

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017SWT015
<b>DA Number</b>	DA17/1107
<b>LGA</b>	Penrith
<b>Proposed Development</b>	Demolition of Existing Structures & Construction of Four (4) Storey Health Services Facility including Private Hospital & Specialist Health Services & Four (4) Levels of Basement Car Parking
<b>Street Address</b>	29 Derby Street KINGSWOOD
<b>Applicant</b>	Day Procedures Australia Pty Ltd
<b>Owner</b>	Louise A Almazan
<b>Date of DA lodgement</b>	8 November 2011
<b>Number of Submissions</b>	1 Submission
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Development that has a capital investment value of more than \$20 million.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Local Environmental Plan 2010 (Amendment 4)</li> <li>• Development Control Plan 2014</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No 55—Remediation of Land</li> <li>• Sydney Regional Environmental Plan No.20 Hawkesbury Nepean River</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Appendix 1 – Architectural Plans</li> <li>• Appendix 2 – Stormwater Plans</li> <li>• Appendix 3 – Landscape Plans</li> <li>• Appendix 4 – Stormwater management Report</li> <li>• Appendix 5 – Water NSW Comments</li> </ul>
<b>Report prepared by</b>	Paul Anzellotti
<b>Report date</b>	16 April, 2018

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes**

### Legislative clauses requiring consent authority satisfaction

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

**Yes**

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

### Clause 4.6 Exceptions to development standards

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

**Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Not Applicable**

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

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

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

<b>SWCPP Ref. No.:</b>	2017SWT015
<b>DA No.:</b>	DA17/1107
<b>PROPOSED DEVELOPMENT:</b>	Demolition of Existing Structures & Construction of Four (4) Storey Health Services Facility including Private Hospital & Specialist Health Services & Four (4) Levels of Basement Car Parking - Lot 17 DP 31682, Lot 18 DP 31682, Lot 19 DP 31682, Lot 16 DP 31682, 29 Derby Street, KINGSWOOD NSW 2747 31 Derby Street, KINGSWOOD NSW 2747 33 Derby Street, KINGSWOOD NSW 2747 38 Somerset Street, KINGSWOOD NSW 2747
<b>APPLICANT:</b>	Day Procedures Australia Pty Ltd
<b>REPORT BY:</b>	Paul Anzellotti, Senior Environmental Planner, Penrith City Council

## Assessment Report

### Executive Summary

Council is in receipt of a Development Application from Day Procedures Australia Pty Ltd proposing the demolition of existing structures and construction of a four (4) storey Health Services Facility including Private Hospital and Specialist Health Services, café fronting Somerset Street and four (4) levels of basement car parking at No's. 29 – 33 Derby Street and 38 Somerset Street, Kingswood.

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 proposal is defined as a *health service facility* and while such a use is not identified within the subject site's B4 zone under the Penrith Local Environmental Plan 2010 as permissible with consent, it is a permitted use within the subject zone under Clause 57 of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).

In accordance with Section 2.12 and 2.15 (previously Section 23G) of the *Environmental Planning and Assessment Act, 1979* the Sydney Western City Planning Panel (SWCPP) is the determining authority. While the proposal's capital investment value is \$29,949,700.00, it is noted that the application was lodged prior to the 28 February, 2018 where previously a threshold of \$20 million was required to allow for the Sydney Western City Planning Panel is the determining authority. In this regard, as the application was lodged prior to the increase in the CIV threshold, the Sydney Western City Planning Panel is required to determine the current application as the proposal's capital investment value is \$29,949,700.00.

The proposal has undergone revision through pre-lodgement discussions and an Urban Design Review Process.

The proposed development is Integrated Development under Section 4.46 (previously Section 91) of the Environmental Planning and Assessment Act 1979 as it involves excavation works which are considered to be a controlled activity. In this regard, Water NSW has provided for General Terms of Approval to be incorporated with any determination granted.

The development application was advertised in local newspapers and notified to all adjoining and adjacent property owners and placed on public exhibition from 20 November, 2017 to 30 January, 2018. During this period, Council received 1 submission.

Key issues identified for the proposed development include:

### **Relationship with adjoining properties to the north of the subject site**

The proposed development is provided with a nil setback along the majority of the northern boundary. The application has included conceptual plans for a future development at No's. 34-36 Somerset Street and 2 Hargrave Street. The conceptual plans have identified an additional health care facility to be developed and integrated with the current proposal. Documentation concerning land acquisition has also accompanied the application identifying how the adjoining 3 parcels of land will be owned by a single entity including the land acquisition process.

The amended application is considered to have allowed for an appropriate treatment of the northern elevation providing for the provision of a darker face brick feature for the base while providing a lighter tone to the upper levels. In addition, the proposal has incorporated a number of windows to this elevation as well as a mixture of vertical and horizontal features which are considered to provide for an appropriate built form presentation.

### **Relationship with No. 4 Hargrave Street**

The application as amended has provided for a 2m setback to levels 1 to 3 to the north eastern corner of the site adjoining No. 4 Hargrave Street. In addition, a green terrace is provided to the ground floor which will be elevated above the proposed basement entry. This setback and terrace area is considered to provide for an appropriate soft edge with the adjoining property which is not considered to restrict an appropriate redevelopment in the future.

### **Location and size of proposed café**

The proposal includes a proposed café at the main entrance of the building fronting Somerset Street. This café, originally provided with an area of 23m<sup>2</sup> has been increased in size to 32m<sup>2</sup> via amended plans. The design of the café allowing for glazed doors opening to the street provides an improved street presentation, with the opportunity also available for outdoor seating which when considered in association with proposed street tree planting, will enhance the public domain.

### **Street activation**

Somerset Street is identified by Council's DCP as requiring street activation. Plans as amended have provided for the redesign of the café, enlargement of windows and provision of an appropriate awning depth. The provision of a nil building setback to this elevation is also considered to enhance the building's interaction with the public domain. The proposal has also provided for a total of 45% transparent glazing to the Somerset Street elevation as well as 30% clear glazing to Derby Street. In this regard, the design is considered to allow for appropriate street activation of this western elevation.

### **Building presentation**

The application as amended is considered to provide for an improved built form presentation via a mixture of darker face brick colours and the use of white cladding primarily to the upper levels. The design of the building has also incorporated curvature features which is considered to allow for an improved focus on the intersection of Derby and Somerset Streets. The presentation of the building also provides an appropriate mix of architectural features and finishes which will enhance the visual interest of the overall development.

An assessment under Section 2.12, 2.15, 4.15 and 4.46 of the EP&A Act 1979 (as amended) has been undertaken and the application is recommended for approval subject to appropriate conditions.

## Site & Surrounds

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The subject site consists of four allotments with a frontage to Derby Street and Somerset Street. The legal property description of the site is provided below;

- 29 Derby Street, Kingswood (Lot 16, DP 31682)
- 31 Derby Street, Kingswood (Lot 17, DP 31682)
- 33 Derby Street, Kingswood (Lot 18, DP 31682)
- 38 Somerset Street, Kingswood (Lot 19, DP 31682)

The subject site has an area of 2,346m<sup>2</sup> and provides for a frontage of 55.78m onto Derby Street and a frontage of 35.875m onto Somerset Street. The subject site also currently maintains a splay of 5.175m to the intersection of Derby and Somerset Streets. The subject site is provided with a northern boundary of 59.43m and an eastern boundary of 39.535m. Currently existing on each subject lot is a detached single dwelling and associated structures including detached garages for 31 and 33 Derby and 38 Somerset Streets and an in-ground swimming pool for No. 29 Derby Street.

The locality is considered to maintain a mixed character with development to the west comprising of an eight storey car park adjoining the Nepean Hospital while further along Derby Street is a variety of commercial and medical land uses. Directly adjoining the subject site to the east (No. 25-27 Derby Street) are two storey townhouses while to the north of the subject site along Hargrave Street are single level detached dwellings.

Directly to the south of the site along the opposite side of Derby Street are detached dwellings with a number currently used for medical purposes.

The locality is expected to undergo a significant transition noting the B4 zoning with maximum height limits subject to appropriate floor to ceiling heights of up to 21.6m.

It is noted that a Development Consent was granted on the 20 July, 2016 (DA15/1475) by the previous JRPP (Sydney West Region) which included the subject site (No's. 29-33 Derby Street, 30-34 Somerset Street and 2 Hargrave Street) for the demolition of existing structures and construction of a part six (6) and part seven (7) storey mixed use development incorporating the following:

- A medical centre providing for a floor area of 2,167m<sup>2</sup>,
- A retail shop providing a floor area of 170m<sup>2</sup>,
- 115 residential apartments, and
- Three (3) levels of basement car parking providing for 243 spaces.

This consent is currently valid and will expire on the 20 July, 2021.

## Proposal

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### Background

Development application DA17/1107 was originally received by Penrith Council on the 8 November, 2017 providing for the demolition of existing structures and construction of a four (4) storey health service facility including private hospital and specialist health services and four (4) levels of basement car parking at 29 - 33 Derby Street and 38 Somerset Street, Kingswood. The intended uses to each level and detailed fitout works are to be subject to future development applications or complying development certification.

Following a preliminary assessment of the application and a subsequent briefing of the Sydney Western

City Planning Panel undertaken on the 29 January, 2018, the applicant was provided with correspondence on the 16 February, 2018 advising of matters requiring further consideration.

Following discussions between Council and the applicant, amended plans and documentation were provided for Council's consideration on the 12 March, 2018 in response to original contentions raised.

#### Current Proposal

The proposal as amended involves the following:

##### *Basement 3*

- The provision of 62 car parking spaces (including 4 small car spaces), bicycle parking area, two (2) x fire stairs to upper levels, two (2) lifts and vehicle ramp to upper level.

##### *Basement 2*

- The provision of 60 car parking spaces (including 4 small car spaces), bicycle parking area, two (2) x fire stairs to upper levels, two (2) lifts and vehicle ramp to upper level.

##### *Basement 1*

- The provision of 27 car parking spaces (including 1 small car space and 6 accessible spaces), bicycle parking area, two (2) x fire stairs to upper levels, waste room, fire pump room, two (2) lifts, back of house services consisting of a loading dock for a medium rigid vehicle and ambulance bay, medical gasses room, switch room, generator room, comms room, floor manager office, dock utilities, separate lift from loading dock area to levels above and two (2) vehicle ramp to upper level.

