

SWCPP Ref. No.:	2018WCI013
DA No.:	DA18/1205
PROPOSED DEVELOPMENT:	Construction of 68 Place Child Care Centre & Associated Site Works - Lot 1 DP 1114090,35 - 65 Derby Street, KINGSWOOD NSW 2747
APPLICANT:	Nsw Government Health Infrastructure
REPORT BY:	Gemma Bennett, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Development Application from health Infrastructure NSW proposing the construction of a 68 place childcare centre at 35-65 Derby St, Kingswood.

The subject site is located within the Nepean Hospital Campus and the Penrith Health and Education Precinct. The subject site is zoned SP2 Infrastructure - Health Service Facilities under Penrith Local Environmental Plan 2010. The proposal is defined as a *child care centre* and while such a use is not identified within the subject site's SP2 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 of the *Environmental Planning and Assessment Act, 1979* the Sydney Western City Planning Panel (SWCPP) is the determining authority. As the proposal's capital investment value is \$6,574,456 and it is a Crown facility, under Clause 4 of Schedule 7 Regionally significant development of the *State Environmental Planning Policy (State and Regional Development) 2011* a regional panel, in this instance being the Sydney Western City Planning Panel are required to determine an application for development that has a capital investment value of more than \$5 million.

The development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties between 14 December 2018 to 2 February 2019. During this period, Council received one (1) submission.

Key issues identified for the proposed development include:

- Building orientation and layout
- Landscape design and boundary treatment to Great Western Highway
- Parking and access

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

Site & Surrounds

The subject site is a portion of land within the Nepean Hospital Campus at 35-65 Derby St, Kingswood. The lot is legally described as Lot 1, DP 1114090 and entire allotment maintains a size of 13.92 hectares. The portion of land proposed to be developed for the subject development is located on the northern boundary of the lot with an area of approximately 2,110m². The site has a northern frontage to the Great Western Highway of approximately 54m and is accessed via Barber Ave to the south.

Currently existing on the subject site is a carpark and temporary site offices for the Nepean Hospital redevelopment works. The subject site is burdened by a 6.5m wide easement to drain water and 4.5m wide easement for water supply, both of which are outside the boundaries of the proposed development. The site is provided with a fall of approximately 2m in a north easterly direction. A 1m-1.6m high earth mound exists on the north western and northern eastern edges of the existing carpark.

Immediately adjacent to the subject site and within the Nepean Public Hospital Campus is Tresillian Family Care Centre to the south, and the Nepean Cancer Care Centre to the east. The Nepean Private Specialist Centre and associated carpark is located on the adjacent lot to the west.

The hospital precinct within the vicinity of Barber Avenue is undergoing significant redevelopment with recent approvals granted for a six storey split level hospital car park including a rooftop helipad in association with the operation of Nepean Hospital along the southern side of Barber Avenue (DA17/0665); and a six storey health services facility with four levels of basement carparking opposite at 84-88 Parker Street (DA18/0773). It is noted that Council is currently in receipt of a development application for the existing vacant land east of subject site (being 1-11 Barber Avenue and 78-82 Parker Street) for the proposed expansion of the Nepean Private Hospital including the construction of a four storey building containing ground floor reception, retail premises, undercroft car parking, three levels of consulting rooms, associated on-grade car parking and site works (DA18/1222).

Proposal

The proposed development involves:

- Tree removal and site preparation;
- Construction of 68 place childcare centre facilitating long day care for the following numbers and ages of children:
 - 12 x 0-1 year old children;
 - 12 x 1-2 year old children;
 - 18 x 2-3 year old children;
 - 26 x 3-5 year old children;
- Operating hours: 7am to 6pm Monday to Friday;
- 7 x at grade carparking spaces;
- 3 x detached storage sheds;
- 3 x shade structures; and
- Landscaping works and acoustic fencing.

It is noted that the proposal was briefed to the Sydney Western City Planning Panel on the 29 January, 2019.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The application has been assessed in accordance with Section 2.12 of the Environmental Planning and Assessment Act and the application will be determined by the Sydney Western City Planning Panel as it has a Capital Investment Value (CIV) greater than \$5 million and is Crown development.

- **Section 4.15 - Evaluation**

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

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 57 Development permitted with consent

The development is permissible with consent under Part 3, Division 10 Health Services Facilities of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) noting that a centre-based childcare facility is identified as a permissible use.

Clause 101 Development with frontage to classified road

Clause 101(1) of the ISEPP has the following objectives;

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

The clause requires the consent authority to be satisfied that the following controls are met before granting consent (101(2));

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road

Vehicular access is provided via Barber Avenue. No access to the Great Western Highway is proposed.

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land

Council's Traffic Engineer has reviewed the application and considers that the operation of the Great Western Highway and Parker Street will not be adversely impacted by the development. The existing Barber Avenue access and carpark to Tresillian Family Care Centre is proposed to be used for the child care centre.

(ii) the emission of smoke or dust from the development

There will be no smoke or dust emitted from the development that would compromise the safety of the classified road.

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land

The proposed child care centre is a facility for the sole use of staff employed at Nepean Hospital. As such, the number and frequency of vehicles using the classified road to gain access to the land is considered to be the same as the existing situation.

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The child care centre is considered to be a development type that is sensitive to traffic noise and vehicle emissions. Therefore the development proposes measures to ameliorate noise and emissions, such as provision of an acoustic fence and sealing of the building. Council's Environmental Management Team has assessed the proposal and further comments are made in this regard later in this report.

Clause 102 Impact of road noise or vibration on non-road development

Clause 102 of the ISEPP applies to development for centre-based child care facilities on land adjacent to a road corridor with an annual average daily traffic volume of more than 20,000 vehicles and is likely to be adversely affected by road noise or vibration. RMS traffic volume data indicates that on average, 35,458 vehicles were counted passing north-south through the Parker Street/Great Western Highway intersection daily in 2019. The east-west average daily vehicle count was 32,441 on the Great Western Highway at Werrington, approximately 4.5km east of the subject site.

Under clause 102(2) the NSW Department of Planning document *Development Near Rail Corridors and Busy Roads - Interim Guideline* (2008) is to be used to assess such applications.

