

# COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-129
DA Number	DA20/0810
LGA	Penrith
Proposed Development	Integrated Development - Construction of a Five Storey Health Services Facility Containing a 90 Bed Mental Health Private Hospital, Pharmacy, GP Clinic and Private Consulting Rooms, with Parking for 99 Vehicles in Two Levels of Basement and One Lower Ground Floor Level, and a Roof-Top Terrace for Patient Use
Street Address	34-36 Somerset Street and 2 Hargrave Street, Kingswood NSW 2747
Applicant/Owner	Barwon Investment Partners Pty Ltd (Applicant) Perpetual Corporate Trust Limited (Owner)
Date of DA lodgement	1 December 2020
Total number of Submissions Number of Unique Objections	• 1 • 1
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Schedule 7(5) Private infrastructure and community facilities over \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• Biodiversity Conservation Act 2016</li> <li>• Water Management Act 2000</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Vegetation in non-rural areas) 2017</li> <li>• State Environmental Planning Policy (Western Sydney Aerotropolis) 2020</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No 64 – Advertising and Signage</li> <li>• Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River</li> <li>• Penrith Local Environmental Plan 2010</li> <li>• Penrith Development Control Plan 2014</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Amended Architectural Drawings</li> <li>• Amended Clause 4.6 Written Request</li> <li>• Landscape Plans (original)</li> <li>• Statement of Environmental Impacts (original)</li> </ul>
Clause 4.6 requests	<ul style="list-style-type: none"> <li>• Penrith Local Environmental Plan 2010 (LEP)</li> <li>• Development standard for Maximum Building Height at Clause 4.3 of Penrith LEP</li> <li>• B4 Mixed Use zone</li> </ul>
Summary of key submissions	<ul style="list-style-type: none"> <li>• Traffic around Nepean Hospital</li> <li>• Construction cranes and future use of Nepean Hospital helipad</li> </ul>
Report prepared by	Sandra Fagan, Senior Development Assessment Planner
Report date	18 October 2021

## Summary of s4.15 matters

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

Yes

## Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

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

## Clause 4.6 Exceptions to development standards

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

Yes

**Special Infrastructure Contributions**

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

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

**Not applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

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

**Yes**

<b>SWCPP Ref. No.:</b>	PPSSWC-129
<b>DA No.:</b>	DA20/0810
<b>PROPOSED DEVELOPMENT:</b>	Construction of a Five Storey Health Services Facility Containing a 90 Bed Mental Health Private Hospital, Pharmacy, GP Clinic and Private Consulting Rooms, with Parking for 99 Vehicles in Two Levels of Basement and One Lower Ground Floor Level, and a Roof-Top Terrace for Patient Use - Lot 22 DP 215146, Lot 20 DP 31682, Lot 21 DP 215146, 2 Hargrave Street, KINGSWOOD NSW 2747 34 Somerset Street, KINGSWOOD NSW 2747 36 Somerset Street, KINGSWOOD NSW 2747
<b>APPLICANT:</b>	Barwon Investment Partners Pty Ltd
<b>REPORT BY:</b>	Sandra Fagan, Senior Planner, Penrith City Council

## Assessment Report

### Executive Summary

This Integrated Development Application is lodged by Barwon Investment Partners Pty Ltd, with the landowner being Perpetual Corporate Trust Limited. The application seeks consent for a new 5 storey health services facility in the form of a private hospital for mental health services, with an additional 8 large-format private consulting rooms.

The hospital will contain 90 beds for mental health in-patients, as well as therapy for up to 36 out-patients. All hospital rooms are contained on Levels 1, 2, and 3 (with 30 beds per floor). Ancillary support facilities are proposed on the ground floor including a pharmacy (with a retail shopfront to Somerset Street), large consulting room (likely to be a General Practitioners), group therapy rooms, staff rooms, and a patient gym. Some of the therapy rooms along the eastern side also have access to external terrace areas. Level 4 (fifth/top floor) will contain 8 large-format private consulting rooms that will accommodate a variety of health practitioners (although this layout is shown as indicative). The roof level will contain a roof terrace to be used by patients associated with the mental health hospital. The hospital component will be staffed by 47 employees. Parking for 99 vehicles and 15 motorcycles is provided in three levels, being two levels of basement and 1 lower ground floor (which protrudes slightly above natural ground on the eastern side of the building).

The site is located on the south-east corner of Somerset and Hargrave Streets, and is opposite the new multi-storey, above ground parking for Nepean Public Hospital. The site also immediately adjoins the recently constructed 4-storey medical building to the south, called the 'Somerset Specialist Centre', located on the corner of Somerset and Derby Streets. This neighbouring site is owned by the same landowner as the current subject site. The Somerset Specialist Centre was recently completed as 'Stage 1' of the works under DA17/1107, while the current, subject Development Application has been lodged as 'Stage 2'. Although the proposed building will appear and function as a separate building to the Somerset Specialist Centre, access to the proposed parking levels will be via the existing driveway of the Somerset Specialist Centre in Derby Street. The connection point will occur at Basement Level 1. This proposed arrangement will eliminate the need for another driveway on the street frontages of the subject site.

The design architect is Simon Hanson of Bureau SRH P/L (registration number 6739). The Landscape design is by Nick Metcalf (1965) and Jane Dumbleton (1916) of Site Image.

The Sydney Western City Planning Panel is the consent authority by virtue of Schedule 7 of the State Environmental Planning Policy (State and Regional Development). The proposed development falls within the category of a '*private infrastructure and community facility*', being for the purpose of a '*health services facility*', with a Capital Investment Value of more than the \$5 million trigger for Regional Development.

The site is located within the Penrith Health and Education Precinct. Within this precinct the site is then identified as being within a Medical Mixed Use area. The site is zoned B4 Mixed Use in the Penrith LEP. The proposed hospital use, while not permitted by the LEP in the B4 zone, is permissible with consent by virtue of Clause 57 of the State Environmental Planning Policy (Infrastructure) 2007. Water NSW have provided their General Terms of Approval in relation to the dewatering that will be required as a result of the basement excavation encountering groundwater.

The building design has been amended following feedback from Council staff and the Urban Design Review Panel. The main issues that required refinement related to the following:

- the need for further modulation of the building's facades to add interest and break up the visual building mass;
- a re-think of the proposed green colour of the facade and amendment to the overall architectural language and materials;
- further consideration of how the building will appear in context with its '*companion*' building, the adjoining and recently completed Somerset Specialist Centre, so that the two buildings complement each other in form and appearance;
- the need for further articulation of the eastern (rear) facade which adjoins the dwelling houses in Hargrave Street;
- further consideration of how the proposed substation in the Hargrave Street frontage appears; and
- further consideration of the proposed breach of the height development standard given the design matters raised above.

The proposal was subsequently amended to respond to the above comments. Parts of the former linear and uniform facades were changed to include curved and tapering lines to increase modulation. A variation of materials were introduced into the facade to better complement the materials used in the adjoining Somerset Specialist Centre (such as face brick and white rendered elements), the green colour was removed, and a podium feature was introduced to tie in with the podium feature of the adjoining building and present a better scale to the street. In addition, the side eastern setback was increased to comply with the DCP requirement of 6m at upper levels. Parking numbers were increased from 92 spaces to 99 spaces, with 15 motorcycle spaces added and a single-width ramp was increased to be a compliant double-width ramp. The substation was also further set back from the side boundary which has removed the need for a blast wall.

The amendments have suitably addressed the design concerns raised. However, the proposed development will breach the 21.6m maximum height control in the Penrith LEP. The proposed development will be at a maximum height of 25.26m to the top of the lift overruns. This results in a height non-compliance of 3.66m, which represents a 16.9% breach over the height control. The proposed height breaches occur at roof level and are not related to areas of floor space. It is considered that the written request pursuant to Clause 4.6 that seeks to vary the height development standard is acceptable. This planning assessment report will outline the written request made by the applicant and will address why the variation to the standard is acceptable in this case.

In addition, the proposed development does not comply with some of the built form DCP controls for the Precinct. These relate to; street frontage setback; site coverage; deep soil area; and building depth. These aspects are also discussed further in the report. On balance it is considered that the proposed building will be a desirable addition to the Precinct, will meet the health related objectives of the area, and will result in a building that will be a good contextual fit in the streetscape.

The remaining matters related to stormwater, and how parking rates have been calculated. With regard to parking, using the Penrith DCP for the hospital component (for patients/visitors) will result in a shortfall of 10 spaces. However, the applicant has provided a parking demand assessment using a comparative analysis of another mental health facility to justify the lesser parking for hospital patients/visitors. The hospital staff rate for parking, using the Penrith DCP, complies. In addition, the applicant seeks to use the RMS Guidelines to calculate the rate of parking for private consulting rooms. This is based on gross floor area instead of number of health practitioners. Accepting these methods of calculating parking demand, the proposal would comply with the required number of parking spaces. Although Council's Traffic Engineer does not agree entirely with this approach, it is considered that the parking study and arguments put by the applicant's traffic consultant are reasonable and acceptable. This is discussed further in the report. The 99 spaces provided in the amended proposal is deemed to be acceptable.

With regard to stormwater, the original proposal sought to drain to Derby Street, which is not the natural drainage catchment for the site. The hydraulic analysis of Derby Street showed that the existing infrastructure did not have sufficient capacity to cater for the proposed development, and because of this, Council's Engineer would require the applicant to upgrade the road drainage on the northern side of Derby Street. To avoid these additional works, the applicant has now amended the drainage design so that the proposed development drains to its natural sub-catchment, which is to Hargrave Street. Council's Engineer has endorsed the amended civil drawings and recommended suitable conditions of consent.

The application has been publicly exhibited in a local newspaper as an Integrated DA for the required 30 day period, as well as notified to surrounding landowners. One submission from the Nepean Blue Mountains Local Health District has been received. The comments made in that submission are that a traffic study be carried out to ensure that traffic around Nepean Hospital is not affected, and that the potential impacts of construction cranes on the Nepean Hospital helipad are taken into account. These concerns are addressed in the report and where relevant, conditions are recommended.

Conditions are also recommended to restrict the use of the hospital's outdoor spaces, including the rooftop terrace and ground floor terrace areas. These spaces cannot be used before 7:00am or after 10:00pm.

The amended proposal is acceptable on planning, design, traffic and engineering grounds, subject to conditions. The recommendation is that the Panel endorse the Clause 4.6 Written Request to vary the development standard for building height, and approve the Integrated Development Application, subject to conditions.

## **Site & Surrounds**

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The subject site comprises three lots, being 34 and 36 Somerset Street and 2 Hargrave Street. These lots will be consolidated to have a combined site area of approximately 1,731 square metres. The consolidated site is located on the south-eastern corner of Somerset and Hargrave Streets, with its main frontage of 36m to Somerset Street, and its secondary frontage of 39m to Hargrave Street. The existing lots contain two dwellings, as one lot is vacant.



**Figure 1: Subject Site**

Figures 2 and 3 below show the subject site from different angles on Somerset and Hargrave Streets. The white multi-storey building in the background is the adjoining Somerset Specialist Centre, which is a medical facility constructed as 'Stage 1' of the development, with the current Development Application on the subject site being 'Stage 2'.





**Figure 2: Site from the Corner of Somerset / Hargrave Streets**



**Figure 3: Site from the Somerset Street Frontage**

Figure 4 below shows the existing Hargrave Street presentation, looking west towards Somerset Street where the vista ends with the multi-storey Nepean Hospital car park.



**Figure 4: Site from Hargrave Street Looking West to Nepean Hospital Carpark**

The immediate area has seen a number of recent development approvals for multi-storey buildings, although the existing character in Hargrave Street is still primarily single detached dwellings. These recent developments

include:

- Nepean Hospital Redevelopment - State Significant Development consent 8766 - 14 storey new hospital building under construction;
- Nepean Hospital - Multi-Level Car Park - located opposite the subject site - completed;
- 29-33 Derby and 38 Somerset Streets (DA17/1107) - 4 storey health facility named the 'Somerset Specialist Centre' - abuts the subject site to the south, referred to as 'Stage 1' of the development and acts as a 'companion' building to the current proposed development with proposed shared basement access;
- 48-56 Derby Street - 5-8 storey residential flat building including ground floor medical uses (DA15/0730) - completed;
- 84-88 Parker Street (DA18/0773) - 6 storey health facility - under construction;
- 1-11 Barber Avenue (DA18/1222) - Nepean Private Hospital expansion - under construction;
- 39-43 Orth Street (DA19/0801) - 5 storey sub-acute private hospital - under construction;
- 10-12 Hargrave Street (DA17/0490) - 6 storey serviced apartments building - under construction; and
- 28-32 Somerset Street (DA20/0767) - 7 storey accommodation 'medi-hotel' - approved in October 2021 by Local Planning Panel - is located opposite the subject site on the corner of Somerset and Hargrave Streets.

The images below show surrounding buildings recently constructed opposite the subject site.



**Figure 5: The 'Somerset Specialist Centre' from the Corner of Somerset / Derby Streets**





**Figure 6: The 'Somerset Specialist Centre' from Somerset Street (subject site is to the left)**



**Figure 7: Somerset Street Looking South**



**Figure 8: Nepean Public Hospital Car Park, Opposite Site on Somerset Street**

It is also noted that Development Consent DA15/1475 existed for the subject site. This allowed a 6-7 storey residential flat building to be constructed. This consent was granted in 2016 and expired only very recently on 20 July 2021. The elevation drawings submitted with the current DA show a green dotted line representing the outline and height approved under this previous consent.

## Proposal

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The proposal includes demolition of all structures on the three lots, including two dwellings, and the removal of 12 trees (9 trees from within the site and 3 within the footpath).

The proposed development is for the construction of a new 5 storey (ground and 4 upper levels) building to be used as a *'health services facility'*, more specifically a *'hospital'*. The primary proposed use is for a 90 bed, 47 staff, mental health hospital catering for 90 in-patients and up to 36 out-patients. The hospital rooms will be located on Levels 1, 2, and 3, with 30 single bed rooms, plus en-suite, on each of those floors. The out-patient sessions will occur in 3 groups of up to 12 patients each (morning half-day, afternoon half-day and full-day sessions). The nursing staff will be split over three rosters (morning, afternoon, and night shifts) and 3 doctors will be rostered for each shift period.

The ground floor will contain a private consulting room (likely to be General Practitioners room/s), a pharmacy (shop), front reception area, and treatment spaces for the hospital, such as therapy rooms and a patient gym. The main entry to the building will be from Somerset Street, and the proposed pharmacy also has a shopfront entry from Somerset Street. Level 4 (the fifth/top floor) is proposed to contain 8 large-format private health consulting rooms for a variety of health practitioners. The roof level above will contain a rooftop terrace area which will be solely used by the hospital patients and their accompanying staff, as well as a screened mechanical plant area. The private hospital component of the development represents 66% of the total lettable floor space.

The proposal includes excavation for three levels of parking to accommodate 99 car parking spaces (increased from the originally proposed 92 spaces) and 15 motorbike spaces. Two levels will be within basements and the third level will be at lower ground floor, which protrudes slightly above natural ground in the eastern part of the site.

Vehicular access to the basement is provided via the Derby Street entrance of the adjoining building (the Somerset Specialist Centre). The connection point for cars will be at Basement Level 1. The basement levels also provide areas for servicing the site including waste access by a medium rigid vehicle. Waste will be collected on site by a private commercial contractor.

The design and appearance of the building has been substantially amended to address concerns raised by Council staff and Council's Urban Design Review Panel. The amended proposal now has the following appearance.



**Figure 9: Render of Proposal from Corner of Somerset and Hargrave Streets**





**Figure 10: Front Elevation to Somerset Street in Context with Somerset Specialist Centre (Red Line Denotes the Two Separate Buildings; Blue Line Shows Height Control; Green Line Shows Outline of Previously Approved Residential DA)**

The proposed landscaping includes 7 new street trees in both Somerset and Hargrave Streets, and the retention of one existing street tree. New landscaping within the site is proposed along the rear, eastern setback at ground floor, in the Level 1 internal lightwell, on the edges of the Level 4 terrace, and on the Rooftop patient terrace. Most of the proposed planting on site will be on structure as the basement footprint occupies a large portion of the site, although a section along the rear, eastern setback will be deep soil.

## Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

### • Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016

The site is not identified on the Biodiversity Values Map as containing vegetation having biodiversity value. Notwithstanding this, Council's Tree Management Officer has reviewed the proposed removal of trees from within the site and on the street frontages. The street trees proposed for removal are not significant or worthy specimens and therefore can be removed and suitably replaced with better examples. Council's Landscape Officer has recommended a total of 7 replacement street trees (3 new Brushbox trees in Somerset Street, and 4 new Green Vase trees for Hargrave Street).

The stand of trees within the subject site can also be removed given the site's B4 zoning and location within

the Penrith Health and Education Precinct. Although the proposed new landscaping will not replace the amount of tree canopy lost, it is acknowledged that the new building, by virtue of its use and footprint, will need to occupy a large portion of the site. The new landscaping proposed on the eastern edge of the site, in the internal lightwell and on the rooftop terrace, will provide suitable open landscaped spaces.

Council's Landscape Officer has also made recommendations about the location of building name and tenancy signs and the width of the awning, to ensure that these features do not impact on the retained and proposed street trees. A suitable condition to address this is included in the recommended conditions.

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

The Capital Investment Value of the proposed development exceeds the \$5 million threshold for '*private infrastructure and community facilities*'. Therefore, by virtue of Schedule 7(5) of the State Environmental Planning Policy (State and Regional Development) 2011, the proposed development is deemed to be '*regionally significant development*'. The Sydney Western City Planning Panel is the consent authority for '*regionally significant development*'.

A briefing to the Sydney Western City Planning Panel, based on the **original** proposal, occurred on 15 March 2021. The main comments from the Panel related to design, built form, facade appearance, non-compliance with DCP parking, and height control breach.

The Panel's Record of Briefing makes the following comments:

- The proposed use offers the potential of a desirable extension of the medical precinct anchored by the Nepean Hospital, and particularly providing a response to the "Somerset Specialist Centre". Extra provision for treatment of mental health inpatient and out-patients is much needed in the community;
- The Panel agrees with the design comments of the Council staff that the present design presents problems that seem reflective of an overdevelopment of the site, particularly with the bulk and massing, inadequate setbacks to the residential allotment to the east, no significant landscape contribution, and non-compliance with height controls;
- While a design might utilise a zero setback to Somerset Street for much of its facade, that should only be where there is also substantial articulation through architectural cut-outs or setbacks of upper levels to reduce bulk. The "Somerset Specialist Centre" to the south affords a good precedent in that regard;
- The non-compliances with height are of concern. If any protuberances can be justified the Panel would hope to see them obscured by suitable setbacks from the street frontages and 4 Hargrave Street. The floor to ceiling heights will need to be satisfied, with realistic provision for services and air-conditioning;
- The parking deficiency is a substantial concern noting the heavy demand near the hospital. Addressing the above issues may reduce the capacity of the centre allowing for improved compliance. Council's engineers will advise as to whether the single width ramp between levels is workable;
- The design of the facade should demonstrate a more sophisticated attempt to reduce bulk and scale and better integrate with the adjoining building;
- Activation of the street frontage through the design of the street level uses is important. Consider conditions ensuring the proposed openings to Somerset Street remain engaged after occupation; and
- Privacy, overshadowing and overbearing of adjoining dwellings in Hargrave Street, noting the potential for tree planting in the set back with the adjoining house might assist.



The proposal has been amended to respond to these comments. This is discussed in more detail throughout this report. Although the building still presents non-compliances with; building height; parking numbers; front setback to Somerset Street; building depth; and amount of deep soil landscaping, significant improvements have been made to the building's facade appearance, materials, modulation and scale.

- **Section 4.15 - Evaluation**

The assessment of the proposal has taken into account the matters for consideration contained at Section 4.15 of the Act. Those matters requiring further discussion are identified throughout this report and further discussed.

- **Section 4.46 - Integrated development**

The Geotechnical Assessment submitted with the application showed that groundwater was likely to be encountered during excavation for the proposed basement. As such, the application was amended to enable the procedural requirements for Integrated Development to be met. The application was re-notified and re-advertised as Integrated Development. In addition, General Terms of Approval were received from NSW Water in relation to the need for a future approval under the Water Management Act for dewatering.

- **Section 7.12 - Developer Contributions**

In accordance with Section 7.12 of the Act, Council has adopted a 'Development Contributions Plan for Non-Residential Development' which captures development with a cost of more than \$100,000, that is not otherwise subject to a contribution pursuant to Section 7.11 of the Act. In this case the proposed development, being a healthcare facility with a cost of more than \$100,000, triggers the ability for Council to impose a condition requiring contributions in accordance with the Plan.

The contribution rate is a fixed levy calculated at 1% of the proposed cost of carrying out that development, including GST. In this case, the contribution required is **\$324,140.00**.

## **Section 4.15(1)(a)(i) The provisions of any environmental planning instrument**

## **State Environmental Planning Policy (Infrastructure) 2007**

The proposed hospital is a permitted use by virtue of Division 10, Clause 57 of the Infrastructure SEPP. This clause permits a *'health services facility'* with consent in a prescribed zone. A prescribed zone then includes the B4 Mixed Use zone, which is the relevant zone for the subject site. A hospital is a type of *'health services facility'*.

The proposal does not trigger the referral requirements for *'traffic-generating development'* as the trigger is 200 or more beds (the proposal is for 90 beds).

The proposal was referred to Endeavour Energy for comment pursuant to Clause 45 of the Infrastructure SEPP. Endeavour Energy responded by raising no objections to the proposal subject to conditions. In particular, the response makes reference to the proposed substation to be located near the north-east corner of the site and the requirements for fire protection, which in most cases would require a 3m blast wall.

This issue was raised with the applicant as Council staff prefer not to have a blast wall on design grounds. The applicant was able to make amendments to the services design so that the substation was set further back from the side property boundary. This has resulted in the removal of the need for a blast wall because the separation distance between the substation kiosk and the property boundary is at least 3m, which is the required minimum distance in terms of potential fire sources and spread. The removal of the need for a blast wall is a positive design outcome. Suitable conditions to reflect this are included in the recommended conditions.

## **State Environmental Planning Policy (State and Regional Development) 2011**

The State Environmental Planning Policy (State and Regional Development) 2011 applies as the proposed development falls within the category of *'regionally significant development'* pursuant to Schedule 7(5). The proposal has a Capital Investment Value over \$5 million and the proposed use falls within the group of *"private infrastructure and community facilities over \$5 million"*.

## **State Environmental Planning Policy (Vegetation in non-rural areas) 2017**

The objectives of this Policy are to protect the biodiversity values of trees and other vegetation in non-rural areas. The proposed development includes the removal of 9 trees from within the site and 3 street trees from the Hargrave Street frontage. Tree removal, along with the proposed new landscaping throughout the building, has been discussed above, in the Biodiversity Conservation Act section.

## **State Environmental Planning Policy (Western Sydney Aerotropolis) 2020**

The subject site is located **outside** of the Western Sydney Aerotropolis. However, the SEPP (Western Sydney Aerotropolis) 2020 contains a map that relates to wildlife buffer areas. The map shows that the subject site is within a 13 kilometre 'wildlife buffer zone' of the Badgerys Creek airport site. Therefore Clause 21 of the SEPP applies. The objective of Clause 21 is to regulate development on land surrounding the airport where wildlife may present a risk to the operation of the airport (such as bird strikes). Certain types of development then trigger the requirement for further consideration under Clause 21. The proposed development, being a form of commercial development, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the 30km radius on the Wind Turbine Buffer Zone. Clause 22 of the SEPP is to be considered, but is not applicable to the proposed development. Clause 22 prohibits the construction of electricity generating works comprising a wind turbine or wind monitoring towers that are not related to the airport.

The site is also identified as being located within the Obstacle Limitation Surface Map. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

## **State Environmental Planning Policy No 55—Remediation of Land**

The application is accompanied by a Stage 1 contamination investigation of the site, which concludes that the site can be made suitable for the proposed development, subject to a survey of the existing structures prior to their demolition, and the formation of an unexpected finds protocol. Council's Environmental Officer agrees with the recommendations of this report and has raised no objections, subject to conditions. In addition, the more recent stockpiling of materials and heavy vehicle parking that has occurred on the site was associated with the development of the adjoining land and is therefore not likely to reflect a historic use that would be a cause for concern.

## **State Environmental Planning Policy No 64—Advertising and Signage**

The proposal does not include details of specific signage, although areas are nominated on the drawings for future tenancy signage locations.

Tenancy signage locations are shown at ground floor level for the proposed pharmacy, GP consulting room, and the public entrance to the building. These signs will be akin to shopfront signage. For the remainder of the building, a tenancy sign is shown at ground floor level on the Hargrave Street fontage, at the second floor on the curved facade facing the street corner, and above the awning on Somerset Street. These three signs will be akin to building name signs. These building name signs are acceptable provided they are individually cut letters (without a backing board) and made from high quality material, such as metal lettering (not neon-lit signs). There will also be an under awning sign to Somerset Street.

While the details of the signage, such as design, content, illumination, and material are not yet proposed, the number, type and position of all signs is acceptable and will fit within the architectural features of the building. A suitable condition is recommended to ensure that the signs are of a high quality and positioned as shown on the drawings.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

The aims of this Policy include the protection of the environment of the river system by ensuring that the impacts of land uses are considered in a regional context. Part 2 of the SREP states that general planning considerations, specific planning policies and recommended strategies as applicable, must be taken into consideration by the consent authority.

The proposal is considered to be acceptable having regard to these controls and objectives. In particular, conditions are recommended relating to the safe removal and disposal of any asbestos found on the site, the treatment of groundwater and inability to pump groundwater into Council's stormwater system without prior approval, and sediment and erosion control measures.

### Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies
Clause 4.5 Calculation of floor space ratio and site area	Complies
Clause 4.6 Exceptions to development standards	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Does not comply - See discussion
Clause 7.8 Active street frontages	Complies - See discussion
Clause 7.11 Penrith Health and Education Precinct	Complies - See discussion

#### Clause 2.3 Permissibility

The land is zoned B4 - Mixed Use and the use is defined as a '*hospital*' which is a type of '*health services facility*'. The Land Use Table for a B4 zone in the Penrith LEP does not list a hospital or health services facility as a 'permitted with consent' use and therefore, by this omission, such a use would be prohibited under the LEP. Notwithstanding this, the proposed use is permitted with consent under the State Environmental Planning Policy (Infrastructure) 2007 which in this case overrides the LEP prohibition.

#### Clause 2.3 Zone objectives

Although the use is not specifically permitted by the LEP in the B4 zone, the proposed use as a hospital is considered to meet many of the zone objectives. This includes integrating suitable uses in accessible locations, providing a mixture of compatible land uses, and creating opportunities to improve public amenity. Specifically, the proposed hospital aligns with existing health related uses in the area and with Council's controls to develop the surrounds as a health and education precinct.

### **Clause 4.3 Height of buildings**

The building height control in the Penrith LEP permits a maximum height of 18m. However, additional height up to an extra 20% is permitted by Clause 7.11, which relates to the Penrith Health and Education Precinct. This results in a total building height limit of 21.6m. The prerequisite for allowing for additional height is that both the ground and first floors have higher floor to ceiling heights of 3.5m each. The proposed development meets this prerequisite.

Notwithstanding this, parts of the proposed development, all at roof level, will exceed the 21.6m height control. The breaches occur at the location of the glass balustrade around the patient roof terrace (1.9m over), the pergola's over parts of the roof terrace (2.33m over), the stairwell overrun (2.3m over), the louvred screen enclosure to the plant room (3m over), and the two lift overruns (3.66m over). The extent of non-compliance is 16.9% at its highest point.

The height breach and the written request pursuant to Clause 4.6 is discussed further below.

### **Clause 4.6 Exceptions to development standards**

#### Introduction:

Clause 4.6 of the Penrith LEP allows the applicant to make a written request to vary the applicable development standard that is contravened. In this case, it is the development standard for maximum building height that is contravened by the proposed development. The development standard is at Clause 4.3 of the Penrith Local Environmental Plan 2010. The height control is written as a development standard and the control can therefore be varied pursuant to Clause 4.6 of the LEP. In addition, Clause 4.6(8) of the LEP does not exclude the operation of Clause 4.6 from the height development standard.

Clauses 4.3 and 7.11 of the Penrith LEP work together to allow a maximum building height of 21.6m, this being the base permissible height of 18m plus an additional 20% if the ground and first floors have a floor to ceiling height of 3.5m. The proposal meets this prerequisite and therefore, the total permissible building height permitted by the LEP is **21.6m**. Building height in the LEP is defined as to the topmost part of the building, so this will also include structures placed on the roof such as screens, balustrades, and lift overruns.

#### Proposal - Details of Non-Compliance:

The proposed development will exceed the maximum building height control of 21.6m. The proposal has a maximum height that sits at RL 73.8 which is **25.26m** at its highest point, being to the top of the lift overruns. This is **3.66m over** the 21.6m height limit, representing a **non-compliance of 16.9% at its highest point**.

As the site slopes, the height plane in 3D also varies. For ease of reference, the figures below represent the highest numerical amounts of the height breach for each structure. All of the proposed height breaches occur on the roof level and are not related to floor space. The roof level plan is shown in the figure below to show where the various roof structures are positioned. The proposed breaches are:

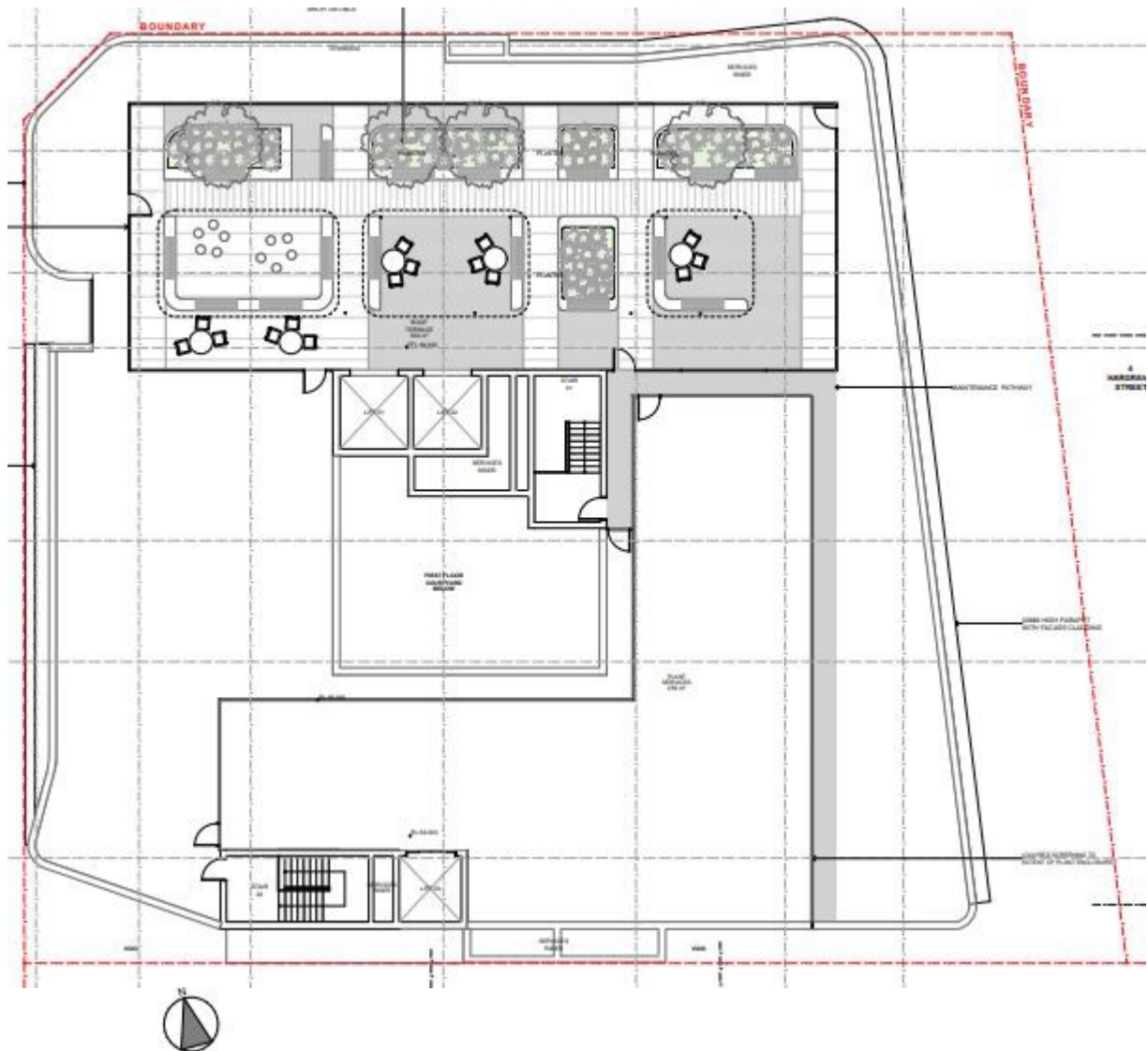
- parts of the glass balustrade around the patient roof terrace (1.9m over). This glass balustrade needs to to



3.6m above the floor level of the roof terrace as it is a preventative measure to stop patients from potentially trying to climb over. The glass balustrade is located around all edges of the roof terrace, although the roof terrace is set back from the building edges on all three external sides;

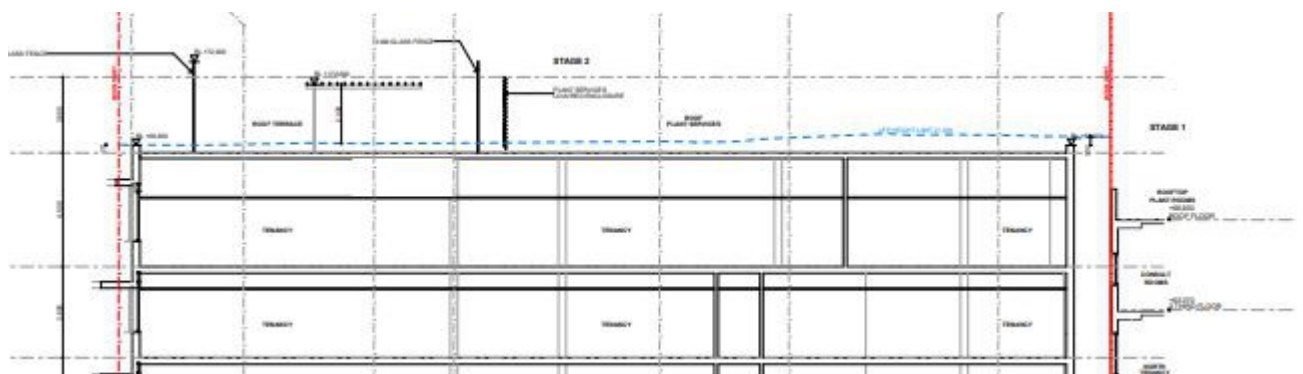
- the pergola's over the roof terrace (2.33m over). There are three pergolas located on the roof terrace positioned over seating areas. These are shown by dotted lines in Figure 11 below. The pergolas are set back from the edges of the roof terrace;
- a portion of the louvred screen enclosure around the plant area (3m over). The plant room, although large in size, is pushed back into the rear section of the roof level so as to be away from the site's street edges;
- the stairwell 02 overrun (2.3m over). Stair 2 is positioned along the building's southern boundary which abuts the Somerset Specialist Centre; and
- both lift overruns (3.66m over). Lifts 01 and 02 are next to each other and positioned behind the roof terrace. Lift 03 is positioned next to Stair 02 on the southern edge of the building, adjoining the Somerset Specialist Centre.

It should also be noted that the floor to floor heights of the proposed hospital are higher than standard BCA requirements. This is to ensure that the services required for a medical use can be accommodated within the ceiling areas of the building. For example, Levels 2 and 3 of the hospital have a floor to floor height of 3.6m (a residential building would normally require 3.1m to achieve a floor to ceiling height of 2.7m). In addition, the top floor of the building which contains the private consulting rooms, will have a floor to floor height of 4.5m to ensure that there is adequate room for future services relating to theatre, surgical or medical uses as required.

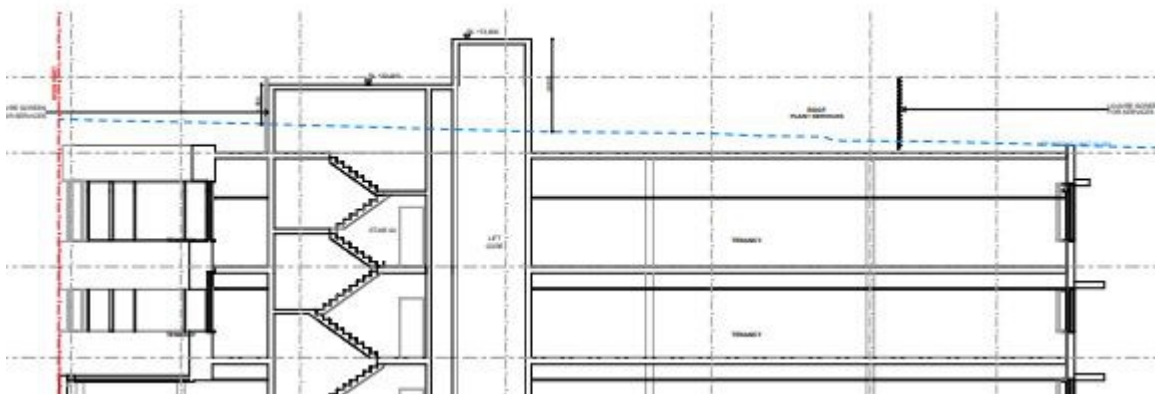


**Figure 11: Roof Plan Showing Position of Structures Referenced Above**

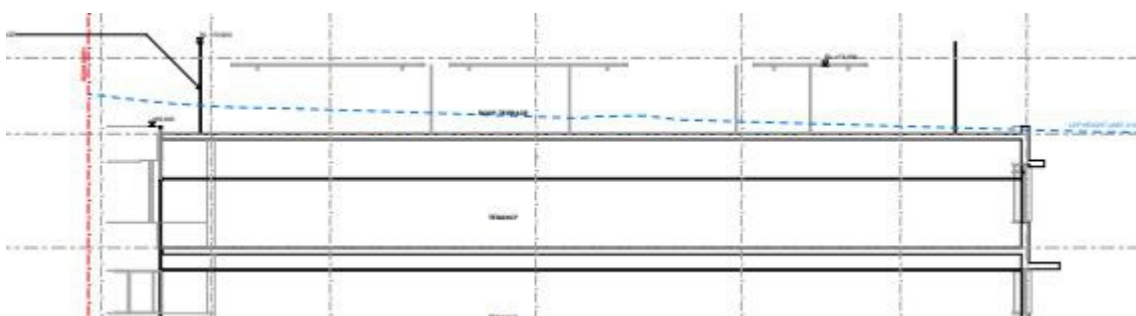
The four figures below are extracts from the section drawings, showing the roof structures above the 21.6m height limit, which is represented by the blue dotted line.



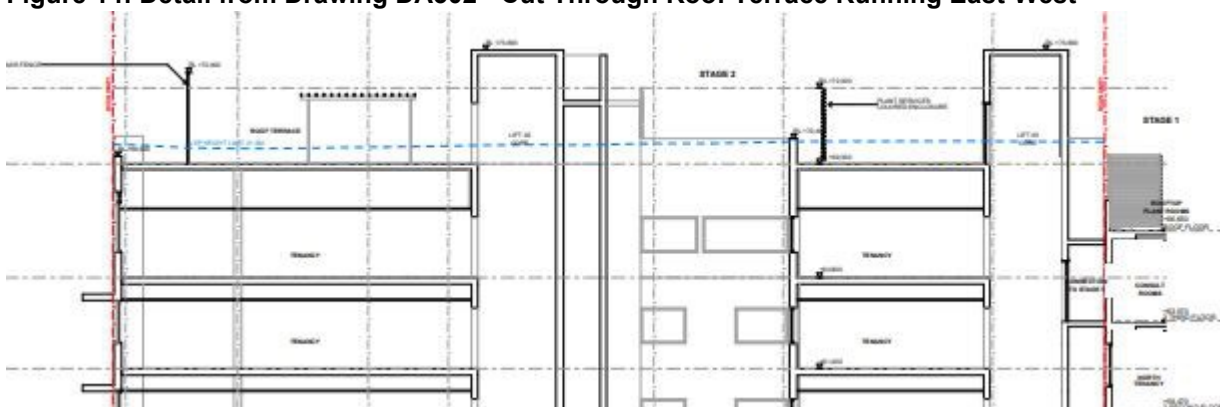
**Figure 12: Detail from Drawing DA300 - Cut Through Eastern Side of Roof, Running Nth-Sth**



**Figure 13: Detail from Drawing DA301 - Cut Through Southern End of Roof Through Stair 02 and Lift 03, Running East-West**



**Figure 14: Detail from Drawing DA302 - Cut Through Roof Terrace Running East-West**



**Figure 15: Detail from Drawing DA303 - Cut Through Middle of Roof Running Nth-Sth**

It should also be noted that the proposed floor to floor heights of the building are greater than a standard commercial or residential building. The proposed floor to floor heights are 4.1m on the ground and first floors (able to achieve the LEP required floor to ceiling height of 3.5m with generous room for services), 3.6m on the upper level hospital floors, and 4.5m on the top floor where the consulting rooms will be located. The applicant has stated that the top floor consulting rooms require a higher space as they may have to accommodate additional services and medical equipment such as may be required for surgical/theatre procedures.

#### Clause 4.6:

The objective of Clause 4.6 is contained at Sub-Clause (1) and is; *"to provide an appropriate degree of flexibility in applying certain standards to particular development"*; and *"to achieve a better outcome for and from the development by allowing flexibility in particular circumstances"*.

Clause 4.6(3) requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating the following:

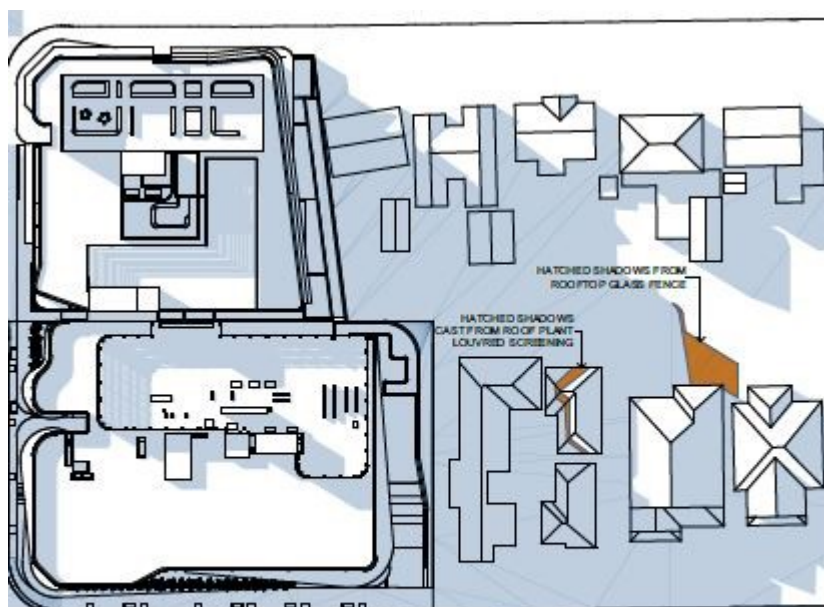
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

In this regard the applicant has submitted a written request that seeks to justify the contravention and makes statements about why compliance is considered to be unnecessary or unreasonable in this instance. The full comments in the written request have not been repeated below, although a copy of the written request has been made available to Panel members.

Applicant's Written Request Pursuant to Clause 4.6:

The Development Application includes a written request seeking variation of the building height control, made pursuant to Clause 4.6 of the LEP. The written request includes the following relevant statements:

- The request references a recent judgement in *Initial Action Pty Ltd v Woollahra Municipal Council (2018) NSWLEC 188*, which the applicant says confirmed that it is not necessary for 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;
- The request goes on to reference another more recent judgement in *Ricola Pty v Woollahra Municipal Council (2021) NSWLEC 1047*, which the applicant says emphasised whether the impact anticipated by the numerical control is comparable to the impacts associated with the non-compliance, and that this is closely linked to the establishment of sufficient environmental planning grounds to justify the contravention;
- There is also a reference to *Wehbe v Pittwater (2007) NSWLEC 827* and the variety of ways in which it can be established and demonstrated that compliance with a development standard is unreasonable or unnecessary in the case. That case stated that development standards are not ends in themselves but means of achieving ends, with the ends being environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would unnecessary (it is achieved anyway) and unreasonable (no purpose would be served);
- Drawings showing a comparison between the shadows cast by the proposal versus the shadows cast by a height compliant scheme have been submitted, which show there is very little difference in the overshadowing impacts from a comparison of the two schemes, (with an additional area of overshadowing shown by the orange coloured area in Figure 16 below);



**PROPOSED SHADOWS - 21ST JUNE - 3PM**

**Figure 16: Additional Shadow Cast at 3pm by Height (Non-Compliance Shown in Orange)**

- The visual impact of a compliant scheme compared to the proposal results in no material effects on the existing dwelling to the east of the site, mainly due to the careful design of the areas where there is height protrusion, in that these spaces are recessed behind the main building line. It is also noted that there are no tangible views that are impacted as a result of the height variation as compared to a height compliant scheme;
- Any loss of privacy from the proposed scheme, as compared to a height compliant scheme, shows there are no material effects to the dwelling to the east;
- The consent authority should be satisfied that the proposed development will be in the public interest because it is "consistent with" the objectives of the development standard and zone, this not being a requirement to "achieve" those objectives, but to be compatible with the objectives. If the development remains consistent with the objectives of the height control, on this basis, compliance would be unreasonable or unnecessary;
- Establishing that 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' does not always require the applicant to show the relevant objectives of the standard are achieved by the proposal (Wehbe 'test' 1). Other methods are available as per the previous 5 tests applying to SEPP 1, set out in *Wehbe v Pittwater*;
- The development is compliant with the FSR control with no part of the main built form encroaching upon the 21.6m height limit, demonstrating that the proposed hospital is not an overdevelopment of the site as it adheres to the FSR control and the height breach is not simply a means of achieving additional yield but a consequence of the desire to make use of the rooftop area and provide access to the rooftop terrace and service requirements;
- The height departures are a function of providing suitable access to the rooftop terrace which will serve an important role in the health, well being and treatment of patients. The terrace will also provide fresh air, sunlight and open space, which will enhance the patient experience. If the rooftop terrace were removed, then the encroachment to the height control associated with the lift core and stairwell could be reduced,



however, this would remove a vital component in the operation of the hospital;

- Suitable amendments have been made to the proposal following the Urban Design Review Panel advice, including increasing the setback from the eastern side boundary to be a compliant 6m;
- The request states that the objectives of the height standard are achieved and therefore strict compliance with the standard is unnecessary because the underlying objective is achieved despite the numerical non-compliance. Pages 13-15 of the request then outline each objective of the height control (this is discussed further below);
- With regard to demonstrating that there are sufficient environmental planning grounds to warrant the departure from the height standard, the written request states that this focus is on the aspect or element of the development that contravenes the standard. In this regard, the request states that; the amended design has increased building separation to its eastern elevation which in turn has minimised amenity impacts, such as solar access and privacy to the adjoining dwellings on the eastern side; the development is FSR compliant so it is not an overdevelopment of the site; the height breach is to allow better use of the roof level and provide an open, sunny and airy terrace for the use of the patients; the visual impact of the elements that breach the height will not be readily visible from street level given that the elements are setback from the building edges; there is no significant difference in terms of overshadowing when comparing the proposal against a height compliant scheme; the development is a much needed health facility for mental health which will complement the desired future character of the precinct; and the proposed development will result in a suitable built form envisaged by the uplift in development controls.

#### Sydney Western City Planning Panel Consideration Pursuant to Clause 4.6:

Clause 4.6, Sub-Clause (4) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied of the following:

- (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.

The discussion below is provided to the Planning Panel so that the Panel may be satisfied that the requirements of Clause 4.6(4) have been met and that development consent can therefore be granted to the proposed development notwithstanding the contravention of the development standard for building height.

#### Has the applicant's written request adequately addressed the matters required to be demonstrated by subclause (3)?

Yes, it is considered that the applicant's written request (as summarised above) follows a sound line of argument for justifying why the building height control is unreasonable or unnecessary in this particular case. The written request has also outlined what environmental planning grounds are considered relevant for allowing a contravention of the development standard. Therefore, it is considered that the written request is sound and has addressed the relevant matters required by Clause 4.6(3).

#### Is the proposed development consistent with the objectives for the standard relating to building height?

The height of buildings control is at Clause 4.3 of the LEP and contains four objectives, being:

- (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; and

(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.

With consideration of the proposed development and the four objectives, the following comments are made:

- The site is located within the Penrith Health and Education Precinct, which has seen an uplift in built form controls to attract development that complements Nepean Hospital. Recent developments in the area have resulted in multi-storey, non-residential buildings which are changing the streetscape appearance and built form character of the area. The proposed development is of a compatible scale and form with existing developments that support the health related uses in the Precinct;
- The structures which breach the height control mostly relate to lift and stair overruns, plant screens, and the roof terrace balustrade. These roof structures are recessed from the building edges and street frontages. In addition, the fencing around the roof terrace will be clear glass and therefore will be visually recessive and not obstruct views;
- The structures that will breach the height controls will not generate any significant additional amenity impacts with regard to overshadowing, visual and acoustic privacy or view loss and the amended proposal has been set back to provide the 6m compliant separation from the eastern side boundary at upper levels;
- The proposed development is not near any heritage items or conservation areas, nor is the site identified as an area of scenic or visual importance;
- The subject site is not on the interface with an area of lesser intensity, as surrounding properties have a similar zone, FSR and height controls. The controls for the subject site do not suggest that development on the land needs to provide a transition of scale; and
- The design has been amended to include tapered and modulated facades which will result in a high quality urban form and appearance.

Is the proposed development consistent with the objectives for development within the B4 - Mixed Use Zone?

The B4 Mixed Use zone has five objectives as follows:

- 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; and
- To provide a wide range of retail, business, office, residential, community and other suitable land uses.

With regard to the above objectives, it is considered that the proposed development will meet the relevant objectives and not detract from the achievement of those objectives. The proposal will contribute to the function and vitality of the Penrith Health and Education Precinct. It will provide a contemporary and purpose-built hospital within walking distance of Kingswood Train Station and other medical uses. It will provide a specialised service for mental health which is lacking in the area. Therefore, it is considered that the proposed development will meet the objectives of the B4 Mixed Use zone and will also be in the public interest.

#### Draft Amendments to Clause 4.6 - Explanation of Intended Effect (EIE):

The EIE was exhibited by the Department from 31 March to 12 May 2021. The Department states that the proposed changes to Clause 4.6 aim to clarify the requirements for varying development standards and improve transparency and accountability in the planning system, with a greater focus on **improved planning outcomes** of proposed development and consistency with the strategic context of the site.

The revised tests will be whether:

- *"the proposed development is consistent with the objectives of the relevant development standard and land use zone; **and***
- *the contravention will result in an improved planning outcome when compared with what would have been achieved if the development standard was not contravened. In deciding whether a contravention of a development standard will result in an improved planning outcome, the consent authority is to consider the public interest, environmental outcomes, social outcomes or economic outcomes; **or***
- *an alternative test may be developed to enable flexibility to be applied in situations where the variation is so minor that it is difficult to demonstrate an improved planning outcome, but the proposed variation is appropriate due to the particular circumstances of the site and the proposal".*

Considering the above, the following statements are made about the proposal:

- the proposed development will meet the objectives of the building height standard and the B4 Mixed Use zone, as discussed above;
- the proposed development will meet the objectives of the Penrith Health and Education Precinct as it will provide an additional health facility to the area in the form of a private hospital for mental health (in-patients and out-patients) as well as private consulting rooms. This is in the public interest;
- the proposed development, with the rooftop patient terrace, is a better planning and social outcome than a development without the rooftop terrace as the terrace will provide additional amenity for, and care of, the mental health patients;
- the rooftop terrace is set back from the building edges, with the breaches in height relating to the tall glass balustrade around the terrace edges and the pergolas, provided for shade. Both of these roof terrace features are required for safety and amenity. To remove these features would reduce the usability and amenity of the roof terrace, which is not a better planning outcome;
- the removal of the rooftop terrace, in order to comply with the building height control, will not be a better planning outcome as it would likely only result in the roof terrace being deleted, not the removal of the top floor of private consulting rooms. This is because the top floor of private consulting rooms is likely to be significant in terms of the economic feasibility of the development, and because the development complies with the maximum Floor Space Ratio for the site;
- the remaining roof structures that breach the height control relate to services, such as stair and lift overruns, and plant screening. These are required features of a multi-storey building and they will not result in additional adverse impacts to surrounding residents. The structures are set back from both street frontages and also from the eastern side boundary which is the residential neighbour to Hargrave Street; and
- the additional shadows cast by the non-compliant portions of the rooftop level are not significant in size as

shown in the 3pm shadow diagram above. At other times the additional shadow cast falls on areas also shadowed by a compliant development.

#### Delegation to Sydney Western City Planning Panel:

Clause 4.6(4)(b) requires the concurrence of the Planning Secretary. In this regard, a standard delegation was issued by the Planning Secretary in Planning Circular 20-0002 issued on 5 May 2020 (replacing previous circulars). This Circular provides assumed concurrences. For development that would contravene a standard by more than 10%, the assumed concurrence does not apply to a delegate of Council. However, this restriction does not apply to decisions made by independent assessment panels as they exercise their consent authority functions on behalf of Councils, but are not legally delegates of Council.

In this case, the proposed development would contravene the development standard for height by more than 10% and therefore the delegation to vary the development standard and determine the application lies with a Planning Panel. Given that the proposed development also meets the definition for 'regionally significant development', the application must be determined by the Sydney Western City Planning Panel.

The Sydney Western City Planning Panel can therefore be satisfied that they have the relevant concurrence from the Planning Secretary to vary the development standard and that they have adequately and appropriately carried out a consideration pursuant to Clause 4.6 to vary the standard and grant development consent.

#### **Clause 7.4 Sustainable development**

The proposed development includes the following design features to assist in achieving sustainability outcomes:

- end-of-trip facilities at the lower ground floor level;
- energy efficiency calculations addressing facade shading systems and wall glazing; and
- a 10kL water storage tank which will collect stormwater from the roof for reuse in toilet flushing and irrigation.

#### **Clause 7.7 Servicing**

The proposed development accommodates a loading bay and adjacent manoeuvring area that will allow servicing using a Medium Rigid Vehicle (MRV). All site servicing, including waste collection, will be carried out by a private contractor. However, Council's Waste Guidelines would require the building to be designed to allow access for a Large Rigid Vehicle (LRV). Given that the site requires servicing and waste collection by a private contractor, it is not considered necessary in this instance to design the building to accommodate Council's truck, as servicing using a MRV will suffice. Further, the additional clearances and areas needed to accommodate a larger truck might result in the shared driveway arrangement not being used, and is likely to result in a decrease in the parking spaces to allow the extra space for a larger truck. This would be an undesirable outcome in planning and design terms. Therefore, the proposed arrangement is adequate.

#### **Clause 7.8 Active street frontages**

Chapter E12 of the Penrith DCP identifies Somerset Street as an 'active frontage' street. The proposal has been designed to provide the building's main pedestrian and staff entry from Somerset Street, as well as the shopfront to the proposed pharmacy. Suitable conditions are recommended to ensure that the pharmacy frontage remains a shopfront frontage. This includes the requirement that the shopfront doors to the pharmacy remain usable to the public as an entry/exit door and that shelving and signage is not placed up against the shopfront window.

#### **Clause 7.11 Penrith Health and Education Precinct**

This clause applies as the site is within the Penrith Health and Education Precinct. This clause allows additional height (up to 20% of the applicable height limit). In this case it would allow a maximum building height of 21.6m. The prerequisite is that the floor to ceiling height of both the ground and first floors are at least 3.5m. The objective of this requirement is to provide for higher floor to ceiling heights at the two lower levels of buildings so that there is flexibility in the building's future use to encourage non-residential uses in the Precinct.

The proposed development complies with this control and also proposes non-residential uses at ground and first floor levels. The breach of the maximum height limit is discussed elsewhere in this report.

## **Section 4.15(1)(a)(iii) The provisions of any development control plan**

### **Development Control Plan 2014**

<b>Provision</b>	<b>Compliance</b>
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

## **Section 4.15(1)(a)(iv) The provisions of the regulations**

The application is accompanied by a report which confirms that the proposal is capable of complying with the Building Code of Australia. A fire engineering letter has also been submitted which identifies some non-compliances that will require performance based solutions. Further details and confirmation would normally be required at Construction Certificate stage. Suitable conditions are recommended to address the prescribed requirements of the Regulations.

## **Section 4.15(1)(b) The likely impacts of the development**

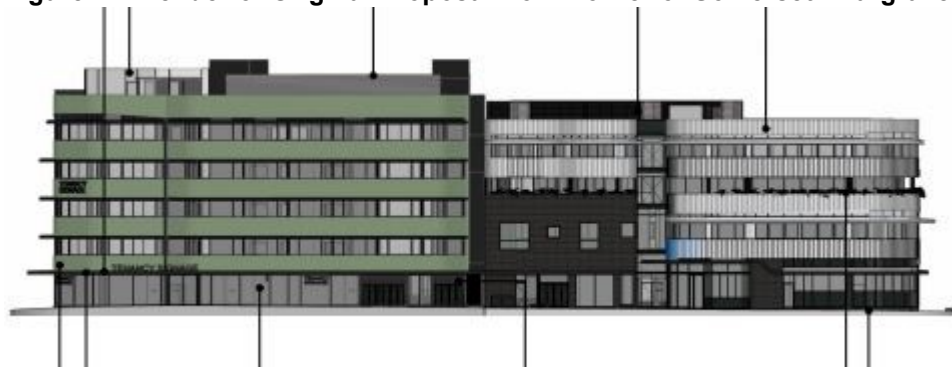
### **Design, Scale, Massing and Architectural Expression:**



The proposal as originally lodged had a very different architectural expression from that now presented to the Sydney Western City Planning Panel for determination. The two images below show a render of the **original** proposal and the elevation to Somerset Street, in context with the adjoining Somerset Specialist Centre. This is the proposal seen by the Panel at the Briefing on 15 March 2021.



**Figure 17: Render of Original Proposal from Corner of Somerset / Hargrave Streets**



**Figure 18: Elevation of Original Proposal with Adjoining Somerset Specialist Centre**

Council's Urban Design Review Panel (UDRP) raised a number of key design matters regarding the original proposal. In summary, these related to the combination of the proposal's; non-compliant front setback; non-compliant eastern (side) setback; inadequate secondary street setback; architectural language; non-compliant site coverage; and non-compliant height.

In further detail, the UDRP comments included whether the proposal was compatible with the local character of the area and streetscape, particularly the adjoining building to the south (Somerset Specialist Centre), which acts like the development's 'streetscape companion', and the dwellings in Hargrave Street, irrespective of their future development potential. Specifically, the proposal for the Somerset Specialist Centre included a conceptual development outcome for the current subject site. This concept reflected a continuation of the architectural building form and design theme for the subject site, including curved

elements of the facade, the use of face brick, and a 2 storey podium appearance through materials and massing elements. The original proposal for the subject site had moved away from this theme and the resulting form, mass and appearance was not supported by Council staff and the Urban Design Review Panel.

In addition, and given the comments above, the UDRP were concerned as to whether the proposed breach in the height standard could be supported. The concerns raised related to:

- the building form not being sufficiently compatible with the existing and desired future character along Somerset Street;
- minimising visual impact as a result of building bulk, wall alignments and setbacks;
- minimising loss of solar access and loss of privacy for dwellings in Hargrave Street, with further consideration to be given to the unscreened windows on the eastern elevation, ground floor terrace areas and amount of landscaping in the eastern setback;
- considering an allowance for a non-compliant setback to Somerset Street if streetscape outcomes are superior to an otherwise compliant scheme, and if a transition in scale was included progressing east (Hargrave Street);
- greater regard of the need for compliant setbacks from the eastern, side elevation;
- consideration of where the electricity substation is located; and
- needing more integrated and sympathetic architectural features to be more compatible with the adjoining building, including wall alignments, street wall setbacks, a defined podium, a more undulating facade, and a more compatible facade colour and material choice.

The Urban Design Review Panel then made some recommendations for how the proposal could be amended, such as:

- improve the articulation of both street facades to complement (rather than copy) form and alignment of the neighbouring medical building, for example, using facades that are 'tapered' and 'layered', similar to the Derby Street facade;
- provide an increased eastern boundary setback with space for effective landscape screening in planters;
- the green colourbond finish of the facade should be modified to a warm stoney grey which could be complemented by mid-to-darker grey sun hoods;
- east facing windows should incorporate fixed privacy screens to protect the amenity of adjacent residential neighbours; and
- reduce the height non-compliance to either comply or simplify the variation request by either removing one storey to accommodate all roof and plant within the height control, or compressing the roof-top plant to allow a reduced occupied top storey with smaller plant areas. Subject to effective amendment of plant and the top-most occupied floor level, roof top recreation space that exceeds the permissible building height might be justifiable.

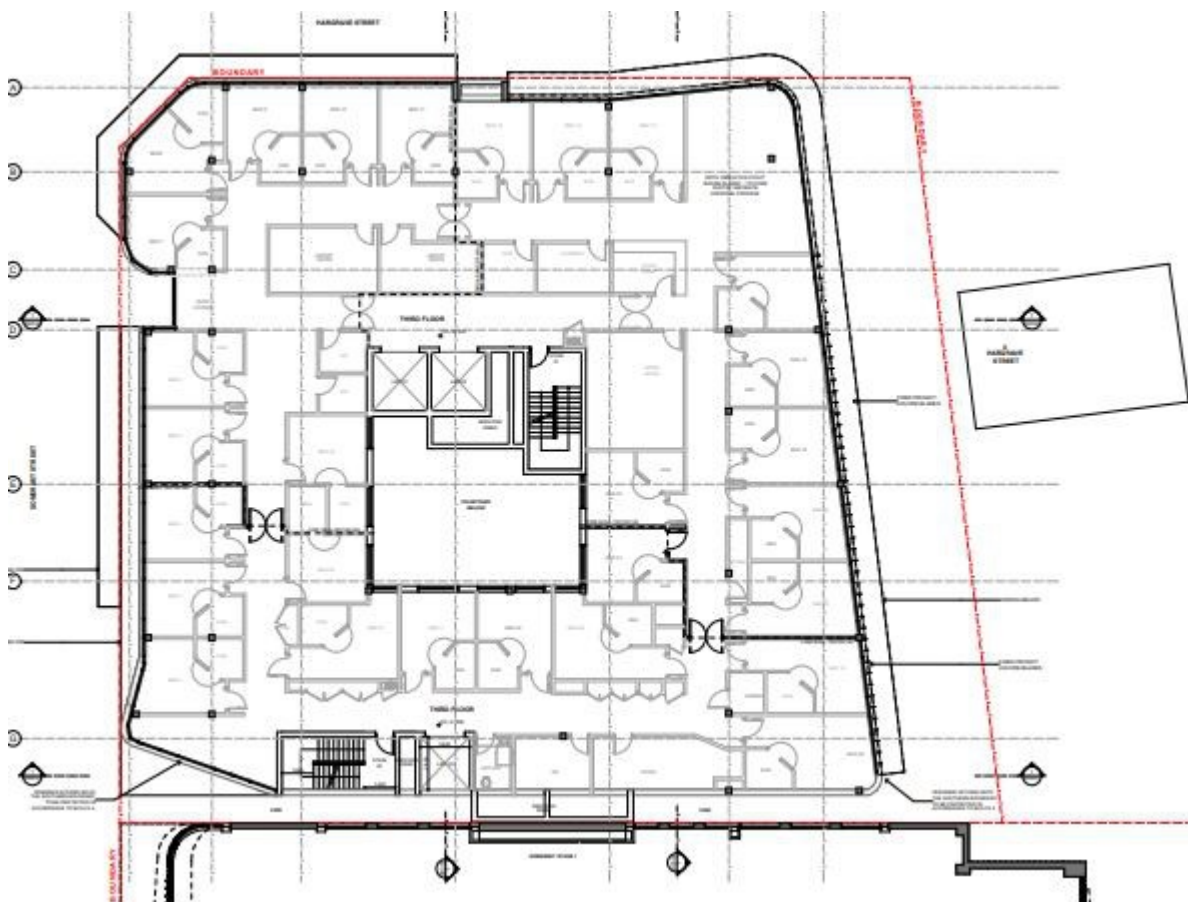
The applicant then submitted **draft amendments** to address the design matters raised above. The Urban Design Review Panel stated that the draft changes were a positive response, especially with respect to materiality and finishes, but that further refinement and amendments were needed. In particular, emphasising a podium form to complement the adjoining building by providing a sculpted setback of at least 1.2m at Level 3, incorporating a splayed facade at upper levels to Hargrave Street, with a recess in the north-eastern corner, better setbacks along the eastern side boundary of at least 6m, and more landscaping along the eastern edge.

The Urban Design Review Panel included an indicative sketch in their response to the applicant's draft amended plans. The sketch (copy below) is of the Third Floor.



**Figure 19: Indicative Sketch from UDRP of Third Floor with Further Suggested Amendments**

The applicant then made final amendments to the proposal, which is now the scheme presented to the Sydney Western City Planning Panel for consideration and determination. The image below shows the amended Third Floor, which can be compared to the UDRP sketch above, as well as two photomontages of the front facade.



**Figure 20: Amended Third Floor Layout and Building Alignment**



**Figure 21: Render of Amended Proposal from Corner of Somerset and Hargrave Streets**



**Figure 22: Amended Elevation to Somerset Street with Adjoining Somerset Specialist Centre**

The main changes made to the proposed development to respond to the design comments are:

- parts of the former linear and uniform facades were changed to include curved lines, tapers, cut-outs, and modulation. This occurs in both the Somerset Street and Hargrave Street frontages, particularly at the eastern end of Hargrave Street where the site adjoins the residential properties (the tapering in Hargrave Street occurs at the second floor and above). The facade alignment has directly responded to the UDRP advice and sketch;
- a variation of materials has been introduced into the facade to better complement the materials used in the adjoining Somerset Specialist Centre. This includes white rendered elements and face brick (the green colour has been removed);
- a 2-3 storey face brick podium element to the Somerset Street frontage to complement the existing podium of the adjoining building;
- the side setbacks along the eastern boundary (adjoining the dwelling in Hargrave Street) have been increased to be a fully compliant 6m at third and fourth floor levels, and at the lower levels (ground, first and second floors), a generous setback has been provided of between 3.3m to 6m (the DCP allows a



nil setback) and a deep soil landscaped strip occupies part of that setback; and

- the facade at the corner of Somerset and Hargrave Streets sets further back at the fourth floor (top level) and includes a small terrace.

The amendments to the proposal as described above have successfully responded to the original concerns raised by the UDRP, Council staff and the Sydney Western City Planning Panel as outlined in their briefing minutes of March 2021. Notwithstanding that the amended proposal still seeks to breach the height limit (which is discussed elsewhere in this report), the design, footprint, streetscape presentation, and architectural appearance of the amended proposal is now acceptable.

#### **Traffic:**

The proposal includes three levels of parking for 99 cars. Access is from the existing driveway at the adjoining Somerset Specialist Centre in Derby Street. This will require an easement for access which is recommended as a condition of consent.

The accompanying Traffic Report states that the hospital component is expected to generate up to 61 peak hour vehicle trips (at both morning and afternoon times), which is a worst-case peak hour traffic generation rate, as at other times ('mean-hour' and evening commuter peak) the generation rates will be closer to 35 or 38 vehicle trips. The private consulting rooms are expected to generate 88 peak hour vehicle trips. Therefore, the combined rate for peak hour (morning and afternoon) times is expected to be approximately 149 vehicle trips. The Traffic Report concludes that the surrounding streets and intersections will have the capacity to accommodate the increase in traffic.

To address concerns raised by Nepean Hospital and Council's Traffic Engineer, the applicant carried out an expanded intersection capacity assessment, including at the roundabout at Derby / Somerset Streets which is the main access to Nepean Hospital, as well as the intersections at Derby / Parker Streets. The expanded traffic study concluded that those intersections will also operate well within typically adopted performance thresholds post-development.

Council's Traffic Engineer has no objection to the proposed development based on traffic generation and performance of intersections near the site post-development.

#### **Parking:**

The main concern previously raised by Council staff related to the number of car parking spaces proposed on the site. The original proposal included a total of 92 car parking spaces located in 2 basement levels and a lower ground floor. The **original proposal had an overall shortfall of 17 spaces**, being 15 patient/visitor spaces for the hospital, and 2 spaces for the pharmacy.

In addition, the development has used the RMS Guidelines to calculate spaces for the health consulting rooms (which is based on gross floor area), rather than the rates contained in the Penrith DCP (which is based on number of practitioners). Using the RMS Guidelines, the number of spaces provided for the health consulting rooms component of the development will comply, with 50 spaces required and 50 spaces provided. However, using the Penrith DCP parking rate for health consulting rooms, it is unclear how many spaces would be needed as no information has been provided about the future number of health practitioners and staff associated with the 9 health consulting rooms located on the top floor and on the ground floor.

The applicant originally put forward the following arguments in response to the original parking shortfall of 17 spaces:

- Both in-patients and day patients are not permitted to drive themselves to the hospital;
- Patients are advised of the no-parking policy as part of the pre-admission information;
- Patients are not able to have visitors within the first 7 days of their stay;
- The average length of stay for patients is 2 weeks;
- Visiting hours are controlled to between 4pm to 8pm weekdays and between 10am to 8pm on weekends;
- Bicycle parking for tenants is provided, with end-of-trip facilities;
- No ambulance or emergency services are provided, although an ambulance can use the loading dock if needed; and
- The pharmacy is ancillary to the hospital use.

However, to address these initial concerns the **amended proposal now includes 99 parking spaces** and 15 motorbike spaces. This will be allocated as 45 spaces to the hospital (20 to patients/visitors and 25 to staff) with the remaining 54 spaces allocated to the other uses in the building. This will still result in a **parking non-compliance of 10 spaces** attributable to the hospital use.

In addition to the amendments, the traffic consultant carried out a parking demand assessment to further analyse the specific demand of the proposed development. The consultant states that a 'first-principles' approach is used for the hospital (visitor/patient) component of the development, as the non-staff parking requirements for a mental health hospital will be different to a standard private hospital. This includes the above bullet points relating to how the mental health hospital will be operated (e.g. length of patient stay, ability to have visitors, timing of out-patients sessions, and the like).

An additional traffic consultant then carried out a comparative analysis of a similar stand-alone mental health facility. This comparative analysis looked at a mental health facility located in Wollongong, named the South Coast Private Hospital. This facility is a stand-alone, private mental health hospital with 82 rooms and 36 parking spaces. It offers day-patient therapy sessions, group sessions and in-patient services. The building also contains a floor of private consulting rooms. This facility is within 200m of the train station (the subject site is within 450m of Kingswood train station).

The parking demand study found that patient/visitor parking demand would be at a rate of 1 space per 6 beds, compared with the Penrith DCP rate of 1 space per 3 beds. This means that the patient/visitor component of the subject proposed development (90 bed hospital component) would require 15 spaces (using the applicant's parking demand study) or 30 spaces (using the Penrith DCP). The Penrith DCP rate for hospital staff and the pharmacy has been used and the RMS Guideline rates have been used for the private consulting rooms.

Using this method, the proposed hospital would require a total of 39 spaces, the pharmacy would need 5 spaces, and the private consulting rooms would need 50 spaces. This would be a total of 94 spaces. The amended proposal provides 99 spaces which would comply, if the parking demand study (for the patient/visitor component of the hospital) and the RMS Guidelines (for the private consulting rooms) were accepted. If the Penrith DCP rate for the hospital was used, the total parking required would be 108.5 spaces (rounded up to 109).

Therefore, the only points that need resolution are the use of the applicant's specific parking demand assessment, and the RMS Guideline rate for health consulting rooms (based on gross floor area) instead of the DCP rate (based on number of staff).

In this regard, and on planning grounds, it is considered acceptable to use the RMS Guideline rate for the consulting rooms because the number of health practitioners is unknown at the time of the DA. Although the 8 large consulting rooms on the top floor and the GP room on the ground floor may be divided into smaller spaces with individual practitioners, it is also reasonable to expect that some of the spaces will

remain large areas where ancillary medical equipment and treatment rooms are needed. In addition, the RMS Guidelines are a recognised source and have previously been used for guidance on developments (such as the Somerset Specialist Centre).

With regard to the parking study, the arguments made about the specific use and operation of the mental health hospital are reasonable, although it is acknowledged that a development consent cannot restrict the use of the subject site to just mental health. Council's Traffic Engineer has stated that the use of the Wollongong example is not ideal, and that another location in Western Sydney would have been preferable. In response, the traffic consultant has stated that two other facilities in Sydney were considered (at Curl Curl and Kellyville). However, those facilities were not deemed to be the most comparable examples as they either; didn't provide for patient/visitor parking on site; were not near a train station; were not a stand-alone facility; or would not provide access in order to carry out the study.

It is considered that the Wollongong facility and location as a comparable study site and area is acceptable. Wollongong has a similar population to Penrith (around 215,000 people), is serviced by a train line, and is an area of urban growth.

Therefore, on balance, and taking into account the amendments to the proposal and the additional information received, the amount of parking provided is considered acceptable. In addition, motor cycle parking, bicycle parking, and end-of-trip facilities are provided. Conditions are recommended to ensure that a quota of the total parking is allocated only for the hospital use and that this portion is also separated into hospital staff and hospital patient/visitor spaces.

#### **Acoustics:**

The application was accompanied by an initial Acoustic Report prepared by an acoustic consultant. The report addresses noise intrusion to the site from adjacent roadways, and noise emissions from the proposed uses and mechanical plant. The report makes satisfactory recommendations for construction to ensure that indoor design sound levels are met. The report also outlines that the noise emission criteria for future mechanical plant can be achieved but requires further detail at the construction stage. To address these conclusions, specific conditions are recommended, including the requirement for acoustic confirmation that the choice of specific mechanical plant can meet the required noise emission criteria.

In addition, Council staff sought further information regarding the use of the building, including the roof top terrace area. An amended Acoustic Report was submitted which made recommendations about the use of the car park and roof top terrace. These include limiting the terrace to no more than 100 persons, music to be electronically limited and no use after 10:00pm.

With regard to the patron capacity recommended for the roof top terrace, Council staff sought further advice from the applicant, given that the suggested 100 person capacity on the terrace seemed excessive given that the terrace is designed for the use of patients and accompanying staff members. The applicant has responded to advise that they intend to use the roof terrace for patient therapy, exercise and recreation and would expect to have up to 30 patients on the roof terrace at any one time. Therefore, a condition that allows 30 patients to use the roof terrace at any one time is recommended. This 30 patient limit does not include staff members, which can be additional to the 30 but should be only the staff members required to accompany the 30 patients.

#### **Accessibility:**

The application was accompanied by an Accessibility Report prepared by an accredited access consultant. The Accessibility Report either confirms that BCA standards are met or that Performance Solutions are required. Of note is that the stairs on the hospital floors are designed as mattress evacuation

stairs, allowing room on a stair landing for a hospital bed to be positioned without blocking the stairway. In addition, the hospital room bathrooms will include a variety of left side transfer and right side transfer so as to provide choice for patients who are less mobile.

The original proposed development was presented to Council's Access Committee in February 2021 for comment. The Access Committee made the following comments for further review:

- *The proposed shared arrangement for vehicle access has to be legible and easy to use.* This will form part of the ongoing use and management of the building, and it is likely that directional signage will be installed to assist with legibility.
- *Only 2 accessible parking spaces are provided and these could be located closer to the lift. There are no accessible spaces provided on other levels.* Council's Building Surveyor has confirmed that the number of accessible spaces proposed complies with the BCA. Although the parking spaces are not directly adjacent to the lift, they are still adequately positioned near the lift and near the boom gate entry to the hospital parking level.
- *There is some question as to whether the proposed hospital is categorised as a Class 9a building under the BCA and whether under this class, it is correct to exempt 'ward areas' from needing to provide all showers that are designed to be accessible.* The application has been lodged as a Class 9a (health care building) under the BCA. Council's Building Certification Coordinator reviewed the proposal and BCA report and agreed with the applicant's categorisation that the proposed hospital is a Class 9a building. The proposed health consulting rooms are Class 5 (office and consulting rooms), with the pharmacy being Class 6, and the parking being Class 7a. It is also correct that the hospital wards fit within the BCA definition of "ward area" which is "part of a patient care area for resident patients and may contain areas for accommodation, sleeping, associated living and nursing facilities". Therefore, the showers within the hospital rooms have not been designed as accessible spaces.
- *Concerns regarding door widths and door circulation, including the turn around space near the end-of-trip facilities.* Design details regarding door widths and circulation can be addressed with the Construction Certificate. The corridor space at the end-of-trip facility on the lower ground floor has been amended to provide more room for a turning area.
- *Lack of an adult change table.* The Penrith DCP was amended to include provisions for adult change tables. The proposed development is not a type of development that the DCP would trigger the requirement for an adult change table to be provided.
- *Lack of bay for emergency vehicles.* The applicant has advised that the hospital does not intend to cater for emergency drop-offs, but that if an ambulance is required, it can use the loading bay.

## **Section 4.15(1)(c) The suitability of the site for the development**

The site is deemed to be suitable for the proposed use, subject to conditions. The amended building design has now appropriately addressed the existing streetscape, with further side setbacks and facade modulation. Amendments have also addressed stormwater disposal and the design requirements for the electricity substation. The proposed development is considered to enhance the desired future character of the Penrith Health and Education Precinct and will add another specialised medical service to the area.

## **Section 4.15(1)(d) Any Submissions**

### **Community Consultation**



The application has been advertised in the local press and notified to surrounding owners. One submission from the Nepean Blue Mountains Local Health District has been received. The submission makes the following two comments:

*Traffic - A traffic study should be conducted to ensure that traffic around Nepean Hospital is not impeded by additional traffic movements as Somerset and Derby Streets are used by NSW Ambulance during emergency transport.*

Matters relating to traffic generation have been discussed above, with the submitted Traffic Report concluding that the surrounding streets and intersections have the capacity to accommodate the additional traffic expected to be generated by the proposal. Council's Traffic Engineer raises no objections to the proposal on the grounds of resulting traffic generation and the continued performance of intersections.

*The use of cranes during construction would need to consider the impacts of the new permanent helipad located on Level 14 of the new Nepean Hospital Redevelopment Clinical Services Tower which will be in operation from late 2021.*

The comment relating to construction cranes is a matter known to Council staff and a condition is recommended to address this matter. The condition requires written notice to be provided to Nepean Hospital prior to the erection of any crane, along with details of the crane, such as height, management plan, lighting and position. The condition also allows Council or Nepean Hospital to request the applicant submit a Flight Safety Report. The wording of this condition is similar to conditions imposed on other development consents involving multi-storey developments near Nepean Hospital.

## Referrals

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

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

## **Development Engineer**

Council's Engineer had previously raised two issues with the original and first amended proposal. These related to the single-width ramp for two-way vehicle movements at lower ground floor, and the method of stormwater drainage to Derby Street.

Regarding the single-width ramp at lower ground floor, this has subsequently been amended to be a double-width ramp. Although this has resulted in some conflict with vehicle swept paths using the parking level, the double-width ramp is preferred to the previous design. This is further discussed below under the comments from Council's Traffic Engineer.

Regarding the second issue related to the stormwater design draining to Derby Street, the applicant has now amended the civil drawings so that the development will drain to the site's natural sub-catchment, which is to Hargrave Street.

Council's Engineer no longer raises any concerns with the proposal and has recommended conditions of consent.

## **Environmental - Waterways**

The proposal was amended to include a 10kL rainwater tank, which will achieve a non-potable water reuse of 17.31%. Although this is less than Council's target, Council's Waterways Officer acknowledges that the site has limitations such as limited landscaping and few ground level toilets. Council's Waterways Officer also acknowledges that the site will still see an improvement of non-potable water reuse from pre-development to post-development.

## **Traffic Engineer**

The outstanding concern raised by Council's Traffic Engineer relates to the number of car parking spaces provided. This matter has been discussed above.

In addition, the basement level has been amended so that the previous single-width ramp (to be used by two-way traffic) accessing the parking spaces on the Lower Ground Floor has been widened to now be a double-width ramp. This was done to address the concern raised by Council staff relating to a single-width ramp being used for two-way car movements. While Council staff support this amendment, it has resulted in some of the vehicle swept paths overlapping each other.

On balance, this is considered to be acceptable because the parking on the Lower Ground Floor will be for staff who are more likely to be accustomed to the layout of the parking. It is also expected that a courtesy approach will be used at times when vehicles need to pass each other in those areas where the swept paths are tight.

## **Section 4.15(1)(e) The public interest**

The proposed development is considered to be in the public interest as it results in an appropriate building on, and use of, the site, which will support the function and vitality of the Penrith Health and Education Precinct. Suitable conditions of consent are recommended to mitigate impacts to neighbours as a result of the construction phase of the development, as well as the ongoing operation of the hospital.

## Conclusion

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The proposal is for a 5 storey health services facility in the form of a 90 bed mental health private hospital, with ground floor therapy rooms and a patient rooftop-terrace. The top floor will contain 8 large-format health consulting rooms, while the ground floor will contain an ancillary pharmacy and space for a GP clinic.

The proposal has been amended to address initial concerns raised by Council staff, the Urban Design Review Panel and Council's Access Committee. The main changes include revising the architectural language and appearance of the building facades (such as deleting the originally proposed green banding), providing further facade articulation through setbacks and tapered / curved lines, using face brick to represent a podium scale to Somerset Street, and increased side setbacks. The amendments have addressed the previous concerns raised and in particular, provide for a building that sits more comfortably in the streetscape with its 'companion' building, the adjoining Somerset Specialist Centre.

Nevertheless, the proposed development also seeks to breach the development standard for building height in the Penrith LEP. At its highest point to the top of the lift motor rooms, the building will breach the height control by 3.66m. Other breaches include the plant screening (3m over), stairwell overruns (2.3m over) and the glass balustrade around the patient rooftop terrace (1.9m over). All of the proposed breaches occur at roof level, are set back from the building and site edges, and do not relate to gross floor area. This planning assessment report considers that the written request from the applicant pursuant to Clause 4.6 of the LEP is sound and acceptable and that the Panel has grounds to allow the proposed height breaches.

On balance, it is considered that the proposed development, as amended, is a suitable design response to the site, the existing streetscape and the desired future character of the Penrith Health and Education Precinct. The application is recommended for approval.

## Recommendation

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It is recommended that:

1. The request made pursuant to Clause 4.6 of the Penrith LEP 2010, dated 15 June 2021, to vary the development standard for height at Clause 4.3 of the Penrith LEP is accepted; and
2. Integrated Development Application DA20/0810 for the demolition of existing structures and construction of a health services facility (private hospital for mental health) at 36 and 38 Somerset Street, and 2 Hargrave Street, Kingswood, be approved subject to conditions and the General Terms of Approval from Water NSW.

## CONDITIONS

### General

- The development must be implemented substantially in accordance with the drawings stamped approved by Council and referenced in the table below, the consultant's reports referenced at the end of the table below, and the General Terms of Approval issued by Water NSW, dated 8 July 2021, except as may be amended by the following conditions.

Doc No.	Issue	Title	Prepared By	Date
<b>Architectural Plans Project 20125 - Private Health Facility 34-36 Somerset &amp; 2 Hargrave Street</b>				
DA000	D	Cover Page	Bureau SRH architecture	07 October 2021
DA001	B	Site Analysis	Bureau SRH architecture	18 June 2021
DA010	B	Site Plan	Bureau SRH architecture	18 June 2021
DA100	C	Basement 2 Floor Plan	Bureau SRH architecture	01 September 2021
DA101	C	Basement 1 Floor Plan	Bureau SRH architecture	01 September 2021
DA102	D	Lower Ground Floor Plan	Bureau SRH architecture	07 October 2021
DA103	D	Ground Floor Plan	hf health facility solutions	16 September 2021
DA104	C	First Floor Plan	Bureau SRH architecture	01 September 2021
DA105	C	Second Floor Plan	Bureau SRH architecture	01 September 2021
DA106	C	Third Floor Plan	Bureau SRH architecture	01 September 2021
DA107	C	Fourth Floor Plan	Bureau SRH architecture	01 September 2021
DA108	C	Roof Terrace Floor Plan	Bureau SRH architecture	01 September 2021
DA120	C	Shadow Diagrams	Bureau SRH architecture	01 September 2021
DA150	C	Area Calculations	Bureau SRH architecture	01 September 2021
DA200	B	West Elevation - Somerset Street	Bureau SRH architecture	18 June 2021
DA201	C	North Elevation - Hargrave Street	Bureau SRH architecture	01 September 2021
DA202	C	East Elevation	Bureau SRH architecture	01 September 2021
DA203	B	South Elevation	Bureau SRH architecture	18 June 2021

DA210	B	Street Elevation & Materials	Bureau SRH architecture	18 June 2021
DA300	B	Section 01	Bureau SRH architecture	18 June 2021
DA301	B	Section 02	Bureau SRH architecture	18 June 2021
DA302	B	Section 03	Bureau SRH architecture	18 June 2021
DA303	B	Section 04	Bureau SRH architecture	18 June 2021
DA500	B	Photomontage	Bureau SRH architecture	18 June 2021
DA501	A	Photomontage	Bureau SRH architecture	18 June 2021
<b>Landscape Plans Project No. SS20-4544</b>				
000	B	Landscape Coversheet	Site Image Landscape Architects	26/11/2020
101	B	Landscape Plan Ground Floor*  * This plan is to be updated to reflect the amended ground floor architectural plans	Site Image Landscape Architects	undated
111	B	Landscape Plan Level 1 and 4	Site Image Landscape Architects	undated
151	B	Landscape Plan Level 5 Rooftop	Site Image Landscape Architects	undated
501	B	Landscape Details and Plant Schedule	Site Image Landscape Architects	26/11/2020
<b>Civil Engineering Works Package Project No. 20-813</b>				
C001	F	Cover Sheet, Drawing List and Locality Plan	at&l	11/10/2021
C002	C	Notes and Legends	at&l	18/06/2021
C101	G	Siteworks and Stormwater Drainage Plan	at&l	11/10/2021
C102	C	Existing Stormwater Drainage Plan	at&l	11/10/2021
C105	C	Stormwater Catchment Plan Plan	at&l	11/10/2021
C110	D	Typical Sections	at&l	11/10/2021
C111	C	Typical Details	at&l	18/06/2021

C112	F	Stormwater Details	at&l	11/10/2021
C113	C	Stormwater Drainage Longitudinal Sections Sheet 1	at&l	11/10/2021
C120	C	Public Domain Longitudinal Section	at&l	18/06/2021
C130	C	Public Domain Cross Sections	at&l	18/06/2021
C140	E	Proposed Roof Drainage Plan	at&l	11/10/2021
C150	C	Proposed Ground Floor Drainage Plan	at&l	11/10/2021
C401	E	Pavement Plan	at&l	08/10/2021
C601	E	Erosion and Sediment Control Plan	at&l	08/10/2021
C602	C	Erosion and Sediment Control Details	at&l	18/06/2021

#### Consultant's Reports:

- Geotechnical Assessment, by JK Geotechnics, Reference 33597LT rptRev1, dated 2 December 2020;
- Civil Stormwater Management Report, by at&l, Reference 20-813-Somerset Stage 2, Revision C, dated 08 October 2021;
- BCA Assessment Report, by NW Building Certification, Reference NW20/5936, Revision 3, dated 27 November 2020;
- DA Acoustic Assessment, by Acoustic Logic, Reference 20201142.1, Revision 1, dated 23 February 2021;
- Energy Efficiency Calculations, by DSA Consulting, dated 27 November 2020;
- Fire Engineering DA Statement, by GHD, Reference 12543000, Revision 2, dated 30 November 2020;
- Traffic and Parking Impact Assessment, by Stanbury Traffic Planning, Reference 20-221-2, dated November 2020;
- Traffic Response Letter, by SLR, Reference 620.30474-L01-v2.0-20210621, dated 21 June 2021;
- Aboricultural Impact Assessment and Tree Management Plan, by Redgum Horticultural, Reference 6627, dated 28 October 2020;
- Operational Waste Management Plan, by Waste Audit and Consultancy Services, dated November 2020; and
- Development Application Accessibility Report, by NW Access Consultancy, Reference 20/ACC/1778, Revision 2, dated 30 November 2020.

- 2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.

- 3 Lots 22 and 21 in Deposited Plan 215146 and Lot 20 in Deposited Plan 31682, being 34 Somerset Street, 36 Somerset Street and 2 Hargrave Street, are to be consolidated into one lot. Written evidence that the request to consolidate the lots has been lodged with Land Registry Office is to be submitted to the Principal Certifier prior to any excavation works commencing on the site. All required and/or relevant easements and restrictions are to be included on the consolidated lot.

A copy of the registered plan of consolidation is to be submitted to the Principal Certifier and Penrith City Council prior to the issue of any Occupation Certificate for the development.

- 4 The kitchen shall not be used or occupied until an Occupation Certificate has been issued. A satisfactory inspection from an authorised officer of Council's Environmental Health Team is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Team to organise an appointment at least 72 hours prior to the requested inspection time.
- 5 The business is to be registered with Penrith City Council by completing the "Registration of Premises" form. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the business.
- 6 A baby care facility shall be provided and maintained on both the ground floor and the top floor (private consulting rooms) and must be available to be used by visitors to the building. Details are to be included as part of the Construction Certificate application.
- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 The consolidated lot is to benefit from an easement over the adjoining Somerset Specialist Centre so as to allow right of access via the Derby Street driveway into the basement parking areas. Evidence of this easement is to be provided to the Principal Certifier prior to the issue of any Occupation Certificate. The easement is to be registered on the relevant title/s.
- 9 The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
  - (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
  - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 10 The parking spaces are to be used solely by staff, patients and visitors to the building. Sub-leasing of the parking spaces is not permitted, although this does not preclude the ability for the car parking area to be operated and managed by a third party organisation.

- 11 The only signs approved are those signs shown on the architectural drawings referenced at Condition 1. The final details of the signs, including the position, material, method of illumination, and design is to be submitted to Council for approval prior to the signage being installed and displayed.

The approved signage shall only be for building and/or tenancy identification signage. All building identification signage (such as the building name signs) are to be individually cut letters with concealed and integrated illumination that is able to be dimmed during night time hours (if required). High quality and durable material is to be used, such as metal lettering. The Building Name signs are those located above the awning to Somerset Street, at the curved facade of the building, and at the Hargrave Street frontage.

The position and visibility of signage is not to be used as a reason to request the removal or relocation of any street trees which are required to be retained or are proposed. Further, and if required, the width of any awning is to be modified to accommodate street trees.

- 12 All mechanical plant to be located on the roof must be contained wholly and only within the Plant Area shown on the approved roof plan and must not protrude beyond the height of the acoustic screening shown on the elevation drawings.

All future plant and equipment to be used is to be chosen and acoustically treated to ensure the noise levels at all surrounding receivers comply with the noise emission criteria detailed within the Acoustic Report referenced at Condition 1. A certificate is to be obtained from a qualified acoustic consultant certifying that the mechanical plant and equipment has been installed to meet the noise criteria in accordance with the approved acoustic report. This Certificate is to be provided to the Principal Certifier prior to the issue of any Occupation Certificate.



13 (a) Prior to the erection of any crane or any temporary construction structure at a height greater than the roof of the subject development, written notice shall be provided to Council **and the Nepean Blue Mountains Local Health District** (NBMLHD) at least 21 days prior to the erection, indicating at least the following:

- Name of responsible company and relevant contact details;
- Dimensions (height, length, etc);
- Position and orientation of boom/jib and counterboom/jib;
- Length of time that such a crane or structure will be erected on site; and
- The management plan and measures that will ensure that the crane or structure will be of least possible impact on flight operations for Ambulance NSW in accordance with and addressing Guideline H - Protecting Strategically Important Helicopter Landing Sites as part of the *National Airports Safeguarding Framework*.

(b) To satisfy the above requirements, and if so directed by either Penrith City Council or NBMLHD, the applicant is to submit a Flight Safety Report, specific to this development to demonstrate protection of the Nepean Hospital HLS Flight Path.

(c) Any crane or any temporary construction structure erected at a height greater than the roof of the subject development shall comply with the following:

- Be equipped with medium intensity steady red lighting positioned at the highest point and both ends of the boom/jib and counterboom/jib, such that the lighting will provide an indication of the height of the crane and the radius of the crane boom/jib. Such lighting, which should be displayed at night, should be positioned so that when displayed it is visible from all directions;
- When a crane is unattended for an extended period of time ensure the crane's boom is retracted and lowered as far as possible; and
- No part of the crane or structure shall extend beyond the boundaries of the subject development site unless approved by Penrith City Council **in consultation with the Nepean Blue Mountains Local Health District**. Any encroachment beyond the boundaries of the subject site shall be the minimum amount required to facilitate construction and access all parts of the construction site.

The plan is to be submitted to the Principal Certifier, Penrith City Council and NBMLHD and is to be complied with at all times.

14 The use of the rooftop terrace area and the basement car park areas shall be in accordance with the recommendations of the Acoustic Report referenced at Condition 1, except for the patron capacity recommendation for the rooftop terrace.

The principal use of the roof top terrace is for in-patients and out-patients associated with the hospital, with no more than 30 patients, and the required accompanying staff members, using the rooftop terrace at any one time.

15 Prior to the issue of any Occupation Certificate, the applicant is to provide evidence to the Principal Certifier that a commercial contract for all waste collection services to the site has been entered into. Such a contract must be retained and maintained while the site is being used. All costs associated with waste collection are to be at the expense of the operator.

- 16 The fit-out and use of the pharmacy tenancy is to ensure and maintain an active and open shopfront to Somerset Street. In this regard, any shelving, goods for display, or signage is not to be placed against the shopfront in such a manner as to obscure views into the retail tenancy from the street. The access doors from Somerset Street directly into the retail tenancy are to be maintained and used for direct access into the retail tenancy.
- 17 From the total number of 99 car parking spaces to be provided on-site, the building owner / manager is to ensure that no less than 45 car parking spaces are allocated for the sole use of the hospital, and of those 45 spaces, no less than 20 spaces are to be kept available for the use of patients and visitors associated with the hospital.
- 18 The approved development must adhere and comply with the conditions contained in the General Terms of Approval issued by Water NSW in their letter dated 08 July 2021 (reference IDAS 1138300). These General Terms of Approval **do not** constitute an approval under the Water Management Act 2000. The development consent holder must apply to Water NSW for a Water Supply Work approval **after consent** has been issued by Council and **before** the commencement of any work or activity.
- 19 The outdoor areas associated with the hospital use cannot be used prior to 7:00am or after 10:00pm every day. At other times, the use of the outdoor spaces must be appropriately supervised to ensure that activities to not generate unreasonable noise for adjoining residential properties.

- 20 The following community safety and crime prevention through environmental design (CPTED) requirements are required to be implemented:

#### **Lighting**

- All outdoor/public spaces throughout the development must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.

#### **Basement Car Parking**

- A security system must be installed on any pedestrian and vehicle entry/exit points to the car park, including the lifts and stairwells, to minimise opportunities for unauthorised access.
- All areas of the car park must be well-lit, with consistent lighting to prevent shadowing or glare.
- Car park surfaces including walls and ceilings are to be light coloured with details included with the **Construction Certificate** application.

#### **Building Security & Access Control**

- Intercom, code or card locks or similar must be installed for all entries to the buildings including restricted (staff only) areas.
- Australian Standard 220 door and window locks must be installed in all premises.
- CCTV is to be provided to cover communal public space areas. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Monitored alarm systems must be installed.

#### **Graffiti/Vandalism**

- Graffiti resistant coatings must be used to external surfaces where possible, including signage, furniture, retaining walls etc.
- Procedures must be in place to ensure the prompt removal and/or repair of graffiti or vandalism to the buildings, fencing, and common areas. This includes reporting incidents to police and/or relevant authorities.
- Outdoor furniture must be well secured and sturdy to minimise opportunities for vandalism/theft.

#### **Landscaping**

- All vegetation must be regularly pruned to ensure that sight lines are maintained.

### **Demolition**

- 21 All demolition works are to be conducted in accordance with the provisions of AS 2601-2001 "The Demolition of Structures" including the completion of a Hazardous Building Materials Assessment. During demolition works, the Hazardous Building Materials Assessment must be complied with at all times.

**Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

22 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019;
- SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019; and
- Australian Standard AS 2601.

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014.

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement"; and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence. All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos wastes.

23 Dust suppression techniques are to be employed during demolition and construction work to reduce any potential nuisances to surrounding properties.

## **Heritage/Archaeological relics**

24 If any archaeological relics are uncovered during the course of the work, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977 may be required before any further work can be recommenced in that area of the site.

## **Environmental Matters**

25 Erosion and sediment control measures shall be installed prior to the commencement of works on site including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

Erosion and sediment control measures are to be maintained throughout the construction phase of the development until all development works are completed. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

26 No fill material shall be imported to the site until such time as a certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certificate shall:

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC);
- clearly state the legal property description of the fill material source site and the total amount of fill tested;
- provide details of the volume of fill material to be used in the filling operations;
- provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014; and
- based on the fill classification, determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation work may be requested. In these circumstances the works shall be carried out prior to any further approved works.

27 All demolition and construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas are to be fully enclosed when the site is unattended.

Waste materials are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

28 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Acoustic Report referenced at Condition 1. The recommendations provided in the report, including in Sections 5.3 and 7.5, shall be implemented and incorporated into the design, construction and operation of the development, and shall be shown on the plans and specifications accompanying the Construction Certificate application. The plans and specifications submitted for the Construction Certificate are to be supported by acoustic certification documentation that is prepared by a suitably qualified acoustic consultant and that demonstrates the construction of the building will comply with the criteria established in the approved acoustic report referenced at Condition 1.

A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

29 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. This does not include any water arising as a result of dewatering.

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

All remediation works within the Penrith Local Government Area are Category 1 works under State Environmental Planning Policy No. 55 - Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.

- 31 **Prior to issue of a Construction Certificate**, a Construction Noise and Vibration Management Plan is to be provided to Council for approval. Suitable data and information (prepared by a suitably qualified acoustic consultant) on construction noise and vibration impacts and necessary controls, is to be supplied to ensure demolition and construction activities are consistent with the recommendations of the approved acoustic report referenced at Condition 1, and in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.
- 32 In the event of substantiated, ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a noise impact assessment on the development to address the concerns of the community.

Any noise impact assessment report is to be prepared and provided to Council for approval within 45 days of being requested. Any mitigation works are to be undertaken within 30 days from the date of notice from Council, unless otherwise specified.

## BCA Issues

- 33 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
  - complies with the performance requirements, or
  - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

- 34 The Construction Certificate is to include details showing how the requirements and recommendations of the Accessibility Report, referenced at Condition 1, have been achieved. Details are to be shown on the drawings accompanying the Construction Certificate application for the approval of the Principal Certifier.

## Health Matters and OSSM installations

- 35 The construction, fit out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS 4674-2004 *Design, Construction and Fitout of Food Premises*.
- 36 Any cooling towers and warm water systems are to be registered with Penrith City Council by completing the registration form for regulated systems. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the system. The occupier of premises at which a water-cooling system or warm-water system is installed must notify Council using the NSW Ministry of Health Notification Form available from [www.health.nsw.gov.au](http://www.health.nsw.gov.au):
- a. if the system is installed before he or she becomes the occupier, within one month after he or she becomes the occupier, or
  - b. if the system is installed after he or she becomes the occupier, within one month after the system is installed.

The occupier of the premises must notify Council within 7 days of any change of details.

- 37 Cooking appliances which exceed a total maximum power input of 8kw for electrical, or a total gas input of 29MJ/h for a gas appliance, are required to have a kitchen exhaust system installed in accordance with Clause F4.12 of the Building Code of Australia and Australian Standard AS 1668, Parts 1 & 2.

An external ducting and exhaust system has not been approved as part of this Development Consent as approval for such equipment has not been detailed on the architectural drawings, nor specifically applied for. Any ducting or exhaust system which is located on the external facade of the building or protrudes above the height of the lift overruns on the roof will require further development consent in the form of a Modification Application pursuant to Section 4.55 of the EP&A Act.

- 38 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the hospital use.
- 39 The grease arrestor, cooling pit, and any other trade waste facilities shall be installed in accordance with Sydney Water's requirements.

- 40 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems must be installed in accordance with AS 3666.1:2011 *Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning*, as applicable to the specific system. An air-handling system must be fitted with supply air filters.

The regulated system shall be thoroughly flushed before being brought into service and shall be located in a position to ensure that the exhaust discharge from the tower is away from occupied areas, air intake and building openings.

When an air handling, hot water, humidifying, warm water or water cooling system is installed a certificate is to be obtained certifying that the system has been installed in accordance with the Public Health Act 2010, Public Health Regulation 2012, Public Health Amendment (Legionella Control) Regulation 2018 and AS 3666.1:2011.

- 41 There must be safe and easy access to a regulated system (as defined in the Public Health Act 2010) for the purpose of the cleaning, inspection and maintenance of the system.
- 42 The patient gymnasium is only to be used as part of the approved hospital and cannot be used by other members of the public. The facilities, including any toilets or change rooms, are to be kept clean and in such condition as to minimise the transmission of disease. Hand washing facilities and sanitiser must be available for gym users.
- 43 Ionising radiation apparatus are to be registered, installed, and operated in accordance with NSW EPA requirements.
- 44 The drawings accompanying the Construction Certificate are to include detailed plans of the fit-out of all kitchens, food storage areas, and toilets used by food handlers, for the approval of the Principal Certifier.

## Utility Services

- 45 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon, or telephone 13 20 92. The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- 46 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.



- 47 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
  - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
  - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

**Prior to the issue of an Occupation Certificate**, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

- 48 The matters contained in the referral response letter from Endeavour Energy dated 10 February 2021 shall be adhered to and taken into consideration to the satisfaction of Endeavour Energy. However, this development consent **does not** approve the installation of a blast wall around the substation.

## Construction

- 49 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifier, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works on-site, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

50 Prior to the commencement of construction works:

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

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

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

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

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

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

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

51 No work is to commence on site until such time as a person accredited to prepare traffic control plans in accordance with AS 1742.3 "Traffic Control Devices for Works on Roads" and the RMS publication "Traffic Control Works on Roads" and the RMS publication "Traffic Control at Worksites" has certified a Traffic Control Plan for the development/site. The Traffic Control Plan shall be implemented during the construction phase of the development and a copy of the plan shall be available on site at all times.

A copy of the Traffic Control Plan shall accompany the Notice of Commencement to be submitted to Penrith City Council 2 days before any work is to commence onsite.

52 Construction or excavation works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

Other construction works carried out inside a building/tenancy and that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above. The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

## **Engineering**

53 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

54 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

55 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Road opening for utilities
- b) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- c) The placement of hoardings, structures, containers, waste skips, signs etc in the road reserve
- d) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

56 Prior to the issue of any Construction Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of the following:

- New kerb and gutter, path paving, landscaping and public domain street furniture for the full frontage of the site in Somerset Street, Kingswood and Hargrave Street, Kingswood in accordance with the Kingswood Public Domain Manual, or as advised by Council's Engineering Unit.
- Extension of the road drainage system in Hargrave Street, Kingswood. The drainage line shall be located under the kerb and gutter.

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 57 The stormwater management system shall be consistent with the stamped approved plans prepared by AT&L, Project No. 20-813, as referenced in the table at Condition 1.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

- 58 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with the Penrith Development Control Plan, AS 2890.1, AS 2890.2 and AS 2890.6.
- 59 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application form.
- 60 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for all civil upgrade works in Somerset Street, Kingswood and Hargrave Street, Kingswood. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.
- Note:
- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.
- 61 Prior to the issue of a Construction Certificate, a geotechnical investigation report and strategy shall be submitted to the Certifier to ensure the stability of any adjoining Council owned infrastructure and surrounding developments. The technical direction GTD 2012/001 prepared by Transport for NSW can be used as a guide for preparing the geotechnical investigation report and strategy.
- 62 The developer shall undertake a dilapidation report for all surrounding buildings and Council owned infrastructure that confirms that no damage occurs due to the excavations associated with the development. If Council is not the Certifier for the development, then the dilapidation report shall be submitted to Council prior to the issue of any Construction Certificate and then updated and submitted prior to the issue of any Occupation Certificate confirming no damage has occurred.
- 63 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 64 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authority's regulations and standards.

- 65 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed-off by Penrith City Council.
- 66 Prior to the issue of any Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

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

- 67 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems (including water sensitive urban design):
- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
  - have met the design intent with regard to any construction variations to the approved design, and;
  - any remedial works required to be undertaken have been satisfactorily completed.

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

- 68 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the water sensitive urban design measures shall be registered on the title of the consolidated lot. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.
- 69 Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed indicating directional movements and the location of visitor/staff parking to the satisfaction of the Principal Certifier.
- 70 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for all civil upgrade works in Somerset Street, Kingswood and Hargrave Street, Kingswood. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 71 The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately on awareness of any deficiencies in the stormwater management system.

- 72 All car spaces are to be sealed, line marked and dedicated for the parking of vehicles only and are not be used for the storage of materials, products, waste materials or the like.



- 73 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 74 All vehicles are to enter/exit the site in a forward direction.
- 75 Prior to the issue of any Occupation Certificate, suitable mitigation measures (such as convex mirrors, warning signage and advisory line marking) shall be designed and installed to address the conflict between passing vehicles at the top and bottom of the ramp between the Lower Ground Floor car park and the Basement 1 car park. This shall be undertaken by a suitably qualified and experienced traffic engineering consultant.
- 76 The use of hydraulic rock hammers and/or percussive excavation techniques is not permitted until the recommendations at Clause 5.1 of the Geotechnical Report referenced at Condition 1 are carried out, to the satisfaction of the Certifying Authority. Use of any such equipment will require a specialised methodology accompanied by additional geotechnical, vibration and acoustic information.
- 77 The applicant/developer must ensure that the relevant requirements, inspections and additional information, as recommended in the Geotechnical Report referenced at Condition 1 occurs at the appropriate time, including after the basement excavation is completed to confirm that the designed drainage system is adequate for the actual groundwater seepage flows.
- 78 No approval has been granted for any ground anchors and/or footings that protrude beyond the boundaries of the subject site, including into adjoining private property/ies or within Council's footpath. Any shoring system and footings shall follow the recommendations in Parts 5.2 and 5.3 of the Geotechnical Report referenced at Condition 1.
- 79 Any groundwater removed from the site, whether originating from water table levels or seepage, must not be drained or discharged directly into Council's stormwater system without first obtaining written approval to do so from Council's Asset Management Unit. Any such request to discharge must be accompanied by evidence as to the suitability of the groundwater to be discharged, including any treatment required, volumes and method of discharge.

## **Landscaping**

- 80 All landscape works are to be constructed in accordance with the stamped approved landscape plans tabled at Condition 1 and the Penrith Development Control Plan. Landscaping shall be retained and maintained:
- in accordance with the approved plans, and
  - in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

In particular, the new landscaping is to be retained and maintained on the eastern side boundary of the site at ground floor, and on the rooftop terrace area and Level 1 internal lightwell. If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 81 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified landscape professional.

**i. Implementation Report**

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifier attesting to the satisfactory completion of the landscaping works for the development.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifier, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

**ii. Maintenance Report**

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving. Any dead or damaged planting needs to be replaced. The landscaping shall be maintained in a healthy state thereafter.

- 82 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use;
- AS 4454 Composts, Soil Conditioners and Mulches; and
- AS 4373 Pruning of Amenity Trees.

- 83 Street Tree Number 2, as identified for retention by the Tree Management Plan referenced at Condition 1, is to be retained and duly protected during the construction of the development. Tree protection measures shall:

- be installed before any works can commence on site including the clearing of site vegetation;
- comply with the standards prescribed by the Tree Management Plan;
- be certified by the author of the Tree Management Plan (TMP) before any works can commence on site. The certification is to be a Compliance Certificate or other written document certifying that the tree protection measures have been installed in accordance with the recommendations in the approved TMP. The Compliance Certificate or other suitable documentation shall be submitted to the Principal Certifying Authority a minimum 2 days prior to the commencement of site works. A copy of the Compliance Certificate or written documentation is to be submitted to Council with the "Notice of Commencement"; and
- The construction of the basement levels in the area of the Tree Protection Zone are to be in accordance with the special requirements stated in the Tree Management Plan.

- 84 The detailed landscaping plans to be submitted with the Roads Act Application shall show 7 new street trees, being 3 new Brush Box to be planted in the Somerset Street public domain and 4 new Xelkova 'Green Vase' to be planted in the Hargrave Street public domain. Any change to these species and/or quantity of trees shall only be with the approval of Penrith City Council. The pot and maturity size shall be as shown in the approved Landscape Plans referenced at Condition 1.

## **Development Contributions**

- 85 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$324,141.00 is to be paid to Council prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. Note that the timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Certification

- 86 Prior to the commencement of use, all diagnostic imaging (x-ray apparatus) equipment shall be registered with the Environment Protection Authority in accordance with the Radiation Control Regulation 1993 and the Authority's Radiation Guideline No. 6. Information on how to apply for new registration applications including renewal may be obtained from the Authority's website, [www.epa.nsw.gov.au/radiation](http://www.epa.nsw.gov.au/radiation).

- 87 Prior to the commencement of any excavation or construction works on site, the proponent is to:

- (a) employ a Principal Certifier to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 88 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C10 - Transport, Access and Parking

The issues relating to non-compliant parking numbers has been discussed above in the body of the report.

#### E12 Penrith Health and Education Precinct

The site, shown in red outline on the image below, is located within the Penrith Health and Education Precinct. Within this Precinct, the site is then located within the Medical Mixed Use Precinct. The main objective of this precinct is to further develop the Hospital Precinct into a specialised medical area. The proposal meets this main objective as the use is for a private hospital with additional health consulting rooms.



**Figure 23: Area of Penrith Health and Education Precinct with Site in Red Outline**

With regard to land around the subject site (including the site), the DCP states the following: "*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*".

In principle, the proposed development meets the overarching objectives of Chapter E12 of the DCP as the development will support the existing and desired future Hospital Precinct. While there are some non-compliances with the numerical controls, such as building depth, site coverage, and deep soil zones, on balance it is considered that the amended proposed development is acceptable.

A discussion about compliance with the detailed controls in Chapter E12 of the DCP follows below.

Requirement	Proposed	Compliance/Discussion
Floor to ceiling heights when seeking bonus building height in LEP; 3.5m on ground and first floors; and 2.7m on other floors	<p>The ground and first floors have a floor to floor height of 4.1m which will achieve a realistic floor to ceiling height of 3.5m, given that the use is medical and higher spaces are required for services.</p> <p>The upper floors also have generous floor to ceiling heights which will exceed the minimum requirements of 2.7m.</p>	Complies.
Minimum site width of 24m for any mixed use development	The consolidated lots will have a site width greater than 24m as the frontage to Somerset Street is approximately 36m and its frontage to Hargrave Street is approximately 39m.	Complies.
Non-residential buildings greater than 12m in height are to have a maximum depth of 25m	<p>The proposed building will have a depth of approximately 38m. This is acceptable as the building floor plate reflects the size needed for a hospital use.</p> <p>To provide access to light and air, the building is designed with a central cut-out/lightwell. This provides some relief from the building mass when viewed by users inside the building. All hospital rooms are also able to have access to natural light. In addition, the shared corridor on the top floor containing the health consulting rooms will wrap around the central lightwell and so will also have access to natural light and air.</p> <p>Therefore, although the building depth is more than the DCP control, the internal lightwell will provide relief from the building mass and allows light into the middle parts of the building.</p>	Does not comply - but acceptable.

<p>Side and rear setback requirement for non-residential uses:</p> <ul style="list-style-type: none"> <li>• Up to 12m / nil setback</li> <li>• 12m to 24m / 6m setback</li> </ul>	<p>At the ground floor, the outdoor terraces facing the eastern side boundary will be set back 2m. The 2m setback will contain deep soil landscaping.</p> <p>The actual building edge at both ground and first floor levels is then set back between 3.35m and 6m from the side eastern boundary in a stepped arrangement.</p> <p>The second floor (third level) is then further set back from the eastern side boundary to allow for a continuous and full 6m setback.</p> <p>Therefore, for the first three floors of the building (up to 12m in height), the proposed footprint exceeds the DCP requirement (given that the DCP would allow a nil setback).</p> <p>The two upper floors (third and fourth floors) are then set back from the eastern side boundary by 6m, which complies with the control.</p> <p>The rear setback is 0m as the proposed building will abut the finished wall of the Somerset Specialist Centre, this being an intentional design element of the two buildings.</p>	<p>Complies.</p>
<p>Front setback to Somerset Street to be 4m and a maximum podium height of between 2 to 4 storeys, with upper floors set back</p>	<p>The proposal does not set back from the Somerset Street frontage and will be built to the street alignment. This is acceptable in this instance because the length of Somerset Street between the corners of Derby Street and Hargrave Street will be occupied by only two buildings, being this proposed development, and its 'companion' building - the adjoining Somerset Specialist</p>	<p>Does not comply - but acceptable.</p>

Centre.

Both buildings, when completed, will be built to the street alignment, with the Somerset Specialist Centre already being completed and occupied.

Although this does not comply with the control, it is considered to be a better design outcome in this particular instance than setting the front facade back from the street.

The building interacts better with the public realm and the adjoining building by following the front building line already established, which is to the street boundary.

In addition, the amendments to the facade and appearance of the proposed development include a podium scale at the street frontage, which complements the existing face brick podium on the adjoining medical building. The amended proposal also includes more curved facade features, cut-outs and variations in the building alignment, thereby modulating the facade notwithstanding that the building mass at the lower levels does not set back from Somerset Street.

<p>Site coverage: 75% of site</p>	<p>The building footprint will occupy approximately 91% of the site. The applicant states that the building footprint for a hospital development is larger than the requirement for a typical mixed-use building.</p> <p>The proposal includes landscaping in the form of street trees, a landscaped lightwell and planting on the roof terrace. In addition, the building provides setbacks from the side (eastern) boundary when the DCP does not require such setbacks and additional landscaping has been provided around the substation.</p> <p>Therefore, and on balance, the proposed site coverage is acceptable as it is acknowledged that the floor plate required for the hospital use is large, and that landscaping in various pockets throughout the building is provided.</p>	<p>Does not comply - but acceptable.</p>
<p>Deep soil zone: minimum 10% of site area in one continuous block</p>	<p>Only 3% of the site is proposed to be for deep soil landscaping. This has been discussed above. In addition, the proposed development requires a larger basement floor plate to enable two-way vehicle movements and space for parking and servicing. Other forms of landscaping are proposed to mitigate the lack of deep soil planting. This includes landscaping in the internal lightwell and on the roof terrace.</p>	<p>Does not comply - but acceptable.</p>



Building exteriors to be articulated; consider adjoining buildings, roof plant to be integrated, and durable materials to be used	The amended proposal is acceptable in this regard. The facade and architectural expression have been amended following advice from Council's Urban Design Review Panel. This has been discussed above in the body of the report.	Complies.
Blank building walls at ground floor to be avoided and street activation provided	The ground floor will contain two active uses with frontages to both Somerset and Hargrave Streets. The main frontage to Somerset Street will contain the pharmacy shopfront, with two direct access doors into the pharmacy, as well as the main building entrance. A condition is recommended to ensure that the pharmacy shopfront remains open and active. The private consulting space fronting Hargrave Street does not have a direct access to that street but is designed with a glass frontage that will provide a level of transparency.	Complies.
Maximum of one vehicle access point	The proposed development will use the existing driveway associated with the adjoining Somerset Specialist Centre, which is located on Derby Street. The internal connection point will be at Basement Level 1. Council's engineers have raised no objection to this arrangement, subject to the required easement for access. This is also a better design outcome as it eliminates the need for another driveway on the street frontages of the subject site.	Complies.

Awnings to be provided along active street frontages	The building will have an awning along the full length of the Somerset Street frontage, which steps down from the corner element of the building, and wraps around the street corner and tapers in at Hargrave Street.	Complies.
Provide site facilities and services	<p>A specific area for plant is located at roof level. This includes screening which has been discussed above, as the screening breaches the building height control.</p> <p>Areas for loading, servicing, and waste collection are provided within the basement levels.</p>	Complies.