

Statement of Environmental Effects

HEALTH SERVICES FACILITY

34-36 SOMERSET STREET & 2
HARGRAVE STREET
KINGSWOOD

27 NOVEMBER 2020



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QUALITY ASSURANCE

PROJECT:	Statement of Environmental Effects – Health Services Facility
ARCHITECT:	Bureau SRH
ADDRESS:	Lots 20 – 22 in DP215146: No. 34-36 Somerset Street & 2 Hargrave Street, KINGSWOOD
COUNCIL:	Penrith City Council
AUTHOR:	Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
25 November 2020	Draft Issue	Draft	SK	SF
27 November 2020	DA Lodgement Issue	Final	SF	SF



Photomontage of the proposed private health facility

EXECUTIVE SUMMARY

A staged development approach is to be undertaken to deliver two specialised 4-5 storey hospitals within the Quarter, Penrith's Health and Education Precinct. This development application seeks approved for a private health facility including a 90 bed mental health hospital and associated health services at 34-36 Somerset St & 2 Hargrave St, Kingswood. The site is located within the designated health precinct that has been earmarked by Council to encourage a mix of medical and ancillary uses that will support and feed off Nepean Hospital with an aim of the precinct to be the primary health precinct within the Penrith Local Government Area.

Approved under DA17/1107 in 1027, Stage 1 has been completed with a four storey health facility within 29-33 Derby Street and 38 Somerset Street including a private hospital and specialist health services (Somerset Specialist Centre) constructed and currently operating with all subsequent fit out works completed.

Stage 2, which forms this development application, involves the development of a five storey health services facility specialising in mental health and as such this Statement of Environmental Effects has been prepared in support of a development application to undertake the consolidation of three land parcels, remove identified trees, in-order to facilitate the development of a health services facility - hospital pursuant to State Environmental Planning Policy Infrastructure 2007 at 34-36 Somerset Street & 2 Hargrave Street, Kingswood.

The 5 storey building has been designed to complement the approved hospital in terms of its form and façade presentation to Somerset Street, with vehicular access to the proposed development to be provided via the basement level associated with the Somerset Specialist Centre.

The development itself will consists of a 5 storey building with a total of 90 rooms dedicated for mental health inpatients with 8 large consulting rooms within the 4th floor above 2 basement level and lower-ground floor comprising of 92 carparking spaces. The ground floor includes a pharmacy, health consulting rooms, group rooms, consulting rooms and a gymnasium.

Located opposite a recently constructed multi-storey car park complex associated with Nepean Hospital, the development site resides on the intersection of Somerset Street and Hargrave Street, approximately 85m north from the intersection of Somerset Street and Derby Street, Kingswood.

The development site is within walking distance to Kingswood commercial precinct, other health related services, a local school and child care centres with Penrith Town Centre and Train Station situated within a short drive.

The overall precinct is well serviced by public transport with Kingswood Train Station located within a 750m walking radius with bus stops with services between Penrith and Mt Druitt situated within a 220m walking radius.

Legally known as Lots 20-122 in DP 215146, the development proposes to consolidate the subject 3 lots which will result in the site having a frontage of approximately 35.66m to Somerset Street, a frontage of 38.1 to Hargrave Street and a total site area of approximately 1,731m².

The site itself is zoned B4 Mixed Use with a maximum permitted height limit of 18m (or 21.6m under precinct specific controls) and a maximum FSR of 3.5:1 under the Penrith Local Environmental Plan 2010. 'Hospitals' are prohibited within the B4 Mixed Use zone. However it is noted that the current proposal is pursuant to Division 10 of the State Environmental Planning Policy (Infrastructure) 2007 which stipulates that 'development for the purpose of health facilities may be carried out by any person with consent on land in a prescribed zone', noting hospitals is a type of health service facilities as demonstrated by its definition below:

Health service facilities is defined as a building or place used to provide medical or other services to the maintenance or improvement of the health, or the restoration of health, of persons or the prevention of disease in or treatment of injury to persons, and includes hospitals.

The proposed five storey health service facility has been designed to comply with key planning requirements however incorporates a minor variation to the maximum building height requirements under the Penrith Local Environmental Plan 2010. However as discussed further in this statement, the non-compliance is limited to a stairwell overrun and louvers within the roof level to screen the plant area are recessed from the site's frontages to minimise impacts to the streetscape, noting that the habitable floor space are contained below the maximum build height line. A detailed Clause 4.6 discussion is provided within Annexure 1.

The proposed amalgamation and subsequent development of 34-36 Somerset Street and 2 Hargrave Street will not result in isolating or restrict neighbouring properties to redevelop to its full zoning potential, noting 38 Somerset Street is currently under construction for hospital as per DA17/1107.2 and neighbouring properties to the site's immediate eastern boundary remains capable of being developed that will positively support the function and operation of the Hospital Precinct. Therefore, the current application will not compromise the adjoining development to be redeveloped.

The Penrith Health and Education Precinct comprises a large area and is bounded by the Great Western Highway to the north, Somerset Street to the west, Stafford Street and of Derby Street to the south and existing residential land uses to the east.

The precinct comprises of a variety of land uses including medical related buildings and a mix of older style single storey dwellings, multi dwelling housing developments and older style flat buildings with Nepean Hospital being the largest and most dominant built form. Over the past 5 years has seen Council's vision of the health precinct as the premium health precinct within the Penrith Local Government Area starting to come into fruition with the development of a specialised cancer hospital at 29-33 Derby Street & 38 Somerset Street and another hospital being constructed at 39-43 Orth Street, Kingwood.

The proposal will align with the vision of the Penrith Health and Education Precinct by providing a contemporary hospital specialising in mental health with ancillary uses to positively support the function and operation of the Health Precinct while permitting the site to be developed to its full zoning potential. The proposal will also positively contribute towards increasing valuable specialised health services and employment opportunities within the Precinct and surrounding suburbs.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social, or economic impacts, and that the proposal represents an appropriate use of well-located land; the application is submitted to Council for assessment. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant, and appropriate conditions of consent.

STRATEGIC PLANNING FRAMEWORK

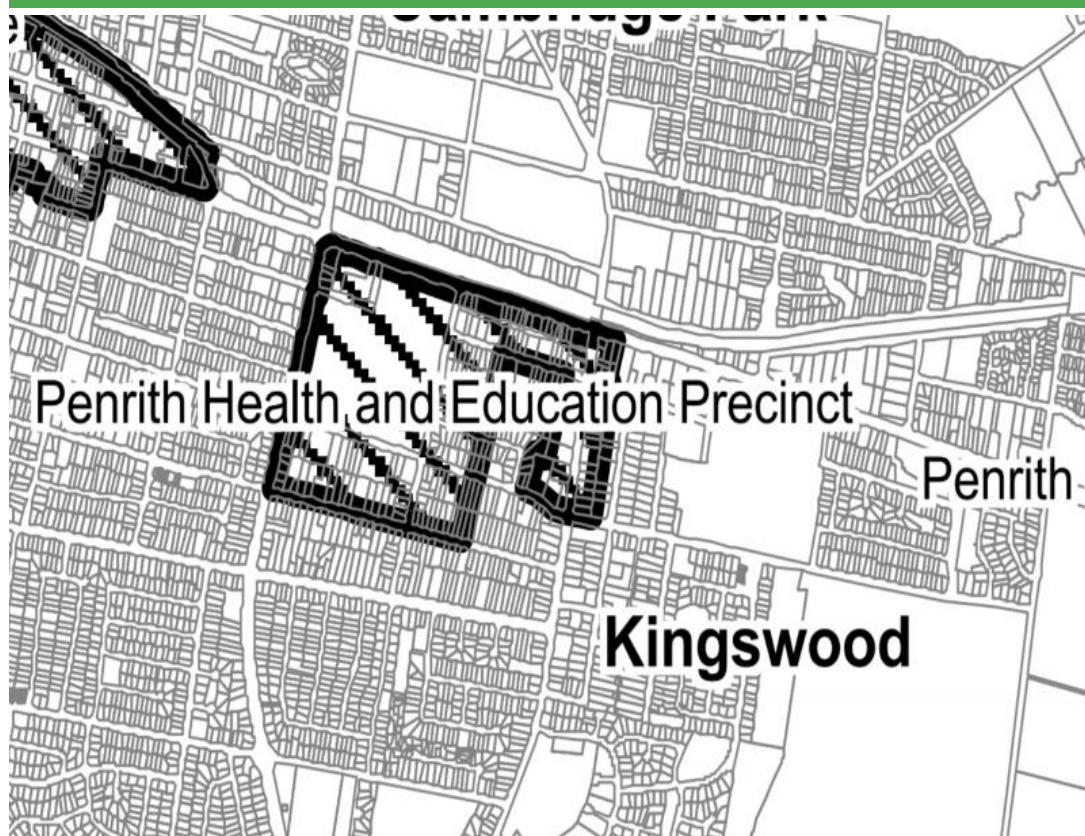
PENRITH HEALTH AND EDUCATION PRECINCT: THE QUARTER

In October 2017 the Quarter was launched, which builds on the former Penrith Health and Education Precinct. The Quarter is envisioned as delivery a new work-class precinct that will create 6,000 additional jobs and attract world class medical researchers, educators and innovators to the region.

The Quarter benefits from current collaboration between health services and education providers within the Nepean Hospital Precinct. The Quarter seeks to connect tertiary institutions, research facilities and hospitals to collaborate and accelerate the implementation of cutting edge technology in patient care and treatment.

Figure 1 below illustrates the Penrith Health and Education Precinct as per the Penrith LEP 2010.

Figure 1: Map Extract of the Penrith Hospital Precinct (Source: Penrith LEP 2010)

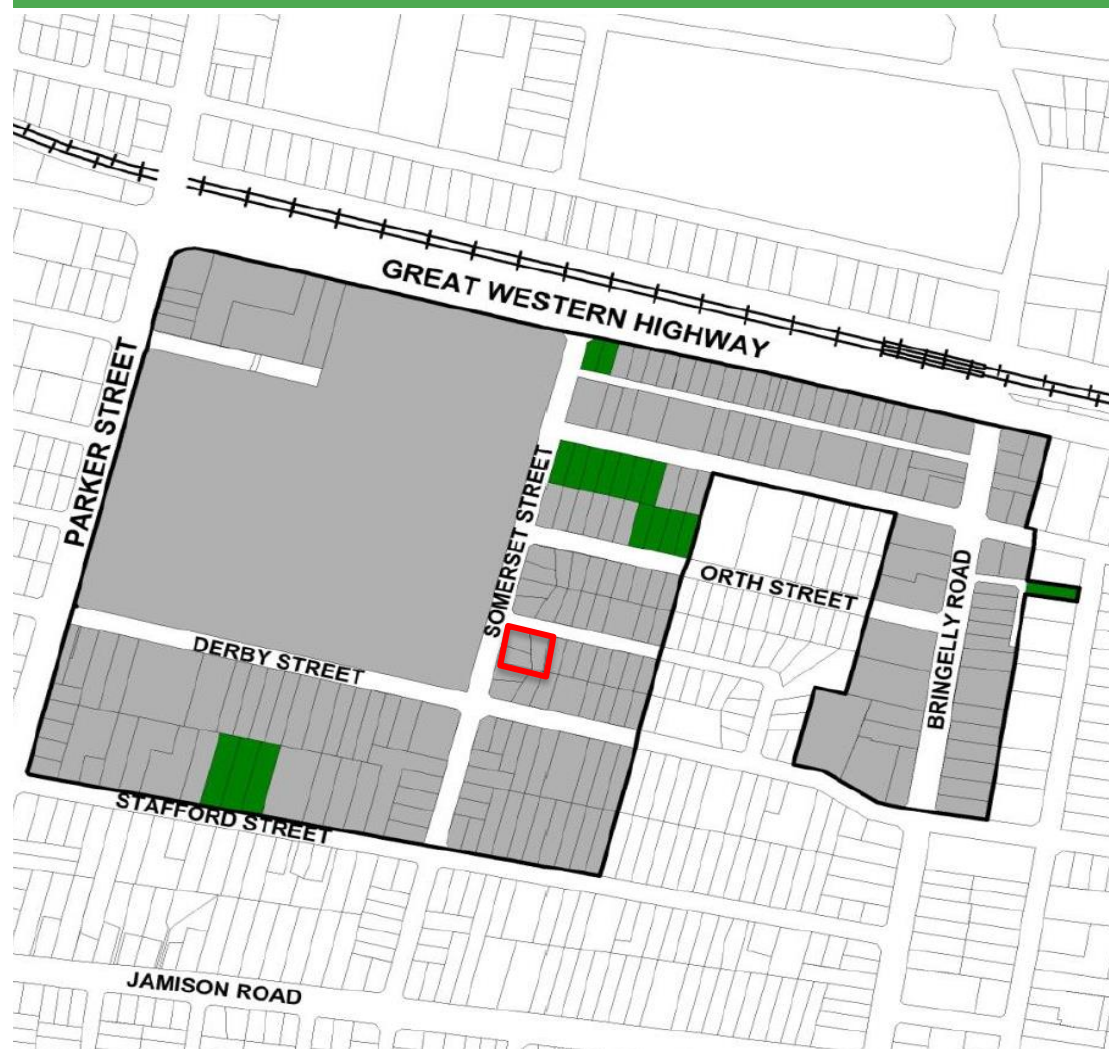


The Quarter Strategic Action Plan provides a formal strategy for strengthening and creating partnerships between medical and educational facilities within the precinct.

The subject land resides within in a strategic location within the Quarter and provides an opportunity to facilitate the delivery of a high quality mixed use development and attract the investment needed to deliver the strategic vision for the Quarter. The precinct has been earmarked by Council to encourage a mix of medical and ancillary uses that will support and feed off Nepean Hospital with an aim of the precinct to be the 'premium' health precinct within the Penrith Local Government Area.

Located within the suburb of Kingswood and to the east of the eastern fringes of the Penrith City Centre, the Penrith Health and Education Precinct associated with the Penrith DCP 2014 is bounded by the Great Western Highway to the north, Parker Street to the west, Stafford Street and of Stafford Street to the south and existing residential land uses to the east as illustrated by Figure 2 below.

Figure 2: Map Extract of the Hospital Precinct (Source: Penrith DCP 2014)



Subject Site

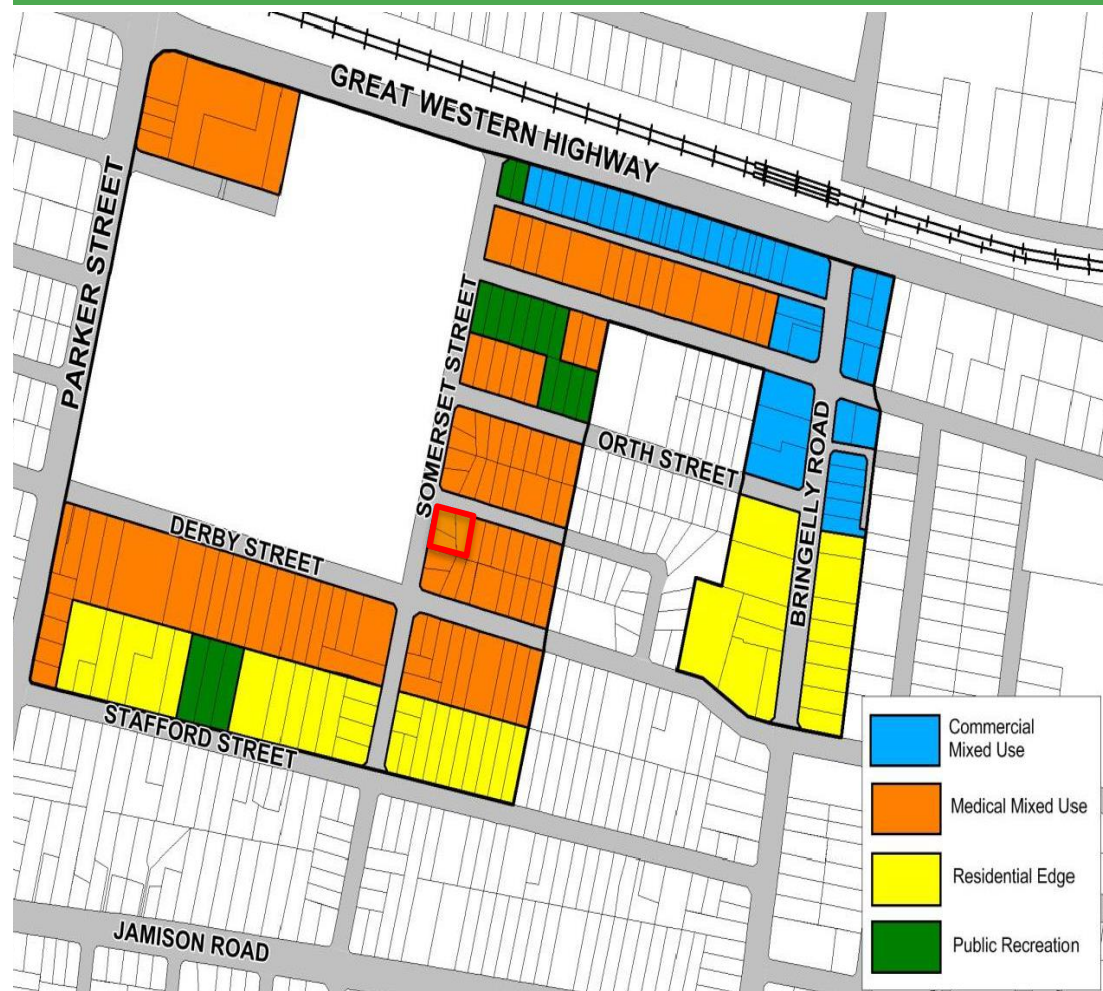
The key land use within the precinct is 'Nepean Hospital' – one of the largest hospitals within Sydney and services the Penrith and wider Blue Mountain Region.

The Council is seeking to encourage medical / ancillary uses that is to support and feed off Nepean Hospital with a vision of the area as the '*primary*' health precinct within the Penrith Local Government Area.

As per Figure 3 below, the precinct has been further divided into three distinct precincts:

- A. Commercial Mixed Use
- B. Medical Mixed Use
- C. Residential Edge.

Figure 3: Map Extract of the Character Areas within the Hospital Precinct (Source: Penrith DCP 2014)



Subject Site

The subject site is located within B. Medical Mixed Use:

B. Medical Mixed Use

‘Situated adjacent to the Nepean Hospital, the precinct offers the most dynamic environment to further develop the Hospital Precinct into a specialised medical precinct.

The precinct encourages a variety of development that supports the operation of the hospital including medical offices, pharmacies, short-term accommodation, convenient stores and other forms of retail that will meet the day to day needs of visitor and people using the medical services offered within the precinct.

Development along Somerset and Derby Street is encouraged to take advantage of the potential of these streets to offer a high-quality entrance to the Hospital Precinct, with continuous landscaped themes and high quality architectural design.

A high quality public realm will be achieved by providing generous pedestrian zones and activating ground floor frontages’.

SITE AND LOCALITY DESCRIPTION

SUBJECT SITE

Located opposite a multi-storey car park complex associated with Nepean Hospital, the subject site resides on the intersection of Somerset Street and Hargrave Street, 85m north from the intersection of Somerset Street and Derby Street, Kingswood.

The development proposes to consolidate the subject 3 lots which will result in the site having a frontage of approximately 35.66m to Somerset Street, a frontage of 38.1 to Hargrave Street and a total site area of approximately 1,731m².

Bounding a recently constructed health service facility – Somerset Specialist Centre (DA17/1107.02) to southern boundary and single storey residential dwellings to its western boundary, the subject land parcel currently accommodated 3 older style single storey residential dwellings, trees, and associated structures. This is illustrated by an aerial map below.

Figure 4: Aerial Map Extract of Subject Site (Six Maps)

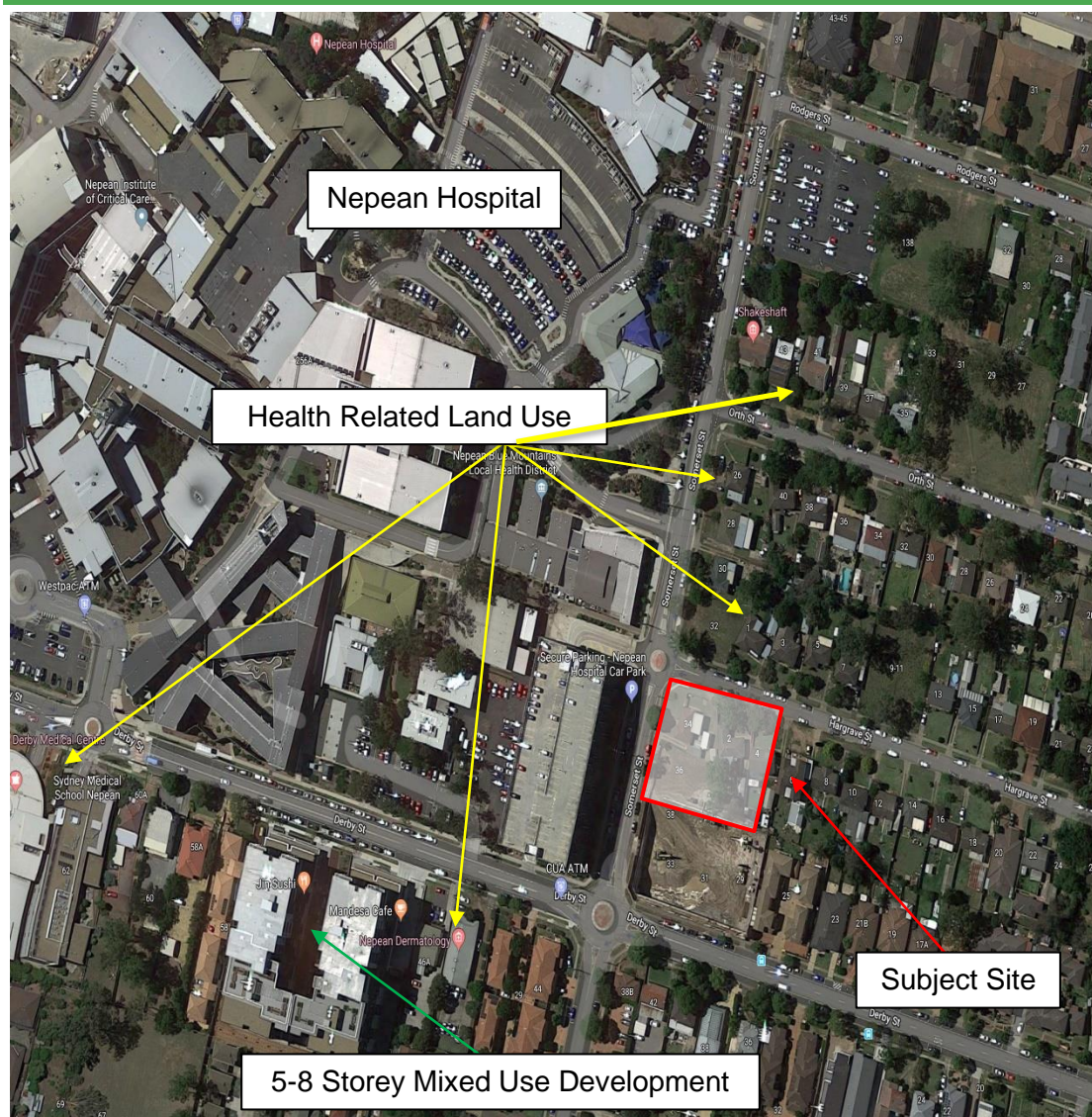


 *Subject Site*

LOCALITY ANALYSIS

Residing within the Penrith Health and Education Precinct associated with the Penrith Local Environmental Plan 2010, the development site is within a short drive to Penrith Town Centre and Train Station. The site is also within 700m to Kingswood Train Station and 300m from Kingswood commercial precinct and is in walking distance to a local school, child care centres and other health related businesses. Bus stops with regular services to Mt Drutt and Penrith is within a 350m walking radius from the development site. Locality map below illustrates the diverse land uses that exist within the subject area.

Figure 5: Aerial Map Extract of Subject Area (Google Maps)



Subject Site

The precinct comprises of a variety of land uses including medical related buildings and a mix of older style single storey residential dwellings, multi dwelling housing developments and older style flat buildings with Nepean Hospital being the largest and most dominant built form.

RELEVANT NEARBY DEVELOPMENTS

There are various nearby recent development approvals relevant to this development proposal that have been examined as part of the design development for this scheme.

These recent development and approvals include:

DA 17/1107 29-33 Derby Street and 38 Somerset Street Kingwood

A 4 storey health services facility including private hospital and specialist health services (Somerset Specialist Centre) with 4 levels of basement car parking has been constructed and is in operation.

DA 19/0801 39-43 Orth Street Kingswood

Consent granted for a new 5 storey health services facility in the form of a private sub-acute hospital. The facility will contain 86 patient rooms (with a total of 90 beds), being 38 rooms for mental health and 48 rooms for rehabilitation. Ancillary support facilities are also proposed on the ground floor such as a hydrotherapy pool, physio gym, consultation rooms, staff areas, a hairdressing room, cafe, and reception area. The hospital will be staffed by 54 employees at any one time.

Nepean Hospital Redevelopment – State Significant Development SSD 8766

This proposal involved the redevelopment of the hospital to expand services and integrate community health facilities. The project is State Significant, and the investment is estimated to be \$550 million for the first stage and \$450 million for the subsequent second stage.

DA 19/0713 38-40 Orth Street and 26 Somerset Street Kingwood

Recent development application lodged with Council for the construction of a 7 storey mixed use building comprising basement car parking, 2 levels of commercial podium and 5 levels of residential apartments.

DA 18/0773 84-88 Parker Street Kingwood

Development approved for the construction of a 6 storey health services facility with 4 levels of basement car parking.

