

## SYDNEY WESTERN CITY PLANNING PANEL

Panel No:	2019WCI017.
DA Number:	2016/172/3.
Local Government Area:	Camden.
Proposed Development:	Section 4.55(2) Modification to an approved mixed use development.
Street Address(es):	1A and 1B The Hermitage Way, Gledswood Hills.
Applicant / Owner:	Hermitage Healthcare Pty Ltd / Camden Specialist Medical Centre Pty Ltd.
Date of Lodgement:	29 January 2019.
Number of Submissions:	No submissions received.
Recommendation:	Approve with modified conditions.
Regional Development Criteria (Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011):	Section 4.55(2) Modification applications to development applications originally determined by the Sydney Western City Planning Panel (the Panel) are to be determined by the Panel pursuant to Division 4.2 of the <i>Environmental Planning and Assessment Act 1979</i> .
List of All Relevant s4.15(1)(a) Matters:	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Sydney Region Growth Centres) 2006.</li> <li>• State Environmental Planning Policy No 64 - Advertising and Signage.</li> <li>• Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.</li> </ul>
List all Documents Submitted with this Report for the Panel's Consideration:	<ul style="list-style-type: none"> <li>• Assessment report.</li> <li>• SEPP and DCP assessment tables.</li> <li>• Recommended conditions.</li> <li>• Proposed plans.</li> </ul>
Report Prepared By:	David Rowley, Senior Town Planner.
Report Date:	July 2019.

### Summary of Section 4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes.
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### Legislative Clauses Requiring Consent Authority Satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised in the Executive Summary of the assessment report?	Yes.
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### Clause 4.6 Contraventions to Development Standards

If a written request for a contravention to a development standard (clause 4.6 of the Growth SEPP) has been received, has it been attached to the assessment report?	N/A.
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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions (s7.24)?	Yes.
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### Conditions

Have draft conditions been provided to the applicant for comment?	Yes.
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### PURPOSE OF REPORT

The purpose of this report is to seek the Panel's determination of an application to modify development consent DA/2016/172/1 in accordance with Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The original development application (DA) for a mixed use development was approved by the Panel on 27 November 2017. The development was regionally significant development due to it having a capital investment value (CIV) greater than \$20 million.

The Panel is the consent authority for this modification application as it has been made under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*. Council is only able to exercise the Panel's consent authority function to modify a development consent for modification applications made under Sections 4.55(1) or 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, pursuant to Clause 123BA of the *Environmental Planning and Assessment Regulation 2000*.

### SUMMARY OF RECOMMENDATION

That the Panel determine Section 4.55(2) Modification 2016/172/3 for modifications to an approved mixed use development pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* by approving the modifications subject to the modified conditions attached to this report.

## EXECUTIVE SUMMARY

Council is in receipt of an application to modify an approved mixed use development at 1A and 1B The Hermitage Way, Gledswood Hills.

The modification application has been assessed against the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006.	The modifications are consistent with the objectives of the applicable B5 Business Development zone and generally compliant with the other matters for consideration. Parts of the approved development contravened an applicable 15m height of buildings development standard by up to 1.4m. The modifications will increase the overall contravention by a maximum of 800mm.
State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64)	Council staff are satisfied that the modified signage proposal is consistent with SEPP 64's objectives in that it is compatible with the desired amenity and visual character of the area, will provide effective communication by displaying the development's name and will be of a high quality design and finish. Council staff have also considered SEPP 64's Schedule 1 assessment criteria and are satisfied that the signage is consistent with it.
Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20).	The modifications are consistent with the aim of SREP 20 (to protect the environment of the Hawkesbury-Nepean River system) and all of its planning controls.

The modification application was publicly exhibited for a period of 14 days in accordance with Camden Development Control Plan 2011. The exhibition period was from 27 March to 9 April 2019. No submissions were received.

Based on the assessment, it is recommended that the modification application be approved subject to the modified conditions attached to this report.

## KEY PLANNING CONTROL VARIATIONS

Control	Proposed	Variation
15m maximum building height.	17.2m maximum building height.  It is noted that the original DA approved a maximum building height of 16.4m for the development.	2.2m (14.7%) greater than the development standard.  800mm (4.9%) greater than the approved building height for the development.

