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|------------------------------|-----------------------------------------------------------------------------------------------------|
| <b>SWCPP Ref. No.:</b>       | PPSSWC-387                                                                                          |
| <b>DA No.:</b>               | DA23/1092                                                                                           |
| <b>PROPOSED DEVELOPMENT:</b> | Demolition of Existing Structures & Construction of Medical Centre, Cafe & Ground Level Car Parking |
| <b>PROPERTY ADDRESS:</b>     | 45 Orth Street, KINGSWOOD NSW 2747                                                                  |
| <b>PROPERTY DESCRIPTION:</b> | Lot 186 DP 14333,                                                                                   |
| <b>CLASS OF BUILDING:</b>    | N/A                                                                                                 |
| <b>ASSESSING OFFICER</b>     | Wendy Connell                                                                                       |
| <b>APPLICANT:</b>            | C Gray                                                                                              |
| <b>DATE RECEIVED:</b>        | 18 December 2023                                                                                    |
| <b>REPORT BY:</b>            | Wendy Connell, Senior Development Assessment Officer, Penrith City Council                          |
| <b>RECOMMENDATIONS:</b>      | Approve                                                                                             |

## Assessment Report

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## Executive Summary

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The subject development application seeks consent for the demolition of existing structures, removal of vegetation and construction of a medical centre and cafe, 18 space at grade car park, associated landscaping and stormwater drainage works at 45 Orth Street, Kingswood.

The subject site is legally described as Lot 186 in DP 14333 and is known as 45 Orth Street, Kingswood. The site is on the northern corner of Orth Street and Somerset Street and has a total area of 727sq.m.

The site is located in the Penrith Health and Education Precinct. Within the precinct, the site is identified as being within a Medical Mixed Use area. The site is zoned MU1 Mixed Use under *Penrith Local Environmental Plan 2010*. The proposed uses, being a 'medical centre' and 'food and drink premises', are permissible land uses in the zone, with consent.

In accordance with Council's Community Engagement Strategy and Community Participation Plan, the proposed development was publicly notified to owners and occupiers of surrounding properties, advertised in the local newspaper and publicly exhibited between 8 January and 29 January 2024. One submission was received in response to the public exhibition process. The submission advised that there is contaminated land managed via an Asbestos Management Plan on the adjoining site to the north, being Council owned land used as an at grade public car park. This matter has been suitably addressed as part of the assessment of the proposal, as outlined in this report.

Key issues identified during the assessment of the proposal include:

- Removal of existing vegetation;
- Building setbacks to street frontages;
- Extent of deep soil planting and landscaping at ground level;
- Stormwater management;
- Potential land contamination; and
- Parking and manoeuvring of vehicles.

The identified key issues were raised with the applicant who has addressed these matters by submission of additional documentation and amended plans, or where appropriate, the matters will be addressed via recommended conditions of consent.

The proposal has a capital investment value (CIV) of \$7,540,000. Accordingly, pursuant to Schedule 6 of *State Environment Planning Policy (Planning Systems) 2021*, the proposal meets the category requirements of 'private infrastructure over \$5 million' and is classed to be 'regionally significant development'. In accordance with Section 2.12 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel is the determining authority for regionally significant development.

An assessment of the proposal under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the development application is recommended for approval, subject to recommended conditions.

## Site & Surrounds

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The subject site is known as 45 Orth Street, Kingswood and is legally described as Lot 186 in DP 14333. The site is on the northern corner of Orth Street and Somerset Street and has a total area of 727sq.m.

The site is zoned MU1 Mixed Use under *Penrith Local Environmental Plan 2010* and contains a single storey weatherboard building, large shade sail, car parking area and established vegetation. The existing building currently operates as professional consulting rooms with consent issued in 1991 via DA64/91.

Kingswood railway station is approximately 600m walking distance from the site and the closest bus stop is located approximately 250m walking distance along Derby Street.

To the west of the site is Nepean Hospital, to the north is a Council owned at grade public car park, to the east is a five storey health services facility and to the south is a vacant site. The surrounding area is undergoing redevelopment with several approvals issued for multi-storey buildings (4 to 8 storeys), mainly with medical related uses in accordance with the desired future character of the Penrith Health and Education Precinct.



Figure 1 - Aerial view of site (Source: Nearmap, March 2024)

## Proposal

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The development application seeks consent for a health services facility, including the following aspects:

- Demolition of existing buildings on the site;
- Removal of 29 trees;
- Construction of a two storey building with rooftop terrace areas for use as a medical centre (12 medical rooms) and a cafe, with operational hours of 8am - 6pm, 7 days per week;
- Three business identification signs;
- Construction of an at grade car park with 18 car parking spaces (including one accessible space) and two driveways; and
- Stormwater drainage and landscaping works.

During the assessment period, it was identified that two trees nominated for removal are street trees. Council's Tree Management Officer and Assets Team reviewed the proposal in relation to tree removal, and object to the removal of Council's street trees. Further details regarding proposed tree removal are provided under the '*State Environmental Planning Policy (Biodiversity and Conservation) 2021*' section of this report.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021

## Planning Assessment

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- **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

The site is not identified on the Biodiversity Values Map as containing vegetation having biodiversity values.

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

In accordance with Section 2.12 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority for the development application as the proposal is identified as regionally significant development under *State Environmental Planning Policy (Planning Systems) 2021*.

The documents submitted with the development application identify that the proposed health services facility has a capital investment value (CIV) of \$7,540,000. Pursuant to Schedule 6 of *State Environment Planning Policy (Planning Systems) 2021*, the proposal meets the category requirements of 'private infrastructure over \$5 million' and is classed to be 'regionally significant development'.

The SWCPP was briefed on the development proposal by Council officers on 8 April 2024.

- **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and having regard to these considerations, the following matters have been identified for consideration.

- **Section 7.12 - Developer Contributions**

In accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979*, Council has adopted a '*Development Contributions Plan for Non-Residential Development*' which captures development with a cost of more than \$100,000 that is not otherwise subject to a contribution pursuant to Section 7.11 of the Act.

In this case, the proposed development for a health services facility with a cost of \$6,622,000 (as calculated in accordance with Section 208 of the *Environmental Planning and Assessment Regulation 2021*) triggers the need to impose a condition requiring payment of a contribution in accordance with Council's Section 7.12

contributions plan.

The contribution rate is a fixed levy calculated at 1% of the proposed cost of carrying out the development. The contribution amount required for the proposed development is \$66,220. A recommended condition of consent is included regarding this contribution requirement and payment.

## 1 MAIN SUMMARY OF COSTS

The Total Project Cost (exc. GST) for the proposed campus development is shown below:

| SUMMARY                                              | QTY          | UNIT      | COST / M <sup>2</sup> | TOTAL COST         |
|------------------------------------------------------|--------------|-----------|-----------------------|--------------------|
| DEMOLITION & ALTERATIONS                             | 1,089        | M2        | \$202                 | \$220,000          |
| NEW BUILDING WORKS                                   | 634          | M2        | \$5,978               | \$3,790,000        |
| EXTERNAL WORKS                                       | 946          | M2        | \$560                 | \$530,000          |
| SITE INFRASTRUCTURE WORKS                            | 946          | M2        | \$201                 | \$190,000          |
| LOOSE FURNITURE & SPECIALIST EQUIPMENT (ALLOWANCE)   | 414          | M2        | \$290                 | \$120,000          |
| ICT / AV (ALLOWANCE)                                 | 414          | M2        | \$193                 | \$80,000           |
| <b>SUB TOTAL</b>                                     | <b>1,315</b> | <b>M2</b> | <b>\$3,749</b>        | <b>\$4,930,000</b> |
| BUILDERS PRELIMINARIES                               | 19           | %         |                       | \$940,000          |
| BUILDERS MARGIN                                      | 6            | %         |                       | \$350,000          |
| <b>GROSS CONSTRUCTION COSTS</b>                      | <b>1,315</b> | <b>M2</b> | <b>\$4,730</b>        | <b>\$6,220,000</b> |
| PROFESSIONAL FEES                                    | 3            | %         |                       | \$190,000          |
| LONG SERVICE                                         | 0.25         | %         |                       | \$20,000           |
| DESIGN CONTINGENCY                                   | 5            | %         |                       | \$310,000          |
| CONSTRUCTION CONTINGENCY                             | 8            | M2        |                       | \$500,000          |
| ESCALATION TO START ON SITE @ 4% (ASSUMED JUNE 2024) |              |           |                       | \$150,000          |
| ESCALATION TO MID POINT OF CONSTRUCTION @ 4%         |              |           |                       | \$150,000          |
| <b>TOTAL COST</b>                                    | <b>1,315</b> | <b>M2</b> | <b>\$5,734</b>        | <b>\$7,540,000</b> |

