

# COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSHCC-163
<b>DA Number</b>	DA2022/1362
<b>LGA</b>	MidCoast Council
<b>Proposed Development</b>	<p>Demolition of structures and construction of new health services facility (cancer treatment clinic):</p> <ul style="list-style-type: none"> <li>• Demolition of two existing dwellings and associated structures;</li> <li>• Construction of two-storey health services facility comprising: <ul style="list-style-type: none"> <li>○ LINAC/radiation treatment room;</li> <li>○ CT room;</li> <li>○ Two consultation rooms;</li> <li>○ Two oncology chairs;</li> <li>○ Staff rooms;</li> <li>○ Reception; and</li> <li>○ Waiting room.</li> </ul> </li> <li>• Two car parking areas accommodating a total of ten (10) car parks and one (1) pick-up/drop off space;</li> <li>• Landscaping of the site; and</li> <li>• Provision of necessary services and infrastructure.</li> </ul>
<b>Street Address</b>	<p>Lot 56 DP 626521 &amp; Lot 6 DP 666993</p> <p>88 Cornwall Street TAREE NSW 2430</p>
<b>Applicant/Owner</b>	<p>Applicant: Think Planners</p> <p>Owner: E T Hutchinson, M Hile</p>
<b>Date of DA lodgement</b>	30 November 2022
<b>Total number of Submissions</b>	46
<b>Number of Unique Objections</b>	25
<b>Recommendation</b>	<b>Refusal</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	Pursuant to Schedule 6 of State <i>Environmental Planning Policy (Planning Systems) 2021</i> the proposal is a health services facility with a capital investment value over \$5 million.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Greater Taree Local Environmental Plan 2010</i></li> <li>• <i>Greater Taree Development Control Plan 2010</i></li> </ul>

	<ul style="list-style-type: none"> <li>Greater Taree Section 94A Development Contributions Plan</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment A – Development Plans Attachment B – Statement of Environmental Effects Attachment C – Landscape Plans Attachment D – Civil and Stormwater Plans Attachment E – Traffic and Parking Report Attachment F – Addendum to Traffic and Parking Report Attachment G - Applicant's Response to Request for Additional Information Attachment H – Waste Management Plan Attachment I – Noise Impact Assessment Attachment J – Operational Management Plan Attachment K – Reasons for Refusal
<b>Clause 4.6 requests</b>	Nil
<b>Summary of key submissions</b>	Car parking Heritage impacts Non-compliance with health facility guidelines Incompatibility with residential setting Overshadowing Non-compliance with building setback requirements Inability to meet water quality targets – phosphorus Impacts associated with substation Inadequate water, sewer and drainage Ecological impacts Waste management Construction impacts
<b>Report prepared by</b>	Ben Lim-Cooper, Senior Development Planner MidCoast Council
<b>Report date</b>	4 October 2023

#### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

#### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Chapter 4 Remediation of land, State Environmental Planning Policy (Resilience and Hazards) 2021, Clause 4.6(4) of the relevant LEP*

**Yes**

#### Clause 4.6 Exceptions to development standards

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

**Not applicable**

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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

**No**

**Conditions**

Have draft conditions been provided to the applicant for comment?

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

**No**

## EXECUTIVE SUMMARY

Consent is sought for demolition of existing structures and construction of a two-storey health services facility at Lot 56 DP 626521 & Lot 6 DP 666993, 88 Cornwall Street TAREE NSW 2430.

Specifically, the proposed development includes:

- Demolition of two existing dwellings and associated structures;
- Construction of two-storey health services facility comprising:
  - LINAC/radiation treatment room;
  - CT room;
  - Two consultation rooms;
  - Two oncology chairs;
  - Staff rooms;
  - Reception; and
  - Waiting room.
- Two car parking areas accommodating a total of ten (10) car parks and one (1) pick-up/drop off space;
- Landscaping of the site; and
- Provision of necessary services and infrastructure.

The application is referred to the Hunter and Central Coast Regional Planning Panel as the application is for a health services facility with a capital investment value over \$5 million.

Three briefings were held by the Hunter and Central Coast Regional Planning Panel, including one public briefing. The site was inspected by both Council's assessing officer and the Panel.

The application as originally made was exhibited from 1 December 2022 to the 28 December 2022. The applicant submitted a revised design and additional information following concerns being raised by Council staff, submitters and the Panel. The revised design was re-exhibited from 22 August 2023 to the 11 September 2023. As a result, the application received 25 unique submissions.

The application was referred to Essential Energy for comment pursuant with *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The development has been assessed against applicable State, Regional, and Local Environmental Planning Instruments and Policies, including:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Greater Taree Local Environmental Plan 2010*
- *Greater Taree Development Control Plan 2010*
- *Greater Taree Section 94A Development Contributions Plan.*

The proposed number of car parks and the car parking arrangements are not considered adequate to support the proposed development. This results in a reliance on on-street parking which is likely to have unreasonable amenity impacts on surrounding residences and traffic impacts in addition to

setting an undesirable precedent for use of on-street car parking to support car parking requirements.

Concerns are also raised about the visual incompatibility of the development with the surrounding residential setting, particularly the presentation of the north-eastern elevation of the LINAC/Radiation Treatment Room.

It is recommended that the Panel determine Development Application DA2022/1362 for demolition of existing structures and construction of a health services facility at Lot 56 DP 626521 & Lot 6 DP 666993, 88 Cornwall Street TAREE NSW 2430, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, by refusing to grant consent subject to the reasons of refusal contained within Attachment K.

## **1. THE SITE AND LOCALITY**

The site is legally described as Lot 56 DP 626521 & Lot 6 DP 666993, 88 Cornwall Street TAREE NSW 2430.

The subject site is located approximately 300 metres north-west of the Taree CBD and is situated on the periphery of an existing health precinct. The immediate surrounding locality is residential in nature and predominately characterised by low-density residential development.

The site is rectangular in shape and has a total area of 1264m<sup>2</sup>.

Cornwall Street forms the north-western (primary) frontage of the site and Cornwall Lane forms the south-eastern (secondary) frontage of the site.

Each individual lot comprising the site is occupied by a single-storey dwelling fronting Cornwall Street with rear-loaded, detached garages addressing Cornwall Lane.

The land within the site is relatively flat. The land is clear of any significant vegetation with the exception of landscaped gardens.