## AERIAL PHOTO



## THE SITE

The site comprises two properties that are commonly known as 1A and 1B The Hermitage Way, Gledswood Hills and are legally described as lots 832 and 833, DP 1203104.

The site is irregular in shape and has a frontage of 116m to The Hermitage Way, a frontage of 45m to Gregory Hills Drive, a maximum depth of 96m and an area of 8,036m<sup>2</sup>. The site has a cross fall of 2.3m over approximately 140m from south east to north west.

The site is vacant, is partially mapped as bush fire prone land and is located within the Turner Road Precinct of the South West Growth Area.

The surrounding area is characterised by developed and developing residential land characterised by single detached dwellings to the south, east and north east as well as developed and developing business development land to the west containing a mix

of land uses including bulky goods premises, retail premises and child care centres. Additionally, a tributary of South Creek flows south to north along the site's western boundary.

More broadly, South Creek and the developing Gledswood Hills residential suburb is located to the north. To the east is the developing Gregory Hills residential suburb, St. Gregory's College and the Camden/Campbelltown LGA boundary. To the south is developing business development land and the Smeaton Grange industrial estate. To the west is Camden Valley Way and the Harrington Grove and Catherine Park residential estates.

## **HISTORY**

The relevant development history of the site is summarised in the following table:

<b>Date</b>	<b>Development</b>
28 September 2018.	Approval of Section 4.55(1A) Modification 2016/172/2 that modified conditions regarding riparian corridor management and an updated Bush Fire Safety Authority.
27 November 2017.	Approval of DA/2016/172/1 for a mixed use development containing a private hospital, medical centres and a food and drink premises, display of signage, lot consolidation and associated site works.
4 December 2014.	Approval of DA/2014/864/1 that created the two business development lots that form the site.
14 August 2012.	Approval of DA/2012/277/1 for a staged business development subdivision.

## **THE PROPOSAL**

### *Originally Approved Development*

The original development consent approved the following development:

- construction of a five storey (including a basement) private health services facility building. The building is to be constructed of a mix of rendered blockwork, metal cladding and glazing elements. The building's maximum height was approved to be 16.4m above finished ground level. The building was to have a gross floor area (GFA) of 8,540m<sup>2</sup>,
- use of the building for the following land uses,
  - basement level - pathology, medical imaging, plant and storage,
  - ground floor - 10 medical centre uses and one food and drink premises,
  - first floor - 2,207m<sup>2</sup> of private paediatric hospital GFA,
  - second floor - 2,126m<sup>2</sup> of private paediatric hospital GFA, and
  - third floor - two medical centre uses.

The hospital component was to provide 60 beds, employ up to 40 full time staff once operational and offer a range of overnight and day surgery procedures



including ophthalmology, orthopaedics, dermatology, gastrointestinal, urology, dental and general. Ancillary research and education activities were also approved.

The exact end users of the medical centres and food and drink premises are unknown however the applicant anticipated that they will include optometrists, dentists and physiotherapists, etc.

Approval was granted for the construction and use of the building as described above. The internal fit outs for the building will be subject to either a separate DA or a complying development certificate,

- construction of a multi-storey car park containing 213 off-street car parking spaces,
- construction of seven at grade off-street car parking spaces adjacent to the site's entry and exit driveways and 38 bicycle parking spaces,
- provision of an off-street drop off zone and a dedicated ambulance bay,
- provision of an ancillary outdoor seating and recreation area at the rear of the site,
- display of three building identification signs with display areas of between 2.3m<sup>2</sup> and 6.6m<sup>2</sup>; The signs facing the adjoining riparian corridor and Gregory Hills Drive will be internally illuminated whilst the sign facing The Hermitage Way will not,
- associated site works including the construction of earthworks, drainage, services and landscaping,
- consolidation of existing lots 832 and 833, DP 1203104 into one lot, and
- operating hours of 24 hours a day, seven days a week. This will include hospital clinical hours of 7am-6pm and visiting hours of 7am-8pm.

The CIV of the approved development was \$28,292,220.