Figure 2 - Highlighted items and amounts excluded from nominated CIV for the purpose of calculating Section 7.12 development contribution

### • Section 7.26 - Housing and productivity contributions

Under Clause 5.1(c) of the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*, a development contribution is required for new commercial development. A contribution rate of \$30 per square metre is applicable to new gross floor area in the case of commercial development.

The breakdown of the calculation for the proposal is as follows:

- $601\text{sq.m (new GFA)} \times \$30 \text{ per square metre (indexed rate)} = \$18,030$

A recommended condition of consent is included regarding this contribution requirement and payment.

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

### State Environmental Planning Policy (Biodiversity and Conservation) 2021



An assessment has been undertaken of the proposal against relevant criteria in Chapter 2 - Vegetation in non-rural areas and Chapter 6 - Water catchments of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, as outlined below.

## Chapter 2 - Vegetation in Non-Rural Areas

This chapter aims to protect the biodiversity values of tress and other vegetation, and preserve the amenity of non-rural areas of the state.

The development application is seeking consent for the removal of 29 trees. The 29 trees are protected trees under *Penrith Development Control Plan 2014*. An Arboricultural Impact Assessment (AIA) was prepared by Canopy Consulting and submitted in support of the proposed tree removal.

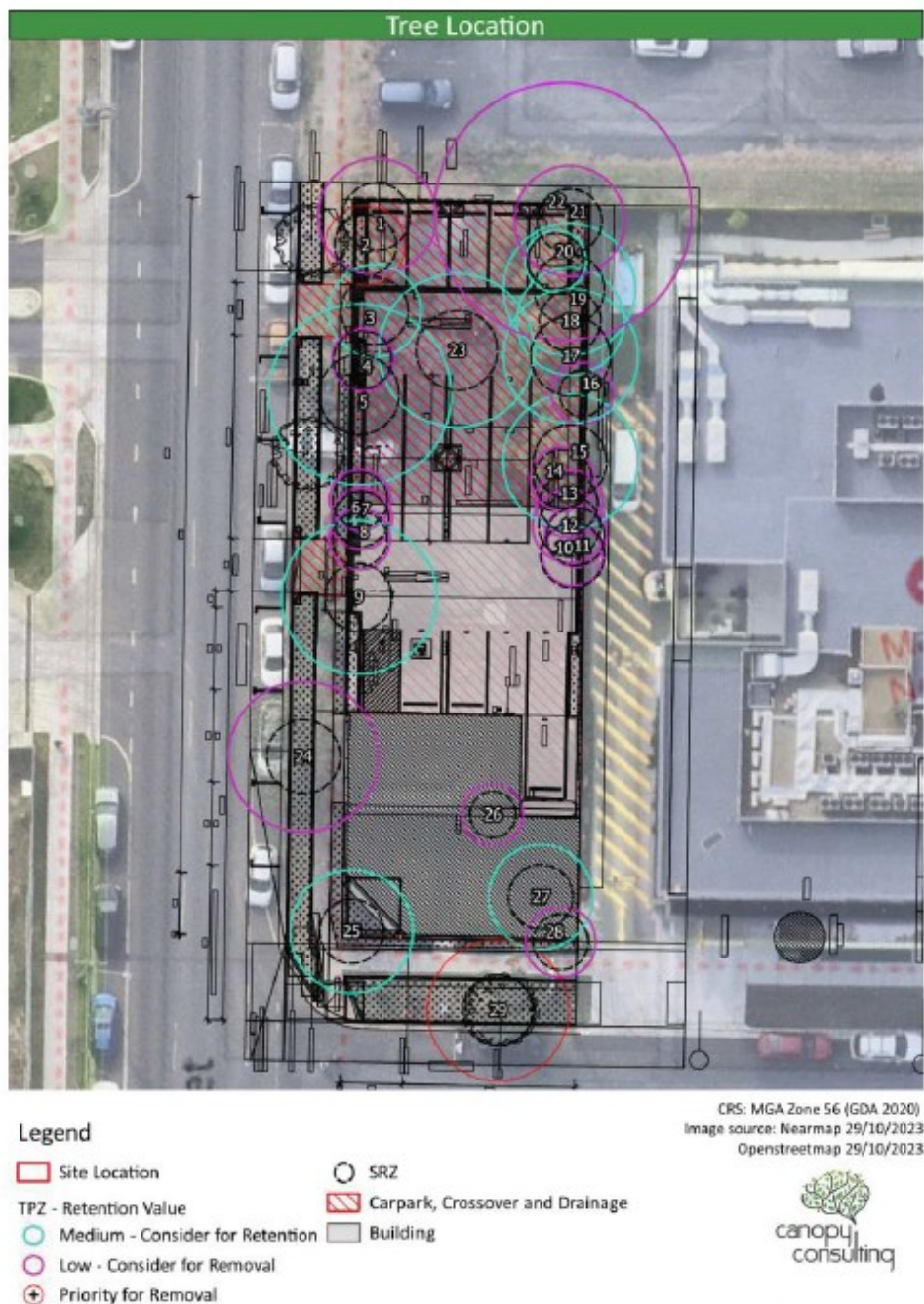


Figure 3 - Tree location plan (Source: AIA prepared by Canopy Consulting, Version 2, dated 23 April 2024)

## On-Site Trees

Council's Tree Management Officer reviewed the AIA and undertook a site inspection to assess the trees nominated for removal within the site. Due to the constraints of the site for development, and the location and structural form of the trees, no on-site trees can be retained in this instance. Subject to replacement planting being undertaken on the site and street tree planting along the western edge (supported by the use of structural soil and engineered tree pits), no objection has been raised by Council's Tree Management Officer to the removal of all trees within the site. The proposal includes seven (7) new canopy trees within the site and two (2) new street trees. The proposed structural soil vault system will ensure new canopy trees planted in the car park area will have the opportunity to grow to maximum capacity.

#### Street Trees

Council's Public Spaces Tree Management Officer (Assets Team) reviewed the proposal and raised an objection to the proposed removal of two street trees, one on Orth Street (Tree No. 29) and one on Somerset Street (Tree No. 24). While it is acknowledged that Tree No. 29 on Orth Street has been trimmed back harshly due to overhead power lines, it is still a valued asset given its maturity and the landscape value it provides in terms of shade and streetscape appeal. A Plan of Management will be required to prevent further decline and to ensure tree protection measures are installed to adequately protect the tree during the demolition and construction phases.

Tree No. 24 is also required to be retained as this tree is a mature and healthy specimen providing shade and streetscape appeal. Where possible, Council prefers to retain existing tree canopy cover in lieu of removal and replacement as part of managing Council's commitment to *Greening our Cities* and *Green Grid Strategies*. Retention of Tree No. 24 will require alternative construction methods where there are impacts from the proposed development into the tree protection zone. In addition, the proposed awning along the Somerset Street frontage is required to be reduced in width so as to not impact the tree's canopy. Alternative construction methods such as slab on grade and pier and beam will need to be considered, as well as root mapping and other required design alterations.