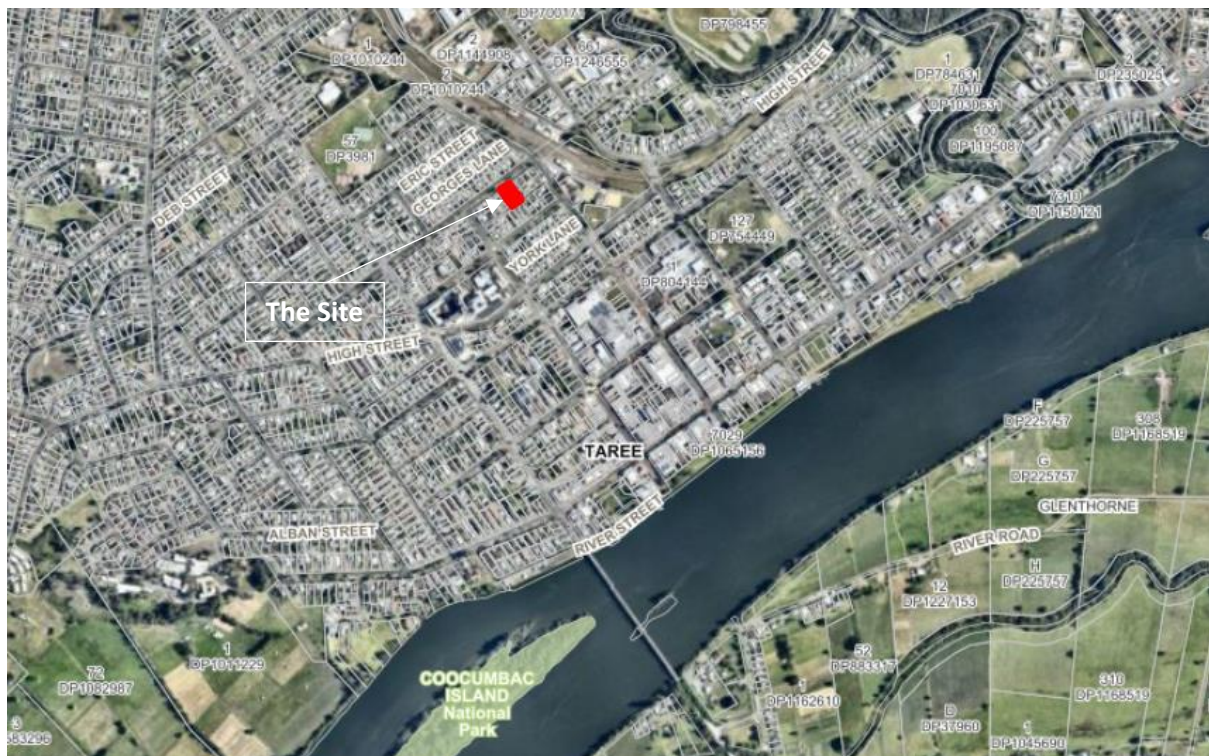
Lands located on the north-western (opposite) side of Cornwall Street comprise single-storey dwellings which front Cornwall Street. Lands located on the south-eastern (opposite) side of Cornwall Lane are occupied by single-storey dwellings which address York Street. Land adjoining the south-western boundary is occupied by a single-storey dwelling. Land adjoining the north-eastern boundary is occupied by 'Blue Gum Cottage' which is a respite care centre.

The site contains no heritage item and is not located within a heritage conservation area.

Cornwall Street does contain registered heritage items in the form of dwelling houses located approximately 100 metres from the site and established Brush Box trees, none of which exist within the frontage of the site and dwelling houses.

The site is not burdened by any easements or restrictions.





**Figure 1 – Locality Map (Source Intramaps)**



**Figure 2 - Site Layout Map (Source: Intramaps)**

## **2. SITE HISTORY**

The site has historically been used for residential purposes and has only ever been occupied by low-density residential development in the form of single-storey dwelling houses.

## **3. THE PROPOSAL AND BACKGROUND**

### **3.1 The proposal**

Consent is sought for demolition of existing structures and construction of a two-storey health services facility. Specifically, the proposed development includes:

- Demolition of two existing dwellings and associated structures;
- Construction of a two storey health services facility comprising:
  - LINAC/radiation treatment room;
  - CT room;
  - Two consultation rooms;
  - Two oncology chairs;
  - Staff rooms;
  - Reception; and
  - Waiting room.
- Two car parking areas accommodating a total of ten (10) car parks and one (1) pick-up/drop off space;
- Landscaping of the site; and
- Provision of necessary services and infrastructure.

The proposed design and operations are subject to the issuing of a license from the relevant Government Health Department in accordance with the *Private Health Facilities Regulation 2017*.

This facility will assist with treating patients with cancer by providing a cancer care clinic where patients will both have a consultation with a doctor to devise a treatment plan and receive ongoing treatment.

The development as proposed is depicted in Figures 3 – 5.



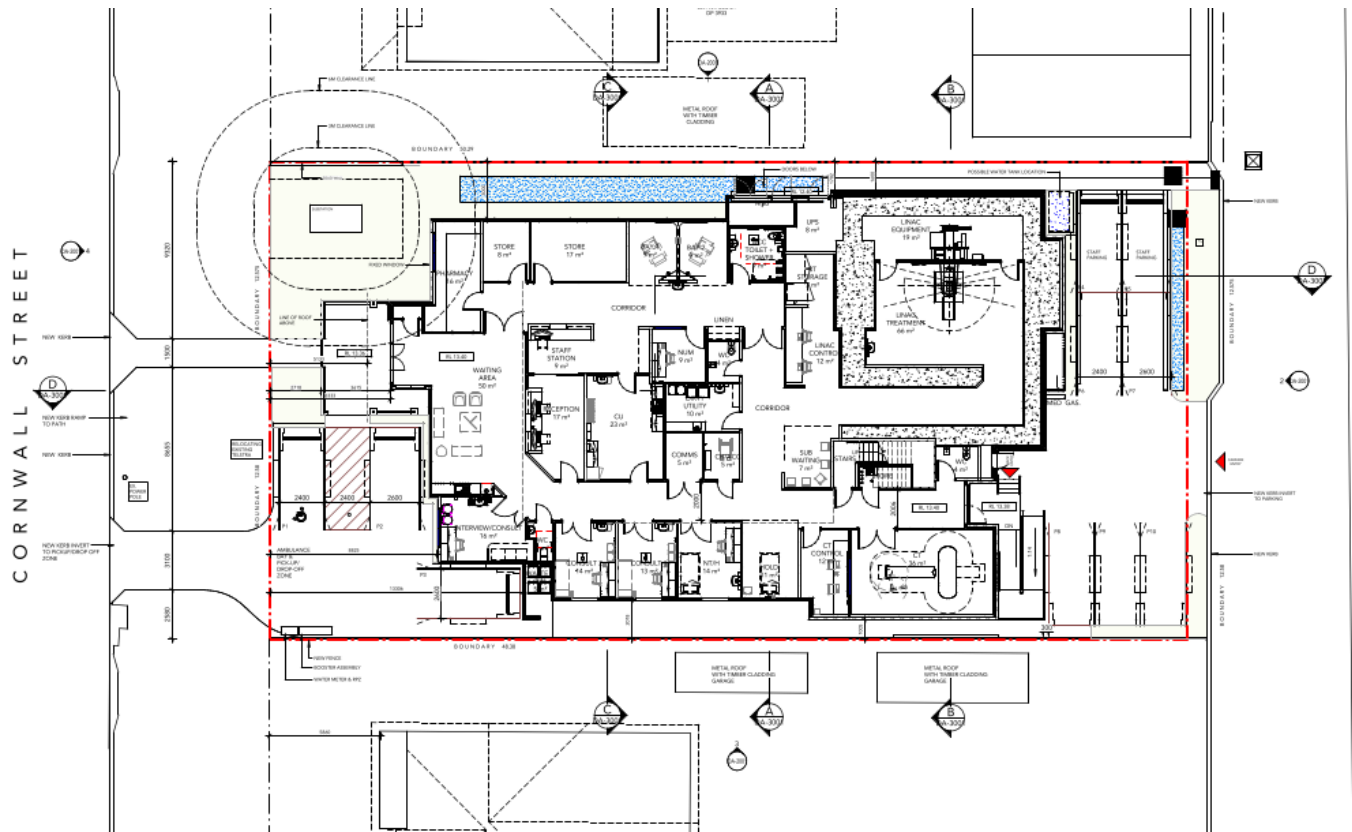


Figure 3 – Proposed Ground Floor Plan (Source: Team 2 Architects)