#### *Proposed Modifications*

DA/2016/172/3 involves the following modifications:

- change of use of the third floor from medical centre to private paediatric hospital,
- an amended floor layout and provision of a roof terrace,
- modifications to the approved site and building layout including:
  - provision of a 7m building setback to Gregory Hills Drive as required by condition 1.0(3) of the original development consent,
  - amendment of the car park driveway to a single 2-way driveway;
  - extension of the basement level footprint to connect buildings A and B,
  - construction of an underground water tank underneath Building B,
  - amended basement floor layout including provision of a new lift,

- change of use of the basement level from medical centre to private hospital,
- change of use of level 3 from medical centre to private hospital,
- reduction of car parking from 29 spaces to 26 spaces on the ground floor to accommodate the construction of a steam plant,
- additional landscaping on the frontage to Gregory Hills Drive and The Hermitage Way,
- provision of new signage around a gas meter and amended position for the sprinkler booster,
- provision of a pad station on the northern side of the driveway,
- provision of a new upright gas tank and associated fencing,
- modification of the approved building identification signage and addition of one new building identification sign, and
- amended plan layout for the roof level.

The modifications will result in an increase in GFA from 8,540m<sup>2</sup> to 9,303m<sup>2</sup>,

- increased employment from 40 staff to 100 staff,
- approval of updated geotechnical and acoustic reports for the development,
- deletion of previously approved but now redundant and superseded technical reports for the development, and
- addition of new conditions regarding salinity management, acoustic insulation, pavement markings and a pedestrian refuge.

## **ASSESSMENT**

### ***Environmental Planning and Assessment Act 1979 - Section 4.55(2) and Section 4.15(1)***

Pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*, Council staff are satisfied that:

- the modifications will render the overall development substantially the same as that which was originally approved,
- the modification application has been referred to the relevant approval body (the NSW Rural Fire Service) for consideration, and
- the modification application has been publicly exhibited in accordance with Camden Development Control Plan 2011.

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

***(a)(i) the provisions of any environmental planning instrument***

The environmental planning instruments that apply to the proposed modifications are:

- State Environmental Planning Policy (Sydney Region Growth Centres) 2006.
- State Environmental Planning Policy No 64 - Advertising and Signage.
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth SEPP)

The Growth SEPP aims to co-ordinate the release of land for residential, employment and other urban development in the North West Growth Centre, the South West Growth Centre and the Wilton Growth Area.

*Site Zoning*

The site is zoned B5 Business Development pursuant to Appendix 1, Clause 2.2 of the Growth SEPP.

*Zone Objectives*

The modifications will still render the overall development consistent with the B5 zone objectives in that it will still provide a complementary employment generating development that will support the viability and economic strength of surrounding centres.

*Land Use Definitions*

The modifications will still render the overall development defined as a “mixed use development” comprising a “hospital,” “medical centres,” a “food and drink premises” and “building identification signs” by the Growth SEPP.

*Permissibility*

Modifications to an approved “mixed use development” are permitted pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

*Planning Controls*

An assessment table in which the modifications are considered against the Growth SEPP’s planning controls is provided as an attachment to this report.

*Maximum Height of Buildings Development Standard*

Pursuant to Clause 4.3(5) in Appendix 1 of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*, the maximum building height permitted on this site is 15m.



The original development comprised two buildings. Building A is the health services facility building and building B is the multi-storey car park.

Building A was approved with a maximum height of 16m at RL 118. The modifications will increase the height of Building A up to a maximum of 17.2m at RL 119.2. However, it is noted that only some small elements of mechanical plant atop building A's roof will reach the maximum height of 17.2m, resulting in only minor point encroachments.

The key modification to Building's A profile is the increased gross floor area of level 3. This will result in a maximum 300mm height increase to the building's level 3, reaching a maximum of 16.3m high at RL 118.3. This minor height increase is considered reasonable given its minor scale and the generous separation distances to surrounding properties. The additional building height will have no unreasonable adverse impacts upon surrounding properties nor the amenity of the area and will be visually negligible.

Building B was approved with a height of 16.4m at RL 117.6. The modifications will decrease the height of building B to a maximum height of 15.3m. This has been achieved through modifications to the roof plant that will sit atop building B and the levels of the car park storeys.

#### State Environmental Planning Policy No 64 - Advertising and Signage (SEPP 64)

SEPP 64 aims to ensure that signage is compatible with the desired amenity and visual character of the area, provides effective communication in suitable locations and is of high quality design and finish.

The approved development included three building identification signs with display areas of between 2.3m<sup>2</sup> and 6.6m<sup>2</sup>. The signs facing the adjacent South Creek tributary and Gregory Hills Drive will be internally illuminated whilst the sign facing The Hermitage Way will not.

The modifications will reduce the size of the approved illuminated signage on the north west and south west elevations from 6.6m<sup>2</sup> to 5.4m<sup>2</sup>. The modifications will also amend the location of the approved illuminated signage and propose the addition of a ground level building identification sign on the Gregory Hills Drive/The Hermitage Way street corner, with a display area of 1.25m<sup>2</sup>.

Clause 8 of SEPP 64 requires the consent authority to be satisfied that signage is consistent with the objectives of SEPP 64 and the assessment criteria specified in Schedule 1. Council staff are satisfied that the modified signage proposal is consistent with SEPP 64's objectives in that it is compatible with the desired amenity and visual character of the area, will provide effective communication by displaying the development's name and will be of a high quality design and finish.

#### Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (SREP 20)

SREP 20 aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

The overall development remains consistent with the aim of SREP 20 and all of its planning controls. There will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of the modifications. Appropriate erosion and sediment control measures and water pollution control devices remain proposed as part of the development.

**(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

Draft Environment State Environmental Planning Policy (Draft Environment SEPP)

The modifications are consistent with the Draft Environment SEPP in that there will be no detrimental impacts upon the Hawkesbury-Nepean River system as a result of them.

**(a)(iii) the provisions of any development control plan**

The development controls plans that apply to the modifications are:

- Camden Development Control Plan 2011.
- Turner Road Development Control Plan 2007.

Camden Development Control Plan 2011 (Camden DCP)

An assessment table in which the modifications are considered against the Camden DCP is provided as an attachment to this report.

Turner Road Development Control Plan 2007 (Turner Road DCP)

An assessment table in which the modifications are considered against the Turner Road DCP is provided as an attachment to this report.

**(a)(iiia) the provisions of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

No relevant agreement exists or has been proposed as part of this modification application.

**(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

The *Environmental Planning and Assessment Regulation 2000* prescribes several matters that were addressed in the conditions imposed upon the original development consent. It is recommended that these conditions are maintained.

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

As demonstrated by the above assessment, the modifications are unlikely to have an adverse impact on both the natural and built environments, and the social and economic conditions of the locality.

Traffic Impacts

The applicant has submitted a traffic report and supporting information in support of the modifications. The report and supporting information demonstrate that the modified

development will not have a significant negative impact upon the surrounding road network and the operation of surrounding intersections. Council staff have reviewed the report and supporting information and agree with their conclusions.

The modification application was referred to the Roads and Maritime Services (RMS) for comment as the original development was classed as traffic generating development and the RMS provided comment upon it. No response has been received from the RMS.

#### Bush Fire Impacts

A small part of the site is mapped as bush fire prone land along its Gregory Hill Drive frontage which renders the private hospital component of the development a special bush fire protection purpose pursuant to Section 100B(6)(c) of the *Rural Fires Act 1997*. The bush fire risk to the proposal was assessed as part of the original DA.

The modification application was referred to the NSW Rural Fire Service (RFS) for comment pursuant to Section 4.55(2)(b) of the *Environmental Planning and Assessment Act 1979* and Clause 120 of the *Environmental Planning and Assessment Regulation 2000*. The RFS has provided a response to advise that it has no objection to the modifications subject to compliance with its previously granted Bush Fire Safety Authority.

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

As demonstrated by the above assessment, the site is considered to be suitable for the modifications.

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

The modification application was publicly exhibited for a period of 14 days in accordance with the Camden Development Control Plan 2011. The exhibition period was from 27 March to 9 April 2019. No submissions were received.

#### **(e) the public interest**

The public interest is served through the detailed assessment of this modification application under the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, environmental planning instruments, development control plans and policies. Based on the above assessment, the modifications are consistent with the public interest.

### EXTERNAL REFERRALS

The external referrals undertaken for this modification application are summarised in the following table:

External Referral	Response
NSW Rural Fire Service.	No objections and no recommended conditions.
Roads and Maritime Services.	No response received.

## **FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

## **CONCLUSION**

The modification application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The modification application is recommended for approval subject to the modified conditions attached to this report.

## **RECOMMENDED**

**That the Panel approve Section 4.55(2) Modification 2016/172/3 for modifications to an approved mixed use development at 1A and 1B The Hermitage Way, Gregory Hills subject to the modified conditions attached to this report.**