The submitter was advised that there was a typographical error in the notification letter that was received, and that each other nearby property has been notified as intended.</li> <li>• The submitter raised several concerns regarding works occurring on an adjacent lot at 93 River Road (not the subject property), which have caused negative impacts to him and his neighbours; specifically relating to damage occurring to their common boundary fence, no erosion and sediment control measures in place during works, inappropriate hours of operation, not being notified about works occurring and unsafe work practices. The concerns raised were acknowledged and referred to Council's Compliance team for investigation, as they are separate matters that do not impact on or preclude the consideration of this proposal.</li> </ul>

### 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
Heritage	No objections - subject to conditions

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

The proposed development will not generate any significant issues of public interest.



## **Conclusion**

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In assessing the application against the current relevant instruments being:

- State Environmental Planning Policy No 55 - Remediation of Land;
- Sydney Regional Environmental Plan No.20 Hawkesbury-Nepean River;
- Penrith Local Environmental Plan 2010; and the
- Penrith Development Control Plan 2014; with appropriate conditions the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and will complement the existing surrounding developments.

## **Recommendation**

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That DA19/0664 for the reconstruction of a part of the boundary wall at 84-88 River Road, Emu Plains NSW 2750, be approved subject to the attached conditions.

## General

1 [A001 - Approved plans table](#)

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

Description	Plan No.	Revision	Prepared By	Date
Locality & Site Plan	Sheet No. MP072 - 100	A	Rosemarie Canales – Architect NSW Reg #7769 Penrith City Council	03.09.2019
Elevations	Sheet No. MP072 - 200	A	Rosemarie Canales – Architect NSW Reg #7769 Penrith City Council	03.09.2019
Proposed masonry wall at River Road Emu Plains for Penrith Regional Gallery – Structural Details	Drawing No. 106297-1	-	Kneebone, Beretta & Hall Pty Ltd – Consulting Structural & Civil Engineers	17.09.2019
Waste Management Plan	WMP01	A	Joshua Martin – Building Services Asset Coordinator Penrith City Council	18.09.2019

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A046 - Obtain Construction Certificate before commencement of works](#)

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

## Demolition

4 [B004 - Dust](#)

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

5 [B005 - Mud/Soil](#)

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

## Heritage/Archaeological relics

6 [C003 - Uncovering relics](#)

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

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

## Environmental Matters

## 7 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and any grass cover established**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

## 8 D014 - Plant and equipment noise

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

## BCA Issues

### 9 E001 - BCA compliance

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).

## Construction

### 10 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

## 11 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

## 12 H011 - Engineering plans & specifications

Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

## 13 H041 - Hours of work (other devt)

Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

## Landscaping

### 14 L008 - Tree Preservation Order

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

### 15 L012 - Existing landscaping (for existing development)

Existing landscaping is to be retained and maintained at all times.

## Certification

16 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

17 **Q05F - Occupation Certificate for Class10**

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the boundary wall.

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

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

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C7 Culture and Heritage

Clause 7.1.1 'Determining the Impact on Heritage Significance', subclause (a) of this Chapter states that where a proposed development could affect the heritage significance of a heritage item, the applicant is required to lodge a HIS, as required. Penrith City Council sought the advice of Council's Heritage Advisor on the 12 September 2019, prior to lodgement, regarding the subject proposal. During these discussions, the following was noted by Council's Heritage Advisor:

- The south-west boundary wall had collapsed during a recent high wind period.
- Due to the significance of the landscaping and garden area for Lewers Gallery, and the unknown significance of the boundary wall, a development application with a supporting HIS would be required for an appropriate assessment of the boundary wall's reinstatement.
- In addition, the historic significance of the brick wall, now collapsed, would need to be established through historic research and discussions with the Lewers Family.
- Once the above has been completed, appropriate options for the boundary wall reinstatement can be evaluated.

The applicant, being Council, lodged a development application on the 30 September 2019, that included a HIS along with plans highlighting the extent of boundary wall to be reconstructed. The HIS provided a detailed historical background of the Lewers site, going back to European settlers discovering the Lower Nepean River between Penrith and the Hawkesbury River in 1789. As informed by the HIS, a brief timeline is provided below with significance to the Lewers Family:

<b>Timeline:</b>	
<b>1845</b>	<i>First part lot 48-52 advertised for sale as suburban lots. Lot 48 and improvements sold to John Dargain of Bathurst. Remainder of lots sold to Charles Purcell, local residence. Lot 48 was to be part of Lewers Family Estate.</i>
<b>1847</b>	<i>Lot 48 sold from Dargain to Purcell.</i>
<b>1850</b>	<i>Purcell consolidated all of his allotments.</i>
<b>1896</b>	<i>Purcell died in 1892, shortly after the Courts permitted his trustee to sell the land.</i>
<b>1899</b>	<i>All of the Purcell land had been sold. Original Purcell land lots 141 and 142 were sold to Henry William Forbes.</i>
<b>1905</b>	<i>Lots 141 and 142 were sold to Herbert Joseph Williamson of Redfern.</i>
<b>1907</b>	<i>Land sold to Herbert Henry Gurrier Jones, value increased – assumed improvements (4 room cottage with central courtyard – this residence later to be known as Melrose).</i>
<b>1914</b>	<i>Gurrier sold land to John Flint.</i>
<b>1916</b>	<i>Flint sold land to Allan Brandson.</i>
<b>1921</b>	<i>Brandson sold land to Laurence Stanley Boggs.</i>
<b>1929</b>	<i>Boggs formalised a lease with Norman Augusts Hunter for lots 141 and 142 requiring the orchards to be maintained.</i>
<b>1933</b>	<i>Gerald Lewers and Margo Plate married.</i>
<b>1934</b>	<i>Norman Augusts Hunter lease expired.</i>
<b>1937</b>	<i>New lease established to Frank Hilton Watson which included Lot 141 and part of Lot 142.</i>