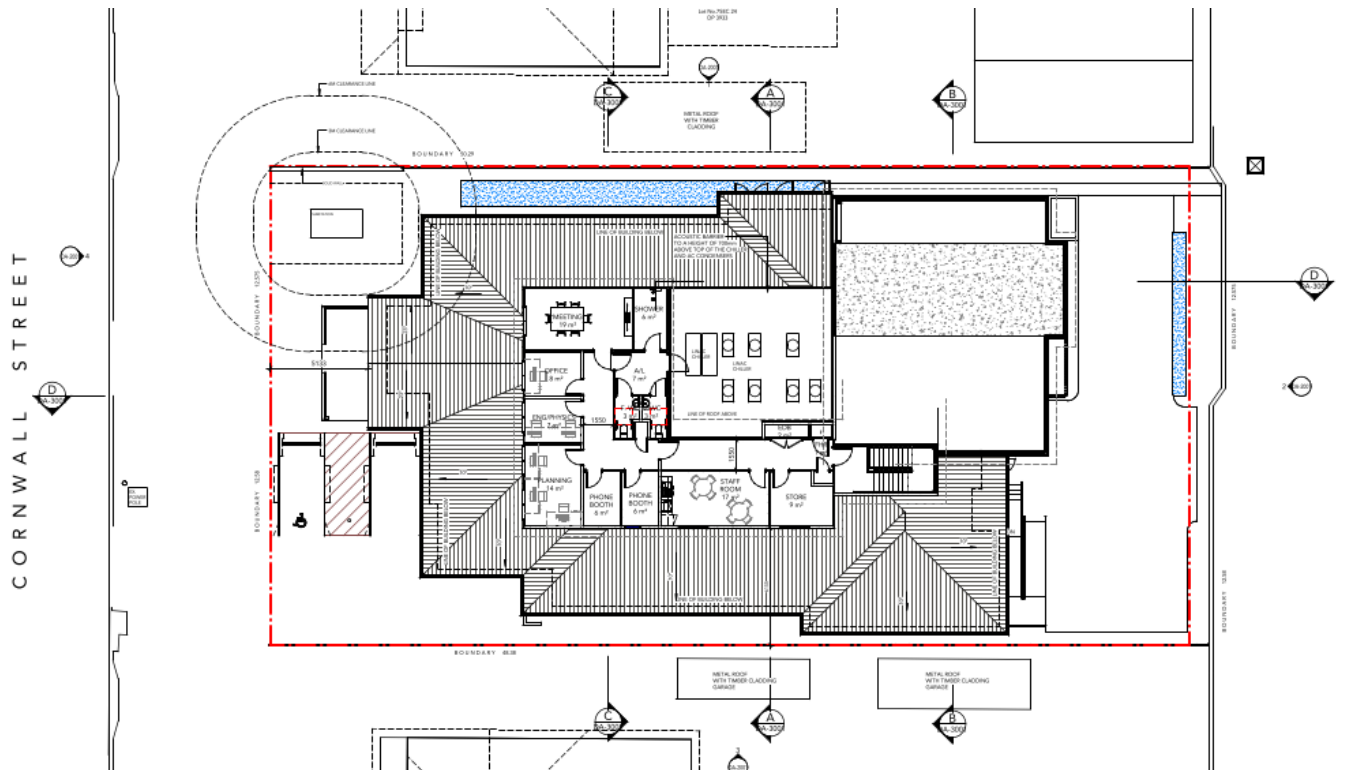


Figure 4 – Proposed First Floor Plan (Source: Team 2 Architects)



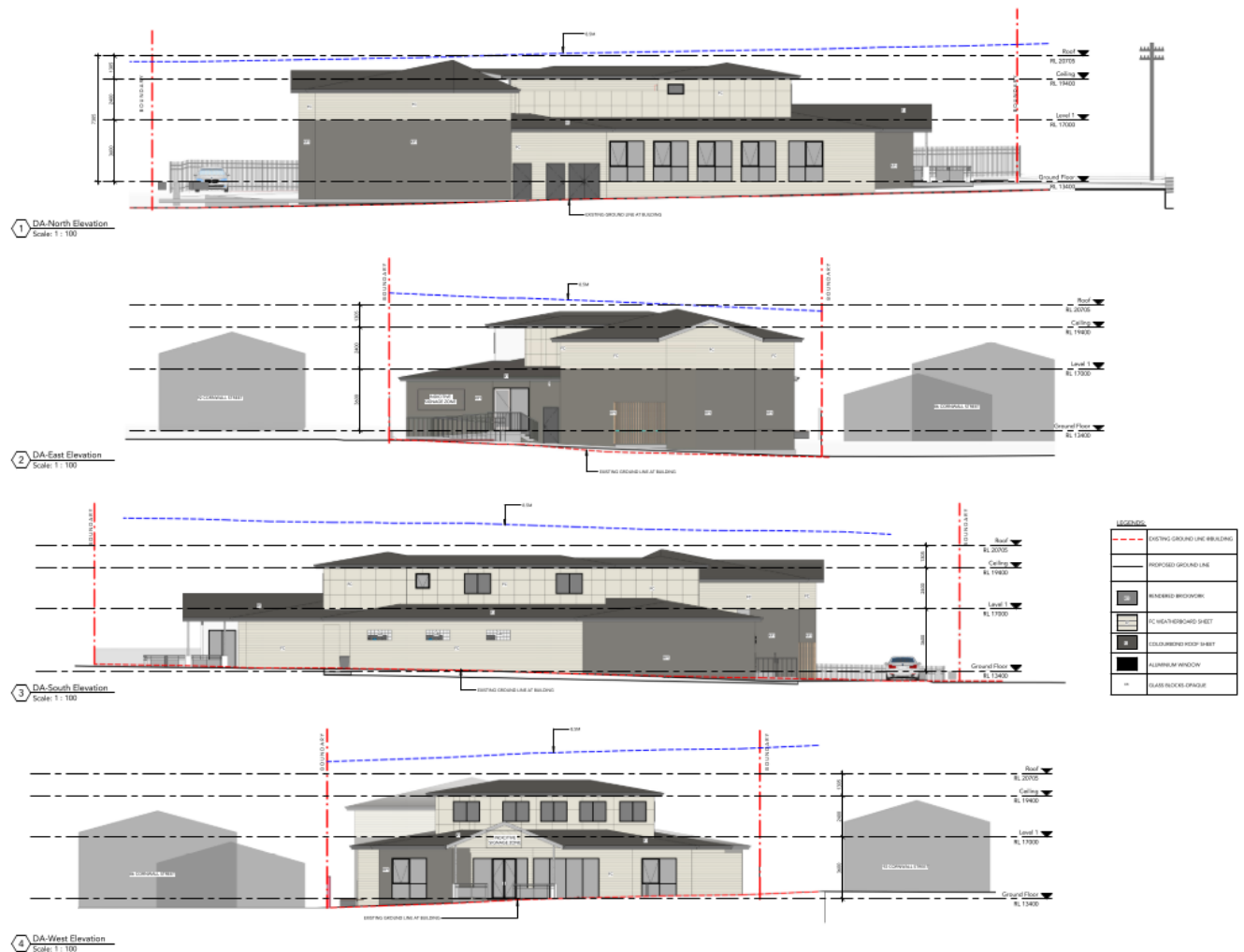


Figure 5 – Proposed Elevations (Source: Team 2 Architects)

### 3.2 Background

On 8 February 2023, a kick-off briefing was held by the Panel. The attendees included Panel members, the applicant and their representatives and relevant Council staff. The Panel highlighted the following matters:

- *The Panel generally recognises the need for these types of facilities and understands the proximity to related health care facilities.*
- *Parking issues will be paramount. The Panel will need a very clear understanding of how the facility operates – short stay, visitors, on street parking, emergency vehicles/patient transport and numbers of staff on site etc all need to be considered in the assessment of the application. The applicant noted that an operational management plan had been supplied with the DA documentation.*
- *Compatibility and fit will also be of importance. The Panel will consider the built form and relationship to adjoining residential properties including the proposed car parking areas.*
- *Street trees, vegetation and landscaping on site will be important.*
- *Consideration will need to be given to the ambulance bay forward of the building line and the relationship to the street in terms of existing built form and garages*
- *Relationship of building to the street and adjoining properties will also be considered by the Panel. The Panel will need to understand the context with existing buildings and the scale and front and side setbacks.*

- *Given the number of submissions the Panel will undertake a Public listening exercise before the determination process. Council, the applicant and submitters will be invited to attend to address the Panel with any concerns and comments.*
- *The Panel expects the applicant to respond to the public submissions in a formal and factual manner to assist the Council with their assessment.*

On 2 March 2023, following preliminary assessment of the application including review of internal stakeholder comments provided by Council staff and submissions, a letter was sent to the applicant requesting additional information.

