

<b>DATE OF DETERMINATION</b>	29 January 2019
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Bruce McDonald, Nicole Gurrán, Glenn McCarthy and Ross Fowler
<b>APOLOGIES</b>	Nil
<b>DECLARATIONS OF INTEREST</b>	Nil

Public meeting held at Penrith City Council on Tuesday, 29 January 2019, opened 4.00pm and closed at 6.37pm.

#### **MATTER DETERMINED**

Panel Ref – 2018SWT008 – LGA – Penrith – DA18/0773 at 84-88 Parker Street, Kingswood (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined (applying clause 4.16 of the *Environmental Planning and Assessment Act 1979*) to approve and grant development consent to DA18/0773 for the construction of a new six storey Health Services Facility above basement parking (subject to the conditions discussed below).

The decision was unanimous.

#### **REASONS FOR THE DECISION**

1. The Panel is of the view that the proposal is consistent with the objectives of the Penrith Health and Education Precinct under Penrith LEP2010, as well as Part E12 of Penrith DCP, and adds to the available health facilities in this hospital precinct in Kingswood.
2. The Panel notes that the development of a health service facility is not identified as a permitted use under the Mixed Use zone of Penrith LEP 2010, but is permitted under Clause 57 of the Infrastructure SEPP 2007.
3. The Panel accepts that the built form of the proposal is consistent with the relevant development standards and controls, noting that the building is able to utilise a height bonus of up to 20%, by virtue of its higher ground floor ceiling height (under clause 7.11 of PLEP2010).
4. The Panel notes that the proposal has undergone substantial revision through an Urban Design Review as part of the development assessment process and is of the view that the landscaping features and treatment of the building's upper story provide an appropriate

design response for this gateway area to the Nepean Hospital precinct, and has accommodated an acceptable pedestrian access.

5. The Panel notes concerns about the timing of the construction of the development, due to potential impacts on helicopter flight paths to the temporary helipad on the approved multi-level car park for Nepean Hospital. However, having regard to the advice of NSW Health Infrastructure dated 2 October 2018, and verbal submissions during the public meeting, the Panel has formed the view that it is likely that this matter can be satisfactorily resolved subject to the deferred commencement condition on that subject set out below.
6. The Panel notes the existence of a right of way benefitting the property immediately to the north. The proposal shows a basement carpark beneath the area of the right of way. The panel also received a presentation at the public meeting raising a concern over whether the cumulative use of the right of way by the development proposed in the DA together with the use likely to be made of the right of way when the land benefitted by the right of way is developed. Given that the land immediately adjacent to east of the right of way is owned by the same interest as the owner of the land benefitted by the right of way, the Panel expects that these issues can be resolved, but sees a deferred commencement condition as appropriate to ensure that Council fully considers the issue before the consent becomes operative.

#### **CONDITIONS**

The consent is to be subject to the conditions recommended by the Council staff, but amended appropriately to accommodate deferred commencement conditions to the effect that the consent is not to operate until the applicant satisfies the consent authority, in accordance with the regulations, as to the following matters:

- (a) The proposal is to provide for a safe means of accessing the temporary rooftop helipad on the carpark of Nepean Hospital having regard to the use of cranes during construction and any other potential obstruction to helicopter access, having regard to any applicable guidelines, and taking into account alterations to the current helipad design that would reasonably be available to the Hospital in all the circumstances.
- (b) The DA design (including the method of construction of the approved development) is to be consistent with the registered right of way benefitting the adjoining site to the north (unless written approval of the owner of the land benefitted by the right of way is obtained to permit any part of the development inconsistent with the right of way).

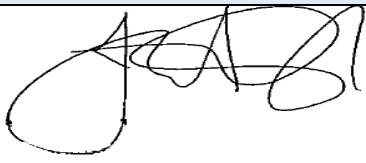




The deferred commencement conditions recorded in the notice of determination should allow 18 months for the consent authority to be satisfied of these matters.

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from those wishing to address the panel as listed at item 7 in Schedule 1. The Panel notes that issues of concern included:

- The potential obstruction of helicopter approach paths to the temporary helipad of Nepean Hospital both from the development and its construction
- Impacts on the rights available to the owner of an adjoining site under the registered right of way

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no further new issues requiring assessment were raised during the public meeting. The deferred commencement conditions address the issues raised at the meeting.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Bruce McDonald
 Nicole Gurran	 Ross Fowler
 Glenn McCarthy	

SCHEDULE 1		
1	<b>PANEL REF – LGA – DA NO.</b>	Panel Ref – 2018SWT008 – LGA – Penrith – DA18/0773
2	<b>PROPOSED DEVELOPMENT</b>	Construction of six (6) Storey Health Services Facility, Four (4) Levels of Basement Car Parking & Associated Site Works
3	<b>STREET ADDRESS</b>	84-88 Parker Street, Kingswood
4	<b>APPLICANT/OWNER</b>	Applicant – Cornerstone Building Developments Owner – Nepean GI No. 1 Pty Ltd
5	<b>TYPE OF REGIONAL DEVELOPMENT</b>	Health Service Facility a value of more than \$5 million
6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Penrith Local Environmental Plan 2010 (Amendment 4)</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>○ Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> </ul>

		<ul style="list-style-type: none"> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Penrith Local Environmental Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 15 January 2019</li> <li>• Written submissions during public exhibition: 9</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Professor Anthony Mclean, Jeff Stark and Wayne Gersbach</li> <li>○ Council assessment officer – Paul Anzellotti and Gavin Cherry</li> <li>○ On behalf of the applicant – Mina Suh, Morgan Stanbery and Josh Peacock</li> </ul> </li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site inspection and briefing: 24 September 2018 2018</li> <li>• Final briefing to discuss council’s recommendation, 29 January 2019, time 3.30pm to 4.00pm.</li> <li>• Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Glenn McCarthy and Ross Fowler</li> <li>○ <u>Council assessment staff</u>: Paul Anzellotti and Gavin Cherry</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report