STATEMENT OF ENVIRONMENTAL EFFECTS

TO ACCOMPANY A DEVELOPMENT APPLICATION FOR DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A 7 STOREY MIXED-USE BUILDING WITH BASEMENT PARKING AT 26 SOMERSET STREET AND 38-40 ORTH STREET, KINGSWOOD

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1. INTRODUCTION

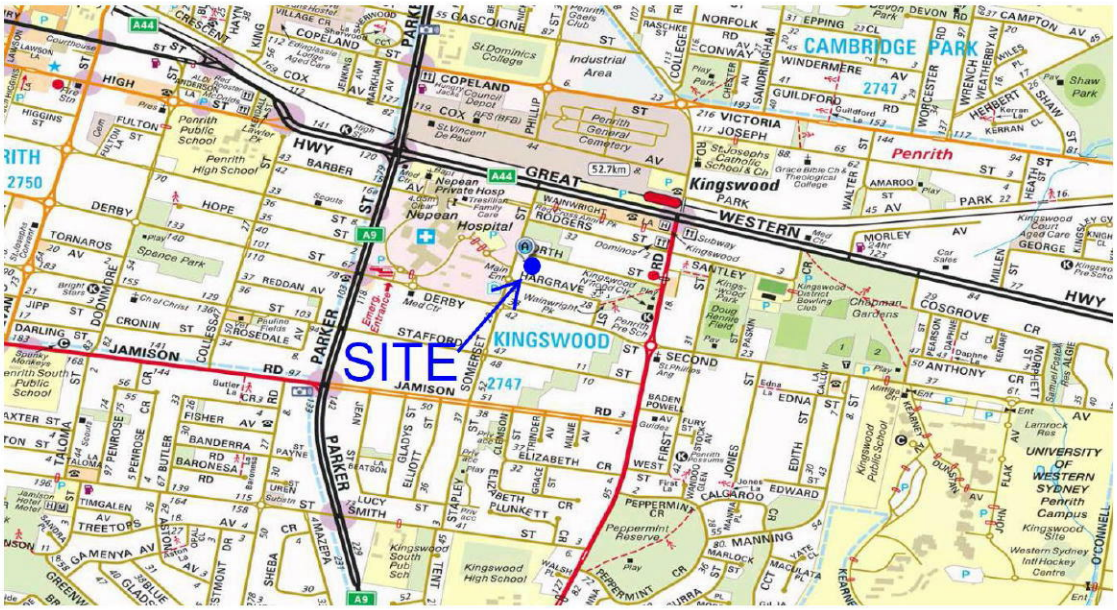
This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) for demolition of existing buildings and construction of a 7 storey mixed use building, comprising basement car parking, a 2 level commercial podium and 5 levels of apartments above, at 26 Somerset Street and 38-40 Orth Street, Kingswood.

This report examines the characteristics of the subject properties, the nature of the surrounding locality, the zoning of the properties and details of the proposed development. The report then provides an assessment of the proposal in terms of Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended). Conclusions are drawn and relevant illustrative material and supporting specialist reports are attached. A full set of architectural drawings, including a site analysis and shadow diagrams is provided separately with the Development Application.

2. THE SITE AND LOCALITY

The subject land is located on the southern side of Orth Street, extending west to Somerset Street, situated approximately 350 metres southwest of Kingswood Railway Station, opposite Nepean Hospital, which is located on the western side of Somerset Street. The site is described as Lot 60 ,61 and 62 in DP 36728, No. 28 Somerset Street and No's. 38-40 Orth Street, Kingswood (see **Figure 1 – Location**, below).

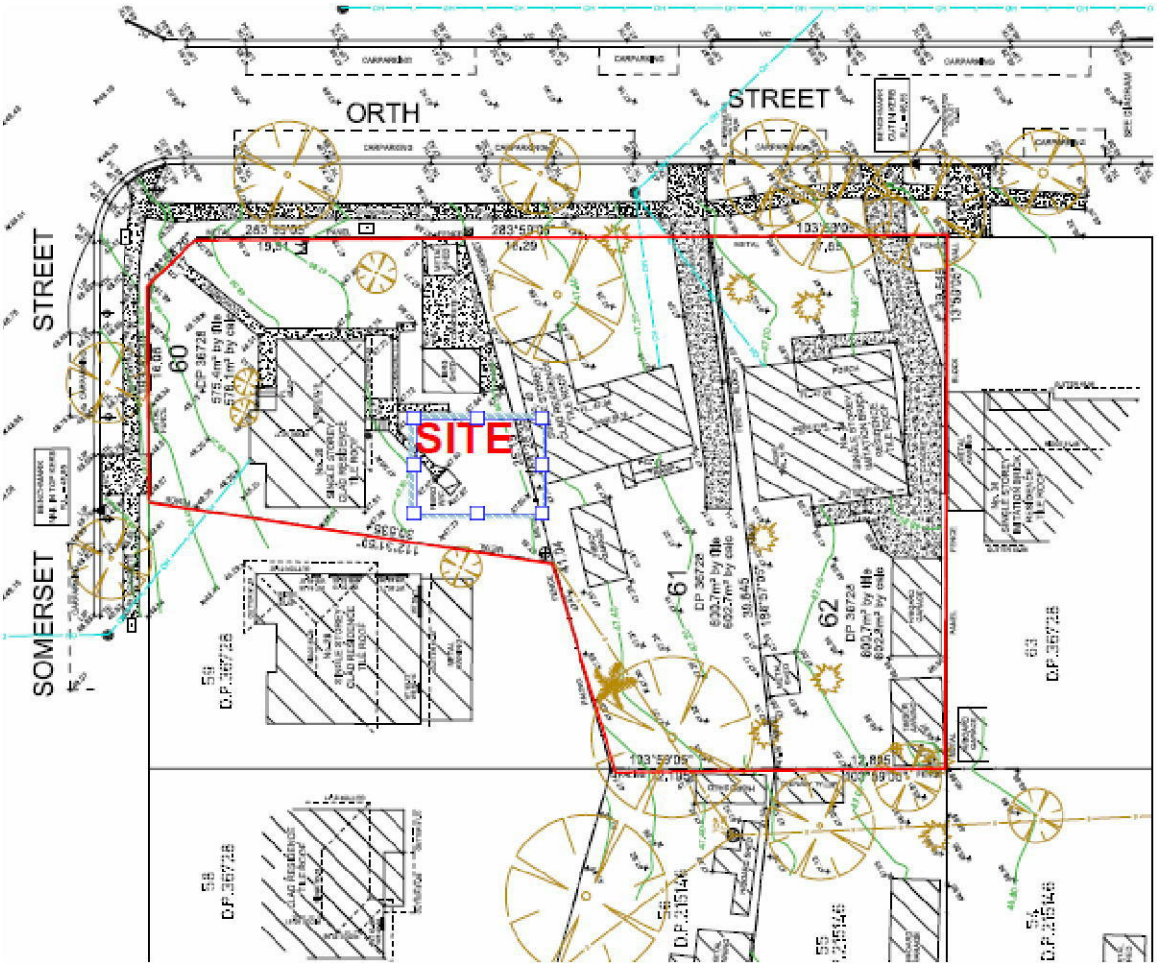
Figure 1 - Location



The site is broadly L shaped, with a total area of 1,781.6m2, with a frontage of 55m to Orth Street (excluding splay) and 16m to Somerset Street (excluding splay). Site depth ranges from 23m, widening to 39.545m at the eastern side boundary. The rear southern boundary is split into 2 sections. On the western side it is 30m long and on the eastern side, 25m long.

A plan of the site is shown below in **Figure 2**.