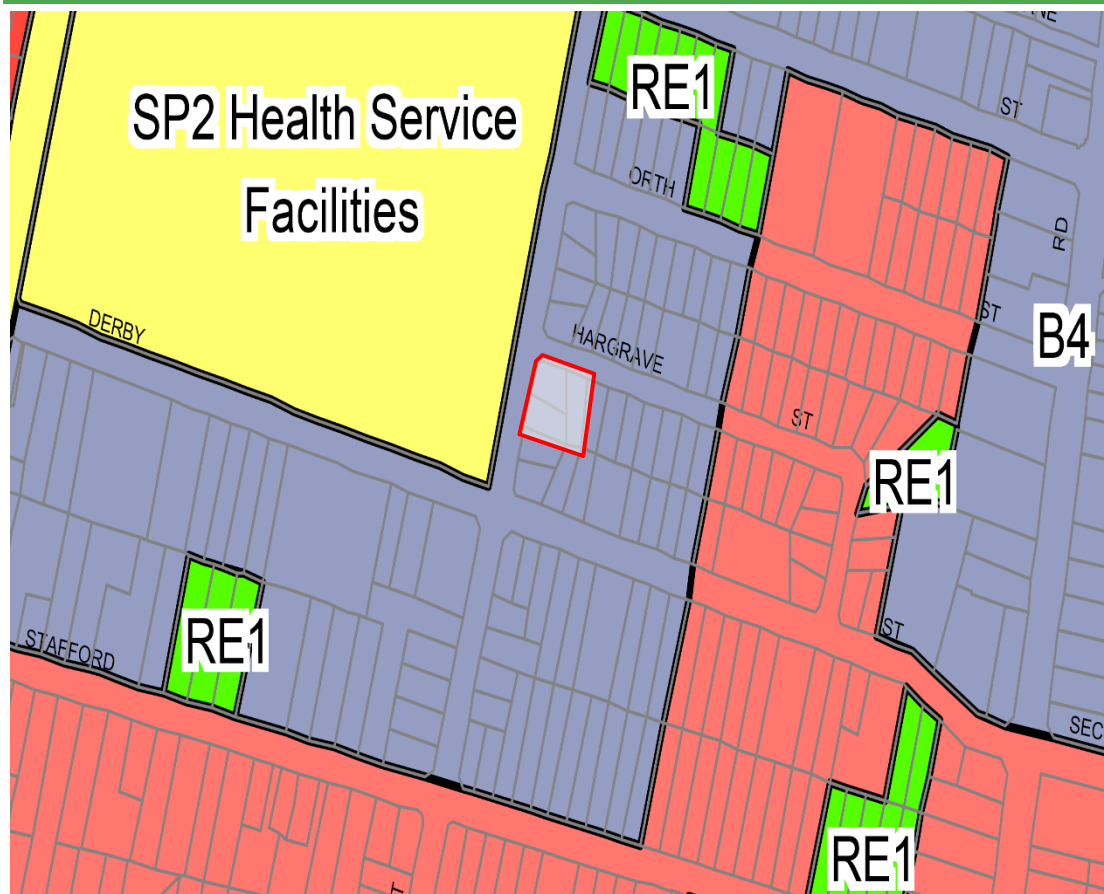
Multi Level Car Parks – Nepean Hospital

- Newly constructed multi storey Nepean Hospital Car Park Corner of Barber Avenue and the Northern Road Kingswood.
- Multi storey Nepean Hospital Car Park at the Corner of Derby and Somerset Streets Kingswood.

ZONING CONTROL

As evident via the zoning map below, the site is zoned B4 Mixed Use under the Penrith LEP 2010, with a maximum building height of 18m and a maximum FSR of 3.5:1.

Figure 6: Zoning Map Sheet LZN_013 Extract (Source: Penrith LEP 2010)



Subject Site

It is noted that '*Hospitals*' are not permitted outright within the B4 zone, however, it is noted that the current proposal is pursuant to Division 10 of the State Environmental Planning Policy (Infrastructure) 2007 which stipulates that '*development for the*

purpose of health facilities may be carried out by any person with consent on land in a prescribed zone', noting hospitals is a type of health service facilities as demonstrated by its definition below:

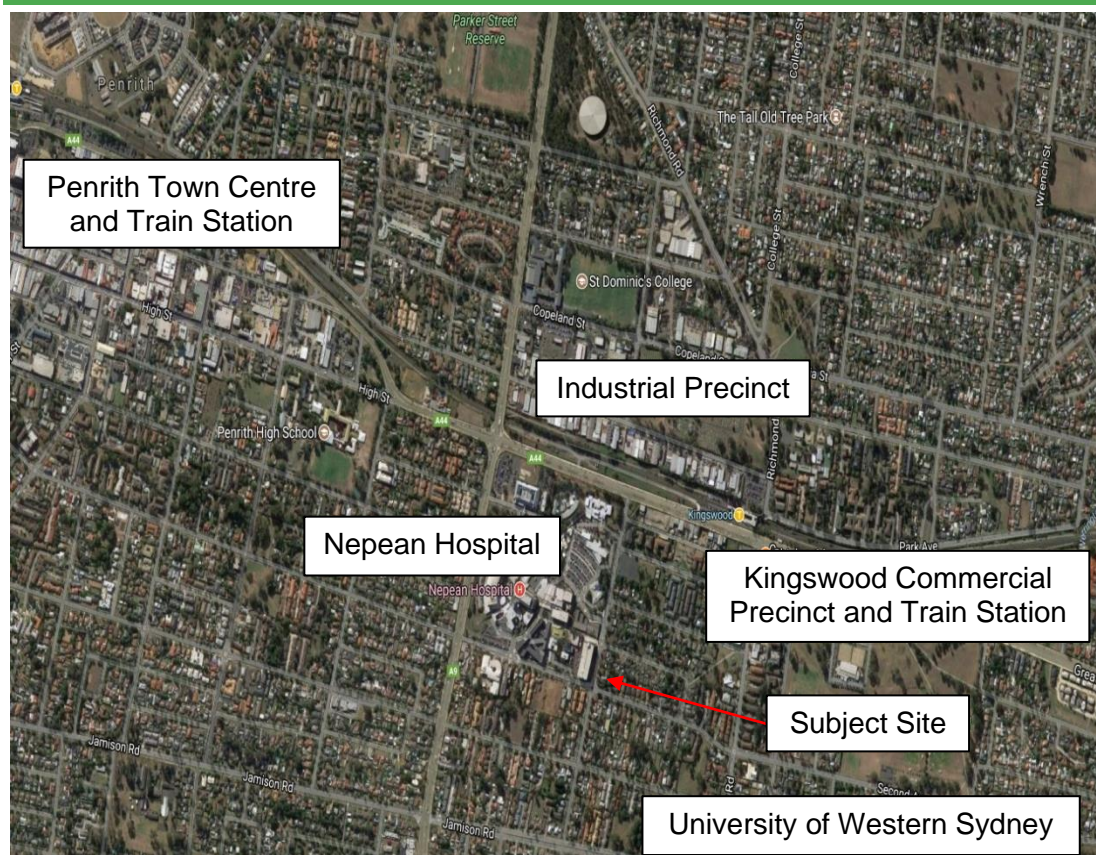
Health service facilities is defined as a building or place used to provide medical or other services to the maintenance or improvement of the health, or the restoration of health, of persons or the prevention of disease in or treatment of injury to persons, and includes hospitals.

BROADER LOCALITY ANALYSIS

As illustrated via broader map extract below, the site is ideal to accommodate a health services facility as it resides within a precinct dedicated for future health related land use, its proximity to a large regional hospital and established urban centres (Penrith City Centre & Kingswood Commercial Precinct) and the University of Western Sydney.

Furthermore, the development site is serviced by public transportation in the form of train stations and bus stops and serviced by key road networks including the Northern Road and the Great Western Highway. The site is well located to draw clients / patients from Western Sydney and the wider Blue Mountains Region. A broader locality map is provided overleaf.

Figure 7: Aerial Map Extract of Broader Locality (Google Map)



The proposal will align with the vision of the Hospital Precinct by providing a modern hospital with ancillary uses to positively support the function and operation of the Precinct while permitting the site to be developed to its full zoning potential.

The proposal will also positively contribute towards increasing valuable mental health related health services and employment opportunities within the Precinct and surrounding suburbs.

Photographs are provided below and within the following page that give context to the locality and the relationship of the development site with adjoining developments.

Photograph 1: Shows the development site as viewed from the intersection of Somerset St and Hargrave St, Kingswood





Photograph 2: Shows 34-36 Somerset St viewed from Somerset St looking eastwards



Photograph 3 Shows 34 Somerset St viewed from Hargraves St looking southwards



Photograph 4: Shows 36 Somerset St and recently constructed subacute hospital that bounds the site's southern boundary viewed from Somerset St looking eastwards



Photograph 5: Shows the recently constructed Somerset Specialist Centre as viewed from the intersection of Somerset St and Derby St looking north-eastwards





Photograph 6: Shows the evolving built form along Derby St looking southwards



Photograph 7: Shows the existing streetscape along Somerset looking northwards





Photograph 8: Shows 36 Somerset St viewed from Somerset St looking southwards



Photograph 9: Shows the existing streetscape along Hargrave St looking eastwards





Photograph 10: Shows the existing streetscape along Hargrave St looking westwards



Photograph 11: Shows a recently constructed multi-level carpark associated with Nepean Hospital situated opposite the subject site's frontage to Somerset St





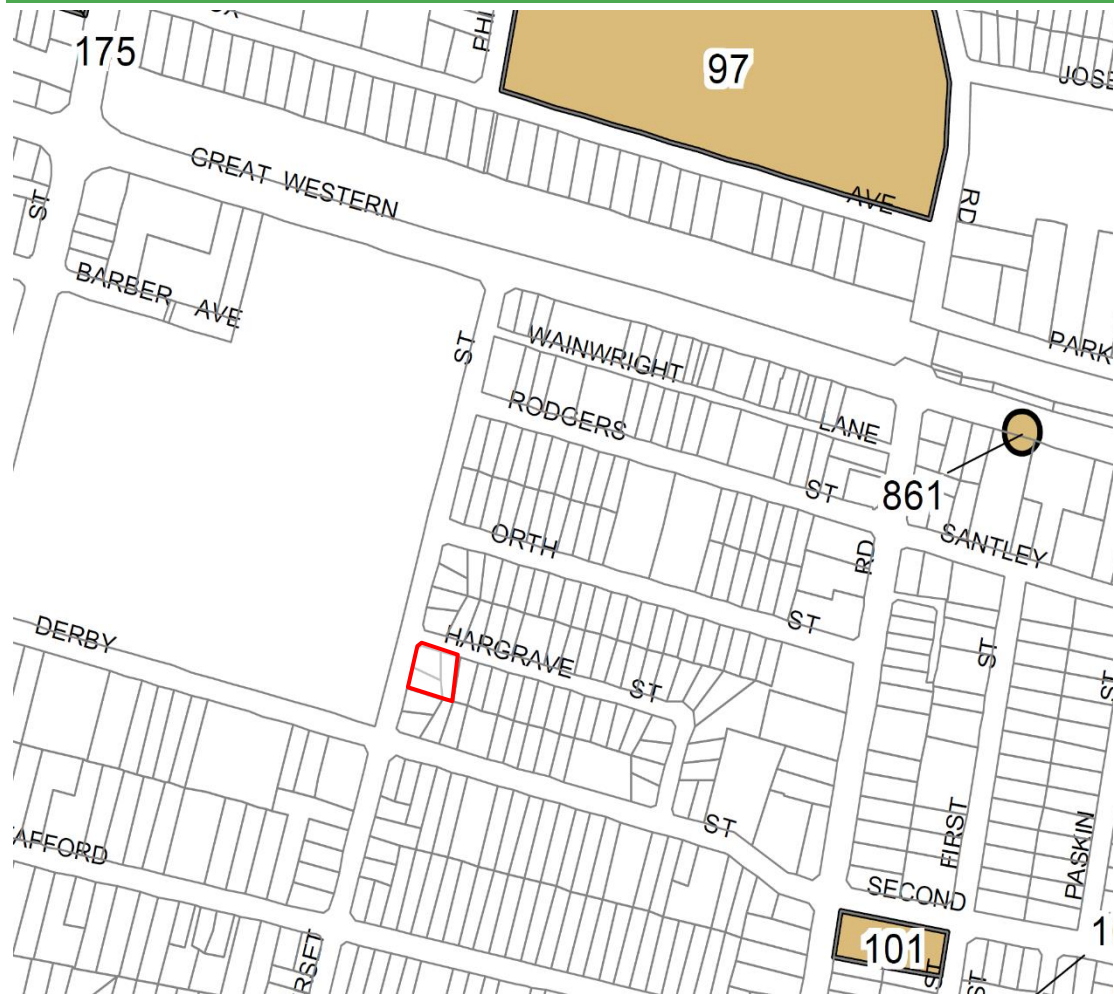
Photograph 12: Shows vacant land parcel situated opposite the subject site's frontage to Hargrave St



HERITAGE

The site is not identified as a heritage item, it is not located within a heritage conservation area nor is it near any surrounding heritage items as illustrated by the heritage extract map below.

Figure 8: Heritage Map Sheet HER_013 Extract (Source: Penrith LEP 2010)



Subject Site

It is noted that there are heritage items within the broader vicinity, however they are sufficiently separated from the development site and therefore the proposal will have no impact on the heritage curtilage of the local heritage items.

As a result, the subject site will not have any associated heritage restrictions.

DESCRIPTION OF PROPOSAL

This Development Application proposes to undertake the consolidation of three land parcels, remove identified trees in-order to facilitate the development of a health services facility including a specialised health services facility pursuant to State Environmental Planning Policy Infrastructure 2007 at 34-36 Somerset Street and 2 Hargrave Street, Kingswood.

The development consists of a 5 storey building with a total of 90 rooms dedicated for mental health inpatients with 8 large consulting rooms within the 4th floor above 2 basement level and lower-ground floor comprising of 92 carparking spaces. The ground floor includes health consulting rooms, group rooms, consulting rooms and a gymnasium.

The 5-storey building is designed to accommodate a health services facility to provide hospital specialising in mental health services.

The key aspects of the proposal are as follows:

Tree removal

There are 12 trees proposed to be removed from the site to facilitate the development and these are proposed to be replaced with suitable species in accordance with the submitted landscape plan. There is 1 tree to be preserved and retained and a tree management plan is also submitted with this application.

Built form

The building itself comprises a 5-storey form that is designed to accommodate a range of related specialist mental health services which is summarised as follows:

- Ground level: consultation room, pharmacy, group rooms and gymnasium
- First to Third Floors: mental health rooms
- Fourth Floor: consultation rooms

The 5 storey building has been designed to complement the approved hospital in terms of its form and façade presentation to Somerset Street, with vehicular access to the proposed development to be provided via the basement level associated with the Somerset Specialist Centre.

Parking

Total of 92 car parking spaces across the site with the following breakdown

- Basement Level 2 – 42 car parking spaces
- Basement Level 1 – 20 car parking spaces
- Lower Ground Floor – 30 car parking spaces

No vehicular crossover or driveway is proposed from the street level with vehicular access to the site to be provided via existing basement car park associated with the Somerset Specialist Centre which bounds the site's immediate southern boundary.