<b>1939</b>	<i>River Road was established by the Council of the Shire of Blue Mountains.</i>
<b>1942</b>	<i>Land sold to Gerald Francis Lewers.</i>
<b>1943</b>	<i>An aerial view of the property extracted from NSW Land Title Six maps was captured. There is no evidence of the subject boundary wall.</i>
<b>1942-1950</b>	<i>The property was used as a weekender cottage.</i>
<b>1950-1970</b>	<i>Lewers became the full-time residents for the property. Work began on the garden and residence, including Anchor House and service courtyard.</i>
<b>1955</b>	<i>Extension to the residence was designed by Sydney Anchor, including an extension to the living room and two bedrooms. Sydney Anchor is known as a pioneer of modern architecture in Sydney after the post war years.</i>
<b>1956</b>	<i>The land west of the residence was subdivided and sold to Luigi Muffatti. This land was further subdivided in 1971 for residential allotments.</i>
<b>1961</b>	<i>The remaining land was subdivided, and Architect Sydney Anchor was invited to design a self-contained home for Margo's mother on the property.</i>
<b>1962</b>	<i>Gerald Lewers died (1905-1962). Gerald's 1950s studio was converted into a self-contained studio for visiting artists.</i>
<b>1971</b>	<i>Lewers subdivided the remaining land into two lots (Lot B and C).</i>
<b>1978</b>	<i>Margo Lewers died (1908-1978).</i>
<b>1980-1981</b>	<i>The entrance from Anchor house garden to the service courtyard was removed. Artwork on the northern wall was removed and the area was repurposed as access for public toilet amenities.</i>
<b>1981</b>	<i>The gallery was opened by the NSW Premier, Neville Wran on 21 August 1981.</i>
<b>2009-2019</b>	<i>Evidence through aerial imagery of the boundary structures (walls) in place.</i>

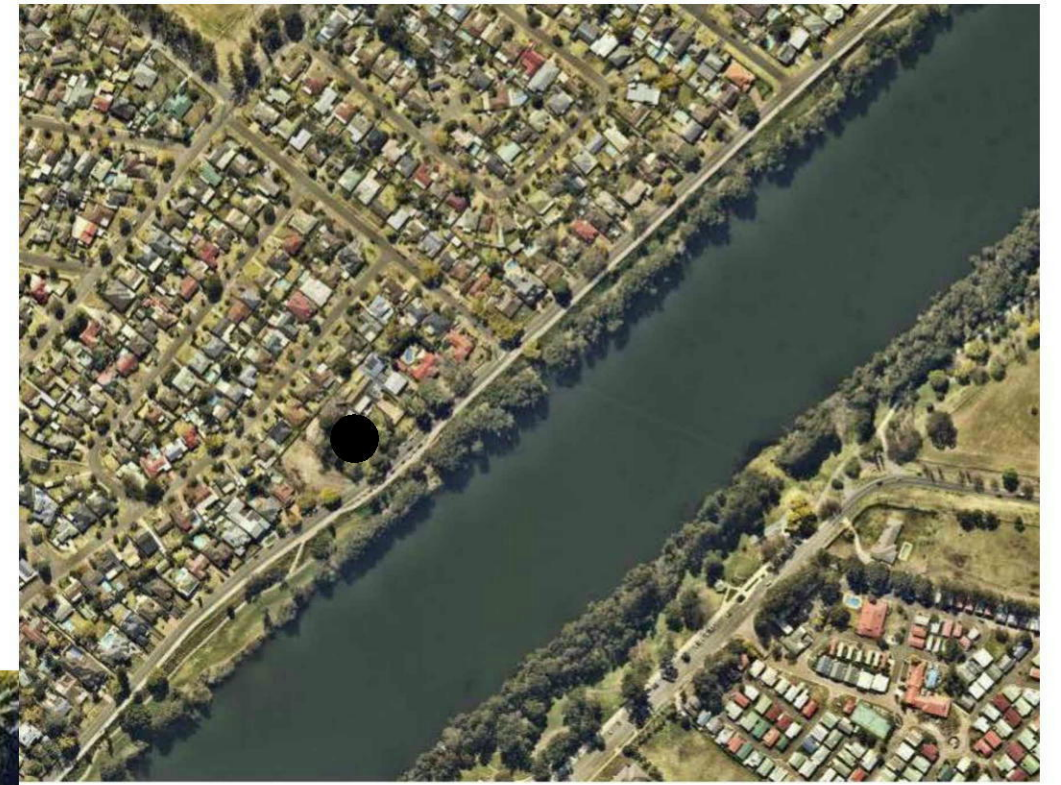
As evident in the above timeline, there is no evidence regarding the inclusion of the boundary walls in the establishment of the Lewers Gallery and its extensive historical significance for the Penrith and Emu Plains area. In addition, Council staff have recently been in discussions with the former owner's family (also known as the Lewers sisters). They provided commentary that the brick boundary walls were constructed in 1972, following Stocks and Holding purchasing the land to the west to redevelop it for housing, with the concrete block walls being built when the site was converted into a Gallery.