##### *Lower ground floor*

- The provision of a staff parking area consisting of 22 car parking spaces (including 1 accessible space), two (2) x fire stairs to upper levels, fan room, void to loading dock below on basement level 1, two (2) lifts and lift lobby area and vehicle ramp to Derby Street.

##### *Ground floor*

- The provision of vehicular access to basement levels below from Derby Street, identified location of an indoor padmount substation adjoining the vehicular access, public lobby access from Somerset Street, provision of an identified future radiation oncology tenancy and a radiology tenancy, café adjoining the lobby with an area of 32m<sup>2</sup>. In addition, a green roof lid structure is proposed to the north east corner of the site above the vehicular ramp allowing staff access to an above ground terrace landscaped area. An awning is proposed to the Somerset Street frontage which will wrap around the intersection with Derby Street and then begin to taper to the east.
- Plans have also identified a series of street trees to be provided to both the Derby Street and Somerset Street frontages. A landscaping strip is also proposed adjoining the vehicle entry area fronting Derby Street and along the eastern boundary to a width of up to 2m providing for a variety of plant species.

##### *First floor*

- The provision of an identified future private hospital tenancy with a total area of 1,806m<sup>2</sup>.

##### *Second floor*

- The provision of an identified future medical oncology and mixed medical uses tenancy with a total area of 1,450m<sup>2</sup>.
- A terrace with an area of 36m<sup>2</sup> and associated planter box is provided fronting Somerset Street while a terrace with an area of 134m<sup>2</sup> and associated planter box is provided fronting Derby Street.

##### *Third floor*

- The provision of an identified future tenancy providing for mixed medical uses and medical related offices with a total area of 1,571m<sup>2</sup>.

##### *Roof level*

- The provision of a services/plant room with a total area of 790m<sup>2</sup> and lift overruns.

Noting the above, supporting documentation has advised that the proposed development is assumed to incorporate the following future complementary uses:

- Ground Floor: A 629m<sup>2</sup> tenancy accommodating a radiology use and a 930m<sup>2</sup> tenancy accommodating a radiation oncology use. In addition a 32m<sup>2</sup> café tenancy is proposed,
- First Floor: A 1,806m<sup>2</sup> private hospital providing for an intended 13 beds and 25 staff,
- Second Floor: A 1,450m<sup>2</sup> tenancy accommodating a medical oncology and mixed medical uses, and
- Third Floor: A 1,571m<sup>2</sup> tenancy accommodating mixed medical uses and medical related offices.

The proposal is provided with a total of 149 car parking spaces.

#### *Building Finishes*

The exterior finish is to be provided with a mixture of brickwork and metal wall cladding. Glazing on the ground level intersection of Somerset and Derby Streets is proposed as a semi transparent treatment with high level clear glazing provided at 2.2m above finished floor level.

The northern elevation is provided with a nil setback along the boundary with brickwork (as per the Somerset Street frontage) proposed to the base of the building with the upper levels to be provided with a light colour metal cladding appearance. A band of dark colour is provided to level 2 on the northern elevation in line with the level 2 terrace and fronting Somerset Street. The northern elevation is also provided with a number of windows to levels 1 and 3.

#### **Plans that apply**

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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- **Section 23G – Sydney Western City Planning Panel (SWCPP)**

Under Section 2.12 and 2.15 (previously Section 23G) of the Environmental Planning and Assessment Act, 1979, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

A regional panel has the function of determining applications for development that has a capital investment value (CIV) of more than \$30 million.

While the proposal's CIV is \$29,949,700.00, it is noted that the application was lodged prior to the 28 February, 2018 where previously a threshold of \$20 million was required to allow for the Sydney Western City Planning Panel is the determining authority. In this regard, as the application was lodged prior to the increase in the CIV threshold, the Sydney Western City Planning Panel is required to determine the current application.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 91- Integrated development**

A Geotechnical and Hydrogeological Investigation has been undertaken by JK Geotechnics and submitted with the Development Application. The report assesses the proposed excavation to 12 metres below natural ground level to accommodate 4 levels of basement parking.

The investigation found that groundwater was encountered at about a 6m 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 4.46 (previously Section 91) of the Environmental Planning and Assessment Act 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 Office of Water for their General Terms of Approval. In this regard, correspondence was returned from the NSW Office of Water dated 13 December, 2017 providing for their General Terms of Approval.

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

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

*State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* provides for greater flexibility in the location of infrastructure and service facilities across the State. Division 10 'Health service facilities' of the ISEPP allows for health service facilities to be provided within prescribed zones. The following definition of a health service facility is provided under Clause 56 of the ISEPP;

**health service 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

Clause 57 of the ISEPP allows for development permitted with consent. Clause 57(1) reads as follows;

*(1) Development for the purpose 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 following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Primary Production Small Lots,
- (b) RU5 Village,
- (c) RU6 Transition,
- (d) R1 General Residential,
- (d1) R2 Low Density Residential,
- (e) R3 Medium Density Residential,
- (f) R4 High Density Residential,
- (g) R5 Large Lot Residential,
- (g1) B1 Neighbourhood Centre,
- (h) B2 Local Centre,
- (i) B3 Commercial Core,
- (j) B4 Mixed Use,
- (k) B5 Business Development,
- (l) B6 Enterprise Corridor,
- (m) B7 Business Park,
- (m1) B8 Metropolitan Centre,
- (n) SP1 Special Activities,
- (o) SP2 Infrastructure.

The subject site is located within a B4 Mixed Use zone which is identified as a prescribed zone under Clause 57 of the ISEPP. In this regard, as the proposal is for a health service facility, the proposed development is a permissible use and may be carried out subject to development consent.

Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007* identifies which type of development requires concurrence from the Roads and Maritime Services (RMS) as 'traffic generating development'. In this regard, the current Development Application is not identified as a traffic generating development noting that the site is not on a classified road and has no connection to a classified road within 90m of the site. In addition, referral would be required to the RMS where there are 200 or more beds provided to a hospital. As the application has identified approximately 13 beds to the proposed future hospital, referral is not required in this instance.



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

Clause 7 of State Environmental Planning Policy No. 55 (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 prior residential use for the subject properties, there is no issue in regards to land contamination. The site is considered suitable for the proposed use.'*

As a result, it is considered that the proposed development is compliant with the provisions of SEPP 55, particularly Clause 55.

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

*Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997)* (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by *Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme*. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The development proposal is in accordance with the general planning considerations set out in Clause 5 of SREP 20 and the relevant specific planning policies and related recommended strategies set out in Clause 6. In particular, provision will be made for adequate erosion and sediment control measures. Council's Development Engineers have reviewed the application and subject to recommended conditions of consent relating to stormwater, erosion and sediment controls have no objections to the proposal.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	Complies
Clause 5.9 Preservation of trees or vegetation	Complies
Clause 5.10 Heritage conservation	N/A
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies
Clause 7.11 Penrith Health and Education Precinct	Complies - See discussion

### Clause 2.3 Permissibility

The provision of a *health service facility* is not identified within the subject site's B4 Mixed Use zoning as being specified in Item 2 (Permitted without consent) or Item 3 (Permitted with consent) within the Penrith Local Environmental Plan 2010 'Land Use Table' and may be defined therefore as a prohibited use.

While so, as discussed previously within this report, the provision of a *health service facility* is permitted under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP (ISEPP) 2007. In this regard, no concern is raised in this instance in regard to the permissibility of the proposed use noting that the provisions of the ISEPP override the provisions of the Penrith Local Environmental Plan 2010 (PLEP) where there is an inconsistency between the ISEPP and the PLEP.

### Clause 4.3 Height of buildings

Clause 4.3 of the 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 items, heritage conservation areas and areas of scenic or visual importance,*

*(d) to nominate heights that will provide a high quality urban form for all buildings and 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 Building Map identifies a maximum height of 18m 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(3) provides the following:

*(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 for a 5.4m floor to ceiling height for the ground floor and 4.2m for the first floor of the development. This then provides for a maximum permitted building height of 21.6m on the site.

It is noted that the subject site is provided with a fall in natural ground level from the Somerset Street frontage to the eastern boundary of between 0.90m and 1.3m over this length. This will in turn provide for a varied total height for the proposed building and associated structures relative to the existing natural ground level. In this regard, the overall height of the proposed building varies from 18.5m to 19.6m with the associated service/plant area providing for a varied height from 20.5m to 21.6m.

Noting the above, the proposed building and associated structures are compliant with the 21.6m maximum (bonus) height applying to the site.

## **Clause 7.2 Flood planning**

Clause 7.2 of the Penrith Local Environmental Plan provides that development consent must not be granted for development on land that is at or below the flood planning level unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) if located in a floodway, is compatible with the flow conveyance function of the floodway and the flood hazard within the floodway, and*
- (c) is not likely to adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (d) is not likely to significantly alter flow distributions and velocities to the detriment of other properties or the environment, and*
- (e) is not likely to adversely affect the safe and effective evacuation of the land and the surrounding area, and*
- (f) is not likely to significantly detrimentally affect the environment or cause avoidable erosion, destruction of riparian vegetation or affect the restoration and establishment of riparian vegetation, or a reduction in the stability of river banks or waterways, and*
- (g) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding, and*
- (h) incorporates appropriate measures to manage risk to life from flood, and*
- (i) is consistent with any relevant floodplain risk management plan.*

An assessment of the proposed development has identified that the subject site is located in part within an overland flow flood hazard. In this regard, the application was referred to Council's Senior Development Engineer who have advised that the proposal has taken into consideration minimum floor levels to be provided as well as and appropriate ramp design to the basement level. In this regard, the proposal is acceptable subject to the provision of appropriate conditions with any determination granted.

#### **Clause 7.6 Salinity**

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

#### **Clause 7.11 Penrith Health and Education Precinct**

Clause 7.11 is provided with the following objectives;

*(1) The objectives of this clause are as follows:*

*(a) to encourage a built form that is suitable for both residential and health service 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.*

Taking into consideration objective (a) above, as previously indicated within this report the provision of a health service facility is permissible under the provisions of the State Environmental Planning Policy (Infrastructure) 2007. The proposed building is therefore compliant with this objective. As objective (b) above is in relation to an existing building, this objective is not applicable in this instance.