Recommended conditions of consent will address the required tree management, protection and replanting requirements.

### **Chapter 6 - Water Catchments**

This chapter aims to protect the environment of the Hawkesbury-Nepean river system by ensuring that the impacts of future land uses are considered in a regional context. The SEPP requires assessment of development applications with regard to general and specific considerations, policies and strategies.

The proposal is in accordance with the general and specific aims, planning considerations, planning policies and recommended strategies of the SEPP. Subject to recommended conditions of consent, appropriate water, wastewater and waste management measures will be in place and as such, it is not considered likely that the proposal will result in any adverse impacts on the Hawkesbury-Nepean River system.

### **State Environmental Planning Policy (Industry and Employment) 2021**

Chapter 3 of *State Environmental Planning Policy (Industry and Employment) 2021* provides controls for advertising and signage. This chapter aims to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality. The policy applies to all signage with the exception of that which could be considered as exempt development.

The architectural drawings show proposed locations for three building and business identification signs. Two signs are to be located on the western side of the building, with one sign presenting to the south-west, as shown in the image below.



Figure 4 - Elevation plan showing proposed signage locations

The proposed signage has been assessed against the Schedule 5 assessment criteria, as detailed below.

| <b>Schedule 5 - Assessment Criteria</b>                                            |                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Character of the area</i>                                                       | <p>The surrounding Health and Education Precinct has a mixture of medical and residential uses. Signage associated with the different land uses is also present in the precinct.</p> <p>The proposal and its associated signage is compatible within the context of the precinct.</p> |
| <i>Special areas</i>                                                               | <p>The proposed signage will not detract from the amenity or visual quality of the Penrith Health and Education Precinct.</p>                                                                                                                                                         |
| <i>Views and vistas</i>                                                            | <p>The proposed signage will be flush mounted to the building facade and will not obscure or compromise important views or impede into the skyline.</p>                                                                                                                               |
| <i>Streetscape, setting or landscape</i>                                           | <p>The proposed signage is integrated into the building form and visually compatible in scale and design quality.</p> <p>No additional vegetation is proposed to be removed as a result of the signage.</p>                                                                           |
| <i>Site and building</i>                                                           | <p>The three proposed signs are associated with identification of the building and land use. The proposed signage is appropriately sized, spaced and located relative to the building.</p>                                                                                            |
| <i>Associated devices and logos with advertisements and advertising structures</i> | <p>No safety platforms, lighting devices or associated logos have been designed as part of the proposed signage.</p>                                                                                                                                                                  |
| <i>Illumination</i>                                                                | <p>No illumination is proposed.</p>                                                                                                                                                                                                                                                   |
| <i>Safety</i>                                                                      | <p>The proposed signage will be flush mounted to the building facade and will not reduce safety for vehicles, pedestrians or cyclists, nor will it obscure any sightlines to public areas.</p>                                                                                        |



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

The proposed development is categorised as 'regionally significant development' pursuant to Schedule 6(5) of *State Environmental Planning Policy (Planning Systems) 2021*. In this regard, the capital investment value is over \$5 million and the proposal is for a health services facility.

## **State Environmental Planning Policy (Precincts—Western Parkland City) 2021**

*State Environmental Planning Policy (Precincts - Western Parkland City) 2021* contains controls relating to the new Western Sydney Aerotropolis. The subject site is outside of the Aerotropolis, however the SEPP identifies the site as being within a wildlife buffer zone and having an obstacle limitation of RL 230.5, and therefore the provisions under Part 4.3 (Development controls - Airport safeguards) of the SEPP apply.

The objective of the wildlife buffer zone is to regulate development on land surrounding the under construction Western Sydney Airport, where wildlife may present a risk to the operation of the airport, such as from bird strikes. Certain types of development trigger the requirements for further consideration under Section 4.19 of the SEPP. The proposed development, being a health services facility, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

In relation to the obstacle limitation, this relates to development that would penetrate the prescribed air space of the airport (i.e. development at or above RL 230.5) and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional consideration in this regard under Section 4.22 of the SEPP.

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

*State Environmental Planning Policy (Resilience and Hazards) 2021* provides a framework for the assessment, management and remediation of contaminated land throughout the state.

Section 4.6(1) of the SEPP prevents consent authorities from consenting to a proposed development unless it has considered whether the subject land is contaminated and is satisfied that the land is suitable, or will be suitable after remediation, for the purpose for which development is proposed to be carried out.

It was raised during the assessment period that Council's car park adjoining the site to the north contains asbestos and is subject to an Asbestos Management Plan. On review of the development consent for the adjoining site to the east at 39 Orth Street, it was found that contamination was found and remediated as part of that development approval. A review of Council's records indicated that no contamination assessments had been undertaken for the subject site under previous applications. In addition, a review of historical aerial photographs showed there had previously been an additional structure at the rear of the subject site which had been demolished. Given the age of the structures on the subject site and the known contamination issues on adjoining sites, further investigation was warranted, especially since the proposal includes construction of new boundary fencing, stormwater pits, tree removal and other soil disturbance along the site boundaries and within the site.

The applicant was requested to undertake further investigation and in response a Preliminary Site Investigation (PSI) was submitted. The PSI, prepared by Neo Consulting and dated 24 July 2024 (ref. N09489), states that six bore holes were dug across the property. The test results showed that there was no contamination identified in TP1, TP2, TP4, TP5 or TP6. Asbestos contamination was found in TP3 and the PSI recommended a Remediation Action Plan (RAP) be developed.

Section 4.7(3) of the SEPP states that '*a person may carry out a category 2 remediation work without the consent of the consent authority*' and therefore remediation has not been included in this development application, however a condition of consent has been recommended requiring a Validation Certificate for the site.

As previously mentioned, there are works proposed along the northern site boundary which adjoins Council's at grade public car park which is governed by an Asbestos Management Plan. All contractors and/or staff conducting work along or near the rear (northern) boundary of the subject site should be made aware of the Asbestos Management Plan and have appropriate training and protocols in place to deal with unexpected ACM or contamination finds. Should asbestos or any other contaminate be found during excavation works on Council's land at the boundary, work is to immediately stop, and Council's Divisional Assurance and Security Operations Team is to be contacted. A condition of consent has been recommended in this regard.

The provisions of Section 4.6(1) of the SEPP have therefore been suitably addressed.

## **State Environmental Planning Policy (Sustainable Buildings) 2022**

Chapter 3 of *State Environmental Planning Policy (Sustainable Buildings) 2022* sets out sustainability standards for non-residential development. In this regard, the applicant has submitted a Sustainable Building Compliance Statement outlining the following commitments in relation to the proposal which demonstrate the proposal's compliance with Section 3.2(1) of the SEPP:

- A waste management plan will be prepared prior to the commencement of works to minimise waste from demolition and construction works;
- Energy efficient fixtures for lighting, heating and cooling will be incorporated at the detailed design phase;
- Appropriate ductwork/piping and glazing will be incorporated throughout the building to reduce reliance on artificial lighting and mechanical heating/cooling;
- All electrical boards will be provided with energy metering pursuant to the National Construction Code to ensure the consumption of energy is monitored;
- Water efficient fixtures will be employed throughout the building; and
- A water tank will be provided to minimise the use of potable water.

Conditions of consent have been recommended to ensure compliance with the above commitments.

In addition, the applicant has submitted an embodied emissions materials form which quantifies the embodied emissions attributable to the proposed development in accordance with Section 3.2(2) of the SEPP.

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

The development proposal was referred to the relevant public authority in accordance with the requirements of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, as outlined below.