Signage

The proposal comprises nominated areas that are to be used in the future for signage however these signs will be the subject of a future development application and are not detailed for the purpose of this application.

At this point in time a detailed assessment of the signage against the criteria set down in State Environmental Planning Policy No.64 – Advertising & Signage is not carried out as only the areas for future signage are shown in the submitted plans. Detailed assessment under State Environmental Planning Policy No.64 – Advertising & Signage will be carried out under a future signage application.

A description of the various aspects of the development is provided below.

Level	Inclusions
Basement Level 2	<p><u>Access Arrangements</u> Access to Basement Level 2 is via a graded ramp from Basement Level 1.</p> <p>The basement level includes internal circulation areas with turning areas to allow vehicles to enter and exit the basement in a forward direction.</p> <p><u>Parking</u> 42 x car parking spaces.</p> <p>Service rooms.</p> <p>2 x lift core and stairwells.</p>
Basement Level 1	<p><u>Access Arrangements</u> Access to Basement Level 1 is via basement level associated with the Somerset Specialist Centre.</p>

	<p>The development also provides a graded ramp to the lower basement level and also a graded ramp to Basement Level 2.</p> <p>The basement level includes internal circulation areas with turning areas to allow vehicles to enter and exit the basement in a forward direction.</p> <p><u>Parking</u> 20 x car parking spaces.</p> <p><u>Service Area</u></p> <ul style="list-style-type: none"> • Service room • Laundry room • Kitchen including cold store room, freezer, store room <p><u>Waste</u></p> <ul style="list-style-type: none"> • Waste room including adjacent loading dock. <p>Waste is to be collected from basement level associated with the Somerset Specialist Centre.</p> <p>3 x lift core and stairwells.</p>
<p>Lower Ground Floor</p>	<p>Access to the lower ground floor is via a graded ramp from Basement Level 1.</p> <p><u>Parking</u> 30 x car parking spaces.</p> <p>Service rooms</p> <p>3 x lift core and stairwells.</p>
<p>Ground Floor Level</p>	<p>Access Arrangements</p> <p><i>Pedestrian</i> Primary entry point provided from Somerset Street. Development also provides a back of house entry/egress also from Somerset Street.</p> <p>Direct access to the pharmacy from Somerset Street.</p> <p>Heath Service Facility</p> <p>The health service facility which specialising in mental health comprises of the following within the ground floor:</p> <ul style="list-style-type: none"> • Entry point from

		<p>Somerset Street</p> <ul style="list-style-type: none"> • Reception desk • Office • Waiting area • Consultation rooms • Group rooms • Staff room including staff terrace • Therapy terrace • Records/copy room • Service rooms • Store room
	Substation.	
	3 x lift core and stairwell	
Level 1-3	<p>Mental Health Inpatient Unit</p> <p>Level 1-3 comprises of the mental health inpatient unit with the following:</p> <ul style="list-style-type: none"> • A total of 30 beds each provided with an en suite of varying sizes • Workers rooms including staff room • CU/Medic room • Group rooms • Quite room • WC • DU room • Store room • Living room • Int rooms • Services rooms 	
	Planter boxes	
	3 x lift core and stairwell	
Level 4	<p>Key consultation rooms include the following:</p> <ul style="list-style-type: none"> • 8 x consultation rooms with Consultation Room 7 includes administration desk, waiting room, kitchen and store room 	

	<p>Service areas including:</p> <ul style="list-style-type: none"> • Tea bench • Store rooms • Male and Female WC and also Male and Female accessible WC • Cleaners room
	3 x lift core and stairwell
Roof Level	<p>The roof level comprises of the following</p> <ul style="list-style-type: none"> • Roof terrace with 533m² of floor space and includes seating area. A 3.6m high glass fence is to run the length of the roof terrace. • Addition of a 1m high parapet with façade cladding along the site's frontage to Hargrave Street. • Plant service area with the addition of louvered screening to the extent of plan enclosure to the site's southern elevation • Planters • Service rooms • Lift and stairwell overrun
	2 x lift core and stairwell

The relevant architectural plans for the proposal have been prepared by Bureau SRH while supporting reports have been prepared by relevant sub consultants.

The proposal complies with key planning requirements as discussed further and addressed within this report.

CONTROLS

STATUTORY CONTROLS

The relevant Statutory Planning Controls include:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy – (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy Infrastructure 2007
- Sydney Regional Environmental Plan (SREP) No. 20 Hawkesbury
- Penrith Local Environmental Plan 2010.

POLICY CONTROLS

The applicable policy control documents include:

- Penrith Development Control Plan 2014.

CONSIDERATION OF PLANNING CONTROLS

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Given the historical use of the site for urban purposes, land contamination is not likely. Further investigation and reporting under SEPP 55 is not considered necessary given the residential use of the site and no indication of potentially contaminated materials on the site.

Council can be satisfied that the provisions of Clause 7 of the SEPP are satisfied. If any contaminated material or suspected contaminated material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline document will be undertaken.

STATE ENVIRONMENTAL PLANNING POLICY – (VEGETATION IN NON-RURAL AREAS) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) was introduced in August 2017. This SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The subject site is within a well-established residential area zoned for commercial purpose by virtue of its B4 Mixed Use zoning, having historically been used for urban purposes.

The current proposal is to remove identified trees and vegetation on site, noting the site is void of any significant trees. There are 12 trees proposed to be removed from the site to facilitate the development and these are proposed to be replaced with suitable species in accordance with the submitted landscape plan. There is 1 tree to be preserved and retained and a tree management plan is also submitted with this application.

The proposal is to introduce high quality landscape embellishment works within a commercial context that aims to reduce the physical bulk and scale of the development and integrate the proposal within the context of the site and its surrounds.

STATE ENVIRONMENTAL PLANNING POLICY INFRASTRUCTURE 2007

Division 10 Health Service Facilities Clause 56 defines ‘health service facility’ as:

health services facility means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the

restoration to health, of persons of the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,*
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) facilities for the transport of patients, including helipads and ambulance facilities,*
- (e) hospitals.*

prescribed zone means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Primary Production Small Lots,*
- (b) RU5 Village,*
- (c) RU6 Transition,*
- (d) R1 General Residential,*
- (e) R3 Medium Density Residential,*
- (f) R4 High Density Residential*
- (g) R5 Large Lot Residential,*
- (h) B2 Local Centre,*
- (i) B3 Commercial Core,*
- (j) **B4 Mixed Use***
- (k) B5 Business Development*
- (l) B6 Enterprise Corridor,*
- (m) B7 Business Park,*
- (m1) B8 Metropolitan Centre,*
- (n) SP1 Special Activities,*
- (o) SP2 Infrastructure*

Division 10 Health Service Facilities Clause 57 (1) states the following:

Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.

Proposal is to develop in pursuant to Division 10 Clause 57(1) as the development is to undertake the construction of a health services facility within the B4 Zone.

The development site is not located on a classified road and as a result it is not necessary to consider the provisions of Clause 102, and 104 of the SEPP.

Clause 104 identifies several types of development that require concurrence from Roads and Maritime Services where development is identified as 'traffic generating development'.

The current proposal is not identified as traffic generating development as the site does not trigger the threshold requirements.

The proposed health service facility is to comprise approximately 90 beds whereas the SEPP requires referral to the RMS where there are more than 200 beds.

The SEPP also requires referral where there are more than 200 car parking spaces, again this threshold is not reached as the parking provision is 92 spaces. Thus, concurrence from the RMS is not required.

SYDNEY REGIONAL ENVIRONMENTAL PLAN (SREP) NO. 20 HAWKESBURY NEPEAN RIVER

The development proposal incorporates a drainage concept that demonstrates that stormwater can be adequately conveyed to the existing street network.

Appropriate erosion and sediment controls can be implemented throughout construction and it is anticipated that conditions of consent will reinforce this. It is noted that the proposal meets the recently adopted WSUD measures required to achieve appropriate water quality for stormwater discharge.

PENRITH LOCAL ENVIRONMENTAL PLAN 2010

As illustrated by Council's zoning map extract overleaf, the site is zoned B4 Mixed Use under the provision of the Penrith Local Environmental Plan 2010, with a maximum building height of 18m and a maximum FSR of 3.5:1.

'Hospitals' are not listed as permissible within the B4 – Mixed Use zone. However as discussed previously, the proposal is seeking to undertake a development of a health service facility in pursuant to Division 10 Clause 57(1) of the State Environmental Planning Policy (Infrastructure) 2007 which stipulates that *'development for the purpose of health facilities may be carried out by any person with consent on land in a prescribed zone'*.

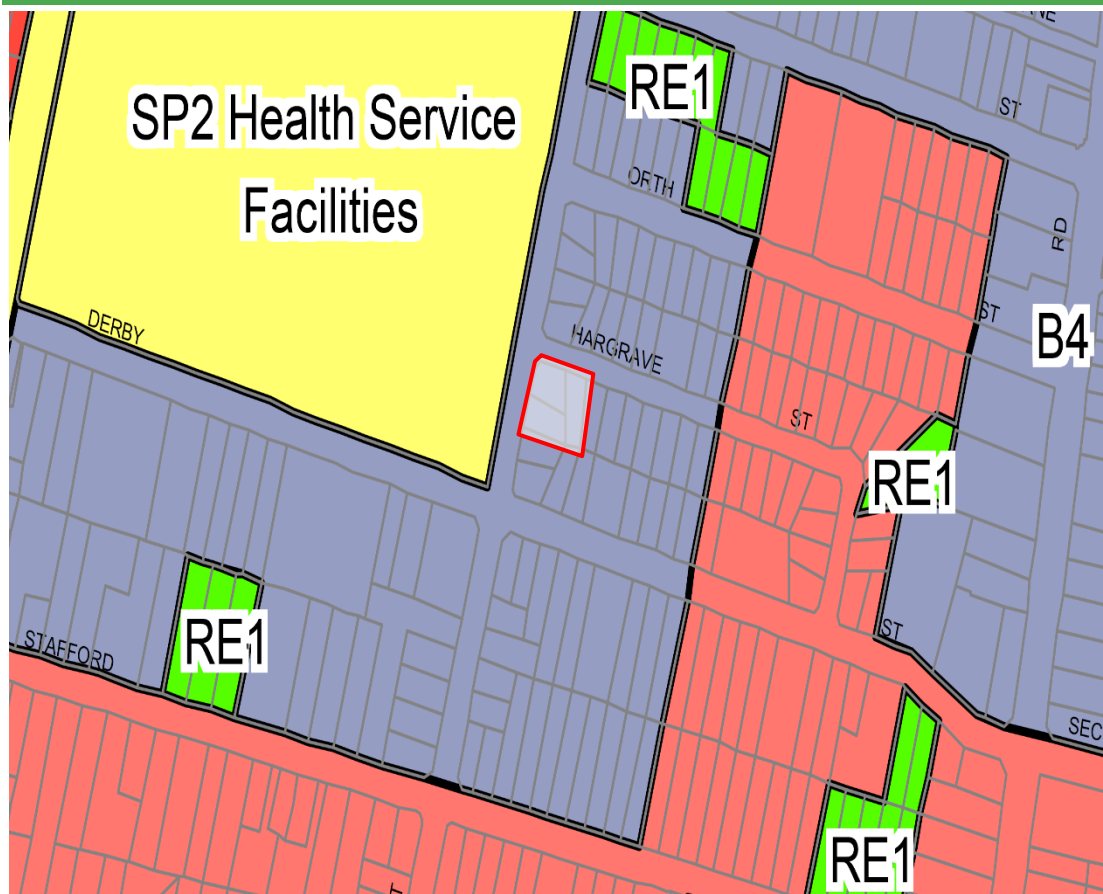
The proposal is consistent with the definition of health services facility definition contained within the SEPP (Infrastructure) 2017 below, noting that Clause 57(1) also permits day surgeries and medical centres, community health service facilities, health consulting rooms and facilities for the transportation of patients, including helipads and ambulance facilities.

Hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals)

to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and include ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shop, kiosks, restaurants or café or take away food and drink premises,
- (e) patient transport facilities, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purpose (whether or not carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

Figure 10: Zoning Map Sheet LZN_013 Extract (Source: Penrith LEP 2010)



Subject Site

The development proposal is also consistent with the prescribed zone objectives that are stipulated as:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within this zone and land use within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*
- *To ensure low intensity of land use other than land uses that are primary industry enterprises.*

The proposal is a compatible land use and will play a supplementary role within the emerging 'Health Precinct' which aims to encourage medical/ancillary uses near Nepean Hospital and its proximity to other health related businesses, established commercial centres including Penrith City Centre, the Western Sydney University, public transportation and key road networks including the Northern Road and the Great Western Highway.

The proposal will also positively contribute towards increasing valuable health services, especially within the mental health sector and employment opportunities within the Precinct and surrounding suburbs whilst being well located to draw clients / patients from Western Sydney and the Wider Blue Mountains Region.

The table below provides detail on the development standards relevant to the current proposal as well as other relevant LEP provisions.

Penrith Local Environmental Plan 2010 – Compliance Table			
Clause	Controls	Comments	Complies
Zoning	B4 Mixed Use	The proposal is undertaking a development to construct a new hospital dedicated to mental health related services pursuant to Clause 57(1) of the State Environmental Planning Policy (Infrastructure) 2007 which stipulates that 'development for the purpose of health facilities may be carried out by any person with consent on land in a prescribed zone', noting Hospitals is a type of Health Service Facility.	Yes – SEPP (Infrastructure) 2007
Part 2 Permitted or Prohibited Development			
2.3	Zone Objectives and Land Use Table	The proposal is consistent with the zone objectives of the B4 Mixed Use zone and will provide compatible	Yes

Clause Controls		Comments	Complies
		<p>land use that is to complement and expand the role of the Hospital Precinct as the primary health precinct within the Penrith LGA.</p> <p>The proposal will also appropriately fulfil the site's zoning potential while providing valuable specialised mental health services to the locality community whilst also increasing job opportunities.</p>	
2.6	Subdivision – Consent Requirements	No subdivision is proposed as part of this development. Not applicable.	N/A
2.7	Demolition Requires Consent	Demolition is not proposed as part of this application and is to be dealt with under a separate approval.	N/A
Part 4 Principal Development Standards			
4.3	Height of Building: 18m	<p>Penrith Local Environmental Plan 2010 Height of Buildings Map Sheet HOB_013 indicates that the maximum building height within the subject site is 18m.</p> <p>It is noted that Penrith Local Environmental Plan 2010 Clause Application Map Sheet CAP_002 identifies that the site is located within the Penrith Health and Educational Precinct and as such Clause 7.11 Penrith Health and Education Precinct, and as such the development is entitled to a maximum height bonus of up to 20% of that permitted under Clause 4.3 (21.6m).</p> <p>The proposed 5 storey health service facility predominantly complies with the 21.6m built height control with the exception of the overrun associated with the stairwell and associated with the louvers within the roof level, noting that the habitable floor space are contained below the maximum build height line.</p> <p>Both the stairwell overrun and louver screens have been recessed and the screen incorporated to screen the impact of the plant area to minimise impact to the streetscape.</p> <p>A variation is sought, and an address of Clause 4.6 is provided within Annexure 1.</p>	Clause 4.6 Variation
4.4	Floor Space Ratio: 3.5:1	Penrith Local Environmental Plan 2010 Floor Space Ratio Map Sheet FSR_013 indicates that the	Yes

Clause	Controls	Comments	Complies
		<p>development site is subject to a maximum FSR of 3.5:1.</p> <p>The development provides an FSR of 3.5:1 and as such is compliant with the maximum permitted FSR which equates to 6,020m².</p> <p>FSR calculations have been undertaken in accordance with Clause 4.5.</p>	
Part 4 Principal Development Standards			
5.10	Heritage Conservation	<p>The site is not identified as a heritage item, it is not located within a heritage conservation area nor is it near any surrounding heritage items.</p> <p>It is noted that there are heritage items within the broader vicinity of the development site, however they are sufficiently separated from the subject land parcel and therefore the proposal will have no impact on the heritage curtilage of the local heritage items.</p> <p>As a result, the subject site will not have any associated heritage restrictions.</p>	N/A
Part 7 Additional Local Provisions			
7.1	Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans.</p> <p>It is considered that the proposed excavations, particularly the proposed basement level will have minimal adverse environmental or amenity impacts, noting the site constraints, with the development designed to follow the natural contours of the site to minimise where possible cut and fill.</p> <p>It is also considered that the proposal will result in an appropriate outcome given the nature of the development, the unique characteristics of the site and the proposed compliance with relevant Council controls.</p> <p>In addition, it is considered unlikely due to the location of the site that excavation will lead to the disturbance of relics.</p>	Yes
7.2	Flood Planning	<p>The site is identified as being affected by flood related controls due to local overland flows. These are addressed in the stormwater and engineering details submitted with this application.</p>	Yes

Clause	Controls	Comments	Complies
7.3	Development on Natural Resources Sensitive Land	The subject site is not identified on the Natural Resource Sensitive Map. Not applicable.	N/A
7.4	Sustainable Development	<p>The proposal satisfies the LEP in that:</p> <p>(a) <i>conserving energy and reducing carbon dioxide emissions,</i></p> <p>(b) <i>embodied energy in materials and building processes,</i></p> <p>The proposal has considered all relevant matters relating to energy efficiency.</p> <p>(c) <i>building design and orientation,</i></p> <p>(d) <i>passive solar design and day lighting,</i></p> <p>(e) <i>natural ventilation,</i></p> <p>Building designed to maximise solar access and natural ventilation (where appropriate).</p> <p>(f) <i>energy efficiency and conservation,</i></p> <p>(g) <i>water conservation and water reuse,</i></p> <p>The proposal seeks to ensure natural light and ventilation as far as possible. All steps will be taken to ensure water saving taps will be implemented when the hospital become operational.</p> <p>(h) <i>waste minimisation and recycling,</i></p> <p>Waste management and recycling is addressed through the waste management plan.</p> <p>(i) <i>reduction of vehicle dependence,</i></p> <p>The site is located 750m walking distance to Kingswood train station. This site is well connected to public transport including bus stops with regular services between Mt Druitt and Penrith located within a 220m walking distance from the development site and that gives alternative means of transport.</p> <p>(j) <i>Potential for adaptive reuse.</i></p> <p>Given the zoning of the site as B4 and the nature of the development (hospital) there is adaptive re-use potential on the site.</p>	Yes

Clause	Controls	Comments	Complies
7.5	Protection of Scenic Character and Landscape Values	The site is not identified on the Land with Scenic and Landscape Values Map. Not applicable.	N/A
7.6	Salinity	Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not applicable.	N/A
7.7	Servicing	The development site is well serviced by water and sewer and the required utility clearances will be obtained prior to works commencing on site.	Yes
7.8	Active Street Frontages	<p>The Penrith Local Environmental Plan 2010 Active Street Frontage Map Sheet ASF_013 does not identify the development site to activate the streetscape.</p> <p>However, the development has been designed to active the streetscape with the design of the building to permits direct access to the proposed building from both frontages whilst also proposing a pharmacy along its frontage to Somerset Street that is engage with pedestrian traffic.</p>	Yes
7.9	Development of land in the flight paths of the site reserved for the purpose Second Sydney Airport	The development site is not situated along any flight paths associated with the Western Sydney Airport.	N/A
7.11	Penrith Health and Education Precinct	<p>Penrith Local Environmental Plan 2010 Application Map identifies that the site is located within the Penrith Health and Educational Precinct.</p> <p>Clause 7.11(3) permits additional height bonus of up to 20% of that permitted under Clause 4.3 for the site (18m) if the following criteria is adhered to:</p> <ul style="list-style-type: none"> - The floor to ceiling height of both the ground and first floor are equal to or greater than 3.5m <p>The proposed five storey development has been designed with the floor to ceiling height of both the ground and first floor to have floor to ceiling height >3.5m. As such the development is entitled to a maximum height bonus of up to 20% of that permitted under Clause 4.3 (21.6m).</p>	Yes – Minor Variation to Height Control

Clause	Controls	Comments	Complies
		The development proposes a 5 storey building with minor encroachment to the revised height limit. Refer to Clause 4.6 discussion within Annexure 1 for detail.	

PENRITH DEVELOPMENT CONTROL PLAN 2014

All relevant Council controls have been identified and considered in the following compliance table.

Penrith Development Control Plan 2014 Compliance Table			
Clause	Controls	Comments	Complies
C1 Site Planning and Design Principles			
1.1	Site Planning	<u>1.1.1 Site Analysis</u> A Site Analysis has been prepared and is attached as part of this application. The site analysis identifies the relevant considerations required by Council and acknowledges the unique opportunities and constraints of the site that have informed the design of the development proposal.	Yes
		<u>1.1.2 Key Areas with Scenic and Landscape Values</u> The subject site is not located within the Scenic and Landscape Values Map under the Penrith LEP 2010. Not applicable.	N/A
1.2	Design Principles	<u>1.2.1 Application of Certification System</u> The proposal is for non-residential development and the construction value is more than \$1 million, therefore advice relating to a building sustainability is submitted with this application.	Yes
		<u>1.2.2 Built Form – Energy Efficiency and Conservation</u> The design of the hospital has incorporated many initiatives that contribute to the environmental, urban, social and economic sustainability of the project. The following measures have been incorporated into the design of the building to improve sustainable outcomes:	Yes

Clause	Controls	Comments	Complies
		<ul style="list-style-type: none"> The built form and floor layout plans are designed to maximise the penetration of natural light into and views from the building A range of solar control measures have been employed to assist with providing a comfortable internal environment as well as thermal efficiency in the heating and cooling systems. Base building heating, ventilation and air conditioning design concepts will be developed to minimise energy consumption while providing comfortable occupant conditions. In terms of energy and water sub-metering, a strategy will be developed to monitor and provide feedback on the building energy and water building consumption. <p><u>1.2.3 Building Form – Height, Bulk and Scale</u></p> <p>It is considered that the proposal will result in an appropriate outcome on site that responds to the unique characteristics of the site.</p> <p>The site predominantly complies with maximum height that applies for the site under Penrith LEP 2010 (as per Clause 7.11).</p> <p>It is noted that the Hospital Precinct is currently ongoing a transformation from low density residential dwelling to larger mixed-use buildings, with the proposal designed to be align with the vision of the precinct to be the premium health precinct within the Penrith LGA.</p> <p><u>1.2.4 Responding to the Site's Topography and Landform</u></p> <p>The site is reasonably flat with very minimal cross fall ensuring the site is suitable for the proposed development. The development has taken care in siting of the building to limit cut and fill as far as practicable.</p> <p><u>1.2.5 Safety and Security (Principles of Crime Prevention through Environmental Design)</u></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Clause	Controls	Comments	Complies
		<p>The proposed development incorporates an active façade that will permit casual surveillance to both Somerset Street and Hargrave Street, as well as common areas and landscaped areas of the proposal, noting that the ground floor pharmacy will contribute towards activating the streetscape.</p> <p>The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area.</p> <p>The proposed landscaping and fencing are appropriate when considering CPTED principles and will not permit easy concealment of intruders.</p> <p>The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.</p> <p>It is noted that the police station is within 600m of the site.</p> <p><u>1.2.6 Maximising Access and Adaptability</u></p> <p>The proposed development incorporates a suitable path of travel from the street to the main entry point of building.</p> <p>Lift core ensures accessible access to all levels of the development.</p>	Yes
C2 Vegetation Management			
2.1	Preservation of Trees and Vegetation	<p>The subject site is within a well-established residential area, having historically been used for residential purposes.</p> <p>The application seeks Council consent for the removal of identified trees on site, noting that appropriate replacement tree planting is proposed.</p> <p>The proposal is accompanied by an arborist report that comprehensively reviews the trees on the site, those to be retained and those proposed to be removed.</p> <p>The proposal is to incorporate high-quality landscape embellishment works appropriate</p>	Yes

Clause	Controls	Comments	Complies
		<p>within the health precinct while also contributing towards minimising the physical bulk and scale of the development.</p> <p>It is highlighted that no significant vegetation is to be impacted as part of the proposal.</p> <p>Landscaping of the site is to be undertaken in accordance with the attached Landscape Plan.</p>	
2.2	Biodiversity Corridors and Areas of Remnant Indigenous Vegetation in Non-Urban Areas	Subject site is not identified as being within a Natural Resource Sensitive Land under Penrith LEP 2010. Not applicable.	N/A
2.3	Bushfire Management	Subject site is not identified as being within a Bushfire Prone Land.	N/A
C3 Water Management			
3.2	Catchment Management and Water Quality	<p>Appropriate management of the site during the construction phases will contribute towards protecting the water system.</p> <p>A Stormwater Management Plan has been prepared and is attached as part of this application.</p>	Yes
3.3	Watercourses, Wetlands and Riparian Corridors	Subject site is not located within proximity to a watercourse, wetland or riparian corridor. Not applicable.	N/A
3.4	Groundwater	The proposed development proposes a private hospital within an established urban area. It is therefore considered that the risk of site contamination occurring during construction and future use of the site is low. Not applicable.	N/A
3.5	Flood Planning	<p>Council's Flood Planning Map indicates that the site is not flood prone however, Council officers have advised the site is affected by flood related development controls due to local overland flows.</p> <p>The requirements of the flood related development controls are addressed in the stormwater and engineering plans submitted with this application.</p>	Yes

Clause	Controls	Comments	Complies
3.6	Stormwater Management and Drainage	A Stormwater Management Plan has been prepared and is attached as part of this application	Yes
3.9	Water Sensitive Urban Design	<p>The proposed development incorporates Water Sensitive Urban Design (WSUD) principles that seek to minimise and manage the impact of stormwater on site and within the area.</p> <p>The proposed development appropriately addresses the unique characteristics of the site and will allow for the efficient management of stormwater. See attached Stormwater Management Plan for detail.</p>	Yes
C4 Land Management			
4.1	Site Stability and Earthworks	<p>This application seeks Council consent for the excavation of the site as per the attached plans.</p> <p>It is considered that the proposed excavation will have minimal adverse environmental or amenity impact.</p> <p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>The proposal will not adversely affect or disrupt drainage and flood patterns, flood storage or soil stability in the area.</p> <p>The proposed excavation is consistent with the current and future use of the land and will develop the site into context with its surrounds and in accordance with Councils current and proposed planning strategies.</p> <p>It is considered unlikely due to the location of the site as well as previous development that excavation will lead to the disturbance of relics.</p>	Yes
4.3	Erosion and Sedimentation	This application seeks Council consent for the excavation of the site as per the attached plans.	Yes

Clause	Controls	Comments	Complies
		<p>It is considered that the proposed excavation, will have minimal adverse environmental or amenity impact.</p> <p>The proposal results in an appropriate outcome when considering the nature of the development, the unique characteristics of the site and compliance with relevant Council controls.</p> <p>An Erosion and Sediment Control Plan is attached as part of this application.</p>	
4.4	Contaminated Lands	<p>The site was previously used for urban purposes. The land is not known to have been used for any purposes that may give rise to the likelihood of contamination.</p> <p>Nothing on site indicates a previous contaminating use.</p> <p>If any contaminated material or suspected material is unearthed during the construction process, then actions consistent with the legislative requirements and guideline documents will be undertaken.</p>	Yes
4.5	Salinity	<p>Due to the nature and location of the site it is not likely to be affected by Saline Soils. Not relevant.</p>	N/A
C5 Waste Management			
		<p>A Waste Management Plan is attached as part of this application. Notwithstanding it is noted that waste is to be appropriately managed during the construction stages of the development.</p> <p>Bin storage area is located within Basement Level 1 with an adjacent loading dock. Considering that the development is to join the basement within the Somerset Specialist Centre, It is noted that collection of waste will be provided via basement level associated with the adjoining private hospital.</p> <p>As such waste area will is not visible from both frontages and as such will minimise impact to the streetscape.</p>	Yes
C6 Landscape Design			

Clause	Controls	Comments	Complies
		<p>A landscape concept plan accompanies this development application.</p> <p>The concept plan details the landscape embellishment works appropriate within a B4 context, noting proposed landscape works will also contribute towards softening the proposed built form.</p>	Yes
C7 Cultural and Heritage			
7.1	Heritage	<p>The site is not identified as a heritage item, it is not located within a heritage conservation area nor is it near any surrounding heritage items.</p> <p>It is noted that there are heritage items within the broader vicinity of the development site, however they are sufficiently separated from the subject land parcel and therefore the proposal will have no impact on the heritage curtilage of the local heritage items.</p> <p>As a result, the subject site will not have any associated heritage restrictions.</p>	N/A
7.2	Aboriginal Cultural and Heritage	Not relevant.	N/A
7.3	Significant Trees and Gardens	The subject site does not contain any trees or gardens that is of cultural, historical, scientific or aesthetic significant.	N/A
C10 Transport, Access and Parking			
10.2	Traffic Management and Safety	<p>With the current proposal to join the basement of the development site with an existing basement within the Somerset Specialist Centre will result in the development to not utilise existing vehicle access arrangements, thus minimising the need to provide additional access points.</p> <p>The current scheme will also provide for the safe and efficient movement of pedestrian entering and exiting the site.</p> <p>Refer to attached Traffic Report for detail.</p>	Yes
10.3	Key Transport Corridors	The subject site does not bound a key arterial road network. Not applicable.	N/A

Clause	Controls	Comments	Complies
10.5	<p>Parking, Access and Driveways</p> <p>Applicable parking rates</p> <p>Hospital 1 space per 3 beds plus 1 space per 2 employees</p> <p>Commercial 1 space per 40m²</p>	<p>Proposed dimensions for car parking spaces are consistent with Council controls and a traffic and parking assessment is provided with this development application.</p> <p>As described in the traffic and parking statement provided with this submission, the proposal is operationally quite different to a traditional hospital. This is because the patients of a mental health hospital are not permitted to drive to the facility rather, they are dropped off for their treatment. All patients are informed of this as part of the registration process. Please also refer to details provided in the operational management plan.</p> <p>The length of stay for each patient is also different to a traditional hospital as most patients at a mental health hospital are staying for at least a week and in some cases a month or even longer. Whereas in a traditional hospital there would be patients who attend for part of a day or a single day as such their parking demand is much lower for a mental health specialist centre. It is also important to note that during the patients stay there are times when the patients are not permitted to have visitors as such the parking provision for this site is quite different to a traditional hospital and the parking provision is unique to the site. Please refer to attached Traffic Report for detail.</p> <p>The development provides a total of 92 parking spaces of which 62 spaces will be for public access and 30 secure staff spaces.</p> <p>The mental health facility is to be provided with 39 car parking spaces – please refer to the traffic statement for further details of the car parking rate applied.</p> <p>The medical consulting rooms will be allocated 50 parking spaces with the application of the RMS guidelines of 4 spaces for 100m². This rate has been consistently applied in this precinct. There is 1,229m² of medical consulting rooms as such 50 spaces are required and provided.</p>	Yes

Clause	Controls	Comments	Complies
		<p>The pharmacy rate as per the DCP is 1 space per 30m². With the pharmacy occupying 150m² this requires 3 parking spaces which are provided within the proposal.</p> <p>The proposal provides sufficient car parking as per the relevant parking rates and further details are provided in the traffic and parking impact assessment submitted with this application.</p>	
C11 Subdivision			
		No subdivision is proposed as part of this development and as such the controls contained under C11 Subdivision does not apply to the current development.	N/A
E12 Penrith Health and Education Precinct			
12.1	Background	<p><u>12.1.2 Aim of the controls for the Hospital Precinct</u></p> <p>The proposed development will positively contribute to the growth and character of Kingswood as a specialised medical precinct with the introduction of an additional private hospital that will support existing health services within the precinct.</p> <p>The development is to also enhance the public domain by providing an attractive 5 storey built form that is to address both Somerset Street and Hargrave Street via an attractive contemporary building whilst also contributing towards activating the streetscape with a pharmacy proposed along the site's frontage to Somerset Street.</p> <p><u>12.1.3 General Objectives</u></p> <p>The development is consistent with the general objectives of E12 due to the following:</p> <ul style="list-style-type: none"> - Proposal will contribute towards the revitalisation of Kingswood by providing a modern 5 storey building that is to adequately address its dual frontages. - The proposal provides an attractive 5 storey built form that exhibits high quality urban design and architectural excellence. - Proposal is to provide a private hospital with a mix of ancillary 	<p>Yes</p> <p>Yes</p>

Clause	Controls	Comments	Complies
		<p>uses including health consulting rooms, pharmacy and gymnasium.</p> <ul style="list-style-type: none"> - Proposal promotes medical related uses through the construction of a health services facility. - Proposal has been designed to be accessible to all members of the public with primary entry point of the hospital via Somerset Street via graded a pathway lift cores to provides access to all levels of the proposed hospital building. - Proposal has been designed to enhance the public domain via an attractive building that addresses both frontages and with a pharmacy proposed within the ground floor will contribute towards activating the streetscape whilst increasing the vibrancy of the precinct. <p><u>12.1.4 Character Areas</u></p> <p>The subject site is located within '<i>Medical Mixed Use</i>' precinct and the proposed health services facility including a private hospital will contribute towards the Hospital Precinct to develop into a specialised medical precinct.</p> <p>The development will support and complement Nepean Hospital and existing and anticipated related health related services whilst providing valuable health services to the wider Penrith and Lower Blue Mountains catchment.</p> <p>The development proposes a 5 storey building which is predominantly consistent with the building heights permitted under the LEP, with a portion of the ground floor to be activated with floor space to be dedicated for a future pharmacy.</p> <p>The site is to be appropriately landscaped with the hospital incorporating high quality architectural design.</p> <p>The proposal also provides generous pedestrian zones and walkways to both frontages.</p>	Yes
12.2	Land Use Controls	<p>1. Development has been designed with flexible floor areas and layouts to both the ground and first floor of the proposed hospital to accommodate a range of commercial uses.</p>	Yes

Clause	Controls	Comments	Complies
		2. Development proposes a floor to ceiling height >3.5m to both the ground and first floor.	Yes
		4. Not applicable, the proposal is to accommodate a modern health services facility, noting appropriate service provisions including lobbies, lift access, entry points and garbage storage areas are provided.	Yes
		5. A pharmacy is provided along the site's frontage to Somerset Street.	Yes
		6. Clause 6 requires the ground floor of a mixed-use development to provide a minimum of 75% commercial frontage. It is noted that the development is not a mix use building as it proposes to construct a health services facility and therefore Clause 6 does not apply to this development. However, appropriate commercial floor space in the form of a pharmacy is provided as ancillary use associated with the proposed development.	N/A
		7. The site, once consolidated will have a frontage >24m to both Somerset Street and Hargrave Street.	Yes
		8. With the development proposing to construct a 5 storey building, no residential component forms part of this development.	Yes
		Furthermore, the site is not serviced by a rear laneway noting that with the development to share basement levels, no change to the vehicle access arrangement approved under DA17/1107. Finally, the proposal also provides generous pedestrian zones and walkways to the street from the public domain.	
		9. As the proposal is not mixed use for the purpose of residential and commercial development this provision for separate access is not applicable. However, direct access to the pharmacy is provided from Somerset Street.	NA
		10. Where appropriate, security access control is provided to all entrances into private areas.	Yes
		11. Development provide active ground floor setback to Somerset Street.	Yes
		12. The proposed building is articulated at ground level to minimised blank building walls.	Yes

Clause	Controls	Comments	Complies
12.3	Built Form Controls	<p><u>12.3.1 Street Alignment, Building Height and Setbacks</u></p> <p>1. Table E12.1 of the DCP requires a zero rear and side setback for non-residential uses. As such, the proposed development is built to boundary as per Table E12.1.</p> <p>Figure E12.4 identifies that the site is to provide a 4m front setback to Somerset Street. However adjoining development at 38 Somerset Street, which was approved for a comparable health service facility via DA17/1107 has been granted approval with a 0m front setback to Somerset Street. As such, in-order to achieve a continuous flow of the built form and considering the front setback to Somerset Street established via DA17/1107, the proposed built to boundary built form along Somerset Street is considered acceptable and worth of Council support.</p> <p>3. The building addresses its frontages and incorporates high quality articulation.</p> <p><u>12.3.2 Building Depth and Bulk</u></p> <p>1. DCP requires non-residential buildings greater than 12m in height to have a maximum depth of 25m.</p> <p>The building has a depth >25m, however considering that the proposal is for a health services facility, the building depth is of a sufficient size to provide viable and useable medical related floor space and will be designed to maximise access to light, ventilation and outlook. A health services facility requires safe and secure, separate consulting rooms that are provisioned with medical grade lighting as such the consulting rooms can be within the part of the building where the depth is greater than 25m. The mental health rooms are afforded a central light courtyard to provide a window with natural light to each room within levels 1, 2 and 3 within the building.</p> <p>Furthermore, the development has been designed to minimise overshadowing of neighboring properties, with the building wall broken up and articulated to minimise bulk and scale and therefore the non-compliance to maximum depth control is considered acceptable and worth of Council control.</p>	<p>Yes – on merit</p> <p>Yes</p> <p>NA</p>

Clause	Controls	Comments	Complies
		2 and 3. DCP requires all points of an office floor to be no more than 10m from a source of daylight.	N/A
		The proposal is not for office floor space.	
		4. The proposed building mass is to be appropriate broken up through the incorporation of both vertical and horizontal elements of articulation of the façade.	Yes
		The range of materials will significantly contribute to the articulation of the building and will help to reduce the overall bulk and mass of the building.	
		<u>12.3.3 Boundary Setbacks and Building Separation</u>	
		1. Table E12.1 identifies that the site is subject to a minimum side and rear setback of 0m up to 12m and 6m between 12m – 24m. For non residential uses (as proposed) the minimum side and rear setbacks is 0m.	Yes
		The development provides between 4 and 6m setback to the site's side (eastern) setback to ensure the amenity of adjoining sites is maintained. The rear of the building is setback 0m is satisfactory given the site is located directly adjoining the already constructed health services facility to the south of this site.	
		The proposed side setback to the east is between 4 and 6m. This side boundary is angled, and the average side setback is provided as 6m. Noting there is also an established approval to the south of the subject site within this precinct for non residential development to be setback 3m. This proposal provides a greater setback and allows for adequate separation and privacy protection to the neighbours.	Variation
		3. Development does not propose a podium style building design as it aims to be cognisant of the approved health services facility to the south. Rather the facades are articulated in such a way that a relationship is struck with the human scale, mainly through horizontal articulation to ensure the building does not read as a single glazed building. Each level is clearly distinguishable delivering an attractive building to complement the desired vision for this precinct.	Variation
		<u>12.3.4 Site Coverage and Deep Soil Zones</u>	
		1. DCP requires a minimum of 25% of the total site area to be dedicated as open space	N/A

Clause	Controls	Comments	Complies
		<p>area. On this site 70m² of deep soil is provided.</p> <p>It is noted that due to the nature of the development: a health services facility, the prescribed percentage of open space is not considered necessary for hospitals and therefore open space controls does not apply to the current development.</p> <p>2. Table E12.2 identifies that the site is subject to a maximum site coverage of 75% and a minimum deep soil zone of 10%.</p> <p>However as stated above the proposal being a health services facility results in a larger building footprint when compared to a normal mixed-use style of development.</p> <p>The proposal provides 91% site coverage but as can be seen by the enclosed architectural plans and landscaping detail, the scheme delivers a high quality public domain outcome which is aligned with Council's strategic vision for the site and commensurate with the surrounding medical/hospital precinct. The deep soil delivery is approximately 3% which is strictly a variation to the DCP provisions however, in this case Council can support the variation.</p> <p>Further details of the proposal need to be determined to establish compliance.</p>	Yes
		<p>3. Development provides appropriate deep soil zones with a minimum dimension of 6m. Not applicable as discussed for a health services facility.</p>	N/A
		<p>5. Appropriate deep soil zones are provided considering the nature of the development and its location within the Hospital Precinct, noting the deep soil zones are capable of planting appropriate sizes trees and supporting landscape embellishment works.</p>	Yes
		<p><u>12.3.5 Building Exteriors</u></p> <p>1. DCP suggests that adjoining buildings are to be considered when designing new buildings in terms of appropriate alignment and street frontage height, setback about street frontage heights, selection of appropriate materials and finishes, facades proportions and the provision of enclosed corners at street intersections.</p>	Yes

Clause	Controls	Comments	Complies
		<p>With the development proposing a 5 storey building, consideration of adjoining building has been undertaken. The proposal seek to complement each other while resulting in a high quality urban design outcome. The development has been designed to comply with key planning controls including maximum building height and FSR under the LEP and key planning controls under the DCP. It is noted that the minor non-compliance to the maximum building height control has been addressed via Annexure 1.</p> <p>The development is to positively contribute to the streetscape and public domain by proposing a modern five storey building exhibiting high architectural quality and a robust selection of materials and finishes.</p> <p>The proposed building mass is to be appropriate broken up through the incorporation of both vertical and horizontal elements of articulation through the stepped alignment of external walls.</p> <p>The range of materials will significantly contribute to the articulation of the building and will help to reduce the overall bulk and mass of the building.</p> <p>The hospital will provide an appropriate pedestrian scale. The development provides an attractive building that punctuate the skyline and contribute towards the evolving high density-built form character of the wider Hospital Precinct.</p> <p>2. & 3. Due to the nature of the development – health services facility including a private hospital, no balconies are proposed. There is some outdoor terraces provided along the boundary with 4 Hargrave Street. These terraces are at ground level as such privacy and overlooking will be mitigated with the proposed side fencing.</p> <p>4. Building facades are appropriate articulated to ensure that the development appropriate address its frontages whilst adding visual interest to the public domain</p> <p>6. External walls are to be constructed of high quality and durable materials and finishes.</p> <p>7. Noted – large expanses of any single materials have been avoided.</p> <p>9. High reflective finishes and curtain wall glazing are not proposed above ground floor level.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Clause	Controls	Comments	Complies
		<p>11. Service plan room are designed to be integrated into the overall architectural of the building with lift/stairwell overruns to be recessed to minimise impacts to the streetscape.</p> <p><u>12.3.6 Landscape Design</u></p> <p>Where appropriate, outdoor space is to incorporate planting also where appropriate, existing trees are to be retained. Refer to attached Arborist Report and Landscape Plan for detail.</p> <p><u>12.3.7 Planting on Structures</u></p> <p>Appropriate planting is proposed, noting the context of the site within the Hospital Precinct and its B4 context. Refer to attached Landscape Plan for detail.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
12.4	Other Controls	<p><u>12.4.2 Pedestrian Amenity</u></p> <p>Appropriate pedestrian access to the site is provided in the form of pedestrian zones and walkways to both frontages with direct access to the entry points of the building provided via Somerset Street.</p> <p>The development is to also appropriate address and activate the streetscape with a ground floor pharmacy to be provided along the site's frontage to Somerset and the provision of appropriate awning and lighting to provide protection to pedestrians.</p> <p><u>12.4.2.1 Permeability</u></p> <p>No through sight links are required to be provided by the development as per Figure E12.6.</p> <p><u>12.4.2.2 Active Street Frontage and Address</u></p> <p>Figure 12.7 does not require an active street, however the proposed ancillary pharmacy would contribute towards activating Somerset Street.</p> <p>Furthermore, direct entry points are provided to the primary entry point of the building with pedestrian zones and walkways that will promote pedestrian activity and safety.</p> <p><u>12.4.2.3 Safety and Security</u></p> <p>The proposed development incorporates an active façade that will permit casual</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>

Clause	Controls	Comments	Complies
		surveillance to both Somerset Street and Hargrave Street as well as driveway and landscaped areas of the proposal.	
		The proposal incorporates open space and landscaped areas that will contribute to activity and natural surveillance of the area.	
		The proposed landscaping and fencing is appropriate when considering CPTED principles and will not permit easy concealment of intruders.	
		The proposed development is appropriate and provides measures, built elements, landscaping and design features that are consistent with CPTED principles.	
		<i>12.4.2.4 Awnings</i>	
		Development proposes appropriate awnings.	Yes
		<i>12.4.2.5 Vehicle Footpath Crossings</i>	
		1. No vehicle access point proposed as vehicular access is to be provided via the shared basement arrangement with the Somerset Specialist Centre.	Yes
		4. Sufficient separation between pedestrian access points to the site and the vehicle access point is achieved, noting that no vehicle access point is provided by the proposal.	Yes
		5. Vehicular access with and grades are designed to comply with relevant Australian Standards.	Yes
		7. & 8. Vehicle access points and access ramps are integrated into the design of the building.	Yes
		10. Not applicable, noting that the vehicular access is to be provided via the shared basement arrangement with the Somerset Specialist Centre.	N/A
		<i>12.4.3 Car Parking</i>	
		1. The lower ground floor which accommodates car parking spaces has floor to ceiling height is greater than 2.8m.	Yes
		2. Where appropriate natural ventilation is to be provided to the basement levels.	Yes
		3. A Geotechnical Report has been prepared and is attached to this statement. Refer to Geotechnical Report for detail.	Yes

Clause	Controls	Comments	Complies
		4. Where appropriate, basement car parking is located directly under building footprint to maximise opportunities for deep soil areas, noting development comply with the deep soil zones required under the DCP.	Yes
		5. Most of the car parking is located below the ground or within the lower ground floor to minimise impact on the streetscape.	Yes
		7. Car parking layouts are designed to comply with the relevant Australian Standards.	Yes
		<u>12.4.4 Site Facilities and Services</u>	
		Appropriate facilities are to be provided including letterbox, waste storage and collection areas. Refer to attached Waste Management Plan for detail.	Yes
		Development also provides appropriate loading areas in-accordance with the DCP and relevant Australian Standards.	

OTHER CONSIDERATIONS

BUILT FORM AND SCALE

The proposed development has been designed to provide valuable health services to the local community. The form, height and proportion of the building is consistent with that of the vision Hospital Precinct to accommodate mix developments of between 4-6 storeys. The development complies with the prescribed FSR controls and predominantly complies with the building height control and under the LEP.

The proposal provides appropriate side setbacks and is to be appropriately landscaped to enhance the subject site and minimise the bulk and scale of the development. Refer to attached Landscape Plan for detail.

Design Intent

The key design intent of the proposal is as follows:

- The architectural style is proposed to complement the already constructed Somerset Specialist Centre as well as the adjacent public car park building. The material selection is commensurate with the adjoining development and a

light shade of green is integrated into the façade finish so the buildings are recognisable as separate buildings with different medical related uses.

- There is a brick finish applied to the lower level of the building to create a strong building foundation which is articulated with glazing. Overall, the building design creates a high quality outcome that will raise the character of this health and education precinct.
- Vehicular access to the site is via shared basement with Somerset Specialist Centre with a prominent, well-lit, well-articulated pedestrian entry point to the site from Somerset Street with the planned buildings to reinforce the street edge and positively contribute to the local streetscape.
- Scale of the proposal designed to be consistent with the vision of the precinct as per Council's vision for the Quarter.
- Landscape details have been designed in conjunction with architectural design to promote the integration of landscape and building space.

OVERSHADOWING AND PRIVACY

Due to the size of the site, siting of the proposed building and compliance to setback requirements, the proposal will have negligible visual or overshadowing impacts to neighbouring properties. Overshadow impact diagrams are provided with this submission.

NOISE

An acoustic report, which demonstrates that the development will not result in any unreasonable acoustic impact has been prepared and attached as part of this statement.

Provided that the treatments set out in the acoustic report submitted with this application are employed, internal noise levels shall comply with the requirements below:

- Penrith City Council – 'Development Control Plan (DCP) 2014'
- Australian and New Zealand AS/NZS 3671:1989 'Acoustics—Road traffic noise intrusion—Building siting and construction'
- Australian and New Zealand AS/NZS 2107:2016 'Recommended design sound levels and reverberation times for building interiors'
- NSW Health Infrastructure – Engineering Services Guidelines (ESG) 2017.

External noise emissions criteria have been setup in the acoustic report submitted with this application to satisfy the requirements from the following documents:

- Penrith City Council – 'Development Control Plan (DCP) 2014'; and

- NSW Department of Environment and Heritage, Environmental Protection Agency document – ‘Industrial Noise Policy (INP) 2017’.

Detailed acoustic controls measure for the plant servicing the proposed development and licensed venue noise will be determined at CC stage. Therefore, the noise impacts of the development are deemed acceptable.

SERVICING AND WASTE

A Waste Management Plan has been prepared and is attached as part of this statement.

Bin storage area is located within Basement Level 1 with an adjacent loading dock. Considering that the development is to join the basement within the Somerset Specialist Centre, It is noted that collection of waste will be provided via basement level associated with the adjoining private hospital.

ECONOMIC AND SOCIAL IMPACTS

The proposed development is likely to contribute to a range of economic and social benefits through:

- Increased employment opportunities during construction and at the completion of the proposal.
- Benefits for the local community as they can access specialist mental health services. At present the local community need to travel in excess of 20 minutes’ drive from Penrith to access these services which can be extremely difficult for people with young families and the ageing population. Delivering these facilities locally offers a significant benefit for the residents of Penrith and Western Sydney as a whole.
- Improved capacity, operation and efficiency in delivering hospital services to the wider community.
- Locating this private health facility virtually next door to the Nepean Hospital and the Somerset Specialist Centre means that patients are not required to travel long distances. Co-locating these facilities facilitates the creation of a sustainable and resilient community.
- By locating the private health facility within the Penrith Hospital Precinct builds on the capacity of the precinct as a whole and the local economy. The creation of much needed local jobs has benefits that are far reaching.

Therefore, the economic and social impacts of the development are positive.

CONCLUSION

Following a review of the relevant planning controls, it is concluded that the proposed development is consistent with the objectives, planning strategies and detailed controls of these planning documents.

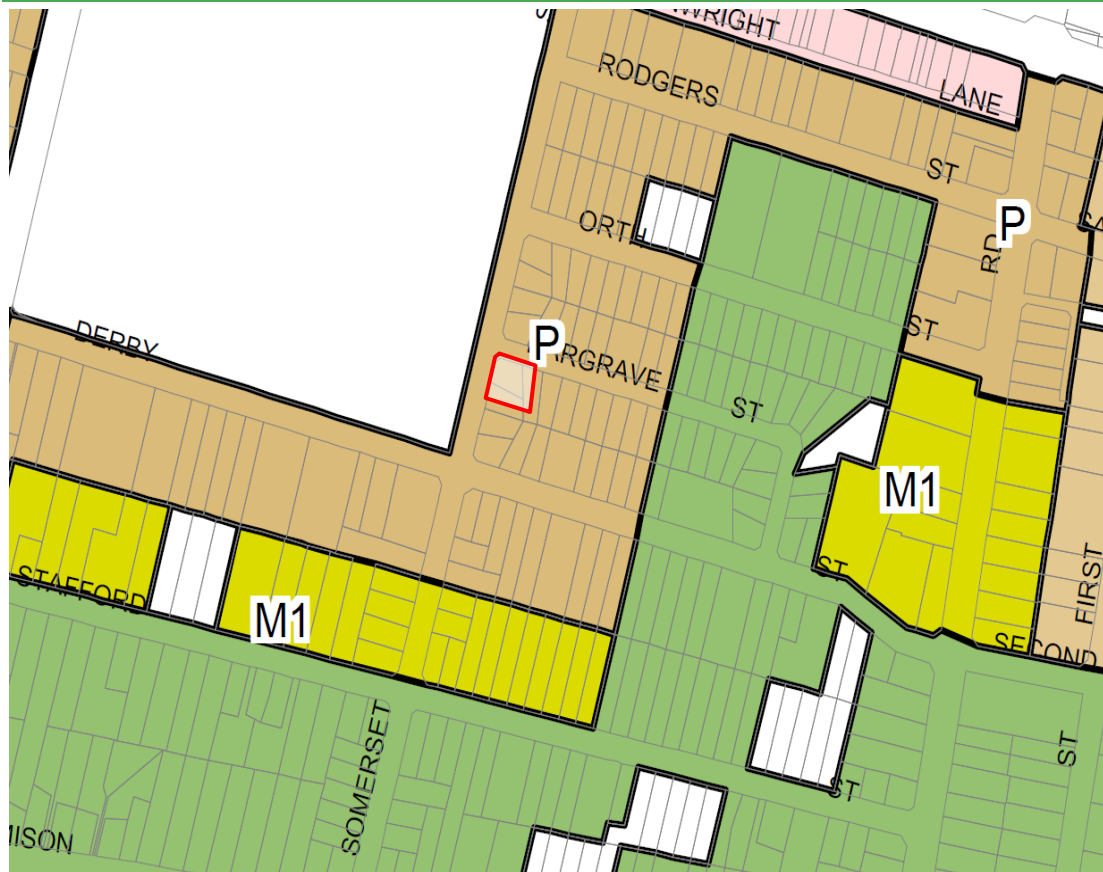
Consideration has been given to the potential environmental and amenity impacts that are relevant to the proposed development and this report addresses these impacts.

Having regard to the benefits of the proposal and considering the absence of adverse environmental, social or economic impacts, the application is submitted to Council for assessment and granting of development consent. Think Planners Pty Ltd recommends the approval of the application, subject to necessary, relevant and appropriate conditions of consent.

ANNEXURE 1: CLAUSE 4.6 VARIATION BUILDING HEIGHT

Clause 4.3 of the Penrith LEP 2010 stipulates a maximum building height of 18m for the subject site and broader locality as indicated on the height of building map extract below. The 'P' notation reflects the area showing the 18m building height limit.

Figure 11: Height of Building Map Sheet HOB_012 Extract (Source: Penrith LEP 2010)

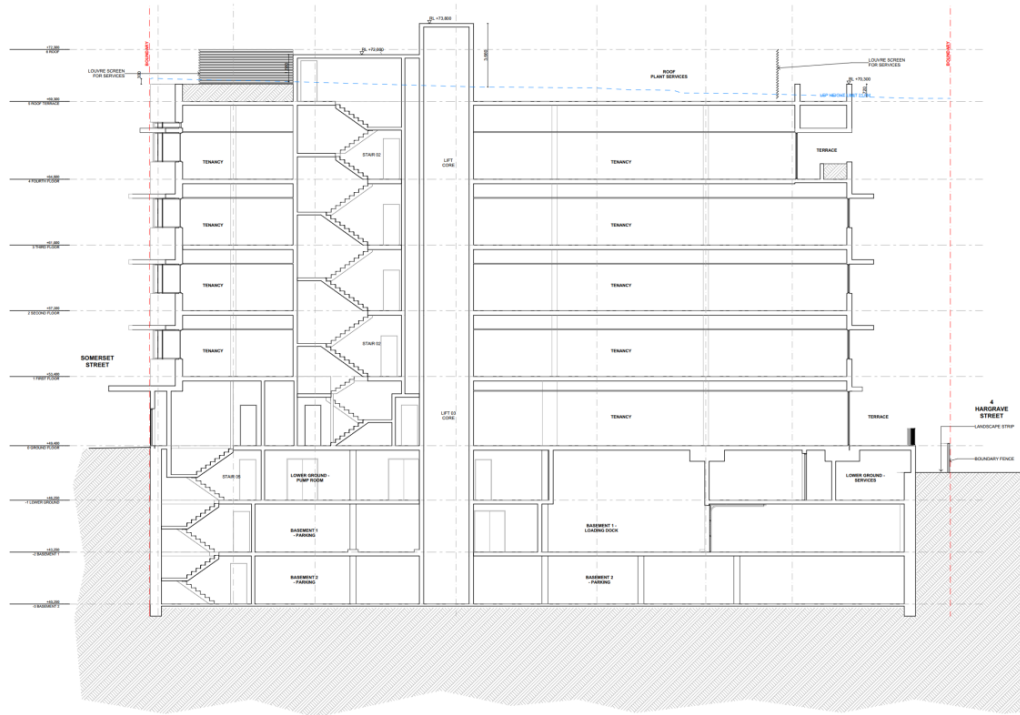


Subject Site

It is noted that Penrith Local Environmental Plan 2010 Clause Application Map Sheet CAP_002 identifies that the site is located within the Penrith Health and Educational Precinct and as such Clause 7.11 Penrith Health and Education Precinct, and as such the development is entitled to a maximum height bonus of up to 20% of that permitted under Clause 4.3 (21.6m).

The current proposal is RL25.26m at the highest point and the variation to the development standard is limited to the stairwell over-run (2.3m over the prescribed height limit), a portion of the louver screen for services (3m over the prescribed height limit) and the lift core (3.66m over the prescribed height limit) as reflected via section plan extract overleaf. The extend of the noncompliance is 3.66m or 16.9%.

Figure 12: Section Plans Extract



RELEVANT CASE LAW

There are a number of recent Land and Environmental case including *Four 2 Five v Ashfield* and *Micaul Holdings Pty Ltd v Randwick City Council* and *Moskovich v Waverley Council*, as well as *Zhang v Council of the City of Ryde*.

In addition a recent judgement in *Initial Action Pty Ltd v Woollahra Municipal Council (2008) NSWLEC 118* confirmed that it is not necessary of a non-compliant scheme to be a better or neutral outcome and that an absence of impact is a way of demonstrating consistency with the objectives of a development standard. Therefore, this must be considered when evaluating the merit of the building height departure.

Future a decision in *AL Maha Pty Ltd v Huajun Investment Pty Ltd* [2018] NSWCA 245 has adopted further consideration of this matter which requires that a consent authority must be satisfied that:

- The written request addresses the relevant matters at Clause 4.6 (3) and demonstrates compliance is unreasonable or unnecessary and that there are sufficient environmental planning grounds; and
- The consent authority must consider that there are planning grounds to warrant the departure in their own mind and there is an obligation to give reasons in arriving at a decision.

The key test or requirements arising from the above judgement is that:

- The consent authority be satisfied the proposed development will be in the public interest because it is “*consistent with*” the objectives of the development standard and zone is not a requirement to “*achieve*” those objectives. It is a requirement that the development be compatible with the objectives, rather than having to ‘achieve’ the objectives.
- Establishing that ‘compliance with the standard is unreasonable or unnecessary in the circumstances of the case’ does not always require the applicant to show that the relevant objectives of the standard are achieved by the proposal (Wehbe “test” 1). Other methods are available as per the previous 5 test applying to SEPP 1, set out in *Wehbe v Pittwater*.
- The proposal is required to be in ‘the public interest’.

In relation to the current proposal the keys are:

- Demonstrating that the development remains consistent with the objectives of the maximum building height control and on that basis that compliance is unreasonable or unnecessary;
- Demonstrating consistency with the B4 zoning;
- Demonstrating there are sufficient environmental planning grounds to vary the standard; and
- Satisfying the relevant provision of Clause 4.6.

CLAUSE 4.6 – EXCEPTIONS TO DEVELOPMENT STANDARDS OF LEP 2010

Clause 4.6 of the Penrith Local Environmental Plan 2010 provides that development consent may be granted for development even though the development would contravene a development standard. It is submitted that cl.4.3(2) of LEP 2010 is consistent with the definition of “development standard” contained in s.1.4(1) of the Environmental Planning and Assessment Act 1979 (**the Act**), being:

..... provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

.....

*(c) the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work,*

Clause 4.6(3) to (5) of LEP 2010 follows:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has*

considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(4) 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 Director-General has been obtained.*

(5) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Each of these provisions are addressed individually below.

Clause 4.6(3)(a) – Compliance Unreasonable and Unnecessary

In accordance with the provisions of this clause it is considered that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case as:

- The underlying objectives of the control are satisfied, known as the first way in the decision of *Wehbe v Pittwater Council (2007) 156 LGERA 446*:

Underlying Objectives are Satisfied

The objectives of the 'Height of Buildings' development standard are stated as:

(1) The objectives of this clause are as follows:

- a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes,

c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance,

d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.

The proposal, despite the numerical non-compliance identified, is consistent with the objectives of cl. 4.3 – Height of Buildings of LEP 2010. Each objectives is considered below.

- **Objective (a):** The locality is in a state of transition from existing low density of high density mixed use development related to the health sector up to 4-5 storeys. As such the current proposal would be compatible and consistent with the evolving skyline within Penrith's premier health precinct.

The building is compatible with the height, bulk and scale of the desired future character when having regard to recent development constructed in the locality, and to the suite of applicable planning controls. The desired future character within the health precinct, as evidence by the planning controls and zone objectives, is predominantly health related higher density mixed used developments. The proposed development is compatible with the height, bulk and scale of development constructed under the current planning controls, in particular a recently constructed hospital that bounds the site's southern boundary, adopts highly articulated facades and built to boundary built form, noting that the development has a height, bulk and scale that is harmonious and sympathetic to development along Somerset Street and the broader health precinct.

The stairwell over run and louver screens which encroaches the height limit are recessed and will not be highly visible when viewed from the street level.

- **Objective (b):** The additional height associated with the stairwell overrun nor the louvers screens does not generate any additional amenity impacts with regards to overshadowing, visual privacy, acoustic privacy or view loss. As such the non-compliant portion of the building do not increase the shadows cast by the building.

In regard to visual impacts, the area of the development which contravenes the development standards is recessed from Somerset Street and therefore is not highly visible at the street level.

The building will continue to present a modern five storey to the public domain.

The proposal will not impact on views enjoyed from the public domain or adjoining properties.

- **Objective (c):** The subject property is not proximate to *heritage items, heritage conservation areas and areas of scenic or visual importance*. The objective is not relevant to the proposed development.
- **Objective (d):** The subject property is not on the interface with an area of lesser intensity, with surrounding and adjoining properties being similarly zoned and having similar restrictions on height and FSR. The subject height has not been nominated to provide a transition on the subject property to an area of lesser intensity.

The proposed development has been designed to provide visual interest and a high quality urban form. The facades have been articulated by building modulations, material selection and location and design of the windows and openings.

Objective (d) is satisfied by the proposed development, notwithstanding the variation to the numerical standards. The variation is of a minor scale and does not jeopardise development on adjoining properties from complying with the objective and providing high quality developments which are harmonious with the proposed development.

A variation of the height standard in this instance would not force development on adjoining properties to also vary the height standards as the non-compliance relates to the delivery of vital service in this case stairwells, and therefore would also provide appropriate and compatible development in the streetscape.

Clause 4.6(3)(b) – Sufficient Environmental Planning Grounds

Pain J held in *Four2Five vs Ashfield Council* [2015] NSWLEC 90 that to satisfy clause 4.6(3)(b), a clause 4.6 variation must do more than demonstrate that the development meets the objectives of the development standard and the zone – it must also demonstrate that there are other environmental planning grounds that justify contravening the development standard, being grounds that are specific to the site.

Pursuant to clause 4.6(3)(b) of the LEP, there are sufficient environmental planning grounds to justify the variation to the FSR development standard because:

- The variation is associated with the lift core with the stairwell and louver screens. The variation to the stairwell overrun is a service requirement, however, is recessed to ensure it is not visible from the street level to minimise impacts to the evolving streetscape along Somerset Street. Furthermore, the louvers screen the plant areas predominantly to its neighbouring property to its

immediate southern boundary. The louvers are also recessed from Somerset Street to minimise impact to the public domain.

- The variation to the height control does not generate unacceptable adverse impacts to surrounding properties, in terms of overshadowing or privacy impacts. The proposed development is compatible with the height, bulk and scale of development constructed under the current planning controls, noting that the development has a height, bulk and scale that is harmonious and sympathetic to development along Somerset Street and the broader health precinct.
- The proposal ensures that the area is provided with high density residential development to support the growth of Penrith and to align with the principles of urban consolidation that seek to ensure the efficient use of community infrastructure by providing higher density residential development at strategic locations. The subject property is walking distant to both the Penrith train station and CBD. The current developments existing on the subject property (single dwellings), or a development of a lesser intensity would not achieve this planning objective to the same degree.
- The proposal will support the ongoing development of Penrith's premier health precinct by delivering a contemporary hospital specialising in mental health with ancillary uses to positively support the function and operation of the Health Precinct while permitting the site to be developed to its full zoning potential. The proposal will also positively contribute towards increasing valuable specialised health services and employment opportunities within the Precinct and surrounding suburbs.

The proposed development and in particular the variation to the Height of Building Standard would further the following objectives of the Act specified in S.1.3:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources*

Comment:

As stated above, the delivery of the stairwell and appropriate screening of plant rooms on the roof level result in a breach of the height standard, As such the breach of height standards is required to deliver vital services and screen the plant room from adjoining properties.

(c) to promote the orderly and economic use and development of land,

Comment:

The development of a new hospital specialising in mental health within Penrith's health precinct is considered to be promoting orderly and economic use and development of the subject property, noting that it will positively support the function and operation of the Health Precinct while permitting the site to be developed to its full zoning potential. The delivery of vital services, in this case a stairwell will not be achieve without the minor breach of the development standards, noting the minor nature of he non-compliance to the height provision.

(g) to promote good design and amenity of the built environment,

Comment:

The proposed development has been designed to deliver a contemporary 5 storey building that exhibits good design whilst positively contributing to the evolving built form character along Somerset Street. The building will have a harmonious relationship with neighboring development and will not harm the amenity of the built environment.

Clause 4.6(4) – Zone Objectives & The Public Interest

In accordance with the provisions of Clause 4.6(4)(a)(i) Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) for the reasons set out previously.

In relation to the provisions of Clause 4.5(4)(a)(ii) the consent authority can be satisfied that the development, including the numerical building height departure, is in the public interest given that the proposed development is consistent with the objectives of the building height control (see above), and is consistent with objectives of the B4 zone:

The relevant objectives of the B4 zone – Mixed Use Zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within this zone and land use within adjoining zones.*

- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*
- *To ensure low intensity of land use other than land uses that are primary industry enterprises.*

The proposal remains consistent with the objectives based on the following:

- The proposal will contribute to the function and operation of the Health Precinct by the delivery of a new hospital specialising in mental health.
- The development will provide a contemporary hospital in a strategic location within close proximity Kingswood Train Station and bus stops that will maximise public transport patronage and to encourage walking and cycling.
- The development is to deliver not specialised mental health services within Penrith, noting that there is a distinct absence of mental health infrastructure in Penrith but also a Pharmacy which will play a supporting role within the health precinct.
- The non-compliance is minor in nature with the majority of the building being compliant with the building height control and only overrun associated with the stairwell and screen louvers at the roof level encroaching upon the prescribed height control and as such its impact to the streetscape is negligible as it will be visually unnoticeable when viewed from the street level, noting that both the overrun and louver screens are recessed from the site's frontages.
- Due to the minor nature of the variation it will not have any adverse amenity impacts. In this regard it is noted:
 - The variation will have no adverse impact on the physical bulk, height or scale of the development.
 - The variation will not lead to a reduction in solar penetration on site or to adjoining properties nor will it lead to sunlight loss or overshadowing.
 - The proposed variation will not lead to view loss or interrupt views to and from the site.
 - The proposed variation will not lead to a reduction in privacy afforded to neighbouring properties.

On the basis of the above points, the development is in the public interest because it is consistent with the objectives of the building height standards, and the objectives of the B4 Zone, noting that the numerical departure from the building height controls is a by-produce of providing vital services in this case the delivery of a stairwell whilst also ensuring that the plant room is effectively screened from neighbouring properties.

Clause 4.6(5)

As addressed, it is understood the concurrence of the Director-General may be assumed in this circumstance, however the following points are made in relation to this clause:

- (a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and
- (b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality and the nature and height of approved development in the locality.

Conclusion

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its unique circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

The objection is well founded and considering the absence of adverse environmental, social, or economic impacts, it is requested that Council support the development proposal. Furthermore, the strict compliance with the prescriptive building height control is unreasonable and unnecessary in the context of the proposal and its circumstances. The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, and is consistent with the future character envisioned, while playing an active role in supporting the function and operation of the Health Precinct by delivering a new contemporary hospital specialising in mental health.

The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the proposed variation.