In addition, the following controls are provided;

*(2) This clause applies to land identified as "Penrith Health and Education Precinct" on the Clause Application Map.*

The subject site is located within the area of 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 development is provided with proposed floor to ceiling heights for the ground and first floor respectively of 5.4m and 4.2m. In this regard, the height bonus is applicable. As the subject site is provided with an 18m height control, this is therefore increased to a maximum height of 21.6m for the proposed development. An assessment of the provided plans has indicated that the proposed building is provided with a maximum height of 21.6m above existing natural ground level and is therefore compliant.

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

There are no draft environmental planning instruments applicable to the subject site or to the proposed development.

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

### Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

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

There are no planning agreements applying to this proposal.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

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

### Context and Setting

The subject site is located within the Kingswood Hospital Precinct as identified by the Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014. The subject site is located within a B4 Mixed Use zone with this area to contribute to the Precinct's demand for growth in health and medical related uses. An assessment of the development has identified that the proposal is compliant in regard to height and floor space development controls applicable for the subject site. While a nil setback will be provided to the Somerset Street frontage, this is considered an appropriate design solution in this instance to allow for the necessary activation of this street as provided by the proposed café, lobby area

and associated glazing. As to be further discussed within this report, the provision of a nil boundary setback for the northern elevation is considered appropriate noting the desire to redevelop the adjoining northern lots by the applicant in the future. This has been identified by accompanying conceptual plans for these lots which along with the proposed development is considered to create a built form and use envisaged by the hospital precinct.

The proposal provides for a 4 level built form which is considered to have been appropriately articulated so as to provide for an acceptable addition to this precinct. It is noted that the subject site currently adjoins the rear boundary with No. 4 Hargrave Street for a width of 12.8m. The proposal is provided with a deep soil area to this north eastern corner allowing for the provision of mature tree planting. The proposal will also provide for a separate terrace area in this location which will maintain planter boxes to the ground floor above the ramped driveway entry to the basement parking levels. It is noted that this area is not directly located along the adjoining northern boundary with a 350mm setback proposed, but while so is provided with a varying height (in line with the contour of the site) of between 4m and 4.2m. Floor levels above this terrace area are provided with a 2m setback to the adjoining property at No. 4 Hargrave Street. The provision of this terrace area is considered an acceptable response to the subject site's surrounds and will allow for a soft edge to be provided with its interface with No. 4 Hargrave Street. The 2m setback provided to the upper levels is also considered an appropriate design solution to allow for appropriate consideration of the redevelopment of this northern property should this occur in the future. The orientation of the subject site will also not create any adverse overshadowing impacts via the intended architectural design to the north east corner of the site.

Noting the above, while it is acknowledged that the subject site and its surrounds within the B4 zone along Derby Street, Hargrave Street and Somerset Street does not currently reflect the expected built forms as envisaged by current LEP and DCP controls, the Hospital Precinct is considered to be in a state of transition from existing low density residential to envisaged mixed use and higher density residential developments. In this regard, as the proposal if developed would be one of the first sites within this area to reflect the current height and floor space controls and in turn also creating a large built form, the proposal is regardless considered to provide for an appropriate design with minimal amenity concerns to surrounding sites. With the Nepean Hospital and its associated multi level car parking also located directly adjoining the site along Somerset Street as well as a mixed use development with a varying height of 5 to 8 storeys to the west of the subject site at No. 48-56 Derby street, this is considered to provide the proposed building with an appropriate context in regard to scale and bulk which is compatible with its surrounds.

### **Overshadowing**

An assessment of the accompanying architectural plans has identified that the proposed development will create overshadowing on the 21 June from 9am onwards to the intersection of Derby Street and Somerset Street and to part of the adjoining multi level car park for Nepean Hospital opposite the subject site. Overshadowing will then progress so as by midday to fall primarily upon Derby Street. From between 12pm and 1pm, overshadowing will commence to impact upon the existing adjoining residential development at No. 25-27 Derby Street. No other residential properties will be affected by overshadowing noting dwellings along Hargrave Street are to the north of the subject site.

Noting the above, it is considered that the proposal will not create an adverse impact upon the adjoining residential properties so as to not allow for an acceptable amount of solar access (i.e. a minimum of 3 hours between 9am and 3pm on the 21 June as stipulated by the Penrith DCP) throughout the day.

### **Overlooking**

As the subject site is located on a street corner, it is considered that the potential for overlooking is well managed to the majority of its elevations. In this regard, the western frontage to Somerset Street will

present directly upon an existing multi-level car park opposite the subject site within the Nepean Hospital grounds and will therefore create no concern. To the southern elevation fronting Derby Street, it is considered that the width of the existing street as well as existing vegetation along this street will minimise any loss of amenity, with views only provided to front yard areas of dwellings located opposite the subject site.

To the eastern elevation, this built form is provided with an 8.5m separation to the eastern boundary with No. 25-27 Derby Street currently maintaining two level multi dwelling housing. While rear yard areas are located directly adjoining the subject site, it is noted that a landscape buffer is proposed along the subject driveway which as well as the existing boundary fencing will mitigate any overlooking concerns from upper levels.

The proposal will also provide for a separate terraced area to the north eastern corner of the subject site which is to be provided with a planter box to its perimeter at a minimum width of 2m. In this regard, this terrace is viewed as a short term relief area for future employees of the building, noting its separate single access point rather than being attached to a cafeteria or directly from a proposed tenancy for instance. In this regard, noting the treatment of this area with landscaping and its partially enclosed nature to the northern elevation, the potential for overlooking is not considered present to the adjoining neighbours.

For the northern elevation, it is noted that levels 1 and 3 are proposed to be provided in part with windows either directly along the boundary or setback 2m as shown to the north eastern corner of the building. In addition, a terrace area is proposed to the second floor fronting Somerset Street being open to the northern elevation. The windows proposed are considered to break up the presentation of this façade with levels 1 and 3 to be built over should the adjoining northern lots be redeveloped as intended in the future. While so, the elevated height of these windows are considered to create overlooking concerns and a potential loss of amenity for existing northern lots as they are positioned to face rear yard areas. In this regard, should approval be granted, it is considered appropriate to include a condition with any determination requiring that these windows be treated with obscured glazing. This would still allow the breaking up of this façade while maintaining the amenity of adjoining properties. As the second floor terrace is positioned to primarily front Somerset Street, overlooking to the north is primarily restricted to views of the front yards of adjoining properties and in this regard, it is not considered that its use would create a loss of amenity to existing neighbours.

### **Parking and Traffic**

The proposed development is provided with a total of 171 parking spaces and a loading dock area over four levels of basement car parking. The application via the accompanying Traffic and Parking Impact Assessment Report has provided for 'educated assumptions' of the proposed tenancies noting that the current application will provide only for the proposed built form. The accompanying report provided the following conclusions;

- *The surrounding road network operates with a reasonable level of service during peak periods and is capable of accommodating additional demand;*
- *The development application has been projected to generate up to 215 peak hour vehicle trips to and from the subject site;*
- *It is considered that the adjoining road network is capable of accommodating the traffic projected to be generated by the subject development;*
- *The impact of construction activities on adjoining traffic and pedestrian traffic is not anticipated to be unreasonable or exceed that which could be expected associated with the future operations of the proposed development;*
- *The proposed site access arrangements are projected to result in motorists being capable of entering and exiting the subject site in a safe and efficient manner;*
- *The proposed off-street vehicular parking provision is considered to be capable of accommodating the peak operational requirements of the development with reference to relevant land-use parking*



- requirements; and*
- *The internal vehicle circulation arrangements are capable of providing for safe and efficient internal manoeuvring and servicing.*

The accompanying report was provided to Council's Traffic Engineering Section who raised no objection to the proposal subject to the provision of appropriate conditions to be included with any determination. Vehicular access to the site will be provided via a 6m wide driveway off Derby Street which will also service any waste vehicles and ambulances. While the Australian Standards require the provision of a minimum 10m wide driveway for this category of building use and parking in excess of 100 spaces, the Traffic Report is considered to provide for an appropriate variation to this requirement by indicating that a wider driveway would increase potential risks to pedestrians. In this regard, it is considered that vehicles will access the driveway at low speed, particular noting the site's proximity to an existing roundabout at the intersection of Derby and Somerset Streets. The provision of a wider driveway would also require an internal merge of vehicles which is undesirable. A narrower driveway is also considered to reduce the speed of vehicles exiting.

### **Landscaping**

The application has provided for landscape plans for various aspects of the proposal and an indicative planting schedule. It is noted that only a small area of deep soil zone is provided for the subject site along the eastern side boundary, primarily a consequence of the commercial nature of the proposed building and the significantly large site coverage provided. While so, it is considered that appropriate consideration has been given to this area as well as the provision of planter boxes to the edge of terrace areas and the location of landscaping to the front of the subject site adjoining the driveway along Derby Street and to the north eastern corner above the basement entry via the provision of a 'green roof'.

Noting the above, the accompanying plans have identified the provision of 3 x White Feathered Honey Myrtle trees to the north east corner of the subject site within the deep soil area. The provision of this tree at a height of 4m to 6m when mature is considered appropriate noting that it is considered to be a generous flowering plant which will attract birds. The provision of the green roof also to the north east corner of the site will provide for 1m high planter boxes to allow for a minimum soil depth of 800mm. This depth is considered suitable to allow for the growth of native grasses, shrubs and small trees to a height of between 2 to 3 metres. In this regard, the plant species selected are considered will allow for an appropriate green buffer to this corner which is considered an acceptable design solution noting its proximity to No. 4 Hargrave Street. The accompanying specifications have also identified this planting area totalling 45m<sup>2</sup> will be drip irrigated to allow for its maintenance.

Noting the above points, it is considered that while the building does constrain the available areas for planting, an acceptable level and range of vegetation is provided with the proposed development from the ground level to second floor terraces.

### **Noise and Construction Impacts**

Construction at the site will have a temporary affect on the amenity of the area due to noise and equipment/machinery. Standard conditions of consent are recommended with regard to hours of construction, noise and dust suppression and soil and sediment control.