### **Division 5 - Electricity Transmission or Distribution**

Section 2.48 of the SEPP relates to development within 5m of an exposed overhead electricity power line and states the consent authority must:

*(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and; (b) take into consideration any response to the notice that is received within 21 days after the notice is given.*

The development application was referred to Endeavour Energy for review via the NSW Planning Portal under CNR - 69871. In response, Endeavour Energy raised no objection to the proposal subject to certain conditions of consent being imposed. A recommended condition has been included in this regard.

## Local Environmental Plan 2010 (Amendment 4)

| Provision                                          | Compliance                |
|----------------------------------------------------|---------------------------|
| Clause 1.2 Aims of the plan                        | Complies                  |
| Clause 2.3 Permissibility                          | Complies - See discussion |
| Clause 2.3 Zone objectives                         | Complies - See discussion |
| Clause 2.7 Demolition requires development consent | Complies                  |
| Clause 4.3 Height of buildings                     | Complies - See discussion |
| Clause 4.4 Floor Space Ratio                       | Complies - See discussion |
| Clause 7.4 Sustainable development                 | Complies - See discussion |
| Clause 7.7 Servicing                               | Complies - See discussion |
| Clause 7.8 Active street frontages                 | Complies - See discussion |
| Clause 7.11 Penrith Health and Education Precinct  | Complies - See discussion |
| Clause 7.30 Urban Heat                             | Complies - See discussion |

### Clause 2.3 Permissibility

The primary use of the proposed development is for a medical centre. A medical centre is a permissible land use in the MU1 zone, with consent.

A medical centre is defined as:

**Medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

The proposed medical centre includes a cafe. A cafe is a type of commercial premises which is a permissible land use in the MU1 zone, with consent.

### Clause 2.3 Zone objectives

The objectives of the MU1 Mixed Use zone are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To allow for residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

The proposed development complies with the zone objectives in that it will provide employment opportunities in the Penrith Health and Education Precinct, the proposed built form provides for an active street frontage and the land uses proposed are compatible with, and complementary to, the surrounding medical related uses in the precinct.

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

Clause 4.3 of the LEP establishes a maximum building height of 18m for the site. The proposed development complies with this development standard, having a maximum building height of 11.5m.

#### **Clause 4.4 Floor Space Ratio**

Clause 4.4 of the LEP permits a maximum floor space ratio (FSR) of 3.5:1 for the site. The proposed development complies with this development standard, providing for a FSR of 0.8:1.

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

The proposed development has been assessed against the principles of sustainability and is considered to be satisfactory. The proposal provides for a site responsive design and is located in close proximity to Kingswood railway station and well serviced bus stops. The proposed rooftop terrace areas maximise the use of green infrastructure and additional green infrastructure has been incorporated where possible at the ground level edges. Furthermore, a water tank is proposed for water reuse on the site.

#### **Clause 7.7 Servicing**

The proposed development is assessed to comply with Clause 7.7 of the LEP in that the site is capable of being connected to essential services including water, sewer, electricity and other essential infrastructure.

Conditions of consent are recommended in relation to obtaining servicing authority clearances for the proposal.

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

Clause 7.8 of the LEP provides for an active street frontage along the Somerset Street frontage of the site. At the ground floor level of the proposed development, a cafe wraps around the south-western corner of the Somerset Street frontage and along Orth Street. The proposed cafe has a shopfront presentation to the street, including a glazed facade, minimal building setback and landscaping to attract pedestrian traffic along the street frontage.

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

The subject site is located in the Penrith Health and Education Precinct and therefore Clause 7.11 of the LEP could be utilised by the applicant. This clause allows additional building height (up to 20% above the applicable height standard) if certain pre-requisites are met for future adaptive reuse of residential buildings as health services facilities. The development proposal is for a medical centre and cafe and no residential use is proposed. As such, the provisions of this clause are not enacted by the proposal.

#### **Clause 7.30 Urban Heat**

In considering the site's size, and land uses envisaged in the Penrith Health and Education Precinct, the assessment of the proposal has concluded that it achieves Council's urban heat management objectives as far as possible. This is demonstrated by the retention of street trees along Somerset Street and Orth Street, inclusion of green infrastructure in the rooftop terrace areas and car park edges, the proposed building design (including partial overhang of the ground level car parking area and light external wall colours) and proposed new canopy tree planting.

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

There are no draft environmental planning instruments specifically relevant to the proposal.

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

#### **Development Control Plan 2014**

| <b>Provision</b>                          | <b>Compliance</b>                                                    |
|-------------------------------------------|----------------------------------------------------------------------|
| 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 - see Appendix - Development Control Plan Compliance        |
| C9 Advertising and Signage                | Complies                                                             |
| C10 Transport, Access and Parking         | Does not comply - see Appendix - Development Control Plan Compliance |
| C11 Subdivision                           | N/A                                                                  |
| C12 Noise and Vibration                   | Complies                                                             |
| C13 Infrastructure and Services           | Complies                                                             |
| C14 Urban Heat Management                 | Complies                                                             |
| E12 Penrith Health and Education Precinct | Does not comply - see Appendix - Development Control Plan Compliance |



### **Section 4.15(1)(a)(iia) The provisions of any planning agreement**

There are no planning agreements applicable to the site or proposal.

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

The proposal complies with the applicable provisions of the regulations, subject to recommended conditions, including conditions requiring compliance with the Building Code of Australia.

The development application was publicly notified and exhibited in accordance with the requirements of the regulations.

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

As detailed elsewhere and throughout this report, it is not anticipated that the proposed development will have adverse impacts on the surrounding area and broader locality.

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

The site is deemed to be suitable for the proposed development and land use, subject to recommended conditions. The development application has demonstrated that stormwater run-off can be suitably managed and discharged appropriately and the proposed building form is suitably scaled and positioned relative to the size and shape of the site.

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

#### **Community Consultation**

In accordance with Council's Community Engagement Strategy and Community Participation Plan, the proposed development was publicly notified to owners and occupiers of surrounding properties, advertised in the local newspaper and publicly exhibited between 8 January and 29 January 2024.

One submission was received in response to the public exhibition process. The submission advised that there is contaminated land managed via an Asbestos Management Plan (AMP) on the adjoining site to the north, being Council owned land used as an at grade public car park. In this regard, Council's Asbestos Management Officer advised the following:

*In relation to the construction of a new fence, it is suggested using the existing black metal fence posts to attach new fence material or hydraulic rammed steel post fencing, to avoid excavation on the Council owned car park. If new holes for fence posts need to be excavated, please ensure a detailed risk assessment has been undertaken by a suitably experienced and qualified person (requirement of the AMP). In addition, all staff and/or contractors are to be given access to the AMP. Please also ensure staff and/or contractors who are conducting these works have appropriate training, protocols and SWMS to deal with unexpected ACM or contamination finds. Should asbestos or any other contaminate be found during excavation works on Council's land, work is to immediately stop, and Council's Divisional Assurance and Security Operations Team is to be contacted.*

A condition of consent has been recommended to safeguard contractors and staff who are conducting works along the northern (rear) boundary of the subject site.

## Referrals

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

| Referral Body                            | Comments Received                     |
|------------------------------------------|---------------------------------------|
| Building Surveyor                        | No objections - subject to conditions |
| Development Engineer                     | No objections - subject to conditions |
| Landscape Architect                      | No objections                         |
| Environmental - Environmental management | No objections - subject to conditions |
| Environmental - Waterways                | No objections - subject to conditions |
| Environmental - Public Health            | No objections - subject to conditions |
| Traffic Engineer                         | No objection subject to conditions    |
| Tree Management Officer                  | No objections - subject to conditions |

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

The proposed development is considered to be in the public interest as it is an appropriate development for the site and includes a building and use that will support the function and vitality of the Penrith Health and Education Precinct. Suitable conditions of consent are recommended to mitigate penitential impacts on neighbouring properties as a result of the construction phase of the development, as well as during the ongoing operations of the facility.

