

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	<b>PPSSWC-36</b>
<b>DA Number</b>	<b>DA19/0801</b>
<b>LGA</b>	<b>Penrith</b>
<b>Proposed Development</b>	<b>Demolition of Existing Structures and Construction of a 5 Storey Private Hospital with 2 Levels of Basement and Parking for 65 Cars</b>
<b>Street Address</b>	<b>39, 41, and 43 Orth Street, Kingswood</b>
<b>Applicant/Owner</b>	Polaris Property Group / Parmit Singh, Kanwaljeet, Craig Perkins, Donna Perkins and Felisa White
<b>Date of DA lodgement</b>	14 November 2019
<b>Number of Submissions</b>	<b>3</b>
<b>Recommendation</b>	<b>Approval subject to conditions</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	<b>The Capital Investment Value exceeds \$5 million under the category of ‘private infrastructure and community facilities’, which includes a hospital. Therefore, pursuant to Schedule 7(5) the proposed development is deemed to be ‘regionally significant development’.</b>
<b>List of all relevant s4.15(1)(a) matters</b>	The proposal has been assessed against the relevant Section 4.15 considerations, including <ul style="list-style-type: none"> <li>relevant environmental planning instruments (SEPP 55 Remediation, SEPP 64 Signage, ISEPP, SREP 20 Hawkesbury-Nepean, Penrith LEP);</li> <li>Penrith DCP 2014; and</li> <li>relevant regulations.</li> </ul>
<b>List all documents submitted with this report for the Panel’s consideration</b>	<ul style="list-style-type: none"> <li>Architectural Drawings</li> </ul>
<b>Clause 4.6 requests</b>	Not applicable
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>access through street and traffic</li> <li>disturbance during construction</li> <li>privacy</li> <li>overshadowing</li> <li>appropriate asbestos removal and dust management</li> <li>consideration of Nepean Hospital helicopter access with regard to use of cranes</li> </ul>
<b>Report prepared by</b>	<b>Sandra Fagan, Senior Planner</b>
<b>Report date</b>	<b>2 April 2020</b>

### 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?

**Not Applicable**

### Special Infrastructure Contributions

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

**No**

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

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes**

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

<b>SWCPP Ref. No.:</b>	PPSSWC-36
<b>DA No.:</b>	DA19/0801
<b>PROPOSED DEVELOPMENT:</b>	Demolition of all Structures, Remediation of Site, Construction of a Five Storey Health Services Facility and Lot Consolidation - Lot 184 DP 14333, Lot 185 DP 14333, Lot 183 DP 14333, 39 Orth Street, KINGSWOOD NSW 2747 41 Orth Street, KINGSWOOD NSW 2747 43 Orth Street, KINGSWOOD NSW 2747
<b>APPLICANT:</b>	Polaris Property Group
<b>REPORT BY:</b>	Sandra Fagan, Senior Planner, Penrith City Council

## Assessment Report

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## Executive Summary

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

Parking for 65 vehicles is provided in two levels of basement with access from Orth Street. Ambulance and service vehicles will use a separate driveway to access an at-grade loading bay positioned within the ground floor footprint. The basement excavation will include site remediation with asbestos likely to be found in some of the fill being wholly removed from the site.

The design architect is Nicholas Christo of Christo Architects (registration number 5774). This firm has worked on other hospital developments in Sydney. The applicant operates another private hospital in the Pittwater area.

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 specifically permitted in the B4 zone, is permissible with consent by virtue of Clause 57 of the State Environmental Planning Policy (Infrastructure) 2007 (henceforth referred to as the ISEPP).

The subject site includes three lots, being 39, 41, and 43 Orth Street. The proposal includes consolidation of these lots. The last remaining lot before the western end of the block is 45 Orth Street. The proposal does not include No.45. Although the applicant has made offers to purchase and include No.45, this private negotiation has been unsuccessful. Therefore, the application and this assessment report consider No.45 with regard to the Court's planning principle for 'isolated lots'. This assessment report concludes that No.45 still retains development potential and that the applicant has taken all reasonable steps to acquire and include No.45.

The proposed building is compliant with core planning controls relating to height, floor space ratio, setbacks, landscaping and parking. The design of the building is functional, simple and unobtrusive. To improve street activation and the presentation of the facade, a number of conditions are recommended to require small design changes. This includes; changing the colour palette from a stark black and white to warmer tones; moving the fire hydrant booster; adding more landscaping in front of the cafe; and adding a cafe server window. The applicant has agreed to these design changes.

Conditions are also recommended to restrict the use of the hospital outdoor spaces. This includes that the outdoor spaces cannot be used before 7:00am or after 10:00pm, that any use of the staff terraces after 10:00pm can only be for a maximum of three staff members at one time, and that amplified music and speech in these areas cannot be audible at property boundaries.

The development application has been notified to surrounding landowners, advertised in the local press and exhibited for a 30 day period. Three submissions have been received; one from a landowner; and two from Nepean Blue Mountains Local Health District with regard to Nepean Hospital.

The matters raised in the submissions relate to impacts from construction, increased traffic and use of Orth Street, privacy, overshadowing and the potential impacts of construction cranes on the Nepean Hospital helipad. These concerns are addressed in the report and where relevant conditions are recommended.

The proposal is acceptable on planning grounds and is recommended for approval, subject to conditions.

## Site & Surrounds

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The subject site comprises three lots, being 39, 41, and 43 Orth Street. These lots will be consolidated into one. Each lot is generally rectangular in shape and contains a single dwelling per lot. When the three sites are consolidated, the total site area will be 2,200 square metres, with a 46 metre frontage to Orth Street.

The site is located near the corner of Orth and Somerset Streets. It is 35 metres from Nepean Hospital which has a frontage to Somerset Street. Although Orth Street is currently predominantly single dwelling houses, the site is located within the Hospital Precinct of the Penrith Health and Education Precinct. Therefore, the area is undergoing development to support the existing hospital and mixed medical uses in the area. Orth Street is identified as a connector street to the main public hospital.

The immediate area has seen a number of recent development approvals relating to medical uses. These include:

- Nepean Hospital Redevelopment - State Significant Development consent 8766;
- Nepean Hospital - Multi-Level Car Parks;
- 29-33 Derby and 38 Somerset Streets (DA17/1107) - 4 storey health facility;
- 84-88 Parker Street (DA18/0773) - 6 storey health facility; and
- 1-11 Barber Avenue (DA18/1222) - Nepean Private Hospital.

## Proposal

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The proposal includes demolition of all structures on the three lots and removal of vegetation including all trees, except for two trees in the rear yard.

The proposed development is for the construction of a new 5 storey building to be used wholly as a sub-acute private hospital. Sub-acute care relates to patients who are not seriously ill but need support to regain their ability after an operation, period of illness, or procedure. The hospital will not cater for emergency admissions.

The hospital will have a total of 86 patient rooms, with 90 beds. 38 of the rooms will be for mental health and 48 rooms are for rehabilitation. The patient rooms are contained on levels 1 to 4 of the building, with the entire ground floor accommodating ancillary and support functions. This includes a hydrotherapy pool, physio gym, reception area, cafe and seating area, small hairdressing room, consulting rooms and back-of-house services (kitchen, office, staff and garbage areas). The hospital will be staffed by approximately 54 persons at any one time.

The proposal includes excavation for two levels of basement parking to accommodate 65 car parking spaces. Vehicular access to the basement is provided at the western end of the site from Orth Street. A second adjacent driveway is proposed to provide at-grade access to service vehicles and ambulance pick-up and drop-off.

The proposed building has a basic rectangular (almost square) footprint on the ground floor. The building is set back between 5 and 6 metres from both side boundaries, 4 metres from the rear boundary and is to be built to the front street alignment. Levels 1 to 4 also provide central cut-outs to both sides, so the upper level footprints have more of a capital letter 'I' shape. The proposed materials are face brick and clear glazing for the ground floor street frontage, with the upper levels using a dark and white Vitrapanel cladding, and powder coated aluminium louvres.

The proposal includes consolidation of the three lots into one. Three building name signs at parapet level and two signs at the Orth Street frontage are also proposed.

## Plans that apply

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- 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 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

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### • **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'.

### • **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 4.15(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.

Clause 57(4)(a)(ii) of the SEPP refers to the consent authority's own assessment of the compatibility of the development with the surrounding land uses. In this regard, the adjoining property to the west is currently used as a local medical practice. Further to the west is the Nepean Hospital site with a frontage to Somerset Street. Properties to the north are either townhouse developments, vacant land, and a car park (which is currently seeking rezoning to B4). Other properties in Orth Street are either single dwellings, vacant land or townhouse developments. Notwithstanding the presence of dwellings and townhouses in the street and area, the surrounding lands are zoned B4 Mixed Use and are located in the Penrith Health and Education Precinct. Therefore, the desired future character of the area will be for multi-storey development to support existing and future medical uses. Therefore, the proposed development is compatible with the desired future character of the area.

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).

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

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

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

The documents submitted with the application conclude that the soils that will be disturbed by the basement excavation are likely to contain asbestos. The method for removal of this contaminant is outlined in the Remediation Action Plan (RAP) and Asbestos Management Plan (AMP) lodged with the application. This includes wholly removing the asbestos from the site. Council's Senior Environmental Management Officer has advised that the details of the RAP and AMP are acceptable and suitable conditions are recommended. Therefore, the site can be made suitable for the proposed use, subject to conditions, and the considerations under SEPP 55 are met.

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

The proposal includes five sign locations in total. Two building identification signs will be located on the ground floor awning fascia to Orth Street, and three building name signs will be positioned at parapet level on three elevations (front, rear and western side). All the signs will be internally illuminated and there is no signage proposed on the eastern side elevation which adjoins the existing dwellings in the street. The sign on the western side elevation adjoins the existing medical practice with Nepean Hospital on the opposite side of Somerset Street.

While the details of the signage, such as design, content, and material are not yet proposed, the number, type and position of all five signs are acceptable and will fit in with the architectural features of the building, being the parapet and the awning fascia.

Suitable conditions are recommended to require that the building name signs at parapet level are individually fixed letters (or symbols) without a backing board. Each letter is permitted to be internally illuminated only, with the illumination designed with a dimmer switch to enable the intensity of the lighting to be reduced during night time hours. It is considered that individually cut and fixed letters will result in a better design outcome than a sign containing a large backing board given its elevated position.

## **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 asbestos on 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 - See discussion
Clause 4.5 Calculation of floor space ratio and site area	Complies
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	Complies
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies
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 in the LEP. Notwithstanding, the proposed use is permitted with consent under the State Environmental Planning Policy (Infrastructure) 2007 which can override the LEP prohibition. Therefore, the proposed use is permissible with consent.

### Clause 2.3 Zone objectives

Although the use is not specifically permitted 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.

### Clause 4.3 Height of buildings

Clause 4.3 of the LEP contains a maximum height limit for the site of 18 metres. The proposed building will be a maximum height of 21.6 metres. The proposal invokes the additional height permitted by Clause 7.11 of the LEP, which allows development in the Penrith Health and Education Precinct to benefit from a 20% uplift in height if the first two floors have a floor to ceiling height of at least 3.5 metres. The intent of this clause is to future proof buildings for flexible uses and adaptive reuse. For this site, the uplift would allow a maximum height of 21.6 metres. The proposal complies with this requirement and therefore, the proposed height **complies** with the LEP controls. It is not considered that a request pursuant to Clause 4.6 is needed in this case because Clause 7.11 uses the words "*Despite clause 4.3 .....*".

### Clause 4.4 Floor Space Ratio

The LEP allows a maximum Floor Space Ratio for the site of 3.5:1. The proposed development will achieve a Floor Space Ratio of 2.7:1, which complies with this control. The submitted drawings include floor plans showing what areas have been included in the calculation of gross floor area. The areas excluded accord with the definition of gross floor area in the LEP and therefore GFA and FSR have been calculated correctly.

#### **Clause 7.1 Earthworks**

The application includes a Geotechnical report which outlines the type of soil which will be encountered during excavation, and provides recommendations for the method of excavation, including stages for critical inspections. Conditions are recommended to ensure that the relevant outcomes of the report are followed and met. This includes conditions relating to any removal of groundwater seepage, the requirement for dilapidation reports, and that the use of hydraulic rock hammers is not permitted. Further, Council's Engineer and Senior Environmental Management Officer have reviewed the report and provided conditions.

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

The building is orientated with its longer length facing north and south, thereby reducing the need for glazing along the west facing facade. The upper levels of the building which are dedicated to patient areas cannot have operable windows and therefore ventilation is to be mechanical. Although this is regrettable, it is acknowledged that health and licensing requirements prevent operable windows in patient areas. However, the building does receive good natural light which is improved from the cut-outs in the floorplate. The building has also been designed for a potential adaptive re-use given that the lower levels have a generous floor to ceiling height and the upper levels have generous side cut-outs. Suitable conditions relating to sustainability are recommended, such as triple-A rated fixtures and fittings.

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

Given that the site is within the Penrith Health and Education Precinct, this clause applies and allows additional height (up to 20% of the applicable height limit). The prerequisite is that the floor to ceiling height of the ground and first floors are at least 3.5m each. The proposed development complies with this control. The finished floor to ceiling height will be 3.5m. The finished floor to floor height will be 4.1m as a slab clearance of 600mm is provided. This is a realistic design to address the need for services in the ceiling. Therefore the additional building height of 3.6m is warranted and the proposed overall height of 21.6m complies with this control.



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

### Development Control Plan 2014

Provision	Compliance
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	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
E12 Penrith Health and Education Precinct	Complies - see Appendix - Development Control Plan Compliance

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

The application is accompanied by a letter from the applicant's consultant which confirms that the project is capable of complying with the Building Code of Australia. A letter from consulting fire engineers is also provided stating that where non-compliances with the Code occur, they will be engaged to carry out performance based fire engineering 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

### Lot Isolation:

The subject development site includes three residential lots, being 39, 41, and 43 Orth Street. These appear to have been recently acquired and/or negotiated with the landowners for the purpose of the proposed development. The lot on the corner of Orth and Somerset Streets is known as 45 Orth Street and this single lot is not included as part of the development site. 45 Orth Street is an existing medical practice operated from a converted residential dwelling. The lot is 727 square metres in area and is operated by the landowners who are medical practitioners.

Therefore, consideration of site isolation having regard to the Land and Environment Court planning principle at *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 at 17-19 must be taken into account.

The Planning Principle **firstly** requires consideration of whether amalgamation of the sites is feasible. The Principle then refers to a 2004 case in which the Commissioner was dealing with a site that was to be

isolated and would not meet the minimum lot requirements. In that case the Commissioner stated that negotiations between the landowners should commence at an early stage and should include reasonable offers. Offers should be based on at least one recent independent valuation. The level of negotiation and offers made can then be given weight in consideration of the proposal.

The Planning Principle **secondly** requires consideration of whether orderly and economic use and development of the separate sites can be achieved if amalgamation is not feasible. The Commissioner refers to whether both sites can achieve a development that is consistent with the planning controls and if variation to the controls would be required. The question is posed as to whether both sites are able to achieve a development of appropriate urban form and with acceptable levels of amenity. The Principle then recommends a schematic envelope for the isolated site be prepared which indicates height, setbacks, and site coverage. Consideration should also be given to the relationship between the isolated site and the proposed development, and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and traffic impacts of separate driveways if the development is on a main road

In addition, the Sydney Western City Planning Panel (SWCPP) at their briefing also commented that; site isolation is to be considered in accordance with this planning principle; the basement of the subject proposal should be designed to allow a future connection into No.45; and the applicant could contemplate whether a right of access way could be agreed between the two landowners.

With these aspects in mind the following assessment is provided:-

- 45 Orth Street has a site area of approximately 727 square metres and is located in the B4 Mixed Use zone. The Penrith LEP does not have a minimum lot size for general development in the B4 zone. The LEP does have a minimum lot size for subdivision of land and for this property that is 400 square metres. Given this, it is unlikely that the site could be subdivided into two lots. Therefore, No.45 can satisfy minimum lot requirements;
- The applicant has made early approaches to the landowners of No.45. These occurred between March and October 2019, prior to the application being lodged with Council;
- The applicant has provided details as part of the application of two recent independent valuations for No. 45, dated 9 and 24 October 2019. Both valuations were within \$50,000 of each other and were carried out by relevant consultants;
- The applicant has provided details as part of the application of four written offers made to the adjoining landowners to acquire No. 45. The written offers were made in May, July, September, and October 2019. The fourth and final offer in October was for an amount above that identified in both valuations. It is therefore considered that the offers were reasonable and repeated;
- The subject Development Application was lodged on 14 November 2019; and
- It is understood that the landowners of No.45 have declined these offers and continue to operate their medical practice from the property. Council's Senior Planner has spoken with one of the landowners who has confirmed that they did not accept the offers and some consideration was given to the location of their site within the hospital precinct and their current medical business operating from the site.

Given the points raised above, it is considered in this instance that the applicant has attempted to reasonably negotiate early in the process, has obtained independent valuations of the property, and has made reasonable and repeated attempts to obtain the property, without success. Therefore the first part of

the Planning Principle has been satisfactorily addressed and the actions of the applicant can be given weight in the assessment.

Following from this, consideration turns to the second question in the Planning Principle, as to whether both sites can achieve a development that is consistent with the planning controls and the likely impacts on each other. In this regard, the following assessment is provided:-

- The application includes schematic drawings of an envelope for No.45. These show a 5 storey commercial/medical building with nil boundary setbacks, vehicular access from Somerset Street, a single basement level, and parking for 7 cars. A second sketch shows the scenario if basement access was shared with the subject site. This scenario shows 13 car parking spaces in the basement of No.45;
- Council planning and engineering staff have reviewed these drawings. Staff have concluded that it is unlikely that No.45 could achieve a full development potential of a maximum 5 storey building, given that further parking to support that amount of gross floor area would likely be required and that basement excavation beyond a single level is likely to be cost prohibitive for the resulting yield. However, this in itself is not necessarily an issue as the schematics represent a development that achieves all maximum yields, such as nil setbacks, whole site coverage and maximum height. Not all sites are able to achieve a maximum development outcome. No. 45 still retains good development potential and could still reasonably achieve a 2 to 3 storey medical or commercial building. In terms of urban design outcome, having variation in building sizes in the area and surrounding streets is appropriate. That is, a smaller adjoining building would not detract from the desired future character of the area, could achieve an appropriate urban form, could have an acceptable level of amenity, and could provide variety and choice of medical uses;
- Consideration should also be given to the fact that No. 45 is already being used as a stand-alone local medical practice, having been converted from a dwelling to this use;
- There is also a possibility that No.45 could consolidate with the land to the north which is currently a carpark but for which a Planning Proposal has been lodged seeking to rezone that land;
- In addition, and to address the other comments raised by the Panel, the applicant has submitted further advice from their structural engineers to show that the basement can be structurally designed to allow a future possible connection or cut-out to access No.45. This would involve a propped, load bearing reinforced concrete perimeter retaining wall around the basement, and if No.45 so chose, they would need to construct perpendicular walls forming an access tunnel. A condition is recommended to require the Certifying Authority to ensure that the basement design of the subject development provides a structural solution to future proof this;
- The applicant has also stated that they would be receptive to start discussions about a possible right of way benefitting No.45, but only when the adjoining owners are able to show draft plans of their redevelopment scheme. The reason for this is to clarify whether any future use of No.45 is compatible with the proposed hospital use, for example, another mixed medical use rather than a residential or other commercial use (such as a child care centre), given that the driveway and basement could be shared. The applicant also states that they cannot be asked through this Development Application to enter into such a restriction and that it would not be appropriate to do so without knowing what the development of No.45 was for;
- With regard to likely impacts the developments would have on each other, the proposed development will not cause undue overshadowing of No.45 at mid-winter given that both sites are orientated north-south. The proposed building is also set back from the western side boundary by 6 metres, thereby

achieving the overall separation requirement of 6 metres (between non-habitable rooms) wholly within the development site. This potentially allows No. 45 to build on or near their east side boundary if a non-residential development is proposed;

- The proposed development includes further facade articulation on the top two floors of both sides and rear facades, where a powder coated aluminium louvre is used to conceal areas of otherwise blank walls. This is a suitable treatment of the upper levels, particularly given that the western facade is highly visible from Nepean Hospital and surrounding streets, and will future proof this vista should No.45 not be developed to the same height; and
- The DCP shows a desired 4 metre front setback to Somerset Street, which could affect development potential of No.45. However, a recent development consent has been granted for a property on the corner of Derby and Somerset Streets, which has endorsed a nil front setback from Somerset Street. This has been approved on the basis that street activation of the Somerset Street frontage is required by the DCP and desired in terms of urban activity, given the sites position opposite the Nepean Hospital Campus.

Therefore, and on balance, it is considered that the development proposal for the subject site will not remove the development potential of the property at No. 45. Provisions have been made in the proposed basement design to allow for a future cut-out and connection and more generous side setbacks are proposed, which No.45 may be able to take advantage of in the future.

In conclusion, it is considered that the issue of site isolation in this particular case has been addressed. The applicant has made fair, reasonable and numerous attempts to acquire and amalgamate the site, and the site on its own still retains development potential.

#### Tree Removal:

The proposal includes the removal of 19 trees, with the retention of 4 trees and the replanting of shrubs and vegetation in the setback areas. The arborist report submitted with the application includes a Tree Management Plan which outlines techniques for preserving the trees to be retained. Conditions are recommended to ensure the recommendations of this report are adhered to, particularly during excavation and construction of the basement. The arborist report does identify one tree (Tree 9) located on a neighbouring property as requiring removal. This is a camphor laurel that is identified as being in a fair condition. At present, no landowners consent has been received to remove the tree on the adjoining site. Therefore, a condition is recommended to clarify that development consent is not granted for the removal of this particular tree until and unless the relevant landowners consent is obtained in writing. This is also a private matter between the landowners.

For those trees proposed to be removed on the public verge, conditions are recommended for street trees to be replanted in accordance with Council's adopted Kingswood Public Domain Manual. This identifies street tree varieties for the northern side of Orth Street as being either Crepe Myrtle or Chinese Pistachio.

### **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 to require remediation in accordance with the consultants reports submitted. The proposed building is appropriate for the site and area and will enhance the desired future character of specialised medical services to support the existing hospital uses in the precinct.

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

## Community Consultation

The original development application was notified to surrounding landowners, advertised in the local press and exhibited for a 30 day period. The amended application (which included remediation works) was re-advertised and re-exhibited for a further 30 day period. This exhibition period finished on 2 March 2020. Three submissions have been received (one from a landowner and two from Nepean Blue Mountains Local Health District with regard to Nepean Hospital).

The matters raised in the submissions are addressed below.

### Vehicular access through Orth Street and increased traffic:

This comment is from a non-residential use and states that Orth Street is a narrow, busy street, with parking on either side, and that the proposal will involve delivery trucks and ambulance vehicles using the roadway. Concern from the submitter has been raised that two vehicles cannot pass each other in the street and the proposal will increase traffic.

The road or carriageway of Orth Street is approximately 8 metres in width and allows parallel parking on either side of the street where there are no driveways. This means that when cars are parked on either side of the road, the roadway provides a one through lane of traffic. On-coming drivers in the street currently need to exercise courtesy when passing each other. There are driveways in the street that allow vehicles to pull over to permit the passing of on-coming vehicles, and it is anticipated that this will continue after the proposed development is in use. However, it should also be noted that ambulance vehicles going to and from the site are unlikely to be operating in 'emergency mode' given that the proposed hospital is for sub-acute patients. Ambulance vehicles will more likely be used for patient transport.

It is acknowledged that traffic in the street will increase over time as sites within the Penrith Health and Education Precinct redevelop. This is because the area has been identified for growth to support the existing health uses surrounding Nepean Hospital. The LEP controls, being for a B4 Mixed Use zone, and the height and floor space permitted, encourage redevelopment. With this there is expected to be an increase in traffic, strategic planning for the area considered the proximity of public transport options (rail and bus) as well as walkability. Strategically, the vision for the Penrith Health and Education Precinct started in 2011 with a Taskforce created by the NSW Government to "*become one of Australia's premier destinations for health, education, medical research and related industry over the next 10 years*".

The application included a Traffic and Parking Impact Assessment prepared by consultants. With regard to Orth Street this report states that "*Vehicles can, at times therefore, be required to wait in breaks in kerb-side parking to allow opposing vehicles to pass. The reasonably low projected traffic demands, being between one to one and a half vehicles in each direction every minute during peak periods, in conjunction with the proliferation of breaks in kerb-side parking associated with private development access driveways, is such that impedance / delays to directional traffic flow is expected to continue to be minimal. It is accordingly not expected that there will be any unreasonable impacts on road user amenity within Orth Street, despite prevailing pavement width*". Further to this, Council may in the future consider the parking arrangements in Orth Street at a time when further sites are developed. The Penrith DCP also requires a 4 metre front setback to sites located on the southern side of Orth Street. Therefore, the expectation will be that over time when more sites are developed, Orth Street will be embellished to act as a feeder street to the hospital area.

### Noise during construction and use:

It is acknowledged that the construction phase is disruptive and can be noisy. Council has standard conditions relating to the construction phase which assist in mitigating impacts from construction activities. These include hours when construction can occur, although the limitation on hours will mostly assist

residential users as construction occurs during normal business hours. There are also limitations on noise emitted during the construction. In addition, a condition is recommended to state that hydraulic rock hammers cannot be used during excavation and that the use of such would require further approval from Council.

The application was accompanied by a Noise Impact Assessment. Council's Senior Environmental Officer has reviewed this report and is satisfied with its recommendations and findings. Suitable conditions relating to noise emission are recommended as well as restrictions on the times that outdoor areas of the development can be used.

#### Overshadowing:

The sites on the northern side of Orth Street, including the development site, are orientated on a north-south axis, with frontages facing south and rear yards facing north. Because of this orientation and the path of travel of the sun, the overshadowing cast by the proposed development does not affect the same adjoining property for the whole critical period of 9am to 3pm mid-winter. The shadow diagrams submitted with the application show that at 9am there is some overshadowing of the front yards of Nos. 45 and 40 Orth Street and 26 Somerset Street. By 12 noon that shadow has moved and will mostly fall on the roadway and a small part of the front garden of 38 and 40 Orth Street. By the afternoon, the shadows cast will move towards 32, 33, 34, 35, and 37 Orth Street, but this shadow will not fall on the rear yards of these properties. Therefore, the shadows cast at mid-winter by the proposed development comply with the DCP controls in terms of area and duration of shadows cast.

#### Privacy issues with balconies:

Terrace areas are proposed on the first and second floors facing both side boundaries. All of these side terraces will be set back 6 metres from boundaries, which exceeds the DCP setback controls with regard to setbacks per site to achieve overall separation distances. In addition, the side end of the terrace areas on the eastern elevation are designed with fixed panels of frosted glass to a height of 2.4 metres above the floor level of the terrace. A condition is recommended that this same treatment is used for the terrace areas on the western elevation. Further conditions are recommended to limit the times that the terrace areas can be used by patients, staff and visitors. For the most part, the conditions state that the terrace areas cannot be used prior to 7:00am or after 10:00pm, with the staff terrace areas able to be used after 10:00pm by a maximum of 3 staff members at any one time.

#### Asbestos:

The submission requests that asbestos is handled and disposed of in a correct and safe manner, including preventing airborne migration of fibres. Council's Senior Environmental Officer has reviewed the submitted contamination report, Remediation Action Plan and Asbestos Management Plan. Council staff are satisfied that the method of remediation, which will be to remove the asbestos from the site, is acceptable. The Remediation Action Plan also states that there will be asbestos air fibre monitoring carried out during remediation works. Suitable conditions are recommended to ensure and require the work to be carried out in accordance with Australian Standards and safe work regulations.

#### Dust:

Council's standard conditions relating to the construction phase are recommended and these include requirements relating to dust. The development site will also be required to place a notice at the frontage of the site with the details of the project manager and Principal Certifier. In addition, Council can investigate any complaints relating to work sites.

#### No obstruction to Nepean Hospital including Helipad:

The route of construction vehicles will be subject to a Construction Traffic Management Plan which will need to be lodged with Council for approval prior to construction. The use of cranes will be subject to a recommended condition of consent relating to consultation occurring with Nepean Blue Mountains Local Health District and requirements for cranes, such as lighting, flight safety report and management plan. The condition recommended in the relevant submissions for Nepean Hospital have been replicated in the conditions of consent. Further wording has been included relating to the possible requirement for a flight safety report.

### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Building Surveyor	No objections - subject to conditions
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
Waste Services	Not supported
Traffic Engineer	Not supported
Community Safety Officer	No objections - subject to conditions
Social Planning	No objections

### **Development Engineer**

The proposed stormwater discharge method has been amended so that the consolidated site does not need to rely on easements over adjoining private properties for discharge. Council's Engineer has confirmed that stormwater is able to be discharged into the public system.

The submitted Geotechnical report concludes that dewatering to lower the groundwater level as a result of the basement excavation **will not** be required. However, the report also states that there is likely to be seepage of groundwater through the soils and weathered rock. The consultant's report then concludes that drainage of the seepage water both during construction and in the long term will be required, to control any future seepage that may occur.

To address this, Council's Engineer has recommended conditions to require the basement to be waterproofed and designed to manage any future seepage. To address removal of groundwater seepage at excavation stage, conditions are recommended to ensure that no groundwater is drained directly into Council's stormwater system unless prior agreement is obtained, and it can be demonstrated that the groundwater is either clean or treated. The applicant has stated that an approval from WaterNSW will not be required because dewatering to lower the groundwater table level is not proposed. However, to cover this aspect, a condition is proposed that will require the applicant to liaise further with WaterNSW, particularly with regard to whether the removal of groundwater seepage using traditional pump and sump techniques requires approval from WaterNSW under the Water Management Act.

Conditions are also recommended to state that any excavation by the use of hydraulic rock hammers is not approved. This technique of excavation usually requires further information and restrictions given that

the work can be noisy and lead to vibration. While the application does not specifically propose the use of hydraulic rock hammers, this method is mentioned in the Geotechnical report and therefore the recommended condition will ensure that further approval is sought and conditions able to be imposed if this method is needed.

In the same manner, a condition is recommended to state that any ground anchors used cannot extend beyond the boundaries of the subject site and that further approval from any relevant landowner (including Council) is required before the placement of any encroaching ground anchors.

### **Environmental - Environmental management**

Matters relating to contamination and remediation have been discussed in the body of this report.

With regard to noise, the application includes an acoustic report which Council's Environmental Management Officer has reviewed and found to be acceptable. In terms of the ongoing operation of the hospital, the acoustic consultant has stated that the hydrotherapy pool and gym should not be used during night time hours, the external cafe terrace should limit amplified music, and plant is to meet noise emission criteria.

To address this, a number of conditions are recommended. This includes the matters suggested above, and in addition, requirements that the external areas of the hospital, such as the upper floor terraces and rear outdoor space are not used before 7am or after 10pm. Some of the staff terrace areas can be used after 10pm but only if no more than 3 staff members are on the terrace at the same time.

### **Traffic Engineer**

Council's Traffic Engineer has raised some comments which are addressed below:

Parking Numbers: Council's Traffic Engineer acknowledges that the number of car parking spaces provided complies with the DCP requirement, but has stated that more spaces should be provided given the location near Nepean Hospital. To respond to this comment, the DCP would require the proposal to provide 57 car parking spaces. The proposal provides 65 spaces which is 8 spaces more than the minimum requirement. Therefore, the request for more parking spaces in this instance is unreasonable and any need for additional parking should be considered within the parameters of the adopted controls.

Service Vehicles: Council's Traffic Engineer would prefer the building's waste and service arrangement to allow for larger vehicles such as a Heavy Rigid Vehicle (12.5m). To respond to this comment, the proposal has been designed to allow a Small Rigid Vehicle (6.4 metres in length) to access the site and carry out on-site waste collection and servicing. The service driveway is shared with the ambulance bay and is located on the western edge of the site. This service and ambulance driveway has been intentionally separated from the basement access driveway as it is a requirement to separate the ambulance drop-off/pick-up area from daily staff and visitor areas. To increase the service area to accommodate a Heavy Rigid Vehicle with the ability to turn around on site would either raise the floor levels and overall height (to fit the truck in the basement), decrease the number of parking spaces (to provide for a turntable) or if provided at grade would significantly reduce the usable floor space on the ground floor (to fit the turning manoeuvre of the truck). All of these options are likely to result in a poorer urban design outcome.

Concern has also been raised that the service driveway and loading area can only accommodate one vehicle at a time. The applicant has responded to this by outlining the timing of the expected deliveries (food, laundry, medical products) and is confident that delivery times can be staggered and managed through operational plans. The applicant has also stated that the ambulance service is not an emergency service but patient transport. These are unlikely to be frequent or occur at the same earlier hours that deliveries occur. In addition, the service driveway and loading area is designed to allow a vehicle to exit in a forward direction, so there is a space where a vehicle can wait if another vehicle enters the driveway while



the loading bay is occupied.

### **Waste Services**

Council's Waste Services Officer required further details with regard to the design and access to the waste room. In this regard, the applicant provided further swept paths to show how the service area will work, and made design changes to the waste room (such as showing the number and arrangement of bins in the room and having a management plan for servicing). The hospital waste collection will operate under a private commercial contract. Therefore, Council's residential garbage collection will not service this site. Suitable conditions are recommended relating to waste management, including the requirement for a commercial contract.

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

The proposed development is considered to be in the public interest as it results in the appropriate development of a site to support the future vision for 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 development.

### **Section 94 - Developer Contributions Plans**

There is no Contributions Plan which applies to the proposal and no mechanism to levy for the increase in workers population. Therefore, no Section 7.11 contributions apply.

## **Conclusion**

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The proposed use is supported in principle, as a private hospital catering for sub-acute patients (rehabilitation and mental health) will provide a needed service, which complements the existing health functions of the area. The development complies with the core planning controls relating to height, floor space, setbacks, car parking and design. The facades and ground floor uses will be slightly amended via recommended conditions to improve the interface with Orth Street and activate the frontage. Conditions to address remediation, basement excavation and the operation of the hospital are recommended to mitigate any external impacts. The proposed development is acceptable on planning grounds and is recommended for approval.

## **Recommendation**

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It is recommended that Development Application DA19/0801 for the construction of a five storey health services facility, being a private hospital with basement parking for 65 car spaces, and associated works at 39, 41, and 43 Orth Street, Kingswood be approved, subject to conditions.

## CONDITIONS

### General

- The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the approved plans and by the following conditions.

Doc No.	Issue	Title	Prepared By	Date
<b>Architectural Plans Project Kingswood Private Hospital 39-43 Orth St Kingswood</b>				
A-000	B	Cover Page	hf health facility solutions	20.01.2020
A-002	A	Site Plan	hf health facility solutions	08.11.2019
A-004	A	Site Development Plan 1	hf health facility solutions	08.11.2019
A-009	A	External Materials & Finishes (but subject to the condition requiring changes to the colours)	hf health facility solutions	08.11.2019
A-100	B	Carpark Plan - B1	hf health facility solutions	20.01.2020
SK-101	A	Carpak Plan - B2	hf health facility solutions	08.11.2019
A-102	B	Ground Floor Plan	hf health facility solutions	20.01.2020
A-103	A	Mental Health Unit Floor Plan - L1	hf health facility solutions	08.11.2019
A-104	A	Mental Health Unit Floor Plan - L2	hf health facility solutions	08.11.2019
A-105	C	Rehab Unit Floor Plan - L3	hf health facility solutions	08.11.2019
A-106	A	Rehab Unit Floor Plan - L4	hf health facility solutions	08.11.2019
A-107	A	Roof Plan	hf health facility solutions	08.11.2019
A-108	A	Kitchen Layout Plan	hf health facility solutions	08.11.2019
A-109	A	Cafe Layout Plan	hf health facility solutions	08.11.2019
A-200	A	Elevations - Southern	hf health facility solutions	08.11.2019
A-201	A	Elevations - Eastern	hf health facility solutions	08.11.2019
A-202	A	Elevations - Northern	hf health facility solutions	08.11.2019
A-203	A	Elevations - Western	hf health facility solutions	08.11.2019
A-205	B	Section A-A	hf health facility solutions	20.01.2020

A-206	A	Section B-B	hf health facility solutions	20.01.2020
A-207	A	Section C-C	hf health facility solutions	20.01.2020
A-300	A	3D Views	hf health facility solutions	23.10.2019
<b>Landscape Plans Project No. Polaris</b>				
L/00	A	Cover Sheet	A Total Concept	07/11/2019
L/01	A	Proposed Ground Floor Landscape Plan	A Total Concept	07/11/2019
L/02	A	Proposed L1 & L2 Landscape Plan	A Total Concept	07/11/2019
L/03	A	DA Mood Board	A Total Concept	07/11/2019
<b>Civil Engineering Works Package Project No. 9975</b>				
C01-B	B	General Notes	Eclipse Consulting Engineers	02/12/2019
C02-B	B	Sediment and Erosion Control Plan	Eclipse Consulting Engineers	02/12/2019
C03-B	B	Stormwater Catchment Area Plan	Eclipse Consulting Engineers	02/12/2019
C04-B	B	Stormwater Drainage Plan - Sheet 1 of 2	Eclipse Consulting Engineers	02/12/2019
C05-B	B	Stormwater Drainage Plan - Sheet 2 of 2	Eclipse Consulting Engineers	02/12/2019
C06-B	B	External Pavement Plan and Details	Eclipse Consulting Engineers	02/12/2019
C07-B	B	Stormwater Details	Eclipse Consulting Engineers	02/12/2019
C08-B	B	Bulk Earthworks Cut and Fill Plan	Eclipse Consulting Engineers	02/12/2019
C09-B	B	Site Cross Sections	Eclipse Consulting Engineers	02/12/2019

- Geotechnical Investigation by JK Geotechnics, Ref: 32675B1rpt, dated 9 December 2019;
- Hydrotherapy Pool Operation and Maintenance Manual for Kingswood Private Hospital (undated);
- Noise Impact Assessment by Integrated Group Services (IGS), Ref. EN-N19\_167, Rev. 1.0, dated November 2019;
- NCC Section J Assessment Report by Integrated Group Services (IGS) dated 11 November 2019;
- Redgum Horticultural Report - Part B (only) Tree Management Plan, Ref 5597, dated 18 October 2019;
- Letter from Homes Fire, undated, project no. 139449.00, revision C;
- Operational and Construction Waste Management Plan, prepared by Waste Audit and Consultancy Services, dated November 2019;
- Remediation Action Plan, prepared by JK Environments Pty Ltd, reference E32675Brpt3, dated 21 January 2020;
- Asbestos Management Plan for Site Remediation Works, prepared by JK Environments Pty Ltd, reference E32675Brpt4, dated 28 January 2020; and
- Access Issues DA Final, prepared by Morris Goding Access Consulting, dated 6 November 2019.

- 2 The proprietor of the food business (café and kitchen) 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 183, 184 and 185 in Deposited Plan 14333 are to be consolidated as one lot. A copy of the registered plan of consolidation from Land Registry Services is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council, if Council is not the PCA, prior to the issue of the Occupation Certificate for the development.
- 4 Prior to the issue of any Occupation Certificate for the cafe and kitchen areas has been issued, a satisfactory inspection from an authorised officer of Council's Environmental Health Department is required. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.
- 5 The development, including the cafe and kitchen, shall not be used or occupied until an Occupation Certificate has been issued.
- 6 The café 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.
- 7 All materials and goods associated with the use shall be contained within the building at all times.
- 8 The visitor toilets on the ground floor must include facilities for a baby change table, including a nappy disposal bin.
- 9 The finishes of all structures and the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

- 10 A Construction Certificate shall be obtained prior to commencement of any building works.
- 11 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.
- 12 The outdoor terrace and seating area of the cafe must not be used or operated prior to 7:00am or after 10:00pm every day. If the internal cafe is in use between 10:00pm and 7:00am, any external windows must be closed to avoid noise transfer and patrons can only be served from the internal areas of the building. Every patron in the outdoor cafe terrace area is to have a seat and the area is not to be used by patrons standing. The use of amplified music on the outdoor cafe terrace is to be limited so as not to be audible at the nearest sensitive receiver.
- 13 The following areas of the hospital are **not** to be used by patients, staff or visitors prior to 7:00am and/or after 10:00pm every day:
- The hydrotherapy pool and physio gym;
  - The courtyard next to the physio gym on the ground floor;
  - The multi-terrace outdoor area on the ground floor;
  - The patient terrace on level 1;
  - The staff terrace on level 1 (except if no more than 3 staff members are using the terrace between the hours of 10:00pm and 7:00am);
  - The patient terrace on level 2;
  - The staff terrace on level 2 (except if no more than 3 staff members are using the terrace between the hours of 10:00pm and 7:00am);
  - The patient terrace on level 3; and
  - The patient terrace on level 4.
- The same external areas referenced above are not to have amplified music or speech that is audible at the nearest property boundary. The use of these spaces by patients is to be monitored by staff, and the use of the terrace areas is to be included in the Facilities Management Plan.
- 14 The concrete roof is not to be accessible or designed to be used for any general use. Any access for maintenance of plant shall be temporary only.
- 15 The car park spaces at both basement levels are to be used solely by staff, patients and visitors of the private hospital. At no time are the car parking spaces to be let to a third party.

- 16 The three building name signs located at parapet level are only approved to be individually cut letters applied directly to the parapet, without a backing board. The individual letters are permitted to be internally lit only. The illumination must be designed with a timed dimmer switch and the 'illuminance' and 'luminous intensity' is to be managed and if required turned down between the hours of 10:00pm and 7:00am every day. The level of illumination must comply with AS 4282-1997 - Control of the obtrusive effects of outdoor lighting.

None of the illuminated signs on any part of the building shall flash or contain moving images.

- 17 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 are to be acoustically treated to ensure the noise levels at all surrounding receivers comply with the noise emission criteria detailed within the Noise Impact Assessment Report lodged with the application and referred to at Condition 1.
- 18 The approved materials and finishes as shown on Drawing A-009 must be amended as follows:
- The Vitrapanel Cladding 'Ice White (Z500)' is to be amended to the colour 'Tyldesley (F168)';
  - The Vitrapanel Cladding 'Charred Forest (M167)' is to be amended to the colour 'Dark Night (N162)'; and
  - The Aluminium Louvres Dulux Duratec 'Intensity-Desert Satin' is to be amended to the colour 'Weathered Steel Flat 90E83402'.

Any change to the colours can only occur with the written approval of the Development Services Department of Penrith City Council.

- 19 The following changes are to be made to the drawings prior to the issue of the Construction Certificate for any part of the building above street level:
- The fire hydrant booster is to be relocated to the southern wall adjacent to the Admin Room. It is to be set back to be flush with the wall and is to be screened using louvres that complement the architectural language of the building;
  - The area in front of the cafe, which has been vacated by the relocation of the booster, is to be amended to partly extend the cafe terrace to no more than a third of the length of the cafe frontage, with the remaining frontage length occupied by additional landscaping;
  - That portion of the cafe frontage with the extended terrace referenced above is to be amended to include a servery window in the cafe facade;
  - That portion of the cafe facade which is shown as 'face brick wall' is to be further improved by any, or a combination of, the following; 'hit and miss' brickwork; glazing; and/or public art; and
  - The external stairs and doorway to the hairdressing room are to be removed and the area vacated is to accommodate additional landscaping.

The changes are to be submitted to the Development Department of Penrith City Council and written approval obtained prior to the release of the Construction Certificate as mentioned above. The approved changes are then to be shown on the subsequent Construction Certificate drawings.

- 20 The privacy treatment used for the terrace areas on the eastern elevation is to be replicated for the terrace areas on the western elevation, including the use of fixed, frosted glass panels to a height of at least 1.5 metres above the finished floor level of the terrace.

- 21 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*.

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.

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 Certifying Authority, Penrith City Council and NBMLHD and complied with at all times.

- 22 A minimum of 6 bicycle parking spaces are to be provided in the basement car park. The spaces are to provide lockable facilities for the bicycles.
- 23 It is the responsibility of the hospital operator to ensure that all suppliers and service access to the site is carried out by vehicles no larger than a light commercial van and/or no longer than a Small Rigid Vehicle, up to 6.4m in length, and that (servicing) drop-offs and pick-ups are timetabled to avoid conflicts by vehicles using the loading area and driveway.

- 24 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, including pedestrian routes and entries, 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 restricted entries to and within the building, including in the basement car park.
- Australian Standard 220 door and window locks must be installed.
- CCTV is to be provided to cover communal public space areas including the basement car park. 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.
- A monitored alarm system must be installed.
- The letterboxes for the facility must be positioned to be opened from private space only.

#### **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 building and common areas. This includes reporting incidents to police and/or relevant authorities.
- All outdoor/cafe furniture must be stored away after hours to minimise opportunities for vandalism or theft.

#### **Landscaping**

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

### **Demolition**

- 25 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **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**.



- 26 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

**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 so as 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, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

## Environmental Matters

- 27 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.

- 28 Site remediation works shall be carried out generally in accordance with the 'Report to Polaris Property Group Pty Ltd on Remediation Action Plan for Proposed Private Hospital at 39 to 43 Orth Street, Kingswood, NSW' prepared by JK Environments Pty Ltd (dated 21 January 2020, Ref. E32675Brpt3) and the 'Report to Polaris Property Group Pty Ltd on Asbestos Management Plan for Site Remediation Works at 39 to 43 Orth Street, Kingswood, NSW' prepared by JK Environments Pty Ltd (dated 28 January 2020, Ref. E32675Brpt4), as well as Penrith Development Control Plan, the applicable NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure (1999) [NEPM 2013].

**Option 3, as put forward in the approved Remediation Action Plan, is not to be implemented. No contaminated material is to be retained on site through a 'cap and contain' remedial strategy. All contaminated material is to be removed from the site in accordance with the approved Remediation Action Plan.**

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed.**
- A Validation Report, prepared by an appropriately qualified person as defined in Penrith Development Control Plan, **before any building work can commence on the remediated site.** The report shall certify that the remediation works have been carried out in accordance with the approved Remedial Action Plan, relevant NSW Environment Protection Authority requirements, NEPM 2013 and Penrith Development Control Plan.

- 29 All 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 shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 30 Noise levels from and within the premises shall not exceed the relevant noise criteria detailed in 'Kingswood Private Hospital: Noise Impact Assessment' prepared by Integrated Group Services Pty Ltd dated November 2019 (Ref. EN - N19\_167 Rev 1.0).

The recommendations provided in the above-mentioned acoustic report shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application.**

A certificate is to be obtained from a qualified acoustic consultant certifying that the development 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.**

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 31 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

32 No fill material shall be imported to the site until such time as a Validation Certificate for the fill material has been submitted to, considered and approved by the Private Certifying Authority. A copy of a report forming the basis for the validation is also to be provided. The Validation 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.

(Note: 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, ecotoxicology, 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.").

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

34 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

35 **Prior to the issue of the Construction Certificate**, a Construction Noise Impact Assessment and Management Plan is to be prepared and submitted to Council for approval. This assessment is to consider (at a minimum) the details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the approved Management Plan are to be implemented and adhered to during the construction phase of the development.

- 36 All mechanical plant and equipment is to comply with the noise criteria outlined in 'Kingswood Private Hospital: Noise Impact Assessment' prepared by Integrated Group Services Pty Ltd dated November 2019 (Ref. EN - N19\_167 Rev 1.0).

**Prior to the issue of the Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development it to be provided to Council for consideration and approval. Suitable data and information prepared by an acoustic consultant, on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

**Prior to the issue of the Occupation Certificate**, a Compliance Certificate is to be submitted to and approved by Council. The Certificate is to be prepared by a suitably qualified acoustic consultant and is to outline that all plant and equipment have been installed to comply with the above information and the established noise criteria. Should the Compliance Certificate identify any non-compliance issues, the Certificate is to provide suitable recommendations for mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 37 **Prior to works commencing on site**, a Hazardous Building Materials Assessment is to be submitted to Council for approval. The associated investigations are required to be carried out to assess the location, extent and condition of Hazardous Building Materials including but not limited to the following:

- Asbestos
- Synthetic mineral fibres (SMF)
- Polychlorinated Biphenyls (PCBs)
- Lead-containing paint
- Ozone depleting substances
- Lead dust in ceiling cavities

The Assessment should also provide general recommendations for the removal of the hazardous materials, including the preparation of safe work method statements and risk assessments to appropriately address health and safety issues.

**During demolition works**, the approved Hazardous Building Materials Assessment must be implemented and complied with at all times.

**At the completion of the demolition works**, the applicant is to submit to Council a report demonstrating that the hazardous building materials identified in the Hazardous Building Materials Assessment have been removed and disposed of at a lawful waste facility.

38 An appropriately qualified person/s (as defined in the Penrith Development Control Plan) shall:

- (a) Supervise the remediation works.
- (b) Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
- (c) Address off site impacts and proposed management strategies where relevant.
- (d) (After completion of works) Certify by way of a Compliance Certificate or other written documentation that remediation works have been carried out in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment (this information can be included in the Validation Report). A copy of the Compliance Certificate or other written documentation is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA.

The contact details of any appropriately qualified person/s engaged for the works shall be **provided with the notice of commencement**.

{Note: Penrith Development Control Plan defines an appropriately qualified person 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.”}

- 39 Should contamination be found during development works (outside the scope of the Council approved Remedial Action Plan), and should remediation be required, Penrith City Council is required to be notified and consulted before the remediation works commence.
- 40 **Prior to the issue of the Construction Certificate**, a plan for the interim management of the groundwater during the construction phase is to be provided to Council for approval. This plan is to be prepared by a suitably qualified environmental consultant and is to detail:
- the circumstances where de-watering is required,
  - the relevant approvals / licences that need to be obtained,
  - the additional sampling and analysis of groundwater that is required, and
  - the treatment measures that will need to be implemented prior to off-site disposal.

Should de-watering be required, this plan is to be implemented and adhered to, alongside any other conditions of development consent or an approval issued by the relevant regulatory authority.

## BCA Issues

41 The following requirements apply for equitable access and facilities:

- Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 “Design for Access and Mobility”;
- Two of the bathrooms in the accessible rooms are to be designed with the toilet positioned on the left hand side of the room so as to provide persons with the choice of either better left hand or right hand mobility; and
- The recommendations in the Access Report by Morris Goding dated 6 November 2019 must be complied with and any further details required are to be shown on the Construction Certificate drawings.

Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 42 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given either within 12 months after the last such statement was given, or if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 43 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 either complies with the performance requirements, or is shown to be at least equivalent to the deemed to satisfy provision; or
- (c) a combination of the above.

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.

- 44 The Certifying Authority must ensure that the fire engineered performance based solutions referred to in the undated letter by Holmes Fire (project 139449.00, revision C) are detailed in the Construction Certificate application and drawings and form part of the approved Construction Certificate. The Certifying Authority must also ensure that the performance based solutions are met prior to the issue of any Occupation Certificate.

## **Health Matters and OSSM installations**

- 45 The construction, fit out and finishes of the café and kitchen 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*.

- 46 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.

- 47 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems shall be operated and maintained in accordance with the Public Health Act 2010, Public Health Regulation 2012, AS 3666.2:2011 *Air-handling and water systems of buildings – Microbial control - Operation and maintenance* and the current edition of the NSW Code of Practice for the Control of Legionnaires Disease.

The water-cooling system shall be operated and maintained in accordance with the Public Health Act 2010, Public Health Regulation 2012, AS 3666.3:2011 *Air-handling and water systems of buildings – Microbial control – Performance-based maintenance of cooling water systems* and the current edition of the NSW Code of Practice for the Control of Legionnaires Disease.

- 48 The operator of the hairdressing salon shall ensure that the requirements of the Local Government Act 1993, Local Government (General) Regulation 2005, Public Health Act 2010, Public Health Regulation 2012 and the current NSW Health Guidelines on Skin Penetration and Code of Practice are met at all times.
- 49 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 1668, Parts 1 & 2. Detailed plans together with calculations for the system must be provided as part of the Construction Certificate application.

The exhaust hood must completely cover the equipment to be ventilated and extended at least 200mm beyond the perimeter of the equipment. The exhaust hood must be provided with a condensation gutter around its base. The gutter must be at least 50mm wide by 25mm deep. Where abutting walls are located the hood must be constructed so as to finish flat against the wall surface.

The low edge of a canopy type exhaust hood must be at least 2000mm above floor level.

Prior to the issue of an Occupation Certificate, and operation of the business, the exhaust system shall be certified by an appropriately qualified person to comply with the Building Code of Australia and Australian Standard 1668, Parts 1 & 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Department if Council is not the Principal Certifying Authority.

- 50 Hand basins must be no more than 5 meters from where opened food is prepared, handled or served, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 51 A hand basin must be located within the toilet cubicle. Hand basins must be serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are used the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 52 Hot water services must be positioned at least 75mm clear of the adjacent wall surfaces, and mounted at a minimum 150mm above the floor level on a non-corrosive metal stand. The hot water system must be sized to meet the demands of the food business during peak operating and cleaning periods and be able to provide sufficient hot water throughout the working day. Discharge from the hot water system must enter the sewer through a tongue dish in accordance with Sydney Water's requirements.
- 53 The ceiling in the kitchen and café preparation, service and scullery areas must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersection of the walls and ceiling must be tight jointed, sealed and dust proofed. Drop-in panel style ceilings are not permitted.
- 54 Any window sill within a food preparation area, service or scullery area must be located 450mm above the top of any bench/sink and tiled at a splayed angle of 45 degrees.
- 55 Flyscreens or other approved means of excluding flies must be provided to the window in the café.
- 56 All utensils and equipment must undergo a washing, sanitising and rinsing cycle using a dishwasher (if no double bowl sink for washing and sanitising). The sanitising rinse cycle must achieve a water temperature of 80°C for 2 minutes or 75°C for 10 minutes.
- 57 Light bulbs or tubes used in the cafe and food preparation areas are to be shatterproof or fitted with approved light diffusers (covers or shields) to prevent contamination of food by glass from a broken light globe or tube. Light fittings must be free from any feature that would collect dirt or dust, harbour insects or make the fitting difficult to clean. Light fittings must be recessed into ceilings or equipment where possible. Heat lamps must be protected against breakage by a shield extending beyond the bulb.
- 58 The coolroom and/or freezer room floor must be finished with a smooth even surface and graded to the door. A sanitary floor waste must be located outside the coolroom and freezer adjacent to the door. All metal work in the coolroom and freezer room must be treated to resist corrosion.



- 59 Condensation from coolrooms and refrigeration motors must discharge to sewer via a tundish with air gap separation in accordance with Sydney Water requirements.
- 60 The coolroom and freezer room must be provided with a door which can at all times be opened from inside without a key and an approved alarm device located outside the room, but controlled only from the inside.
- 61 The storeroom must be constructed in accordance with AS 4674-2004 by providing the following:
- A smooth, even, non-slip floor surface;
  - Coving at all intersections of the floor and walls with approved, recessed coving to a minimum concave radius of 25mm, so as to be integral to the surface finish of both floor and wall in such a manner as to form a continuous, uninterrupted surface. “Feather edge skirting” and non-rebated coving are not permitted;
  - Walls must be provided with a smooth even surface and painted with a light coloured washable paint to enable easy cleaning;
  - The ceiling must be constructed with a rigid, non-absorbent, smooth faced material free from open joints, cracks and crevices and be painted with a light coloured washable paint. The intersections of the walls and ceiling must be tight-jointed, sealed and dustproof. Drop in panel style ceilings are not permitted; and
  - Shelving or storage racks must be designed and constructed to enable easy cleaning.
- 62 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.
- 63 The grease arrestor must not be installed in any kitchen, food preparation or food storage area. The grease arrestor shall be installed in accordance with Sydney Water’s requirements.
- 64 Air-handling systems, hot-water systems, humidifying systems, warm-water systems and water-cooling systems must be installed in accordance with AS/NZS 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 and AS 3666.1:2011.
- 65 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.

66 A water-cooling system must be equipped with a disinfection procedure that is in operation at all times and that is designed to control microbial growth so that:

- (a) the level of legionella in the system is not more than 10 colony-forming units per millilitre, and
- (b) the heterotrophic plate count in the system is not more than 100,000 colony-forming units per millilitre.

If these levels are exceeded, remedial action must be taken as soon as practicable by a competent person or a person acting under the supervision of a competent person. A **competent person** means a person who is a tertiary qualified chemist, chemical engineer, engineer or microbiologist and who has relevant expertise.

67 Maintenance must be carried out on a hot-water system to ensure that at any time when the system is in operation it delivers water at each outlet each time the outlet is turned on at not less than 60 degrees Celsius, once any water standing in the pipe to that outlet before it was turned on has been expelled.

68 Maintenance carried out on a warm-water system must comply with the document entitled *Requirements for the provision of cold and heated water* published by the NSW Ministry of Health.

69 If maintenance of a regulated system (as defined in the Public Health Act 2010) is being carried out on the premises on which it is installed, the contractor, or any other person carrying out the maintenance otherwise than as an employee, is guilty of an offence if appropriate measures are not taken:

- a) to minimise contamination of adjoining areas and the ambient environment by aerosols, dust, particulate matter or effluent, and
- b) to prevent public access to the area in which the maintenance is being carried out.

70 Any liquid discharge from the regulated system, resulting from the operation, maintenance and/or cleaning operations, is to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted.

71 All chemicals shall be stored in adequately labelled containers with tight fitting lids and banded or stored in such a way to prevent the chemical entering the stormwater system.

72 The walls and floor of the hairdressing room are to be constructed of materials that are durable, smooth, impervious to moisture and capable of being easily cleaned. The premises must be provided with facilities that are adequate for the purpose of keeping hairdressing appliances and utensils clean. No exposed brickwork, timber or carpet is permitted.

73 The hairdressing room must be provided with washing, drainage, ventilation and lighting facilities that are adequate for the carrying out of hairdressing.

74 The hydrotherapy pool falls within the category of a public swimming pool (as defined in the Public Health Act 2010) and therefore is to be registered with Penrith City Council by completing the registration form for public swimming pools and spa pools. This form is to be returned to Council prior to the issue of the Occupation Certificate and operation of the pool.

The occupier of any premises at which a public swimming pool or spa pool is situated must notify Council using the NSW Ministry of Health Notification Form available from [www.health.nsw.gov.au](http://www.health.nsw.gov.au) prior to the pool or spa being used. The occupier of the premises must notify Council within 7 days of any change of details.

- 75 The construction and operation of the hydrotherapy pool associated with the premises shall comply with the Public Health Act 2010, Public Health Regulation 2012 and any relevant standards, guidelines or codes of practice published or endorsed by the NSW Ministry of Health.
- 76 The pool shall not be used unless the water in the pool is disinfected in such a way as to minimise the transmission of disease to users of the pool as required by the Public Health Act 2010 and Public Health Regulation 2012.
- 77 The facilities associated with the pool, including the pool surrounds, toilets and change rooms, are to be kept clean and in such condition as to minimise the transmission of disease.
- 78 Public waiting areas and toilets in the premises shall be maintained in a clean and hygienic condition free from a build up of waste at all times
- 79 Chemical treatment of the pool must comply with the Public Health Regulation 2012. The concentration of combined chlorine in the water in a chlorine disinfected pool must not exceed 1.0 mg/L. The total chlorine level of the water in a chlorine disinfected pool must not exceed 10.0 mg/L. Swimming Pool Chemical Testing Frequency is to be carried out in accordance with NSW Health guidelines.

The disinfectant level and the pH level of the water in a bromine or chlorine disinfected pool must have a continuous metered disinfectant dosing system and must be tested manually once each day before the pool opens for use. The disinfectant level and the pH level of the water in a bromine or chlorine disinfected pool with an automated disinfectant dosing system must:

- a) be recorded each day once before the pool opens for use by the public and once during the period in which the pool is being used; and
- b) be tested manually once each day.

The alkalinity of the water must be between 80 mg/L and 200 mg/L. The alkalinity of the water must be tested once a day. However, if liquid chlorine (sodium hypochlorite) is used as a disinfectant in the pool or a carbon dioxide-based pH control is used, the alkalinity must be tested once a month only.

The occupier of the premise is required to ensure that bacterial testing and super chlorinating is carried out in accordance with NSW Health guidelines. Microbiological tests should be performed by laboratories accredited by the National Association of Testing Authorities (NATA). Minimum sampling frequency for microbiological analysis must comply with NSW Health Guidelines. Super chlorinating is to be carried out in accordance with NSW Health guidelines.

**Records:** A record must be made, and kept for at least 6 months, of the results of any testing required under the Public Health Regulation 2012.

- 80 The cooling tower shall not be used or occupied until an Occupation Certificate has been issued. A risk assessment for a cooling water system must be undertaken by, or under the supervision of, a competent person. The competent person who undertakes a risk assessment must indicate in the report of the assessment whether, after having regard to the approved form used in setting out a risk assessment, the competent person has determined that the cooling water system is; low-risk; medium-risk; or high-risk. A risk assessment must be completed before the cooling water system commences operating.

- 81 When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS 19626 "Swimming Pool Safety". Restrictions of access to the pool shall comply with the Swimming Pools Act 2012 and Swimming Pools Regulation 2008.
- 82 A detailed plan showing the details below must be submitted to and approved by Council prior to the issue of the Construction Certificate:
- Location of plant room including dosing system, location of all pool treatment chemicals stored onsite including means of bunding for spill management. A statement needs to be provided for the type of physical bunding to be used;
  - Ventilation of the hydro pool must comply the requirements set out in the Building Code of Australia for efficient removal of chloramines and other air impurities. Further detail required on method of ventilating the hydro pool room;
  - The location of the ultra violet light system;
  - The materials to be used on the walls and ceilings of the premises to ensure that rust on the walls and ceilings is prevented and the premises can be effectively cleaned; and
  - Location of swimming pool waste and overflow waters, and evidence of how the overflow is collected and directed to the sewer in accordance with the requirements of Sydney Water.

No fit out works shall commence on the site until after the above plan has been supplied to Council and Council has advised the Certifying Authority in writing that it is satisfactory.

- 83 Copies of response management plans must be made readily available for staff. Response plans should include the following:
- (a) Faecal incident solid stool in pool;
  - (b) Faecal incident loose stool;
  - (c) Hard surface (vomit, blood or faecal) incident;
  - (d) Vomit incident in pool; and
  - (e) Cryptosporidium notification.

84 Signage must comply with Standard Condition J010 and Part 3 Clause 10 of the Swimming Pools Regulation 2008 regarding contents of warning notices as shown below:

- “POOL GATES MUST BE KEPT CLOSED AT ALL TIMES”;
- “KEEP ARTICLES, OBJECTS AND STRUCTURES AT LEAST 900 MILLIMETRES CLEAR OF THE POOL FENCE AT ALL TIMES”;
- a simple flow sequence (which may be the flow sequence depicted in the Cardiopulmonary Resuscitation Guideline) containing details of resuscitation techniques (for infants, children and adults):
  - (i) that are set out in accordance with the relevant provisions of that Guideline;
  - (ii) that comply with the other relevant guidelines of the Australian Resuscitation Council;
  - (iii) that are illustrated by drawings with key words only in bold print;
- (c) a statement to the effect that formal instruction in resuscitation is essential; and
- (d) the name of the teaching organisation or other body that published the sign and the date of its publication.

85 The hydrotherapy pool 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 Department is required prior to the issue of the Occupation Certificate. The occupier is to contact the Environmental Health Department on 47327616 to organise an appointment at least 72 hours prior to the requested inspection time.

86 A detailed plan of the cooling tower or warm water system showing the details below must be submitted to and approved by Council prior to the issue of the Construction Certificate, showing:

- installation in accordance with AS/NZS 3666.1:2011;
- operation in accordance with AS/NZS 3666.2:2011;
- automated dosing system equipped with a disinfection procedure that is in operation at all times, designed to control microbial growth as required in the Public Health Regulation 2012; and
- evidence of safe and easy access to the tower.

No fit out works shall commence on the site until after the above plan has been supplied to Council and Council has advised the Certifying Authority in writing that it is satisfactory.

## Utility Services

87 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.

- 88 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.

Further details of the substation are to be submitted to Penrith City Council for written approval prior to the issue of the Construction Certificate for the building levels above street level. Details are to include design, position, colour, finish, dimensions, screen planting and any public art to screen the structure. This approval does not include consent for any blast wall that may be required as a blast wall has not been included in the Development Application.

- 89 **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.

## Construction

- 90 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 Certifying Authority, 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 is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, 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.

91 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 the 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.

92 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.

- 93 A completed Construction Waste Management Plan shall be submitted to Penrith City Council for consideration and approval. Council must approve the plan before works can commence on site.

The waste management plan shall be prepared in accordance with the Penrith Development Control Plan, and shall address all waste materials likely to result from the proposed demolition and construction of the development, with details of the estimated waste volumes, onsite storage and management, proposed re-use of materials, designated waste contractors, recycling outlet and / or landfill site.

The approved waste management plan must be implemented on-site and adhered to, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

- 94 Garbage rooms within the building are to have masonry walls with smooth face cement rendering to the full height internally and be provided with a smooth concrete floor. The floor shall be graded and drained to a floor waste connected to the sewer that shall be charged with a suitably located cold water hose cock. Access doors to the garbage store shall be of tight fitting solid core or of non-combustible construction.
- 95 Mechanical ventilation equipment, ducts, air conditioner services and the like shall be contained within the building.
- 96 Demolition, remediation and construction works that are carried out in accordance with an approved consent 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;
  - No work is permitted on Sundays and Public Holidays.

Other works carried out inside the building and that do not involve the use of equipment that emits noise are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all works.

## Engineering



97 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 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:

- Road opening for utilities;
- Road occupancy or road closures;
- The placement of hoardings, structures, containers, waster skips, signs etc in the road reserve;
- Temporary construction access; and
- Temporary ground anchors (for basement construction).

All works shall then 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 City Assets Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- 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.

98 The stormwater drainage system shall be consistent with the plans lodged for development approval by Eclipse Consulting Engineers, Project No. 9975, Drawing No. C01 - B to C09 - B, revision B, dated 02/12/2019.

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

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments.

99 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.

- 100 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 Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.
- 101 Prior to the issue of a Roads Act Approval, a Performance Bond is to be lodged with Penrith City Council for public infrastructure works within the road reserve of Orth Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 for further information relating to bond requirements.
- 102 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a geotechnical investigation, report and strategy has been conducted to ensure stability of the Council infrastructure and surrounding developments. The geotechnical investigation, report and strategy shall address the recommendations contained in the technical direction GTD 2012/001 prepared by the Road and Maritime Services as a guide.
- The applicant/developer shall undertake a dilapidation report/s 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 Certifying Authority the dilapidation report/s shall be submitted to Council prior to Construction Certificate issue and then updated and submitted prior to any Occupation Certificate issue confirming no damage has occurred.
- The dilapidation report/s of adjoining private properties shall include both internal and external features and are subject to obtaining the relevant landowners consent. Copies of the report/s relating to private properties shall be provided to those relevant landowners.
- 103 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.
- 104 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 authorities regulations and standards.
- 105 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed off / approved by Penrith City Council.

- 106 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 drainage system shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works and Stormwater Drainage Specification for Building Developments.

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 Certifying Authority.

- 107 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the:

a) Basement pump out system

- has been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
- has 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 system/s shall be provided as part of the Works As Executed drawings.

- 108 Prior to the issue of any Occupation Certificate, a restriction as to user and positive covenant relating to the:

a) Basement pump out system

shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Developments – Appendix F.

- 109 Prior to the issue of any Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for public infrastructure works within the road reserve of Orth Street. The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges. Contact Penrith City Council's Engineering Services Department on (02) 4732 7777 for further information relating to bond requirements.

- 110 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

- 111 This development consent does not approve or allow the use of hydraulic rock hammers. Use of any such equipment will require the further approval of Penrith City Council and any such request/application must be accompanied by additional geotechnical, vibration and acoustic information.

- 112 The applicant/developer must ensure that the relevant inspections as recommended in the Geotechnical Investigation dated 9 December 2019 occur 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.
- 113 No approval has been granted for any ground anchors that protrude beyond the boundaries of the subject site, including into adjoining private property/ies or within Council's footpath.
- 114 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.
- 115 Prior to excavation occurring, the applicant must liaise with Water NSW with regard to any requirements for further approvals under the Water Management Act relating to removal of groundwater. The applicant must provide to the Certifying Authority, prior to the release of the Construction Certificate for the basement, either of the following:
- (a) Evidence from Water NSW that further approvals are not required; or
  - (b) Evidence that the relevant Water NSW approval or licence for groundwater removal has been received.
- 116 Prior to the issue of the Construction Certificate for the basement, the Certifying Authority must ensure that the basement has been structurally designed to allow a possible future cut-out and/or connection at basement level to the adjoining property at 45 Orth Street.
- 117 Prior to the issue of any Construction Certificate, the Certifying Authority is to ensure that public domain plans have been submitted to Council and approved by Council showing the upgrade and works to the public domain, including the footpath for the length of Orth Street. The works within the public domain / Council owned land are to be in accordance with the specifications in the Penrith City Council Kingswood Public Domain Manual, adopted September 2014. Prior to the issue of any Occupation Certificate, the Certifying Authority is to ensure that the public domain works have been completed and endorsed (signed-off) by Council.
- 118 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

- 119 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 City Works Department on 4732 7777 or visit Penrith City Council's website for more information.