For the purposes of part 3.5.1 of the guideline, the development falls outside of Zone B, being located 61m from the nearest operational track. In this regard neither an acoustic or vibration assessment was required for proximity to the rail corridor. However part 3.5.2 of the guideline indicates that as a sensitive development located <10m from the road, an acoustic assessment is required.

An acoustic assessment was submitted with the proposal, and considered the noise emissions from the childcare centre, and potential noise intrusion associated with road, rail and aircraft (helicopter). The acoustic report demonstrates that following the application of acoustic sealing to the building, the internal areas will achieve applicable standards. In addition, the acoustic barrier on the northern boundary will ensure the outdoor play area achieves applicable standards. The proposal has satisfactorily demonstrated that noise levels are compliant with the relevant guidelines.

State Environmental Planning Policy (State and Regional Development) 2011

Any community or Crown facility with a Capital Investment Value of \$5 million or more is considered regional development and referred to the Sydney Western City Regional Panel for determination in accordance with Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*.

As the proposal has a CIV of \$6,574,456.00, the Sydney Western City Planning Panel is the determining authority.

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.*

To address the requirements of SEPP 55 the application is supported by a Data Gaps Assessment prepared by JBS&G. The document has been reviewed by Council's Environmental Management Officer and confirms that the site is suitable for the proposed use.

State Environmental Planning Policy No 64—Advertising and Signage

The application is provided with two proposed signs in association with the operation of the building in the form of identified 'Somerset Cottage' signs, one above the main entry to the building on the southern elevation, the other inset into the fence on the northern elevation facing the Great Western Highway. Both are indicated as cut out block letters in colours complimentary to the palette of the proposed development.

The building identification sign and wall sign as proposed would not be exempt from obtaining development consent under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009*.

An assessment has been undertaken of the application against relevant criteria with *State Environmental Planning Policy No 64—Advertising and Signage* and the application is satisfactory as detailed below:

1 Character of the area

The proposal is considered compatible with the existing and desired future character of the area in that the signage clearly identifies the building as the proposed child care centre located within the hospital campus.

2 Special areas

The proposed development is not located within any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.

3 Views and vistas

The proposal does not obscure or compromise important views, dominate the skyline, or reduce the quality of vistas.

4 Streetscape, setting or landscape

The scale, proportion and form of the proposal is appropriate for the setting, being surrounded by medical uses and adjoining the highway. The signage is clear and minimalist, and in keeping with the overall design of the child care centre.

While the roof sign does protrude above the proposed building, it is considered suitable in that the signage is facing into the allotment and will not be visible from the road. Additionally, the proposed building is a single storey structure whereas the adjacent Nepean Specialist Centre is a multi-storey development, and therefore the proposed roof signage does not protrude above buildings in the locality.

5 Site and building

The proposal is compatible with the scale and proportion of the building and reflects the colours and materials used in the design of the development.

6 Associated devices and logos with advertisements and advertising structures

No associated devices or logos are proposed as part of the signage due to location of the structure and nature of the use.

7 Illumination

No illumination of the signage is proposed.

8 Safety

The wall signage proposed is black cut out letters fixed to black powdercoated fence. As such, the signage suitably blends with the wall structure and is not considered to reduce the safety for the public road, pedestrians, cyclists or obscure sightlines.

Should the application be approved, any determination is to include a condition indicating that a separate development application for the erection of any additional signs or advertising structures, other than those listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of this section of the Penrith DCP as discussed further in this report.

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 with any Development Consent granted. 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.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Part 3 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) (SEPP Education) 2017 details the development standards that are applicable to early education and care

facilities, including the following:

Clause 22 Centre-based child care facility - concurrence of Regulatory Authority required for certain development

Concurrence from the Department of Education is required should the development not meet the minimum indoor (3.25m²) and outdoor (7m²) unencumbered space per child under Clauses 107 and 108 of the Education and Care Services National Regulation. Based on the number of children to be accommodated at the centre, the minimum indoor space required is 221m² and outdoor space 476m². The proposal achieves these minimum requirements with the provision of 232.5m² indoor and 525.9m² outdoor space.

Clause 23 Centre-based child care facility - matters for consideration by consent authorities

The proposal has been assessed against the provisions of the *Child Care Planning Guideline* published by NSW Department of Planning. Parts 2, 3 and 4 of the Guideline have been considered in the assessment of the proposal and the following comments made in relation to the key aspects of the development.

Part	Considerations	Comment
3.1 Site selection and location	C1 To ensure that appropriate zone considerations are assessed when selecting a site	The proposed development is within a Special Purpose - Infrastructure zone, specifically for health service facilities. As the users of the child care centre will be staff employed within the hospital precinct, the proposal is considered to be compatible with the operation of the nature of the zone. The proposed facility is located in proximity to the Tresillian Family Care Centre, which provides an appropriate co-location of uses.
	C2 To ensure that the site selected for a proposed child care facility is suitable for the use	While the proposal is located adjacent to a classified road, the noise and air quality mitigation measures have demonstrated that the development meets specific guidelines as discussed elsewhere in this report. Access (pedestrian and vehicular) to the proposed development is via Barber Avenue, rather than the Great Western Highway which is an acceptable design solution.
	C3 To ensure that sites for child care facilities are appropriately located	The proposed development is located within an employment area, in proximity to public transport, including Kingswood Station, and a number of bus routes, and with pedestrian access via Barber Avenue and from within the hospital campus. It is expected that the proposed centre will be catering to a number of persons employed directly by Nepean Hospital.