## Conclusion

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In assessing the proposed development against the relevant environmental planning instruments as outlined in this report, the proposal suitably satisfies the aims, objectives and provisions of these planning instruments. The site is suitable for the proposed development, the proposal is in the public interest and impacts arising from the proposed development will be negligible.

Therefore, the proposal is worthy of support, and the development application is recommended for approval subject to recommended conditions.

## Recommendation

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1. Development application DA23/1092 for the demolition of existing structures, removal of vegetation and construction of a medical centre and cafe, 18 space at grade car park, associated landscaping and stormwater drainage works at 45 Orth Street, Kingswood, be approved subject to the following recommended conditions.
2. Those who made a submission be advised of the decision.

## CONDITIONS

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### General

- 1 The development must be implemented substantially in accordance the following stamped approved plans and documents received with the application, except as may be amended in red on the approved plans or by the following conditions in this consent:

#### Plans

| Plan Title                                     | Plan No.        | Prepared By       | Version | Dated      |
|------------------------------------------------|-----------------|-------------------|---------|------------|
| Existing Site and Demolition Plan              | SK1101          | Bell Architecture | P2      | 10.04.2024 |
| Site Plan                                      | SK1102          | Bell Architecture | P2      | 10.04.2024 |
| Landscape Plan                                 | SK1103          | Bell Architecture | P2      | 10.04.2024 |
| Landscape Schedule                             | SK1104          | Bell Architecture | P2      | 10.04.2024 |
| Landscape Planting Section                     | SK1105          | Bell Architecture | P1      | 10.04.2024 |
| General Level Floor Plan                       | SK2201          | Bell Architecture | P2      | 10.04.2024 |
| Level 1 Floor Plan and Roof Plan               | SK2202          | Bell Architecture | P2      | 10.04.2024 |
| Elevations - Sheet 1                           | SK3101          | Bell Architecture | P2      | 10.04.2024 |
| Elevations - Sheet 2                           | SK3102          | Bell Architecture | P2      | 10.04.2024 |
| Overall Sections                               | SK4101          | Bell Architecture | P2      | 10.04.2024 |
| General Notes                                  | 23-1111-DAC001  | AT&L              | C       | 17.04.2024 |
| Exiting Site Plan                              | 23-1111-DAC002  | AT&L              | C       | 17.04.2024 |
| General Arrangement Plan                       | 23-1111-DAC003  | AT&L              | C       | 17.04.2024 |
| Site Sections Plan                             | 23-1111-DAC004  | AT&L              | C       | 17.04.2024 |
| Siteworks and Stormwater Drainage Plan Sheet 1 | 23-1111-DAC101  | AT&L              | C       | 17.04.2024 |
| Siteworks and Stormwater Drainage Plan Sheet 2 | 23-1111-DAC101A | AT&L              | C       | 17.04.2024 |
| Typical Details Sheet 1                        | 23-1111-DAC102  | AT&L              | C       | 17.04.2024 |
| Typical Details Sheet 2                        | 23-1111-DAC103  | AT&L              | C       | 17.04.2024 |
| Pavement Plan                                  | 23-1111-DAC110  | AT&L              | C       | 17.04.2024 |
| Stormwater Details                             | 23-1111-DAC120  | AT&L              | C       | 17.04.2024 |
| Stormwater Drainage Proposed Catchment Plan    | 23-1111-DAC121  | AT&L              | C       | 17.04.2024 |

|                                           |                 |      |   |            |
|-------------------------------------------|-----------------|------|---|------------|
| Music Pre Catchment Plan                  | 23-1111-DAC121A | AT&L | C | 17.04.2024 |
| Music Post Catchment Plan                 | 23-1111-DAC122  | AT&L | C | 17.04.2024 |
| Raingarden Plan and Details               | 23-1111-DAC123  | AT&L | C | 17.04.2024 |
| Stormwater Drainage Longitudinal Section  | 23-1111-DAC125  | AT&L | A | 17.04.2024 |
| Sedimentation and Erosion Control Plan    | 23-1111-DAC130  | AT&L | C | 17.04.2024 |
| Sedimentation and Erosion Control Details | 23-1111-DAC131  | AT&L | C | 17.04.2024 |

### Documents

| Document Title                              | Reference             | Prepared by                         | Version | Dated      |
|---------------------------------------------|-----------------------|-------------------------------------|---------|------------|
| Civil Design Report                         | 23-1111               | AT&L                                | 03      | 18.04.2024 |
| Preliminary Site Investigation              | N09489                | Neo Consulting                      | -       | 24.07.2024 |
| Statement of Environmental Effects          | WTJ23-199             | Willowtree Planning                 | -       | 18.12.2023 |
| Arborist Report                             | E-001663-22           | Canopy Consulting                   | 2       | 23.04.2024 |
| Operational Plan of Management              | -                     | Dr Jodie Ellis-Clark                | -       | 10.04.2024 |
| BCA and Access Report                       | 2023-2535-1.0         | Steve Watson & Partners             | -       | 09.11.2024 |
| Traffic and Parking Impact Assessment       | -                     | Headway Traffic & Transport Pty Ltd | A.01    | 22.10.2023 |
| Additional Traffic Letter                   | -                     | Headway Traffic & Transport Pty Ltd | -       | 25.03.2024 |
| Embodied Emissions Materials Form           | -                     | WT Partnership (Australia)          | -       | -          |
| Statement - Sustainable Building Compliance | WTJ23-199             | Willowtree Planning                 | -       | 26.08.2024 |
| Acoustics Report                            | SY232817-00-AU-RP01-4 | Northrop                            | 4       | 11.04.2024 |

- 2 The proprietor of the food business shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2015 and the Australian and New Zealand Food Standards Code are met at all times. A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to the commencement of the food business.
- 3 A **Construction Certificate** shall be obtained prior to the commencement of any building works.
- 4 A satisfactory inspection of the food business by an authorised officer of Council's Environmental Health Team is required **prior to the issue of an Occupation Certificate**. The occupier of the food business is to contact the Environmental Health Team to organise an appointment at least 72 hours prior to the requested inspection time.

- 5 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 6 **Prior to the issue of an Occupation Certificate and commencement of trade**, the occupier of the food business must register their business with Penrith City Council by completing Council's "Registration of Premises - Food" form. The occupier of the food business must notify Council within 7 days of any change of details.
- 7 The approved hours of operation are 8am - 6pm, 7 days per week.
- 8 The finishes of the premises are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 9 **Prior to the issue of a Construction Certificate**, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Please refer to the website <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92.

- 10 The existing street trees at the perimeter of the development site on Somerset Street and Orth Street are to be retained and protected.

**Prior to any works being undertaking on the site, including demolition works**, a Street Tree Plan of Management is to be submitted to and approved by Penrith City Council's Tree Management Officer. The Street Tree Management Plan is to be prepared by a suitability qualified and experienced arboricultural expert. The Street Tree Plan of Management is to address the following matters:

- Street trees on Somerset Street and Orth Street;
- Tree protection measures;
- Development construction methods;
- Pruning methodology for the Somerset Street tree; and
- Key Council inspection milestones.

- 11 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority is to ensure that 2 x *Lophostemon confertus* (minimum 75 litre) with a structural soil and/or underground tree pits are planted along the Somerset Street frontage in the locations nominated on the approved plans.
- 12 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority is to ensure that the awning along the Somerset Street frontage is reduced in width so as not to impact the street tree along Somerset Street. This will require coordination with the approved Street Tree Plan of Management and any pruning requirements.