The additional information request included the following:

- Insufficient car parking;
- Further details to demonstrate compliance with Council's Water Quality Guidelines;
- Implications of required land dedication (road reserve) on proposed stormwater arrangements;
- Incompatibility with surrounding residential context;
- Information to address concerns raised by the Panel (listed above).

On 21 March 2023, the Panel held a public briefing. During this briefing, the Panel heard from four (4) submitters, the applicant and a representative of the future operators (Cancer Care Associates). Following this briefing, the Panel provided the following comment which was detailed in the briefing record:

*"The panel heard submissions from members of the public and other stakeholders on the matter.*

*The Panel understands that the Council has issued a request for further information and the applicant is compiling an amended package of documents and plans in response to the issues raised by Council and in the public submissions.*

*The Panel expects the applicant to factually document their development so that the community can understand the proposal and the Panel can assess the impacts."*

On 27 March 2023 following receipt of advisory comments from Essential Energy, a second letter was sent to the applicant. The letter detailed Essential Energy comments as follows:

*"Unfortunately the plans provided indicate that the development does not comply with safe distances. The eaves of the building are within 3 metres of the padmount substation. In addition further information relating to the class of building and the size of the transformer within the proposed padmount substation will need to be provided. Unless the building is a class 1 or 10 building in a low density residential location and the padmount has less than 1000 litres of oil then it will require a 6 metre clearance zone. In this regard the applicant should refer to Refer to AS2067 and Essential Energy's policy CEOM7098 Distribution Underground Design Construction Manual and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure."*

On 2 August 2023, another Panel briefing was held. During this meeting, Council staff confirmed that the additional information requests detailed in letters dated 2 March & 27 March, 2023 were still outstanding. The Panel was advised that the applicant was actively working to address the issues as demonstrated by multiple discussions between and applicant and Council staff. The Panel provided the applicant with an extra two weeks to submit the additional information otherwise the application would be determined based on the information available at that time.

On 16 August 2023, the applicant submitted a revised design and additional information. This included, but was not limited to, the following:

- An Operational Management Plan;
- Reduction in the total number of staff on-site at any one time from eleven (11) to seven (7);
- Reduction in the total number of patients that could be in attendance at the site at any one time from seven (7) to five (5);
- An Addendum the Traffic Impact Assessment including results of a parking/traffic survey of a similar facility;
- Revised plans demonstrating:
  - Removal of three (3) oncology chairs;
  - Increase in the number of on-site car parks from six (6) to ten (10);
  - Increase in the front setback of the building;
  - Increase in the side setbacks of the building; and
  - Amendments to the design of the front façade addressing Cornwall Street.

#### **4. STATUTORY CONSIDERATIONS**

##### **4.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Greater Taree Local Environmental Plan 2010*

##### **State Environmental Planning Policy (Planning Systems) 2021**

The application is regionally significant development pursuant with Schedule 6, Section 5 of the *State Environmental Planning Policy (Planning Systems) 2021* as the development is for a health services facility with a capital investment value that exceeds \$5 million.

Accordingly, the Hunter and Central Coast Regional Planning Panel is the consent authority for the application.

##### **State Environmental Planning Policy (Resilience and Hazards) 2021**

###### ***Chapter 4 Remediation of land***

Under Section 4.6 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP), a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied 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.

The site is not identified as potentially contaminated land, nor has the site been used for any potentially contaminating land use based on Council's records.

##### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

###### ***Division 5, Section 2.48 Determination of development applications—other development***

The application was referred to Essential Energy under Section 2.48 of the Transport and Infrastructure SEPP.

It is important to note that the referral to Essential Energy is in an advisory role only, with the consent authority requiring consideration of the response by Essential Energy only.

In response to safety concerns raised by Essential Energy, plan amendments were made and a letter prepared by DSA Consulting, dated 12 July 2023 was submitted in support of the application. That letter concludes that the substation will be positioned to meet the requirements of AS2067, *Essential Energy Policy document CEOM7098 Distribution Underground Design Construction Manual* and *ISSC 20 Guideline for the Managements of Activities within Easement and Close to Infrastructure*. The revised plans and supporting letter were re-referred back to Essential Energy for comment, however, at the time of preparing this report – no comments from Essential Energy had been received.

### ***Division 10, Section 2.60 Development permitted with consent***

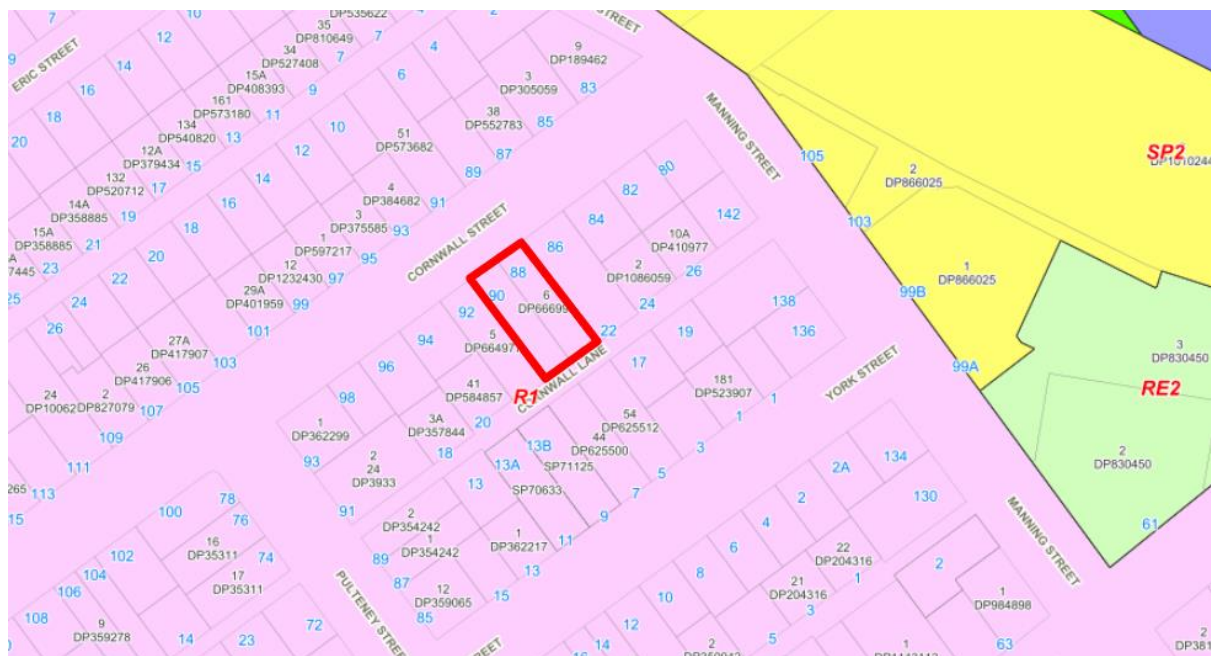
Section 2.60(1) provides that ‘*development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*’

Section 2.59 defines a ‘prescribed zone’ as including land zoned R1 General Residential.