	C4 To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards	<p>The proposed development is not located in proximity to heavy or hazardous industry, waste transfer depots, landfill sites, LPG tanks or service stations, or water cooling/warming systems.</p> <p>Proximity to the air pollutant generating sources, i.e. the Great Western Highway, has been assessed as previously discussed and with results raising no objection in relation to the use of the subject site.</p>
3.2 Local character, streetscape and public domain interface	C5 To ensure that the child care facility is compatible with the local character and surrounding streetscape	<p>The proposal contributes to the local area by being designed in character with the locality and the existing streetscape. Being a hospital campus, the building has been designed to fit with the aesthetic of the hospital architecture without appearing overly institutional in nature.</p> <p>The single storey building form provides a suitable transition in heights from the road frontage to the multi-storey developments set back deeper into the site.</p> <p>The inclusion of a landscaped buffer on the northern frontage of the site contributes positively to the streetscape.</p>
	C6 To ensure clear delineation between the child care facility and public spaces	<p>Fencing is provided to the main entry area and the outdoor space to provide safety for children using the centre. The external fence fronting the Great Western Highway includes a series of coloured acrylic panels and portals to provide connectivity between the facility and the public space. Landscaping is integrated with this fencing to soften the impact of the predominately brick fence.</p>
	C10 To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain	<p>High solid acoustic fencing is proposed and acceptable in relation to shielding the facility from noise from the classified road. The fence is setback from the property boundary with screen landscaping proposed between the wall and the boundary. The fence cater for the slope on the site by including a series of steps, which in combination with the acrylic panels and portals, and the landscaping, assists in breaking up the visual bulk of the structure.</p>

3.3 Building orientation, envelope and design	C11 To respond to the streetscape and site, while optimising solar access and opportunities for shade	<p>The building has been oriented away from adjacent buildings which provides maximum privacy and limits overlooking into the proposed child care centre.</p> <p>Solar access is maximised and overshadowing minimised by the orienting the building with a northern aspect.</p> <p>Some cut is proposed, however this is predominately located within the earth mounds on the boundaries of the existing carpark. It is considered that these mounds were likely to have been created when the carpark was developed, and as such are not natural ground level.</p>
	C12 To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised	<p>The single storey building height proposed is consistent with the scale of buildings in the area.</p> <p>The setbacks proposed allow for privacy of both neighbours and children, and provide adequate access for building maintenance.</p> <p>It is noted that the newly extended Nepean Cancer Care Centre, the adjoining development to the east, has established a 2m setback to the northern boundary. The proposed development is consistent with this setback.</p>
	C13 To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context	<p>Part E12 clause 12.3.3 of the DCP specifies that the minimum side and rear setbacks of non-residential uses up to 12m in height is 0m.</p> <p>The Child Care Planning Guideline indicates that where there are no prevailing setback controls, minimum setbacks to a classified road should be 10m. However it is noted that the DCP allows for a zero rear setback, which in this instance means that the proposal is compliant.</p> <p>In addition, it is noted that there is no opportunity on this site to increase the setback from the Great Western Highway to 10m.</p>
	C16 To ensure that buildings are designed to create safe environments for all users	<p>A single, main entry is located on the southern elevation. The entry is accessible, visible from the street and carparking area, and provides a gated 'safety zone' at the front doors to prevent children from exiting into the carpark without adult care.</p>

	C17 To ensure that childcare facilities are designed to be accessible by all potential users	A ramp from the pedestrian footpath/carparking area is provided to the front entry. The centre is designed with a single level and key areas of the site are accessible by wheelchairs or prams.
3.4 Landscaping	C18 To provide landscape design that contributes to the streetscape and amenity	Boundary planting is provided, particularly to screen the acoustic fence as indicated previously.
3.5 Visual and acoustic privacy	C21 To protect the privacy and security of children attending the facility	<p>The design of the acoustic fence in combination with screen plating minimises overlooking of the indoor and outdoor spaces from the Great Western Highway.</p> <p>The orientation of the building away from the Nepean Specialist Centre to the west minimises overlooking into the outdoor play space.</p>
3.6 Noise and air pollution	C25, C26 To ensure that outside noise levels on the facility are minimised to acceptable levels	Documentation and modelling submitted with the proposal demonstrates that acceptable noise levels are achieved in accordance with the guidelines.
	C27, C28 to ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads or industrial development	Documentation and modelling submitted with the proposal demonstrates that acceptable air quality levels are achieved in accordance with the guidelines.
3.7 Hours of operation	C30 To minimise the impact of the child care facility on the amenity of neighbouring residential developments	The site does not adjoin residential development. Hours of operation are proposed to be 7am to 6pm weekdays which is considered acceptable in relation to it's medical/health context.
3.8 Traffic, parking and pedestrian circulation	C31 To provide parking that satisfies the needs of users and demand generated by the centre	<p>The proposal includes the development of 7 new carparking spaces, including one accessible space. The development adjoins an existing carparking containing 23 spaces.</p> <p>It is noted that the users of the centre are primarily expected to be hospital staff, who are likely to park in all day staff parking located elsewhere on campus. Spaces at the centre would largely be used for childcare centre staff. The carparking arrangements are further discussed in the DCP section of this report.</p>

Clause 25 Centre-based child care facility - non-discretionary development standards

The non-discretionary development standards which, if complied with, prevent a consent authority from requiring more onerous standards. These matters relate to location, indoor and outdoor space, site area and dimensions and the colour of building materials and shade structures which as previously indicated in this report are considered compliant.

Clause 26 Centre-based child care facility - development control plans

The SEPP includes provisions in development control plans that cannot be applied to development of child care centres, such as hours of operation, demonstrated need for services, proximity to other facilities, or any matter set out in the *Child Care Planning Guideline*. Council's DCP does contain specific development standards related to the matters described in Clauses 25 and 26 which are rendered obsolete by the function of the SEPP.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 5.10 Heritage conservation	Complies
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	Complies
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.4 Sustainable development	Complies
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
Clause 7.11 Penrith Health and Education Precinct	Complies - See discussion

Clause 2.3 Permissibility

The property is zoned SP2 Infrastructure - Health Service Facilities under Penrith Local Environmental Plan (LEP) 2010. The provision of a child care centre is not identified as a permissible use under the LEP 'Land Use Table'.

While so, the development is permissible with consent under Part 3, Division 10 Health Services Facilities under the ISEPP. In this regard, no concern is raised in relation to permissibility noting the provisions of the ISEPP override the provisions of the LEP where there is an inconsistency between the instruments.

Clause 2.3 Zone objectives

The objectives of the SP2 zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposed use is considered compliant with the objectives of the zone.