The HIS has been reviewed and given the timeframe of the Lewers site, along with when the boundary walls were constructed, the boundary walls have little heritage significance nor impact to the site. As such, from a heritage perspective, it is satisfactory that a boundary wall can be reconstructed to where it was originally, with the use of similar materials, colours and height.

As such, the proposal will not physically nor visually impact the heritage item, its significance or visual curtilage. The works will also positively contribute to the access and safety of the pedestrians that visit the Penrith Regional Gallery & Lewers Bequest.

**SCOPE OF WORKS**

1. REMOVE DETERIORATED FACE BRICK BOUNDARY WALL & ASSOCIATED FOOTINGS
2. CONSTRUCT NEW FOOTING & WALL TO STRUCTURAL ENGINEERS DETAILS, HEIGHT TO MATCH EXISTING CONCRETE BLOCK WALL.



**LEGEND**  
**SITE**

1 LOCATION PLAN  
NTS



EXISTING CONCRETE BLOCK BOUNDARY WALL.

EXISTING FACE BRICK BOUNDARY WALL TO BE REPLACED.

EXISTING FACE BRICK BOUNDARY WALL TO BE REPLACED.

EXISTING CONCRETE BLOCK BOUNDARY WALL.

2 SITE PLAN  
1:1000

A 16.09.19 DA SUBMISSION RMC

REV.	DATE	DESCRIPTION	BY
PHASE			
DEVELOPMENT APPLICATION			
CLIENT			
Penrith City Council 601 High Street, PENRITH NSW 2750			
ARCHITECT			
PENRITH CITY COUNCIL			
601 High Street PENRITH NSW 2750 Australia			
Postal Address		cc: (02) 4732 7777	
CPO Box 40		f: (02) 4732 7958	
Penrith NSW 2751 Australia		w: www.penrithcity	
Drawn by:		Rosemarie Canales Architect NSW Reg #7769	
PROJECT			
PENRITH REGIONAL GALLEY & LEWERS BEQUEST BOUNDARY WALL			
TITLE			
LOCALITY & SITE PLAN			
SCALE: (A3)	DRAWN: RMC	PROJECT CODE:	
DATE: 03.09.2019		ASSET #:	
SHEET NO.		REV: A	
MP072 - 100			
INTERNAL APPROVALS			
ASSET:			

PHASE  
DEVELOPMENT APPLICATION

CLIENT  
Penrith City Council  
601 High Street,  
PENRITH NSW 2750

ARCHITECT  
PENRITH CITY COUNCIL  
601 High Street  
PENRITH NSW 2750 Australia

Postal Address  
CPO Box 40  
Penrith NSW 2751 Australia

Drawn by:  
Rosemarie Canales  
Architect NSW Reg #7769

PROJECT  
PENRITH REGIONAL GALLEY  
& LEWERS BEQUEST  
BOUNDARY WALL

TITLE  
LOCALITY & SITE PLAN

SCALE: (A3) DRAWN: RMC PROJECT CODE:

DATE: 03.09.2019 ASSET #:

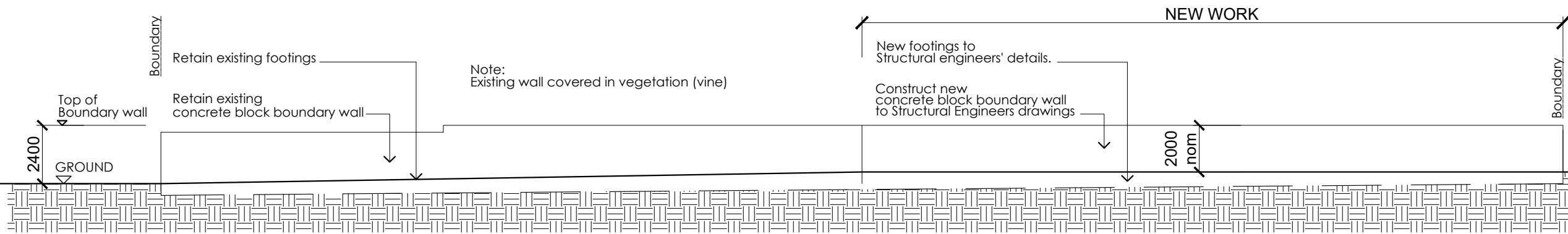
SHEET NO.  
MP072 - 100 REV: A

INTERNAL APPROVALS

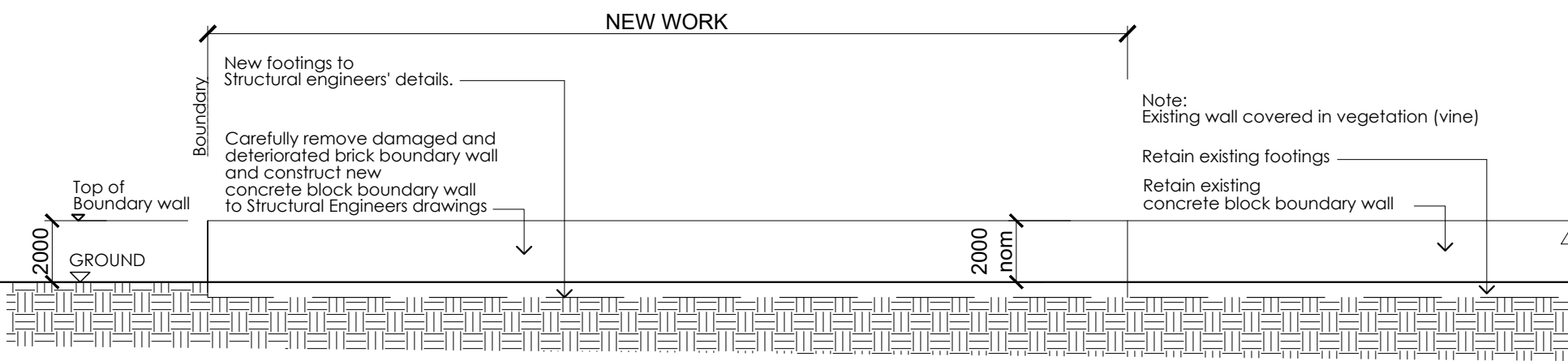
ASSET:







1 ELEVATION- South Boundary  
1:200



2 ELEVATION- East Boundary  
1:200

A 16.10.19 DA SUBMISSION RMC

REV.	DATE	DESCRIPTION	BY
PHASE			
DEVELOPMENT APPLICATION			

CLIENT  
Penrith City Council  
601 High Street,  
PENRITH NSW 2750

PENRITH CITY COUNCIL  
DESIGN & PROJECTS  
601 High Street  
PENRITH NSW 2750 Australia  
Postal Address: GPO Box 60 Penrith NSW 2751 Australia  
p: (02) 4732 7777  
f: (02) 4732 7958  
w: www.penrith.city  
Drawn by: Rosemarie Canales  
Architect NSW Reg #7769

PROJECT  
PENRITH REGIONAL GALLEY  
& LEWERS BEQUEST  
BOUNDARY WALL

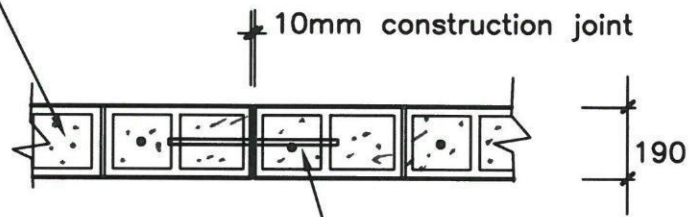
TITLE  
ELEVATIONS

SCALE: (A3)	DRAWN: RMC	PROJECT CODE:
DATE: 03. 09. 2019	ASSET #:	

SHEET NO.  
MP072 - 200 REV | A

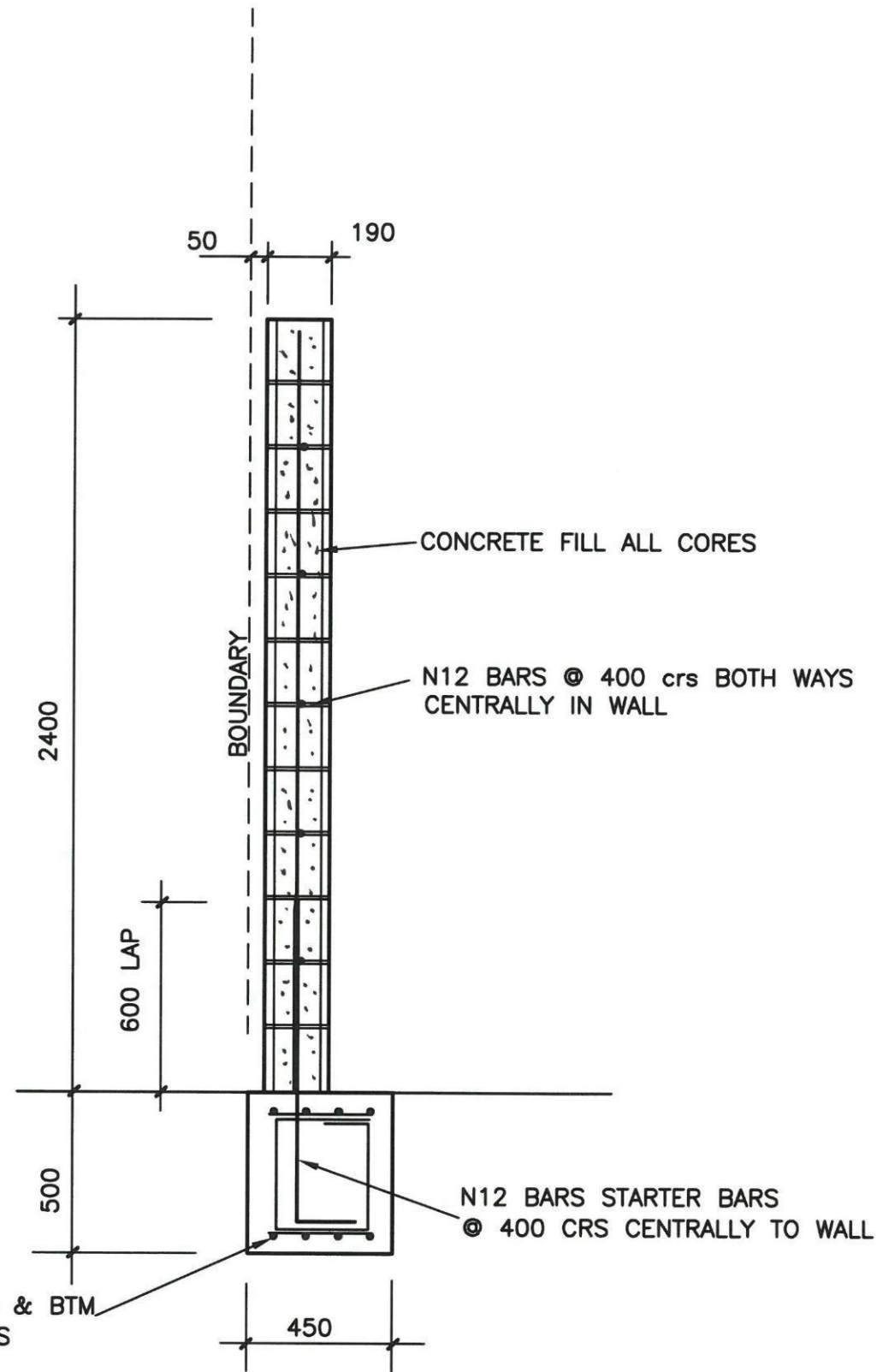
INTERNAL APPROVALS  
ASSET:

CONCRETE FILL ALL CORES



Galv R12 x 450 long dowels @ 400 crs

**DETAIL CONSTRUCTION JOINT**  
SPACE @ 8.0m MAX CRS ALONG WALL



L11 TRENCH MESH TOP & BTM  
LAPPED 450 AT SPLICES  
R6 TIES @ 1000 crs  
65mm COVER

**WALL AND FOOTING DETAIL**

CONCRETE STRENGTH - 25 MPa AT 28 DAYS

**KNEEBONE, BERETTA & HALL** PTY LTD  
CONSULTING STRUCTURAL & CIVIL ENGINEERS  
4 MACQUARIE AVENUE, PENRITH NSW 2750  
PHONE: (02) 4731 3833  
WEBSITE: kbgconsulting.com  
E-MAIL: kbhallengineers@gmail.com

A.C.N 002 419 767  
A.B.N 36 822 442 203

Directors:  
Trevor B HALL BSc (Eng), FIE Aust, CP Eng, NER, RPEQ 5081  
Peter R ANDRESEN BE, MIE Aust, CP Eng, NER



SCALE 1:100,1:20 @ A3 sheet  
DATE 17.9.19  
DRAWN TBH  
DESIGNED TBH  
APPROVED *[Signature]*

**COVERIT BUIDING GROUP**  
**PROPOSED MASONRY WALL AT**  
**RIVER ROAD EMU PLAINS**  
**FOR PENRITH REGIONAL GALLERY**

**STRUCTURAL DETAILS**

DRAWING NUMBER

**106297-1**

ISSUE



**STATEMENT  
OF  
ENVIRONMENTAL EFFECTS**

**for**

**Construction of  
Part Boundary Fence  
at  
84-88 River Road, Emu Plains**

**Prepared by  
Design and Projects  
Penrith City Council**

**Note: Statement of Heritage Impact contained within**

<b>Revision</b>	<b>Date</b>	<b>Approved by</b>
B	23.09.2019	RMC



## INTRODUCTION

This Statement of Environmental Effects has been prepared to accompany a Development Application for construction of part Boundary Fence at 84-88 River Road, Emu Plains also known as the Penrith Regional Gallery & Lewers Bequest.

The site is identified as a heritage item listed within Penrith Local Environment Plan 2010.

## LIMITATIONS

The site was inspected in August 2018

This report was prepared in September 2019.

## SITE

The subject site is identified as Lot 34 DP1114973, with a street address of 84-88 River Road, Emu Plains, Parish of Strathdon, County of Cook.



Aerial of 84-88 River Road , illustrating edge of boundary defined by solid structure.  
Extract: NSW Land Titles Six maps 23.9.2019

The site is rectangular in shape with an area of 6437sqm. The property is contained to the south 93 River Road, to the west by 10, 12,14,16 Beach Street, to the north by 83 River Road and east by River Road.

The site contains a number of buildings forming the gallery with on-site parking in the south west corner of the site.

The subject boundary wall is located in the south west corner of the site.

## Buildings

Penrith Regional Art Gallery is a contained by of group of single storey structures spanning over a number of periods, linked nested within a garden setting.

The Lewers House:

The Lewers house, the earliest structure on the site is a relatively intact Edwardian farm house, with a former kitchen/service wing to the north and stone outhouse, modified whilst retaining the original features.

Regional Gallery

The Regional Gallery was constructed in 1980 and designed by David Tuner of Public Works NSW. The structure was designed as a single storey element with large flexible exhibition spaces. The building is linked to the other existing structures on the site with covered walkway.



Penrith Regional Gallery  
Regional Gallery covered area  
Source: [www.ptw.com](http://www.ptw.com),  
Date: unknown



Penrith Regional Gallery  
Lewers House  
Source: [www.ptw.com](http://www.ptw.com),  
Date: unknown

## Carpark

The carpark and its location was part of the original Lewers Home following the opening of River Road.



Carpark  
South east view – Succulents on western face of common wall with Lewers Courtyard.



Carpark  
North view – Gallery carpark entrance



Carpark:  
North west view – Carpark with Accessible park in background.



Carpark:  
View of carpark from Gallery.

### Boundary Wall

The subject site is bound by a masonry wall to all three boundaries, predominately concrete block with a section in the south west corner constructed of face brick. The brick section extends from the south west corner for 30m along the south boundary common with 93 River Road and 30m from the corner west corner common to 16 Beach Street.