### **Greater Taree Local Environmental Plan 2010**

The relevant local environmental plan applying to the site is the *Greater Taree Local Environmental Plan 2010* (LEP).

The site is zoned R1 General Residential. An extract of the Zoning Map is provided in Figure 6 below.



**Figure 6 – Land Zoning Map Extract (Source: Intramaps)**

The proposed development is for ‘demolition’ of existing structures and construction of a new ‘health services facility’. Demolition is permitted with consent by virtue of Clause 2.7 of the LEP.

A ‘health services facility’ is prohibited in the R1 Zone. However, permissibility is derived by Section 2.60 of the Transport and Infrastructure SEPP as detailed above.

The objectives of the R1 Zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The first and second objectives are not applicable to the proposed development, which is not for residential purposes. The proposed development is considered consistent with the third zone objective as it will provide a facility for the specialised treatment of cancer patients to meet the day to day needs of residents.

The LEP also contains controls relating to development standards, miscellaneous provisions, and local provisions. The clauses relevant to the proposal are considered in Table 1 below.

<b>Table 1 – LEP Compliance</b>		
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>
Height of Buildings (cl 4.3)	Maximum 8.5 metres.	The maximum building height of the development is 7.8 metres above natural ground level and complies with the maximum building height prescribed by cl 4.3.
Floor Space Ratio (cl 4.4)	Maximum 0.6:1	The proposed development has a gross floor area of 678.99m <sup>2</sup> . This equates to a floor space ratio of 0.53:1 based on a site area of 1264m <sup>2</sup> and complies with the maximum floor space ratio prescribed by cl 4.4.
Heritage conversation (cl 5.10)	Consideration must be given to the effect of the development on heritage significance of Aboriginal objects or places.	<p>The existing dwellings on the land do not contain any significant heritage value, with the design of these dwellings typical of existing dwellings within this section of the Taree locality. Whilst Registered Heritage Items in the form of dwellings exist along Cornwall Street, these Items are located approximately 100 metres from the site on the opposite side of Cornwall Street. It is also noted that despite the existence of Heritage Items along Cornwall Street, the site is not located within a Heritage Conservation Area.</p> <p>Furthermore, the proposed development necessitates no removal of Brush Box trees for the purposes of driveway construction. As detailed elsewhere, the design of the proposed development does not undermine the surrounding residential setting in which it is located.</p> <p>No significant adverse heritage impacts are likely.</p>
Earthworks (cl 7.3)	Consideration must be given to impacts arising from earthworks.	<p>Some minor earthworks will be required for the purposes of construction.</p> <p>The earthworks are not to the extent likely to result in visual impacts on the streetscape or adjoining lands.</p> <p>There will be no adverse impact on drainage patterns, soil stability or environmentally sensitive areas.</p>



7.11 Essential services (cl 7.11)	The objective of this clause is to ensure the development will be serviced by essential infrastructure.	The proposed development will be adequately serviced by reticulated water, sewer, electricity and road access.
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The proposal is considered generally consistent with the relevant provisions of the LEP.

#### 4.2 Section 4.15 (1)(a)(ii) – Provisions of any proposed instruments

There are no proposed instruments of relevance to the development.

#### 4.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The Greater Taree Development Control Plan 2010 (DCP) is relevant to the application.

The aims of the Plan are to ensure good quality, sustainable development outcomes that maintain a high level of environmental amenity. The Plan is designed to allow flexibility in the application of its controls where strict compliance is considered unreasonable or unnecessary provided the relevant objectives of the Plan have been achieved.

The following is a summary of the evaluation of the proposal pursuant to the relevant provisions of the Plan.

<b>Table 2: DCP Compliance</b>		
<b>Control</b>	<b>Requirement</b>	<b>Proposal</b>
<b>Part B Character Statements</b>		
Taree	There is no character statement relevant to the Taree locality.	Compatibility with the context and setting of the site and surrounds is discussed later in this Report.
<b>Part D Environmental Requirements</b>		
Environmental Buffers	Limit new development in areas that might now or in the future be subject to impacts from sewerage treatment works, abattoirs quarries and landfill sites.  To ensure a buffer is provided between residential development and agricultural or industrial activities so as to minimise the potential for land use conflict.	The site is not identified as being within any environmental buffer.
Earthworks, Erosion and Sedimentation	To minimise environmental and amenity impacts associated with earthworks.	As detailed above, the earthworks are not to the extent they are likely to result in visual impacts on the streetscape or adjoining lands.  There will be no adverse impact on drainage patterns, soil stability or environmentally sensitive areas.

<b>Part G Car Parking and Access</b>		
G1.1 Location of driveways	<p>A vehicular driveway, entry and/or exit, which crosses the edge of the carriageway and the property boundary, shall:</p> <ul style="list-style-type: none"> <li>a. Be clear of all obstructions which may prevent drivers from having a timely view of pedestrians;</li> <li>b. Be located such that any vehicle turning from the street into it or into the street from it can be readily seen by the driver of an approaching vehicle in the street;</li> <li>c. Be constructed in accordance with Australian Standard AS2890.1 Parking Facilities – Off Street Car Parking.</li> </ul>	The proposed car parking arrangements are not supported as detailed later in this Report.
G1.2 Service vehicle requirements	Ensure servicing vehicles are adequately accommodated on-site to support the proposed development.	As above.
G1.3 Parking requirements for specific land uses	Ensure car parking is provided in accordance with the Table provided in Part G1.3.	The provision of car parking is not considered satisfactory to support the proposed development.
G1.4 Car parking requirements	Ensure car parking is provided in accordance with the Table provided in Part G1.3.use	As above.
G1.5 Contributions in lieu of providing off street parking	Provides the ability for car parking to be offset through payment of contributions in certain circumstances.	The site is located outside the mapped Taree CBD Developer Contributions Plan and payment of contributions to offset car parking is not possible.
<b>Part H Residential Requirements</b>		
H2.1 Site coverage and lot requirements	The maximum site coverage for all residential development is 65%.	The maximum site coverage exceeds 65%. The variation in site coverage is supported and is discussed in detail later in this report.
H2.2 Building setbacks	Zero Lot Lines	The development does not propose zero-lot line setbacks.
H2.3 Building height	<ol style="list-style-type: none"> <li>1. The lowest floor level of all development shall not be greater than 1m above natural ground levels at any point.</li> <li>2. In areas mapped as having a permitted building height of 8m or 8.5m, development shall contain not more than two storeys at any given point.</li> </ol>	<p>The lowest floor level of the building is not &gt;1m from natural ground level.</p> <p>The proposed development is a maximum two-storey construction.</p>

H2.4 Car parking and access	All residential development	The proposed development is not for residential development. Car parking is addressed elsewhere in this Report.
H2.5 Private open space	Provision of and, impacts on, private open space	The proposed development is not of a type which requires private open space. Submitted shadow diagrams demonstrate that private open space on adjoining lands will receive adequate solar access in accordance with the DCP.
H2.6 Solar access and overshadowing	Impacts on overshadowing on adjoining lands.	Submitted shadow diagrams demonstrate that habitable spaces within adjoining dwellings will receive adequate solar access in accordance with the DCP.
H2.7 Acoustic and visual privacy	Noise impacts and visual privacy impacts.	The proposed operating hours of the development are 8:30AM – 5:00PM, Monday and Friday. Emergencies may be required during 8:30AM – 12:00PM Saturdays. The proposed development is not likely to be a significant noise emitter to the extent surrounding residential receivers will be greatly affected.  A Noise Impact Assessment prepared by E-LAB Consulting and dated 10 October 2022 has been prepared in support of the application which confirms the proposed development will comply with the NSW Environment Protection Authority (EPA) Noise Policy for Industry (NPI) 2017. No visual privacy issues are likely.
H2.8 Views	Impacts on views.	The proposed development will not obstruct any existing views or vistas.
H2.9 Safety, security and entrances	Crime Prevention	No crime related impacts are likely.
H2.10 Front Fencing	Streetscape impacts	No front fencing is proposed.
H3.1 One and two storey single detached dwellings	Consider performance criteria	This is addressed in detail later in this report.