Clause 4.3 Height of buildings

There is no maximum height applicable to the lot. While so, the development complies with the objectives of Clause 4.3, in particular relating to providing a transition of building heights and land use intensities when viewed from the Great Western Highway.

Clause 7.2 Flood planning

The site is affected by overland flow. Council's Engineering Team have assessed the proposal and found it to be compliant with Council's overland flow and flood liable land policies.

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 child care facility is permissible under the provisions of the State Environmental Planning Policy (Infrastructure) 2007. The proposed building is for the use of Nepean Hospital staff and 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.

No maximum height is applicable to the site. It is also noted that the proposed development is a single storey building and therefore any height bonus is irrelevant in this instance.

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

There are no draft Environmental Planning Instruments that apply to the proposal.

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
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Does not comply - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	Complies - see Appendix - Development Control Plan Compliance
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A
E12 Penrith Health and Education Precinct	

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

There are no planning agreements applying to this application.

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 with any Development Consent granted, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

Furthermore, the development application has been notified, exhibited and advertised in accordance with the requirements of the Regulations.

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

The likely impacts of the proposed development as identified throughout the assessment process include:

Building orientation and layout

Following a briefing to the Sydney Western City Planning Panel on 29 January 2019, the applicant was made aware of the Panel's concerns in relation to the location of the centre in relation to the major road, and specifically the potential for vehicular collision, impacts of air pollution and traffic noise.

Alternative layouts for the development were considered by the applicant in consultation with Council, particularly in relation to aligning the built form with the northern boundary to shield the play area from the impacts of vehicular collision and noise, however these options presented a number of difficulties including:

- Lack of solar access to the outdoor area, with 50-75% of the playground overshadowed by the building.
- The 3m cross fall to the site limited accessibility in a building designed with a long, narrow footprint. This design also limits operational usability.
- Achieving compliance with regulations for outdoor play area requirements in relation to size.
- Location of the building entry at the eastern end of the building results in parents crossing the Tresillian carpark and potential impacts on parking.
- Presentation of the bulk of the built form to the road, which would have limited articulation for acoustic and air quality purposes, providing a less than ideal visual design outcome.
- Overlooking concerns from the adjacent private specialist centre should the playground be located on the southern side of the site.

The proposed building orientation and layout demonstrates compliance with solar access requirements, while also achieving outdoor play area requirements which is considered an appropriate design solution in relation to the constraints of the subject site.

Air Quality

A revised air quality assessment prepared by CETEC Pty Ltd was submitted to address the concerns initially raised through Council's preliminary assessment of the proposal, regarding the impacts associated with the site proximity to the Great Western Highway. This assessment included additional modelling undertaken by SLR which gave consideration to a number of barrier heights as a means of mitigating the traffic impacts. The assessment demonstrates that a 3.0 metre barrier will sufficiently reduce the pollutant load such that the criteria can be achieved within the playground.

However, it was found that the criteria for the annual average PM2.5 was exceeded at the northernmost building façade, even with the barrier, and therefore no fresh air intakes are recommended to be located on

the northern façade. The assessment demonstrates that the criteria is satisfied within the outdoor play area due to the separation provided by the landscaped beds.

It is noted that the SLR assessment made recommendations restricting access to the outdoor play area between 3.00pm and 6.00pm, however when the contour mapping generated through the model is considered, the criteria is achieved and it is assumed that any impacts (such as in adverse weather) will be managed operationally.

Noise

As previously discussed, the documentation submitted with the proposal demonstrates compliance with relevant noise criteria. The acoustic assessment considered the noise emissions from the childcare centre, and potential noise intrusion associated with road, rail and aircraft (helicopter) and is considered acceptable.

Boundary treatment to Great Western Highway

Amended architectural plans have been submitted proposing a 3m tall boundary fence, constructed of reinforced 250mm thick concrete tilt panels and brick facings and cappings to replicate a full masonry wall. The wall will be supported internally by 250UC steel columns at 3m spacings. The barrier is designed to withstand loads in accordance with AS5100.01 - 2017 and AS5100.2 - 2017 to Barrier Performance Level - Regular. This accommodates the possibility of impact of either east and west bound traffic from the Great Western Highway.

Acrylic panels of alternating colours are provided to the fence, which allows filtered light into the play area which also providing visual interest to the fence. The panels are located in sections of the fence above 2.2m high, and are 800mm in height. Landscaping is provided in front of the fence within a 750mm wide landscaped bed. to soften the appearance of the structure.

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 potential noise and air quality concerns, and the visual impact of the built form on streetscape. In this regard, it is considered that the site is suitable for the intended use.

Section 79C(1)(d) Any Submissions

Community Consultation

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

The development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties between 14 December 2018 to 2 February 2019. During this period, Council received one (1) submission.

Issues raised in the submission are discussed below:

Issue: Proximity of the proposed development to the highway and safety risks for children and staff should vehicles crash through the fence.

Comment: Amended plans have been received that demonstrate adequate structural engineering standards have been applied to the construction of the fence to withstand impacts from vehicles entering the site from the road.

Issue: Air quality impacts have not been adequately assessed, particularly in relation to the outdoor play space.

Comment: Supplementary air quality information has been submitted demonstrating that the development can achieve compliance with the relevant air quality standards within both the building and outdoor play area.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	Not supported, however conditions provided
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	No objection
Tree Management Officer	Not supported, however conditions provided
Social Planning	No objections

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

The proposed development is not considered to generate any significant issues of public interest. In this regard, 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, which is considered to be achieved in this instance.

Section 94 - Developer Contributions Plans

Section 7.11 contributions do not apply to the development.

Conclusion

In assessing this application against the relevant environmental planning policies, being State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy No. 55 - Remediation of Land; State Environmental Planning Policy No. 64 - Advertising and Signage; Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997); Penrith Local Environmental Plan 2010; Penrith Development Control Plan 2014, the proposal is considered to satisfy the aims, objectives and provisions of these policies.

The site is suitable for the proposed development, the proposal is considered to be in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA18/1205 for a 68 place childcare centre at 35-65 Derby Street Kingswood, be approved subject to the attached conditions
2. That the person making a submission be notified of the determination.