- 13 **Prior to the issue of any Construction Certificate**, the approved landscape plans shall be modified in accordance with the following requirements:
- Engineered tree pits using structural cells (e.g. Stratavault or the like) are to be installed under the car park surface to provide sufficient space for tree root growth of the nominated species.
  - The pit system shall incorporate the principles of WSUD (Water Sensitive Urban Design) and provide for sufficient root volume for the nominated species to grow and thrive (dimensions are to be in accordance with the requirements for the nominated species selection and manufacturer's recommendations).
  - Pervious paving or similar trafficable porous material shall be used over the tree pits where vehicle movements are required unless it can be demonstrated that pervious paving can be successfully installed and have longevity on the site (the remaining car park surface can be installed as concrete).
- 14 The approved development must be undertaken in accordance with the requirements of the Endeavor Energy compliance letter and conditions (ref. CNR - 69871).
- 15 **Prior to the issue of a Construction Certificate**, the Principal Certifier is to ensure the following sustainability measures are incorporated into the construction plans:
- Minimum of 4 star WELS rated water fixtures.
  - Minimum of 4 star energy rating for lighting, heating and cooling systems.
  - Energy metering system for electrical boards.
  - Irrigation system from water tank for landscaped areas.
- 16 Letter boxes are to be positioned at the entry doorway and integrated into the building's design.
- 17 All waste collection from the medical centre and cafe must be undertaken outside of operating hours.
- 18 **Prior to the issue of a Construction Certificate**, the approved architectural plans are to be amended to indicate car spaces 8, 9, 12 and 13 with a reduced width of 2.4m in accordance with AS 2890.1 (Section 2.4.1) to accommodate vehicle swept paths as per the advice prepared by Headway Traffic & Transport, dated 25/3/24.
- 19 **Prior to the issue of an Occupation Certificate**, the Principal Certifier must ensure that car spaces 4, 5, 8, 9, 12 and 13 are sign posted or marked as 'Staff Only'.
- 20 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority is to ensure that all mechanical plant to be located on the rooftop is wholly contained within the services enclosure shown on the approved plans and that it does not protrude beyond the height of the screening.
- 21 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 - Outdoor Lighting Obtrusive Effects.

22 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority is to ensure that the approved Operational Management Plan is updated to address the following matters:

- Waste management and collection - all waste collection is to be undertaken outside of operating hours and all waste bins are to be stored within the waste room at all times.
- Car parking - car spaces 4, 5, 8, 9, 12 and 13 are to be dedicated to staff only.
- Hours of operation - operational hours are 8am to 6pm, 7 days per week.

## Demolition

23 All demolition works are to be conducted in accordance with AS 2601-2001 - The Demolition of Structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the *SafeWork NSW Code of Practice Demolition Work August 2019*, is required.

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

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

- Work Health and Safety Act 2011,
- Work Health and Safety Regulation 2017,
- SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019,
- SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019, and
- Australian Standard AS 2601-2001 - The Demolition of Structures.

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

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

## Environmental Matters

25 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

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

- 27 **Prior to the issue of any Construction Certificate**, a Validation Report prepared by an appropriately qualified person is to be submitted for approval to the Principal Certifying Authority (PCA) and Penrith City Council if Council is not the PCA.

The Validation Report is to be prepared in accordance with the relevant NSW Environment Protection Authority Guidelines and is to confirm that the site is suitable for the proposed commercial land use, and that no long-term contamination management measures are required. The Validation Report is to document the remediation and validation of TP3, as identified in the Preliminary Site Investigation prepared by Neo Consulting, dated 24/7/24 (ref. N09489).

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

- 28 No fill material shall be imported to the site unless expressly approved as part of this consent, and not until such time as a certificate demonstrating that the material is suitable has been submitted to, considered and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification 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.

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

- 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 are to be fully enclosed when the site is unattended.



- 30 Waste materials associated with the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used / recycled. Such works are to be undertaken in accordance with the approved waste management plan, where applicable.

Where the disposal location or waste materials have not been identified in an approved waste management plan, details shall be provided to the Certifier prior to those works commencing.

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

- 31 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the property. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 32 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

- 33 **Prior to the commencement of any works**, a waste management plan is to be submitted to Council for approval. The waste management plan is to address all waste materials that will be generated during the demolition and construction phases of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

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

- 34 Amplified music from the development is not to be audible at the boundaries of the property. No amplified music is to be used externally, including in the car park.

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

- 35 **Twelve (12) months after the issue of an Occupation Certificate**, an Acoustic Compliance Report is to be submitted to and approved by Penrith City Council. The report is to be prepared by a suitably qualified acoustic consultant and is to address all noise generating activities on the site and the level of compliance with the noise criteria set in the Acoustics Report prepared by Northrop, dated 11/4/24, ref. SY232817-00-AU-RP01-4, rev. 4. The Compliance Report is to consider the requirements of the NSW Environment Protection Authority's Noise Policy for Industry, other relevant guideline documents and the conditions of this development consent.

Should the Compliance Report identify any non-compliance issues, the report is to provide suitable recommendations for the 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.

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 36 **Prior to the issue of a Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria in the Acoustics Report prepared by Northrop, dated 11/4/24, ref. SY232817-00-AU-RP01-4, rev. 4.

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 37 **Prior to the issue of an Occupation Certificate**, a Compliance Certificate prepared by a suitably qualified acoustic consultant is to be submitted to and approved by Penrith City Council. The Compliance Certificate is to demonstrate that all plant and equipment has been installed to comply with the established noise criteria.

For the purpose of this condition, a suitably qualified acoustic consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 38 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substances that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.

- 39 Wastewater from the washing of waste bins and vehicles is not to enter the stormwater system.

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

- 41 Contaminated materials are not to be retained on site. All contaminated materials are to be disposed of to an EPA licensed facility.

- 42 **Prior to works being undertaken on the site along the northern property boundary**, contractors and staff are to be provided with a copy of the Penrith City Council Asbestos Management Plan related to the Council owned land (public car park) adjoining the site to the north (Asset: Orth Street and Rodgers Street Reserve (Car Park), Kingswood (L3270), dated 24/8/21).

## **BCA Issues**

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

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

## Health Matters and OSSM installations

- 44 The construction, fit-out and finishes of the food premises must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 - Design, Construction and Fit-Out of Food Premises.
- 45 **Prior to the issue of an Occupation Certificate and operation of the food business**, the exhaust system shall be certified by an appropriately qualified person to comply with the National Construction Code and Australian Standard AS 1668, Parts 1 and 2. A copy of the certification and supporting documentation must be provided to Council's Environmental Health Team if Council is not the Principal Certifying Authority.
- 46 The appropriate licences must be obtained by a person responsible for the ionised radiation apparatus as well as the users of an ionised radiation apparatus that operate, have in possession for use, handle or manipulate an ionised radiation apparatus. Guidance may be obtained from the "Compliance requirements for ionising radiation apparatus used in diagnostic imaging (2020)". Any X-ray device must incorporate all necessary safety features to prevent exposure to radiation in excess of that permitted by the Radiation Control Act 1990 and regulations and any other relevant legislation, code or standard.
- 47 Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical or contaminated waste or related waste prior to final disposal of the material at a facility approved by the NSW Department of Environment and Heritage. A licensed clinical waste contractor must be engaged to collect and dispose of all clinical waste generated on the site and produced to Council on request. Receipts of service must be kept on site specifying the volume collected and the dates of service.
- 48 **Prior to the issue of the relevant Construction Certificate**, the Principal Certifying Authority is to be provided with detailed plans and information demonstrating that the construction, fit-out and finishes of the cafe and food storage areas complies with Standard 3.2.3 of the Australian and New Zealand Food Standards Code and AS 4674-2004 - Design, Construction and Fit-Out of Food Premises.

## Utility Services

- 49 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**.