A recent weather event has caused the brick sections to structurally fail, which has now been cleared and made safe.



Photograph:  
South west corner of boundary  
Western section - Collapse face brick  
boundary wall



Photograph  
Southern west corner of boundary  
Southern section of collapsed wall removed,  
western section supported – vegetation  
covering wall.



Photograph:  
South west corner of boundary  
Southern section – concrete block remaining



Photograph:  
South west corner of boundary  
Western section – concrete block remaining

### **PROPOSED WORK**

The proposal works aims to reinstate the damaged section of boundary fence in concrete block, maintaining a consist material and aesthetic look with the existing sound sections of boundary fence.

The works will include:

- Construction of 2000mm (nom) high concrete block wall (height to match existing) – to structural Engineers detail.



**STATUTORY CONTEXT**

Penrith Regional Art Gallery is identified as a heritage item is located within the Penrith City Local Government Area, due to its sitting and listing the following planning policies and controls apply:

**PENRITH LOCAL ENVIRONMENT PLAN 2010**

The proposed work has been reviewed against the Penrith Local Environment Plan 2010 for compliance.

<b>COMPLIANCE TABLE</b>			
Penrith Local Environment Plan 2010			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>COMMENT</b>	<b>COMPLIANCE Y/N</b>
<b>Part 1</b>	<b>Preliminary</b>	Na	Na
<b>Part 2</b>	<b>Permitted or Prohibited developments</b>	Na	Na
2.1	Land use zone R2 Low Density Residential	No change to existing	Y No change to existing
Land Use Table	<p><b>1. Objectives</b>                      To provide for the housing needs of the community within a low density residential environment.</p> <ul style="list-style-type: none"> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.</li> <li>• To enhance the essential character and identity of established residential areas.</li> <li>• To ensure a high level of residential amenity is achieved and maintained.</li> </ul>	No change to existing	Y No change to existing
	<b>2. Permitted without consent</b> Home occupation	Na No change to existing	Na

	2. Permitted with consent Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Emergency services facilities; Environmental protection works; Exhibition homes; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Information and education facilities; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings; Shop top housing; Tank-based aquaculture	Na No change to existing	Na No change to existing
	4 Prohibited	Na	Na
Part 3	Exemption and Complying development	Na The proposed works are minor however due to the type of construction (masonry wall), height (greater than 1200mm high) and that the site is identified as a heritage item a Development Application will be required.	Na
Part 4	Principle development standards	Na	Na
Part 5	Miscellaneous Provisions		
	5.10 Heritage	The site is identified as a heritage item within Penrith LEP Schedule 5 heritage items.	Y A Statement of Heritage Impact is included as part of the Development Application.
	(1) Objectives	Objectives will be maintained Reinstate masonry wall to contain site.	Y
	(2) requirements for Consent	Consent is required  Existing fabric to be demolished = face brick	Y

		wall Construction of new and change of material = concrete block wall.	
	(3) When consent not required	Discussion with Penrith Council Heritage Advisor recommended that consent would be required	Y Development application to be submitted
	(4) Effect of proposed development on heritage significance.	Discussion with Penrith Council Heritage Advisor has taken place	Y The former owner, Lewers sisters have advised that the brick wall was constructed in 1972 following Stocks and Holding purchasing the land to the west to redevelop the land for housing. The concrete block walls were built when the site was converted into a Gallery. .
	(5) Heritage assessment	A Statement of Heritage impact is being prepared and will be incorporated within the Statement of Environmental Impact.	Y
	(6) Heritage conservation management plans	The site has a CMP, an updated CMP is currently being prepared	Na
	(7) Archaeological sites	Site not identified as an Archaeological site.	Na
	(8) Aboriginal places of heritage significance	Site not identified as an Aboriginal Place	Na
	(9) Demolition of nominated State heritage items	Na Item is not a state heritage item.	Na
	(10) Conservation incentives	Na No incentives requested or offered.	Na
Part 6	Urban Release Areas	Na	Na
Part 7	Additional Local Provisions		
Part 8	Local Provisions - Penrith City centre	Na	Na
Part 9	Penrith Panthers Site	Na	Na

## PENRITH DEVELOPMENT CONTROL PLAN 2014

The Penrith Development Control Plan 2014 was adopted by Council on 23 March 2015  
The proposed work has been reviewed against the Penrith Development Control Plan 2014 for compliance.



<b>COMPLIANCE TABLE PENRITH DEVELOPMENT CONTROL PLAN 2014</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>COMMENT</b>	<b>COMPLIANCE Y/N</b>
Part A	Introduction	Na	Na
Part B	Development Control Principles	Na	Na
Part C	City Wide Controls		
C1	Site planning and Design Principles	Replace existing boundary wall	Y
C2	Vegetation management	Existing vegetation removed from face brick wall, to be reinstated once wall reinstated.	Y
C3	Water management	Na	Na
C4	Land Management	The works will require soil erosion measures which will be incorporated into the works. Erosion sediment control plan included in DA submission.	Y
C5	Waste Management	During the works, construction waste will be separated and collected in a skip bin.	Y
C6	Landscape design	Existing vegetation removed from face brick wall, to be reinstated once wall reinstated.	Y
C7	Culture and Heritage	The subject site is a heritage item A Statement of Heritage Impact included within the Statement of Environmental Impact	Na
C8	Public Domain	Reinstating the boundary fence will create a safe environmental for the carpark uses and the neighbouring residence	Y
C9	Signage and Advertising	Na	Na
C10	Transport, Access and Parking	Once the boundary wall is reinstated the on site parking will be reopened.	Y
C11	Subdivision	Na	Na
C12	Noise and Vibration	Minor noise during construction only	Y
C13	Infrastructure services	Na	Na
D	Land use		
D1	Rural	Na	Na
D2	Residential	Na	Na
D3	Commercial and retail development	Existing commercial site in operation, Penrith Regional Gallery and Lewers bequest.	Na
D4	Industrial	Na	Na
D5	Other Land uses		
E	Key Precincts	Na	Na
F	Other Relevant Information	Na	Na