CONDITIONS

General

- 1 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.	Issue	Title	Prepared By	Date
Architectural Plans				
29929-A01	G	Site plan	Barnson Pty Ltd	-
29929-A02	C	Floor plan	Barnson Pty Ltd	-
29929-A03	D	Storage shed plans	Barnson Pty Ltd	-
29929-A04	A	Elevations 1	Barnson Pty Ltd	-
29929-A05	D	Elevations 2	Barnson Pty Ltd	-
29929-A06	B	Sections	Barnson Pty Ltd	-
29929-A08	A	Materials and finishes	Barnson Pty Ltd	-
Civil Engineering Plans				
29929_C05	C	Proposed stormwater management plan	Barnson Pty Ltd	27/02/2019
29929_C06	C	Stormwater specification plan	Barnson Pty Ltd	27/02/2019
29929_C10	A	Proposed stormwater catchment plan	Barnson Pty Ltd	25/03/2019
Landscape Plans				
29929 LA 01	D	Landscape concept plan	Barnson Pty Ltd	20/03/2019
29929 LA 02	D	Tree retention and removal plan	Barnson Pty Ltd	20/03/2019
29929 LA 03	D	Finishes plan	Barnson Pty Ltd	20/03/2019
29929 LA 04	D	Equipment and structures plan	Barnson Pty Ltd	20/03/2019
29929 LA 05	D	Planting plan	Barnson Pty Ltd	20/03/2019
29929 LA 06	D	Notes and planting schedule	Barnson Pty Ltd	20/03/2019

- Nepean Hospital Child Care Centre Acoustic Assessment by Acoustic Logic, Doc. Ref. 20181646.1/2111A/R0/TT, dated 21/11/2018.
- Letter from Acoustic Logic, Ref. No. 20181646.1/2502A/R0/TT, dated 25/02/2019.
- Air Quality Assessment by CETEC, Project Ref. CN181121, dated 14/11/2018.
- Air Quality Assessment by CETEC, Project Ref. CN190268 (update to CBRE Air Quality Assessment V1.1), dated 20/03/2019.
- Response letter from mecone, dated 02/04/2019.
- Traffic Report by ptc., dated 21/11/2018.
- Arborist Report by Moore Trees, dated 20/11/2018.
- Data Gap Assessment (Contamination Report) by JBS&G, Ref. 54794/118321, dated 04/10/2018.
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- 2 The proprietor of the child care centre shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

3 The business is to be registered with Penrith City Council by completing the “Registration of Premises” form. This form is to be returned to Council **prior to occupation and operation** of the business.

4 A separate development application for the erection of a sign or advertising structure, other than signage or advertising approved by this consent or listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

5 **Prior to occupation** a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways.

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting” (1997).

6 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

7 The operating hours are from 7.00am to 6.00pm Monday to Friday. The centre is not to operate on weekends or public holidays. Staff are not permitted to generate noise that can be heard from an adjacent premises before 7.00am. Deliveries are only to occur during these times of operation.

8 Any street tree planting is to be provided in consultation with and 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 planting of any trees. Evidence of concurrence is to be provided to the Certifying Authority **prior to occupation**.

9 **Prior to works commencing** the Landscape Plans must be amended and resubmitted to Council for approval. The landscape plans must include details for both bioretention basins/raingardens including location, planting type and density in accordance with Section 6.1 of the *WSUD Technical Guidelines*. Evidence of concurrence from Council is to be provided to the Principal Certifying Authority.

10 **Prior to works commencing** the Stormwater Management Plans must be amended and resubmitted to Council for approval. The plans must include the location of the Enviropod and must show the bioretention basin extended detention depth that corresponds to the submitted MUSIC modeling.

11 **Prior to works commencing** the MUSIC modeling must be amended and resubmitted to Council for approval to include all newly proposed site areas as a result of the development. This includes all proposed hard surfaces and proposed landscaping areas.

12 **Prior to works commencing** the stormwater management strategy must be modified to incorporate the requirements of Section 3.1 of Councils WSUD Policy which relates to the use of efficient (WELS) rated fittings and rainwater harvesting and reuse.

13 The maximum number of children placed at the centre is to be limited to 68 as follows:

- 12 x 1-2 year old children;
- 18 x 2-3 year old children; and
- 26 x 3-5 year old children.

The premises is to be licensed by the NSW Department of Education and Communities under the Children (Education and Care Services) National Law (NSW), Education and Care Services National Regulations and National Quality Framework prior to commencing operation.

Demolition

14 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**.

Environmental Matters

15 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.

16 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.

17 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 **prior to commencement of works**.

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.

- 18 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in 'Nepean Hospital Child Care Centre Acoustic' by Acoustic Logic Consultancy Pty Ltd (Doc. Ref. 20181646.1/2111A/R0/TT), dated 21/11/2018.

The recommendations provided in the above-mentioned acoustic report are to be implemented, and are also to be incorporated into the design and construction of the development including being **shown on plans prior to works commencing**.

A certificate is to be obtained from a qualified acoustic consultant certifying that the development 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 occupation**.

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

- 19 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.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 20 An appropriately qualified person/s (as defined in the Penrith Development Control Plans) shall:
- Supervise all filling works.
 - (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - be prepared by an appropriately qualified person (as defined in the Penrith Development Control Plans) with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2009, 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.
 - 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, soil 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."}

- 21 Dust suppression techniques are to be employed during demolition and construction to reduce any potential nuisances to surrounding properties.
- 22 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 23 A 3.0 metre high barrier fence is to be constructed on the northern and eastern boundaries of the outdoor play area in accordance with the approved plans **prior to occupation**.

- 24 Air quality within the premises shall not exceed the relevant air quality criteria detailed in the 'Air Quality Assessment - New Childcare Centre on the Nepean Hospital Campus, 256a Greater Western Highway, Kingswood 2747' prepared by CETEC Pty Ltd dated 20 March 2019 (Ref. No. CN190268 CBRE Air Quality Assessment (Update to CN181121 CBRE Air Quality Assessment V1.1)).

The recommendations provided in the above-mentioned air quality assessment shall be implemented and incorporated into the design and construction of the development, and shall be **shown on plans prior to commencement of works**.

A certificate is to be obtained from a suitably qualified air quality consultant certifying that the development has been constructed in accordance with the recommendations of the approved air quality assessment. This certificate is to be submitted to the Principal Certifying Authority **prior to occupation**.

- 25 All mechanical plant and equipment is to comply with the noise criteria outlined in 'Nepean Hospital Child Care Centre Acoustic' by Acoustic Logic Consultancy Pty Ltd (Doc. Ref. 20181646.1/2111A/R0/TT), dated 21/11/2018.

Prior to commencement of works, 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 also to be supplied to demonstrate compliance with the established noise criteria.

- 26 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 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

- 27 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications **prior to the commencement of works**.

28 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.

29 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

30 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.

- 31 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2.

Detailed plans together with calculations for the system must be provided as part of the development application **prior to the commencement of works.**

The exhaust hood must completely cover the equipment to be ventilation and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to occupation and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard AS1668 Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority

- 32 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 33 Staff toilets must be provided on the premises. Where a toilet adjoins a food preparation area it must be separated by an air lock and its doors must be fitted with self closing devices. Toilets intended for customer use must not be accessed through areas where open food is handled, displayed or stored.
- 34 A hand basin must be located within the toilet cubicle. Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 35 The floor of the food premises must be finished in an approved non absorbent material, evenly laid, or graded and drained to a trapped floor waste. All floor wastes in the food preparation, service and scullery area must be fitted with a sump removable basket and grate, a minimum 200mm in diameter, and finished in all stainless steel.
- 36 Approved, recessed coving must be provided at all intersections of the floor with the walls within all food preparation, service, storage and scullery areas. All coving must have a minimum concave radius of 25mm and be installed so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface.

- 37 The walls of the food preparation area must be of solid construction and finished with glazed ceramic tiles or other approved material to a height of 2 metres. The intersection of tiles and render must have a flush finish, or be splayed at a 45 degree angle to eliminate a ledge that would allow dust and grease to accumulate.
- 38 The walls at the rear of cooking appliances must be surfaced with an impervious material, such as stainless steel, which extends from the canopy to the floor. Where a cooking appliance is sealed to the wall, the material must be lapped over the top edge of the appliance to provide a grease and vermin proof seal. Cooking appliances must only be sealed to walls made of a non-combustible material.
- 39 The ceiling in the preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 40 Service pipes, electrical conduits, refrigeration condensate pipes shall be enclosed or chased into walls, floors or plinths. Where it can be demonstrated that this is not feasible pipes and conduits fixed on brackets, providing a minimum of 25 mm clearance from the adjacent wall and 100 mm from the floor or adjacent horizontal surface, can be used. All openings in walls, floors and ceilings, through which service pipes and conduits pass, must be vermin proof.
- 41 Should a dishwasher be provided to the kitchen, the sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.
- 42 The premises must be equipped with either a double bowl sink or a single bowl sink and a dishwasher, separate to the hand wash basin. All wash sinks must be serviced with warm running potable water. The sink/s must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm to enable cleaning of large pots and equipment, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.
- 43 All fixtures, fittings and equipment must be provided with smooth and impervious surfaces, free from cracks and crevices to enable easy cleaning.

All fittings and fixtures must be built into the wall and floor so as to be free from joint, gaps and cavities to enable easy cleaning or alternatively, supported on one of the following:

- Plinths – plinths must be an integral part of the floor, constructed of solid materials similar to the floor at least 75mm in height and coved at the intersection with the floor. All plinths must have a smooth and impervious finish. All fittings and fixtures must be properly sealed to the plinth so to be free from gaps, cracks and cavities.
- Wheels or castors – fittings and fixtures can be supported on wheels or castors. The wheels and castors must be capable of supporting and easily moving a full loaded fitting. All wheels and castors must be provided with a restraining device.
- Legs – fittings and fixtures can be supported on legs but must be constructed of a non-corrosive, smooth metal or moulded plastic. All legs must be free from cracks and crevices. All legs must have a clearance space between the floor and the underside of the fitting of at least 200 mm.

Note: False bottoms under fittings are not permitted (AS4674-2004 – Section 4.2 and 4.3).

- 44 All food preparation benches must be constructed in stainless steel or finished in a smooth and non-absorbent approved material that is free of joints.
- 45 Light bulbs or tubes are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 46 Shelves must be smooth and impervious; free from joints, cracks and crevices; and able to be easily cleaned. The lowest shelf must be at least 200mm off the floor to allow easy cleaning underneath. Approved materials must be used, such as galvanised piping, stainless steel or laminated plastic. Shelves are to be sealed to the wall or kept clear of walls to allow easy access for cleaning (>40 mm).
- 47 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

Utility Services

- 48 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 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 occupation**.

- 49 **Prior to commencement of works**, 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 commencement of works for the development as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 50 **Prior to commencement of works**, 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 occupation, 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

- 51 Stamped plans, specifications, a copy of the development consent 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 following occupation of the development.

52 Prior to the commencement of construction works:

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

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

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

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

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

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

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

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

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

Other works being carried out inside a building and that do not involve the use of equipment that emits noise 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 works.

Engineering

- 54 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.
- 55 The stormwater management system shall be provided generally in accordance with the MUSIC modeling prepared by Bonacci Group dated 27 February 2019 and associated concept plan/s lodged for development approval, prepared by Barnson P/L reference 29929-C00 to 29929-C04 and 29929-C07, revision A dated 21 November 2018; 29929-C05 to 29929-C06 revision C dated 27 February 2019; 29929-C10 revision A dated 25 March 2019.

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

Prior to works commencing the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

- 56 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Barnson, reference number 29929_C04, revision A, dated 21/11/2018.

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

Prior to the commencement of works, 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 (WSUD) policies.

- 57 **Prior to the commencement of works**, the Certifying Authority shall ensure that all habitable floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 51.35m AHD (standard flood level + 0.5m freeboard).
- 58 **Prior to the commencement of works**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith Development Control Plan 2014.
- 59 **Prior to works commencing** sediment and erosion control measures shall be installed in accordance with the approved plans and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

- 60 A certificate by a registered surveyor verifying that all habitable floor levels are at or above RL 51.35m 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.

- 61 **Prior to occupation**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of occupation where Council is not the Principal Certifying Authority.

- 62 **Prior to occupation**, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved plans and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 63 **Prior to occupation**, a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

- 64 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

Landscaping

- 65 All landscape works are to be constructed in accordance with the stamped approved plan as amended to satisfy condition 1 of this development consent 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.

- 66 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 occupation** of 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.

The development shall not be occupied 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.

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

- 68 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.

- 69 In accordance with the recommendations of Clause 4.3 of the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018, amendments in design are required to be undertaken to ensure that there is no encroachment within 4.5 metres of Tree 234. This includes the construction/excavation that is required for the construction of the retaining wall. The amendments in design shall also permit a Tree Protection fence to be installed at 4.5 metres from Tree 234.

The Project Arborist shall also confirm whether appropriate Tree Protection Measures can be applied to Trees 259 & 262 or whether the scope of works are too large an intrusion into the TPZ of these trees (refer to the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018 for details). If it is determined that the proposed works are too great an intrusion then appropriate recommendations shall be provided as a addendum to the above mentioned report.

In the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018 there is a duplicate in numbering for Tree 255. Both trees are located adjacent to the car park but in slightly different locations. The Tree 255 (a small *Toona australis*, Red Cedar) that is adjacent to the loading dock area shall be know as 255a and designated as a tree to be removed. The second Tree 255 (*Eucalyptus punctata*, Grey Gum) is to be retained and protected and is within the clump of trees numbered 256 & 257.

Amended architectural, landscaping and arboricultural plans in accordance with the above requirements are required to be provided to the Principal Certifying Authority prior to the **prior to commencement of works**.

70

Landscaping as proposed within the scope of the construction of the childcare facility shall be in accordance with the Planting Plan, prepared by Barson Pty Ltd, Dwg No 29929 LA 05, Revision D, dated 20/3/2019.

To compensate for the removal of the trees on the site for the purpose of constructing the approved works, replacement plantings are to be provided at a rate of 3:1.

Landscaping for the actual work site can remain as proposed in the Planting Plan, prepared by Barson Pty Ltd, Dwg No 29929 LA 05, Revision D, dated 20/3/2019 with additional replantings to occur anywhere on the site.

Additional plantings shall be nominated to be planted in a designated landscape area where they can be provided with sufficient space to grow and thrive and be permitted to be retained until they reach maturity.

71

Removal of tree shall be in accordance with the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018 and any approved addendum to this report.

All tree removal works must comply with the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW) and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by C2 Vegetation Management, Penrith Development Control Plan, is to be retained and protected from construction damage and pruning.

72 Trees to be retained and protected shall be in accordance with the following:

- Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018 and any approved addendum to this report; and
- Tree Retention and Removal Plan, prepared by Barson Pty Ltd, Dwg No 29929 LA 02, Revision D, dated 20/3/2019; and
- AS4970 - 2009, Protection of Trees on Development Sites.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of Part C of the *Penrith Development Control Plan 2014*, relevantly as follows:

Part C2 Vegetation Management

The site currently contains a number of trees and shrubs, of which 17 are proposed for removal. An Arboricultural Report was submitted with the application to assess the health of the trees on the subject site. Council's Tree Management Officer reviewed the report and the following comments were made:

The planting is rich and healthy and contributes to a sense of peace and tranquility within the hospital precinct. There are several major/dominant trees on the site that are in a sound arboricultural condition that are only being removed from the site due to the poor placement of buildings. This site is an example of the growing requirements of a medical precinct and an ethos that trees/environment are a replaceable within this context. Whilst many of the trees would not be supported for removal under an application for the removal of individual trees, it is conceded this is a Crown development where the ultimate outcomes/benefits are a factor.

*Trees proposed to be removed are those detailed in the Arboricultural Development Assessment Report, prepared by Moore Trees, author Paul Vezgoff, dated November 2018. It is noted that there is a duplicate in numbering for Tree 255. Both are located adjacent to the carpark. The Tree 255 (a small *Toona australis*, Red Cedar) that is adjacent to the loading dock area should be known as 255a as this tree is required to be removed. The second Tree 255 (*Eucalyptus punctata*, Grey Gum) is to be retained and protected.*

Further Arboricultural investigation is required in regards to tree 234, 259 and 262 to ensure that they can be appropriately retained and protected and will not be adversely affected by any of the proposed works. These can be specifically addressed in an addendum to the tree protection plan which can be conditioned to be provided a deferred commencement conditions. It should be noted that Condition 4.3 of the Arboricultural Development Assessment Report requires that encroachment into the TPZ of Tree 234 shall be maintained at 4.5 metres. The plans presented do not demonstrate this, therefore amendments in design are required.

In regards to compensation for the removal of the trees, the proposed plantings on the site are provided at a rate of 3:1. Landscaping for the actual work site can remain unchanged with additional replantings to occur anywhere on the site, but shall be nominated to be planted in a designated landscape area where they can be provided with sufficient space to grow and thrive and be permitted to be retained until they reach over maturity.

Part C3 Water Management

It is proposed the development will comply with Council's Water Sensitive Urban Design Policy by using 2 x 10 m² bioretention basins/raingardens combined with 1 x Enviropod and 4 x 5KL rainwater tanks and associated reuse. Council's Waterways Officer reviewed the application and the following comments were made:

There are a number of inconsistencies and issues with the current plans and MUSIC modeling, as follows:

1. *The rainwater tanks only achieve a 44.26% reduction in non-potable demand. To comply with the WSUD Policy an 80% reduction in demand is required.*

2. *The MUSIC modeling does not include all new proposed hard surface areas including proposed shed, store roof areas, proposed concrete pathways. The modeling must include all new impervious areas and all new landscaped areas.*
3. *The extended detention depth for both bioretention basins/raingardens as shown on the Stormwater Plans does not correspond to what is shown in the MUSIC modeling. The plans must be amended to show a 0.2m extended detention depth.*
4. *The location of the Enviropod is not included on the Stormwater Plans.*
5. *The location and planting details of the bioretention basins/raingardens are not included on the Landscape Plans and the play areas as shown currently on these plans conflict with the location of one of the bioretention basins. The Landscape Plans **must include** all details for both bioretention basins/raingardens including location, planting type and density in accordance with Section 6.1 of the WSUD Technical Guidelines. .*

It is considered that these issues are able to appropriately managed through the recommended conditions should the application be approved.