<b>Part I Commercial Requirements</b>		
I1 General controls applying to all business zone areas	Consider performance criteria	The development is not located in a business zone.
I2 Landscaping	Consider performance criteria	Landscaping has been addressed elsewhere in this Report.  The submitted Landscape Plan, once slightly amended to align with the revised architectural plans, would provide an effective landscape treatment to the site that would dilute the physical built form of the development and contribute to an aesthetically pleasing streetscape.
<b>Part M Site Waste Minimisation and Management</b>		
M2 Demolition of buildings or structures	The principal aim of managing this activity is to maximise resource recovery and minimise residual waste from demolition activities.	A Waste Management Plan prepared by Leigh Design and dated 7 November 2022 has been submitted in support of the application.  The Plan adequately addresses waste management procedures associated with the demolition.
M3 Construction of buildings or structures	To encourage source separation of waste, reuse, and recycling by ensuring appropriate storage and collection facilities for waste, and quality design of waste facilities.	The Waste Management Plan adequately addresses waste management procedures associated with construction.

### **Part H2.1 Site coverage and Lot Requirements**

The maximum site coverage for all residential development is 65%. Whilst technically not applicable to non-residential development, the control still requires consideration given the residential setting of the site.

The site coverage of the building footprint is <65%. Inclusive of the proposed car parking areas, the development has a site coverage of greater than 65% and a variation to this control is sought.

Despite the variation, the proposed site coverage is not inconsistent with the relevant objectives of the control which include:

- Bulk and scale is compatible with the surrounding built forms and enhances the streetscape and public and private space;
- Development maximises permeable surfaces and maintains a balance between the built and unbuilt upon areas;
- Ensure the density of a variety of building forms integrates with the character of residential environments.

As detailed later in this Report, the proposed building complies with the relevant built form controls contained within Part H3.1 of the DCP, which are relevant to dwellings. As discussed previously, the applicant has made amendments to the initial design to better integrate the building into the residential setting in which it is located.

The initial proposal was supported by a Landscape Plan prepared by a suitably qualified Landscape Architect. The Plan demonstrates effective use of landscaping to compliment the architectural

design, dilute the built form and contribute to streetscape amenity. Whilst an amended Landscape Plan has not been submitted in conjunction with amended Architectural Plans, it is considered amendments to the Landscape Plan could be done to accommodate the revised design and still provide effective landscaping on the site.

Finally, some weight needs to be given to the nature of the development, being non-residential development permitted in a residential zone, in the application of this control. Through necessity, non-residential development requires greater site coverage due to the need for car parking and other hardstand areas such as accessible ramps and footpaths etc.

A variation to this control is supported in this particular case.

### **Part H3.1 One and Two Storey Single Detached Dwellings**

***1. The minimum primary street boundary setback is 5m. However, where adjacent residential development is closer to the front boundary, Council may consider a setback equal to that of whichever neighbouring dwelling/building most closely meets the required setback. Where adjacent development is set further back than the minimum requirement, Council may require a greater setback than the minimum permissible.***

**Comment:** The front building line of the development is setback from the primary boundary 6.3 metres and complies with the minimum primary setback prescribed by the DCP.

Whilst it is noted that the front porch is located forward of the front building line, with a setback of 2.3 metres, this structure forms an architectural feature common in a residential setting and provides visual interest to the front elevation. This structure is semi-enclosed by a roof but is otherwise an open structure, meaning it will not present as the dominant site feature when viewed from Cornwall Street.

***2. The minimum required setback from a secondary frontage (on corner allotments) is 3m. Where adjacent residential development is closer to the boundary, Council may consider a reduced setback. The minimum setback in these locations must be 2m. Likewise, where adjacent development is set further back, Council may require a greater setback than the minimum permitted.***

**Comment:** The site is not a corner allotment.

***3. The garage door (regardless of the frontage of the site) shall achieve a minimum setback of 5m from the relevant street frontage.***

**Comment:** No garage door is proposed.

***4. Side and rear setbacks are to be a minimum of 900mm for single storey development.***

**Comment:** The minimum side setback for the single-storey component of the building is 1 metre and complies with the side setback controls prescribed by the DCP.



**5. Where the rear property boundary adjoins a public reserve, a minimum 3m building setback is required.**

**Comment:** The site does not adjoin a public reserve.

**6. Two storey developments are to be set back a minimum of 1600mm from side and rear boundaries.**

**Comment:** The two-storey component of the development maintains a minimum side setback of 1.6 metres and complies with this control. This is confined to the south-eastern corner of the building which contains the upper-floor void associated with the Linac Treatment room.

Habitable areas located on the first-floor of the building are recessed and maintain a minimum side setback of 6.1 metres.

**7. Where site conditions warrant and provided that there is no unreasonable adverse impact on the privacy or solar access of adjoining properties, and is consistent with the existing streetscape of the locality, Council may allow side or rear walls without windows to be built to the boundary (zero lot line).**

**Comment:** No zero lot line setbacks proposed.

**8. Projections permitted into setback areas include: eaves, sun-hoods and vertical sun screens, gutters, downpipes, flues, light fittings, electricity or gas meters and aerials. These can project 450mm (where the setback is 900mm) or to the boundary, whichever is less.**

**Comments:** Projections such as eaves protrude no greater than 450mm into the minimum side setback prescribed by the DCP.

#### **Part G Car Parking and Access**

The proposed development includes seven car parks within the southern section (rear) of the site, four of which are in a stacked arrangement. Three car parks and a pick-up/drop-off area are located within the northern section (front) of the site.

The car parking allocation proposed by the applicant is as follows:

- Four car parking spaces for patients;
- One pick-up/drop-off space for patients; and
- Six car parking spaces for staff.

Part G1.3 of the DCP provides minimum car parking requirements for specific land uses. More specifically, the DCP prescribes the following car parking rates for 'medical centres':

- 3 per surgery; plus
- 1 per doctor; plus
- 1 per employee

or

- 4 spaces per 100m<sup>2</sup>

(whichever is the greater)

Based on the above, the car parking requirements for the proposed development is 29 spaces (when rounded up). The applicant claims that the proposed operations differ from that of a traditional medical centre and Council staff believe there is merit in that claim.

A letter prepared by *tpp transport* planning dated 28 July 2023 and an Operational Plan prepared by *Cancer Care Associates* was submitted in support of the application. Both documents have been provided in support of a merit-based approach to determining car parking requirements for the development. There appears to be a discrepancy within these two documents in relation to the total number of people on site at any one time, however the car parking assessment contained within the letter prepared by *tpp transport* takes the more conservative approach.