- 120 Prior to the issue of any Construction Certificate, the Certifying Authority 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 the following:
- a) Extension of the road drainage system in Orth Street
  - b) Provision of a 1.5m wide footpath along the full frontage of the site linking to the existing footpath on Somerset Street, in accordance with Council's Kingswood Public Domain Manual, adopted September 2014
  - c) Replacement of kerb and gutter along the full frontage of the site
  - d) Construction of vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
  - e) Adjustment of any on-street parking bays. All new line marking shall be in white thermoplastic paint.

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 Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approvals may also be required from the Roads and Maritime Services for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.

- 121 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the access ramp to the basement car park incorporates an entry threshold / crest that is a minimum of 300mm above the top of kerb level.

- 122 Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the recommendations of the Geotechnical Investigation Report by JK Geotechnics, reference 32675B1rpt, dated 9 December 2019 have been fully addressed. The Certifying Authority shall ensure that any part of the basement area below a standing groundwater level is designed without subsoil drainage and is protected by adequate waterproofing.

## Landscaping

- 123 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 all edges of the site at ground floor, and on the Level 1 planter box at the southern street frontage. 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.

- 124 The approved landscaping for the site must be constructed by a landscape professional suitable to construct category 2 landscape works.
- 125 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 Certifying Authority 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 Certifying Authority, 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.

126 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.

127 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Penrith Council's Development Control Plan and the Tree Management Plan submitted with the application, prepared by Redgum Horticultural, reference 5597, dated 18 October 2019.

128 This Development Consent does not include approval to remove any trees located on neighbouring properties, such as Tree 9 identified in the Tree Management Plan prepared by Redgum Horticultural. The applicant/developer must obtain the relevant landowners consent prior to the removal of any trees located on neighbouring private property/ies.

## **Payment of Fees**

129 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

## **Certification**

130 Prior to the commencement of any earthworks, construction or demolition works on site, the proponent is to:

(a) employ a Principal Certifying Authority 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 Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with the Environmental Planning and Assessment Act 1979. The following documentation shall accompany the "Notice of Commencement" to be submitted to Penrith City Council:

- A Compliance Certificate certifying that sediment and erosion control measures has been installed.
- A copy of the Traffic Control Plan for the development/site.
- Details of the qualified environmental consultant employed to supervise the development.
- A Compliance Certificate or other documentation certifying that the tree protection measures have been installed.

131 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).

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### E12 Penrith Health and Education Precinct

The proposal has been assessed against the applicable provisions of Part E12, Penrith Health and Education Precinct, of the Penrith DCP. 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.

With regard to Orth Street, the DCP states the following: *"Orth Street should be treated as a major connector between the hospital and the main area of local community space located on Bringelly Road to the east. This connection will accommodate pedestrians and cyclists with a generous, landscaped southern verge"*. The subject site is located on the northern side of Orth Street. The DCP does not require a front (street) setback for properties on the northern side of the street (the southern side of the street requires a 4m setback). The proposed development is built to the street alignment in accordance with the nil setback control.

In principle, the proposed development meets the overarching objectives of the DCP with regard to development to support the existing and desired future Hospital Precinct. While there are a small number of non-compliances with the numerical controls, such as building depth at the upper levels, the objective of all of the controls are deemed to be met, as discussed 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	The ground and first floor will have a finished floor to ceiling height of 3.5m, and all remaining upper floors will be 2.7m. A slab of 600mm has been designed for between floors which is realistic and adequate to provide services without jeopardising finished floor levels.	Complies
Minimum site width of 24m for any mixed use development	Although the proposed building is not technically a 'mixed-use', the consolidation of the three lots creates a development site with a width of 45m, which is more capable of being developed.	Complies
Non-residential buildings greater than 12m in height are to have a maximum depth of 25m	See discussion below.	Does not comply but acceptable. Discussed below.



<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>The proposed building is set back 6m from both side boundaries and 4m from the rear boundary at all levels. This exceeds the DCP control and is a good urban design outcome as it allows breathing space between buildings and permits landscaped edges.</p>	<p>Complies</p>
<p>Site Coverage: 75% of site</p>	<p>The building footprint, including the basement occupies 58% of the site.</p>	<p>Complies</p>
<p>Deep soil zone: minimum 10% of site area in one continuous block</p>	<p>21% deep soil zone provided. Continuous block is located within the rear setback and measures approximately 4m by 33m.</p>	<p>Complies</p>
<p>Building exteriors to be articulated, consider adjoining buildings, roof plant to be integrated, and durable materials used</p>	<p>See discussion below.</p>	<p>Complies</p>
<p>Blank building walls at ground floor to be avoided and street activation provided.</p> <p>The DCP does not identify Orth Street as requiring an active street frontage.</p> <p>Notwithstanding, the Panel at their briefing raised a comment that "<i>Street activation needs to be considered, although the proposed cafe and street seating seem to be a good response to that issue</i>".</p>	<p>Further changes to the front facade are discussed below.</p>	<p>Complies. See discussion below.</p>
<p>Maximum of one vehicle access point</p>	<p>The proposed development provides two vehicle access points, adjacent to each other.</p>	<p>Does not comply but acceptable. See discussion below.</p>

#### Non-Residential Building Depth:

The objectives of the control to limit building depths to no more than 25m are to ensure good access to natural light and ventilation, reduce bulk and break up building mass, reduce overshadowing, and provide viable commercial floor space.

With regard to the proposed development, the **ground floor** footprint is generally solid and rectangular in shape. Its dimensions are approximately 34m wide by 41m deep, which exceeds the 25m depth control. However, for a ground floor of a proposed hospital use, this footprint is reasonable as more area is required for reception, access corridors and back-of-house. The main ground floor spaces, such as the hydrotherapy space, cafe/dining area, and kitchen all have windows to access natural light and air. In addition, the ground floor (and the whole building) has generous side and rear setbacks of 6m and 4m respectively.

The four **upper** floors are generally the same rectangular footprint. However, the upper floors provide generous cut-outs on both sides of the building, in central positions. At Level 1 the cut-out is 14.8m long by 4.4m wide on the eastern side and 8.1m long by 5.4m wide on the western side. Level 2 provides cut-outs of 8.5m by 9m on both sides. Levels 3 and 4 have cut-outs of 8.5m by 9.5m (eastern side) and 3.9m by 7.8m (western side).

This design therefore meets the objectives of the control as it breaks up the building mass and provides more opportunities for all patient rooms to have windows for good solar and daylight access. The design also has flexibility and could be adapted to a residential or office use in the future.

#### **Building Articulation:**

The building is linear and functional which responds to the shape and proportions of the site. The front facade contains vertical blades which break up its mass. The materials are a combination of face brick, glazing, Vitrapanel and aluminium louvres. The proposed colours will be amended via condition and the architect has been consulted about this, with no objection to the colour change raised. The stark white of the Vitrapanel wall cladding will be amended to a warmer off white colour and the deep black of the edge cladding will be changed to a dark grey. The aluminium louver colour will be changed from a rusty red to an earthier tone. The roof top plant is catered for with a dedicated space on the roof and screening which is within the height limit.

#### **Active Street Frontage:**

The ground floor street frontage of the proposed building includes the following active design features directly fronting Orth Street:-

- a small cafe, with an outdoor seating terrace;
- a small hairdressing room for patient use;
- the main entrance and front lobby for the hospital;
- an office and massage room designed with a glazed frontage; and
- some pockets of landscaping.

The elements of the ground floor frontage that detract from street activation include:-

- a wider driveway - one for staff and visitor access to the basement and the other for separated ambulance use and servicing;
- external stairs from the street to the hairdressing room;
- an electricity substation;
- a fire hydrant booster sitting in front of the cafe; and
- the use of a solid face brick wall behind the booster and in front of part of the cafe.

The current proposed ground floor layout could be acceptable given that Orth Street is not identified in the DCP as being a specific 'active frontage street'. However, in order to achieve better design excellence the applicant was requested to review the location of the fire hydrant booster and embellish the cafe frontage. As a result of this request the applicant has agreed that the hydrant booster can be relocated next to the driveway and can sit flush with the solid wall of the Admin room. A louvred screen will be used to minimise its appearance.

The area vacated by the booster will be redesigned to increase part of the outdoor seating terrace area of the cafe and a square opening (window servery) will be included in the cafe frontage. Further, the external stairs and door to the small hairdressing room will be removed. Additional landscaping will be provided in front of the cafe and the hairdressing room in the areas vacated by the removal of the booster and stairs.

In addition to these design changes, which will be secured through conditions of consent, the proposed face brick wall of the cafe will be required to be embellished in a number of ways. Either the face brick is to be laid in a 'hit and miss style', or further glazing can be incorporated into that wall, or the wall can include public art (possibly a mural).

In conclusion, these changes will improve the appearance and interface of the building with the public domain and will add interest and activity to the street.

#### **One Vehicle Access Point:**

The objectives of this control are; to make vehicle access to the building more compatible with pedestrian movements; to integrate the design of the vehicle entry point into the building; and to reduce the impact of vehicular access on the public domain.

The proposed development seeks to have two separate driveways. The main driveway to the basement is for staff and visitor cars, while a second and adjacent driveway is at grade and provides access only for ambulance and service vehicles to a central loading dock. In effect, the second service driveway occupies the building setback on the western side.

The applicant has stated that the ambulance and service access is preferred to be separate to the main vehicle access and basement area, and therefore the building is designed to have a loading area physically separated from the basement. The applicant states that this will make it easier to manage service vehicles and avoid conflicts with staff and visitors. The applicant also states that the separate ambulance bay allows for the possible scenario that a deceased person can be removed from the premises discretely.

In a previous draft of the proposal this second driveway was located on the eastern side of the building and thereby the two driveways were physically separated. The consolidation of the driveways to have them adjacent to each other is a better outcome than having them at either end of the building. This allows better active frontage for one uninterrupted length of the front facade. Further, the design retains a small strip along the service driveway, which although is only 1m wide, is able to accommodate some planting.