Part C4 Land Management

Clause C4.1(4)(a) limits earthworks to 1m from the existing natural ground level of the site. The proposal includes a maximum 1.4m excavation at the southern elevation adjacent to the existing carpark. However, it is considered that the ground levels at this location are not natural in that the topography shows evidence of having been altered to develop the existing carpark. Retaining walls are proposed on the western boundary of the site to manage the cut necessitated to create a ramp of an appropriate grade. The cut proposed is considered reasonable in this instance.

Part C9 Advertising and signage

Roof signage is listed as an inappropriate form of signage in C9.1(3)(a). A roof sign is proposed on the southern elevation of the building above the main entrance. However in this context, the signage is not inappropriate as the building faces into the site and the signage will not be visible from the road. In addition, the building is a single storey and the height of the roof signage will be below that of adjoining buildings and trees to be retained.

Part C10 Transport, access and parking

The proposal has been assessed against the provisions of this Section and while partially compliant, further detail is required to be submitted. 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 proposed pedestrian walkway connection to the highway is located approximately 650m from Kingswood Railway Station which is also situated on the T1 Western Line (Great Western Highway). In addition, 3 bus services are located in the vicinity of the subject site along the Great Western Highway (Route No's. 677, 780 and 789) 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 child care centres:

Child care centres	1 space per 10 children plus 1 per employee plus provision for any dwelling. Note: Where a child care centre/pre-school is not located in or immediately adjoining a residential area, a submission to vary the above parking rates will be considered.
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Noting the above, the calculation based on the DCP requirement is as follows:

68 children 7 spaces
7 staff 7 spaces
Total 14 spaces

The proposal includes provision for an additional 7 car parking spaces. Consideration has been made for the location of the centre within the hospital campus and the dedicated use of the centre for staff employed within the precinct. It is likely that staff will be sharing trips and parking in conjunction with their work days, with the following comment made in the Traffic Assessment by ptc.:

In relation to drop-off and pick up, all customers of the Child Care Centre will be staff within the Hospital and will either park and walk to the Centre or use the new parking spaces to drop-off and then park in an all day space. There is a high demand for parking within the campus, therefore it is expected that a large proportion of parents will park in an all-day space and walk to the Centre. Therefore, the demand for parent parking in the new spaces will be lower than anticipated in the DCP.

Car parking associated with staff of the Child Care Centre will be accommodated within the overall campus parking supply, which is a continuation of the current situation. The expansion of the Hospital includes the construction of a new multi-deck car park (currently under construction), which will accommodate 775 parking spaces for staff and visitors. The total on-site parking supply will be up to 2,009 spaces following the completion of the multi-deck car park and Hospital expansion project.

Council's Traffic Engineer reviewed the application and concurs with the comments made in the parking assessment. Furthermore, it is noted that the development is not located in or immediately adjoining a residential area.

The access and circulation of the car park complies with AS 2890.1, AS2890.2 AS2890.6, has suitable manoeuvring for service vehicles and footpath access and is acceptable in this instance.

Part C12 Noise and vibration

An acoustic assessment prepared by Acoustic Logic was submitted to address noise impacts on and associated with the development. The assessment considered the noise emissions from the childcare centre, and potential noise intrusion associated with road, rail and aircraft (helicopter) operation, in particular from the operation of the helipad at Nepean Hospital. Council's Environmental Management Officer is satisfied that the documentation provided satisfactorily addresses acoustic standards. Compliance with the recommendations of the Acoustic Report will be required through conditions of consent. additional assessment to address the noise impacts associated with mechanical plant and the construction works are recommended through conditions of consent, should the application be approved.

D5 Other Land Uses

Part 5.2 the DCP describes a number of development controls that apply to child care centres, however the operation of SEPP (Educational Establishments and Child Care Facilities) 2017, which include the application of the Child Care Planning Guidelines, effectively mitigates the application of a number of these controls.

The Child Care Planning Guidelines include reference to local character, street scape and the public domain interface, building form and scale which have been previously addressed.

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*, relevantly as follows:

- E12.3.3 Boundary setbacks and building separation - the DCP specifies that the side and rear setback requirements for non-residential uses up to 12m in height is 0m. The development proposes a 2m rear setback to the northern boundary, and 3m side setback to the western boundary. The clause also indicates that minimum separation distances between 4 storey buildings on adjoining sites should be 6m between non-habitable rooms. As the proposed child care centre has a length of 44m, it will not directly adjoin the Nepean Specialist Centre building on the adjacent lot to the west. Sufficient separation is provided to ensure privacy and prevent overlooking.
- E12.3.5 Building exteriors - materials and finishes proposed contribute positively to the streetscape, and external walls are constructed of high quality and durable materials.
- E12.3.6 Landscape design - a detailed landscape plan has been provided to support the application and demonstrates that the landscaping is integrated into the design and functionality of the spaces. Screening vegetation is proposed on the Great Western Highway boundary to soften the appearance of the acoustic wall.
- E12.4.1 Public domain - should the development be approved, a condition of consent will be included referencing compliance with the *Kingswood Public Domain Manual*.
- E12.4.2.3 Safety and Security - Crime Prevention through Environmental Design Principles have been incorporated into the design, in that there are no areas for concealment, there is good visual connectivity from the carpark and footpath to the main entry, and no areas for concealment are indicated on the plans.
- E12.4.4 Site services and facilities - a loading area is provided separate to the designated carparking spaces and is compliant with commercial vehicle circulation paths. A waste bin service area is provided to the east of the main entry, accessible from the ramp.