- 50 **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.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 51 **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, pipes and conduits to accommodate the future connection of optic fibre technology telecommunications.

- 52 **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**

- 53 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 are to be erected:

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

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

**54 Prior to the commencement of construction works:**

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

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

(b) All excavations and back filling 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.

55 All works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

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

In the event that the work relates to activities inside the building and does not involve external walls or the roof, and does not involve the interim use of equipment that emits offensive noise, then the works 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

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

57 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 the 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 Schedule.

An application form together with an information sheet and conditions are available on Council's website.

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

- 58 Lodgement of relevant Section 138 Roads Act applications, including payment of application and Council fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the roads authority for any works required in a public road).

You are required to lodge the applicable Section 138 Roads Act application for the below works that apply to your specific development prior to that work activity commencing. Please liaise with your builder to determine what applications are required for your development.

These works may include, but are not limited to, the following:

- a) Construction of driveways (including kerb reinstatement of redundant driveway crossings and reconstruction of any affected footpaths and/or cycleways)
- b) Temporary road reserve occupancies
- c) Road reserve openings for the installation of:
  - i. Utilities (water, sewer, power, telecommunications)
  - ii. Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
  - iii. Reconstruction of concrete footpath across the frontage
- d) Establishment of a construction work zone
- e) Establishment of road reserve hoardings and temporary structures/fencing, etc
- f) Operation of a tower crane over the road reserve
- g) Temporary ground anchors that encroach below the road reserve (for basement construction)

All works shall be carried out in accordance with the Roads Act approval and the conditions outlined in the Roads Act application, the development consent, including the stamped approved plans, and Penrith City Council's Driveway and Road Reserve Restoration Works Specification, guidelines and engineering best practice.

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

Note:

- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval(s) must be completed prior to the issue of any Occupation Certificate.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

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

- Road stormwater drainage extension in Somerset Street;
- Verge upgrade works for the entire property frontage in accordance with Council's Kingswood Public Domain Manual;
- Modification to on-street parking signage and line marking in Somerset Street (subject to Local Traffic Committee approval); and
- Street tree planting.

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

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

Note:

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

60 The stormwater management system shall be consistent with the plans lodged for development approval, prepared by AT&L, reference number 23-1111, drawing numbers DAC000 to DAC131, revision C, dated 17/4/24.

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

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

61 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring and pedestrian and parking areas associated with the subject development are in accordance with Penrith Development Control Plan 2014, AS 2890.1, AS 2890.2 and AS 2890.6.

62 **Prior to the commencement of any works on-site (including demolition works)**, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.



- 63 **Prior to the issue of a Roads Act approval**, a Performance Bond is to be lodged with Penrith City Council for stormwater drainage works, verge upgrade works and signage and line marking in Somerset Street and Orth Street.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.

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

- 64 **Prior to the commencement of any works** associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 65 **Prior to the commencement of any works** associated with the development, a Traffic Guidance Scheme, including details for pedestrian management, shall be prepared in accordance with AS 1742.3 - Traffic Control Devices for Works on Roads and the Transport for NSW (TfNSW) publication Traffic Control at Worksites Technical Manual, and certified by an appropriately accredited TfNSW traffic controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- A copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate.

- 66 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 67 **Prior to the issue of any Occupation Certificate**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design Technical Guidelines.

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

68 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that the stormwater management system (including water sensitive urban design):

- 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 shall be provided as part of the works-as-executed drawings.

69 **Prior to the issue of any Occupation Certificate**, a restriction on the use of land and positive covenant relating to the stormwater management system (including water sensitive urban design) shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

70 **Prior to the issue of any Occupation Certificate**, a Maintenance Bond is to be lodged with Penrith City Council for stormwater drainage works and verge upgrade works in Somerset Street and Orth Street.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges Schedule.

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

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

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

72 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that all vehicles accessing the site can enter and exit from/to the public road access in a forward direction. Any turning movements must be in accordance with AS 2890 for the relevant vehicle.

73 **Prior to the issue of any Construction Certificate**, an Operational Traffic Management Plan is to be prepared. The plan shall include all details of any traffic control measures and the management of heavy vehicles servicing the development and manoeuvring on the site. The plan shall include, but not be limited to, the provision of:

- Traffic controllers to provide oversight and manage heavy vehicles during their manoeuvring on the site.
- Management of pedestrians to ensure they are kept clear of any heavy vehicles servicing the site, particularly during reversing manoeuvres.
- Details on how drivers will be made aware that they must comply with the operational traffic management plan for the development.

**74 Prior to the installation of any regulatory/advisory signage and line marking within the public road reserve or the issue of any Occupation Certificate**, whichever occurs first, plans and details shall be lodged with Penrith City Council and endorsed by the Local Traffic Committee for the following works:

- Changes to parking signs and 'No Stopping' signs.
- Changes to parking bay line marking. Dimensions of parking bay lines shall be in accordance with AS 2890.1. The width of new parking bay lines shall be consistent with existing bays, with the exception of the width of the southern-most parking bay on Somerset Street which could be reduced subject to swept path assessment.

Approved signage and line marking shall be installed at no cost to Council.

Note:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow at least eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges Schedule.

**75 Prior to the issue of any Occupation Certificate**, entry and exit signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the southern vehicular access is to be used for ingress purposes only and appropriately signposted "Entry Only". The northern vehicular access is to be used for egress purposes only and appropriately signposted "No Entry".

**76 Prior to the issue of any Occupation Certificate**, directional signage and line marking shall be installed indicating directional movements and the location of customer and/or staff parking to the satisfaction of the Principal Certifier.

**77** All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products and waste materials such that these areas remain unobstructed and allow for the safe movement of vehicles.

**78** Sub-leasing of car parking spaces is not permitted by this consent. No parking is permitted outside of the marked parking spaces shown on the approved plans.

**79** Vehicles servicing the site shall be limited in size to a 6.4m small rigid vehicle (SRV) as per AS 2890.2.

**80** The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

## **Landscaping**

- 81 All landscape works are to be constructed in accordance with the stamped approved plans and ensure compliance with Chapter C6 - Landscape Design and Section 2.9 of Appendix F4 - Technical Information of Penrith Development Control Plan 2014.

Landscaping shall be 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.

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.

- 82 **Prior to the issue of an Occupation Certificate**, a Landscape Implementation Report is to be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works as per the approved plans. This report shall be prepared by a suitably qualified and experienced landscape professional.

- 83 All plant material associated with the construction of approved landscaping is to be planted in accordance with the planting specifications in Section 2.9 of Appendix F4 - Technical Information of Penrith Development Control Plan 2014.

- 84 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.

- 85 All trees that are required to be retained as part of the development are to be protected in accordance with Penrith Development Control Plan 2014, Appendix F4 - Technical Information under the supervision by a suitably qualified consulting arborist.

## Development Contributions

- 86 This condition is imposed in accordance with Penrith City Council's Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the current applicable rate, **\$66,220 is to be paid to Council prior to the issue of a Construction Certificate** (the rate is subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 contributions plan.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 Development Contributions Plan for Non-Residential Development is available on Council's website.

87 A special infrastructure contribution must be made in accordance with the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* (as in force when this development consent takes effect).

The amount payable is subject to the following requirements of the above Order:

- The amount of the housing and productivity contribution as at the date development consent is granted, rounded up to the nearest whole cent,
- The amount of any strategic biodiversity component or transport project component of the contribution, rounded up to the nearest whole cent,
- The time by which the housing and productivity contribution must be made,
- The manner in which the amount of the housing and productivity contribution, as specified in the consent, is to be adjusted at the time of payment,
- The payment must be made using the NSW Planning Portal,
- Except in the case of a Complying Development Certificate, if an agreement is entered into as referred to in Clause 19, the housing and productivity contribution may be made wholly or partly as a non-monetary contribution (apart from any transport project component),
- If the development consent is granted to a concept development application, a condition specifying that a housing and productivity contribution:
  - (i) May be payable for development on the site the subject of a subsequent development application, and
  - (ii) Is to be determined in accordance with the applicable Ministerial planning order under Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979, as in force at the time the consent to the subsequent development application is granted.