The letter provides the results of a travel mode survey conducted on an existing Cancer Care clinic located in Griffith. The survey results reveal the following:

- 94% of patients drove to their appointment; and
- 6 % were dropped off and picked up.

The letter states the following in relation to the provision of car parking for patients for the proposed development:

*The survey results from Cancer Care Griffith shows that about 94% of the patients drive to the site. As the proposed cancer treatment clinic is expecting to have a maximum of 5 patients on site at any one time, the parking demand of patients would be 5 car spaces (rounded up). However it is considered acceptable to allocate one car space as a pick-up/drop-off bay as a small portion of patients would be dropped off and picked up instead of parking the car on-site for the whole treatment session.*

The letter acknowledges that a total of five car parking spaces for patients and proposes that this demand be accommodated by four spaces and one pick-up/drop-off space. The proposed car parking allocation does not align with the results of the car parking survey by providing a pick-up/drop-off space to accommodate 20% of patients, where the survey results confirm only 6% of patients are dropped-off and picked up.

The letter provides that the development is proposed to have seven staff on-site at any one time, with only six staff car parks provided on-site. In support of this, ABS 2021 Census data that the percentage of employed people who travel to their workplace at Taree by car (as driver) is 89% has been used. Again, the actual car parking provision does not align with the data, with only 85% of staff driving to work being accounted for in this development.

The proposed development provides seven car parks within the southern section of the site, accessed via the secondary frontage along Cornwall Lane. One of these car parking spaces within the rear of the site is allocated to patients. Concerns are raised about the practicality of providing a single patient car park within the rear of the site and whether this space will actually be used by patients. Furthermore, the Patient Flow Description provided in the Operational Plan shows all patients entering the building through the main entrance off Cornwall Street. It is noted that this Operational Plan would be subject to review of the relevant Health authority prior to the mandatory license being issued.

The car park within the northern section of the site provides three car parking spaces. Amongst this car park, a pick-up/drop-off area is provided. This space conflicts with the car parking spaces in this area by restricting manoeuvrability and obstructs access to the car parking spaces from the street.

Furthermore, use of the pick-up/drop-off area requires vehicles to reverse onto Cornwall Street to exit the site which is an arrangement not supported in this context.

As detailed above, the total number of car parking spaces is not considered adequate to support the development. Furthermore, the car parking arrangements reduce the likelihood of, and provide difficulties for, patients utilising on-site car parks. Therefore, it is considered that the development would have an unacceptable level of reliance on on-street car parking.

This is not considered acceptable given the existing residential context of the street and the ability of on-street car parking to impact on the amenity of residences. It should also be noted that the site is located on the periphery of Taree's medical precinct which experiences overflow car parking from the hospital. A site visit conducted on the 1 February 2023 revealed a number of cars parked along Cornwall Street near the frontage of the site. This overflow car parking is only likely to increase in the future with the expansion of the medical precinct including additions to the hospital. The reliance on on-street car parking to the degree proposed under this application would produce an undesirable precedent in the reliance of off-street car parking to satisfy car parking requirements.

#### **1.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

#### **1.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Part 4 Division 1 of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application.

In relation to Section 61 of the Regulation and should the Panel approve the development, a condition of consent could be imposed requiring demolition to be done in accordance with Australian Standard *AS 2601—2001: The Demolition of Structures*.

#### **Section 4.15(1)(b) - Likely impacts of development**

##### ***Context, Setting and Design***

The site is located at the periphery of the Taree health precinct. However, the immediate surrounds are characterised as residential, influenced by single-storey dwelling houses. The exception is the respite centre adjoining the north-eastern boundary of the site.

Concerns were initially raised with the development's visual incompatibility with the residential context in which it is situated. In response to these concerns, the applicant revised the design which included increased setbacks and changes to the front façade addressing Cornwall Street.

The front of the building incorporates off-white, weather board sheeting into the facade which is a common feature of existing dwellings along Cornwall Street. Additionally, the integration of the entry porch provides consistency with the design of surrounding residential dwellings.

It should also be noted that the proposed development complies with the built forms controls contained within Part H3.1 of the DCP, as relevant to residential dwellings.

The proposed development would incorporate effective use of landscaping to compliment the design of the building and contribute to an aesthetically pleasing streetscape.

Whilst it is understood that the two-storey construction of the development is not consistent with existing dwellings along Cornwall Street, which are single-storey construction, the maximum height of the development is not likely to significantly detract from the streetscape. The two-storey component of the development, with the exception of the LINAC/Radiation Treatment portion as detailed below, is recessed from the ground-floor portion of the development. These recessions reduce the visual prominence of the first-floor structure. A mixture of materials and finishes, in addition to the integration of physical articulation, provides visual relief to the design of the development. Weight must also be given to the built form development controls such as maximum building heights which allow for two-storey development on the site.

Notwithstanding the above, concerns still remain with the presentation of part of the north-eastern elevation associated with the LINAC/Radiation Treatment Room. In Council's letter dated 2 March 2023, the following was raised:

*Relevant to Part H3.1 of the DCP and compatibility with surrounding residential development, the side setback of the northern elevation of the LNAC Treatment room maintains a side setback of 900mm. As the wall height of this elevation is considered 'two-storey', a minimum side setback of 1600mm is required. This portion of the proposed building is considered to be visually dominant when viewed from adjacent private open space and Cornwall Lane. The slope of the land, which slopes away from within the site toward the land adjoining the northern boundary, further accentuates the visual dominance of this structure. The lack of articulation or visual interest of this portion of the building further contributes to visual impacts.*

Whilst it is acknowledged the applicant has since increased the side setback of this part of the building, Council's initial concerns regarding the visual impacts of this part of the building still remain. Whilst a mixture of materials and finishes have been incorporated, this part of the elevation provides no physical articulation such as building modulation or windows which would be expected for a residential dwelling development. This lack of articulation, compounded by the overall height of the wall, results in a visual presentation that is inconsistent with the surrounding residential setting in which it is located.

### ***Access and Transport***

As detailed elsewhere in this Report, the provision of car parking is not sufficient to support the proposed development. This is likely to result in an overreliance of on-street car parking, setting a precedent that will result in cumulative impacts driven by the expansion of the nearby medical precinct.

The proposed car parking arrangements would see a drop-off/pick-up area located amongst formalised car parking spaces. This arrangement is likely to result in obstructions on vehicle manoeuvrability and increase conflict between pedestrians and vehicles. Vehicles would also need to reverse out of the drop-off/pick-up area resulting in potential traffic impacts along Cornwall Street.

## ***Stormwater***

Stormwater collected by roof areas will be conveyed to a 20 kilolitre rainwater and detention tank for re-use within the development. Low-flow will discharge to a 32m<sup>2</sup> raingarden prior to dispersal into drainage infrastructure located within Cornwall Lane.

Hardstand areas located within the south-eastern (rear) portion of the site will sheet-flow to a 9m<sup>2</sup> raingarden prior to dispersal into drainage within Cornwall Lane.

Both Council's Water Quality Team and Development Engineer have reviewed the proposed stormwater arrangements and considered them satisfactory.

## ***Social and Economic Impact***

The proposed development will serve the medical needs of the wider community and is likely to have positive social impacts.

The proposed development is likely to attract medical professionals to the area and will result in positive economic impacts. Furthermore, the construction of the proposed development is likely to stimulate the construction industry and create positive economic impacts.

### **1.6 Section 4.15(1)(c) - Suitability of the site**

The proposal is permitted with consent on the site under the relevant zoning pursuant to the Transport and Infrastructure SEPP.

The proposed development presents an economic and orderly use of the land.

The site is considered suitable for the proposed use, however not for the scale of the development given the issues identified with parking and relationship with the existing residential character.

### **1.7 Section 4.15(1)(d) - Public submissions**

The application as originally made was exhibited from 1 December 2022 to the 28 December 2022 accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the MidCoast Council Community Engagement Strategy. The applicant submitted a revised design and additional information following concerns being raised by Council staff, submitters and the Panel. The revised design was re-exhibited from 22 August 2023 to the 11 September 2023. As a result, the application received 25 unique submissions.

The following details planning related concerns raised in submissions, that is, concerns required to be considered under Section 4.15 of the EP & A Act 1979. Concerns have been grouped to avoid repetition.

#### **1. Car Parking**

As detailed elsewhere in this Report, the proposed development is not supported based on a lack of car parking and the proposed car parking arrangements.



## 2. Heritage Impacts

The existing dwellings on the land do not contain any significant heritage value, with the design of these dwellings typical of existing dwellings within this section of the Taree locality. Whilst Registered Heritage Items in the form of dwellings exist along Cornwall Street, these Items are located approximately 100 metres from the site on the opposite side of Cornwall Street. It is also noted that despite the existence of Heritage Items along Cornwall Street, the site is not located within a Heritage Conservation Area.

Furthermore, the proposed development necessitates no removal of Brush Box trees for the purposes of driveway construction.

No significant adverse heritage impacts are likely.

## 3. Non-Compliance with Health Facility Guidelines

Any private health facility needs to obtain a license by the relevant State government authority pursuant with the Private Health Facilities Regulation 2017 prior to becoming operational. The issuing of the license is contingent on the design and ongoing operation of any facility operating in accordance with the appropriate guidelines. This State Government authority will regulate compliance with the relevant Guidelines.

## 4. Incompatibility with Residential Setting

The site is located at the periphery of the Taree health precinct. However, the immediate surrounds are characterised as residential, influenced by single-storey dwelling houses. The exception is the respite centre adjoining the north-eastern boundary of the site.

Concerns were initially raised with the development's visual incompatibility with the residential context in which it is situated. In response to these concerns, the applicant revised the design which included increased setbacks and changes to the front façade addressing Cornwall Street.

The front of the building incorporates off-white, weather board sheeting into the facade which is a common feature of existing dwellings along Cornwall Street. Additionally, the integration of the entry porch provides consistency with the design of surrounding residential dwellings.

It should also be noted that the proposed development complies with the built forms controls contained within Part H3.1 of the DCP, as relevant to residential dwellings.

The proposed development would incorporate effective use of landscaping to compliment the design of the building and contribute to an aesthetically pleasing streetscape.

Whilst it is understood that the two-storey construction of the development is not consistent with existing dwellings along Cornwall Street, which are single-storey construction, the maximum height of the development is not likely to significantly detract from the streetscape. The two-storey component of the development, with the exception of the LINAC/Radiation Treatment portion a, is recessed from the ground-floor portion of the development. These recessions reduces the visual prominence of the first-floor. A mixture of materials and finishes, in addition to the integration of physical articulation, provides visual relief to the design of the development. Weight must also be

given to the built form development controls such as maximum building heights which allow for two-storey development on this site.

Notwithstanding the above, concerns still remain with the presentation of part of the north-eastern elevation associated with the LINAC/Radiation Treatment Room. In Council's letter dated 2 March 2023, the following was raised:

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Whilst it is acknowledged the applicant has since increased the side setback of this part of the building, Council's initial concerns regarding the visual impacts of this part of the building still remain. Whilst a mixture of materials and finishes have been incorporated, this part of the elevation provides no physical articulation such as building modulation or windows which would be expected for a residential dwelling development. This lack of articulation, compounded by the overall height of the wall, results in a visual presentation that is inconsistent with the surrounding residential setting in which it is located.

#### 5. Overshadowing

The proposed development is compliant with maximum building height and setback controls prescribed by the DCP. Furthermore, the submitted shadow diagrams demonstrate that the development complies with overshadowing requirements prescribed by Part H2.6 of the DCP.

No significant adverse overshadowing impacts are likely.

#### 6. Non-Compliance with Building Setback Requirements

As detailed elsewhere in this Report, the proposed development complies with building setback requirements prescribed by the DCP.

#### 7. Inability to meet Water Quality Targets – Phosphorus

The proposed drainage arrangements include two raingardens. Council's Water Quality Team have reviewed the proposal and confirmed the development achieves the water quality targets set by Council's Policy.

#### 8. Impacts Associated with Substation

The proposal was referred to Essential Energy. In response to safety concerns raised by Essential Energy, plan amendments were made and a letter provided by DSA Consulting and dated 12 July 2023 was submitted in support of the amendments. That letter concludes that the substation will be positioned to meet the requirements of AS2067, Essential Energy Policy document CEOM7098

Distribution Underground Design Construction Manual and ISSC 20 Guideline for the Managements of Activities within Easement and Close to Infrastructure.

The revised plans and supporting letter were re-referred back to Essential Energy for comment, however, at the time of preparing this report – no comments from Essential Energy had been received. If the Panel were to approve the development, a condition of consent could be imposed requiring further consultation with Essential Energy.

#### 9. Inadequate water, sewer and drainage

Council's Water Services Team have reviewed the proposal and confirmed that the development is able to be adequately serviced by reticulated water and sewer. The development would be subject to water and sewer developer charges which fund future maintenance of this infrastructure.

The proposed drainage arrangements incorporate on-site detention which restrict flows to pre-development scenarios. Council's Development Engineer has confirmed the surrounding drainage infrastructure is adequate to support the proposed development.

#### 10. Ecological Impacts

The proposed development proposes no removal of any significant vegetation. No significant adverse ecological impacts are likely.

#### 11. Waste Management

The *Private Health Facilities Regulation 2017* prescribes measures for ongoing management of waste and hazardous substances. These measures are mandatory licensing requirements regulated by the relevant State government authority.

#### 12. Construction Impacts

Construction impacts would be transient. Furthermore, construction impacts could be mitigated by conditions of consent including preparation of a Construction Management Plan and restrictions on construction times.

### **1.8 Section 4.15(1)(e) – The Public Interest**

The proposed development is likely to result in unreasonable traffic impacts as a consequence of inadequate on-site car parking provision and proposed parking arrangements. The presentation of part of the north-eastern elevation is visually incompatible with the surrounding residential setting. The proposed development is not in the public interest.

## **5.0 Other Matters**

### **5.2 Section 7.12 Contributions Plan**

The development would require the payment of contributions in accordance with Council's Section 7.12 Contributions Plan. Should the Panel approve the development, it is recommended that conditions be imposed on any consent requiring the payment of these contributions prior to the issue of a construction certificate.

## **6.0 CONCLUSION**

The total number of car parking spaces is not considered adequate to support the development. Furthermore, the car parking arrangements reduce the likelihood of, and provide difficulties for, patients utilising on-site car parks. Therefore, it is considered that the development would have an unacceptable extent of reliance on on-street car parking.

The presentation of part of the north-eastern elevation is visually incompatible with the surrounding residential setting.

## **7 . 0 RECOMMENDATION**

It is recommended that the Panel determine Development Application DA2022/1362 for demolition of existing structures and construction of a health services facility at Lot 56 DP 626521 & Lot 6 DP 666993, 88 Cornwall Street TAREE NSW 2430, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, by refusing to grant consent subject to the reasons of refusal contained within Attachment K.