

<b>JRPP No:</b>	2010SYE077
<b>DA No:</b>	309/2010
<b>PROPOSED DEVELOPMENT:</b>	Subdivision of land into 3 lots, construction of a radiation oncology facility and use of existing building for health services facility
<b>APPLICANT:</b>	I.S. Properties
<b>REPORT BY:</b>	Rita Vella, Coordinator Strategic Planning, Kogarah Council

## Assessment Report and Recommendation

### Deferred Commencement

- (1) Pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, this consent will not operate until such time as the following requirements of Council are fulfilled. These requirements are:
  - (i) Plans and supporting documentation are to be submitted to show that cars can enter and leave the site without a conflict occurring on the two way movement. The turns are to be designed in accordance with AS/NZS 2890.1:2004 - Off Street Car Parking, Section B3.1 for a B85 vehicle.
  - (ii) Details are to be submitted for the approval of Council with respect to the removal and relocation of the *Pinus sp* and the associated ANZAC plaque situated on the site.

This Development Consent does not become operative until the above requirements have been satisfactorily addressed but is legally effective.

### Prior to the Issue of a Construction Certificate

- (2) The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:
  - (i) Architectural plans prepared by Thomson Adsett, DA201, Revision D, DA202, Revision C, Project # 09176.05, dated July 2010, DA203 - 204, Revision A, Project # 09176, DA400, Revision A and DA600, Revision A, Project # 09176.
  - (ii) Subdivision plans prepared John Nelson Peterson, dated August 2010 Ref C237-003b
  - (iii) Landscape plans prepared by Thomson Adsett, DA 205, Revision A, Project # 09176 dated July 2010.
  - (iv) Stormwater plans prepared by LHO Group Pty Ltd, Drawing # C00 – C05, Issue B, dated August 2010.
- (3) Payment of the following amounts as detailed below:

- Damage Deposit of \$4,500.00
- Asset Inspection Fee of \$ 113.30

(4) Section 94 Contributions are to be paid as detailed below in the following condition, and until paid all contributions will be indexed four (4) times a year (on the following dates) to allow for the cost increases: 31 January, 30 April, 31 July and 31 October.

(5). As at the date of Development Consent the following contributions have been levied on the subject development under Section 94 of the Environmental Planning and Assessment Act, 1979 and the nominated Section 94 Contributions Plans:

No.8 – Streetscape, Open Space, Public Domain	\$140,017.98
No.8 - Traffic Facilities	\$170,113.56

TOTAL	\$310,131.54
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Any of the above Section 94 Contributions Plans may be inspected at the Kogarah Council Customer Service Centre, 84 Railway Parade, Kogarah.

(6) The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

(7) A Stormwater Detailed Plan and supporting information of the proposed on-site stormwater management system including any measures to control quality and quantity of the stormwater runoff discharged from the site are to be submitted with the Construction Certificate application. The required details in this Plan and the relevant checklist are presented in Council's Water Management Policy.

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Stormwater Concept Plan for the proposed development. Any variation to the approved concept design is required to be justified and supported by appropriate details, calculations and information to allow proper assessment of the revised concept design.

(8) The detailed stormwater plan is to be certified by a Chartered Professional Engineer. A statement, that the stormwater system has been designed in accordance with Council's Water Management Policy and satisfies the provisions and objectives of that policy, must be included in the Stormwater Detailed Plan.

(9) A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted with the Construction Certificate application. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

(10) Details of the proposed method of stormwater discharge from the property shall be prepared by a suitably qualified hydraulic engineer in accordance with Council's Water Management Policy, and submitted to and approved by the Council or an accredited certifier prior to the release of the Construction Certificate.

(11) A 63m<sup>3</sup> detention/retention storage with a maximum site discharge of 35L/sec for flood control/water quality control is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

- (12) A Drainage Easement 2.4 metres wide in favour of Lot 2, DP 402831, Lots 1 & 2 , DP 782399 and Lot 1, DP 256347 shall be obtained and registered at the Land Titles Office prior to the issue of the Construction Certificate over the downstream lot traversed by the gravity drainage line connecting to the kerb on the Princes Highway. The cost of creating and registering the easement will be borne by the applicant.
- (13) The applicant will be required to submit all detailed Stormwater Plans and any Hydraulic Calculations to the RTA for approval prior to the release of a Construction Certificate.
- (14) An BCA report and statement certifying that the Construction Certificate plans and details comply with the relevant provisions of the BCA, and specifically that verifies egress and access to the proposed building to enable it to provide safe movement to and from the building pursuant to the performance requirements of the BCA is to be submitted Council for approval prior to the release of the Construction Certificate.
- (15) A copy of Energy Australia's written requirements are to be forwarded to Council with regard to the laying of underground low voltage electricity conduits within the footpath area across the development site. Energy Australia will supply the conduits at no charge, subject to the applicant restoring the footpath after the installation. These provisions are to be put into affect prior to the release of the Occupation Certificate.
- (16) The applicant is to confer with Energy Australia to determine if an electricity distribution substation is required. If so, it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be dedicated to Council as public roadway, or as otherwise agreed with Energy Australia. Energy Australia's requirements are to be met prior to release of the occupation certificate.

## Site Specific Conditions

- (17) Compliance with all applicable requirements of Council's Standard Development Conditions.
- (18) The following lists of inspections are the **MANDATORY CRITICAL STAGE INSPECTIONS** that **MUST** be carried out by the Principal Certifying Authority (PCA).
  - (a) at the commencement of building works
  - (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
  - (c) prior to covering any stormwater drainage connections, and
  - (g) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are **NOT** acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- ☐ Erosion Control

- ☐ Earthworks/Excavation
  - ☐ Building setout
  - ☐ Concrete reinforcement
  - ☐ Timber and/or steel framework
  - ☐ Mechanical/Hydraulic work
  - ☐ Driveways
  - ☐ Landscaping
  - ☐ External Finishes
- (19) The overall height of the building shall not exceed RL 30.76 above AHD. This is to be verified as achievable by means of a certificate from a Registered Surveyor at ground floor level and at roof frame before the roof covering is installed.
- (20) The building finishes are to be constructed in accordance with the materials and finishes indicated on the plans prepared by Thomson Adsett, DA300, Revision A, dated July 2010.
- (21) Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 9400.
- (22) All nominated contractors / applicants carrying out driveway and/or restoration works on Council property must carry public liability insurance with a minimum cover of twenty million dollars (\$20,000,000.00). In this regard, prior to commencement of works, the principal contractor is to lodge an "Application for the Construction of Work by Private Contractor" to Council, which includes submitting evidence of their current insurance. The principal contractor must ensure that sub-contractors are also adequately insured.
- (23) A minimum of fifty four (54) off street car parking spaces shall be constructed, drained, marked and maintained at all times in accordance with the approved plans. Of these, a minimum of 19 spaces of the total number of car parking spaces are to be designated as staff car parking spaces and marked or signposted accordingly.
- (24) A Restriction on Use of the land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owner of the land. The terms of the instrument are to be generally in accordance with the Council's standard terms and conditions for Restriction on Use of the land and Positive Covenant shown in Council's Water Management Policy.
- (25) A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate. Copy of the standard Stormwater Compliance Certificate is shown in Council's Water Management Policy.
- If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee. Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
  - Prior to backfilling of drainage connection to pipeline or channels.
  - Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.
- (26) Consideration shall be given to the recommendations made by NSW Police in their letter dated 15 October 2010 with regard to Crime Prevention through Environmental Design.

## General Conditions

- (27) Certain items of equipment or forms of construction shall be nominated as “fire safety measures” within the building.

Upon completion of works, and before occupation of the building, each of the fire safety measures is required to be certified by an appropriately competent person (chosen by the owner of the building). The certificate is to state that the measure was inspected and found to be designed, installed and capable of operating to a standard not less than that required by the relevant regulations.

Further, it is the responsibility of the owner of the building that each fire safety measure is again inspected and certified as to its condition every twelve (12) months following the submission to Council of the original certification.

- (28) Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS 1576 in respect of the design of scaffolding and AS/NZS1576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).
- (29) Engineer's details prepared by a practicing Structural Engineer being used to construct all reinforced concrete work. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.
- (30) The detailed Stormwater Plan must indicate how the Stormwater Quality Objectives will be achieved on the site prior to discharge. Stormwater discharging from the site must reach the following performance criteria as a minimum:
- Total Suspended Solids (TSS) yearly average concentration in runoff from developed sites shall not exceed 34 mg/L
  - Total Nitrogen (TN) yearly average concentration in runoff from developed sites shall not exceed 2 mg/L
  - Total Phosphorus (TP) yearly average concentration in runoff from developed sites shall not exceed 200ug/L
  - 90% of gross pollutant loads (litter and heavy sediments), oil and grease are retained on site.

All treatment devices must be located downstream of all car parking areas and other highly trafficked surfaces.

- (31) The premises shall be designed, licensed and operated in accordance with the requirements of the Radiation Control Act 1990 and Radiation Control Regulation 2003.
- (32) Prior to the issuing of an occupation certificate for the development, certification shall be submitted to Council verifying that the development complies with the requirements of the Radiation Control Act 1990, International Commission on Radiation Protection Publication 60 recommendations, ARPANSA Radiation Protection Series 1 National Standards, NSW DECC Radiation Guideline 7 and any other relevant guidelines.
- (33) The disposal, discharge and transportation of radioactive substances and radiation apparatus shall be undertaken in accordance with the requirements of the Radiation Control Act 1990 and Radiation Control Regulation 2003.
- (34) Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse affects on the amenity of the area.
- (35) The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.  
  
In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background ( $L_{A90}$ ), 15min noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as an  $L_{Aeq}$ , 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).
- (36) There shall be no emissions or any other forms of pollutants from the premises, which will give rise to an offence under the Protection of the Environment Operations Act 1997 and Regulations.
- (37) The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Department of Environment, Climate Change and Water's Technical Guideline for Assessing Vibration.
- (38) Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).
- (39) Any stormwater connections to the kerb and gutter are to be in accordance with Council's *'Specification for Construction by Private Contractors'*.
- (40) The turning area on the ground floor within the carpark shall have a sign installed, "DO NOT PARK IN TURNING AREA".

- (41) The car parking spaces and pedestrian crossings shall be linemarked in accordance with the requirements of AS/NZS 2890.1:2004 Part 1 "Off Street Car Parking"
- (42) The car parking spaces for visitors, staff and deliveries shall be marked in accordance with the plans submitted by ThomsonAdsett, Revision C, dated July 2010.
- (43) Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Council's guidelines and any approved Soil & Water Management Plan and shall incorporate:
- Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
  - Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.
- (44) Car parking spaces, manoeuvring areas and access aisles shall be provided, paved, drained and suitably marked strictly in accordance with the approved plan.
- (45) The areas designated as parking areas, loading/unloading areas, and the access to such areas are not to be used at any time for the purposes of storage, or for other commercial uses, or leased to any person, company or organisation not directly associated with the subject site.
- (46) A directional sign shall be provided at the front of the site indicating the availability of visitor and/or customer parking on site. Those visitor and/or customer spaces shall be marked or signposted.
- (47) Loading and unloading operations shall be confined within the property and within any defined loading areas indicated on the approved plans.
- (48) All Landscaping and/or Tree Preservation work is to be in accordance with Council's Landscaping & Tree Preservation guidelines.
- (49) The proposed garbage room being provided with the following:-
- a) A smooth concrete floor graded and drained to a floor waste connected to the sewer of the Water Board.
  - b) The walls being cement rendered with the intersection of the walls and floor being coved to a radius of not less than 25mm.
  - c) The door being close fitting to prevent the access of rats and mice.
  - d) A cold water hose cock being provided for the cleaning of containers and the room itself.
  - e) Ventilation being provided by means of direct connection to the outside air to the satisfaction of Council.

- f) A sign, minimum size 600mm x 600mm, directing staff not to place recyclables in garbage carts and encouraging residents to recycle. Details of an acceptable wording for the sign are available from Council.
- (50) All medical waste is collected by an accredited waste provider in a locked medical waste bin.
- (51) Any radioactive waste is appropriately disposed of in accordance with the requirements of Radiation Control Act 1990, the Protection of the Operations Act 1997 and the Radiation Control Regulation 2003
- (52) All environmentally hazardous waste shall be contained, conveyed, used or disposed of only in accordance with the requirements of the E.P.A. the Environmentally Hazardous Chemicals Act 1985, Work Cover Authority, as declared by the E.P.A. Regulation.
- (53) A Section 73 Compliance Certificate under the Sydney Water Act, 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development/release of the plan of subdivision.

- (54) A Subdivision Certificate shall be obtained in accordance with the EPA Act 1979.
- (55) Prior to release of the final survey plan signed by the General Manager, a Registered Surveyor shall certify that all services (eg. interallotment drainage, water, gas, electricity, Telecom) are underground and contained separately within each proposed new lot or alternatively within easements created to accommodate those services.
- (56) The following easements, rights of carriageway and Restrictions as to Title, over the proposed lots shall be submitted to Council with the linen plan or subdivision. Such an instrument shall name Kogarah Municipal Council as the only authority empowered to release, vary or modify the terms within that document. These are:-
  - (a) Rights of way being created as shown on the draft strata plan, surveyors reference C237-003b.dwg prepared by John Nelson Peterson and dated August 2010.
  - (b) Easement for parking (in stratum) being created over proposed Lot 1 in favour of proposed Lot 3.

- (c) Any other easements and rights of way as required.
- (57) The wording of the Section 88B Instrument for the proposed subdivision is to be submitted to Council for its prior approval.
- (58) The hours of operation shall be limited to the following:-
- |                  |      |    |         |
|------------------|------|----|---------|
| Monday to Friday | 7 am | to | 7 pm    |
| Saturday         | 8 am | to | 12 noon |

## Demolition Conditions

- (59) Demolition of buildings where asbestos is determined to be present should only occur 9am – 5pm Monday to Friday, and must not occur on Saturdays, Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.
- (60) All asbestos removal shall be undertaken in accordance with the occupational hygienists or Council approved provider report submitted with the development application and in compliance with the requirements of WorkCover's 'Your Guide to Working with Asbestos' and Council's Asbestos Policy.
- (61) Written notice must be provided to Kogarah Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)

Work must not commence prior to the nominated demolition date.

**Note:** it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

- (62) The applicant is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.
- (63) A WorkCover licensed contractor must undertake removal of more than 10 square metres of bonded asbestos. Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
- (64) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to

remain in place until such time as all asbestos has been removed from the site to an approved waste facility. This ensures compliance with Clause 259(2)c of the Occupational Health and Safety Regulation 2001.

- (65) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 1996. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (66) An asbestos clearance certificate prepared by a qualified occupational hygienist or Council approved provider, must be provided to Council at the completion of all demolition works and prior to any construction works commencing on site.
- (67) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.
- (68) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (69) No waste materials are to be burnt on site.
- (70) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (71) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (72) *Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.*
- (73) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (74) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (75) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- b) That the applicant be advised of their right of appeal to the Land and Environment Court with regard to Council's decision in this matter.
- c) That those who made submission be advised of Council's decision in this matter.

## **Report Summary**

### **Proposal**

The subject application seeks consent of the Joint Regional Planning Panel for the following:

- subdivision of the site into three (3) allotments, with associated easements and rights of way;
- the construction of a new one (1) and part two (2) storey building in the south-eastern portion of the site to be used for the purposes of radiation oncology with associated car parking and landscaping;
- the use of the existing building situated along the southern most boundary for the purposes of radiation oncology;
- the construction of a new vehicular access way into the site, with associated footpaths; and
- three (3) backlit business identification signs

at Lot A, DP158788; Lot 3, DP782399; Lot 1, DP86964; Lot 1, DP86964; and part Lot 1, DP86635, known as Nos 143- 155 Princes Highway & 38-48 Chapel Street, Kogarah.

### **Site and Locality**

The subject site is situated on the western side of the Princes Highway, between Gray Street and South Street, close to the intersection of Rocky Point Road. The subject site is part of a now redundant high school, previously known as Bethany College, and sits within a larger site which includes St Patrick's Primary School and St Patrick's Catholic Church.



The subject site consists of two allotments, being Lot 2 (area of 440sqm) which is the proposed vehicular access to the site from Chapel Street, and Lot 3 (area of 2828sqm) which currently contains a two storey brick building (previously used as part of Bethany High School), situated at the southern end of the Lot, and a bitumen area containing a playing court.

The site slopes from north-west to south-east by approximately 3m and is elevated by approximately 1500mm to the kerb along the Princes Highway frontage. A brick retaining wall bounds the site along the Princes Highway frontage and there is a combination of brick and metal fencing to the south and wire mesh fencing to the west.

Vehicular access to the site is from Chapel Street, which is accessed via Short Street. Chapel Street is one-way in the vicinity of the site

### **Kogarah Local Environmental Plan 1998 (KLEP 1998)**

The subject site is zoned Special Uses 5(a) – Special Uses (General) zone and marked “Church” under KLEP 1998.

Under the provisions of Clause 7 of KLEP 1998, *health services facilities* are not identified as a permissible use. In this regard, the proposed use is prohibited under the provisions of the LEP.

However, Council has received a determination from the Department of Planning advising that the Special Uses 5(a) zone is equivalent to the SP2 Infrastructure zone. In this regard, in accordance with the provisions of Clause 57(1) of ISEPP, the proposed development is permissible with consent. A copy of the letter from the Department is included in the Annexure.

### **Development Control Plan No 5 - Kogarah Town Centre (DCP No 5)**

The proposed development is subject to the provisions of the DCP No 5 – Kogarah Town Centre DCP. The proposal complies with the relevant standards and controls except for the:

- Building alignment
- Building Depth
- Floor to ceiling heights
- Provision of loading/unloading facilities

### **Submissions**

The proposed development was advertised and neighbour notified in accordance with the requirements of DCP No 20 – Advertising of Development Applications & Neighbour Notification.

Two (2) submissions were received during the notification period, one of which was from the South Eastern Sydney Illawarra – NSW Health.

The issues raised include the following:

- Impact of the proposed development on local traffic and parking in the area
- On-site parking being accessible to the general public
- Light spillage onto adjoining residential properties
- Noise levels generated by plant
- Height of the proposed building, resulting in overshadowing to residential properties
- Insufficient parking provided on site
- Rubbish collection and noise associated with the collection of waste.

These issues are addressed in detail further in the report.

### **Conclusion**

Having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment it is recommended

that the Joint Regional Planning Panel grant deferred commencement approval to Development Application No. 309/10 subject to conditions.

## **Report in Full**

### **Proposal**

In detail, the following works are proposed:

#### **Subdivision**

Subdivision of the site, including a boundary adjustment to create the following allotments with associated easements and rights of way:

- Lot 1 (area of 8336sqm) at the northern end of the site containing the Church, presbytery, school hall and other administrative buildings;
- Lot 2 (area of 440sqm) which is the proposed vehicular access to the site from Chapel Street.;
- Lot 3 (area of 2828sqm) at the southern end of the site which currently contains a two storey brick building (previously used as part of Bethany High School), situated at the southern end of the Lot, and a bitumen area containing a playing court.

#### **Building Works**

Construction of a new part one (1) storey and part two (2) storey building on the south-eastern portion of proposed Lot 3, where the existing playing court is currently located. This building will be linked to the existing two (2) storey brick building currently at the southern end of the site.

The new portion of the building will be used for the purposes of a Radiation Oncology Facility, which will provide radiation treatment to cancer patients using the following methods:

- Radiation therapy by way of a linear accelerator machine. This uses a targeted radiation beam generated by electricity similar to microwave technology; and
- Radiation therapy by way of Brachytherapy. This utilises a radioactive “seed”, which is a small radioactive pellet that is delivered to the patient’s tumour by a pre-implanted catheter.

This treatment will be undertaken in the bunkers (ground floor) which are proposed to be located at the northern end of the building, adjacent to the car parking area. In addition to the bunkers, the ground floor area contains waiting areas, consultation areas, administrative and storage areas.

The first floor level of the building includes patient consultation rooms, utility and storage rooms, patient waiting room, a conference room and office. The area over the bunker only contains the condenser area and plant room.

The proposed facility will operate between the following hours:

- 7am – 7 pm, Monday to Friday; and
- 8am – 12noon, Saturday.

The facility will not operate on Sundays or public holidays.

#### **BCA Upgrade**

A BCA upgrade will be undertaken to the existing two storey brick building so that it may be used for the purposes of radiation oncology.

Fit-out works will be the subject of a separate Development Application

### **Signage**

Three back lit signs with dimensions 0.95m x 8m, affixed to the northern, western and eastern elevations with the wording “St George Clinic”.

### **Site and Locality**

The subject site is situated on the western side of the Princes Highway, between Gray Street and South Street, close to the intersection of Rocky Point Road. The subject site is part of a now redundant high school, previously known as Bethany College, and sits within a larger site which includes St Patrick’s Primary School and St Patrick’s Catholic Church.

The Princes Highway is classified as a State road with three lanes in each direction. The Princes Highway (north of Rocky Point Road) carries an Annual Average Daily Traffic (AADT) of 62,616. On the eastern side of the Princes Highway (within the Rockdale LGA), the locality comprises educational institutions, including Moorefield Girls High School, James Cook Boys High School, and St George TAFE.

The subject site consists of two proposed allotments, being Lot 2 (area of 440sqm) which is the proposed vehicular access to the site from Chapel Street and Lot 3 (area of 2828sqm) at the southern end of the site which currently contains a two storey brick building (previously used as part of Bethany High School) situated at the southern end of the Lot and a bitumen area containing a playing court.

Lot 1 (area of 8336sqm) at the northern end of the site contains the Church, presbytery, school hall and other administrative buildings, which are proposed to be retained on the site.

The site slopes from north-west to south-east by approximately 3m and is elevated by approximately 1500mm to the kerb along the Princes Highway frontage. A brick retaining wall bounds the site along the Princes Highway frontage and there is a combination of brick and metal fencing to the south and wire mesh fencing to the west.

Vehicular access to the site is from Chapel Street, which is accessed via Short Street. Chapel Street is one-way in the vicinity of the site.

The locality comprises a mix of uses including medical, educational/religious and residential. The St George Private and St George Public Hospitals are significant landmarks in this locality and provide a Regional medical function for Southern Sydney and the Illawarra. The scale of development in the hospital precinct varies from older single storey dwellings in Chapel Street to the 7 storey building on the corner of the Princes Highway and South Street (St George Private Hospital).

Directly to the south, the site is adjoined by residential flat buildings. The adjoining site fronting the Princes Highway (No 161 – 171) is a three (3) storey flat building with basement parking accessed via Princess Lane. The adjoining residential site to the north-west (No 50 Chapel Street) is an older style three (3) storey residential flat building with parking at grade.

*The NSW Department of Planning’s South Sub-Region draft Sub-Regional Strategy identifies the Kogarah Town Centre as a “Major” Centre, with a focus on medical and financial components within the Town Centre. The proposed development is consistent with the focus of Kogarah as the medical hub of the Southern Region, and assists in the provisions of services and treatment, supporting the three major hospitals in the vicinity. The proposal is also consistent with promoting employment opportunities within the Kogarah Town Centre.*

## **Background**

- *April 2010 – meeting held with the applicant and architects to discuss the redevelopment of the subject site for the purposes of a health services facility*
- *15 September 2010 – Application lodged with Council*
- *21 September 2010 – Email sent to applicant requesting additional information be submitted within 14 days, including submission of a letter/report from an appropriately qualified person regarding screening and licensing requirements and correct Heritage Impact Statement*
- *22 September 2010 – Letter from Radiation Services Group submitted relating to screening requirements*
- *22 September 2010 – Information sent through to the Joint Regional Planning Panel*
- *23 September 2010 – Amended Heritage Impact Statement submitted*
- *27 September 2010 – Application referred to NSW Health for comment*
- *8 October 2010 – Application referred to Kogarah Local Area Command (Police)*
- *12 October 2010 – Letters and information sent to affected property owners*
- *13 October 2010 – Response received from NSW Health*
- *15 October 2010 – Comments received from Local Area Command*
- *19 October 2010 – Advertisement appears in St George & Sutherland Shire Leader advising of exhibition of the application*
- *2 November 2010 – End of notification and public exhibition of application*
- *3 November 2010 – Applicant advised by email of issues with respect to configuration of proposed parking and traffic generation.*
- *11 November 2010 – Briefing meeting to JRPP*
- *11 November 2010 – Email sent to applicant requesting amended parking layout and traffic report to address issues raised in email dated 3 November 2010. Applicant requested to submit information within 7 days.*
- *17 November 2010 – Amended information and plans submitted addressing issues raised in emails dated 3 & 11 November 2010.*

## Section 79C Assessment

The following is an assessment of the application with regard to Section 79C the Act.

### **(1) Matters for consideration – general**

***In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:***

#### **(a) the provision of:**

##### **(i) any environmental planning instrument, and**

### **State Environmental Planning Policy (Major Developments) 2005**

Part 3, Clause 13B(1)(b) of SEPP (Major Developments) 2005 applies to this development. Under the provisions of SEPP (Major Development), development for the purposes of a *health services facility* which has a Capital Investment Value (CIV) of more than \$5 million is defined as Regional Development.

The application was accompanied by a letter from Heymann-Cohen Quantity Surveyors with a total estimated CIV of \$8,060,000. A copy of this letter is included in the Annexure.

Accordingly, the function of determining the development application is exercised by the Sydney East Joint Regional Planning Panel.

### **State Environmental Planning Policy (Infrastructure) 2007**

#### **Division 10 - Health services facilities**

Division 10 of SEPP (Infrastructure) 2007 applies to the proposed development.

Clause 56 of the SEPP defines ***health services facilities*** as follows:

***health services facility*** means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

It is considered that the proposed Radiation Oncology Facility falls within the provisions of this definition.

In accordance with Clause 57 of the SEPP, development for the purposes of *health service facilities* may be carried out by any person with consent on land in a prescribed zone.

A ***prescribed zone*** means any of the land use zones or a land use zone that is equivalent to any of those zones, as identified by the SEPP. The subject lots are currently zoned Special Uses 5(a) – Church under the provisions of Kogarah Local Environmental Plan 1998.

On 1 March 2010, Council wrote to the NSW Department of Planning requesting a determination by the Minister under Clause 6(1) of SEPP (Infrastructure) 2007 that the Special Uses 5(a) zone under the provisions of Kogarah Local Environmental Plan 1998 is equivalent to the SP2 Infrastructure zone, as identified by the Standard Instrument (Local Environmental Plans) Order 2006.

On 8 April 2010, Council received a determination from the Department of Planning advising that the Special Uses 5(a) zone is equivalent to the SP2 Infrastructure zone. In this regard, in accordance with the provisions of Clause 57(1) of ISEPP, the proposed development is permissible with consent.

## **Division 17 - Roads and traffic**

### **Subdivision 2 - Development in or adjacent to road corridors and road reservations**

Clause 101 of SEPP (Infrastructure) 2007 relates to development with frontage to a classified road. Under the Roads and Traffic Authority (RTA) Classification, the Princes Highway is classified as State Road (May 2009).

In accordance with the requirements of Clause 101(2) of the SEPP, Council must not grant consent to development that has frontage to a classified road unless it is satisfied that the following has been considered:

<b>SEPP Requirements</b>	<b>Council Officer's Comment</b>
<i>(a) where practicable, vehicular access to the land is provided by a road other than a classified road, and</i>	Although the proposed development has frontage to the Princes Highway, vehicular access is proposed from the rear of the property, via Chapel Street.
<i>(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of: (i) the design of vehicular access to the land, or (ii) the emission of smoke or dust from the development, or (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i>	Vehicular access to the development and loading/unloading associated with the commercial component of the development is proposed via Chapel Street.  The Assessment of Traffic & Parking Implications prepared by Traffic & Transport Planning Associates concludes that <i>there will not be any adverse traffic implications in terms of operational performance, safety or traffic related implications</i>
<i>(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential adjacent traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i>	The proposed development has been designed to ameliorate potential traffic noise impacts and vehicle emissions through the design of the building.

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Clause 102 of SEPP (Infrastructure) 2007 relates to the impact of road noise and vibration on non-road development, including buildings used for hospitals. As the proposed development is not considered to be defined as a hospital, it is considered that the provisions of Clause 102 do not apply.

Clause 104 and Schedule 3 (Traffic generating development to be referred to the RTA) of SEPP (Infrastructure) 2007, relates to traffic generating developments and aims to ensure that the RTA is made aware of, and given the opportunity to make representations in respect of developments that may have an impact due to their traffic generation. The proposed development is not a development identified in Schedule 3, and as such the application did not require referral to the RTA.

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

The aims of SEPP No 55 are to ensure that a change of land use will not increase the risk to health particularly in circumstances where a more sensitive land use is proposed.

The Statement of Environmental Effects identifies that some minor excavation will occur through the centre of the site, however it is unlikely that the site is contaminated as it has been used as a high school since the early 1950s. Prior to this it was the St George Leagues Club.

The application was referred to Council's Environmental Health Officer who has raised no objections to the proposed development with respect to site contamination.

### **State Environmental Planning Policy No 64 – Advertising & Signage**

The development application includes the erection of three (3) back lit business identification signs with dimensions 0.95m x 8m, affixed to the northern, western and eastern elevations with the wording “**St George Clinic**”.

SEPP No 64 – Advertising and Signage was gazetted on 16 March 2001. This policy applies to the whole of the State and, in the event of any inconsistency between the SEPP and another environmental planning instrument, the SEPP applies.

SEPP 64 applies to all signage that is visible from any public place or reserve, which applies in the case of the proposed signage.

Clause 8 of SEPP 64 states that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3(1)(a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed sign is defined as a *business identification sign* in the SEPP as follows:

*Business identification sign* means a sign:

- (a) *that indicates*
  - (i) *the name of the person; and*

- (ii) *the business carried on by the person;*
- (b) *that may include the address of the premises or place and a logo or other symbol that identifies the business.*

*but does not include any advertising relating to a person who does not carry on business at the premises or place.*

In this regard, it is considered that the proposed signage is consistent with the objectives of SEPP 64, as follows:

- The site is situated within the Kogarah Town Centre and is consistent with existing signage in and around the Town Centre and the nearby St George Private Hospital.
- The signage associated with the proposed development is to be integrated into the design of the building.
- The signage provides details of the nature of the uses proposed within the development, ensuring effective communication.

Clause 13 of SEPP 64 requires that the consent authority must not grant development consent to an application to display an advertisement unless the advertising structure or advertisement:

- is consistent with the objectives of the Policy as set out in Clause 3(1)(a); and
- has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts; and
- satisfies any other relevant requirements of the Policy.

Schedule 1 of SEPP 64 specifies the assessment criteria to be taken into consideration in accordance with the requirements of clause 13 of the policy. The relevant assessment criteria are set out in the following table together with a comment on the proposals compliance with those criteria.

Criteria – Schedule 1 of SEPP 64	Comment
<p><b>Character of the area</b>  <i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i></p> <p><i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i></p>	<p>There is a distinct character in this locality in relation to signage with both the St George Public &amp; Private Hospitals providing identification and way finding signage in and around the medical precinct.</p> <p>The proposed signage is consistent with the existing signage in the Locality and provides identification of the facility within the medical precinct. It is considered that the signage is appropriate and compatible with the existing character of the Locality.</p>
<p><b>Special areas</b>  <i>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, natural or other conservation areas,</i></p>	<p>The proposed signage is not located within an environmentally sensitive area, however will be in close proximity to a heritage item.</p> <p>The proposed signage will provide identification</p>

Criteria – Schedule 1 of SEPP 64	Comment
<p><i>open space areas, waterways, rural landscapes or residential areas?</i></p>	<p>to the building and the use of the building. It is proposed that the signage will be integrated into the design of the building and is not out of character with the signage on the adjoining medical uses.</p> <p>It is considered that the signage will not have an adverse impact on the visual importance of the Church, which is a listed heritage item, as the proposed development is a significant distance from the Church.</p>
<p><b>Views &amp; vistas</b>  <i>Does the proposal obscure or compromise important views?</i></p> <p><i>Does the proposal dominate the skyline and reduce the quality of the vistas?</i></p> <p><i>Does the proposal respect the viewing rights of other advertisers?</i></p>	<p>There are no significant views or vistas in the vicinity of the site. The proposed signage structures have been integrated into the development and will be flush to the wall of the building. In this regard, it is not considered that these will compromise sight lines or restrict the outlook from adjoining properties.</p> <p>No, as outlined above, the proposed signage will be fixed flush to the wall of the building.</p> <p>Yes, the proposed signage is complementary to the signage on the existing buildings. The proposed signage will not adversely affect the visibility of any other existing advertising signs.</p>
<p><b>Streetscape, setting or landscape</b>  <i>Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</i></p> <p><i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i></p>	<p>The intention of the proposed signage is to provide identification to the building to users of the facility.</p> <p>The setting is characterised by a major arterial road, with predominantly medical and educational uses fronting this section of the Princes Highway. Buildings in this Locality vary from 4 storeys (to the south of the proposed development) to in excess of 7 storeys, at the corner of South Street and the Princes Highway (St George Private Hospital).</p> <p>It is considered that the proposed signage is appropriate within the context and scale of the surrounding development</p> <p>The proposed signage provides identification to the building and will assist users of the facility in locating the facility.</p>

Criteria – Schedule 1 of SEPP 64	Comment
<p><i>Does the proposal reduce clutter by rationalizing and simplifying existing advertising?</i></p> <p><i>Does the proposal screen unsightliness?</i></p> <p><i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i></p> <p><i>Does the proposal require ongoing vegetation management?</i></p>	<p>It is not considered that the proposed signage will result in visual clutter.</p> <p>No</p> <p>The proposed signage is well integrated into the design of the building and does not protrude above buildings, structures or tree canopies.</p> <p>No</p>
<p><b>Site and building</b></p> <p><i>Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?</i></p> <p><i>Does the proposal respect important features of the site or building, or both?</i></p> <p><i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i></p>	<p>The proposed signage is integrated into the design of the building and the signage will be flush against the façade of the building.</p> <p>N/A</p> <p>No</p>
<p><b>Associated devices and logos with advertisements and advertising structures</b></p> <p><i>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</i></p>	<p>There are no particular safety devices and the like proposed in conjunction with the proposed advertising structures.</p>
<p><b>Illumination</b></p> <p><i>Would illumination result in unacceptable glare?</i></p> <p><i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i></p> <p><i>Would illumination detract from the</i></p>	<p>The signage is proposed to be backlit, which is consistent with adjoining signage in the Locality. The signage will be lit during the operating hours of the facility and will be lit up until 11pm, 7 days.</p> <p>The proposed signage situated along the eastern elevation, fronting the Princes Highway will be set up high, at the top of the parapet, along the southern end of the building.</p> <p>Due to the height of the proposed signage along this elevation, it will have no direct impact on vehicles travelling along the Princes Highway nor is it considered that there will be</p>

Criteria – Schedule 1 of SEPP 64	Comment
<p><i>amenity of any residence or other form of accommodation?</i></p> <p><i>Can the intensity of the illumination be adjusted, if necessary?</i></p> <p><i>Is the illumination subject to a curfew</i></p>	<p>an adverse impact on safety for pedestrians.</p> <p>Residential development is situated to the south of the proposed development. There is no illuminated signage proposed along the southern elevation.</p> <p>Illumination will be subject to a 11pm curfew. An appropriate condition will be included in this regard.</p>
<p><b>Safety</b></p> <p><i>Would the proposal reduce the safety for any public road?</i></p> <p><i>Would the proposal reduce the safety for pedestrians or bicyclists?</i></p> <p><i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i></p>	<p>The proposed signage is fully integrated into the façade of the building, and as such, will not be visually distracting to vehicles, cyclists or pedestrians.</p>

### Regional Environmental Plan – Georges River Catchment Area

All stormwater from the proposed development could be treated in accordance with Council's Water Management Policy that would satisfy the relevant provisions of the Regional Environmental Plan (REP) for the Georges River Catchment Area.

Council's Catchment and Waterways Engineer has reviewed the submitted stormwater management plan and has advised that the proposal meets Council's requirements subject to conditions being imposed.

### Kogarah Local Environmental Plan 1998 (KLEP 1998)

The subject site is zoned Special Uses 5(a) – Special Uses (General) zone and marked "Church" under KLEP 1998.

The objectives of this zone are to:

- (a) accommodate development by public authorities,
- (b) accommodate private educational, religious or similar land uses,
- (c) allow appropriate community land uses,
- (d) enable associated and ancillary development, and
- (e) identify and protect land intended to be acquired for special uses

Under the provisions of Clause 7 of KLEP 1998, *health services facilities* are not identified as a permissible use. In this regard, the proposed use is prohibited under the provisions of the LEP.

As outlined above, on 1 March 2010, Council wrote to the NSW Department of Planning requesting a determination by the Minister under Clause 6(1) of SEPP (Infrastructure) 2007

that the Special Uses 5(a) zone under the provisions of Kogarah Local Environmental Plan 1998 is equivalent to the SP2 Infrastructure zone, as identified by the Standard Instrument (Local Environmental Plans) Order 2006.

Council received a determination from the Department of Planning advising that the Special Uses 5(a) zone is equivalent to the SP2 Infrastructure zone. In this regard, in accordance with the provisions of Clause 57(1) of ISEPP, the proposed development is permissible with consent.

#### **KLEP 1998 Clause 8 – Tree Preservation**

The proposed development involves the removal of a number of trees and in this regard, the applicant has provided the following:

*The vegetation in question is not original or old-growth and it includes introduced species. Some are shrubs, not trees and all are of variable quality. It will not be possible to construct the radiation oncology facility (the new building) without removing the existing vegetation as shown. The DA documents are based on the tree locations shown on the detailed survey drawing.*

*The roots of the trees near the Princes Highway boundary are invading the boundary retaining wall, pushing it towards the highway. This is the wall section noted to be repaired. The proposed landscaping is made up entirely of trees and shrubs selected from Council's list of preferred local species in a deep soil planting zone. This will form a soft landscaped perimeter to the Princes Highway boundary with better results than could be achieved with retention of the existing trees and shrubs.*

The proposed tree removal was referred to Council's Tree Management Officer who raises no objection to the removal of the trees.

The Landscape Plan submitted with the application indicates that significant screening vegetation is proposed along the eastern setback, along the Princes Highway. Council's Tree Management Officer has reviewed the Landscape Plan and has no objections to the proposed landscaping and planting schedule.

With respect to the Pine tree with the ANZAC plaque, the applicant was requested to provide details with respect to its relocation/replacement. The applicant has advised that they have yet to resolve this matter and as such a condition has been included requiring that details be provided with respect to the relocation/replanting of an appropriate tree prior to the release of the Construction Certificate.

#### **KLEP 1998 Clause 9 – Land filling & Excavation**

Due to the configuration of the site, excavation is proposed through the centre of the site to create the lower level car parking area. The amount of excavation associated with the development is considered to be minimal and will not result in any adverse impact on the subject site or to the adjoining residential sites.

The extent of excavation is considered acceptable having regard to the form of the development, its location and the provisions of Clause 9 of KLEP 1998.

#### **KLEP 1998 – Clause 12 – Subdivision**

Subdivision of the site, including a boundary adjustment with associated easements and rights of way is proposed as part of the application. The application proposes to subdivide the site into three allotments, which is consistent with the provisions of Clause 12.

### **KLEP 1998 Clause 13A – Acid Sulfate Soils**

The subject site is not affected by acid sulfate soils as identified on the Acid Sulfate Soil Planning Map.

### **KLEP 1998 Clause 15 – Certain Development on Arterial Roads and Near Railway Undertakings.**

The objective of Clause 15 is to ensure that appropriate development occurs along arterial roads and near railway undertakings.

Specifically, Clause 15(2) applies in this instance and states the following:

*Consent must not be granted to development on land having frontage to or near an arterial road or railway undertaking where, in the opinion of the Council, noise or vibration levels will be unacceptable for the use of the land proposed. The Council may decline to grant consent unless it has considered a report from a suitably qualified consultant that assesses noise or vibration levels and recommends appropriate alleviation measures, if necessary.*

The proposed use has frontage to the Princes Highway, which is classified as a State Road. Given the nature and design of the proposed use, and the location of the proposed consulting rooms within the facility, it is considered that there will not be unacceptable levels of noise impacts on the proposed facility. The applicant has advised that the proposed facility will also comply with BCA requirements in relation to noise attenuation levels.

With respect to vibration levels, as the Princes Highway is a State Road there would be a reasonable percentage of heavy vehicles travelling along the Princes Highway.

The condition of the road has an effect on the levels on vibration and generally a road with a smooth surface would have minimal impact on vibration levels being generated to adjoining properties. As the Princes Highway is a State Road, it is well maintained and has a smooth surface. In this regard, the condition of the road is such that it is considered that heavy truck movements along this section of the Princes Highway would not create any significant ground vibration, also having regard to the nature of the use.

### **KLEP 1998 Clause 16 – Ecologically Sustainable Development**

It is considered that the proposed development gives adequate consideration to the principles of ecologically sustainable development and the provisions of Clause 16 and the following comments are made:

- a) A detailed waste management plan has been submitted with the application and this plan proposes the reuse and recycling of much of the materials existing on site.
- b) Energy efficient design measures have been incorporated, where possible into the design of the new building, including sun shading devices on windows on the northern and eastern elevations; minimisation of west facing windows; landscaping along the eastern boundary.
- c) A Stormwater Concept Plan accompanies the application and proposes on-site detention so as to minimise impacts on the local system. The application was also

referred to Council's Stormwater Engineer who has requested that a condition be incorporated relating to achieving Stormwater Quality objectives.

- d) The site is well located with respect to public transport, both buses and trains which will reduce car dependence.

#### **KLEP 1998 Clause 17F – Development on site adjacent to site of heritage item**

The existing school building on the site is not listed in Schedule 3 – Heritage Items nor are they within a Heritage Conservation Area.

However, the church building (St Patrick's Church), which is situated to the north of the proposed development, is listed in Schedule 3 – Heritage Items of the LEP. The Church was constructed in 1887 and demonstrates high aesthetic significance as a stone Gothic style 19<sup>th</sup> Century church building.

Clause 17F of KLEP 1998 states that before granting consent to the carrying out of development on a site adjacent to the site of a heritage item, *the Council must assess the impact of the proposed development on the heritage significance of the heritage item.*

A Statement of Heritage Impact, prepared by Rappoport Pty Ltd. Was submitted with the application. The Impact Statement addresses the impact of the development on the adjoining item.

The Heritage Impact Statement and plans were referred to Council's Heritage Adviser who has provided the following comments:

*Further to our site visit of 5 October 2010, I have reviewed the DA documentation forwarded for the above proposing: subdivision of the southern portion of the site into 3 lots; construction of a new radiation and oncology building; and upgrade and use of existing (1950s) school building for health service facility, and provide the following comment from a heritage point of view:*

- 1. Considering proposed subdivision, this portion of the St Patrick's site, which includes post war development and bitumen open area, would appear to be of relatively minor significance based on physical evidence alone. Considering the historic boundaries of the site, the SOHI has not noted whether this portion of the site formed part of the original church site. Even if it did, I would still consider this portion of the site to be of lesser significance than the northern end, which includes the church.*
- 2. The proposed adaptation and alterations to the c1950's school building are considered acceptable, given the place is of relatively minor significance from a historic and aesthetic point of view.*
- 3. As we noted during our site visit, the proposed new infill building will not be within the visual catchment of the Church, and thus will have no adverse impact on the setting of the place.*

In this regard, the proposed development is considered to not have an impact on the values of the existing heritage building.

#### **KLEP 1998 Clause 20 – Contaminated Land**

Clause 20 requires that the Council shall not grant consent to the carrying out of any development on land to which this plan applies that is known by the Council to be

contaminated unless the Council is satisfied that adequate remediation measures will be carried out.

There is no evidence to suggest that the subject site is contaminated or that there is any likelihood of contamination caused by existing or former uses of the site.

#### **KLEP 1998 Clause 21 – Development in the Special Uses 5(a) zone or Open Space 6(a) zone**

Clause 21 of KLEP requires that development within the Special Uses 5(a) zone is compatible with the existing and future use of the land and will not conflict with the use of surrounding land. This clause however only applies to the carrying out of development on publicly owned land within the Special Uses 5(a) zone.

As the proposed development is on privately owned land, Clause 21 does not apply.

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

None applicable

**(iii) any development control plan**

#### **Development Control Plan – Advertising & Signage**

The proposed wall signs are also subject to the requirements set out in Council's **DCP – Advertising & Signage**

Under the provisions of Clause 2.2 of the DCP (General Requirements), wall signs are permitted, where they comply with all of the following requirements:

<b>DCP Control</b>	<b>Comment</b>
<i>Only one sign per building elevation</i>	One sign is proposed on both the east elevation and north elevation. There is also a smaller sign proposed on the western elevation at the entrance of the facility.
<i>Must not have an area greater than:</i> <ul style="list-style-type: none"> <li>- 10% of the elevation, if the elevation is &gt;200sqm</li> <li>- 20sqm if the elevation is greater than 100sqm but &lt; 200sqm</li> <li>- 20% of the elevation for elevations &lt;100sqm</li> </ul>	<p>The northern and eastern elevations have an area of approximately 450sqm and 540sqm, respectively. Accordingly, the proposed sign can be a maximum of 45sqm and 54sqm.</p> <p>The proposed signs have an area of 7.6sqm (0.95m x 8m) which complies with the requirements of the DCP</p>
<i>Must not project above or beyond the wall to which it is attached</i>	All signage is proposed to be integrated into the building design and does not project above the wall of the building or extend over any opening or window.
<i>Must not extend over a window or other opening, or architectural feature</i>	
<i>Must not be located on a</i>	N/A

<i>building wall if there is an existing building or business identification sign on the building elevation.</i>	
<i>Size shape and location determined by façade grid analysis</i>	The proposed signage is projected across the façade of the building, horizontally and is consistent with surrounding signage on both the St George Private Hospital and Public Hospital. The proposed signage achieves visual continuity with neighbouring buildings and is not out of character with surrounding signage.
<i>Painted wall signs to be painted at least once every three years</i>	N/A

In assessing whether the proposed signage meets the requirements set out in Council's DCP, the following relevant provisions are required to be considered:

<b>All Advertising Signs</b>	
<b>DCP Requirement</b>	<b>Comment</b>
<i>Advertising must relate to the use of the premises and products sold on the premises.</i>	Yes
<i>Signage must be sympathetic to, and integrated with, the architecture and structure of the supporting building and not be the dominant visual element on a building.</i>	The proposed signage has been integrated into the design of the building and is not considered to be a visually dominant element on the building façade due to its size.
<i>The proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form.</i>	The proposed signage is consistent with signage on the adjoining medical uses.
<i>The proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form</i>	See comments above.
<i>Lettering, materials and colours must complement the existing building or place.</i>	Yes
<i>Signage must not project above any parapet or eave.</i>	The proposed signage does not project above the wall of the building.
<i>Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.</i>	This issue has been addressed above.
<i>The cumulative impacts of multiple advertising signs and the number of existing signs on the premises will be considered.</i>	It is considered that the number of signs proposed is appropriate and will not result in visual clutter on the site.

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## Development Control Plan No 5 – Kogarah Town Centre

The proposed development is subject to the requirements set out in **Development Control Plan No 5 – Kogarah Town Centre**. The following comments are made with regard to the application's compliance with the relevant provisions and objectives of this DCP.

### Desired Future Character – Princes Highway Precinct

#### Land Uses

The desired land uses for the precinct include the following:

- *Encourage the development of offices, showrooms, medical uses and residential development fronting the Princes Highway.*

The proposed development is complementary to the adjoining hospital precinct, providing radiation and oncology facilities, which will support the function of the surrounding hospitals and medical component within the Kogarah Town Centre

It is considered that the proposed development is appropriate in this location and does not conflict with the desired future land use for this precinct.

#### Street Frontage

- *Address the Princes Highway with a prominent row of buildings of the same scale as the St George Private Hospital (18m).*
- *North of St George Private Hospital, build to the street alignment with commercial development or setback fully residential buildings from the frontage.*

The proposed development is situated to the south of St George Private Hospital, and has a stepped building frontage to the Princes Highway of between 1182mm and 1753mm. The eastern elevation, which is the view that will be visible from the Princes Highway has an overall height of approximately 11.3m and is broken up by an articulated frontage.

It is considered that the presentation of the building to the street is consistent with the existing development along this strip of Highway frontage and is not out of context with the bulk and scale of St George Private Hospital.

#### Built Form

- *Create a major new entry into Kogarah with the extension of President Avenue to Kensington Street.*
- *Design high quality corner buildings at the new intersection of Prince Highway and President Avenue, to signal arrival at Kogarah Town Centre from President Avenue and the Princes Highway*
- *Emphasise corners with taller buildings, and the use of geometric design elements, entries, parapets and roof forms.*

The proposed development is elevated off the Princes Highway frontage and screened by substantial planting. The overall height of the new building is no greater than the existing building at the southern end of the site.

It is considered that the scale of the proposed development is consistent with the adjoining residential development.

### Heritage

- *Respect heritage buildings in adjacent redevelopment*

As outlined above, the proposed development is adjacent to a listed heritage item, being St Patrick's Catholic Church

The proposed development is significantly removed from the existing heritage item and will not have an adverse impact on the significance of the heritage item.

### Pedestrian Movement

- *Enhance the pedestrian amenity of the Princes Highway with awnings or substantial planting in building setbacks.*

The Princes Highway facade is elevated off the street frontage and as such the building does not address the street. The setback along the Princes Highway frontage is proposed to be heavily landscaped so as to screen the building from the Highway.

As the development does not have direct frontage to Chapel Street, pedestrian access to the development is via the right of way off Chapel Street. A footpath has been incorporated into the design of the right of way to facilitate safe and accessible pedestrian movement.

## **Development Control Plan No 5 – Kogarah Town Centre**

<b>Standard</b>	<b>DCP Requirement</b>	<b>Development Proposal</b>	<b>Complies</b>
<b>Building Height</b>	The subject site is identified in Precinct F – St George District Hospital. There are no height controls for this precinct.	The proposed development has a height of between 9.3m and 9.71m to the underside of the uppermost ceiling of the building.	N/A  See (1)
<b>Building Alignment</b>	3m setback along the Princes Highway frontage for buildings with a height greater than 4 storeys	The proposed setback to the Princes Highway is stepped and varies between 1.182m and 4.33m.	Not for the whole length of the frontage  See (2)
<b>Building Depth</b>	Buildings are to have a maximum depth of 10m where windows are provided on one (1) side, or 20m where windows are provided on two (2) sides.	The proposed development complies with the maximum depth requirements, with the exception of the section of the building that incorporates the bunkers.	Not for the whole building  See (3)
<b>Floor to</b>	For a fully commercial	Ground floor – 3.83m	No – upper

<b>ceiling heights</b>	development, floor to ceiling heights must be a minimum of 3m at ground level and 3.6m at upper levels.	Upper level – 3.5m	level  See (4)
<b>Car Parking</b>			
<b>Commercial</b>	<p>1 space per 40m<sup>2</sup> - ground floor</p> <p>1 space per 50m<sup>2</sup> – levels above ground floor</p>	<p>New building – 21.51 spaces required</p> <p>Existing building – 32.32 spaces required</p> <p>The total number of spaces required: 54 spaces required to comply with DCP</p> <p>A total of 56 spaces are proposed however amended traffic report states a total of 43 spaces will be designated for the proposed development</p>	See (5)
<b>Accessible Parking</b>	1% of all car parking spaces are to be designated accessible spaces, with a minimum of 1 space provided for medical suites	4 accessible spaces are provided	Yes
<b>Bicycle Parking</b>	1 bike space per 10 car spaces for community, health & recreational land uses	Bicycle parking is provided at ground floor	Yes
<b>Loading Bay</b>	Floor area 1000m <sup>2</sup> – 5000m <sup>2</sup> – 1 bay required	No loading bay has been provided, however the plans have been amended to include a courier space.	No  See (6)
<b>Building density</b>	<p>The subject site is identified in Precinct F – St George District Hospital.</p> <p>There are no density controls for this precinct.</p>	0.9:1	N/A  See (7)

### Building Height (1)

DCP No 5 – Kogarah Town Centre does not include overall heights for this site, which has been identified at part of the St George Hospital Master plan site. Building heights have been identified for the sites to the south of the subject site, bounded by Gray Street and Chapel Street and to the north of the subject site (north of South Street). Building heights in this precinct vary from 4 storeys (to the south of the proposed development) to in excess of 7 storeys, at the corner of South Street and the Princes Highway (St George Private Hospital).

In assessing whether the scale of the proposed building is acceptable, it would be appropriate to refer to the building heights of the adjoining sites to the south of the site – directly to the south, fronting the Princes Highway the overall height limit is 15m and to the rear of the site, fronting Chapel Street the maximum height limit is 12m.

The proposed building has an overall height of between 9.3m and 9.71m to the underside of the ceiling, which is substantially lower than the adjoining development to the south of the site. It is considered that the proposed building height is acceptable in the context of the site and with respect to surrounding development in the Locality.

### **Building Alignment (2)**

DCP No 5 – Kogarah Town Centre requires that on buildings with a height greater than 4m, the minimum setback to the Princes Highway is to be 3m. The proposed new building has a stepped setback, varying between 1.182m and 4.33m.

The objectives of the building alignment controls are to:

- create cohesive streetscapes which consistently define the space of the street; and
- provide greater amenity to the street and the building that abut it.

There is a significant level change of between 1.2m and 1.5m between the site and the kerb along this section of the Princes Highway, which means the new building is elevated above the street level. There is also a 1.2m high retaining wall which runs along the frontage of the site and is proposed to be retained as part of the development.

The façade of the new building along the Princes Highway is well articulated and modulated, with a series of steps in the façade of the building which assist in breaking up the bulk of the building when viewed from the Princes Highway. It is also proposed that the setback fronting the Princes Highway be heavily vegetated to screen the development from the Highway.

Further to the north (St George Private Hospital and beyond), the building alignment is nil.

It is considered that due to the nature of the site and the built form along this section of the Princes Highway, that the variation to the 3m setback is considered acceptable in that the design of the building will meet the objectives of the control through stepping and modulation of the façade and landscaping to the front setback.

### **Building Depth (3)**

To achieve buildings that ensure internal amenity and sustainability through reduced need for artificial lighting, heating and cooling, DCP No 5 requires buildings to have a maximum depth of 10m where there are windows on one side and 20m for floors with windows on two opposite sides.

Generally, the proposed building complies with this requirement, with the exception of the section of the building where the bunkers are proposed to be situated (northern section). At this point, the maximum depth of the building is 20m and only has window openings along the western façade, adjacent to the car park, which is a non-compliance.

Due to the nature and the use of the bunkers and the shielding requirements of the Department of Environment, Climate Change and Water NSW (Radiation Guideline 7) the section of the building where the bunkers are to be situated have to be constructed of solid concrete walls, without any openings. Accordingly, there are no window openings proposed along the eastern façade. Windows are proposed along the western façade, providing light and ventilation to the bunker waiting area.

It is considered that in this circumstance, due to the nature and use of the proposed building, the non-compliance with respect to building depth is reasonable.

#### **Floor to Ceiling Heights (4)**

DCP No 5 requires that commercial buildings have a minimum floor to ceiling height of 3m at ground level and a minimum of 3.6m for levels above. The intent of this provision is to increase the adaptability of buildings to new uses and increase the environmental performance and amenity of buildings.

The proposed building is a purpose built radiation oncology facility and has been designed to accommodate a specific use and house specific equipment.

The building is non-compliant on the upper level by 100mm (maximum floor to ceiling height is 3.5m). It is considered that this variation is minor and the building will still achieve the stated objectives of the DCP with respect to amenity and environmental performance. In this regard, the minor variation is considered acceptable.

#### **On-site Parking (5)**

Under the provisions of DCP No 5, the proposed development requires a total of 54 parking spaces to be provided on-site.

The amended plans submitted on 17 November 2010, indicate that 56 car parking spaces will be provided as part of the development, however not all of these have been allocated on the plans to the proposed development.

A total of 43 spaces have been allocated to the proposed development – 24 spaces being allocated for visitors and 19 spaces being allocated for staff parking.

The amended Traffic Report prepared by *Transport & Traffic Planning Associates* advises that there will be a maximum of 39 staff working at the proposed facility and due to the nature of the treatment being administered all patients visiting the facility will be “by appointment” only, with no casual patients.

With respect to the justification for only allocating 43 spaces to the proposed facility, the Traffic Report states the following:

*“The new building is a special circumstance, the large bunker area for example does not equate to normal medical centre type floorspace. If this floorspace is deducted from the GFA the parking requirement under the DCP criteria would be very similar to the assessed 43 space need. The proposed designation of the 43 spaces is 24 visitor and 19 staff (ie 1 space per 2 staff).”*

*Under the revised plans there will be a total 56 parking spaces constructed and available”*

It is considered that the proposed development should provide and identify 54 spaces, as required by DCP No 5. In this regard, a condition has been included requiring that a total of 54 spaces be provided and that of these a minimum of 19 spaces be provided/allocated for staff parking.

### **Loading Bay (6)**

DCP No 5 – Kogarah Town Centre requires that for the proposed development, provision be made for one (1) loading dock. The proposed development does not provide a dedicated loading bay and the applicant in their Statement advised the following in this regard:

*....the proposed development will only be serviced by courier vans/utes, and therefore, a dedicated loading bay is not considered warranted. Delivery vehicles will be able to park in parking spaces while they make their rapid delivery or pick up of goods.*

The applicant was advised by email on 3 November 2010 that it would be unacceptable for delivery vehicles to park in allocated visitor parking spots and an alternative loading/unloading area be identified.

The applicant has advised that there will be two (2) deliveries or pick ups associated with the proposed use each day. These will largely be associated with pathology vehicles, which are generally small vehicles. Other less frequent deliveries will be made by utilities and small vans.

Amended plans and information were submitted on 17 November 2010. The plans have been amended to identify a separate courier parking space on the ground floor parking area. Council's Traffic Engineer has reviewed the location of this proposed space and considers that this is acceptable for the proposed facility.

### **Building Density (7)**

DCP No 5 – Kogarah Town Centre does not include density controls for this site, which has been identified at part of the St George Hospital Master plan site. Density controls have been identified for the sites to the south of the subject site, bounded by Gray Street and Chapel Street and to the north of the subject site (north of South Street). Floor space ratios in this precinct vary from 1.3:1 - 2:1 (to the south of the proposed development) to 2.5:1 north of the subject site, at the corner of South Street.

The density of the proposed development is at 0.9:1 which is considered appropriate in the context of the adjoining developments in this Locality.

## **Chapter 6 – Urban Design**

The following comments are made with regard to the application's compliance with the Urban Design Controls in Chapter 6 of DCP No 5:

### **Address & Active Street Frontages**

Due to the significant level change between the site and the Princes Highway, there is no direct pedestrian access from the Princes Highway frontage. However, at the upper levels the new building has been designed to address the Princes Highway with small elevated balconies, a series of window openings and vertical louvre elements to provide an address to the Highway frontage.

The Princes Highway facade is also well articulated and modulated and is proposed to be screened by substantial planting.

#### Architectural Articulation & Façade Composition

The intent of this control is to ensure that the scale of large buildings is broken down and modulated. The proposed building has been designed to provide articulation facades, through setbacks and modulation of the building façade.

The upper levels of the building have been broken up by vertical and horizontal elements. Small balconies are provided through the central section of the façade fronting the Princes Highway frontage.

It is considered that the level of façade articulation and composition fronting the Princes Highway is appropriate and is consistent with the surrounding development.

#### Private Open Space & Balconies

A balcony has been provided on the upper level of the east elevation (Princes Highway) which is accessed from the office/conference room. It is considered that this space provides the opportunity for staff to access an outdoor area and assists in breaking up the façade of the building.

#### Roof Design

The building incorporates a flat roof, which is compatible with the surrounding development and ensures that the overall height of the building is consistent with adjoining buildings.

#### Landscaping & Deep Soil Planting

A deep soil landscaping strip has been proposed along the Princes Highway frontage, adjacent to the eastern elevation. This strip is proposed to be heavily planted out to screen the impact of the Princes Highway. Appropriate conditions have been included to ensure that the planting is consistent with the Landscaping Plan and Council's requirements.

#### Carparking & Bicycle Parking

It is proposed that the car parking area will be accessed via a right of way, with access from Chapel Street.

Council's Traffic Engineer raised concern with respect to the turning circle movement onto and off the entry ramp and recommended that proposed spaces 1 -5 be deleted to remove the conflicts associated with the travel path for vehicles entering and exiting the proposed car park.

Amended plans submitted to Council on 17 November 2010 stated that this issue had been resolved. Council's Traffic Engineer has reviewed the amended plans and is not satisfied that this issue has been adequately resolved. With respect to this matter provided the following comments:

*The swept path analysis provided for a car exiting the site will cause a conflict with a car entering the site. The analysis indicates that cars entering and exiting the site will have to travel on almost an identical wheel path to make the tight turn onto and off the ramp. A design shall be resubmitted by the applicant indicating how these vehicle conflicts can be removed. A swept path analysis plan shall be submitted to indicate a car entering AND*

*exiting the site and shall be shown on a single plan with 300mm clearances and designed in accordance with AS/NZS 2890.1:2004 - Off Street Car Parking, Section B3.1 for a B85 vehicle. The swept path analysis of the car entering the site also has a swept path onto the wrong side of the ramp and unless a driver takes this difficult turn in this manner, they will have to do a three point turn at the bottom of the ramp which is unacceptable.*

In conclusion, he has recommended that the entry/exit point be redesigned to show that cars can enter and leave the site without a conflict occurring. This may require the ramp to be widened or moved further to the west to increase the area available to turn safely and *in one satisfactory movement with the turns designed in accordance with AS/NZS 2890.1:2004 - Off Street Car Parking, Section B3.1 for a B85 vehicle.*

Concern is also raised with respect to the ability to leave the first floor carpark in a forward direction if all the spaces are occupied due to there being no provision for a turning area/bay. It is recommended that the design of the first floor carpark be amended to include provision for a turning bay in order for vehicles to have the ability to turn and leave the site in a forward direction.

A deferred commencement condition has been included in this regard.

With respect to the provision of on-site parking, it is considered that the proposed car parking layout is generally acceptable and complies with the requirements of DCP No 5.

DCP No 5 requires that 1 bike space per 10 car spaces for community, health and recreational land uses be provided on site. The applicant has provided a bicycle parking area adjacent to the screened waste holding area which complies with Council's requirements.

### Safety & Security

The proposal through its design has introduced opportunities for passive surveillance through the location of balconies, windows and entrances. The building has also been designed so as to minimise blank walls and incorporate lighting in and around the site and within the car parking areas.

The proposed development has been referred to the Kogarah Local Area Command (NSW Police) for comment on "Safer by Design" and comments in relation to the application have been provided.

The CPTED assessment makes a number of recommended conditions. It is recommended that a condition of consent be imposed requiring the CPETD comments to be attached to the consent for the applicant to consider and implement.

### Accessibility & Adaptability

The development application has been accompanied by a report prepared by *Access Associates Sydney*. This report undertakes a review of the proposed facility in accordance with the appropriate Legislation, including the DDA, BCA and Australian Standards.

Their report makes the following conclusion:

*In conclusion having reviewed and audited the listed DA drawings, it is our opinion that at this stage with the inclusion of the **recommendations** in this report, the proposed new development of the Oceania Oncology Kogarah....includes access provisions for people with*

*physical and sensory disabilities which comply with the requirements of the BCA parts D3, E3.6 and F2.4; Australian Standards...*

*Consequently, in our opinion the proposed Oceania Oncology Kogarah at the DA stage will meet the objectives of the Disability Discrimination Act through its intention to provide non-discriminatory access.*

A condition has been included to ensure that the recommendations of the report prepared by Access Associates Sydney are incorporated and implemented.

### Waste

A screened waste holding area is proposed on the northern side of the building, adjacent to the car park.

Council's Waste Services Manager has reviewed the location and size of the proposed waste facility and has advised that the bin room as proposed is of a sufficient size to accommodate the proposed development, however it should also have the ability to be secured, if required. A condition has been included in this regard.

Appropriate conditions have also been included to ensure that all medical waste is collected by an accredited waste provider in a locked medical waste bin and that any radioactive waste is appropriately disposed of in accordance with the requirements of Radiation Control Act 1990, the POEO Act 1997 and the Radiation Control Regulation 2003.

With respect to the removal of building materials during the demolition, excavation and construction phase, a Waste Management Plan accompanies the application and states that where possible, materials will be reused and recycled.

### **Amenity Impacts on Adjoining Properties**

#### Overshadowing

The subject site is adjoined to the south by three storey residential flat buildings.

At the southern-most boundary the proposed development retains the existing building so the impacts of overshadowing onto the adjoining properties will be no greater than they currently are.

With respect to the new building, a portion of which is situated along the southern boundary, shadow diagrams were requested from the applicant.

Shadow diagrams were submitted on 17 November 2010 which illustrates the shadows cast by the existing and proposed building for 21 June. A copy of the shadow diagrams is included in the Annexure.

These indicate that there will be some additional overshadowing impacts on the adjoining residential property at No 161-171 Princes Highway in the early morning. The extent of the additional shadow is considered to be minor and will only impact on the adjoining property till the mid-morning. By 12 noon, the additional overshadowing impacts only the Princes Highway. It is considered that the proposal is consistent with the objectives of the DCP with respect to overshadowing.

### Visual & Acoustic Privacy

The proposed development does not introduce any new openings adjacent to the western and southern boundary, with the exception of access to plant rooms and fire escapes.

The plans indicate that there will be a new addition to the rear of the existing building, along the southern boundary at ground floor level for plant and associated equipment. This area appears to be fully enclosed and has access from the western most portion of the site, adjacent to the residential flat development fronting Chapel Street.

A plant room and condenser area is also proposed on the rooftop area of the bunkers, which is centrally located, adjacent to the car park area.

Accordingly, the application was referred to Council's Environmental Health Officer for comment. Standard noise conditions have been included to address any potential noise nuisance.

### Compliance with the Building Code of Australia (BCA)

As part of the application, a *Building Code of Australia 2010 Assessment Report*, prepared by Dix Gardner was submitted. This report identified a number of issues with the current plans and the ability for the current design to comply with the BCA. The report by Dix Gardner identified that in order to comply with the requirements of the BCA changes to the building layout were required.

The plans were also referred to Council's Coordinator Building & Compliance who concurs with the comments made by Dix Gardner and has recommended that plans and supporting documentation be submitted to Council that verify egress and access to the proposed building to enable it to provide safe movement to and from the building pursuant to the performance requirements of the BCA.

Accordingly, a condition has been included in this regard.

### Compliance with Radiation Guideline 7 (DECC)

*Radiation Guideline 7: Radiation Shielding Design Assessment & Verification Requirements* provides information on assessing the shielding requirements under the *Radiation Control Act 1990*.

Contact was made with an officer from DECC to clarify whether the application was required to be referred to them to ensure compliance with the *Guideline*. It was verbally advised that compliance at the DA stage was not required and DECC was more concerned with respect to the construction of the facility and its compliance with *Radiation Guideline 7*.

An appropriate condition has been included to ensure that the development meets the requirements of the Guideline.

The application has also been accompanied by a letter signed by Kevin Fitzsimmons from Radiation Services Group with respect to the design of the bunkers and leakage limits. Confirmation was also sought from DECC with respect to the letter and they have advised that Kevin Fitzsimmons was accredited to provide the advice in relation to leakage limits.

They have advised that Kevin Fitzsimmons co-authored the *Radiation Guideline 7* and is authorised to provide advice with respect to shielding and leakage levels.

In this regard, the letter states the following:

*“The radiation facilities proposed for this DA are designed to comply with leakage limits well below International recommendations...and NSW State requirements..*

*These documents all cite an occupancy corrected annual leakage equivalent dose of 1mSv, or 20uSv per week for non-occupationally exposed persons. Facilities proposed are designed to have leakage equivalent dose (due to the use of installed equipment) less than 10uSv per week at any point more than 300mm from the outer walls or less than half of the regulatory limits.*

*Putting this in perspective, the naturally occurring background radiation dose in the Sydney area is 2.5mSv per year, or 50uSv per week. The design leakage is, then, less than 20% of naturally occurring background.*

*As all of the radiation equipment to be used produces photons and electrons with energies less than 20MV (well below activation thresholds for producing radioactive isotopes) and use electrical means to produce the beams, no noxious wastes are produced. The only by-product is a small amount of heat, which is dealt with by heat exchangers to the atmosphere”*

The application was also referred to NSW Health for any additional comments in relation to the proposed use. An email was received on 13 October 2010 from NSW Health advising that they do not have any comments or conditions but recommended that Council contact the Department of Environment, Climate Change & Water (DECC) with respect to the matter. DECC was also contacted and they have verbally advised that at the DA stage they have no conditions which would apply.

**(iii) *any matters prescribed by the regulations, that apply to the land to which the development application relates,***

Not applicable.

**(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***

There are no significant impacts on the natural or built environment as a result of the proposed development as it is considered to be of a form and scale compatible with surrounding developments.

It is considered that the proposed development will have beneficial social and economic impacts in the locality.

In terms of social impacts, the proposed development provides a facility for the treatment of cancer patients requiring radiation treatment and chemotherapy. The facility is proposed to provide a multi-faceted service and will provide additional facilities to support those already in the St George Public and Private Hospitals.

*The proposed facility is also consistent with the NSW Department of Planning’s South Sub-Region draft Sub-Regional Strategy which identifies the Kogarah Town Centre as a “Major” Centre, with a focus on medical uses, supporting the two major hospitals.*

In terms of economic impacts, the proposed development is also consistent with promoting employment opportunities within the Kogarah Town Centre by providing a total of thirty-nine (39) staff positions (full and part time).

Furthermore, the development is considered appropriate, as it will positively reinforce the vitality and economic viability of the Kogarah Town Centre and the Hospital precinct.

**(c) *the suitability of the site for the development,***

There are no reasons such as topography, vegetation, contamination or the like, for which the subject site would be considered unsuitable for the proposed development. The site and surrounding lands are zoned to permit this form of development and it is suitable given its proximity to other medical facilities, including two major hospitals and the Kogarah Town Centre and railway station.

Private health facility day procedure centres are classified under the *Day Procedure Centres Regulation 1996*. Under this Regulation, medical oncology and radiation oncology facilities require licensing through the NSW Department of Health.

The regulatory requirements for facilities that include radiation equipment (such as LINACs, CT machines, x-ray machines and MRI equipment) are to comply with the *Radiation Control Act 1990* and *Radiation Control Regulation 2003*. The licensing is through the Department of Environment and Climate Change (DECC).

Furthermore, the Code of Practice for the "Safe Transport of Radioactive Material", published by the Federal body, Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), is also enforced under the Regulation and applies to the transport of significantly Radioactive Materials.

**(d) *any submissions made in accordance with this Act or the regulations,***

In accordance with the provisions of Councils DCP for Advertising and Neighbour Notification the proposal was advertised in the local newspaper and placed on neighbour notification for a period of fourteen (14) days with adjoining property owners notified in writing of the proposal and invited to comment.

Additional letters were also sent to the following, notifying of the exhibition of the application:

- Parents & Friends Association, St Patrick's Primary School
- The Principal, St Patrick's Primary School
- Rockdale City Council

Two (2) submissions were raised during the exhibition period.

In summary the submissions raised the following concerns:

**Impact of the proposed development on local traffic and parking in the area**

A Traffic Report was submitted, along with a supplementary report, which was submitted on 17 November 2010.

The Traffic Report makes the assessment for traffic generation of some 12 vtpd during the morning and afternoon peak periods being the normal peak commuter times along Gray Street and the Princes Highway. Council's Traffic Engineer has made an assessment of the calculated traffic generation and in this regard, provides the following comments:

*As there is no entrance to the facility from either Gray Street or Princes Highway, the calculated traffic generation during the morning and peak periods on these roads will have a minor impact on the proposed development. The submitted comments indicate the arrivals and departures for the facility and will have a minor impact on the traffic generation in Chapel Street. The proposed development will have a minor but allowable impact on the intersections at Gray / Short and Gray / Chapel as indicated in the undertaken analysis.*

In this regard, it is considered that the proposed development will have negligible impact on traffic conditions on Gray Street and the Princes Highway.

With respect to the provision of on-site parking, the proposal satisfies the requirements of Council's DCP.

#### Will on-site parking be accessible to the general public

On-site parking is proposed to be available during the hours of operation for staff and patients associated with the facility.

#### Light spillage onto adjoining residential properties

The proposed development will operate until 7pm during the week and 12 noon on Saturdays. It has been advised by the applicant that all lighting associated with the facility will be switched off after the facility closes. Also, no new external lighting is proposed along the southern elevation of the existing building, which adjoins the residential properties.

An appropriate condition has also be included to ensure that there is no inappropriate light spillage onto adjoining residential properties.

#### Noise levels generated by plant

A new plant enclosure is proposed on the western end of the existing building, under the existing undercroft area. A service riser and condenser enclosure is also proposed in this location, adjacent to the southern boundary. The service riser and condenser is fully enclosed and setback off the southern boundary approximately 1400mm. The entry to both the plant enclosure and condenser area along the western boundary is setback off the western by 5m.

With respect to the potential noise generated by the proposed plant, the application was referred to Council's Environmental Health Officer who has advised that conditions be included to restrict the level of noise generated so as to minimise the impact on adjoining residents.

#### Height of the proposed building, resulting in overshadowing to residential properties

The proposed new building is lower than the existing two storey building, which is located on the southern boundary.

Shadow diagrams have been prepared to demonstrate the existing and proposed overshadowing impacts from the new building in mid winter. As outlined above, these

indicate that there will be some additional overshadowing impacts on the adjoining residential property at No 161-171 Princes Highway in the early morning.

The extent of the additional shadow is considered to be minor and will only impact on the adjoining property till the mid-morning. By 12 noon, the additional overshadowing impacts only the Princes Highway. It is considered that the proposal is consistent with the objectives of the DCP with respect to overshadowing.

#### Insufficient parking provided on site

Under the provisions of DCP No 5, the proposed development requires a total of 54 parking spaces to be provided on-site. The amended plans submitted on 17 November 2010, indicate that 56 car parking spaces will be provided as part of the development, however not all of these have been allocated to the proposed development.

A condition has been included requiring that a total of 54 spaces be provided and that of these a minimum of 19 spaces be provided for staff parking.

#### Rubbish collection and noise associated with the collection of waste.

It is proposed that all rubbish and associated waste will be collected outside business hours, from the screened waste holding area on the northern side of the proposed new building, at Ground Floor level.

This area is situated approximately 55m away from the nearest residential property to the south, and separated by the existing two storey building on the site's southern boundary.

It is considered that due to the location of the waste area there will be there will be no unreasonable noise impacts associated with waste collection. In addition, appropriate conditions have been included to ensure that any noise generated by waste collection is minimised and restricted to appropriate hours.

#### ***(d) any submissions made in accordance with this Act or the regulations,***

##### **NSW Police**

In accordance with the provisions of the Environmental Planning and Assessment Act 1979, the proposed development was referred to the NSW Police on the 1 June 2010 for comment on Crime Prevention through Environmental Design.

A condition has been included recommending that the applicant consider the comments made by the Police.

#### ***e) the public interest.***

The proposed development is not considered contrary to the public interest.

#### **Conclusion**

The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of the relevant SEPPs, KLEP 1998 and the relevant Development Control Plans.

#### **Annexures**

- Determination from the Department of Planning
  - Letter from QS – CIV
  - Plans for Development
-