In accordance with the above requirements, the contribution payable is calculated to be **\$18,030**. This calculation is also subject to adjustments outlined in Part 4, Clause 22(4) of the above Order. If the adjustment of a contribution amount or amount of an instalment results in a lesser amount, the contribution amount or amount of the instalment set out in the consent must be paid instead.

The monetary contribution must be paid via the NSW Planning Portal in accordance with Part 3 of the Ministerial Order **prior to the Issue of the first Construction Certificate for the approved development**, or prior to commencement of works if no Construction Certificate is required.

The above requirements apply unless subject to any exclusion of the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development by a planning agreement and any exemption or reduction otherwise provided by the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023*.

## Certification

- 88 **Prior to the commencement of any earthworks or construction 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 Certifier shall submit to Council an “Appointment of Principal Certifying Authority” in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a “Notice of Commencement” to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

- 89 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

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

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C8 - Public Domain

A condition of consent is recommended to ensure public domain areas surrounding the site are constructed as per the requirements of Council's Kingswood Public Domain Manual.

#### C10 - Transport, Access and Parking

A total of 18 on-site car parking spaces are proposed, including one accessible space, and a stacked parking arrangement for two staff car spaces.

The proposed parking provision is based on the following DCP rates for medical centres, requiring a total of 15 car spaces for this component of the development:

- 3 spaces per health care professional - 4 full time equivalent health care professional staff = 12 car spaces; and
- 1 space per support staff member - 3 full time equivalent support staff members = 3 car spaces.

In relation to the cafe component of the development, a DCP non-compliance is proposed. The DCP parking rate for restaurants (which typically includes cafes) is 1 space per 6sq.m of seating area, plus 1 space per employee. The proposal includes 30sq.m of seating area and two employees, resulting in a requirement of 7 car parking spaces. This equates to an overall requirement of 22 car spaces, which is 4 car spaces less than the 18 car spaces proposed.

Given the modest size of the proposed cafe, proximity to public transport options and use of the remainder of the building as a medical centre, it is expected that visitors to the medical centre and staff members, as well as pedestrians from the surrounding Health and Education Precinct, will be the primary users of the cafe. As such, the proposed DCP non-compliance in relation to the cafe component of the development is acceptable in this instance.

The proposed dual driveway access points will impact the on-street parking arrangement along Somerset Street, although the applicant has demonstrated that there will be minimal on-street parking loss (one space) through detailed design. Council's Traffic Engineer has raised no objection to the dual driveway entry/egress arrangement as proposed, however any changes to the on-street parking arrangement will need to be approved by Council's Local Traffic Committee. Therefore, a condition of consent is recommended requiring further consultation with Council's Traffic Engineer who will assist with the post determination approval pathway via the Local Traffic Committee. Should approval not be granted by the Local Traffic Committee, the applicant will be required to modify the proposed access and parking arrangement.

### E12 Penrith Health and Education Precinct

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

Within the Health and Education Precinct, the site is identified as being within a Medical Mixed Use area. The main objective of this precinct is to further develop the Hospital Precinct into a specialised medical area.

Generally, the proposal development complies with the Health and Education Precinct DCP

controls and meets the overarching objectives. However, the proposed development does not comply with the DCP provisions outlined below.

| DCP Provision                                                                                            | Discussion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>12.3.1, C-1</u><br/> <i>Street building alignment - 4m setback to Somerset Street frontage</i></p> | <p>The development is proposed to be built to the street alignment - i.e. a 0m setback.</p> <p>The site's limited width and the inability to amalgamate with an adjoining site necessitates a reduced setback to Somerset Street to achieve the desired development outcome for the precinct.</p> <p>The proposed setback is considered appropriate relative to the building's intended function as a medical centre and cafe and provides for an active edge to attract pedestrian traffic along the street frontage.</p> <p>The 4m setback control along Somerset Street has previously been varied as part of several development approvals, including:</p> <ul style="list-style-type: none"> <li>• DA16/0597 - 28-32 Somerset Street - 1m setback at ground level;</li> <li>• DA17/1107 - 38 Somerset Street - built to street alignment; and</li> <li>• DA20/0810 - 34-36 Somerset Street - built to street alignment.</li> </ul> <p>The proposal is therefore deemed satisfactory in this regard and aligns with the objectives of the control.</p> |
| <p><u>12.3.4, C-2</u><br/> <i>Maximum site coverage - 75%</i></p>                                        | <p>The proposed site coverage equates to 93.8% of the site, which exceeds the 75% maximum site coverage control.</p> <p>Notwithstanding, landscaping is proposed to the south-western corner of the site in front of the proposed cafe. Additional planting is proposed along the Somerset Street edge which will provide a buffer to the at grade car parking area. Canopy planting is proposed within the car park area which will provide shade and a landscaped buffer to the built form. Two rain gardens (10.7sq.m in size) are proposed along the Somerset Street frontage in accordance with the stormwater management provisions of the DCP.</p> <p>In view of the above considerations, and given the site constraints and nature of other development in the precinct, the proposed development is deemed acceptable in this regard.</p>                                                                                                                                                                                                        |



|                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><u>12.3.4, C-3</u><br/> <i>Deep soil provided in one continuous block</i></p>                                                                                                                                                                      | <p>Available deep soil zones are restricted by the proposed car park hardstand areas.</p> <p>A structural soil vault and irrigation system will be required within the car park area to ensure canopy trees proposed within the car park can grow and thrive to maturity.</p> <p>Given the site constraints and nature of other development in the precinct, the proposed development is deemed acceptable in this regard.</p>                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><u>12.3.4, C-6</u><br/> <i>No structures, work or excavation that may restrict vegetation growth in deep soil zones</i></p>                                                                                                                        | <p>Refer to the above comments.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><u>12.3.4.4, C1 and C2</u><br/> <i>A continuous street frontage awning is to be provided for all new development where an active street frontage is identified</i></p> <p><i>Awnings should generally be 2.4m deep (street trees required)</i></p> | <p>The Somerset Street frontage is identified in the LEP as an active street frontage. A 2m deep awning is proposed along the Somerset Street frontage.</p> <p>Even in its current non-compliant form, the proposed awning will impact an existing street tree along Somerset Street. The development application seeks removal of this street tree, however this is not supported as the street tree provides shade and has streetscape value.</p> <p>A recommended condition of consent will require a reduction in the awning depth along the Somerset Street edge. Although a reduction in the awning depth will reduce the ability of the awning to provide shelter to pedestrians, this outcome will enable retention of the street tree and the awning will continue to provide value as an architectural feature of the building.</p> |
| <p><u>12.4.2.5, C-1</u><br/> <i>A maximum of one vehicle access point is permitted for each development</i></p>                                                                                                                                       | <p>Two vehicle crossing points (one for entry and one for exit) are proposed along Somerset Street. This arrangement allows for minimal impacts on the on-street parking arrangement along Somerset Street.</p> <p>Council's Traffic Engineer has raised no objection to the dual driveway entry/egress arrangement as proposed, however any changes to the on-street parking arrangement will need to be approved by Council's Local Traffic Committee.</p>                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><u>12.4.3, C-6</u><br/> <i>Car parking structures located above ground and viewed from the public domain are to be architecturally treated or sleeved with development</i></p>                                                                     | <p>An at grade car parking area is proposed to accommodate 18 car spaces. The car parking area will be screened by solid boundary fencing along the northern boundary and palisade fencing and landscaping along the western boundary.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |