



**SYDNEY CENTRAL CITY PLANNING PANEL
COUNCIL ASSESSMENT REPORT**

Panel Reference	PPSSCC-19
DA Number	DA/487/2019
LGA	City of Parramatta Council
Proposed Development	Alterations and additions to the existing Westmead Private Hospital comprising of lot consolidation, demolition works and construction of a three storey building to accommodate new consulting rooms and inpatient units and expansion of the existing operating theatres. The application is to be determined by the Sydney Central City Planning Panel.
Street Address	Lot 1 DP 213094, Lot 1 DP 515289, Lot 4 DP 1242123, Lot 2 DP 1022392 (Being Lots 1-14 SP 64792), CP DP 97469, 12, 12A, 14, 14B & 14C Mons Road, WESTMEAD NSW 2145
Applicant	Erilyan Pty Ltd
Owner	Alpha Westmead Private Hospital Pty Ltd
Date of DA lodgement	15 August 2019
Number of Submissions	No submissions received
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Private Infrastructure - Over \$5 Million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000; • State Environmental Planning Policy No. 55 (Remediation of Land) • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • State Environmental Planning Policy (Infrastructure) 2007; • Parramatta Local Environmental Plan 2011; and • Parramatta Development Control Plan 2011.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1 – Architectural Drawings • Attachment 2 – Urban Design Report • Attachment 3- Clause 4.6 Variation request • Attachment 4 – Department of Planning cl. 4.6 Circular • Attachment 5 - Technical Traffic Note prepared in response to DEAP comments • Attachment 6 - Technical Traffic Note prepared to address Swept path analysis
Clause 4.6 requests	<ul style="list-style-type: none"> • Clause 4.6 variation sought pursuant to Parramatta Local Environmental Plan (LEP) 2011.

	<ul style="list-style-type: none"> • The development standard to be varied relates to Clause 4.3 - Height of buildings pursuant to Parramatta Local Environmental Plan 2011. • The subject site is zoned B4 Mixed Use zone under Parramatta Local Environmental Plan (LEP) 2011.
Summary of key submissions	No submissions received
Report prepared by	Deepa Randhawa –Senior Development Assessment Officer
Report date	2 February 2020

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

Clause 4.6 Exceptions to development standards

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

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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

1. EXECUTIVE SUMMARY

This application considers a proposal for alterations and additions to the existing Westmead Private Hospital. The proposal comprises of demolition works and construction of a three storey building to accommodate new consulting rooms, new inpatient units and expansion of the existing operating theatres.

The hospital building is constructed over the channelised floodway of Milson's Creek. The site is subject to flooding and floodwaters are predicted to flow beneath the building and to the immediate east and west of the building across the whole development. Floodwaters are also predicted to accumulate in the area adjacent to the front entrance. The development as proposed will increase the size of the hospital by approximately 15% (gross floor area). This increase however, is offset by various flood safety measures, including physical barriers, escape routes, refuge in place facilities and flood responsive management procedures.

The assessment of the application demonstrates that sufficient evidence has been provided which confirms that the flooding risks can be managed appropriately and that the development achieves an appropriate built form, notwithstanding the site constraints. It is therefore considered that the proposed flood mitigation measures, subject to recommended conditions of consent, will improve safety on the site as a whole and thereby reduce the overall risk to occupants.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical specialist have not identified any fundamental issues of concerns with the alterations and additions to the hospital building. The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.

On balance, the proposal has demonstrated a satisfactory response to the objectives and controls of the applicable planning framework. This report recommends that the Panel grant development consent for this development proposal, subject to the recommended conditions of consent.

2. KEY ISSUES

1. **Height of Buildings**— Variation requested pursuant to Clause 4.6 of Parramatta Local Environmental Plan 2011:
 - a) Control: 12m
 - b) Proposed: 14.24m (2.24m or 18.6% variation)
2. **Flooding**—The site is subject to flooding from Milson's Creek (underneath the building) and Toongabbie Creek (to the north of the site).

3. SITE DESCRIPTION, LOCATION AND CONTEXT

The subject site is legally known as Westmead Private Hospital and is identified as 12, 12A, 14, 14B and 14C Mons Road, Westmead, (Lot. 1 DP213094, Lot.1 DP515289, Lot 4 DP1242123, Lot 17 SP66259 and Lot 2 SP97469). The site has a total area of 20,256m².

The site currently accommodates a part two and part three storey hospital building. The existing hospital provides for 191 overnight beds and 13 procedural rooms for the provision of a multitude of services and specialties.

The site benefits from a frontage to Mons Road to the east and Darcy Road to the south. To the north, the site adjoins the Westmead Specialist Centre and Milson Park. To the east of the site, is a vacant allotment forming an at-grade car park at No.12 and 12A Mons Road and a 4 Storey Service Apartment building is being constructed at No.14A Mons Road. Across Darcy Road to the south sits Mother Teresa Primary School and to the west of the site is a dwelling house and Mayflower Retirement Village.

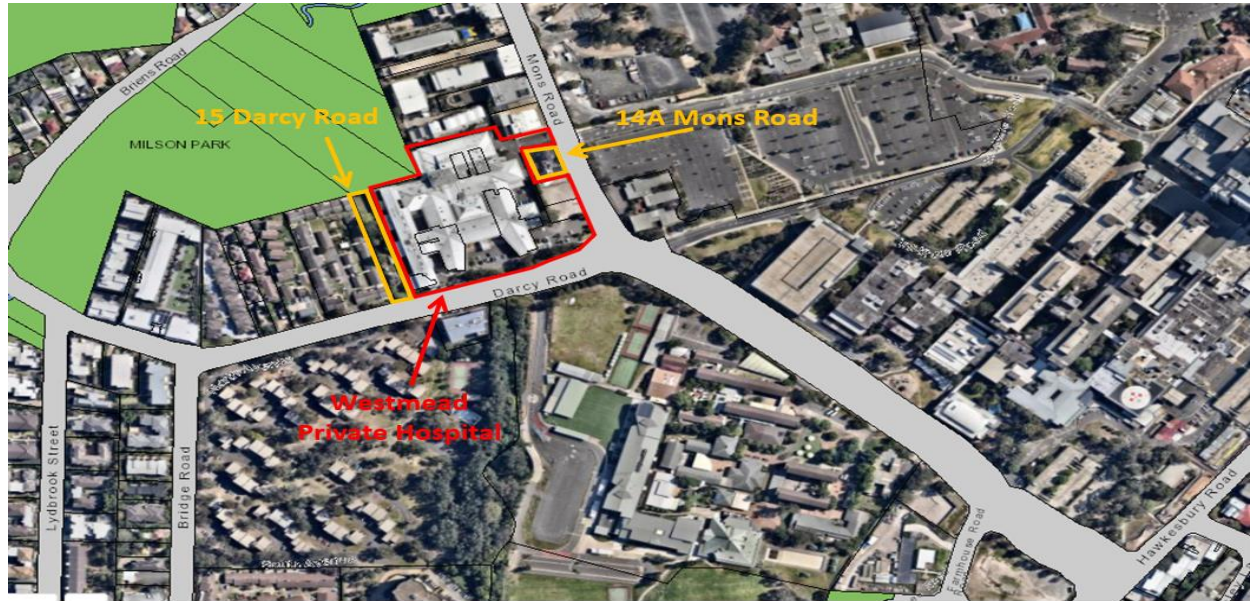


Figure 1. Aerial view of locality (subject site in red).

The subject site is zoned B4 Mixed Use. The surrounding properties are zoned B4 Mixed Use, RE1 Public Recreation and SP2 Infrastructure, which comprises mainly of Health Services Facilities and Educational Establishments.

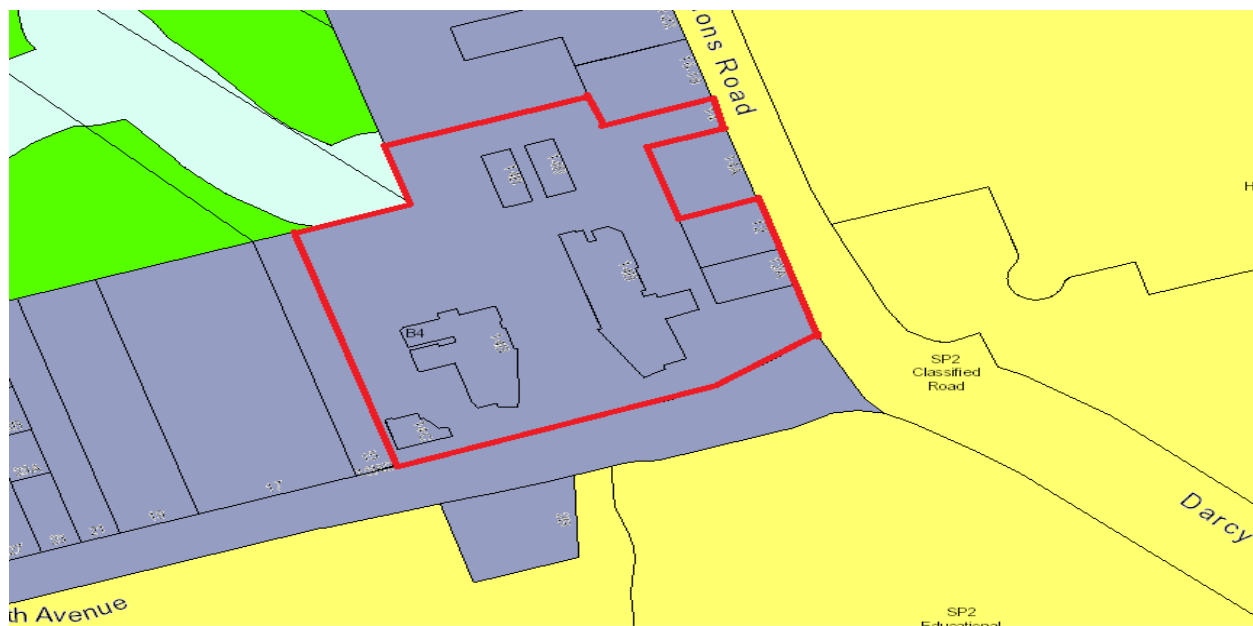


Figure 2. Zoning Map (PLEP 2011) (subject site in red).

The site is located within the Westmead Medical Precinct, which has been identified as a planned precinct fit for urban renewal by the NSW Government (2017) as Health and Education Super Precinct. The precinct incorporates, but is not limited to, the Westmead Hospital; The Children's Hospital at Westmead; Cumberland Hospital; Pathology West-ICPMR Westmead; The University of Sydney; The Westmead Institute for Medical Research; The Ronald McDonald House at Westmead; Western Sydney University; Westmead Private Hospital; Children's Medical Research Institute; Westmead Research Hub; and Westmead Millennium Institute.

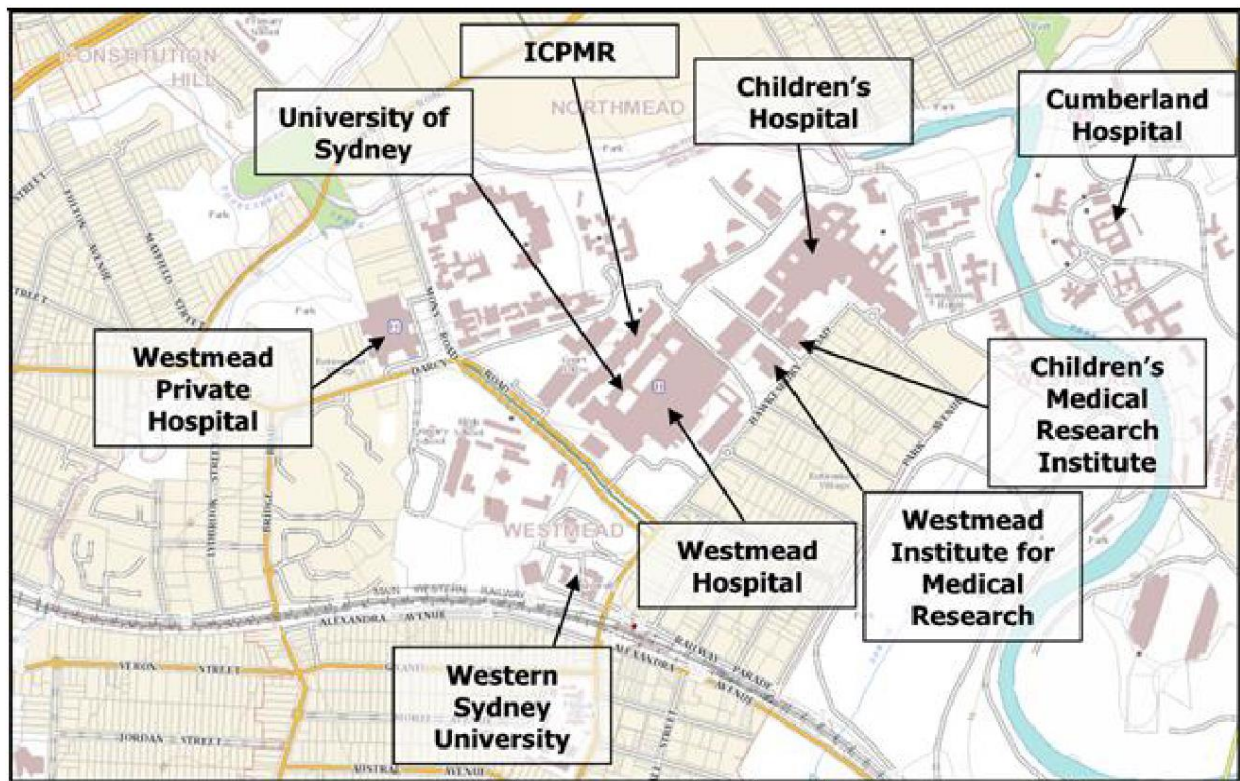


Figure 3 – Site context and surroundings.

4. THE PROPOSAL

The proposal seeks consent for alterations and additions to the existing hospital, which includes construction of a three storey building to accommodate new consulting rooms, inpatient units and an expansion of the existing operating theatres.

Details of the proposal are:

Lot consolidation

- Lot consolidation of Lot 1 DP 213094 and Lot 1 DP 515289.

Demolition works

- Existing entry canopy to the building fronting Darcy Road; and
- Existing car parking, including kerbing and paving located adjacent to the southern boundary facing Darcy Road.

Construction works:

- Three-storey building and associated ground level works, comprising of 29 beds on Level 1 and 13 consulting suites on Level 2.
- Communication and plant rooms on Level 1 and 2 and amenities;
- Refurbishment and extension of the existing building on the north eastern portion of the site at Level 1 comprising of 2 additional theatres and 2 laboratories.
- Installation of mechanical services; and
- Relocated Gas Store and new pad mount station.

Note:

- Vehicular access to the site for patients, staff, visitors and service vehicles will be maintained by existing entry and exits.
- Reconfiguration of the carpark and a new access was proposed as part of the separate development application (DA/3/2020).
- Signage is subject to a separate application.



Figure 4. Photomontage of proposal as viewed from Darcy Road, Westmead.

5. REFERRALS

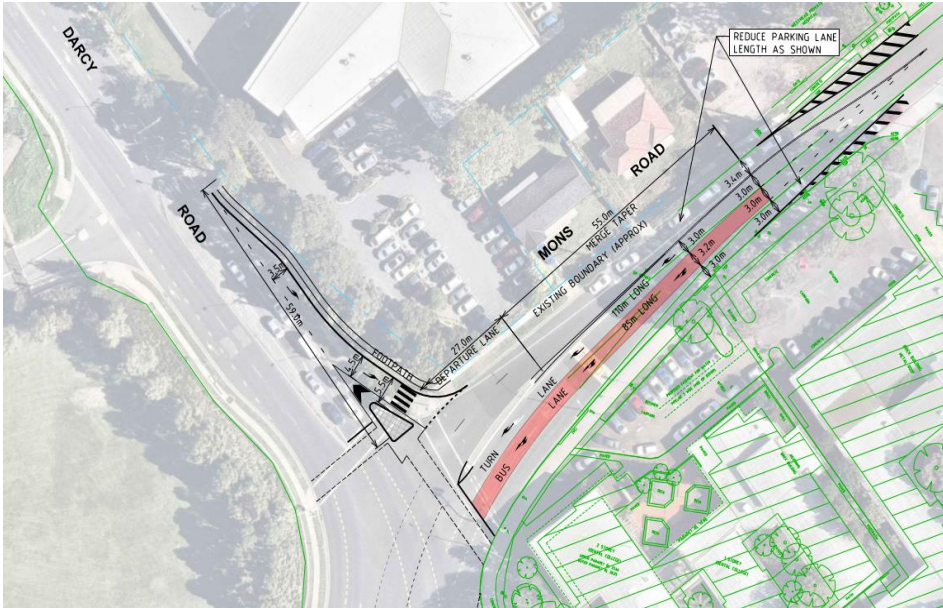
The following internal and external referrals were undertaken:

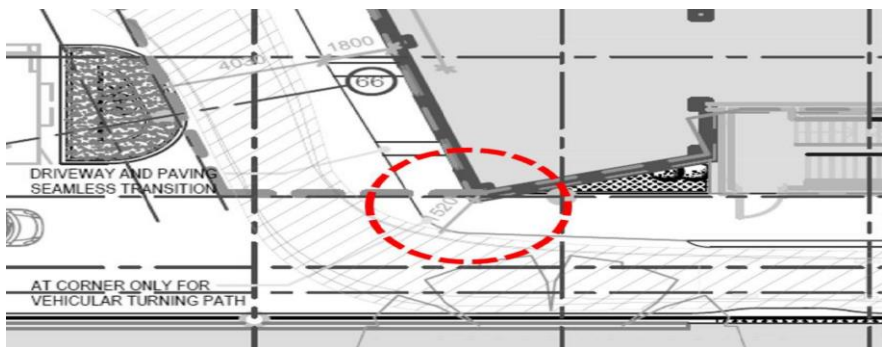
5.1 Sydney Central City Planning Panel Briefing

The matters raised by the Panel at its briefing meetings are addressed below:

Issues Raised	Comment
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<p>Safety in relation to potential flooding and the need for a flood plan and evacuation plan, considering that the proposal is for critical infrastructure and a flood barrier is likely to be required in relation to the PMF.</p>	<p>The site is subject to flash flooding from overland flows, from Milson's Creek and also rising floodwaters from the Toongabbie Creek.</p> <p>The applicant has submitted a Flood Assessment Report, a Flood Emergency Detailed Response Plan and a Flood Assessment Review, to address the flooding impacts on the site.</p> <p>The development proposes various flood safety measures, including physical barriers, escape routes, refuge in place facilities and flood responsive management procedures to minimise the flood risk to life and property associated with the use of land.</p> <p>The applicant proposes flood mitigation processes amongst other measures including the provision of 500mm high temporary flood barriers. Council's Senior Development & Catchment Engineer has reviewed the application and considers that the proposed flood barriers are not of adequate height or construction and that permanent, easily deployed and robust flood exclusion measures are required to be put in place up to the Probable Maximum Flood level of 2.5m above the ground level.</p> <p>Council's Senior Development & Catchment Engineer has recommended a number of conditions to ensure that the flood barriers to all openings of the building at ground floor level including fire stairs are to be protected with passive, automatic, fail-safe flood barrier systems such as self-actuated flood gates, roller or sliding doors and flood doors, so that floodwaters are excluded from the building.</p> <p>It should be noted that the ground floor level of the new building consists of uses such as administrative offices and the like and that all inpatient units, consulting rooms and other critical infrastructure is located at the upper floors, which are located above the PMF level.</p> <p>The applicant considers that it is potentially not practical to protect the ground floor up to the PMF level and Cardno Pty Ltd, flood engineers engaged by the applicant confirm that the flood protection to 500mm would be the equivalent to about a 1:3000 year event.</p> <p>On balance, it is considered that the measures such as proposed flood protection up to 500mm, shelter in place above the PMF (from the first floor up) and a restriction on title to maintain the at-grade carpark area as an overland flow path will be an improvement above the existing situation.</p>
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<p>Roads and Maritime Services traffic requirements for Darcy Road in the context of the Westmead Medical and Education precinct access and road widening requirements.</p>	<p>NSW Health Infrastructure in consultation with Roads and Maritime Services (RMS) and City of Parramatta Council have designed works for the improvement of traffic signals at the intersections of Darcy Road at Mons Road, Westmead.</p> <p>In this respect, Council at its meeting on 11 December 2017 resolved :</p> <ol style="list-style-type: none"> <i>The proposed traffic signal modification works in Darcy Road between Mons Road and Hawkesbury Road, Westmead including installation of a marked pedestrian crossing on the left turn slip lane with associated signage as shown in Figure 5 of this report.</i> <i>That parking restrictions on Mons Road, Westmead be altered in accordance with the as shown in Figure 5 of this report.</i>
	<ol style="list-style-type: none"> <i>The existing 'Taxi Zone' restriction on the south side of Darcy Road, west of Hawkesbury Road, be replaced with a 'Bus Zone' restriction as shown in Figure 5 of this report.</i> <i>That the applicant (i.e. NSW Health Infrastructure) to obtain approvals for the Traffic Management Plan for the 'No Right Turn' restriction from Darcy Road into Institute Road, Westmead and Traffic Control Signals Plan from Roads and Maritime Services.</i> <i>That all costs associated with the proposed works be paid for by Health Infrastructure at no cost to Council.</i>  <p>Figure 5: Darcy Road and Mons Road Intersection upgrade works.</p> <p>The upgrade works to the Darcy Road and Mons Road intersection have been carried out by the NSW Department of Health Infrastructure.</p>

<p>Public domain and accessibility - importance of sufficiently wide sidewalks.</p>	<p>The applicant has submitted amended plans to increase the width of the sidewalks to 1800mm for the inpatient drop off area, however it is noted that compliance has not been achieved at the south eastern corner of the proposed building as shown in figure below:</p>  <p>Figure 6: Sidewalk width -1550mm.</p> <p>A condition is recommended to ensure compliance with the requirement of 1800mm wide pathway for its entire length.</p>
<p>Noise impacts for neighbouring properties due to extended plant room which extends beyond the height plane.</p>	<p>An acoustic assessment was prepared by <i>Acoustic Logic</i> dated 11 November 2018 (<i>report No. 20181556.1/1611A/R0/GW</i>) to address the likely road noise impact on the proposed redevelopment of the hospital in addition to the noise impact of the proposed development on the surrounding area.</p> <p>The acoustic report measured the existing noise environment and outlined the acoustic requirements to be met for the proposed development and occupants of the hospital, including the noise emissions from the plant and equipment room building to comply with the requirements NSW EPA Noise Policy for Industry 2017.</p> <p>Based on the measurements taken, the report recommends acoustic attenuation measures need to be implemented into the construction of the proposed development. The acoustic report concludes that on condition that the recommendations are implemented, noise from the adjacent roadway will not have an adverse impact on the acoustic amenity of the development.</p> <p>A condition is recommended to ensure that noise emissions from the proposed plant and equipment meets the noise criteria set under the provisions of the NSW EPA Noise Policy for Industry 2017.</p>

5.2 Design Excellence Advisory Panel

Council's DEAP considered the application at a meeting on 10 October 2019. While the Panel were supportive of elements of the proposal they raised concern with the following:

<p>The Panel recommends</p> <p>i) <i>Re-configure the car park layout and provide safe pedestrian access from</i></p>	<p>i) The applicant has engaged traffic consultants to examine the possibility for the creation of a straight path extending directly from Darcy Road to the front entry door of the</p>
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Darcy Road. The pedestrian entry to the site is currently located adjacent to the existing vehicular access at the western end. The pedestrian entry conflicts with the car movements and the pedestrian entry is poorly signalled in architectural terms. Consider a straight path extending directly from Darcy Road to the front door;

ii) Provide ways of lighting and landscaping the undercroft to create a welcoming experience;

iii) The main entry is located at the end of a 24m deep south facing undercroft that is paved for car access and parking. The car domination of this space would be relieved by filling the 2 voids on either side of the space with ground level planting. The areas open to the sky (current entry paths at either side) could be planted with groundcovers and appropriate trees to provide a landscaped entry and pleasant outlook from the internal rooms;

iv) A detailed landscape plan for the Darcy Road frontage is to be prepared with Council, in particular addressing the replacement of street trees which will be affected by the development;

building.

The applicant has responded advising that there are presently two (2) pedestrian entrances from Darcy Road and that these pedestrian entrances have been aligned to minimise pedestrian crossing distances and are, as far as practicable, close to actual pedestrian desire lines. This advice was provided in a Technical Note prepared by Ason Group and is attached as Attachment No. 5 of this report.

This request is supported.

ii) A detailed landscape plan has been submitted that demonstrates additional planting along the front of house and the car park area. The landscape plan shows additional ground level planting and trees to moderate the domination of car parking in the area.

iii) Sun Analysis drawings have been submitted by the applicant that demonstrates the light received within the undercroft at various time of the day.



Figure7: Impression of the undercroft drop off zones.

iv) An amended landscape plan has been submitted, which shows additional ground level planting and trees to the Darcy Road frontage to moderate the domination of car parking in the area. The proposed landscaping to the Darcy Road frontage shows that planters have been located in the void areas at ground floor and within the car park and along the front of house.

<p>v) <i>Façade treatment: The dark colours selected for this south facing elevation, which will primarily be in shadow. It is noted that the perspective images, rendered in bright sunlight, will not match reality;</i></p> <p>vi) <i>The pedestrian entry is to be signalled in the Darcy Road elevation with architectural form and signage. This is an opportunity to further reduce the visual scale of the Darcy Road built form. The suggested direct access from Darcy Road, may be expressed in the design of the façade with a vertical break and appropriate signage.</i></p>	<p>v) The amended architectural plans are integrated with the proposed landscaping scheme to create a more welcoming experience for patients and staff alike.</p> <p>The use of vertical articulation through material and colour variations have been incorporated in reducing the building scale.</p> <p>vi) A new pedestrian entry from Darcy Road is not provided. The applicant has responded advising that a straight path extending directly from Darcy Road the front door is not be preferable, as this will result in increase in pedestrian crossing distance and crossing time and will also lead to increase in vehicular and pedestrian traffic conflicts.</p> <p>This advice was provided in a Technical Note prepared by Ason Group and is attached as Attachment No. 5 of this report.</p> <p>The amended architectural plans show that additional signage has been provided in conjunction with the proposed landscaping to articulate the pedestrian entrance located near the vehicular access from Darcy Road.</p> <p>However, no details of the signage, (such as site plans indicating the signage location, distances to boundaries, materials used, footing details, dimensions i.e. height, width, depth, clearance to ground level, details of the colour to scale and graphic content of the signage) is provided with this application and therefore any future signage for the site will be subject to a separate application.</p>
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Development Engineer	<p><u>Flooding Environment 1 - Floodway surround development in 1% AEP events.</u></p> <p>The hospital building is constructed over the channelised floodway of Milson's Creek and floodwater is predicted to flow beneath the building and to the immediate east and west of the building across the development. Floodwaters are also predicted to accumulate in the area adjacent to the front entrance.</p> <p>Milson's Creek is contained underneath the site in an open concrete channel approximately 40m wide and 130m long. This was approved by Parramatta Council in 1998.</p>
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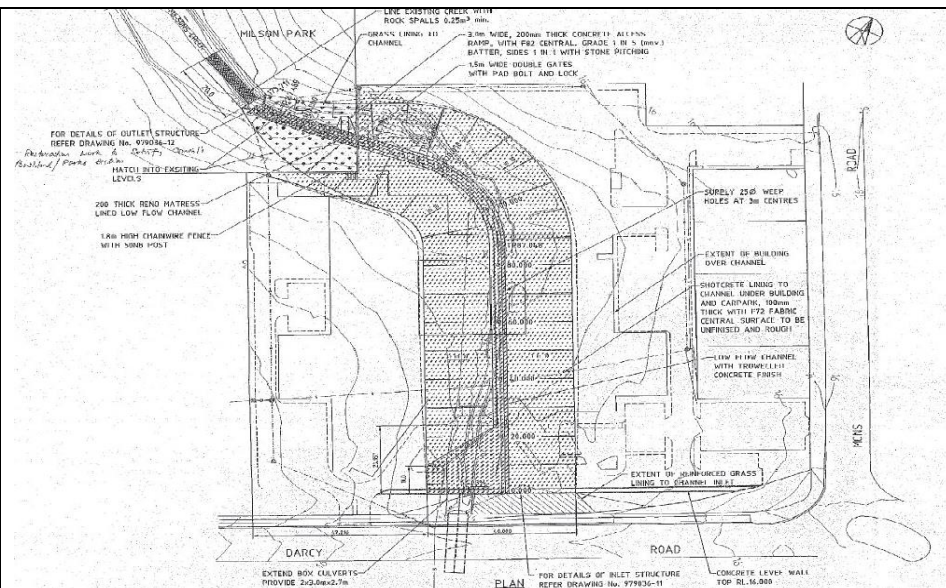


Figure 8: Council's Engineering drawing from 1998 showing 40m wide floodway beneath the hospital building.

Council's flood maps show this floodway (Milson's Creek) except for where it traverses the site. Across the hospital site there are three flow paths:

- A 40m wide concrete channel beneath the building fed by overland flow and a twin box culvert from Milsons Creek
- An informal overland flowpath across the development site through various passageways along the western side of the hospital building
- An informal overland flowpath through the development's car park along the eastern side of the hospital building.

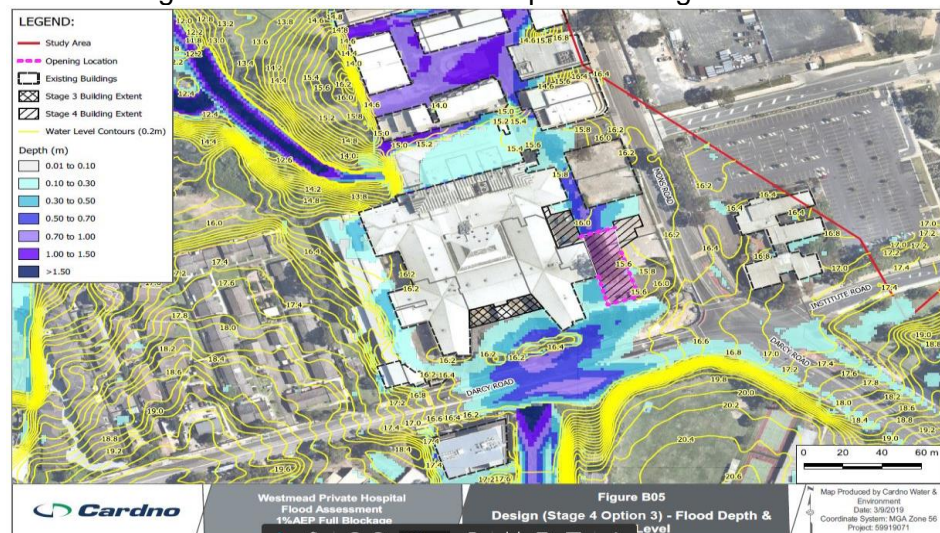


Figure 9: Informal overland flow path (floodway) around hospital building. Source: - Cardno 2019.

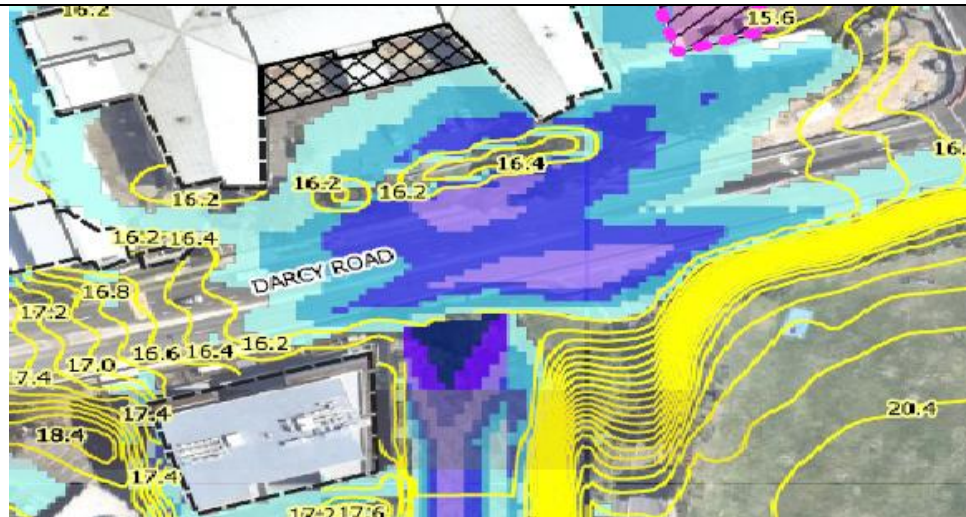


Figure 10: Flooding at hospital main entrance: Source Cardno 2019.

The floodwaters are predicted to flow beneath the structure and to the immediate east and west of the building across the development.

Floodwaters are also predicted to accumulate in the area adjacent to the front entrance. There is a large slot inlet along the front of the site adjacent to Darcy Street which is intended to direct overland flow down into the channel below.



Figure 11: Inlet slot for overland flows: Source Cardno 2019

Adopted Flood Levels

Council adopted 1% AEP (100 year ARI) flood level

Varies between RL15.6m AHD at Darcy Road frontage and RL15.5m AHD at northern property boundary.

Council adopted Probable Maximum Flood (PMF) level (from Toongabbie Creek)

RL 19m AHD

Cardno (2020) for the applicant, undertook flood modelling with the following resulting modelled flood levels.

Event / Location	Darcy Road	Hospital Front Carpark	Entrance to Undercroft Carpark
1% AEP Pre-development	16.13	16.12	15.47
1% AEP Post-development	16.14	16.12	15.47
PMF Pre-development	18.63	18.62	18.62
PMF Post-development	18.63	18.62	18.62

The applicant's adopted flood levels are slightly higher than Council's adopted levels. In this consent, Council's adopted levels are used in accordance with the Council's Floodplain Development Manual.

Flooding Environment 2 -Site fully inundated during Probable Maximum Flood (Toongabbie Creek)

In addition to the floodway conveyance (flow path) Council's modelling predicts that the hospital site will be inundated in a Probable Maximum Flood (PMF) or lesser event arising from Toongabbie Creek. The PMF floodwaters will be approximately 2.5m above the ground level at the front entrance of the hospital.

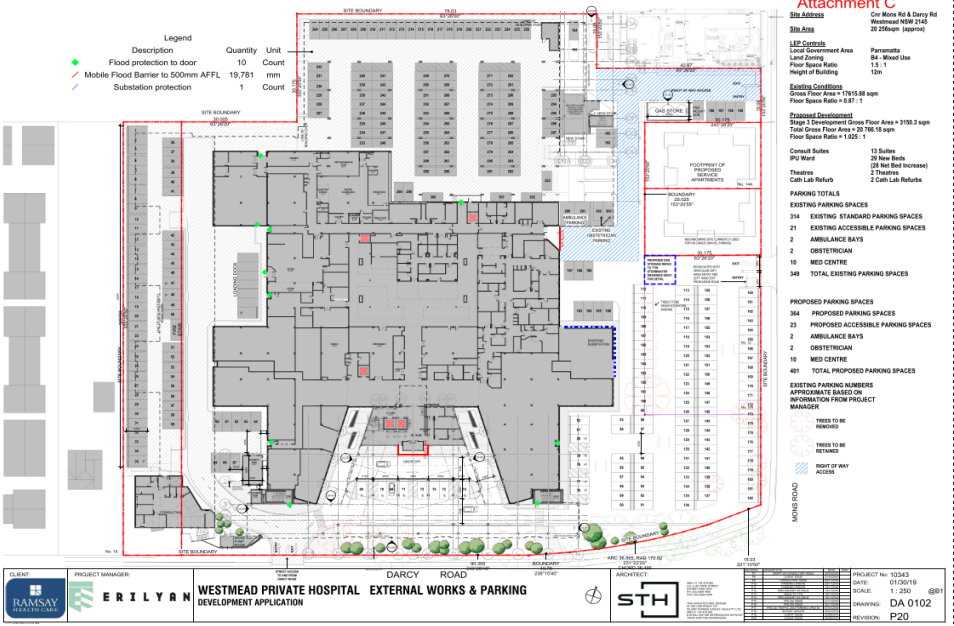
Proposed Flood Protection

The applicant proposes the following flood mitigation measures.

- Flood warning and alert system (described in the Flood Emergency Detailed Response Plan);
- Installation of flood-proof barriers, doors and seals to building entrances;
- Bollards to be installed at building doors to reduce the movement of vehicles against entries/exits;
- Protection of life-saving services to enable additional time with services unaffected;
- Signage in carpark areas and within the building to advise of potential flooding and evacuation routes to Level 1; and
- Training for flood wardens and staff of flood risk, management measures, and evacuation to Level 1.

Note: The first floor level is above the PMF level.

The flood mitigation measures proposed by the applicant to protect the ground floor from flooding include a flood barrier around the main entrance and installation of flood doors at door entries to the buildings (combined with fire doors) are shown on the diagram below.

	 <p>Attachment C</p> <p>Site Address: 301-303 Darcy Rd, Westmead NSW 2145 (20 Darcy Road)</p> <p>Site Area: 1.00 ha</p> <p>Site Details:</p> <ul style="list-style-type: none"> Local Government Area: Parramatta Land Use: 88 - Mixed Use Floor Space Ratio: 1.2m Height of Building: 12m <p>Existing Conditions:</p> <ul style="list-style-type: none"> Ground Floor Area: 17,015.00 sqm Floor Space Ratio: 0.87 : 1 <p>Proposed Development:</p> <ul style="list-style-type: none"> Stage 1 Development Ground Floor Area: 31,053.2 sqm Floor Space Ratio: 0.87 : 1 <p>Consultation:</p> <ul style="list-style-type: none"> 13 Suites 20 New Beds 20 New Beds (20 New Beds Increase) 2 Theatres 2 Cath Lab Refurb <p>Parking Totals:</p> <ul style="list-style-type: none"> EXISTING STANDARD PARKING SPACES: 314 EXISTING ACCESSIBLE PARKING SPACES: 21 EXISTING AMBULANCE SPACES: 2 EXISTING OBSTETRICIAN: 10 EXISTING MED CENTRE: 10 TOTAL EXISTING PARKING SPACES: 349 <p>Proposed Parking Spaces:</p> <ul style="list-style-type: none"> PROPOSED STANDARD PARKING SPACES: 364 PROPOSED ACCESSIBLE PARKING SPACES: 23 PROPOSED AMBULANCE SPACES: 2 PROPOSED OBSTETRICIAN: 2 PROPOSED MED CENTRE: 10 TOTAL PROPOSED PARKING SPACES: 401 <p>EXISTING PARKING SPACES APPROXIMATE BASED ON INFORMATION FROM PROJECT MANAGER:</p> <ul style="list-style-type: none"> TREES TO BE REMOVED: 8 TREES TO BE REPLACED: 14 PROPOSED NEW ACCESS: 1 <p>Client: RAMSAY HEALTHCARE</p> <p>Project Manager: ERILYAN</p> <p>Architect: STH</p> <p>Westmead Private Hospital External Works & Parking</p> <p>Development Application</p> <p>Project No: 103343</p> <p>Date: 01/09/19</p> <p>Scale: 1:500</p> <p>Drawing: DA 0102</p> <p>Revision: P20</p>
<p>Heritage Advisor</p>	<p>The site does not contain a heritage item and is not located within a heritage conservation area or in the vicinity of a Heritage Item. There will be no adverse impact from a heritage perspective.</p>
<p>Tree and Landscape Officer</p>	<p>Eight (8) trees proposed for removal for this development application. These trees are to be replaced with 14 new advanced trees. The landscaping proposed for this development is supported subject to conditions.</p>
<p>Traffic and Transport Engineer</p>	<p>Vehicular access to the site for patients, staff, visitors and service vehicles will be maintained by existing entry and exits. Reconfiguration of the carpark and a new access is proposed via Mons Road as part of a separate development application (DA/3/2020).</p> <p>A Traffic Impact Assessment report was submitted with the development application prepared by Ason Group dated 12 November 2018.</p> <p>The Parramatta DCP 2011 does not provide parking rates for hospitals or medical centres. The submitted Traffic Impact Assessment report estimates that the proposed 29 Beds and 13 Consulting suites require 23 parking spaces on weekdays and 14 parking spaces on weekends based on the proposed occupancy of the consulting suites and the IPU during peak periods.</p>

	<p>It is noted that an additional 38 parking spaces are proposed as a result of the proposed alterations and additions to the hospital.</p> <p>The Parramatta DCP 2011 does not require hospitals or medical centres to provide bicycle parking space. However, it is recommended that bicycle parking spaces be provided at the rate of 1 bicycle space per 200m² of floor space to encourage staff and visitors to use active transport. This will equal to the provision of $1 \times (3,150.3\text{m}^2 \text{ additional floor area} \div 200) = 15.7$ (16) bicycle parking spaces.</p> <p>This requirement is recommended as a condition of consent.</p> <p>This additional parking provision is considered adequate for the proposed development.</p> <p>The submitted Traffic Impact Assessment report estimates that the proposed 29 Beds and 13 Consulting suites will generate 81 vehicle trips per hour during both AM and PM peak periods.</p> <p>The result of the SIDRA modelling of the critical intersections in the locality show that the 'net' traffic volumes would result in minimal increases in delay at key intersections, except for the intersection of Darcy Road/ Mons Road/ Institute Road in morning peak period (LoS E to LoS F). The analysis further demonstrates that the net traffic generation volumes are of a sufficiently low order that once distributed on to the surrounding road network, the impacts of these volumes at the key intersections would be negligible and the intersections would operate as they currently do.</p> <p>The Department of Transport for NSW recommended that the applicant shall prepare a Travel Plan in consultation with Transport for NSW and Westmead Redevelopment precinct partners and submit to Council for consideration and approval, prior to the issue of an Occupation Certificate."</p> <p>This requirement is recommended as a condition of consent.</p> <p>Based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to recommended traffic related conditions.</p>
Environmental Health Officer (Waste)	<p>The applicant has submitted a waste management plan which details waste and recycling management of the on-going use of the proposed development.</p> <p>The proposal satisfies the requirements of Council's controls and can be supported, subject to conditions of consent, which include storage and disposal of hazardous/intractable waste, liquid and radioactive substances and clinical waste.</p>
Environmental Health Officer (Acoustic)	<p>An acoustic report has been submitted to address the likely road noise impact on the proposed redevelopment, in addition to the noise impact of the proposed development on the surrounding area.</p> <p>The acoustic assessment submitted is titled, <i>DA Acoustic Service</i> prepared by <i>Acoustic Logic</i> dated 11 November 2018 (<i>report No. 20181556.1/1611A/R0/GW</i>).</p>

	<p>The acoustic report measures the existing noise environment and outlined the acoustic requirements to be met for the proposed development and occupants of the hospital.</p> <p>Based on the measurements taken, the report recommends acoustic attenuation measures to be implemented into the construction of the proposed development. The report concludes that subject to the recommendations, noise from the adjacent roadway will not have an adverse impact on the acoustic amenity of the development.</p> <p>A condition has also been recommended to ensure that the proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and NSW EPA Noise Policy for Industry 2017.</p>
Public Domain	<p>Council's Public Domain team has reviewed the application and have raised no objections to the proposed alterations and additions to the hospital building, subject to the recommended conditions of consent for detailed drawings to be submitted for works relating to public domain such as but not limited to;</p> <ul style="list-style-type: none"> • Any publicly accessible areas; • Any works in a carriageway; and • Onsite landscape work. <p>The Public Domain drawings are to be submitted to the Group Manager, Development & Traffic Services Unit, for approval prior to the release of a Construction Certificate.</p> <p>conditions applied to reflect this requirement.</p>
Urban Design & Access Consultant	<p>Council's Urban Design team along with Council's Access Consultant have reviewed the application and raised no objections to the development application, subject to the following conditions:</p> <p>Final kerb, road and pavement layouts within the site is subject to Construction Certificate Drawings to demonstrate that:</p> <ul style="list-style-type: none"> ○ Pedestrian footpaths are minimum 1800mm in width. ○ Kerb ramps are to be designed in accordance to AS1428.1 2009, Figure 24, including location of ramps to ensure that these do not conflict with path of travel; ○ Provide dimension on drawings to show built form no closer to the Darcy Street boundary as shown in drawing DA2103/P15, dated 01/30/2019; and ○ Access to the accessible parking spaces is safe and does not require use of traffic lanes to access the entry of the building. <p>Conditions applied to reflect this requirement.</p>
Roads & Maritime Services	<p>Roads and Maritime Services has reviewed the submitted application and have no objections subject to recommended conditions of consent.</p>
Parramatta Light Rail	<p>Transport for NSW (Parramatta Light Rail) has reviewed the submitted application and issued concurrence subject to recommended conditions of consent.</p>

6. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

6.1 Section 1.7: Significant effect on threatened species, populations or ecological communities, or their habitats

The site is in an established urban area with low ecological significance. No threatened species, populations or ecological communities, or their habitats are impacted by the proposal.

7. ENVIRONMENTAL PLANNING INSTRUMENTS

7.1 Overview

The instruments applicable to this application comprise:

- SEPP (State and Regional Development) (SEPP SRD) 2011;
- SEPP No. 55 (Remediation) (SEPP 55);
- SREP (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005;
- SEPP (Infrastructure) (ISEPP) 2007; and
- Parramatta Local Environmental Plan (PLEP) 2011.

Compliance with these instruments is addressed below.

State Environmental Planning Policy (State And Regional Development) 2011

The proposed development has a Capital Investment Value (CIV) of more than \$5 million for Private infrastructure and Community Facilities. As such, Part 4 of this Policy provides that the application is 'regionally significant development' and therefore, the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

State Environmental Planning Policy 55 – Remediation of Land

Clause 7 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. In considering this matter it is noted that:

- The site is not identified in Council's records as being contaminated. The site does not have a history of a previous land use that may have caused contamination and there is no evidence that indicates the site is contaminated.
- A site inspection reveals the site does not have an obvious history of a previous land uses that may have caused contamination and there is no specific evidence that indicates that the site is contaminated.
- The proposal pertains to works within the existing Westmead Private Hospital site and is acceptable in respect to the requirements of Clause 7 of SEPP 55. Should any new information be discovered during construction, the applicant is to notify Council as the regulatory authority for the management of contamination land.
- This has been addressed through the imposition of a condition of development consent.

Therefore, in accordance with Clause 7 of the State Environmental Planning Policy No 55—Remediation of Land, the land is suitable for the proposed development.

Sydney Regional Environmental Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)

This Policy, which applies to the whole of the Parramatta Local Government Area (LGA), aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. The nature of this project and the location of the site are such that there are no specific controls which directly apply, with the exception of the objective of improved water quality. That outcome will be achieved through the imposition of suitable conditions to address the collection and discharge of water during construction and operational phases of the development.

State Environmental Planning Policy (Infrastructure) 2007

The proposed works result in the provision of 38 additional car parking spaces. A separate application for reconfiguration of the existing car park and provision of additional car parking on the site has been approved under DA/3/2020. There will be a total of 388 car parking spaces available on this site. The site as such, constitutes a 'traffic generating development' as it proposes more than 200 car parking spaces. The application was referred to the Roads and Maritime Services (RMS), who had no objection to the proposal subject to recommended conditions.

The application also requires concurrence of Transport for NSW (TfNSW), under Clause 86 of this SEPP due to its proximity to the Parramatta Light Rail Stage 1 works. Transport for NSW has issued concurrence subject to recommended conditions of consent, requiring the applicant to prepare a Travel Plan in consultation with Transport for NSW and Westmead Redevelopment precinct partners and submitted to Council for consideration and approval, prior to the issue of an Occupation Certificate. The Travel Plan should:

- *Identify strategies and mode share targets that encourage the use of public and active transport and reduce the proportion of single-occupant car journeys to the site;*
- *Include a Transport Access Guide that provides information to employees, patients and visitors about the range of travel modes, access arrangements and supporting facilities that service the site;*
- *Identify relevant workplace policies such as flexible working arrangements that enable administrative staff to travel outside peak periods, or which reduce the need for work related travel;*
- *Consider the appropriateness of any relevant parking policies to manage travel demand; and*
- *Nominate a party responsible for implementing the Travel Plan and its ongoing monitoring and review, including the delivery of actions and associated mode share targets.*

The proposal satisfies the requirements of the State Environmental Planning Policy (Infrastructure) 2007 and can be supported, subject to recommended conditions of consent.

Parramatta Local Environmental Plan 2011

The site is zoned B4 Mixed Use under Parramatta Local Environmental Plan 2011. The proposed works do not alter the existing use as a hospital and is permissible with consent in the zone.

Zone Objectives

The proposed development is consistent with the aims and objectives of the B4 Mixed Use zoning applying to the land as the proposed works:

- *Provide a mixture of compatible land uses;*
- *Integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling;*
- *Encourage development that contributes to an active, vibrant and sustainable neighbourhood;*
- *Support the higher order Zone B3 Commercial Core while providing for the daily commercial needs of the locality; and*
- *Protect and enhance the unique qualities and character of special areas within the Parramatta City Centre.*

The relevant objectives and requirements of PLEP 2011 have been considered in the assessment of the development application, and are contained within the following table.

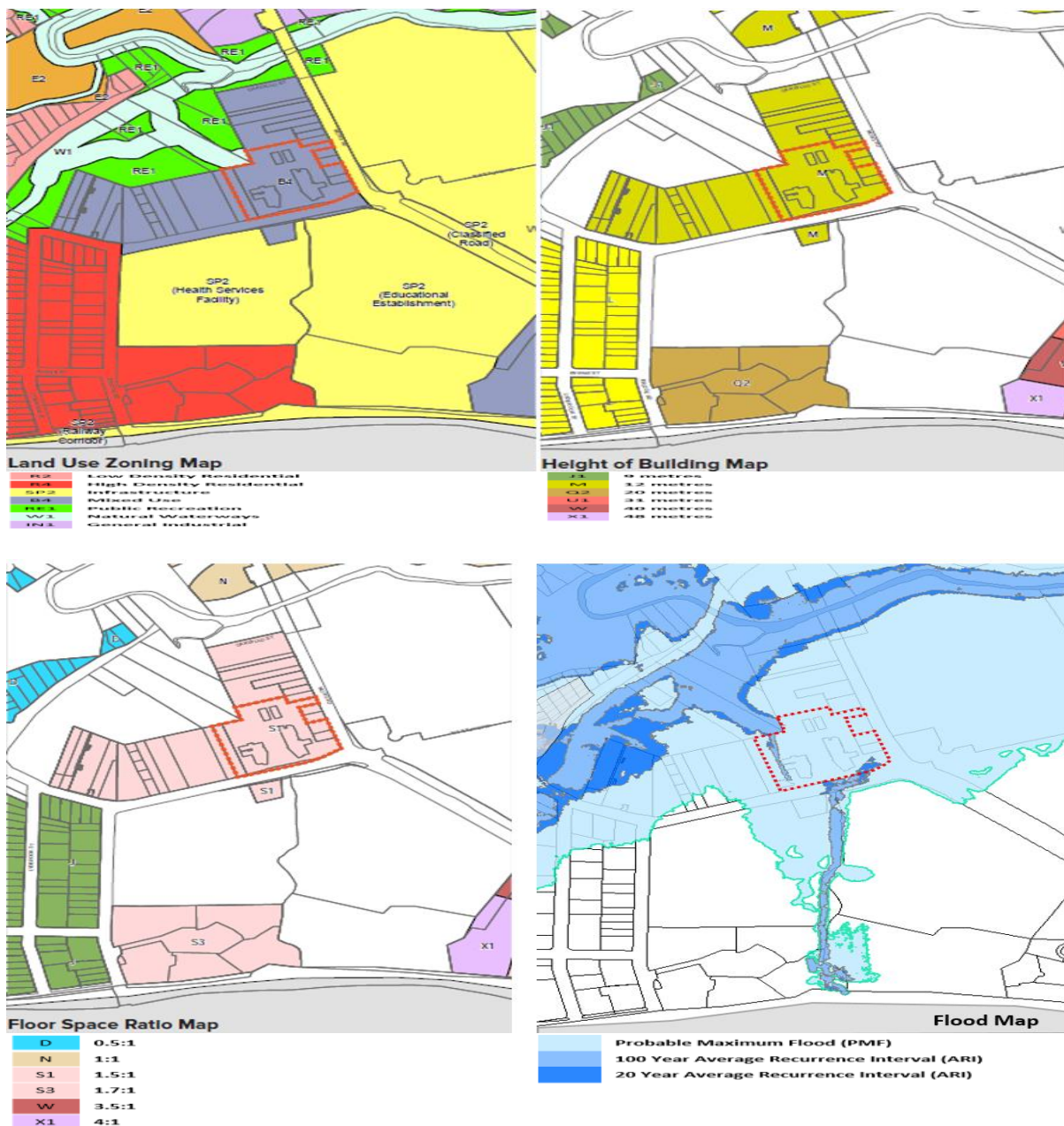
Development Standard	Compliance
Clause 2.3 Zone objectives and land use table	The site is zoned B4 Mixed Use. The proposed development is defined as a “hospital” which is permissible with development consent within the B4 zone. The proposal meets the objectives of the B4 Mixed Use zone in providing a compatible land use which integrates with similar developments in accessible locations and in close proximity to public transport.
Clause 2.7 Demolition requires development consent	Yes. Consent is sought for the demolition of a part of the existing building on the site.
Clause 4.3 Height of Buildings Allowable: 12m Proposed = 14.24m Variation = 2.24m (18.66%)	No, however acceptable pursuant to Clause 4.6 variation submitted in support of the application. Refer to the assessment under Clause 4.6 following this table.
Clause 4.4 Floor Space Ratio <u>Allowable:</u> = 1.5:1 (303084m ²) <u>Proposed:</u> = 1.025:1 (20,766.5m ²)	Yes.
Clause 4.5 Calculation of floor space ratio and site area	The Floor Space Ratio and Site Area has been calculated in accordance with this clause.
Clause 4.6 Exceptions to development standards	Yes. A variation request pursuant to Clause 4.6 has been submitted. Refer to the assessment under Clause 4.6 following this table.
Clause 5.1A Development on land intended to be acquired for public purposes	The proposal is not identified on the map.
Clause 5.6 Architectural roof features	An architectural roof feature is not proposed.

Clause 5.7 Development below mean high water mark	The proposal is not for the development of land that is covered by tidal waters.
Clause 5.10 Heritage Conservation	The site does not contain a heritage item and is not located within a heritage conservation area or in the vicinity of a Heritage Item.
Aboriginal Places of Heritage significance	The site is identified as Low Aboriginal Heritage Sensitivity.
Clause 5.11 Bush fire hazard reduction	The site is not identified as bushfire prone land.
Clause 6.1 Acid Sulfate Soils	An Acid Sulfate Soils data is not available for this site. An Acid Sulphate Management Strategy is not required in this case as there is no basement excavation.
Clause 6.2 Earthworks	Council's Development Engineer has reviewed the application and considers that the proposed earthworks are satisfactory.
Clause 6.3 Flood planning (1) The objectives of this clause are as follows— (a) <i>to minimise the flood risk to life and property associated with the use of land,</i> (b) <i>to allow development on land that is compatible with the land's flood hazard, taking into account</i>	<p>The current hospital is constructed above Milson Creek and the site is classified as flood prone land.</p> <p>Council's adopted flood levels are:-</p> <ul style="list-style-type: none"> • 1% AEP (100 year ARI) varies from RL15.6m AHD at Darcy Road frontage to RL15.5m AHD at northern property boundary. • Probable Maximum Flood (PMF) (Toongabbie Creek) is RL 19m AHD. <p>A Flood Assessment report along with a Flood Emergency Evacuation report accompanied the application.</p> <p>Additionally, a Flood Assessment review was carried out by the applicant, to address matters raised by Council's Senior Development Engineer. The flood reports have been reviewed and assessed against the objectives of this Clause by Council's Senior Development, who have provide the following comments:-</p> <p>This proposal will increase the size of the development by 15% in gross floor area. This represents a small increase in occupancy, however this increase is offset by various flood safety measures, including physical barriers, escape routes, refuge in place facilities and flood responsive management procedures, all of which will improve safety on the site as a whole and thereby reduce the overall risk to occupants.</p> <p>The floodwaters will flow around all sides and beneath the building and rising floodwaters from Toongabbie Creek will inundate the entire area including the hospital during a PMF flood. However,</p>

<p><i>projected changes as a result of climate change.</i></p>	<p>the mitigation measures introduced by this application and Council's recommended conditions aim to manage these hazards to an acceptable level which is commensurate with this minor increase in the size of the development. Recent flood modelling carried out by Council now considers climate change (from increased rainfall intensity) but has not yet quantified it.</p>
<p><i>(c) to avoid significant adverse impacts on flood behaviour and the environment.</i></p>	<p>The development as it now stands is likely to have a significant impact on flood behaviour as it obstructs Milsons Creek. The proposed minor extensions will not significantly alter this except to formalise the informal overland flow paths along the driveways and through car parks that exist around the building.</p>
<p>(2) This clause applies to land at or below the flood planning level.</p>	<p>The flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event (1% AEP) plus 0.5 metre freeboard. This applies to this development.</p>
<p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development.</p>	
<p><i>(a) is compatible with the flood hazard of the land, and</i></p>	<p>See above Clause 1 (b).</p>
<p><i>(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i></p>	<p>The proposed extensions will not significantly alter the flood behaviour and the proposed measures will formalise and secure the informal overland flow paths along driveways and through car park that exist around the building.</p>
<p><i>(c) incorporates appropriate measures to manage risk to life from flood, and</i></p>	<p>The development application is supported by a flood emergency response plan and drawings showing flood barriers and other measures to protect occupants of the hospital from flooding. These will be developed further prior to the release of a Construction Certificate in accordance with recommended conditions of consent.</p>
<p><i>(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i></p>	<p>The site adjoins the natural water courses of Milsons Creek and Toongabbie Creek. Soil erosion and transport control measures are proposed. The proposed construction works are minor and wholly within the site and not likely to affect the water course.</p>

<i>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i>	<p>The proposed extensions are not likely to significantly increase in such costs.</p> <p>The proposal satisfies Council's controls and can be supported, subject to standard and special conditions of consent.</p>
Clause 6.4 Biodiversity protection	The site is not identified on this map.
Clause 6.5 Water protection	The site is not identified on this map.
Clause 6.6 Development on landslide risk land	The site is not identified on this map.
Clause 6.7 Affected by a Foreshore Building Line	The site is not located in the foreshore area.

Parramatta LEP 2011 Maps



Clause 4.6 Exceptions to Development Standards

Clause 4.6 Variation Assessment

Clause 4.6 of PLEP 2011 allows the consent authority to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

The proposal does not comply with the maximum permissible building height of 12m stipulated under Clause 4.3 – Height of Buildings pursuant to Parramatta LEP 2011. The proposed building height to the main building is 12m, however the building height to the proposed new plant room is 14.24m.

The development proposal exceeds the maximum permissible building height by 2.24m which is 18.66% variation to the development standard.

Clause 4.6(1) – Objectives of clause 4.6

The objectives of this clause are:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances”*

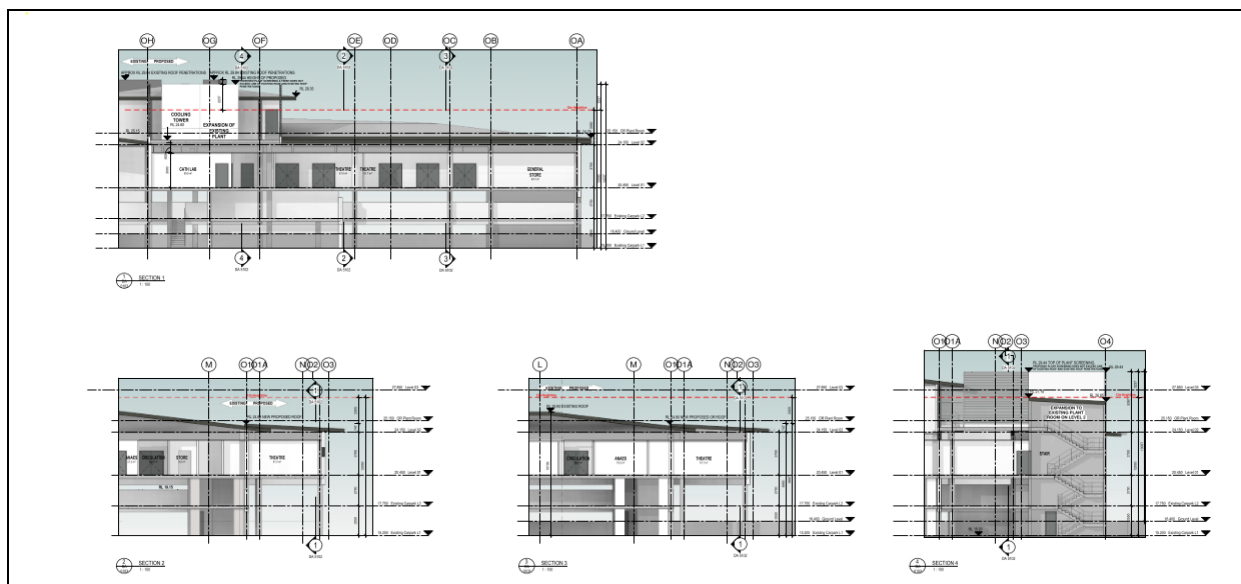


Figure 13. Proposed breach of height limit (red line represents 12m height standard).

Clause 4.6(3) - The Applicant's written request

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- “(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided the following environmental planning grounds to justify the non-compliance with the development standard (relevant extracts provided). The full request is included in Attachment No. 3.

- The proposed extension does not breach the 12m maximum building height except for the expansion of the existing plant room which is located in the north eastern portion of site;
- The proposed height non-compliance relates to the extension of the existing plant equipment that is located in the north eastern portion of the site. The extension of this area of plant equipment allows for the ongoing operation of Westmead Private Hospital. Given that the proposed extension to the plant equipment is lower than the highest point of the existing building it is considered that the transition in built form is acceptable;
- The proposed plant equipment will not have any impact on loss of privacy and loss of solar access to the existing development on site or surrounding development;
- The proposed development is entirely consistent with the underlying objectives and purposes of the height standard;
- The proposed development is entirely consistent with the underlying objective and purpose of the B4 High Mixed Use zone;
- Strict compliance with these development standards will result in the inability to co-locate plant equipment required to service Westmead Private Hospital; and
- The proposed development will not result in significant environmental or amenity impacts.

An assessment to determine whether compliance with the standard is 'unreasonable and unnecessary' has been undertaken. It is considered that there are 'sufficient planning grounds' to support the variation and recommend the variation be approved for the following reasons:

(a) Unreasonable and Unnecessary

An assessment against the relevant case laws established in the NSW Land and Environment Court has been undertaken below. These cases establish tests that determine whether a variation under Clause 4.6 of an LEP is acceptable and whether compliance with the standard is unreasonable or unnecessary.

Wehbe v Pittwater Council

In the case of *Wehbe v Pittwater Council* [2007] NSWLEC 827 the presiding Chief Judge outlined the following five (5) circumstances, these being:

1. *The objectives of the development standard are achieved notwithstanding non-compliance with the standard.*

Height of Buildings

To permit a height of buildings that will provide a transition in built form and land use intensity within the area, minimise visual impact, loss of privacy and respect the existing character of the area."

The proposed height non-compliance relates to the extension of the existing plant room located in the north eastern portion of the site. The proposed extension to the plant equipment is lower than the highest point of the existing building. It is considered that the transition in built form is acceptable. In addition, given the orientation and location of this extension, it is unlikely to impact on loss of privacy and loss of solar

access to the existing development on site or surrounding development, including the recently approved Service Apartments at No. 14A Mons Road, Westmead.

2. *The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*

The underlying objectives and purpose of the building height control is relevant to the proposed development. However, the proposed development is consistent with these objectives on the basis that the proposed height results in a development which is consistent with the existing development on the site and sits comfortably within the context of the site with no significant adverse impacts to adjacent properties.

3. *The underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*

The underlying objectives of the height standard is to permit a building that is appropriate for the site, in keeping with the development potential and minimises any adverse impacts to the surrounding locality. Given the variation is to a small section of the site and there are no significant adverse impacts to the surrounding developments in the area, it is considered appropriate to allow the height breach. It should be noted that the development is not achieving its full development potential (FSR of 1.025:1 proposed, 1.5:1 allowable).

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*

There is an existing non-compliance to the building height on this site and the proposed height variation is less than the existing breach. Council has varied the height standard development in circumstances where the objectives of the control are achieved and in these instances it has been appropriate to support an alternative building height.

5. *The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.*

The applicant does not challenge that the zoning is inappropriate or that the standard is unreasonable or unnecessary.

- (b) ***Are there are sufficient environmental planning grounds to justify contravening the development standard?***

Initial Action Pty Ltd v Woollahra Municipal Council

Chief Judge Preston, in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- *In order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the*

development standard, not simply promote the benefits of carrying out the development as a whole; and

- *There is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.*

The element of building which exceeds the height control has been appropriately designed to be located within the north eastern corner of the site and is located 13m from the serviced apartments at No 14A Mons Road, Westmead. The location of the building mass and setbacks from the street boundaries ensures that the height of the building will not be visually prominent when seen from the public domain.

As addressed in the applicant's clause 4.6 submission, the height variation does not result in additional gross floor area or any significant impact on loss of privacy and loss of solar access to the existing development on site or surrounding development.

In the *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC case it was established that:

"Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development".

While it is considered that the proposal does have several benefits over a compliant scheme, the Panel does not have to be satisfied with regard to such a test.

Clause 4.6(4) - Consent Authority Assessment of Proposed Variation

Clause 4.6(4) outlines that development consent must not be granted for development that contravenes a development standard unless:

- "a) the consent authority is satisfied that:*
 - i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- b) the concurrence of the Secretary has been obtained."*

The matters of clause 4.6(4)a)i) have been dealt with in the preceding section. Clause 4.6(4)a)ii) and Clause 4.6(4)b) have been assessed as follows:

Public Interest

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Concurrence

Assumed concurrence is provided to regional planning panels (such as the SCCPP) as per NSW Department of Planning Circular 'Variations to development standards' Ref: PS 18-003 dated 21/02/2018 (See Attachment No. 4). There is no limit to the level of non-compliance for which concurrence can be assumed.

8. DEVELOPMENT CONTROL PLANS

Parramatta Development Control Plan 2011

The relevant matters to be considered under Parramatta Development Control Plan 2011 for the proposed development are outlined below.

Development Control		Compliance
Part 2 – Site Planning		
2.4.1 Views and Vistas		There are no significant views to or from the site identified within the DCP and the site is not in proximity to a Heritage Conservation Area.
2.4.2 Water Management		
2.4.2.1 Flooding		The site is flood prone land. See detailed flood assessment carried out under Clause 6.3 of the Parramatta LEP2011.
Objectives		The objectives of this control are addressed below.
O.1 To ensure the proponents of development and the community in general are aware of the potential flood hazard and consequent risk and liability associated with the use and development of flood liable land.		The application includes a Flood Emergency Response Plan. This is supported by signage, warning mechanisms, flood drills and other measures to improve flood awareness. Appropriate conditions are recommended to reinforce this.
O.2 To manage flood liable land in an economically, environmentally and socially sustainable manner.		The works under the application will improve flood preparedness for the hospital as whole at relatively moderate cost in relation to the benefit.
O.3 To ensure that developments with high sensitivity to flood risk (eg. critical public utilities) are sited and designed to provide reliable access and minimise risk from flooding.		The alterations and additions to the existing hospital will increase the gross floor area, however as a result of this, the proposed additional flood mitigation measures will help to improve risk management for the facility as whole.
O.4 To allow development with a lower sensitivity to the flood hazard to be located within the floodplain, subject to appropriate design and siting controls and provided that the potential consequences that could still arise from flooding remain acceptable.		Given that the facility exists, the aims of this application, combined with the implementation of consent conditions, are to manage any adverse consequences of flooding for the site.
O.5 To prevent any intensification of the development and use of High Flood Risk Precinct or floodways, and wherever appropriate and feasible, allow for their conversion to natural waterway corridors.		The existing building and proposed extension are located across a high risk floodway corridor. This application will result in minor intensification of this use which has been considered to be within acceptable limits.

O.6 To ensure that the proposed development does not expose existing development to increased risks associated with flooding.	The works proposed under the current application do not appear to expose the existing development to increased risks from flooding.
O.7 To ensure building design and location address flood hazard and do not result in adverse flood impact and unreasonable impacts upon the amenity or ecology of an area.	The new extensions and the associated flood protection measures such as flood barriers addresses the flood hazard for this development. Provision of a flood refuge under this application, offers some improvement in local amenity. There are no foreseeable ecological impacts.
O.8 To minimise the risk to life by ensuring the provision of appropriate access from areas affected by flooding up to extreme events.	To minimise the risk, a 'shelter in place' is provided at the first floor level which is above the PMF. This access will be protected with flood gates, flood doors and other forms of flood proofing.
O.9 To minimise the damage to property, including motor vehicles, arising from flooding.	Flood protection barriers will reduce flood impacts on property. Bollards are to be provided to contain any vehicles that may float in the car parks.
O.10 To incorporate the principles of Ecologically Sustainable Development.	The alterations and additions and the additional car parking will not affect the principles of ESD to the limited extent that they have been followed in the existing building. Protecting the ground floor from the ingress of floodwaters is an improvement of sustainability.
2.3.3 Soil Management	
2.4.3.1 Sedimentation	An Erosion and Sediment Control Plan was submitted with the development application and conditions of consent ensuring minimisation of soil erosion are recommended.
2.4.3.2 Acid Sulfate Soils.	Yes. Refer to PLEP 2011 table.
2.4.4 Land Contamination	Yes. Refer to body of report.
2.4.5 Air Quality	Relevant conditions for air quality are recommended to ensure no adverse air quality impacts are generated from the development during demolition, construction and ongoing use.
2.4.6 Development on Sloping Land	The proposal complies and the design of the development responds to the site topography.
2.4.7 Biodiversity	The proposal complies.
2.4.8 Public Domain	The proposal satisfactorily addresses the public domain along Darcy and Mons Road frontages.
Part 3 – Development Principles	
3.1 Preliminary Building Envelope	
3.1.3 Preliminary Building Envelope (Height)	No, the proposed height exceeds the 12m limit by 2.4m, however acceptable, refer to assessment under Clause 4.3 of the PLEP 2011.

3.1.3 Preliminary Building Envelope (Floor Space Ratio)	Yes, refer to assessment under Clause 4.4 of PLEP 2011
3.1.3 Preliminary Building Envelope (minimum site frontage)	Yes, the frontage of the site is greater than 18 metres as per requirement under the PDCP 2011 for sites with two street frontages.
3.1.3 Preliminary Building Envelope (front setback)	Front setback of 3m is required in a B4 zone, which is typically to commercial /retail uses. The proposed front set back is 4.5m, to provide for additional tree planting facing Darcy Road.
3.1.3 Preliminary Building Envelope (side setbacks)	<p>The side setback requirement under this clause calls for the side setbacks to be assessed dependent on the amenity impacts on adjoining development.</p> <p>In this case the, the existing setbacks to the side boundaries are maintained and is considered satisfactory.</p>
3.1.3 Preliminary Building Envelope (rear setback)	<p>15% of the rear setback for a residential development or a residential zone and otherwise on merit.</p> <p>In this case the, the existing setback to the rear boundary is maintained and is considered satisfactory.</p>
3.3.4 Acoustic Amenity	<p>An acoustic report has been submitted to address the likely road noise impact on the proposed redevelopment in addition to the noise impact of the proposed development on the surrounding area.</p> <p>The major noise issues related to the proposed development are:</p> <ul style="list-style-type: none"> • External traffic noise from Darcy Road and Mons Road intrusion into the project site. • Noise emission from plant service the project building. <p>Based on the measurements taken the report recommends acoustic attenuation measures to be implemented into the construction of the proposed development.</p> <p>Council's Environmental Health Officer has reviewed the application and raised no objections to the proposal subject to conditions.</p>
3.2 Building Elements	
3.2.1 Building Form and Massing	The proposed building results in a non-compliance with regard to the maximum building height control. The variation to the building height is in relation to the small section of the proposed

Buildings are to be of a height that responds to the topography and the shape of the site.	extensions to the plant and equipment room that is consistent with the height of the existing building. Refer to LEP table for discussion on the building height.
The proportion and massing of buildings is to relate favourably to the form, proportions and massing of existing and proposed buildings patterns in the street.	
Building height and mass should not result in unreasonable loss of amenity to adjacent properties, open space or the public domain.	The proposed alterations and additions respect the existing built form on site and will preserve the amenity of the surrounding properties.
The form and massing of buildings is to provide a transition between adjoining land use zones and building types.	The built form reflects the street wall height of surrounding buildings in order to enhance the streetscape character.
3.2.2 Building Facades and Articulation	The articulated façade is applied to imitate the surrounding urban grain and reflect the existing built form rhythm along Darcy Road.
3.2.3 Roof Design	The proposed roof design for the alterations and additions respect the existing roof form of existing hospital building and additionally, the proposed roof form is typical of the roof forms exhibited in the Westmead Health and Education Precinct.
3.2.5 Streetscape	<p>The proposed development will enhance the character by responding to the existing and emerging urban fabric of the surrounding area. The proposed alterations and additions will contribute to the urban legibility through a distinctive new entry and permeable ground plane which allows for an improved pedestrian and wayfinding experience for the overall site.</p> <p>Therefore, it is considered that the proposed development is acceptable in terms of streetscape.</p>
3.3 Environmental Amenity	
3.3.1 Landscaping	The proposed landscaping is suitable for the type of development proposed and context of the site within the hospital site. The existing trees along Darcy Road frontage are proposed to be replaced by a new row of trees to keep a clear distance of 3m to the new building in order to allow for crown growth of these trees.
3.3.3 Visual Privacy	The proposal does not result in adverse overlooking impacts to adjoining properties.
3.3.4 Acoustic Privacy	An acoustic report was submitted with the development application. Council's Environmental Health Officer has reviewed the proposal and raises no objections to the proposed acoustic measures recommended within the

	acoustic report and recommended conditions of consent.
3.3.6 Water Sensitive Urban Design	The proposed development complies with the DCP controls relating to stormwater management, subject to recommended conditions of consent. Refer to referral comments provided by Council's Development Engineer.
3.3.7 Waste Management	The submitted Waste Management Plan details the types, volumes and methods of waste disposal for the development during the demolition and construction phase. Council's Environmental Health Officer has reviewed the proposal and raises no objections with the proposed waste management measures subject to recommended conditions of consent.
3.5 Heritage	The site is not located within a Heritage Conservation Area, does not contain a heritage item however is in the vicinity of a local heritage item. St Council's Heritage Advisor has reviewed the application and considers to have no heritage impact.
3.6 Movement and Circulation	
3.6.2 Parking and Vehicular Access	The Parramatta DCP 2011 does not provide parking rates for hospitals or medical centres. Refer to the discussions under State Environmental Planning Policy (Infrastructure) 2007 and to traffic referral comments in this report.
3.6.3 Movement and Circulation	Information has been submitted to demonstrate that the proposed movement and circulation within the development meets Australian Standards and the objectives and controls for this section of the DCP (refer to traffic referral comments in this report).

9. PLANNING AGREEMENTS

The proposal is not subject of a planning agreement.

10. THE REGULATIONS

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection have been addressed by appropriate consent conditions.

The subject premises shall be upgraded (where applicable) under the provisions of Clause 94 of the Environmental Planning and Assessment Regulations 2000.

11. THE LIKELY IMPACTS OF THE DEVELOPMENT

Context and setting

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites?

Response

This proposal will not result in unacceptable adverse physical impacts as:

- The design and location of the building will not preclude surrounding land from being developed in accordance with planning controls;
- The proposal will not generate noise or diminish views that would be detrimental to adjacent and surrounding sites; and
- While the proposal will result in overshadowing to surrounding development, as a result of the tall and slender form of the building, any shadows cast by the additional storeys will move quickly across building facades.

Is the proposal’s appearance in harmony with the buildings around it and the character of the street?

Response

This proposal will have a satisfactory relationship with its context for the following reasons:

- The scale, form and presentation of the building is consistent with planning controls, and the design and site planning is acceptable as independently assessed by Design Excellence review Panel; and
- The built form does not result in any significant adverse impacts for adjacent sites.

Built Form

Height

The proposal results in minor non-compliance with the LEP controls. It is important to note that this breach to the maximum building height is located within a small portion (plant and equipment room) of the site and is required to ensure the continued operation of Westmead Private Hospital and the proposed extension. Given that the proposed extension to the plant equipment is lower than the highest point of the existing building and that the height breach will not result in any additional overshadowing or overlooking impacts, it is considered that the transition in built form is acceptable.

An assessment of Clause 4.6 statement submitted by the applicant has been undertaken earlier in this report and it is considered that sufficient environmental planning grounds have been demonstrated to vary this development standard.

Flooding

The hospital site is located across the whole floodway of Milson's Creek. Floodwaters are predicted to flow beneath the structure and to the immediate east and west of the building across the whole development.

A Flood Assessment Report and Flood Emergency Detailed Response Plans have been submitted by the applicant to address the flooding impacts on the site. In addition, a supplementary Flood Assessment Review was carried out by the applicant to address matters raised by Council Engineers in relation to flood management measures for the site.

The proposed works will increase the size of the development by 15% in gross floor area. This represents a small increase in occupancy, this increase however is offset by various flood safety measures, including physical barriers, escape routes, refuge in place facilities and flood responsive management procedures all of which will improve safety on the site as a whole and thereby reduce the overall risk to occupants.

12. SITE SUITABILITY

Subject to the conditions provided within the recommendation of this report, the site is suitable for this development.

13. SUBMISSIONS

The application was notified and advertised in accordance with Appendix 5 of DCP 2011 between 4 September and 25 September 2019. During this time, no submissions were received.

Amended Plans Yes

Summary of amendments

Amended architectural plans were submitted with the following changes:

- Plans showing the pedestrian pathways is in accordance with AS1428.1 2009 to increase pathways to a width of 1800mm and
- Additional planting to the Darcy Street frontage.

In accordance with Clause 5.5.9 of Council's notification procedures entitled "*Notifications of Amended Development Applications Where The Development Is Substantially Unchanged*" the application did not require re-notification as the amended application is considered to be substantially the same development and does not result in a greater environmental impact.

CONCILIATION CONFERENCE

On 11 December 2017, Council resolved that:

"If more than 7 unique submissions are received over the whole LGA in the form of an objection relating to a development application during a formal notification period, Council will host a conciliation conference at Council offices."

Conciliation Conference – Required and Not Held

The application did not receive any submissions during the formal notification period and as a result a Conciliation Conference was not required to be held.

14. PUBLIC INTEREST

Subject to resolution of the issues of concern as addressed by the recommendation of this report, no circumstances have been identified to indicate this proposal would be contrary to the public interest.

15. PARRAMATTA S94A DEVELOPMENT CONTRIBUTION PLAN

As the cost of works for the development exceeds \$250,000 a Section 7.12 development contribution 1.0% is required to be paid. The cost of works estimate submitted with the application is 22,700,000. Accordingly, the Section 7.12 contributions will be calculated on the value of \$22,700,000 (as per Clause 25J of the EP&A Regulation 2000).

A relevant condition of consent pertaining to the payment of Section 7.12 contributions prior to the issue of a Construction Certificate is included within draft conditions of consent.

16. SUMMARY AND CONCLUSION

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is suitable for the site and is in the public interest. The proposal is recommended for approval subject to conditions for the following reasons:

1. The development is permissible in the B4 zone and satisfies the requirements of all the applicable planning controls with one minor exception being the maximum building height control proposed.
2. A written request to vary the building height development standard has been received. The variation sought is not likely to have any adverse environmental impacts. As such, compliance with the standard is unnecessary. Accordingly, Council believes that there are sufficient environmental planning grounds to justify the variation and finds that the application is satisfactory. Council is therefore satisfied that the Applicants Clause 4.6 variation request has adequately addressed the matters required to be demonstrated in Clause 4.6(3) of Parramatta Local Environmental Plan 2011 and that that the proposed development will be in the public interest because it is consistent with the objectives for development within the B4 zone in which the development is proposed to be carried out.
3. The development will be compatible with the emerging and planned future character of the Westmead precinct.
4. For the reasons above, approval of the application is in the public interest.

17. RECOMMENDATION

- a) **That** the Sydney Central City Planning Panel as the consent authority support the variation to Clause 4.3 – Building Height of Parramatta Local Environmental Plan 2011 under the provisions of Clause 4.6.
- b) **That** the Sydney Central City Planning Panel as the consent authority grant consent to Development Application No. DA/487/2019 for alterations and additions to existing Westmead Private Hospital comprising of lot consolidation, demolition works, construction of a three storey building to accommodate new consulting room and inpatient units, expansion of the existing operating theatres, at No's 12,12A,14,14b and 14c, Westmead, being Lot 1 DP 213094, Lot 1 DP 515289, Lot 4 DP 1242123, Lot 2 DP 1022392 (Being Lts 1-14 SP 64792), CP DP 97469, for a period of five (5) years

for physical commencement to occur from the date on the Notice of Determination subject to the conditions. The reasons for the conditions imposed on this application are as follows:

- i. To facilitate the orderly implementation of the objectives of the Environmental Planning and Assessment Act 1979 and the aims and objectives of the relevant Council Planning Instruments.
- ii. To ensure that local amenity is maintained and is not adversely affected and that adequate safeguards are incorporated into the development.
- iii. To ensure that the development does not hinder the proper and orderly development of the subject land and its surrounds.
- iv. To ensure that the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are maintained.