### **Natural Environment**

The application is considered to have adequately demonstrated that the proposed waste management arrangements associated with future tenancies will be adequately catered for via the proposed waste rooms and collection area and associated loading area to basement level 1. It is considered that waste may be

adequately transported to this waste area from either the proposed medical tenancies or cafe. Taking into consideration the future uses proposed on each level, waste generation volumes may vary widely for an expected day surgery or health care facility, the amount dependent on the types of patients, hours of operation and surgical methods adopted for instance. While so, it is considered that appropriate areas have been provided for by the proposal for both general waste and clinical waste storage.

Comments provided from Council's Development Engineering and Water Management Departments have also indicated that drainage works proposed in association with the development will comply with Council's Water Sensitive Urban Design Policy. The proposed development will connect to existing systems, including roads.

### **Accessibility**

The application was accompanied by an Accessibility Assessment Report prepared by City Plan Services. The report outlines that the proposal either complies with, or can comply with, the relevant accessibility provisions within the Building Code of Australia, Premises Standard and Penrith DCP 2014. In this regard, the following key accessibility considerations have been identified:

- The surrounding topography along Derby Street and Somerset Street is predominately flat,
  - The proposal does not provide for an internal fitout layout for each level including sanitary facilities which is intended to be subject to future applications,
  - The development as amended proposes a total of six (6) accessible car parking spaces of the 149 general parking spaces proposed and one (1) accessible parking space of the 22 staff parking spaces proposed,
  - Directional signage for the building is to comply with Australian Standard 1428.1-2009, and
  - Accessible sanitary facilities are required to be in accordance with Australian Standard 1428.1-2009.
- It is noted that as the proposal is for a hospital and specialist health services, under the Building Code of Australia, this would provide that the building be a Class 9a structure. In this regard, the following parking rate for accessible spaces is applicable;
- *Hospital (non-outpatient area) - 1 space for every 100 car parking spaces or part thereof*
  - *Hospital (outpatient area) - up to 1000 car parking spaces - 1 space for every 50 car parking spaces or part thereof, and*
  - *Clinic or day surgery not forming part of a hospital - 1 space for every 50 car parking spaces or part thereof.*

Noting the above requirements, it is considered that the proposed accessible parking provided is acceptable. In addition, it is considered that the application has appropriately demonstrated that access to and from the subject site, either via Somerset or Derby Street from the basement car parking area is equitable. Future applications for any tenancy proposed will be required to also identify appropriate facilities (for example; sanitary facilities) to be provided to meet the required standards.

The application was reported to the Penrith Access Committee on the 25 January, 2018, the Committee advising Council about access issues and promoting the inclusion of people with a disability as full members of the community. In this regard, comments from this Committee meeting were forwarded to the applicant in correspondence dated 16 February, 2018. Amended information received is considered to have adequately responded to the issues raised.

### **Social & Socio-Economic Impacts**

The development is not considered likely to result in any negative social impact in the area. The proposal has been assessed against the principles and objectives contained within the Penrith DCP specifically those related to safety and security and is compliant in this regard. The development of the site will

facilitate the provision of a building with the future intention of accommodating health service facilities including a private hospital and specialist health services in accordance with the aims of the Penrith LEP 2010.

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

The proposal is considered to have addressed the constraints of the subject site, in particular with regard to the interface with the development to the east currently maintaining 2 storey residential development and to the north east via the provision of a treated garden roof area for part of the ground floor. In addition, the provision of a nil setback along the northern boundary is considered appropriate in this instance as the applicant has demonstrated the intent to also redevelop this adjoining site in a similar manner as per the current application.

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 considered compatible with the desired future land uses expected for an area currently in transition from low density to higher density development.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by transport, water and sewage 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**

#### **Community Consultation**

The development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 20 November, 2017 to 30 January, 2018. During this period, Council received one (1) submission.

The concerns raised in this submission are addressed below.

***Issue: Concern that the proposed redevelopment of the site during the demolition, construction and operational stages will create noise concerns for surrounding persons.***

**Comment:** Any approval granted will be provided with conditions in regard to hours of operation for the construction of the proposal. In this regard, standard hours of operation are primarily restricted to the periods of Mondays to Fridays, 7am to 6pm, Saturdays, 7am to 1pm with no work permitted on Sundays and Public Holidays. Should excessive noise or complaints be received during the construction period, this shall be also subject to conditions of development consent and may be directed to either the Certifying Authority for the proposal or Council to investigate.

In regard to noise created by the operation of the building, it is noted that the application has been accompanied by an Acoustic Report which has provided for a noise emission assessment from Mechanical Plant in operation. Should the application be approved, this document will be included as being required to be complied with, noting that noise emissions from all mechanical services as discussed within the accompanying Acoustic Report are considered to meet the relevant criteria when measured from surrounding land uses.

***Issue: Concern that dust generated from demolition and construction phases will have the potential***

***to affect nearby residents as well as a children centre and the hospital in the vicinity.***

**Comment:** The development will be subject to conditions of consent which will require all demolition works to be in accordance with the provisions of Australian Standard 2601-1991 *"The Demolition of Structures"*. In addition, it is considered that dust suppression techniques employed during the demolition stage will reduce the potential nuisance to surrounding properties.

***Issue: Concern that the existing building may have been constructed prior to the elimination of hazardous materials and may include for instance asbestos which may present a risk to public health.***

**Comment:** The development application will be subject to conditions of consent which include stringent conditions in regard to the handling and disposal of potentially hazardous materials. In this regard, any demolition works involving the removal of any asbestos discovered on the subject site can only be carried out by a licenced asbestos removal contractor who maintains a current WorkCover Asbestos Licence. In addition, all asbestos laden waste must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

***Issue: Concern that contractors and their vehicles during the construction period may create an impact upon existing parking restrictions and the quantity of traffic including disturbances to emergency vehicles.***

**Comment:** The development will be subject to a condition requiring that prior to the commencement of any works associated with the development, that a Traffic Control Plan must be prepared in accordance with Australian Standard 1742.3 *"Traffic Control Devices for Works on Roads"* and the Roads and Maritime Services publication *"Traffic Control at Worksites"* and certified by an appropriately accredited Roads and Maritime Services Traffic Controller. Should traffic concerns arise during the construction period, this may also be directed to either the Certifying Authority for the proposal or Council to investigate.

## **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions
Tree Management Officer	No objections - subject to conditions

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

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposed works are considered to be consistent with the relevant planning provisions. Subject to compliance with conditions of any development consent and modifications to the development design as outlined within this report, the proposal is considered worthy of support.

## **Section 94 - Developer Contributions Plans**

Section 7.11 (previously Section 94) contributions do not apply to the proposed development.

## **Conclusion**

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The proposed development has been assessed in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. While the provision of a Health Service Facility is a prohibited use under the site's B4 Mixed Use zoning, it is a permitted use within the subject zone under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP 2007.

The proposal will provide for a built form which is considered to be consistent with the objectives of the Penrith Health and Education Precinct under the Penrith Local Environmental Plan and Part E12 of the Penrith Development Control Plan 2014. The presentation of the building is considered to provide for an acceptable addition to the existing streetscape and will allow for appropriate street activation features as required by the DCP for Somerset Street.

The proposal is not considered to create an unacceptable amenity impact to surrounding properties in regard to overshadowing and overlooking. The proposal will provide for a nil boundary setback to the northern elevation but while so, the presentation of this façade is considered will allow for an appropriate visual articulation. In addition, the application has been provided with documentation indicating that the adjoining northern lots will be owned by a single entity to allow for a future redevelopment. In this regard, conceptual plans of a future development have also accompanied the application which are considered to show an acceptable integration with the current proposal.

Consideration has been given to the adjoining property at No. 4 Hargrave Street via the treatment of the built form along the north eastern corner of the subject site. The provision of an elevated terrace is considered will provide for an appropriate transition to the adjoining property. In addition, the use of 2m setbacks for levels 1 to 3 adjoining No. 4 Hargrave Street is considered to have allowed for a built form considerate of future redevelopment potentials for this adjoining site.

The current development application will provide for a building with tenancies on each level to be subject to future development applications or complying development certificates. While so, the provided basement parking facilities are considered to be of a capacity to adequately cater for future tenancy demands. In addition, the location of the loading bay and waste facilities are also considered to cater for future uses. The building layout is considered to allow for equitable access from either the Somerset Street footpath or proposed basement parking levels.

While the proposed building will represent one of the first significant redevelopments in the Penrith Health and Education Precinct, the design of the building is compliant with applicable building height and floor space ratio controls in a location expected to be in transition and upgraded to reflect applicable higher density development controls. The proposed development has been assessed against the relevant heads of consideration contained in Section 2.12, 2.15 and 4.15 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 subject to compliance with conditions is in the public interest. The proposal is therefore worthy of support.

## Recommendation

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1. That DA17/1107 for the demolition of existing structures and construction of a four (4) storey health service facility including private hospital and specialist health services and four (4) levels of basement car parking at 29 - 33 Derby Street and 38 Somerset Street, Kingswood be approved subject to the attached conditions.
2. That the individual who made a submission be advised of this decision and of the consideration given to their concerns.

## CONDITIONS

### General

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

Doc No.	Revision	Title	Prepared By	Date
<b>Architectural Plans (all Project No. 17067)</b>				
DA 103	01	Basement 3	Bureau SRH Architecture	07.11.2017
DA 104	01	Basement 2	Bureau SRH Architecture	07.11.2017
DA 105	B	Basement 1	Bureau SRH Architecture	09.03.2018
DA 106	01	Lower Ground Floor	Bureau SRH Architecture	07.11.2017
DA 107	B	Ground Floor	Bureau SRH Architecture	09.03.2018
DA 108	B	First Floor	Bureau SRH Architecture	09.03.2018
DA 109	B	Second Floor	Bureau SRH Architecture	09.03.2018
DA 110	B	Third Floor	Bureau SRH Architecture	09.03.2018
DA 111	B	Roof Plan	Bureau SRH Architecture	09.03.2018
DA 200	B	West Elevation	Bureau SRH Architecture	09.03.2018
DA 201	B	South Elevation	Bureau SRH Architecture	09.03.2018
DA 202	B	East Elevation	Bureau SRH Architecture	09.03.2018
DA 203	B	North Elevation	Bureau SRH Architecture	09.03.2018
DA 300	01	Section A-A	Bureau SRH Architecture	07.11.2017
DA 301	01	Section B-B	Bureau SRH Architecture	07.11.2017
DA 302	01	Section C-C	Bureau SRH Architecture	07.11.2017
DA 303	01	Section D-D	Bureau SRH Architecture	07.11.2017
DA 304	A	Conceptual Façade Sections	Bureau SRH Architecture	09.03.2018
DA 800	A	Signage Schedule	Bureau SRH Architecture	09.03.2018
DA 02	-	Materials Details	Bureau SRH Architecture	07.11.2017
DA 03	-	Signage Details	Bureau SRH Architecture	07.11.2017
<b>Stormwater Plans (all Job No. 2017-1224)</b>				
DA-STW-005	C	Stormwater Drainage Erosion and Sediment Control Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-006	C	Stormwater Drainage Erosion and Sediment Control Details	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-101	C	Stormwater Drainage Basement 3 Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-102	C	Stormwater Drainage Basement 2 Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-103	C	Stormwater Drainage Basement 2 Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-104	C	Stormwater Drainage Lower Ground Floor Plan	LP Consulting Australia Pty Ltd	16.03.2018

DA-STW-105	C	Stormwater Drainage Ground Floor Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-106	C	Stormwater Drainage First Floor Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-107	C	Stormwater Drainage Second Floor Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-108	C	Stormwater Drainage Third Floor Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-109	C	Stormwater Drainage Roof Plan	LP Consulting Australia Pty Ltd	16.03.2018
DA-STW-201	C	Stormwater Drainage Detail Sheet	LP Consulting Australia Pty Ltd	16.03.2018
<b>Landscape Plans</b>				
SK 01	F	Landscape Roof Plan	Carmichael Studios	-
SK 02A	F	Landscape Plan Ground Floor and Public Domain	Carmichael Studios	-
SK 02B	F	Blow Up Plan Ground Floor and Public Domain	Carmichael Studios	-
SK 03	D	Landscape Plan Level 02	Carmichael Studios	-
SK 04	B	Typical 'Green Roof' Boundary Section	Carmichael Studios	-

- Development Application Noise Impact Assessment prepared by Acoustic Logic, Project No. 20171484.1, Document Reference No. 20171484.1/0811A/R2/MF, Revision 2, dated 8 November, 2017;
- Somerset Private Hospital On-going Waste Management Plan prepared by Daniels Health, dated October 2017;
- Geotechnical and Hydrogeological Investigation prepared by JK Geotechnics, Report No. 28651Z2rpt, Revision 3, dated 19 January, 2018;
- Arboricultural Impact Assessment and Tree Management Plan prepared by Redgum Horticultural, Reference No. 3606, dated 16 October, 2017;
- Accessibility Assessment Report prepared by City Plan Services, Report Reference 173494.01 (Access), Revision 01, dated 2 November, 2017;
- Stormwater Management Report prepared by LP Consulting Australia Pty Ltd, Reference No. 2017-1224-C dated 3 November, 2017;
- Building Code of Australia Assessment Report prepared by City Plan Services, Report Reference 173494, Revision 01, dated 7 November, 2017;
- Electrical Services - Design Intent Statement prepared by ADP Consulting Engineering, dated 2 November, 2017;
- Fire Engineering Capability Statement prepared by Olsson Fire & Risk, Reference No. S17158\_Let\_R3, dated 7 November, 2017;
- Building Sustainability Rating Certificate prepared by ADP Consulting Engineering, Advice No. 03, Project No. SYD0397, Revision 03, dated 27 October, 2017; and
- Water NSW General Terms of Approval, Reference No. F2017/9063, dated 13 December, 2017
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- 2 Lots 16, 17, 18 and 19 in Deposited Plan 31682 are all to be consolidated as one lot.

A copy of the registered plan of consolidation from Land and Property Information division of the Department of Lands is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.

- 3 Prior to occupation of the commercial tenancies within the building, separate development approval is to be obtained to use each tenancy within the building.
- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 All materials and goods associated with the use shall be contained within the building at all times.
- 6 The conditions imposed by Water NSW are to be complied with and completed prior to the issue of an Occupation Certificate or the applicable trigger as outlined in their letter dated 13 December, 2017 (Ref. F2017/9063).
- 7 A **Construction Certificate** shall be obtained prior to commencement of any works.
- 8 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.
- 9 **Prior to the issue of an Occupation Certificate**, all windows to the northern elevation are to be provided in obscured glazing.
- 10 **Prior to the issue of a Construction Certificate**, Penrith City Council must be consulted over the proposed location of the hydrant booster. Details must be provided to Penrith City Council to confirm the material and design dimensions of any heat shield required.
- 11 **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.
- 12 In the event that the adjoining properties at No. 36 Somerset Street and No. 2 Hargrave Street are to be redeveloped in the future which would create a building with a nil boundary setback to this development consent, windows provided to the northern elevation are to be removed and built out and the Somerset Street facing Level 2 terrace provided with a treatment so as to allow compliance with the Building Code of Australia.
- 13 Details and a plan identifying the location of any street furniture proposed is to be provided to the satisfaction of Penrith City Council and applied in accordance with the Kingswood Public Domain Manual, adopted 29 September, 2014. In this regard, concurrence must be obtained from Penrith City Council prior to the installation of any street furniture. Evidence of concurrence is to be provided to the Certifying Authority prior to the issue of an Occupation Certificate.

- 14 Street tree planting is to be provided to the satisfaction of Penrith City Council and applied in accordance with the number identified on the approved landscape plan and the Kingswood Public Domain manual, adopted 29 September, 2014. Brush Box trees are to be provided as street tree planting along Somerset Street. In this regard, concurrence must be obtained from Penrith City Council prior to the planting of any trees. Evidence of concurrence is to be provided to the Certifying Authority prior to the issue of an Occupation Certificate.
- 15 Floors of the surgery/treatment rooms and sterilization area are to be smooth, non-slip and impervious to moisture
- 16 A separate development approval is to be obtained for the fit-out of the proposed café and any outdoor dining. No food is to be prepared or offered for sale from the café until further approval from Council is obtained.
- 17 Prior to the commencement of the development's use and in perpetuity, the following community safety and crime prevention through environmental design (CPTED) requirements shall be satisfied:

#### **Lighting**

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and should be designed in accordance with AS 4282 – Control of the obtrusive effects of outdoor lighting.
- All lighting should be maintained and kept in a clean condition with all broken or burnt out globes replaced quickly.

#### **Basement Car Parking**

- Staff and visitor parking spaces must be clearly identified within the basement car park.
- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lifts and stairwells, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces (walls/ceilings) should be light coloured to reflect as much light as possible.
- Signage must be in place to clearly identify exit and access points, the location of lifts and stairwells.
- CCTV cameras should be provided for this development and are recommended for the basement car park, particularly on entry/exit points, including lift lobbies and stairwells.

#### **Landscaping**

- Vegetation throughout the development must be regularly pruned to ensure that site lines are maintained.

#### **Entrances**

- The proposed entry forecourt must be clearly visible and legible to users and well lit at night.
- All entrances into the building must allow users to see into the building before entering.
- The building façade particularly at the ground floor, must provide clear glazing to the windows (where appropriate) to enable surveillance into and out of the building.

#### **Building Security & Access Control**

- Intercom, code or card locks or similar must be installed for all restricted entries to and throughout the building including the car park.
- Australian Standard 220 door and window locks must be installed in all premises.
- A monitored alarm system must be provided throughout communal public space areas.
- CCTV is to be provided to cover communal public space areas throughout the development. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be also displayed to indicate that CCTV cameras are in use.
- Access to service areas and staff areas must be restricted via a swipe card by authorised staff which will

- assist in restricting unauthorised access.
- The loading dock area should be well secured and well lit.

#### **Graffiti/Vandalism**

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, commercial tenancies and common areas. This includes reporting incidents to police and/or relevant authorities.
- Any outdoor furniture associated with the café must be stored away over night or well secured to minimise opportunities for vandalism and theft.

## **Demolition**

- 18 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 19 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

- 20 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 21 Mud and soil from vehicular movements to and from the site during demolition and construction must not be deposited on the road.

22 Demolition and construction works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

23 **Prior to demolition works commencing**, a hazardous materials assessment is to be conducted of the existing structures to be demolished. A copy of the hazardous materials assessment is to be provided to Penrith City Council for review prior to demolition works commencing.

## Environmental Matters

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

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the demolition and construction associated with the development.

25 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS 3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

If Penrith City Council is not the Principal Certifying Authority, a copy of the certification is to be submitted to Council for their reference.

26 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 27 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 28 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the DA Noise Impact Assessment prepared by Acoustic Logic, Document Reference No. 20171484.1/0811A/R2/MF, Revision 2, dated 8/11/2017.

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and shall be **shown on plans accompanying the Construction Certificate application**.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

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

29 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan 2014) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan 2014) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

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

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

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soils science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

30 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

31 All mechanical plant and equipment is to comply with the noise criteria outlined in "DA Noise Impact Assessment" prepared by Acoustic Logic, Document Reference No. 20171484.1/0811A/R2/MF, Revision 2, dated 8/11/2017

**Prior to the issue of a Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is to be reviewed by an acoustic consultant and written correspondence is to be supplied to demonstrate compliance with the established noise criteria.

- 32 Wastewater generated from the washing of garbage bins is not to be directed into the stormwater drainage system.
- 33 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building material, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. An such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

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

## BCA Issues

- 34 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
  - (b) be given:
    - within 12 months after the last such statement was given, or
    - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.
- 35 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
  - (b) formulating an alternative solution which:
    - complies with the performance requirements, or
    - is shown to be at least equivalent to the deemed to satisfy provision, or
  - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

## Health Matters and OSSM installations

- 36 The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health or the environment. The operation of the premises must be in accordance with the *Protection of the Environment Operations Act 1997* and Regulations.

## Utility Services

- 37 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

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

- 39 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
  - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
  - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

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

## Construction



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

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

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

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

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

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

41 Prior to the commencement of construction works:

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

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

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

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

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

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

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

42 **Prior to the issue of the Construction Certificate**, an amended Waste Management Plan shall be submitted to Penrith City Council for consideration and approval. The amended Waste Management Plan is to address the demolition and construction phases of the proposed development. Council must approve the plan before a Construction Certificate can be issued for the approved development.

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

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

## Engineering

- 44 All roadworks, stormwater drainage works, associated civil works and dedications required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 45 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 46 **Prior to the issue of a Construction Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
  - b) Concrete footpaths (the proposed verge works shall be in accordance with the Kingswood Public Domain Manual, adopted 29 September, 2014 being a 1.5m turf and street tree zone and minimum 1.5m concrete footpath)
  - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
  - d) Road occupancy or road closures
  - e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
  - f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- c) On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 47 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by LP Consulting Australia P/L, Job No. 2017-1224, Drawing No's. DA-STW-005, DA-STW-006, DA-STW-101, DA-STW-102, DA-STW-103, DA-STW-104, DA-STW-105, DA-STW-106, DA-STW-107, DA-STW-108, DA-STW-109 and DA-STW-201, all Revision C, all dated 16 March, 2018.

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

**Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policies.

- 48 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the stormwater drainage system for the basement car park has been designed in accordance with the requirements for pumped systems in AS 3500.3 (or as amended) (Plumbing and Drainage – Stormwater Drainage).

- 49 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that the proposed development is compatible with the recommendations of the Overland Flow Flood Report prepared by LP Consulting Australia P/L, Reference No. 2017-1224-C, dated 3 November, 2017.

- 50 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that:

- a) All habitable floor levels are a minimum of 500mm above the top water level of the 1% Annual Exceedance Probability of RL 48.1m AHD for the overland flow path.
- b) The velocity x depth product does not exceed 0.4.
- c) The proposed development will not concentrate, dam or divert overland flows onto adjoining properties.
- d) The crest in the access ramp to the basement car park is a minimum of RL 48.4m AHD.
- e) That all new fencing within the overland flowpath is open style to allow the free passage of overland flows.

Details prepared by a qualified person, demonstrating compliance with these requirements, shall form part of any Construction Certificate issued.

- 51 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith Development Control Plan 2014.

- 52 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not be limited to vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers and patrons. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall be certified by an appropriately accredited person and/or RMS. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of the development.

The CTMP shall be supported by a traffic control plan, designed in accordance with the requirements of the RMS Traffic Control at Work Sites manual, Version 2, current Australian Standards and the Manual of Uniform Traffic Control Devices, Part 3, "Traffic Control Devices for Works on Roads".

The traffic control plan must be prepared by a suitably qualified and RMS accredited Work Site Traffic Controller.

- 53 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall comply with the recommendations contained in the technical direction GTD 2012/001 prepared by the Roads and Maritime Services, as amended. The applicant shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifying Authority the dilapidation report shall be submitted to Council prior to Construction Certificate issue and then updated and submitted prior to any Occupation Certificate issue confirming no damage has occurred.

- 54 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 55 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 48.6m AHD (standard flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifying Authority.

- 56 All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

- 57 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.
- 58 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 59 **Prior to the issue of an Occupation Certificate**, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.
- 60 All car spaces are to be line marked and dedicated for the parking of vehicles only and not be used for storage of materials, products, waste materials, etc.
- 61 Subleasing of car parking spaces is not permitted by this consent.
- 62 Signage indicating the location of staff/visitor parking is required at the driveway entrance.
- 63 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 64 **Prior to the issue of an Occupation Certificate**, secure bicycle parking is to be provided at convenient locations in accordance with *AS 2890.3:2015 Bicycle Parking Facilities*.
- 65 **Prior to the issue of any Occupation Certificate**, as a result of the required reinstatement of the kerb and gutters across the development site frontages and the installation of the new driveway crossing, the rearrangement and associated linemarking of the on-street restricted parking bays is to be implemented for bays in accordance with AS 2890.5 and adjusted to suit the available frontage and adjoining bays. The directional indicators are to be realigned to clearly define the new arrangement of spaces. A plan showing the proposed linemarking arrangements is to be submitted for approval by Council's Local Traffic Committee. (The Local Traffic Committee sits once per month which may delay finalisation of the plans.)
- 66 Any proposed future use of the complex is not to attract a parking rate higher than that calculated for the assumed uses within this development, unless additional on-site parking spaces are provided. A separate development application may be required in this regard.

## Landscaping

- 67 All landscape works are to be constructed in accordance with the stamped approved plan drawing no's. SK 01, SK02A, SK 02B, SK 03, SK 04 prepared by Carmichael Studios and Section's C2 'Vegetation management' and C6 'Landscape Design' of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 68 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (2 / 3) landscape works.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (2 / 3) landscape works.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

- 69 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in the Penrith Development Control Plan 2014.

- 70 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

- 71 Trees to be retained on the site are to be protected in accordance with AS 4970 - 2009, Protection of Trees on Development Sites and in accordance with the arborist's report recommendations.

- 72 All precautions shall be taken to adequately protect trees on public property (i.e. footpaths, roads, reserves, etc) against damage during construction. No trees on public property shall be removed, pruned or damaged during construction. This includes the erection of any fences, hoardings or other temporary works. The placement of construction materials beneath the canopy of street trees is prohibited.

- 73 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.
- 74 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specifications prescribed in Penrith Development Control Plan 2014.

## **Certification**

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

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

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

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

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

### Information to accompany the Notice of Commencement

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



# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of the Penrith Development Control Plan 2014, in particular those under Part C, City Wide Controls and is found to be compliant. Compliance with particular Sections is discussed below:

#### C1 Site Planning and Design Principles

The proposal has been assessed against the key aims and objectives of the Chapter and is considered to comply in that, the design of the health service building is of an acceptable bulk and scale in the context of the location and is compliant with the maximum permissible height and floor space ratio expressed for the site within the Penrith Local Environmental Plan 2010.

#### C5 Waste Management

The DCP does not include controls specific to a health service development. Notwithstanding this, an assessment has been made of the proposal against applicable objectives and general waste controls relating to the practical and sustainable management of waste at the site. Submitted plans indicate the provision of two (2) waste rooms both provided to basement level 1 and with an area of 60m<sup>2</sup> and 30m<sup>2</sup>. The proposed café has been identified as performing no food cooking with patient meals also not to be prepared on site. The operation of the café is therefore not considered will generate a large amount of waste or require a grease trap.

A Waste Management Plan prepared by Daniels Health, dated October 2017 was submitted in support of the proposal. The report details the management of waste for each function of the development. The following description of the waste management proposed for the development is provided for within the Waste Management Plan;

*The occupier of a hospital, day procedure centre, pathology laboratory, mortuary or medical research facility where clinical and related waste is generated:*

*(a) must develop a clinical and related waste management plan in accordance with the NSW Health: Waste Management Guidelines for Health Care Facilities (as in force from time to time), and*

*It is worth clarifying that although a Waste Management Plan required for a development application would take account of some aspects of a plan developed pursuant to Waste Management Guidelines for Health Care Facilities, it is not intended to fill the role of a detailed operational plan required by Waste Management Guidelines for Health Care Facilities which would be prepared after development consent and the building of the facility is approved, but before clinical care operations commence.*

*The radiation oncology activities may generate small volumes of waste containing short half-life medical radionuclides which emits a level of radiation that renders it a hazardous radioactive material according to Regulation. Any such waste will be held for decay and stored in accordance with the radiation control Regulation and the radiation Protection Series Publication No. 16 Safety Guide for the Pre-disposal Management of Radioactive Waste issued by the Australian Radiation Protection Agency and Nuclear Safety Agency. When short half-life radioactive waste falls below the hazardous threshold, prior to its release for collection by a waste service provider, references to the radioactive hazard will be removed. The waste will be consigned according to the non-radioactive classification of the waste.*

The accompanying Waste Management Plan has also identified potential waste materials created by the

development and in this regard, the following information was in part provided;

*The waste materials generated depend on both procedures performed and equipment and chemicals used in activities performed on the site. The extent to which non-hazardous waste materials are segregated into different streams will depend on practicality of creating additional waste streams which is influenced by the space that is available for waste storage, the availability of alternate treatment and disposal options in that locality, etc. Many of these are relatively low volume trackable or regulated wastes that would be collected periodically by a single suitable service provider and stored contiguously in a suitable small designated area.*

As the proposed development is commercial in nature, the collection of garbage by Penrith Council is not applicable in this instance and will be subject to the operations of a private contractor. The accompanying Waste Management Plan has identified a number of vehicles and their characteristics which may facilitate the proposed development. These vehicles include a rear lift, Clinical (medium vehicle) and 14 pallet curtain-sider. An assessment of the provided plans has identified a basement ramp entry level of 4.512m and a floor to ceiling height to the loading bay of 4.5m. These heights are considered to be of an acceptable clearance to facilitate the use of the identified vehicles.

Should the application be approved, future tenancy applications will be required to provide details of compliance with *NSW Health: Waste Management Guidelines for Health Care Facilities* for medical waste created prior to operation. In this regard, it is considered that the waste services proposed for the development are acceptable.

### **C9 Advertising and Signage**

The development application has identified areas to both the Somerset Street and Derby Street frontage where proposed tenancy signage is to be provided. While so, no details have been provided as the current development does not provide for specific tenancies.

Should the application be approved, any determination is to include a condition indicating that a separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of this section of the Penrith DCP.

### **C10 Transport, Access and Parking**

The proposal has been assessed against the provisions of this Section and is found to be acceptable. Compliance with particular clauses is detailed below;

#### *Clause 10.1 Transport and Land Use*

The DCP requires that public transport use is to be enhanced by providing good pedestrian connections from places of residence or employment to transport networks or nodes. The development is located approximately 720m walking distance from Kingswood Railway Station which is also situated on the T1 Western Line (Great Western Highway). In addition, 3 bus services are located directly adjoining the site on Derby Street with a bus stop to the front of No. 25-27 (Route No's. 774, 775 and 776) which will provide for regular bus services throughout the week. In this regard, the proposal is considered to be readily accessible by public transport and complies with the DCP in this respect.

#### *Clause 10.2 Car Parking Rates*

This section of the Penrith DCP provides the following parking rates for health consulting rooms / medical

centres and hospitals:

Health Consulting Rooms / Medical Centres	3 spaces per health care professional practicing at any one time plus 1 space per receptionist/support staff, plus 1 space per associated dwelling
Hospitals	1 space per 3 beds plus 1 space per 2 employees

Noting the above, Council's rate is in part based on the number of practitioners and support staff. The application was accompanied by a Traffic and Parking Assessment Report which has provided a parking calculation for the proposed hospital component as follows;

#### *Hospital Parking*

- The private hospital component is projected to generate a demand for 17 spaces on the basis of 13 beds and 25 staff on-site at any one time (i.e.  $13 / 3 + 25 / 2 = 17$  spaces)

#### *Radiology and Radiation Oncology Uses*

The development is assumed to provide for a future ground floor radiology and radiation oncology tenancies. The Traffic and Parking Assessment Report has advised that it is not considered appropriate to apply standard medical centre traffic generation to these components and that an investigation into the likely operational characteristics of these uses is required to determine an appropriate site specific parking rate. In this regard, the following has been identified;

- A total of 30 employees (20 associated with the radiology use and 10 associated with the radiation oncology use) will be on-site at any one time;
- Each tenancy is expected to generate a demand for up to 10 patients / visitors at any one given time, and
- At least 40% of the radiology patients / visitors will also visit the radiation oncology tenancy in any one given trip.

Following the above basis, the report concluded that the appropriate parking rate for these uses would be;

*One space per two employees on-site at any one time, plus*

*One space per patient / visitor on site at any one time (where appropriate reduction is applied to account for mixed use trips)*

Noting the above, the following calculations are therefore provided in regard to parking demand;

- Radiology -  $(20 / 2) + 1(10 \times 0.6) = 16$  spaces and Radiation Oncology -  $(10 / 2) + 1(10 \times 0.6) = 11$  spaces. In this regard the two ground floor tenancies are expected to generate a future parking demand of 27 spaces.

#### *Health Services Facilities*

The accompanying traffic report has concluded that the use of Council's parking rates for health consulting rooms and medical centres is not possible in this instance as the operational characteristics and the internal layout of the proposed health service facilities are currently unknown. In this regard, the report has provided for an off-street parking rate of *4 spaces per 100m<sup>2</sup> GFA nominated within the Roads & Maritime Services Guide to Traffic Generating Developments*. In this regard, the following calculation is provided;

- $4 \times (2,254\text{m}^2 / 100\text{m}^2) = 90$  spaces. In this regard, the health service facilities tenancies are projected to generate a parking demand of up to 90 spaces.

### Health Offices

Penrith DCP provides the following parking rate for office based uses - 1 space per 40m<sup>2</sup>. In this regard, the following calculation is provided on the basis of a single 791m<sup>2</sup> health offices tenancy;

- $791\text{m}^2 / 40 = 20$  spaces. The health offices tenancy is therefore projected to generate a demand for 20 spaces.

### Café

Penrith DCP provides the following parking rate for retail use - 1 space per 30m<sup>2</sup>. In this regard, the following calculation is provided on the basis of a cafe with an area of 32m<sup>2</sup>;

- $32\text{m}^2 / 30 = 2$  spaces (rounded up).

Noting the above, the following parking demand is considered to be created by the proposal as calculated by the accompanying Traffic and Parking Impact Assessment Report,

Use	Parking Demand
Hospital	17
Radiology	16
Radiation Oncology	11
Health Services Facilities	90
Health Offices	20
Café	2
Total	156

Based on the above table, the development is projected to generate a parking demand for 156 parking spaces. The Traffic Report was provided to Council's Senior Traffic Officer who provided the following comments in regard to parking requirements;

*Parking calculations have been provided in the Traffic Report based on "educated" assumptions of the proposed land uses/tenancies and not as a standard medical centre. Suggested tenancies include a private hospital (13 beds, 25 staff), ancillary radiology (629m<sup>2</sup>), radiation oncology (930m<sup>2</sup>), medical consulting (2254m<sup>2</sup>), administration (791m<sup>2</sup>), ancillary café (23m<sup>2</sup>).*

*The Traffic Report estimates parking demand of the various medical uses, stipulating the differences from "standard" hospitals and medical centres. Table 5 on page 30 summarizes the parking demand based on DCP 2014, RMS Guidelines and "first principles" surveys, and estimates that 156 spaces are required. The 4 levels of basement provide 172 spaces which satisfies that assessment.*

Noting the above, the provided car parking spaces is considered to exceed the expected required future parking spaces requirements by 16 and is therefore considered acceptable.

It is noted that previous applications within the Kingswood Precinct have focused on the existing road network and lack of parking opportunities available. In this regard, it is considered that the proposal is acceptable noting the above mentioned compliant parking number available. In addition, the location of the basement entry from Derby Street is considered appropriate as it does allow access from a thoroughfare able to provide for on street parking and the two way movement of vehicles without concern in both directions. In addition, it is noted that Penrith Council's City Planning Section is currently preparing a local housing strategy including the Kingswood area which is anticipated will be completed by the end of the year. Should areas be identified for an increase in future density expectations, it is projected that a

contribution plan will also be prepared which may also include traffic infrastructure.

## E12 Penrith Health and Education Precinct

The proposal has been assessed against the applicable provisions of Part E12, Penrith Health and Education Precinct of the Penrith Development Control Plan 2014 and is found to be compliant.

Compliance with particular sections is discussed in the table below:

Requirement	Proposed	Compliances/Discussion
Provision of flexible floor areas and layouts to the ground and first floor to accommodate a range of commercial uses	The ground and first floor will provide for commercial uses	Yes
Floor to ceiling heights for an applicant seeking to take advantage of the additional building height incentives prescribed by LEP 2010  1. 3.5m on the ground and first floor; and  2. 2.7m on the upper floors	Ground floor: 5.4m First floor: 4.2m Upper floors: 2.7m	Yes
Street building alignments are to be provided as specified in Figure E12.4	The proposal is provided with a 0m setback fronting Somerset Street.	Non compliant but acceptable in this instance. Please refer to discussion below.
Non-residential buildings greater than 12m in height are to have a maximum depth of 25m	The proposal is provided with a depth of between 38m to 40m	Non compliant but acceptable in this instance. Please refer to discussion below.
All points of an office floor should be no more than 10m from a source of daylight (e.g. window, atria or light wells)	Identified offices are located within 10m from a source of daylight	Yes
Large unrelieved expanses of wall or building mass will not be supported and should be broken up by the use of suitable building articulation, fenestration or alternate architectural enhancements	The proposal is provided with a blank wall on the northern boundary which is considered to have been appropriately broken up	Yes Please refer to discussion below.
Side and Rear setback requirement for non-residential uses:  • Up to 12m / 0m setback  • 12m to 24m / 6m setback	East elevation – 8.3m North Elevation – 0m	Yes Non compliant but acceptable in this instance. Please refer to discussion below.
Site Coverage: 75% of site	94% site coverage provided	Non compliant but acceptable in this instance. Please refer to discussion below.
Deep soil zone: 10% of site area	4% deep soil zone provided	Non compliant but acceptable in this instance. Please refer to discussion below.

Adjoining buildings are to be considered when designing new buildings and extensions to existing buildings	The proposal has provided for conceptual plans of the redevelopment of adjoining properties to the north	Yes Please refer to discussion below.
Building faces are to be articulated so that they address the street and add visual interest	The proposed design is considered acceptable	Yes Please refer to discussion below.
External walls should be constructed of high quality and durable materials and finishes with 'self cleaning' attributes, such as face brickwork, rendered brickwork, stone, concrete and glass	The proposed design is considered acceptable	Yes Please refer to discussion below.
Active frontage uses are defined as one or a combination of the following, at street level: <ol style="list-style-type: none"> <li>1. An entrance to a retail premises;</li> <li>2. A shop front;</li> <li>3. Glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage, to a maximum of 12m frontage;</li> <li>4. A café or restaurant if accompanied by an entry from the street;</li> <li>5. Active office uses, such as a reception, if visible from the street, and</li> <li>6. A public building, if accompanied by an entry</li> </ol>	The proposed design is considered acceptable	Yes Please refer to discussion below.
Active street fronts are to be located at the ground level of all buildings located in those areas as shown in Figure E12.7	Somerset Street is provided with an active street frontage	Yes
Ground floor active street frontage uses are to be at the same level as the adjoining footpath and must be directly accessible from the street	The active street frontage provided on Somerset Street is at the same level as the adjoining footpath	Yes

The following commentary is provided on the areas of non-compliance or additional design discussion points identified within the above table;

#### *Street building alignment*

As indicated by the above table, a setback of 4m is required for the Somerset Street frontage to the applicable lot boundary. The proposal will provide for a nil boundary setback contrary to this control requirement. While non compliant, it is considered that the architectural design of the proposed built form does allow for an appropriate justification of this non compliance as it is considered to create an

appropriate streetscape activation for this frontage. The location of the building entry/lobby area and adjoining café is considered to allow for a clear identification of the built form's main pedestrian access point. The café layout is also considered to allow for some associated outdoor seating which will assist in identifying the importance of this entrance.

In this regard, it is considered that the provision of a nil setback will create an enhanced streetscape presentation. This is created by several design aspects including allowing for a built form with an appropriately wide awning, mixed use of clear and treated glazing, metal wall cladding and face brick finishes which is considered to provide for an acceptable relationship with the public domain to the ground floor. The provision of terrace areas as well as vegetation planter areas to the second floor is also considered to allow for appropriate architectural relief for the upper portion of the proposed building above Somerset Street and also along Derby Street. In addition, the development has identified areas of street planting to the Somerset Street frontage which are considered will assist in diminishing the impact of the proposed nil setback provided.

The café design via the provision of glazed doors is also considered an acceptable feature noting that a total of 45% transparent glass is proposed to the Somerset Street elevation. This glazing is considered to assist in breaking the visual impact of bulk proposed and allow for greater architectural interest when viewed from the public domain. The development has also incorporated a number of curved elements via the design of the ground floor awning wrapping around Somerset and Derby Streets as well as upper level sunshades which is considered to reinforce the importance of this intersection.

Noting the above, it is considered that the proposed design is acceptable in this instance as it will allow an enhancement of the building address, will allow for landscaped areas and street tree planting, does identify the main building entry point for pedestrians, will assist in activating street level activity via the introduction of a cafe while also reinforcing the desired future urban character of the area as a health and education precinct.

#### *Non-residential building depth*

Building depth restrictions are generally provided to commercial buildings to assist in allowing appropriate access to natural light and ventilation especially to upper levels, while also reducing any adverse effects that a built form may have in regard to a visual impact when viewed from the public domain. The development will provide for commercial uses to four levels with predominant glazing via windows provided to both the Somerset and Derby Street frontages. In addition, the eastern façade is also provided with extensive glazing which will assist in allowing for greater amounts of natural light to the building as well as consideration of improved ventilation.

As the development has identified a nil boundary setback provided to the northern elevation with the intention of a future development being provided directly adjoining to the north of the subject site, amended plans received by Council have allowed for the introduction of windows with a 1m sill height from the floor level to this northern elevation for parts of the first and third floors in an attempt to break up this façade as well as allow for further solar penetration to the building.

Noting the above and taking into consideration the position of the subject site, the design is considered to allow for the availability of solar access via the extent of glazing proposed to the eastern, western and southern facades. Serving specifically with specialised health services, the impact of providing significant solar access and ventilation is diminished in comparison to a normal commercial office layout. In this regard, it is considered that the design is an acceptable response to the constraints of the site also noting that any future redevelopment of the northern adjoining properties will require the building out of openings to the first and third floor levels.

### *Blank wall presentation*

As the proposed development is provided with a nil boundary setback to the northern elevation, this has in turn provided for a large amount of building mass to this façade. Plans as amended have provided for a number of measures to mitigate the over-riding bulk created by this design. These measures have included the continuation of the brickwork feature along Somerset Street to the remainder of the ground floor for the northern façade and part of the first floor elevation. This is considered an appropriate finish allowing for a visual continuation of the base of the building also noting the darker tone of this face brick will enhance this visual feature. In addition, the proposal has provided for fenestration to the first and third floor levels, with a band of dark colour to level 2 allowing for the articulated continuation of the Somerset Street fronting terrace (also open to the northern elevation) to this level. The provided colour schedule has also identified that the levels above the ground floor to the northern elevation will be painted in a rendered light coloured finish which is considered to provide for an appropriate relationship with its darker toned base.

Noting the mixture of architectural features and colours proposed, the northern elevation is considered to provide for an appropriate presentation to allow for architectural interest when viewed from either the public domain or adjoining residential properties. As discussed, this façade is expected to be temporary in nature with the expectation that a redevelopment of the adjoining properties to the north (being No's. 34 and 36 Somerset Street and No. 2 Hargrave Street) will be provided for in the future to complement the current building design.

### *Side setback*

Penrith DCP controls have identified for a built form from 12m to 24m in height, that a 6m building setback is required to be provided to the boundary. In this regard, levels 2 and 3 are provided with a non compliant nil boundary setback for the northern elevation. While the proposal is non compliant, the application as amended has been provided with conceptual plans depicting a future redevelopment of No's. 34 and 36 Somerset Street and No. 2 Hargrave Street, allowing for an additional building in line with the desired objective for health associated buildings in the vicinity of the Nepean Hospital. These 3 adjoining parcels of land are subject to a current legal agreement which will allow for the future redevelopment of these lots subject to a future development consent being granted.

Noting the above, the conceptual plans are considered to show an appropriate re-development of the adjoining parcels of land to the north of the subject site, identifying a part 4, part 5 built form to be provided. The conceptual plan has provided for a floor layout depicting future uses. The built form envelope is considered consistent with the current development layout on the subject site. This relationship to the northern neighbour is considered to be highlighted via the conceptual architectural faced features proposed which are viewed as allowing for an acceptable integration with the current streetscape design. In addition, plans as amended have identified a right of carriageway to be provided between the proposed lower ground floor level and a basement level to the northern properties. This carriageway may be a consideration to assist in the movement of vehicles with any future application for the northern adjoining sites and if necessary is considered a viable option in any future development application preparation or assessment.

Taking into consideration the additional information provided and conceptual plans for No's. 34 and 36 Somerset Street and No. 2 Hargrave Street, it is considered that these adjoining properties will be redeveloped in the future in line with the current proposal. In this regard, the provision of a nil setback for the upper levels of the current application is therefore considered appropriate in this instance. The current design will provide for window features to level's 1 and 3 as well as a terrace to level 2 open to the northern elevation. In this regard, a future redevelopment adjoining will build out these boundary situated windows and line up with the terrace, with any determination to be appropriately worded to allow this to occur if necessary.



### *Site coverage*

The above table has identified that a site coverage of 94% is proposed for the new building, where a maximum of 75% is to be provided. While non compliant, it is considered that this site coverage requirement is primarily applicable for mixed use developments rather than for specialised commercial medical facilities. As discussed within this report, with the prospect that the adjoining properties to the north will also be redeveloped for medical facilities, it is therefore a logical expectation that a nil setback be provided to this future built form to allow for the appropriate integration of the current proposal with the adjoining future built form. In this regard, noting the compliant setback provided to the eastern boundary and nil setbacks to Derby and Somerset Streets, the provided non compliance is considered an acceptable response in the provision of a building in line with the desired future character of this precinct.

### *Deep soil zone*

The proposal has been provided with a non compliant deep soil area, which is created via the provision of a nil building setback to the northern, southern and western boundaries. While so, deep soil areas have been identified along the eastern boundary which have allowed for native buffer planting. As indicated above, the proposed site coverage is considered an acceptable design response in this instance. In this regard, this will create the effect of a reduced deep soil availability. While so, it is considered that appropriate landscaping has been provided to the adjoining eastern neighbour and to the north east corner of the subject site to diminish the impact of any visual bulk.

Landscape Plans as amended have identified a mixture of plants to be provided along this eastern boundary edge varying in height from 1m to 6m which is considered to allow for an appropriate softening of the edge of the subject site to the adjoining existing residential use.

### *Consideration of adjoining buildings*

As previously indicated within this report, the application has been accompanied with conceptual plans for the adjoining properties to the north of the subject site (No's. 34 and 36 Somerset Street and No. 2 Hargrave Street) which is considered to identify the possibility of this land being developed for a future health service facility (as per the current application) compliant with Council's LEP and DCP controls. In this regard, the proposed northern setback in this instance is considered appropriate as it will allow for an improved integration with any future redevelopment which will also allow for an improved Somerset Street presentation.

As the proposal is located on a corner block, the subject site provides for an immediate land connection to existing dwellings to the east along Derby Street or to its north along Hargrave Street. In this regard, it is considered that an acceptable setback and landscape buffer to allow for appropriate screening has been provided to the residential townhouse development at No. 25 - 27 Derby Street while as previously discussed within this report, the 2m setback for the first floor and above facing the rear of No. 4 Hargrave Street is considered an appropriate design solution which has allowed for consideration of its future redevelopment also.

As the proposal will therefore provide for a building scale in line with future desired configurations, any relationship with the existing surrounding dwellings will provide for an irregular relationship, but while so, as a compliant height and floor space ratio are proposed, this is considered to provide for a built form which is not of an inappropriate scale.

### *Articulation of building faces / external building appearance*

The proposal will provide for a prominent presentation to both the Somerset and Derby Street frontages

noting that this intersection is in a prominent position and will provide for a visual focus point for both motorists and pedestrians. In this regard, plans as amended are considered to allow for a distinguishable base via the use of a darker face brick tone for both facades and the provision of a prominent awning above. The provision of external white cladding to levels 1 and above for the Somerset Street frontage in the vicinity of the intersection as well as to the remainder of the Derby Street frontage are considered to allow for this strong textured base and softer coloured upper levels to be a feature of the external finishes proposed. The tapered nature of the proposed awning to the Derby Street frontage is also considered to allow for an attractive design feature providing direct focus on the intersection, with the 2.4m deep awning along the Somerset Street frontage considered to highlight the pedestrian access into the building.

For the ground floor, it is noted that glazing to the Derby Street frontage and for the Somerset Street frontage (from the street intersection to the café) is provided in a mixture of obscured/transparent glazing for the lower parts of this element with clear glazing for the upper portion. This is considered an appropriate measure to assist in maintaining privacy between the internal and external elements of the building noting the nature of pedestrian movements in this area. The northern end of the Somerset Street façade is also provided primarily in a face brick presentation which is considered to add visual interest to this elevation and allow for its continuance along the northern elevation.

Level's 1 and above are provided primarily in a white metal wall cladding which is considered an appropriate contrast to the darker ground floor finish. The location of terraces to the second floor and associated planter areas introducing landscaping above the awning are considered to provide articulation to the design of the building. These terraces will also assist in stepping back these levels and provide the visual element of depth when viewed from the street. Plans have also identified a timber lining to the underside of the terraces, which will be visible from the street and allow for an additional material to be provided to assist in articulating the overall design. The provision of glazing to each level is also considered appropriately proportioned in relation to floor to ceiling heights proposed.

It is considered that the proposal has provided for appropriate curved features to its public facades, be it via the awning, glazing proposed on the intersection of Derby and Somerset Streets or upper level sunshades which will allow for visual interest of this intersection to be maintained while providing for greater architectural detail to the upper levels. The provision of these curved features is considered an important element of the overall design in enhancing the visual presentation of the building.

The eastern elevation fronting the adjoining residential property along Derby Street is considered to allow for a continuation of the Derby Street façade via the mixture of darker face brick to the ground level, which is then tapered to allow for white metal wall cladding of the levels above to be provided. Noting a separation of 8.5m from the building to the eastern boundary as well as the provision of landscaping to this façade, the presentation of the varied colour schemes as well as glazing is of an appropriate proportion and considered well balanced.

#### *Active frontage*

The provision of an active frontage area promoted via the provision of non-residential uses is necessary with the current development. In this regard, Part E12 of the Penrith DCP has identified the Somerset Street frontage as requiring an active street frontage associated with the ground level use.

The proposal as amended has provided for the provision of a ground floor café with an area of 32m<sup>2</sup>, main building entry and lobby area, glazing adjoining the café to the corner with face brick provided to the other side of the lobby towards the northern boundary. It is noted that this façade is provided with a mixture of obscured and clear glazing, with clear glazing taking up 44% of the ground floor façade. The provision of clear glazing is considered an important element in allowing for a proper relationship with the footpath

area, also noting that glazing to the café will be openable to minimise separation with the public domain as well as introducing the potential of an outdoor seating element to this use.

The proposal is considered to provide for a clear lobby area which in combination with the café, are both considered directly accessible from the footpath as well as addressing it. In this regard, it is considered that the proposal has provided for an appropriate design to the ground floor to provide visual interest and provide a positive contribution to future footpath activities.