

<b>JRPP Number</b>	2016SYW007
<b>DA number</b>	DA15/1475
<b>Capital Investment Value</b>	\$36,554,612
<b>Assessing Officer</b>	Mathew Rawson – Senior Environmental Planner
<b>Local Government Area</b>	Penrith City Council
<b>Proposed Development</b>	Demolition of Existing Structures, Construction of Part Six (6) and Part Seven (7) Storey Mixed Use Development including Ground Floor Retail/Commercial Floor Space, 115 Residential Apartments and Three (3) Levels of Basement Car Parking
<b>Property Description</b>	Lots 16, 17, 18, 19 & 20 in DP 31682 and Lots 21 & 22 in DP 215146
<b>Property Address</b>	Nos. 29, 31 & 33 Derby Street, Nos. 34, 36 & 38 Somerset Street and No. 2 Hargrave Street, Kingswood
<b>Date Received</b>	14 December 2015
<b>Type of Development</b>	Integrated Development
<b>Recommendation</b>	Approval

## Assessment Report

### Executive Summary

On 14 December 2015 Council received a Development Application proposing the construction of a part 6 and part 7 storey mixed use development at Nos. 29, 31 & 33 Derby Street, Nos. 34, 36 & 38 Somerset Street and No. 2 Hargrave Street, Kingswood. The proposal, as amended, incorporates the following:

- 1 retail tenancy with 169.5 sqm of floor space;
- 1984.1 sqm of commercial floor area for future medical uses.
- 115 residential units with the following dwelling mix:
  - 27 x 1 bedroom units;
  - 78 x 2 bedroom units;
  - 10 x 3 bedroom units; and
- 243 parking spaces within 3 basement levels.

The subject site is located within the Penrith Health and Education Precinct and is zoned B4 Mixed Use under Penrith Local Environmental Plan 2010. The proposed development is defined as 'shop top housing' which is permissible with consent in the zone. It should also be noted that 'residential flat buildings' and 'retail premises' and 'medical centres' are also permissible forms of development in the B4 Mixed Use zone.

The proposal has undergone revision through pre-lodgement discussions and an Urban Design Review process. The proposal has responded to concerns raised in the assessment regarding the collection of waste from the site, and the provision of additional detail regarding the building height departure and interface with the adjoining neighbours.

The proposed development is Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979 as it involves excavation works considered to be a controlled activity. This requires the issue of General Terms of Approval (GTA) from the NSW Department of Primary Industries, Office of Water. The Office of Water confirmed that no activity approvals were required however they did request the imposition of a number of conditions of consent. This is outlined within correspondence included as Appendix 8.

The proposed development has a 'capital investment value' (CIV) of \$36 554 612. Given that the CIV is in excess of \$20 million, the proposed development is to be determined by the Joint Regional Planning Panel (JRPP) – Sydney West pursuant to Section 23G and Schedule 4A(3) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The subject application was placed on public exhibition and notified to adjoining property owners and occupiers from 18 January 2016 to 17 February 2016. Three (3) submissions were received during the exhibition period. Their content and a response to the issues raised are outlined in the body of this report.

An assessment under Section 23G, Section 79C and Section 91 of the Environmental Planning and Assessment Act 1979 (as amended) has been undertaken. After detailed consideration of all matters, this report recommends that the application be approved subject to the imposition of conditions of consent outlined in Appendix 1.

There are nine appendices to this report, as detailed below.

- Appendix No. 1 – Recommended Conditions of Consent
- Appendix No. 2 – Location Plan
- Appendix No. 3 – Aerial View of Site & Zoning Map Extract
- Appendix No. 4 – Architectural Plans & 3D Images
- Appendix No. 5 – Landscape Plans
- Appendix No. 6 – SEPP 65 & Apartment Design Guide Checklist
- Appendix No. 7 – Clause 4.6 Variation Request
- Appendix No. 8 – Response from the NSW Department of Primary Industries - Office of Water
- Appendix No. 9 – Letter from Land and Housing Corporation

## **Background**

Prior to the submission of the Development Application, a number of meetings were held with the applicant and Council staff to discuss the proposed development. These included:

- Urban Design Review Panel Meeting held on 19 August 2015;
- Pre-lodgement Meeting held on 22 September 2015.

The current proposal has been prepared with regard to the matters raised during the assessment process and by the Urban Design Review Panel. The key issues identified during these initial design meetings related to the urban design merit of the proposal, extent of commercial floor space, the need to achieve compliance with State Environmental Planning Policy No. 65, and the proposed height of the development.

## **Site and Surrounds**

The subject site consists of 7 allotments with a frontage to Derby, Somerset and Hargrave Streets. The legal property descriptions of the site are provided below;

- 29 Derby Street, Kingswood (Lot 16, DP 316 82)
- 31 Derby Street, Kingswood (Lot 17, DP 31682)
- 33 Derby Street, Kingswood (Lot 18, DP 31682)
- 34 Somerset Street, Kingswood (Lot 21, DP215146)
- 36 Somerset Street, Kingswood (Lot 20, DP 31682)
- 38 Somerset Street, Kingswood (Lot 19, DP 31682)
- 2 Hargrave Street, Kingswood (Lot 22, DP 215146)

The subject site has an area of 4,053 sqm which comprises a 59.44 metre frontage to Derby Street, 78.85 metres to Somerset Street and 41.37 metres to Hargrave Street. The site is generally flat with a gentle slope from the north-western to south-eastern corners of the site.

The locality has a mixed character with development to the west comprising of an eight storey at grade car park adjoining the Nepean Hospital and further beyond a variety of medical and commercial land uses along Derby Street. To the north, east and south low density residential development at 1 or 2 storeys is predominant.

The locality is expected to undergo a significant transition under Penrith Local Environmental Plan (LEP) 2010 (Amendment No.4), which rezoned the locality B4 with maximum height limits of up to 21.6 m.

Refer to Appendix No. 2 and Appendix No. 3 for a location plan as well as a aerial view of the site and an extract of the zoning plan applying to the locality.

## **Proposed Development**

The proposal involves the construction of a 6-7 storey mixed use development.

The proposal, as amended, incorporates the following elements.

### *Building Forms*

The proposal will comprise retail/medical space at ground level with residential land uses above.

### *Residential Units & Associated Amenities*

The proposal incorporates a total of 115 residential units with the following dwelling mix:

- 27 x 1 bedroom units;
- 78 x 2 bedroom units;
- 10 x 3 bedroom units.

There are a total of 11 adaptable units which equates to 10% of the total yield. There is a diversity of apartment typologies including corner apartments, dual aspect units, and a number of single aspect units, noting that there are limited south facing single aspect units.

There are a total of two (2) residential lift cores proposed with 2 lifts per core, noting that the lift cores also continue to the basement levels.

The proposal provides for a central 'community space' and communal open space at the first level of the podium in the central eastern portion of the site.

Architectural and landscape plans are provided at Appendix No. 4 and Appendix No. 5.

### *Commercial Floor Space*

The proposal incorporates a total of 3 ground floor commercial tenancies with a total area of 2153.6 sqm provided. The finished floor level of the commercial space is designed to align with the level of the existing footpath areas to provide for a level entry to the commercial tenancies. The commercial floor space is distributed as follows:

- Retail tenancy: 169.5 sqm with direct address to Derby Street;
- 2 x medical tenancies: 1984.1 sqm with access from the commercial lobby off Somerset Street.

### *Vehicular Access and Carparking*

The proposal provides for a vehicular access point at the south-eastern corner of the site. A separate access at the north-eastern corner of the site will serve as a loading zone entry point for waste collection vehicles that will utilise the garbage loading zone via a turntable with a diameter of 14 m to enable garbage vehicles to enter and leave in a forward direction.

The vehicular access provides access to three (3) basement levels that incorporate a total of 243 spaces as follows:

- Basement Level 1:
  - o Commercial Spaces: 70 (including 4 accessible)

- Basement Level 2:
  - o Resident Spaces: 39 (including 3 accessible)
  - o Service Vehicle Spaces: 3
  - o Commercial Staff Only Spaces: 17
  - o Visitor Spaces: 23
  - o Wash Bay: 1
- Basement Level 3:
  - o Resident Spaces: 89 (including 2 accessible)
  - o Wash Bay: 1

The basement levels also incorporate two (2) separate garbage bin holding areas with associated chute systems (4 chute systems in total), service areas, bulk waste storage areas, and residential storage areas.

#### *Other Aspects*

It is noted that a separate Development Application (DA) or Complying Development Certificate (CDC) will be required for the following works associated with the proposal:

- Advertising and signage;
- Fitout and use of the commercial/retail tenancies.

#### *Plans and Documents*

The following plans and documents have accompanied the subject application:

- Architectural Drawings prepared by Morson Group
- Landscape Plans prepared by Conzept
- Survey Plan of the site prepared by Vince Morgan
- Survey Plan (adjacent car park) prepared by Richard Hogan and Co Pty Ltd
- Drafted Plan of Consolidation prepared by Richard Hogan and Co Pty Ltd
- Architectural Design Statement (SEPP 65) prepared by The Morson Group, dated 26 November, 2015
- Traffic and Parking Report prepared by Varga, dated 20 November, 2015
- Stormwater Management Plans prepared by Lam Consulting Engineers, dated 27 November, 2015
- Geotechnical Report prepared by JK Geotechnics, dated 26 August, 2015
- BCA Report (including COA), prepared by AE&D Group, dated 24 November, 2015
- Energy Efficiency Section J Report prepared by Partners Energy, dated 17 November, 2015.
- Flood Study Report prepared by SGC Consultants Pty Ltd, dated 22 November, 2015
- Waste Management Plan prepared by Elephants Foot, dated 4 December, 2015
- BASIX Certificate, dated December, 2015

- QS report, prepared by RICQS, dated 2 December, 2015
- Letter from NSW Government, Family and Community Services (Land and Housing Corporation), dated 21 July, 2015

### **Planning Assessment**

The proposal has been assessed in accordance with Section 23G, Section 79C and Section 91 of the Environmental Planning and Assessment Act 1979, with due regard to relevant legislation and planning instruments as cited below:

- Water Management Act 2000;
- State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land;
- State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Development & Associated Apartment Design Guide;
- Sydney Regional Environmental Plan (SREP) No. 20 – Hawkesbury / Nepean River Catchment;
- Penrith Local Environmental Plan (LEP) 2010;
- Penrith Development Control Plan (DCP) 2014.

Having regard to the above legislation, planning instruments and policies, the following key issues have been identified for discussion.

#### **1. Section 23G – Joint Regional Planning Panels**

A regional panel is taken to be the Council whose functions in particular circumstances are conferred on a regional panel. In this case, the Sydney West Joint Regional Planning Panel is the consent authority as conferred on it under Section 23G and Schedule 4A(3) of the EP&A Act given that the Capital Investment Value of the proposal exceeds \$20 million.

#### **2. Section 79C (1) (a) (i) – Any Environmental Planning Instrument**

##### ***State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)***

Clause 7 of SEPP 55 outlines the following requirements that a consent authority consider prior to the issue of a consent for any development:

*“A consent authority must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

There is no record that the subject site is contaminated. The proponent has outlined that the site has been historically used for residential purposes and the current proposal does not substantially change the dominant land use. Council's Environmental Health Officer has reviewed the proposal in detail and commented as follows:

*“Given the previous use of the land and the nature of the proposed future development being similar in use, there are no concerns regarding land contamination for the proposed development. There has also been no identified past record of fill being used on site.”*

As a result it is considered that as the use of the land is not substantially changed and the land is suitable for residential development the proposed development is compliant with the provisions of SEPP 55, particularly Clause 7.

***Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River Catchment (SREP 20)***

SREP 20 aims to protect the environment of the Hawkesbury-Nepean River by ensuring that the impacts of future land uses are considered in a regional context. Of most relevance to this proposal is the requirement to assess the development in terms of the impact of the development on water quality, particularly as that relates to the water cycle and flora and fauna.

The proposal seeks to discharge stormwater from the development to the existing stormwater system in Derby Street and includes stormwater quality control mechanisms such as stormwater cartridge filters.

Subject to appropriate conditions relating to stormwater control, and sediment and erosion control during construction, the proposal will be consistent with the policy, particularly in relation to total catchment management and water quality in the metropolitan area.

This is confirmed through the receipt of referral comments from Council's Senior Water Management Officer that the proposal is consistent with Council's Water Sensitive Urban Design Policy in terms of the WSUD measures proposed.

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

Clause 104 of the abovementioned SEPP does not require Council to consult with the Roads and Maritime Services as the size of the proposed development does not trigger any of the criteria in Schedule 3 (115 units is less than the 300 units trigger). In addition the site is not on a classified road and has no connection to a classified road within 90m of the site. Therefore no referral to the RMS was required.

***State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and Apartment Design Guide (SEPP 65)***

The Development Application has been accompanied by a design verification statement prepared by Peter Morson (Registered Architect), verifying that the design quality principles set out in Part 2 of the SEPP are achieved for the development and that it meets the objectives of Part 3 and Part 4 of the Apartment Design Guide (ADG).

A detailed assessment against the SEPP 65 Design Quality Principles and the relevant provisions of the Apartment Design Guide are provided at Appendix No. 4.

***Penrith Local Environmental Plan (LEP) 2010***

***Permissibility***

The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan 2010. The proposed development is defined as 'shop top housing' which is permissible with consent in the zone. It should also be noted that 'residential flat buildings' and 'retail premises' and 'medical centres' are also permissible forms of development in the B4 Mixed Use zone.

### *LEP and Zones Objectives*

The proposed development is consistent with the aims and objectives of both the LEP and the zone itself, which for the B4 zone are specified as:

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

This is based on the following assessment:

- The proposal dedicates the vast majority of the ground floor to commercial floor area with the commercial tenancies suitable for a range of retail, commercial, and office uses as well as potential medical related land uses;
- The site is well located relative to existing infrastructure and services as well as public transport which encourages public transport patronage as well as walking and cycling;
- The proposal provides for an active street frontage with a strong interface to Derby, Hargreave and Somerset Streets which will contribute to the desired future character of the Penrith Health and Education Precinct (HEP).

The proposal is considered to satisfy the zone objectives of the LEP.

### *Other Relevant Instrument Provisions*

The proposed development satisfies the remaining provisions of the LEP, with detailed discussion provided below against those provisions of most relevance to the proposal, notably the departure to the building height standard and the provisions of Clause 7.11 (Penrith Health and Education Precinct).

#### *Clause 4.3 - Height of Buildings & Clause 7.11 - Penrith Health and Education Precinct*

Clause 4.3 of Penrith Local Environmental Plan 2010 relates to building heights and states the following:

- (1) *The objectives of this clause are as follows:*
  - (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
  - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,*
  - (c) *to minimise the adverse impact of development on heritage conservation areas and heritage items,*
  - (d) *to nominate heights that will provide a transition in built form and land use intensity.*



- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map identifies a maximum height of 18 m applying to the site, however as detailed further in this report the proposal benefits from a LEP height bonus of 20% pursuant to Clause 7.11 of the LEP.

Clause 7.11 provides as follows:

- (1) *The objectives of this clause are as follows:*
- (a) *to encourage a built form that is suitable for both residential and health services facilities,*
  - (b) *to encourage adaptive reuse of residential buildings for health services facilities in the Penrith Health and Education Precinct where the residential use within the building ceases in the future.*
- (2) *This clause applies to land identified as “Penrith Health and Education Precinct” on the Clause Application Map.*
- (3) *Despite clause 4.3, development consent may be granted to development on land that exceeds the maximum height shown for that land on the Height of Buildings Map by up to 20% if the floor to ceiling height of both the ground and first floors are equal to or greater than 3.5 metres.*

The proposal benefits from Clause 7.11 in that it provides 3.9 m floor to ceiling heights for the ground floor and 3.5 m for the first floor of the development. This then provides for a maximum permitted building height of 21.6 m on the site.

The proposal has a maximum building height of 23.55 m relative to natural ground level which equates to a 1.95 m or 9% departure to the 21.6 m maximum (bonus) height applying to the site.

#### *Consideration of Clause 4.6 Variation Request*

The applicant has prepared a Clause 4.6 variation request, noting that the full request can be found at Appendix No 7. The proposal has a maximum building height of 23.55 m relative to natural ground level which equates to a 1.95 m or 9% departure to the 21.6m maximum (bonus) height applying to the site, which is the maximum permitted building height.

Clause 4.6(2) of the LEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument.

However, Clause 4.6(3) states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case, and
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with Clause 4.6(3) the applicant requests that the height of buildings development standard be varied. The applicant has put forward the following key points in relation to demonstrating that compliance with the development standard is unreasonable and unnecessary.

*“The proposal presents generally as a building compatible with the 21.6 metre height control given the varied built form which ranges from 6 to 7 storeys yet presents predominantly as five to six storeys to the street. The building only exceeds the 21.6 metre height control by 1.95m along the Somerset Street pinnacle frontage. The corner of Somerset and Derby Street all represents the first view point for vehicles travelling east from the Penrith CBD towards the site along Somerset Street and a key intersection for two main connector streets (Somerset and Derby). Maintaining a pinnacle form on this corner is therefore considered appropriate.*

*Regardless of the minor technical non-compliance, the proposal aligns with the LEP objectives and desired future character for the area. The minor height variation is countered by the varied built forms along Somerset Street and Derby which provide a better urban design outcome for the site as a whole. The height variation can be validated as a redistribution of floorspace from other areas of the site where a form below the height control is proposed. The departure from the standard has negligible impacts, particularly when viewed contextually adjacent the 8 storey hospital car park. If anything, the increased form on this corner and along Somerset Street will reduce the visual obtrusiveness of the existing carpark which is currently out of place presenting an unideal bulky form. It is also important to note that Council's FSR and Height controls do not align for the site.*

*The proposal represents a built form with 12,680 sqm of GFA, FSR of 3.13. A further 1505.5 sqm of GFA is permissible on the site within the 3.5:1 FSR control. The built form submitted with this application represents a design focused on positive urban outcomes as opposed to yield. A less modulated form, consistent with the both the height and FSR control could be achieved on the site, however with worse urban design outcome to that proposed by this application.”*

The applicant also outlines the following key environmental planning grounds particular to the proposed development and site context:

*“The proposed variation has urban design/planning merit through locating increased densities on corner locations and key site frontages to highlight key forms with reduced forms on other site edges including stepped down elements along the facades, particularly sensitive edges which adjoin existing low density residential land.*

*Additionally, the proposal does not hinder the orderly economic potential of surrounding properties. The benefits of providing 115 residential apartments, localised retail uses and large commercial floorplates appropriate for medical services far outweigh the negligible impact associated with the minor variations to height on the site's primary frontage, which presents an appropriate urban design outcome.*

*The provision of such medical facilities and residential uses aligns with the direction for development surrounding the recently refurbished Nepean Hospital and will provide employment, housing and service opportunities immediately adjoining the hospital.”*

The environmental planning grounds put forward are supported and it is considered that as per the submitted Clause 4.6 variation request submitted that compliance with the building height standard would be unreasonable, and unnecessary in this instance.

The proposal results in a preferable outcome on the site as compared to a strictly compliant scheme. The redistribution of the building height reduces privacy impacts relative to the existing and future development to the east of the site by reducing the number of units facing the rear of the site.

Further, the proposal provides for the delivery of upfront commercial floor space rather than residential units capable of adaptation, noting that the LEP and DCP do not specifically require this in order to obtain the building height bonus.

The delivery of significant medical floor space as part of the delivery of the development is a preferred environmental planning outcome than simply providing the required increased floor to ceiling heights. This enables streetscape activation and contribution to the desired future character of the precinct in a key location adjacent to Nepean Hospital.

#### *Clause 4.4 - Floor Space Ratio*

Clause 4.4 of Penrith Local Environmental Plan 2010 relates to maximum floor space ratios (FSR) for particular parts of the local government area. The site is identified as having a maximum FSR of 3.5:1. The current proposal adopts a floor space ratio of 3.13:1 which is 11% less than the maximum permitted FSR applying to the site.

### **3. Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments**

There are no draft environmental planning instruments applying to the site.

### **4. Section 79C(1)(a)(iii) – Any Development Control Plan**

#### ***Penrith Development Control Plan 2014***

Penrith Development Control Plan 2014 applies to the land. The proposal has been assessed having regard to the provisions of Part C – Controls applying to all land uses, the relevant elements of Part D2 Residential Development and Part E, Section E12 – Part A, Hospital Precinct with the following key sections noted for further consideration.

#### **C2 - Vegetation Management**

The submitted plans detail the removal of a number of trees in association with the proposed development. The proposal also provides for suitable replacement plantings by way of additional landscaping around the side and rear of the site as well as within the road reserve and at the first floor podium level common open space.

The proposed level of planting is considered sufficient to replace the trees to be removed.

#### **C3 - Water Management**

The applicant has submitted a Soil and Water Management Plan including associated stormwater and Water Sensitive Urban Design measures that will ensure appropriate water management measures are implemented. Council's Senior Water Management Officer has reviewed the proposal and found that the proposal is satisfactory and provides for appropriate Water Sensitive Urban Design measures.

#### **C5 - Waste Management**

The key objective of this section is to ensure that the volume of waste generated is minimised and waste is re-used or recycled. A suitable construction waste management plan has been submitted with the application.

Additionally the proposal incorporates the following operational waste management measures:

- 4 x individual chute systems, with a recycling and a residual chute provided to each residential core that connects to a collection area in the basement;
- Bulky waste storage area in the basement;
- Holding area for collection day at the ground floor level which will be serviced by Council's waste vehicles. The use of a truck turning table will enable vehicles to enter and leave the site in a forward direction.

The lack of a carousel system to be installed within the northernmost basement chute room, which is required to rotate bins as they are filled, has been raised as a concern by Council's Waste Management Officer. As such a condition of consent is recommended to ensure that a linear carousel system or similar is provided for the development to ensure that bins do not overflow during operation of the chute system.

#### C10 - Transport, Access and Parking

The proposal requires the following levels of on-site parking:

<b>Land Use Element</b>	<b>Rate</b>	<b>Required</b>	<b>Provided</b>
Residential	1 or 2 bed: 1 space  3 bed: 2 spaces	27 x 1 bed: 27 78 x 2 bed: 78 10 x 3 bed: 20 Total = 125	128
Residential Service Vehicle	1 per 40 units	115/40: 3	3
Residential Car Washing	1 per 50 units	115/50: 2	2
Residential Visitor	1 space per 5 units	115/5: 23	23
Commercial	Retail: 1 space per 30 sqm  Medical: 4 spaces per 100 sqm	169.5/30: 6  1984.1/25: 79  Total: 85	A total of 70 spaces are provided as unallocated unrestricted spaces in B1 and 17 as staff parking in B2.  Total: 87
<b>Total</b>		<b>238</b>	<b>243</b>

**Note:** The rate for the medical use is obtained from the RMS Guideline for Traffic Generating Development. Council's parking rates for medical centres are based on the number of practitioners and support staff. This information is unknown at this stage. Under Council's DCP development controls the development has the capacity for 17 health practitioners at any one time with 30 support staff while still retaining 6 car spaces for the retail tenancy. There is the capacity for greater numbers of health practitioners with less support staff, however given the 17 staff spaces this number was used as an example. The actual capacity will be determined under a separate DA for the fit out and use of the tenancy.

Council's Traffic Engineer and Development Engineer are satisfied with the parking related aspects of the proposal subject to recommended conditions of consent.

#### D2.4.9 Residential Flat Buildings – Solar Planning

The DCP 2014 stipulates the following guidelines with regard to solar access.

*- Minimum of 4 hours sunlight between 9 am and 3 pm (21 June), to living rooms (areas other than bedrooms, bathroom, kitchen, laundry) of each dwelling, and the living zones of any adjoining dwellings.*

*- Minimum of 3 hours sunlight between 9am-3 pm June 21 to 40% of the main private open spaces of the dwelling and main private open spaces of any adjoining dwellings*

The proposed design has been reviewed against the solar access provision of the ADG and SEPP 65 which override the provisions of the DCP 2014 in regards to internal solar access. The ADG suggested approach that 70% of living rooms and private open spaces in a building receive a minimum of 2 hours of direct sunlight between 9am and 3pm during mid-winter has been achieved. A total of 79% of apartments will receive 2 hours of direct sunlight during mid-winter.

In terms of minimum sunlight for adjoining outdoor spaces and dwellings, the provisions of the DCP have been achieved. There is some degree of impact from the proposed built form onto the adjacent dwellings on the southern side of Derby Street particularly in the early morning. Several of these dwellings then encounter overshadowing predominantly from the adjacent hospital carpark during the afternoon.

Two of the four dwellings on the southern side of Derby Street which are impacted by overshadowing are used for commercial purposes. Shadow impacts upon their frontages are therefore less detrimental. The majority of land uses south of the site maintain 3 hours of solar access during mid-winter. At worst, two-three hours of solar access is maintained.

Should these sites be redeveloped, uses such as shop top housing are permissible which would improve shadow impacts for the site by providing commercial space at ground level with specifically orientated residential uses above to maximise internal solar access. The proposed development will not hinder the future development potential of these adjacent sites.

In light of the above, the minor shadow impacts associated with the proposed built form are considered to be acceptable

E12, Part A – Penrith Health and Education Precinct

The site is located in the Penrith Health and Education Precinct (HEP), within the Medical Mixed Use Character area which calls for a number of key requirements as outlined in the table below.

<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<i>Provision of flexible floor areas and layouts to the ground and first floor to accommodate a range of commercial uses;</i> <i>3.5m floor to ceiling heights on the ground and first floor with 2.7m above;</i>	The proposal provides for the required 3.5 m floor to ceiling heights at the ground floor and first floor and sufficiently flexible floor areas to accommodate a range of uses.	Yes
<i>A 75% commercial frontage is required and an ‘active frontage’ is required as well as a continuous awning with a depth of 2.8m;</i>	The proposal provides for >75% commercial frontage and is activated.  An appropriate awning is also provided.	Yes
<i>A minimum site width of 24m is required;</i>	38.07 m at its smallest dimension (northern boundary)	Yes
<i>Individual commercial and residential entries;</i>	Provided with separate entries and cores and residential areas beyond secured access point to site.	Yes
<i>4m front setback to the street;</i> <i>2-4 storey podium;</i>	4 m provided.  2 storey podium provided.	Yes
<i>6m side and rear setbacks, noting that the ADG now prevails over the DCP control;</i>	6 m-9 m provided for the most part aside from small variations at the Hargrave Street frontage.	Yes

<i>Ground and first floors of mixed use developments should provide for commercial frontage, with 'variation being considered to this control in order to provide adaptable housing' which is to be provided through the increased floor to ceiling heights;</i>	Ground floor provides for commercial active frontage. First floor provides for adaptable housing through increased floor to ceiling heights.	Yes
<i>75% site coverage and 10% deep soil.</i>	The development results in a total site coverage of 94% of the site.	No – See discussion below.

The only exception to consistency with the DCP is in relation to the site coverage control. Despite the significant amount of site coverage proposed the development is considered to be acceptable given the following:

- There is considerable amounts of landscaping (24% of the site) retained by the development through the common open space areas at level 1 of the podium as well as the landscape buffer along the rear (eastern) boundary.
- The character of this site is more commercial than typically found within the Health and Education Precinct. It is directly adjacent to the hospital and provides for up-front medical uses at ground floor level which would have to be sacrificed for lesser site coverage.
- Sufficient soil depth is provided at ground level and at the Level 1 podium, by way of raised planter boxes, to accommodate the proposed plantings ensuring that the proposed tree and shrub species will be viable.

#### **Section 79C(1)(a)(iia) – The provisions of any Planning Agreement**

There is no VPA that applies to the land.

#### **Section 79C(1)(a)(iv) – The Regulations**

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objection to the proposed development regarding fire safety considerations as prescribed under the *Environmental Planning and Assessment Regulation 2000*.

##### *Prescribed Conditions*

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the BCA, can be imposed as conditions of consent where applicable.

##### *Advertising and Notification*

Advertising and neighbour notification were carried in accordance with the requirements of the Regulations.

##### *Schedule 1 Matters*

The relevant matters contained in Schedule 1 are satisfied, including those matters relating to SEPP 65 and required documentation.

## **Section 79C(1)(b) – The Likely Impacts of the Development**

### ***Urban Design***

The proposal presents a suitable urban design outcome on the site when having regard to the site context.

The scale of the development is considered to be appropriate having regard to bulk and scale and the envisaged built form and character of the site within the Penrith Health and Education Precinct. The proposed building will be of a high architectural quality and will significantly improve the streetscape of the site's three frontages.

In terms of built form, the proposal presents of an appropriate scale when viewed alongside the 8 storey hospital carpark at the corner of Derby and Somerset Streets. When viewed from the surrounding context the form appears varied, presenting to the street as a predominantly 5-6 storey development.

The development will offer a localised retail use at ground level along with a large medical floorplate across three street frontages. The development will offer enhanced public domain to all frontages through improved pedestrian access, public domain upgrades and quality landscaping.

There are some concerns regarding the treatment of the eastern facing facades and the heavy use of white precast concrete panelling as well as the treatment of the eastern façade of the loading dock. These aspects are subject to a recommended condition that requires further revisions to these facades prior to the issue of a Construction Certificate.

### ***Pedestrian Access and Links to Existing Footpaths***

The development proposes pedestrian access within private property along the Somerset Street and Derby Street frontages. The rationale being to provide additional space for quality mature street trees and landscaping within the road reserve verge to offset the loss the deep soil zones resulting from the basement which is setback only 1 m from Somerset Street frontage and 2.6 m from the Derby Street frontage. A right of footway 1.5 m will be required to be imposed on the subject site to ensure free pedestrian access to, from and transiting the site.

### ***Site Isolation***

Land immediately joining the subject site to the northeast (Lot 23, DP 215146, 4 Hargrave Street, Kingswood) is land owned by the NSW Department of Family and Community Services, Land and Housing Corporation (LAHC). Given this site's location within the Council identified medical mixed use precinct, the applicant has tried to acquire this site as part of this proposal.

The acquisition of this site would then create a rectangular development site and avoid potential site isolation. However as detailed in the letter from LAHC, Appendix 9, LAHC does not allow direct negotiation for the sale of a public asset property. Further discussions advised that this process may take up to 12 months and as such the proposal (subject of this application) proceeded without 4 Hargrave Street.

Given the applicable planning provisions of adjoining sites (6-8 Hargrave Street) remain the same as the subject site and the site which was attempted to be acquired, the proposal is not considered to isolate 4 Hargrave Street should LAHC wish to sell or develop this site at a later date.



## **Flooding**

A Flood Impact Assessment Report has been prepared by SGC Consultants and was submitted with this application, providing an assessment of flooding from overland flows along with addressing the requirements of Council and the NSW Floodplain Development Manual. The Report concludes as follows:

*“The Flood Planning Level adopted for the proposed development is variable across the length of the site and achieves more than 0.5 m above the 100 year ARI flood event. Based on flood modelling results, the proposed floor level for the development at the southern side of Somerset Street and Derby Street should be set RL 49.50 m AHD. The entrance to the basement car parking level should provide a crest up to RL 48.60 m AHD to protect the basement from flooding.”*

Council's Development Engineers concur with the findings and raised no objections to the proposal as the proposed levels comply with the above requirements within the Flood Impact Assessment Report.

## **Overshadowing**

The distribution of the proposed development's form and associated height has been partly generated by a desire to limit the extent of overshadowing to the adjoining townhouse developments to the east, as well as any future residential development given the B4 zoning and 18-21 m height limit applying to that land.

### *Future Development Scenario*

The proposal enables the adjoining sites to the south to achieve 70% solar access to a future residential development when taking into account the extent of shadow cast by the building, required setbacks and the like. The proposal would impact on the front unit of each likely building at the ground and first floor level of the properties to the south as well as the townhouses to the east between 2 pm and 3 pm.

However based on the requirement to provide for ground floor commercial/medical uses as well as the ADG requirement for 70% of units to receive 2 hours solar access, the anticipated future development form would achieve solar access to the majority of units and satisfy the ADG.

### *Existing Development Scenario*

The western facing living spaces and private open space of the existing townhouse development to the east will be impacted by overshadowing from the proposed development from 2 pm at mid-winter. The townhouses retain solar access to these areas between 11 am – 2 pm at mid-winter.

There is some degree of impact on the adjacent dwellings on the southern side of Derby Street particularly in the early morning. Several of these dwellings then encounter overshadowing predominantly from the adjacent hospital carpark during the afternoon.

Two of the four dwellings on the southern side of Derby Street are used for commercial purposes. Shadow impacts upon their frontages are therefore less detrimental. The majority of land uses south of the site maintain 3 hours of solar access during mid-winter. At worse, 2 - 3 hours of solar access is maintained. The majority of this shadow can be accounted for by the existing hospital carpark (particularly during the afternoon).

Given the adjoining sites are zoned B4 Mixed Use with a height of up to 18 m and an FSR of 3.5:1, it is expected that at some point in the future redevelopment may occur for a mixed use development or residential flat building development on the land.

Given the high density nature of the site and the high density zoning applying to the surrounding area, it is considered that the proposal provides for sufficient solar access to the townhouses to the east and southern neighbours and the proposal satisfies the planning principle in *Parsonage v Ku-ring-gai* [2004] NSWLEC 347 which outlined:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

Therefore the expectation of maintaining solar access in a high density environment is substantially different to a lower density environment. Further given the maximum permitted building heights and orientation of allotments in this part of the Health and Education Precinct, maintaining full solar access to all existing lower density residential development is not achievable.

The final point of the planning principle is considered of key importance in this situation as the likely future built forms to the south are anticipated to accommodate mixed use or residential development of up to 6 storeys. Whilst this may not occur in the short term, the longer term desired future character is for a much greater density on the allotments to the south. As the proposal has demonstrated that a future development form to the south could achieve the level of sunlight required under the ADG after taking into account the impact of the proposal development, the extent of overshadowing is considered acceptable.

### **Noise Impacts**

The proposal was accompanied by an Acoustic Assessment prepared by Acoustic Logic detailing the impact of the development on the nearest residential receivers and adjoining properties and from associated plant, traffic and loading vehicle noise. This report concludes that the impact on the apartments and adjacent properties will meet the required noise criteria.

The Acoustic Report was reviewed by Council's Environmental Management Team and was found to be satisfactory. The impacts of the development are considered to satisfy the EPA Industrial Noise Policy. However conditions of consent are recommended which require the submission of further information prior to the issue of a Construction Certificate which details the specifications of the exact plant and mechanical equipment to be used, this information is currently unknown at this stage. This will ensure the proposal remains consistent with the Industrial Noise Policy.

### **Community Safety**

The application was accompanied by a Statement of Environmental Effects prepared by Tomasy which considered the Crime Prevention through Environmental Design (CPTED) principles of the proposed development.

Consideration of the information provided was undertaken by Council's Community Safety Coordinator who confirmed that the proposal is satisfactory in terms of CPTED matters, subject to recommended conditions of consent.

### **Stormwater Management**

The proposal was accompanied by a detailed stormwater plan with associated on-site detention and Water Sensitive Urban Design (WSUD) elements. These were reviewed by Council's Development Engineer and Waterways Officer and found to comply with Council's requirements.

### **Accessibility**

The Building Code of Australia (BCA) Compliance Assessment Report accompanying the Development Application, prepared by AE & D Group, summarises the identified non-compliance matters for the development in terms of the BCA including Part D3 Access for People with Disabilities.

The detailed design recommendations of the report will need to be incorporated into the Construction Certificate plans and the works certified accordingly prior to the occupation of the building.

The development was reviewed by Council's Building Surveyor and found to be satisfactory

### **Traffic Impacts**

A traffic report prepared by Varga Traffic Planning accompanied the Development Application providing detail on traffic generation. The proposal is estimated to result in a total traffic generating potential of 226.6 peak hour vehicle trips, the vast majority of which will be associated with the medical aspect of the proposal.

Using SIDRA Analysis, the traffic report found that the proposed development would not result in a lower level of service for the intersections of Derby and Somerset Streets or Somerset and Hargrave Streets. Additionally the report found that the Derby Street and site access driveway would operate at an 'A' Level of Service. The traffic report did not model the operation of the Derby Street and Parker Street intersection. The report ultimately found that:

*"That projected increase in the traffic generation potential of the site as a consequence of the development proposal will not have any unacceptable traffic implications in terms of road network capacity."*

Council's Traffic Engineer and Development Engineer are satisfied with the traffic related aspects of the proposal subject to recommended conditions of consent.

In relation to the traffic impacts of the Penrith Health and Education Precinct at a precinct wide scale, comment was sought from Council's City Planning Coordinator as to the process by which the 'up-zoning' in this area occurred.

*"The zonings proposed for the Penrith Health and Education Precinct (PHEP) reflect the detailed planning and previously adopted LEP, DCP and Concept Plans for the "Werrington Enterprise Living + Learning" (WELL) Precinct and the Strategic Vision / Structure Plan prepared by the State Government for the PHEP.*

*In May 2010 the Penrith Business Alliance was nominated by the NSW Government as the lead agency to report back on the development of the 'Penrith Health and Education Precinct' (PHEP). The vision for the project was to attract life science companies to Penrith and demonstrate why Penrith is an appropriate place to locate. As a result a Strategic Vision was formed for the PHEP in 2011. This vision included a structure plan for the precinct.*

*To implement the vision for PHEP, Penrith LEP 2010 Amendment 4 (city-wide LEP) zoned part of this precinct to B4 mixed use with the aim to facilitate development for health professionals, research and education services. In addition, the increased density will add to the viability of public transport systems and contribute to the vibrancy and safety of the area. Public transport incorporates train services and a local bus network. Kingswood Station is located within the Precinct.*

*There was no traffic study done as part of the State Government's structure planning process."*

Accordingly it is considered most appropriate to continue to assess the traffic generation of individual development proposals on their merits through each individual Development Application, whilst having regard to previous approvals in the precinct. It should be noted that the only other recent major development, which was approved by the JRPP under DA15/0730 (2015SYW134) at 48-56 Derby Street was also supported by a Traffic Report by Varga Traffic Planning. This previous report also found there to be no reduction in any intersection's level of service as a result of the development, including the intersection of Parker Street/The Northern Road and Derby Street. This previous proposal only resulted in a net traffic generating potential of 61 peak hour vehicle movements.

Finally, in March 2016 an announcement was made by the Roads and Maritime Service (RMS) relating to a proposed \$1 million improvement to the intersection of Parker and Derby Streets. This funding of intersection upgrades highlights the awareness and willingness of both the Council and the RMS as Roads Authorities to deal with the increased traffic generated by new development in the area.

### ***Social and Economic Impacts***

The proposal represents a significant development within the Penrith HEP and will generate substantial economic benefits to the locality and broader Penrith area through the construction and operational phases of the development. The proposal will also increase housing supply and the extent of commercial floor space in proximity to a major employment hub and key public and road transport corridors. This aligns with Council's vision for the area. The social and economic impacts have been considered and are assessed as satisfactory.

### **Section 79C(1)(c) – The Suitability of the Site for the Development**

The site attributes are conducive to the proposed development. The parcel size is 4053 sqm which has enabled a holistic urban design exercise to occur in terms of arriving at the most appropriate building form on the site.

The proposal has addressed the site constraints, most notably the interface with development to the east that currently features 2 storey residential development. The transition in height mitigates overshadowing and perceptions of building bulk and scale to a greater degree than a fully compliant height at the rear (east) of the site.

Overall, the subject site is deemed suitable for the development for the following reasons:

- The development is permissible with consent and consistent with the zone objectives.
- The development is compatible with surrounding/adjoining land uses with the design responsive to the transition in height anticipated to the rear.
- Stormwater from the site is able to drain to Council's satisfaction.

- The site is adequately serviced by transport, water and sewer infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.
- The proposal aligns with the desired future character of the Penrith Health and Education Precinct.

#### **Section 79C(1)(d) – Any Submissions made in relation to the Development**

##### *(i) Internal and External Referrals*

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

<b><i>Referral Body</i></b>	<b><i>Comments Received</i></b>
<i>Building Surveyor</i>	Supported, subject to conditions.
<i>Environmental Health – Environmental Management</i>	Supported, subject to conditions.
<i>Environmental Health - Waterways</i>	Supported, subject to conditions.
<i>Community Safety Officer</i>	Supported, subject to conditions.
<i>Waste Management Officer</i>	Concerns raised over lack of waste chute carousel system. Issue has been conditioned.
<i>Traffic Engineer</i>	Supported, subject to conditions.
<i>Development Engineer</i>	Supported, subject to conditions.

##### *(ii) Community Consultation*

In accordance with Penrith Development Control Plan 2014 and the Environmental Planning and Assessment Regulations, the proposed development was advertised in the local newspaper and notified from 18 January to 17 February 2016 to adjoining property owners and occupiers. Three (3) submissions were received in response to the exhibition process which raised the following concerns that are addressed in the table below.

<b><i>Issue</i></b>	<b><i>Response</i></b>
<i>Groundwater levels and rising damp in the area</i>	<p>A geotechnical investigation accompanied the DA and provides recommendations for excavation, supports and associated shoring to ensure limited impact to adjoining properties.</p> <p>The investigation found that groundwater was encountered at about 5 m depth. Pumping discharge associated with excavation will therefore be pumped to the stormwater system.</p> <p>The application was referred to NSW Office of Water who offered no objections subject to conditions of consent relating to monitoring and controls of the ground water dewatering.</p> <p>The combination of the Officer of Water recommended conditions and the recommendations of the Geotechnical Investigation will suitably address any potential impacts associated with changes to groundwater.</p>

<i>Height and visual prominence</i>	<p>The development's height is consistent with the existing carpark directly adjacent and does not result in any unacceptable impacts. The height steps down to below the maximum height plane and provides for compliant setbacks to the adjoining development sites.</p>
<i>Additional traffic generation and congestion</i>	<p>The traffic assessment outlines the existing levels of service to existing intersections and roads will not be unacceptable with the same 'level of service' maintained. Further, the proposal complies with the overall parking requirements for the development.</p> <p>In terms of the traffic impacts of future development, these will be considered on their own merits at the time of future DA's.</p> <p>Council's Traffic Engineer has considered the application and found the proposal to be satisfactory.</p>
<i>Adequacy of on-site parking</i>	<p>The proposal complies with the required levels of on-site parking. The proposed development will also result in a net-increase of on-street car parking spaces.</p>
<i>Inconsistency with existing local character</i>	<p>Although the surrounding context consists predominantly of low density residential uses and the Nepean Hospital, the existing zoning applying to the site and its surrounding context (B4 Mixed Use) and (R4 High Density Residential), encourages significant residential and commercial growth surrounding the hospital. In accordance with the LEP controls the immediate context will consist of 18-21 metre built forms, representing a significant uplift from the current context (predominantly one to two storey dwellings).</p>
<i>Overshadowing of properties to the east</i>	<p>The western facing living spaces and private open space of the existing townhouse development to the east will be impacted by overshadowing from the proposed development from 2 pm at mid-winter. The townhouses retain solar access to these areas between 11 am – 2 pm at mid-winter.</p> <p>There is some degree of impact on the adjacent dwellings on the southern side of Derby Street particularly in the early morning. Several of these dwellings then encounter overshadowing predominantly from the adjacent hospital carpark during the afternoon.</p>

	Given the high density nature of the site and the high density zoning applying to the surrounding area, it is considered that the proposal provides for sufficient solar access to the townhouses and southern neighbours and the proposal satisfies the planning principle in <i>Parsonage v Ku-ring-gai</i> [2004] NSWLEC 347.
<i>Concerns surrounding privacy and overlooking from balconies and windows facing east</i>	<p>All units' living spaces are orientated to the street or internal common open space areas. The only balconies which face east are secondary balconies from the bedrooms of the cross-through apartments that have their main living spaces facing west.</p> <p>Eastern facing windows are limited to bedrooms or small windows providing ventilation for kitchen areas. These windows are all proposed to be fitted with privacy screens.</p>
<i>Concerns regarding construction start and finish times.</i>	<p>The development will be subject to recommended conditions of consent which limit construction which is audible on adjoining properties to between 7 am – 6 pm Monday to Friday and 8 am and 1 pm on Saturday.</p> <p>Additionally a condition of consent is recommended to be imposed that requires the preparation of a Construction Noise Impact Assessment and Management Plan. This assessment is to consider (at minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Change's "Interim Construction Noise Guideline" 2009.</p>

Based on the above discussion, the submissions are adequately addressed by the proposal and through recommended consent conditions.

### **Section 79C(1)(e) – The Public Interest**

The site is suitable for the proposed development, the proposed development is permissible with consent and the proposal meets the aims and objectives of the relevant environmental planning instruments applying to the development. The proposal is one of the first large scale redevelopments in the Penrith Health and Education Precinct, will provide for a significant increase in the extent of commercial floor space available in the precinct and will provide for a significant boost to housing supply in an area marked for high density development by the recent gazettal of Penrith LEP 2010 (Amendment No 4). For these reasons the proposal is in the public interest.

## **Section 91 – Integrated Development**

A Geotechnical and Hydrogeological Investigation has been undertaken by JK Geotechnics and submitted with the DA. The report assesses the proposed excavation to 9 metres below natural ground to accommodate 3 levels of basement parking.

The investigation found that groundwater was encountered at about 5 m depth. Pumping discharge associated with excavation will therefore be pumped to the stormwater system. Tanking of the basement will also be investigated prior to the issue of a Construction Certificate.

Given the proposed works will impact on the groundwater, the applicant considered that the development would require an Activity Approval under Section 91 of the Water Management Act 2000. Section 91 of the Environmental Planning and Assessment Act 1979 identifies any development which requires such an approval as Integrated Development.

Accordingly the development was advertised as Integrated Development in accordance with the Regulations and referred to the NSW Department of Primary Industry (DPI), Office of Water for their General Terms of Approval. DPI Office of Water issued the following response:

*“Construction of the development will involve excavations to depths up to 9.5 m. Preliminary assessment indicates that the groundwater table is likely to be intercepted as a result of the excavation works, and that perched water, possibly within sandstone lenses, may also be intercepted.*

*On the basis of the review of site investigation and design documents provided, DPI Water considers that the volume of groundwater to be extracted for excavation purposes or for any remediation of perched groundwater or deeper groundwater flows, and the duration of dewatering, are not likely to be significant in terms of resource management within the Sydney Basin Central Groundwater Source.*

*Therefore, an authorisation for the extraction of groundwater for the proposed activities is not considered to be warranted at this time. However, we do require that certain Conditions of Approval, which are attached, be issued to the Applicant so that the minor amount of dewatering to be undertaken is done so generally in accordance with the NSW Aquifer Interference Policy.”*

This response can be taken to be the issue of General Terms of Approval for the development. Recommended conditions of consent will ensure that the proposed development complies with the requirements of DPI Office of Water as outlined in their response, see Appendix 8.

## **Section 94 Contributions**

The following Section 94 Contributions are applicable to the subject development, noting that there is a credit for seven (7) existing dwellings.

- Cultural Facilities - \$37,485.00
- District Open Space - \$388,272.00
- Local Open Space - \$140,394.00
- Kingswood Neighbourhood Centre - \$37,230.00

*Total Contributions - \$603,381.00*

Recommended conditions of will require the payment of contributions prior to the issue of a Construction Certificate.



Note: Indexation of the Section 94 contributions will occur on 1 July 2016, prior to the determination of the application.

## **Conclusion**

The proposed development represents one of the first significant redevelopments in the Penrith Health and Education Precinct that was rezoned by Council in February 2015 pursuant to Penrith LEP 2010 (Amendment No. 4).

The proposal has been designed to be consistent with the planning controls applying to development of this form, noting that the departure to the building height control has merit in the context of this site.

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G, Section 79C and Section 91 of the Environmental Planning and Assessment Act 1979 and has been found to be satisfactory. The site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of the Joint Regional Planning Panel's support.

## **Recommendation**

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That:

1. The submitted height standard variation under Clause 4.6 of Penrith Local Environmental Plan 2010 be supported.
2. Development Application No. DA15/1475 for Demolition of Existing Structures & Construction of a 6 Storey to 7 Storey Mixed Use Development including Ground Floor Retail/Commercial Tenancies, 115 Residential Apartments & Three (3) Levels of Basement Car Parking, at 29-33 Derby Street, 34-38 Somerset Street and 2 Hargave Street, Kingswood be approved subject to the recommended conditions outlined at Appendix No. 1.
3. The individuals who made submissions be notified of the determination.