## HISTORICAL DOCUMENTARY

Penrith Regional Art Gallery is also known as Penrith Regional Gallery & Lewers Bequest. A number of documents have been prepared including *Penrith Regional Gallery & Lewers Bequest Conservation Management Plan prepared by Tanner & Associates Pty Ltd Issue B/ May 1998*, and Penrith Regional Gallery & Lewers Bequest Landscape Conservation Management Plan, 2004, Volume 1 & Volume 2.

The following provides a timeline of specific dates that assist to define the heritage significance of the site, although little evidence of the subject brick wall.

<b>Timeline:</b>	
1789	European settlers discovered Lower Nepean River between Penrith and Hawkesbury River.
1803	Official land grants began to be issued along the eastern Nepean River bank for farming, while the western bank remain free for cattle.
1788	Major Johnson granted 2000 acres to his son, land to be known later as Emu Plains. Grant rejected by Governor Macquarie.
1813	Blue Mountain crossing
1814	Government stockyard established at Emu Plains
1819	Government Agricultural established with Superintendent and 25-30 accommodation huts.
1826	Village well established within stockyard
1830	Government Agricultural establishment closed
1832	Emu Plains area subdivided and advertised for sale of small allotments, except original Government stockyard which was used for Police purposes.
1845	Government stockyard and land along Nepean River sold into two parts.
1845	First part lot 48-52 advertised for sale as suburban lots, Lot 48 and improvements sold to John Dargin of Bathurst, remainder of lots sold to Charles Purcell, local residence. Lot 48 was to be part of Lewers Family estate.
1847	Lot 48 sold from Dargin to Purcell.
1850	Purcell consolidated all his allotments
1896	Purcell died in 1892, shortly after the Courts permitted his trustee to sell the land.
1899	All of the Purcell land had been sold.
1899	Original Purcell land Lot 141 and Lot 142, where sold to Henry William Forbes.
1905	Lot 141 and Lot 142 where sold to Herbert Joseph Williamson of Redfern.
1907	Land sold, to Herbert Henry Gurrier Jones, value increased – assumed improvements (4 room cottage with central courtyard – residence later to be known as Melrose)
1914	Gurrier sold land to John Flint
1916	Flint sold land to Allan Bransdon
1921	Brandson sold land to Laurence Stanley Boggs
1929	Boggs formalised a lease with Norman Augusts Hunter for lot 141 and lot 142 requiring the orchards to be maintained
1933	Gerald Lewers and Margo Plate married
1934	Norman Augusts Hunter lease expired
1937	New lease established to Frank Hilton Watson which included Lot 141 and part Lot 142.
1939	River Road – established by the Council of the Shire of Blue Mountains
1942	Land sold to Gerald Francis Lewers
1943	Aerial view of property extracted from NSW Land Title Six maps, below. No evidence of subject boundary wall.

		
<p>1942 1950</p>	<p>Property used as weekender</p>	
<p>1950- 1970</p>	<p>Lewers became fulltime residence – work began on the garden and residence, including Anchor House service courtyard.</p>	
<p>1955</p>	<p>Extension to residence designed by Sydney Anchor, extension to living room and two bedrooms. Sydney Anchor known as a pioneer of modern architecture in Sydney immediately after post war years.</p>	
<p>1956</p>	<p>Land subdivided (west of residence) and sold to Luigi Muffatti, this land was further subdivided in 1971 for residential allotments</p>	
<p>1961</p>	<p>Remaining land subdivided and Architect Sydney Anchor was invited to design self contained home for Margo's mother on the land.</p>	
<p>1962</p>	<p>Gerald Lewers died (1905-1962)</p>	
	<p>Gerald's 1950's studio converted into self contained studio for visiting artist.</p>	
<p>1971</p>	<p>Lewers subdivided remaining land into two lots, (Lot B and Lot C)</p>	
<p>1978</p>	<p>Margo Lewers (nee Plate) died (1908-1978)</p>	
<p>1980- 1981</p>	<p>Entrance from Ancher house garden to service courtyard removed. Artwork on northern wall removed and area used as access for public toilet amenities</p>	
<p>1981</p>	<p>Gallery opened by Premier of New South Wales, Neville Wran, 21 August 1981.</p>	
<p>2019</p>	<p>Aerial view of property extracted from Nearmap , below. Evidence of boundary structure.</p>	
		

## **ANALYSIS OF EVIDENCE AND SIGNIFICANCE**

The New South Wales heritage assessment criteria encompass the four values established by the Australian ICOMOS Burra Charter and were gazetted following amendments to the Heritage Act which came into force in April 1999. These values Heritage, Social, Scientific and Social are expressed in more detailed form (a, b, c, d, e, f, and g) in the current State Heritage Inventory methodology for assessment of significance. These criteria are similar to the criteria used by the Australian Heritage Council and are broadly in line with the standard criteria adopted by other agencies.

The following has been extracted from the Penrith City Council Heritage Inventory SHI number 2260069 appended:

### **Criterion A - Evolutional significance.**

*The place is of historical significance at a regional level as the former home and workshop of Gerald and Margot Lewers, important artist of the mid twentieth century*

### **Criterion B - Associational Significance**

*The buildings are associated with Gerald and Margot Lewers, artist of note in the history of the State.*

### **Criterion C - Aesthetic and Technical**

*The place is of aesthetic significance at a State level as the buildings and gardens areas provide a carefully designed setting for the display of artworks by Gerald and Margot Lewers. The works themselves, their immediate surroundings and wider site context display a high degree of creative accomplishment and are considered rare.*

### **Criterion D - Social Significance**

*The place is of social significance at a regional level because its function as a regional Art Gallery.*

### **Criterion E - Archaeological / Research**

*n/a*

### **Criterion F - Comparative Cultural History**

*The cottage is a rare at a local level given its integrity, age and riverside setting. The gallery is rare at a State level for the quality of the grounds and buildings housing the collection and use as a regional art gallery.*

### **Criterion G - Comparative Place.**

*The complex is one of a number of structures in Emu Plains erected over the nineteenth century and early part of the twentieth century which collectively demonstrated the pattern of a village settlement at this important location at the foothills of the Blue Mountains. Collectively these structures imbue the area with high historic and aesthetic value.*

### **Conservation Management Plan Penrith Regional Gallery & Lewers Bequest**

The property has a Conservation Management Plan for the site. The report was prepared in 1998 by Tanner & Associates. This report assesses the site, building and its fabric. An updated Conservation Management Plan has been commissioned, however its findings were not available in the preparation of this statement.

***A Landscape Conservation Management Plan Penrith Regional Gallery & Lewers Bequest***

The property has a Landscape Conservation Management Plan Vol 1 & Vol 2 for the site. The report was prepared in 2004 by Michael Lehany & Meredith Walker in association with Gina Plate. This report assesses the site, the land, and the plantings. An updated Landscape Conservation Management Plan has been commissioned, however its findings were not available in the preparation of this statement.

Neither of the Conservation Management Plans noted above identify the significance of the boundary wall nor the brick portion. The reports does however reference the carpark area (moderate- significance) which is contained by the boundary walls. The significance of the carpark is based on its relationship with the setting and its used by the Lewers as main entry for the Lewers and the Gallery.

The boundary wall as such reinforces the significance of the carpark. The significance of the brick section as a material is not known however the containment of the site is established and reinforced with the continuation of a boundary and its alignment.

The reconstruction of the brick section into concrete block will not alter the significance of the carpark, nor the setting or the relationship with Gallery of the site but will reinforce the importance of the site boundary and setting within.



## **STATEMENT OF SIGNIFICANCE**

This Statement of Significance has been extracted from Penrith City Council Heritage Inventory.

*The place is of historic significance at a regional level and workshop of Gerald and Margot Lewers, important artist of the mid twentieth century period in Australia.*

*The place is of aesthetic significance at a State level as the buildings and garden areas provide a carefully designed setting for the display of artwork by Gerald and Margot Lewers. The work themselves, their immediate surroundings and wider site context display a higher degree of creative accomplishment and are considered rare.*

*The place is of social significance at a regional level because its function as a regional Art Gallery provides an important and valued resource for the community.*

The carpark area has moderate-low significance. The construction of the damaged section of wall as a concrete block wall will not alter the significance of the carpark nor the site.

## **ASSESSMENT OF IMPACT AND MEASURES TO MITIGATE IMPACT**

### **Setting – Carpark**

The existing carpark will be retained. The construction of the new concrete block wall to the boundary will not alter the setting or function of the carpark.

The proposed work will have a no impact on the setting or how it interacts with its surroundings.

### **Boundary**

The existing boundary was predominately a concrete block wall with the south west corner in face brick. The reconstruction of the face brick boundary fence in concrete block to match the remainder of the boundary fence will have no impact to the boundary between the neighbouring properties.

### **Streetscape and Design**

The proposed works are set back and cannot be seen from the street.

The proposed works will be built to match the remaining sound concrete block boundary wall.

The works will not impact the streetscape, while the design of the new works will match the existing sound section of the concrete block boundary wall.

### **Privacy, Views and Overshadowing**

The proposed works will be located in the south western corner of the subject property. The new works will provide privacy to and from 86 River Road to the residential neighbours at 93 River Road and 16 Beach Street.

Reinstating the wall will reinstate the level of privacy, views and existing shadow to from the neighbours.

### **Social and Economic Effects**

The proposed works will provide a safe environment to the neighbours and the visitors to the site.

### **Flora and Fauna**

The boundary fence is covered in vegetation. The construction of the new boundary wall and the regrowth of the vegetation will reinstate the visual character of the boundary as viewed from the heritage item.

The proposed works will have no visual impact on the heritage item or its significance.

### **RECOMMENDATIONS**

The following recommendations should be considered:

- Construct a concrete block wall, height to match existing
- Allow vegetation to re- establish

### **CONCLUSION**

In my opinion the proposed work – construction of part of boundary wall in concrete block will not physically nor visually impact the heritage item its significance or its visual curtilage.

The works will positively impact the access and safety of the pedestrians using the Penrith Regional gallery & Lewers Bequest



Rosemarie Canales  
Penrith City Architectural Supervisor  
Architect Registered NSW #7769