Figure 2 - Site



The subject land comprises 3 separate residential lots and is relatively flat, with a gentle fall to the northeast, towards Orth Street. The development site contains 3 single storey detached dwellings, with single garages and sheds located in the rear yards of each dwelling. None of the dwellings has any architectural or heritage value.

Lot 61 contains 2 medium sized trees, one in the northwest corner and one adjoining the rear southern boundary. There are no trees on Lot 60 or 62. The balance of vegetation on the land comprises lawn and shrubs. Several small to medium sized street trees are located along the frontage of the site. There are no watercourses on or near the site.

The locality east of Somerset Street is primarily residential in character comprising low density, predominantly single storey detached single dwelling housing. Some existing dwellings along Somerset Street, north of Orth Street have been converted to offices for medical and other professional practices. To the west of Somerset Street, is the large Nepean Hospital. An aerial view of the site is shown below in **Figure 3** on Page 3.

Figure 3 – Aerial View of the Site and Locality

A photo of the Orth Street site frontage, comprising the central and eastern portions of the development site, is shown in **Photos 1**, below

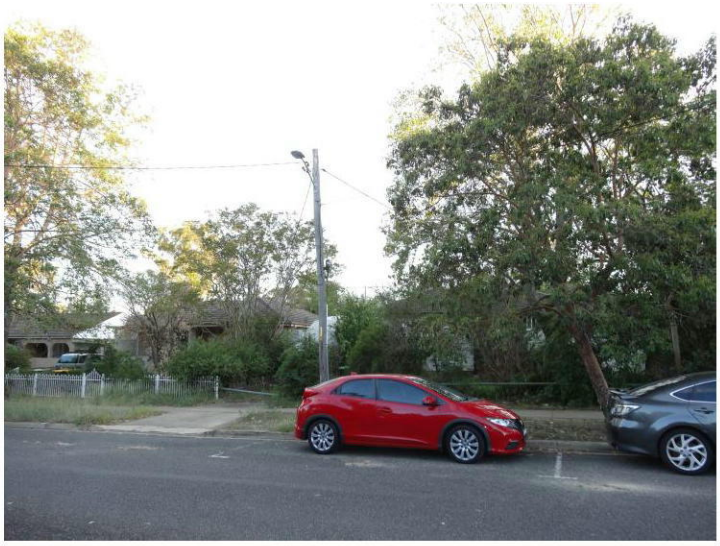


Photo 1

View looking south from Orth Street of the Orth Street frontage of the subject land. No. 38 Orth Street is shown at left in the photo and at right, No. 40 Orth Street.

Photo 2, below shows the existing detached dwelling on the western portion of the site, at 26 Somerset Street (southeast corner of Somerset Street). Further to the west, south west and north west, on the western side of Somerset Street is Nepean Hospital.

Photo 2

View lookng northeast from Somerset Street of the existing dwelling at No. 26 Somerset Street, which comprises the western portion of the site and is located on the southeast corner of Orth Street and Somerset Street.

To the east of the site, on the southern side of Orth Street are single detached one storey dwellings. **Photo 3**, below shows the adjoining property, 36 Orth Street, located to the east of the site.

Photo 3

View looking southwest from Orth Street of the existing dwelling located at 36 Orth Street, which adjoins the site to the east.

To the south and southeast of the site are single detached one storey dwellings, fronting Hargraves Street. To the south and southwest of the site are 2 single storey detached dwellings and a vacant allotment fronting Somerset Street, which have been approved by Council for redevelopment comprising a 6 storey mixed use building.

Photo 2, below shows a view of existing development immediately to the south and southwest of the development site, looking northeast towards the rear southwest corner of the site.

Photo 4

View looking northeast from Hargraves Street, towards the development site. The dwelling at right is No. 1 Hargraves Street. The dwelling at left is No. 30 Somerset Street, with vacant land in the foreground, at the northeast corner of Somerset Street and Hargraves Street.

Photo 5, below shows the existing residential streetscape of Orth Street, opposite the site on the northern side of Orth Street. A neighbourhood park is located nearby, further to the east.

Photo 5

View looking northeast from Orth Street of the existing residential streetscape on the northern side of Orth Street, opposite the development site.

Photo 6, on Page 6 shows existing single detached one storey dwellings located to the southwest of the site, on the eastern side of Somerset Street. The area east of Somerset Street is currently developed with 1950's and 1960's predominantly single storey detached dwellings.

Photo 6

View lookng northeast from Somerset Street of existing single detached one storey dwellings located in Somerset Streetto the south and southwest of the development site.

The locality has been zoned to allow higher density development comprising mixed-use developments, generally of a 6 storey scale, taking advantage of the locality's proximity of to Kingswood Railway Station to the north and the adjacent Nepean Hospital to the west (see **Photo 7**, below).

Photo 7

View lookng southwest from the corner of Orth Street and Somerset Street, showing the existing Nepean Hospital site. The Hospital's large 8 level multi-deck car park is shown at left in the photo.

3. PROPOSED DEVELOPMENT

The proponent seeks approval to demolish existing structures and remove existing trees on the site and construct a 7 storey mixed use building, with 3 basement parking levels. The podium of the building, comprising the ground and first floor level is to contain commercial tenancies (1,148m2), with a 5 storey apartment building above, containing 41 apartments. The 3 level basement car park will provide for 82 car spaces. The proposal also includes stormwater infrastructure, driveway and landscaping.

Apartment mix is focussed on 2 bedroom units, which are the primary market for apartments in this locality. Unit mix comprises 6 x 1 bedroom units (14.6%), 31 x 2 bedroom units (75.6%) and 4 x 3 bedroom units (9.8%). 4 units (10%) are adaptable units. A detailed description of the proposed development, level by level, is set out below.

Basement Level 3 (RL 37.78)

Basement Level 3 provides 34 resident car spaces (4 disabled), car wash bay, 9 bicycle lockers, 24 resident storage cupboards, access driveway, lift and 2 stairs.

Basement Level 2 (RL 40.78)

Basement Level 2 provides 11 resident car spaces (including 4 disabled car spaces), 19 commercial tenancy car spaces, 16 bicycle lockers, 20 resident storage cupboards, storeroom, access driveways, 2 lifts and 2 stairs.

Basement Level 1 (RL 43.78)

Basement Level 1 provides 8 residential visitor car spaces (including 1 disabled car space) 10 commercial visitor car spaces (including 1 disabled car space) a loading/unloading bay, 4 resident storage cupboards, residential and commercial waste storage areas (including a bulk waste room), access driveway, 2 lifts and 2 stairs. This basement level also includes a turntable to allow trucks to be turned on the site to exist the basement in a forward direction and designed with increased floor to ceiling height in the truck turning and loading area.

Ground Floor Level (RL 47.4)

The ground floor level has an assessable GFA of 534.415m2, which includes 2 generously sized commercial tenancies (166m2 and 210m2), with the smaller tenancy designed so that it could be used as a café or restaurant. Separate commercial and residential lobbies and lifts are provided. Other facilities on the ground floor include 2 stairs, access corridors, a vehicular access driveway to the basement on the eastern side of the site, toilets, landscaped open space to the street frontages and communal open space for resident use only at the rear.

Level 1 (RL 51.2)

Level 1 has a GFA of 937.776m2 and contains 5 office tenancies ranging in size from 125m2 up to 235m2, all with balconies/terraces. Level 1 also includes toilets (including a separate disabled toilet), lift, 2 stairs, lobby and access corridors.

Level 2 (RL 55) and Level 3 (RL 58.1))

Level 2 has a GFA of 790.598m2 & contains 9 apartments, comprising rising 8 x 2 bedroom units (75m2 to 77m2) and 1 x 1 bedroom unit (71m2), each of which is provided with a balcony (10m2 to 19m2). Level 2 also contains a lift, 2 stairs, lobby, access corridors and a waste chute. Level 3 has a GFA of 790.598m2 & contains the same number & layout of apartments, balconies & facilities as Level 2.

Level 4 (RL 61.2) and Level 5 (RL 64.3)

Level 4 has a GFA of 788.323m2 and contains 9 apartments, comprising 6 x 2 bedroom units (76m2 to 79m2) and 2 x 1 bedroom units (53m2 & 71m2) and 1 x 3 bedroom unit (97m2) each of which is provided with a balcony (8m2 to 12m2).

Level 4 also contains a lift, stairs, lobby, corridors and waste chute. Level 5 has a GFA of 788.323m2 and contains the same number and layout of apartments, balconies and facilities as Level 4.

Level 6 (RL 67.4)

Level 6 occupies a reduced floorplate (GFA of 516.605m2) and contains 5 apartments, comprising 3 x 2 bedroom units (84m2 to 87m2) and 2 x 3 bedroom units (97m2 and 104m2) with adjoining terraces (16m2 to 43m2) for each unit. Level 6 also contains a lift 2 stairs, lobby, access corridors and a waste chute. On the western side of the Level 6 units is a communal rooftop terrace for residents containing landscaped planters, seating and BBQ facilities. The roof of Level 6 has an RL of 70.5 with a 1m high lift overrun (6.5m2) extending to an RL of 71.5.

The proposal includes a generous soft landscaped area of 897m2, or 50.4% of site area and includes a deep soil area at ground level of 299.8m2. Deep spoil area is located along the Somerset Street frontage, at the rear of the western and central portions of the building and in 3 portions along the Orth Street frontage. Deep soil areas have a minimum dimension of between 3m and 4m.

A total communal open space area of 734.838m2, which includes 450.838m2 specifically reserved for resident use only (303m2 at ground level and 147.838m2 in a rooftop terrace) together with a shared landscaped communal area of 284m2 fronting Orth Street, extending around the corner into Somerset Street.

A total of 82 car spaces, including 6 disabled resident car spaces, are proposed within the basement levels. Parking includes 45 resident car spaces (4 of which are disabled car spaces), 19 commercial tenant car spaces and on the uppermost basement level, 8 residential visitor car spaces (1 for disabled use) and 10 commercial visitor car spaces (1 for disabled use). 4 motorcycle parking spaces are also provided in the Level 3 Basement.

The residential car spaces are allocated on the basis of 1 per 1 or 2 bedroom unit, and 2 per 3 bedroom unit. A separate car wash bath is provided on Basement Level 2 and a loading dock is provided on basement Level 1. All residential and commercial visitor/customer parking is provided as a separate parking level on Basement Level 1.

The driveway to the basement from Orth Street is proposed from the northeast corner of the site and will extend south along the eastern boundary of the site. A n existing street tree of modest size will require removal to facilitate provision of this driveway. A replacement street tree will be provided. A turntable is provided to allow trucks to enter and leave the site in a forward direction.

Details of external building materials, finishes and colours are included with the architectural plans. A flat metal roof is proposed, with walls predominantly comprising a rendered and painted finish. Highly reflective finishes and extensive areas of bright colours are avoided.

The roof of the building (excluding the lift overrun) extends to an RL of 70.5, equating to a maximum height of 22.7m above existing ground level. The 6.5m2 lift overrun extend to a maximum height of 23.7m (RL 71.5) above existing ground level.

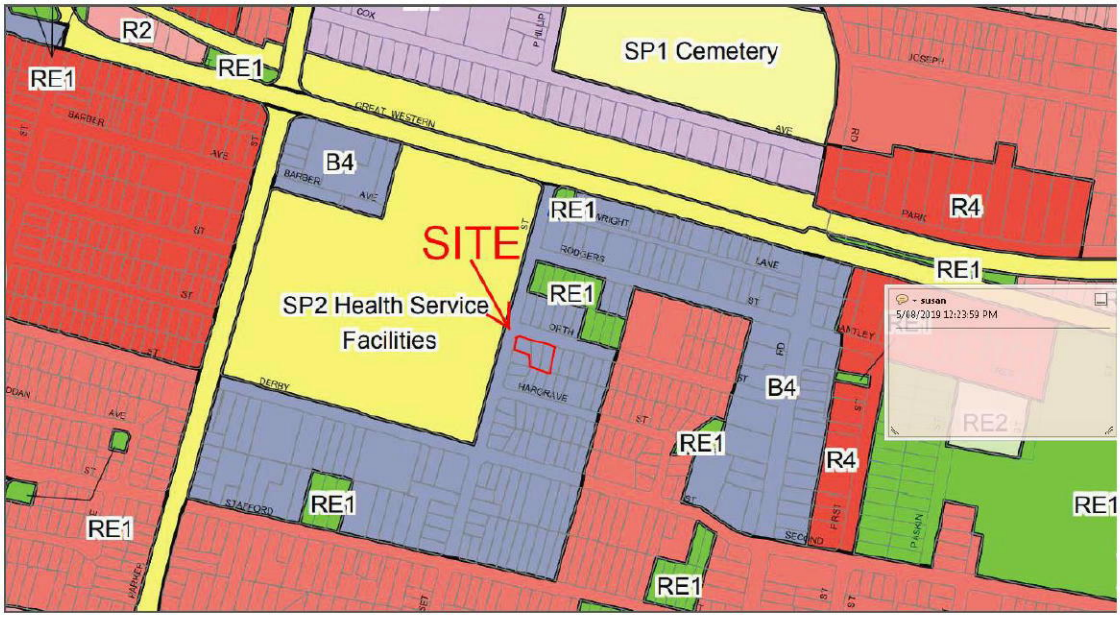
A total assessable gross floor area (GFA) of 5,146.638m2 is proposed, equating to a floor space ratio (FSR) of 2.889:1. Site coverage of 1,255.995m2 (70.5% of site area)) and landscaped area of 897m2 (50.4% of site area) are proposed. Landscaped area includes a deep soil area of 299.286m2 (16.24% of site). Resident only communal open space totals 450.838m2, equating to 25.3% of site area is also provided, plus 284m2 of shared ground level community open space fronting the site. The 3 existing residential allotments will be consolidated into 1 land title, prior to issue of the Occupation Certificate.

4. ZONING & PRIMARY PLANNING CONTROLS

4.1 Zoning

The applicable local environmental planning instrument is the Penrith Local Environmental Plan 2010 (PLEP 2010). The subject land is zoned B4 Mixed Use pursuant to PLEP 2010 (see **Figure 4 – Zoning** below).

Figure 4 - Zoning



The B4 Mixed Use Zone is designed to provide for a variety of compatible land uses, including residential flat buildings, shop top housing, shops, commercial premises and medical centres. Commercial premises include business premises, office premises and retail premises.

The proposed ground and first floor offices fall within the definition of commercial premises and are therefore permissible wih development consent. These tenancies could also be used as medical centres, subject to submission of a separate development application. The proposed apartments above the 2 storey commercial podium would fall within the definition of a residential flat building, or shop top housing and are therefore, also a permissible land use in the B4 Zone

The objectives of the B4 Mixed Use Zone are:

(a) *To provide a mixture of compatible land uses.*

(b) *To integrate business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

(c) *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

(d) *To create opportunities to improve public amenity.*

(e) *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

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The proposal is consistent with the B4 Zone objectives. The proposal will provide for a suitable range and mix of compatible land uses (commercial premises and apartments) and suitably integrates those land uses in an accessible location within 400m of Kingswood Railway Station and close to a major employment generator (Nepean Hospital). The subject land is surrounded by B4 zoned land and does not create land use conflict. The provision of a substantial area of landscaped publicly accessible plaza area fronting the site will improve public amenity.

4.2 Development Controls

The following planning instruments are applicable to an assessment of the proposed development.

State Environmental Planning Policy No 65 Design Quality of Residential Flat Buildings

SEPP 65 aims to improve the design quality of residential apartment development and includes the Apartment Design Guide (ADG) which provides design quality principles and guidelines for apartment development.

State Environmental Planning Policy No. 55 Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk of harm to human health or any other aspect of the environment.

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

SEPP BASIX 2004 is designed to encourage sustainable residential development designed to optimise the environmental performance of buildings, particularly in relation to energy efficiency.

State Environmental Planning Policy (Infrastructure) 2007

SEPP Infrastructure 2007 aims to facilitate the effective delivery of infrastructure, and also includes provisions relating to traffic generating development.

Regional Environmental Plan No. 20 - Hawkesbury-Nepean River

REP 20 aims to protect the environment of the Hawkesbury-Nepean River system by ensuring the impacts of future land uses in the catchment are considered in a regional context to ensure that water quality in the catchment is protected.

Penrith Local Environmental Plan 2010

Penrith LEP 2010 provides planning objectives and primary development controls for development on sites located within the boundaries of the LEP.

Penrith Development Control Plan 2014

Penrith DCP 2014 provides detailed objectives and controls for development in the Penrith LGA and supports the provisions of PLEP 2010

5. MATTERS FOR CONSIDERATION UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979.

Section 4.15 states that:

"In determining a development application, a consent authority is to take into account consideration of such of the following matters as are of relevance to the development subject of the development application".

5.1 The provisions of:

(i) any environmental planning instrument

5.1.1 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Contaminated land aims to promote the remediation of contaminated land for the purposes of reducing risk to human health and/or the environment. The subject land is not identified as having risk of contamination. The land has had a long history of residential use. Nevertheless, a Phase 1 land contamination assessment is attached at **Appendix N**.

There is no evidence that the site is subject to any contamination risk. Demolition waste will be managed in accordance with Australia Standards to ensure safe management and disposal of potentially contaminated demolition waste.

5.1.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

SEPP (Building Sustainability Index BASIX) 2004 is designed to encourage sustainable residential development designed to optimise the environmental performance of buildings, particularly in relation to energy efficiency. Residential buildings must be assessed under the BASIX scheme and achieve an acceptable standard of performance under this scheme. A BASIX certificate for the residential component of the proposal is attached at **Appendix I**.

5.1.3 State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

Clause 30 of SEPP 65 requires the consent authority to consider certain matters in its assessment of a DA to which the Policy applies. These matters include the design principles contained in Part 2 of SEPP 65 and the accompanying document "Apartment Design Guide." Schedule 1 of SEPP 65 identifies 9 design quality principles that must be achieved for all residential flat buildings. The principles are:

Principle 1: Context and neighbourhood character

Principle 2: Built form and scale

Principle 3: Density

Principle 4: Sustainability

Principle 5: Landscape

Principle 6: Amenity

Principle 7: Safety

Principle 8: Housing diversity and social interaction

Principle 9: Aesthetics

Clause 29 of SEPP 65 requires that a consent authority consider the provisions of the advice, if any of Council's design review panel, the design quality of the development evaluated in accordance with the design quality principles and the provisions of the Apartment Design Guide (ADG), where SEPP 65 applies to a development.

The proposed development achieves satisfactory compliance with the 9 identified design quality principles, as detailed in the SEPP 65 Design Verification Report enclosed separately with the SEE at **Appendix C**. *Environmental Planning and Assessment Regulation 2000* requires that a development application relating to a residential flat building be accompanied by a design verification report from a qualified designer. The designer of the building is a qualified and registered architect.

In regard to Clause 29(2)(c), the Apartment Design Guide (ADG) is a resource document designed to provide additional detail and guidance for applying the design quality principles outlined in SEPP 65.

An assessment of the proposal against the provisions of the ADG is enclosed at **Appendix C** as part of the Design Verification Report. The following provides a summary of the proposed development, assessed against the primary design guidelines and criteria applicable to the proposed development, in Parts, 2, 3 and 4 of the ADG.

2A Primary Controls

The proposed development has been designed and sited having regard to the ADG Part 2A Primary Controls and the development controls in PLEP 2010 and PDCP 2010.

The proponent seeks a minor 1.1m (5.1%) variation to the 21.6m maximum building height control for the roof and 2.1m (9.7%) for the lift overruns to facilitate inclusion of a 7th storey with a reduced floor plate. Notwithstanding the additional storey, proposed FSR of 2.889:1 is 17.5% less than the maximum allowable FSR of 3.5:1. The additional building height does not result in any inconsistency with the desired future character of the area, nor is there any material increased impact on neighbour amenity, including privacy, visual outlook, natural light and ventilation or solar access.

2B Building Envelopes

The building envelope has been developed having regard to ADG guidelines and the applicable development controls in PLEP 2010 and PDCP 2010. As noted above, a minor variation to the maximum building height control is requested. Overall building bulk is well within the FSR limits applying to the site and building design includes adequate articulation and a reduced floor plate for the top storey.

The proposal results in a limited and acceptable increase in overshadowing of residential properties, having regard to the planned future redevelopment of the area for 6 storey mixed use buildings. Adequate private open space in the form of terraces and balconies is contained within the building envelope. Balconies and architectural features assist in articulating the building. The proposal complies with Council's site coverage and landscaped area controls for the Penrith Health and Education Precinct

2C Building Height

The PLEP 2010 maximum building height control of 18m is designed to accommodate a 6 storey building with basement car parking. Clause 7.11 of the LEP allows a 20% building height bonus to allow buildings of up to 21.6m in height, where higher floor to ceiling height clearances of at least 3.5m on ground and first floor levels. This height bonus is designed to encourage 2 storeys of commercial floor space. 2 storeys of commercial floor space are proposed.

The proposal is for a 7 storey mixed use building with basement car parking. The 7th storey occupies a reduced floor plate area, some 35% less than the floor levels immediately below. The ground and first floor levels comprise commercial floor space and have floor to ceiling height clearances of at least 3.5m.

The roof of the building extends to a height of up to 23.7m, or 9.72% above the building height control, whilst the small lift overrun extends up to a height 24.28m, or 12.4% above the building height control.

Building height is addressed in detail in Section 5.1.5 of the SEE. Allowing a minor height variation enables a viable redevelopment of the site that facilitates 2 storeys of commercial floor space. The alternative of a numerically compliant 6 storey building height, with only 1 storey of commercial floor space is a poorer planning outcome, given the planning objective of encouraging more commercial/medical related floor space in the Hospital Precinct.

Floor Space Ratio

FSR readily complies with PLEP 2010, being 17.4% less than the maximum permitted FSR. The ADG recommends that the gross floor area (GFA) of the building should not exceed 70% of the building envelope. It is not possible to provide an FSR of 3.5:1 (equating to a GFA of 6,235.6m2) within a fully compliant building envelope as prescribed by the maximum building height of 21.6m and minimum required building setbacks, primarily due to the additional 4m front setback required to Orth Street for both the podium and the building above podium. Elsewhere in this locality, a zero front setback is permitted to the street frontages for the podium and 2m to 4m for the building, above podium. After allowing for the required additional street front setbacks, an FSR of 3:1 is achievable for the site. The proposal has an FSR of 2.889:1.

2E Building Depth

The ADG recommends a range of appropriate maximum apartment depths of 12m to 18m from glass line to glass line. Where greater depths are proposed, it must be demonstrated that layouts can achieve acceptable amenity. Apartment depths do not exceed a depth of 18m. Apartment depths are generally less than 10m.

2F Building Separation

The ADG recommends that for apartment buildings up to 4 storeys (12m), the following minimum building separation distances are recommended:

12m between habitable rooms/balconies
9m between habitable and non-habitable rooms
6m between non-habitable rooms

For those portions of the building above 4 storeys (12m), but less than 9 storeys or 24m, the following minimum building separation distances are recommended.

18m between habitable rooms/balconies
12m between habitable and non-habitable rooms
9m between non-habitable rooms

Building separation distances are designed to achieve appropriate amenity and privacy for building occupants and neighbours and a desirable urban form. Variations to building separation distances may be considered where alternative deign measures are included to maintain occupant and neighbour amenity, particularly with respect to privacy, daylight access and natural ventilation and provided an appropriate urban form is achieved.

A viable redevelopment of the site is not feasible if numerical compliance with building separation distances is strictly applied to the side boundaries. Most sites in the B4 Mixed Use Zone are permitted to build to the front boundary for the first 4 commercial storeys, with a 2m to 3m front setback above the 4th storey.

The subject land is one of a limited number of sites required to provide a minimum 4m front setback for the podium., which also increases the setback of the building above podium to between 6m and 8m. Potential floor space is reduced by more than 1,000m2, or approximately double the area of the proposed 7th storey (510m2). In addition, the site is L shaped, with limited site depth in the western portion, making it difficult to achieve efficient floor plates with numerically compliant building separation, particularly for the rear western half of the site.

While the ADG envisages a minimum 6m side setback to habitable rooms/balconies up to the 4th storey, Council's development controls allow zero and rear side setback up to 4 storeys in height for commercial floor levels. In essence, a zero setback provides for a street wall podium building form up to a height of 4 storeys. The proposal provides for a 2 storey podium, so ide boundary setbacks apply above the podium.

The site, being a corner site, has side boundary interface to the east and a rear boundary interface to the south. Proposed building separation distance for the residential 3rd and 4thstoreys of the eastern wing of the building, measured to the eastern side boundary and the rear boundary for that portion of the building are fully compliant (i.e. at least 6m).

A rear setback of 3m is proposed for the western wing of the building. The design of the western wing of the proposed development includes only 1 habitable room, (a bedroom with no south facing window), on each level of the southern elevation of the western wing of the building. No windows are orientated to the south. Both the approved development for 28-32 Somerset Street and the proposed development each provide deep soil zones at least 3m wide along the shared southern side, facilitating planting of shrubs and tall canopy trees, providing clearly defined building separation between the 2 buildings.

The western side setback of the eastern wing of the building varies between 3m and 6m, with an average side setback of at least 4.5m and windows and balconies are located in excess of 4m from the side boundary. Windows located less than 6m from the western side boundary have high sills, or in the case of balconies, privacy screens on the western side. Deep soil landscaping is provided along the shared western side boundary with No. Somerset Street and the approved building for 28 Somerset Street includes only small utility style windows facing east towards the development site.

The ADG allows reduced building setbacks where acceptable amenity outcomes can be achieved, such as suitable privacy protection measures, landscaping screens and avoiding the location of active use spaces, such as living rooms and balconies being located close to each other.

Council has applied side setback controls with some degree of flexibility, where suitable privacy protection measures are provided, and satisfactory urban design outcomes are achieved. Council has, for example, allowed a 3m minimum northern side setback for the recently approved DA for a 6 storey redevelopment of the adjoining land to the south at 28-32 Somerset Street.

Above the 4th storey a habitable room/balcony setback of 9m is recommended by the ADG. Council has applied this setback standard with some degree of flexibility, where overall tower height is modest. A case in point is the recently approved redevelopment of 28-32 Somerset Street, where a setback of between 3m and 6m has been allowed for the 5th and 6th storeys.

Strictly applying a 9m side and rear setback above the 4th storey for the western wing of the building would make it unviable to build more than 4 storeys for this portion of the building, due to the limited site depth in this location and the requirement to provide a setback of at least 4m to Orth Street.

The most appropriate urban design outcome is to maintain a consistent side and rear setback above podium, up to Level 5 (6th Storey). The resulting tower form is well articulated and achieves adequate building separation for buildings of 6 storey building scale. Such an outcome is also consistent with the approach Council has taken in its recent approval for redevelopment of the adjoining land at 28-32 Somerset Street.

As noted above, suitable privacy protection measures are included and there is ample access to natural light and ventilation around the tower element and to neighbouring existing and future development.

The 7th storey has a substantially reduced floorplate and includes increased setbacks to the neighbouring properties. the side and rear walls of this level more closely reflect the 9m habitable room separation distance recommended in the ADG.

The eastern wing of the 7th storey provides a complying 9m setback to the eastern side boundary and the southern rear boundary. While the eastern and southern terraces of the 7th storey have side and rear setbacks of 6m, a planter box is provided along the eastern and southern sides of these terraces to prevent overlooking of neighbouring residential properties.

The western elevation of the western wing of the building provides a 6m setback to the western wall of the 7th storey. The subject rooms are bedrooms only, with high sill windows and as noted above, in this location, the eastern elevation of the approved redevelopment on the adjoining site has only small utility windows facing east towards the development site.

The southern elevation wall of the western wing of the 7th storey provides a boundary setback of between 5m and 7m and contains only bathroom windows. The adjoining walkway to the rooftop communal terrace is provided with a planter box along the southern side to prevent overlooking of the property to the south. This planter can be widened to at least 1m, if required, where it is located

opposite the balconies in the northern elevation of the future building approved for 28-32 Somerset Street.

Having regard to site context, privacy measures. the development approved for 28-32 Somerset Street and the extensive deep soil area between the 2 buildings, proposed 7th storey setbacks to No. 28-32 are considered reasonable.
Overall, the proposed building setback/separation distances are considered appropriate in the circumstances, achieve the objectives of the building separation controls, particularly having regard to the modest tower height and result in a better urban design outcome and provide for acceptable compatibility with future development likely to take place on the adjoining properties.

2G Street Setbacks

The ADG recommends that street setback reflect the desired streetscape and building forms including matters such as future streetscape, existing front setbacks, significant trees and appropriate building articulation. These matters have been considered in the assessment of the proposal against Penrith DCP 2010 street setback requirements. The proposal complies with the DCP control which requires a front building setback of at least 4m to Orth and Somerset Streets.

2H Side and Rear Setbacks

The ADG recommends that side and rear setbacks relate to the height of the building, the building's context, access to light, air and outlook, privacy between neighbours, existing character and spacing, and provide areas to support landscaping.

Side and rear setbacks have been considered in the assessment of the proposal against the ADG and Penrith DCP 2010 side and rear setback requirements. Where side and rear setbacks are less than the minimum recommended in the ADG, privacy protection measures are included. Side and rear setbacks of at least 6m are provided to the more privacy sensitive interfaces, above the podium. Privacy protection measures are in place in those locations above podium where setbacks of less than 6m are provided. Zero side and rear setbacks are permitted in the DCP, for the commercial podium.

3A Site Analysis

A site analysis is provided and has been used to inform the design process.

3B Orientation

The proposed building is orientated to the street frontages, defines the street frontages and includes direct clearly defined separate pedestrian entries to the commercial and residential components of the development. The northerly aspect of the site facilitates solar access. Increased top storey setback to the southern rear boundary is provided to minimise shadow impact to future development sites located to the south of the subject land.

3C Public Domain Interface

At ground floor glazing to street frontages and the 2 building entries provide an active frontage to the public domain. Above ground floor level, balconies and north facing windows overlook the public domain providing passive surveillance. No long solid walls are proposed along the street frontage and concealed spaces avoided.

3D Communal and Public Open Space

Communal open space of some 459.2m2 for the exclusive use of residents is proposed. This equates to 25.94% of site area and complies with the minimum 25% recommended in the ADG. The residential communal space includes a roof top terrace for the exclusive use of residents. The large sunny landscaped open space plaza area fronting the building in the setback to Orth Street and Somerset Street has not been included in the calculation of communal open space but is also available for use by residents, as well as office tenants and the community.

3E Deep soil zones

The ADG recommends that on sites of between 650m2 and 1,500m2, at least 7% of site area should be allocated as deep soil area, with a minimum dimension of 3m. Where sites exceed 1,500m2, such is the case with the subject land, minimum dimension is increased to 6m to provide more opportunities for significant tree cover. The ADG also recommends that on larger sites deep soil area should be increased to at least 10% of site area. This accords with the requirements of the Penrith DCP for the Hospital precinct.

The proposal provides 299.286m2 of deep soil area, equating to a readily compliant 16.24% of site area. This area includes 210m2 (11.79% of site area) with a minimum dimension of 4m and 109.43m2 (6.14%% of site area) with a minimum dimension of 5.5m. Given the site is only marginally larger than 1,500m2 and the limited depth of the western portion of the site, the provision of deep soil area is considered more than adequate.

By comparison, Council has approved a deep soil area of 174m2, or just 10.27% of site area (1,694m2) for the redevelopment of 28-32 Somerset Street, which has a site area only 87.6m2 smaller than the development site. Most of the deep soil area approved for 28-32 Somerset Street has a dimension of less than 4m.

3F Visual privacy

The proposal achieves an adequate level of visual privacy, both within the development and to neighbouring properties and achieves the privacy objectives of the ADG. There are no privacy impacts to existing or future residential properties located to the north of the site, due to a generous separation distance of more than 24m. A building separation distance of at least 24m is provided to hospital buildings located to the west of the site.

The 2 storey commercial podium has solid masonry walls at ground floor level to side and rear boundaries and at first floor level includes privacy screen walls along the side and rear boundaries, where solid masonry walls are not built to the property boundaries. There are no neighbour privacy impacts arising from the podium levels of the building.

Above podium level, the residential floor levels either provide setbacks of at least 6m to windows and balconies or incorporate privacy protection measures such as privacy screens, raised window sills, translucent glazing and/or planter boxes. The 7th storey includes additional rear and side setbacks and provides planter boxes to the edges of private terraces and the roof-top common open space area.

The proposed development has been designed to maintain reasonable neighbour privacy in the context of a planned medium rise mixed-use precinct.

3G Pedestrian access and entries

Separate and clearly defined commercial and residential entries are provided directly off Orth Street and accessible travel paths provided to those entries. No secondary or private residential entries are proposed off Orth Street or Somerset Street. Electronic access control will be provided to the residential lobby entry.

3H Vehicular access

Vehicular access is proposed off Orth Street, in the northeast corner of the site, maximising separation distance to the intersection with Somerset Street. The proposal complies with the vehicular access guidelines of the ADG. 2 waste storage rooms (1 commercial and 1 residential), plus a garbage compactus room and a bulk waste room are located in the uppermost basement level and are not visible from the public domain. Higher floor to ceiling height clearance is provided for the driveway, loading bay and turntable so that waste collection and deliveries can occur within the basement.

3J Bicycle and car parking

The car parking needs of the development are catered for in the basement car parking levels, generally in accordance with Council requirements and conveniently located with access by both stairs and lift. No on-grade/ground level car parking is proposed. Sufficient space is provided for bicycle parking, including lockable bicycle lockers, within the basement.

4A Solar and Daylight Access

The ADG recommends that the living rooms and private spaces of at least 70% of apartments achieve a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter and a maximum of 15% of apartments receive no direct solar access between 9am and 3pm at mid-winter. A total of 33 apartments (80.5%) receive at least 2 hours mid-winter solar access. There are no single aspect south facing apartments

4B Natural Ventilation

The ADG recommends that at least 60% of apartments be naturally cross-ventilated. A total of 29 apartments (71%) are naturally cross ventilated. All apartments have depths of less than 18m and the area of unobstructed window openings exceeds 5% of the floor area served.

4C Ceiling Heights

Habitable rooms must have a minimum ceiling height of 2.7m for habitable rooms and 2.4m for non-habitable rooms. The proposal achieves these requirements for all apartments.

4D Apartment Size and Layout

The proposal focuses on 2 bedroom apartments to address market demand in this locality. A small number of 1 bedroom and 3 bedroom units are included. The ADG requires a minimum internal area of 50m2 for 1 bedroom units, 70m2 for 2 bedroom units (75m2 where there is a second bathroom) and 90m2 for 3 bedroom units. The proposed apartments have areas equal to or greater than the minimum floor areas required. Where 2bedroom apartments are provided with 2 bathrooms, a complying minimum apartment size of at least 75m2 is provided.

The ADG specifies that habitable room depths must not exceed 2.5 x the ceiling height (i.e. 6.75m). In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window. The proposal achieves these requirements.

The ADG requires that master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space) and that bedrooms have a minimum dimension of 3m (excluding wardrobe space). The proposal achieves minimum room area requirements for bedrooms.

The ADG requires that living rooms or combined living/dining rooms have a minimum width 4m for a 2 or 3 bedroom unit, and 3.6m for a 1 bedroom unit. The proposal achieves these requirements for living/dining rooms.

The ADG requires that the width of cross-through apartments is at least 4m internally to avoid deep narrow apartment layouts. All apartments have a width of more than 4m.

4E Private Open Space and Balconies

The ADG requires that 1 bedroom apartments have a primary balcony of at least 8m2, 10m2 for 2 bedroom units and at least 12m2 is required for 3 bedroom units. A minimum balcony depth of 2m applies for 1 and 2 bedroom units and 2.4m for 3 bedroom units. All apartments are provided with complying balcony areas and depths.

4F Common Circulation and Spaces

The ADG specifies a maximum of 8 apartments off a circulation core on a single level. 2 residential lift are proposed, servicing residential levels 2 to 5 where there are 9 units on each level. Level 6 requires only 1 lift as this level contains only 5 units. 2 separate access stairs are provided. Corridor length of not more than 20m is acceptable. The proposal complies with Section 4F of the ADG.

4G Storage

The ADG requires that 1 bedroom units to have a minimum of 6m3 storage, while 2 bedrooms units must have at least 8m3 of storage and 3 bedroom units at least 10m3. At least 50% of the minimum storage must be located within the apartment. The proposal achieves these requirements for minimum storage volumes and location and includes a basement storage cupboard for each unit (2 for each 3 bedroom unit), in addition to storage facilities within each unit.

4H Acoustic Privacy

The ADG does not set out design criteria for acoustic privacy. The ADG provides guidance as to how acoustic privacy can be achieved to meet the objectives of the ADC with respect to acoustic privacy. The acoustic privacy objectives are to minimise noise transfer through the siting of buildings and building layout and mitigate noise impacts through layout and acoustic treatments. The proposal achieves these objectives.

4J Noise and Pollution

The ADG does not set out design criteria for noise and pollution acoustic, but rather provides guidance as to how noise and pollution can be addressed to meet the objectives of the ADG with respect to noise and pollution. These objectives are to minimise the impacts of external noise and pollution and in noisy environments incorporate appropriate noise shielding or attenuation techniques. The proposal achieves these objectives. The site is not located in an area that is subject to high noise or pollution hazards and the basement loading dock/turntable facility is enclosed to limit noise emissions.

4K Apartment Mix

The ADG does not set out design criteria for apartment mix, but rather provides guidance as to how apartment mix can be addressed to meet the objectives of the ADG with respect to apartment mix. These objectives are to provide a range of apartment types and sizes to cater for different household types now and into the future and distribute apartment mix to suitable locations within the building.

The proposal comprises mainly 1 and 2 bedroom apartments. Market investigations indicate that in the Kingswood town centre area near the Nepean Hospital, the primary demand is for 1 and 2 bedroom apartments, accommodating mostly singles, couples without children and shared accommodation.

Many future occupants are expected to be nursing and support staff of Nepean Hospital. A smaller number of 3 bedroom units are included, to accommodate the limited number of families seeking apartment accommodation in the is location. The proposal achieves the objectives of the ADG with respect to apartment mix.

4L Ground Floor Apartments

The ADG does not set out design criteria for ground floor apartments, but rather provides guidance for optimising the potential of ground floor apartments for at-grade landscaped open space particularly suitable for occupants seeking larger areas of private open space and opportunities for gardening. There are no apartments proposed for the ground floor.

4M Facades

The ADG does not set out design criteria in relation to the design of facades, but rather provides guidance as to how the façade can be designed to meet the objectives of the ADG with respect to façade design. The facade design objectives include building facades that provide visual interest along the street, while respecting the character of the local area and express building functions in the design of the façade.

The facade objectives are achieved by providing suitable composition of building elements and detailing, incorporating an appropriate mix of materials and colours, providing a balance between vertical and horizontal elements, including building articulation and landscaping, expressing apartment layout externally and providing clearly defined separate residential and commercial entries. The proposal also includes weather protection and additional articulation and architectural interest to the façades.

4N Roof Design

The ADG does not set out design criteria in relation to roof design, but rather provides guidance as to how the roof can be designed to meet the objectives of the ADG with respect to roof design. These objectives include providing roof treatments that are integrated into the building design and positively respond to the street, include opportunities to use roof space for residential accommodation and open space are maximised and incorporate sustainability features into roof design.

The roof design objectives are achieved by providing a contemporary roof style that is compatible with the recently approved mixed use building to be located on adjoining land to the southwest of the site. It would not be appropriate to adopt a traditional pitched roof form in this location. The gently sloping metal roof design minimises building height and bulk and is more aligned with contemporary apartment building design.

4O Landscape design

The ADG does not set out design criteria in relation to landscape design, but rather provides guidance as to how landscaping can be designed to meet the objectives of the ADG with respect to landscape design. These objectives include providing landscape design that is viable and sustainable and contributes to the streetscape and amenity.

The proposal is for a mixed-use building where podiums with zero side and rear setbacks are permitted. Accordingly, opportunities for landscaping are effectively limited to the front setback. Notwithstanding the potential for zero podium setbacks to side and rear boundaries, a deep soil setback has been provided on the southern side of the western wing of the building podium and the western side of the eastern wing of the building podium, which in conjunction with deep soil area along the Orth Street frontage, provides for deep soil area readily in excess of the minimum required and with sufficient dimensions to accommodate medium to larger sized trees..

Landscaped area of 898m2 equates to 50.4% of site area. Planter boxes to terraces and the rooftop common open space area contribute to "greening" of the building. Adequate soil depth is provided in planters and plant species have been selected on the basis of suitability for planter boxes

Landscaped open space along the Orth Street frontage has a high level of solar access, as does the roof top communal terrace.

Existing trees, which will be removed, are not species of any material landscape or habitat value. New tree planting will be included within the deep soil area. This area provides space for at least a dozen medium to large sized trees, well in excess of the existing number of trees on the site.

4P Planting on Structures

The ADG does not set out design criteria in relation to planting on structures, but rather provides objectives and guidance for successful planting on structures, where a proposal includes planting over structures (e.g. roof or basement level).
As noted above, the proposed development includes some planter boxes, generally at least 500mm wide. These planter boxes are to be provided with suitable low-level plantings and have sufficient soil depth (at least 400mm) for such planting. Appropriate low maintenance, sun/shade tolerant, low water demand species have been selected.

4Q Universal Design

The ADG notes that universal design is a design philosophy that seeks to enable people to continue living in the same home by ensuring that apartments are able to change with the needs of the occupants. The ADG does not include any design criteria relating to universal design.

The proposal includes 4 adaptable apartments in accordance with Council requirements. Lift access is provided to all levels of the building, including the basement levels and a level pathway is provided from the building entry to the footpath in Orth Street. There is convenient access to site facilities and a path of gentle gradient to the front and rear common open space areas. The proposal achieves reasonable compliance with the objectives of universal design.

4R Adaptive Re-use

The proposal is not for the adaptive re-use of an existing building. Therefore, the provisions of Part 4R do not apply.

4S Mixed Use

The ADG recommends that mixed use development should be concentrated around public transport and centres. The proposal complies as it is located within 400m of Kingswood railway station and close to high frequency bus services and a range of local retailing and other services in the Kingswood town centre.

The ADG further recommends that mixed use development address the street and include an active street frontage with diverse activities and uses and avoid blank walls at ground level. The proposal complies with these objectives with respect to street frontages by providing glazing to the commercial suites fronting onto Orth Street and Somerset Street. Separate residential and commercial pedestrian entries directly off Orth Street and blank walls to Orth Street and Somerset Street are avoided.

The residential and commercial entries are clearly visible from Orth Street and the residential access is secured by way of an entry code. Resident and Commercial visitor parking are separated from residential and commercial tenant parking.

4T Awnings and Signage

Level 1 of the building partially overhangs the ground floor level street frontages to provide weather protection along the street-front elevations of the ground floor level. No signage is proposed apart from the street number and necessary directional signage to site facilities, fire egress and the like. Any future commercial tenant signage will be the subject of a separate application, where required.

4U Energy Efficiency

The ADG does not set out design criteria in relation to energy efficiency, but rather provides guidance as to how the building can be designed to meet the energy efficiency objectives of the ADG. These objectives include incorporating passive environmental design, passive solar design and adequate natural ventilation.

The proposal achieves adequate energy efficiency by optimising solar access, having regard to the orientation of the site and provides a high level of natural daylight and natural ventilation. Shading elements are included to the northern elevation to mitigate hot summer sun. The proposal also achieves compliance with Council's energy efficiency requirements and BASIX (see **Appendix I**).

4V Water Management and Conservation

The ADG does not set out design criteria in relation to water management and conservation, but rather provides guidance as to how design can provide for water management and conservation consistent with the objectives of the ADG with respect to these issues.

Water management and conservation objectives include minimising potable water use, treating of urban stormwater on site before it is discharged to receiving waters and flood management systems integrated into the design.

The proposal will include a rainwater tank to enable re-use of stormwater, water efficient appliances and fittings and a stormwater detention tank. As stormwater runoff will not occur from polluted surfaces, treatment of stormwater is not considered necessary. The subject land is not subject to flooding.

A Stormwater Management Plan is enclosed at **Appendix F.**

4W Waste Management

The ADG does not set out design criteria in relation to waste management, but rather provides guidance as to how waste management can be addressed to meet the objectives of the ADG with respect to waste management. The proposal includes suitably sized and conveniently located separate waste storage rooms for the residential and for the commercial components of the development, located in the uppermost basement level. All apartments include a waste storage cupboard for temporary storage of waste, with a waste chute system available to transfer waste to the waste storage room. A Waste Management Plan is enclosed at **Appendix G.**

4X Building Maintenance

The ADG does not set out design criteria in relation to building maintenance, but rather provides guidance as to how the design can provide for optimal building maintenance convenience and efficiency.

ADG objectives with respect to building maintenance include design detailing providing for protection from weathering, systems and access to enable ease of maintenance and material selection to reduce ongoing maintenance costs.

The proposal includes weather resistant high-quality building finishes and materials that minimise on-going maintenance needs such as frequent re-painting or cleaning.

The proposal meets the objectives of the ADG and achieves compliance with the guidelines of the ADG, apart from some departures from recommended building separation/setback distances. For the reasons outlined in this SEE, the modest departures from the building separation standards in the ADG are considered reasonable, having regard to the orientation of the site, desired future character, proposed privacy protection measures and the modest shadow impacts of the proposed development.

5.1.4 *State Environmental Planning Policy (Infrastructure) 2007*

SEPP Infrastructure 2007 aims to facilitate the effective delivery of infrastructure, and also includes provisions relating to traffic generating development. The Divisions of this SEPP relating to items of infrastructure are not applicable to the proposed development, as the proposal is not for an item of infrastructure identified in the SEPP. The proposed development is not located in or adjacent to road corridors and road reservations and does not have frontage to a classified road.

Clause 104 of SEPP Infrastructure 2007 applies to traffic generating facilities specified in the Table to Schedule 3 of the SEPP. Column 2 of the Table to Schedule 3 applies to sites with direct vehicular or pedestrian access to any road (other than a classified road) and which will have a size or capacity specified in Column 2 of the Table.

The relevant thresholds for referral to Roads and Maritime Services (RMS) are developments comprising 300 or more dwellings, 200 or more motor vehicles, parking for 200 or more motor vehicles, commercial premises with more than 10,000m2 of floor space, shops commercial premises with more than 4,000m2 of floor space, or shops with more than 2,000m2 of floor space. The proposal is below the nominated thresholds and therefore does not require referral to RMS.

5.1.4 Regional Environmental Plan No. 20 – Hawkesbury Nepean River

SREP 20 Hawkesbury Nepean River (SREP 20) aims to protect the environment of the Hawkesbury-Nepean River system by ensuring the impacts of future land uses are considered in a regional context. The subject land is located within the catchment of the Nepean River.

The primary purpose of SREP 20 is to ensure that water quality in the catchment of Hawkesbury Nepean River is protected, by for example avoid discharge of polluted runoff and irrigation water into watercourses that drain into this River.

The proposed development will be connected to the reticulated water and sewerage services provided by Sydney Water. Stormwater drainage from the site will be recycled where possible and excess flows directed to an on-site detention tank and then into Council's stormwater drainage system in Orth Street.

The proposal will not result in any polluted discharge to the Nepean River or otherwise impact on catchment water quality or groundwater.

5.1.5 Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 2010 (PLEP 2010) is the relevant local environmental planning instrument applicable to the proposed development. As noted in Section 4.1 the proposal is permissible with consent in the B4 Mixed use Zone applying to the site and is consistent with the B4 Zone objectives. The proposed development will allow for the orderly and efficient use of land in a manner that is compatible with the amenity and desired future character of the locality.

PLEP 2010 includes a range of development controls that are to be considered in the assessment of development applications. It should be noted that where LEP provisions are inconsistent with the provisions of SEPP 65, the provisions of the SEPP override those contained in the LEP. The following provisions of the LEP are relevant to the proposed development.

Clause 4.3 Height of Buildings & Clause 7.11 Penrith Health and Education Precinct

Clause 4.3 requires that building height comply with the maximum building heights specified on the Height of Buildings Map. This Map indicates that a maximum building height of 18m applies to the subject land. Building Height is measured to existing ground level. The proposed building has maximum building height of up to 22.7m to the top of the roof of the building and 23.7m to the top of the lift overrun.

Clause 7.11 provides that for land located within the Penrith Health and Education Precinct, which includes the subject land, building height may be increased by up to 20%, notwithstanding the provisions of clause 4.3, if the floor to ceiling height of both the ground floor and first floors are equal to or greater than 3.5m. The additional building height on the subject land equates to 3.6m. Clause 7.11 is designed to encourage a built form that is suitable for both residential and health service facilities and encourage adaptive reuse of residential buildings for health services in this Precinct.

The proposal provides for floor to ceiling heights of 3.5m for both the ground floor and first floor commercial levels and provides flexible office spaces that could be utilised for health services. The planning controls aim to encourage commercial/medical related floor space in the Hospital Precinct. Facilitating a second storey of commercial/medical related floor space in this Precinct is a very desirable planning outcome for the site.

The roof of the proposed development exceeds the 21.6m maximum building height permitted by clause 7.11 by up to 1.1m and the small lift overruns extend 2.1m above this height standard. This allows some additional residential floor space on the site to assist in offsetting the marginal viability of commercial floor space in this locality.

Allowing a 7th storey residential level with a reduced floor plate (5 apartments only), facilitates the creation of a second storey of commercial floor space. This is a better planning outcome, compared to a 6 storey building of complying height, with commercial floor space limited to the ground floor only, as was approved for

28-32 Somerset Street. In circumstances where commercial floor space should be encouraged, a modest variation to the 21.6m maximum building height control is reasonable and worthy of support.

Clause 4.6 of PLEP 2010 allows a consent authority, in appropriate circumstances, to allow variations to development standards, such as maximum building height. The proposal is accompanied by a submission under clause 4.6 justifying the proposed height encroachment and seeking Council's support for a modest variation of maximum permitted building height.

Clause 4.4 Floor Space Ratio

Clause 4.4 requires that maximum floor space comply with the nominated maximum floor space ratio shown on the Floor Space Ratio Map. This Map indicates that a maximum FSR of 3.5:1 applies to the site. The subject land has an area of 1,781.6m2, which would provide for a for a maximum GFA of 6,235.6m2 at an FSR of 3.5:1.

The proposal has an assessable GFA of 5,146.638m2, equating to an FSR of 2.889:1, which is 17.5% less than the maximum FSR permitted for the site.

Clause 4.6 – Exceptions to development standards

Clause 4.6 allows for exceptions to development standards to provide for an appropriate degree of flexibility in the application of certain development standards applicable to particular development and to achieve better outcomes for and from development, by allowing flexibility in particular circumstances.

As the proposal seeks approval for a modest variation to the 21.6m maximum building height development standard of up to 1.1m for the roof and up to 2.1m for the 2 small lift overruns, the development application is accompanied by a clause 4.6 submission in support of a variation to maximum building height. A copy of this submission is attached at **Appendix J**.

The height encroachment is generally modest in extent, 5.1% for the roof and 9.7% for the 2 lift overruns. There is a degree of inconsistency between the maximum building height control and the maximum FSR control, which allows an FSR of up to 3.5:1. The building height and setback controls, if strictly applied, prevent construction of buildings with an FSR of more than 3:1 and to around 2.7:1 on sites where a 4m front setback must be provided for the whole of the building..

The height exceedance relates to the uppermost portion of Level 6 of the proposed building. Level 6 occupies a significantly reduced floor plate, with increased boundary setbacks to ensure minimal difference in perceived building bulk and scale compared to a compliant building height, and no material impact on the amenity or desired future character of the locality of the locality.

The clause 4.6 submission demonstrates that requiring strict compliance with the 21.6m maximum building height development standard is unreasonable and unnecessary in the circumstances and by facilitating inclusion of a 7th storey,

allows for a floor space on the site that is more consistent with the floor space yield anticipated for the site by the FSR control and facilities provision of 2 storeys of commercial floor space, which is the preferred planning outcome in the Hospital Precinct. .

Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 requires that consent be obtained for removal of trees specified in a development control plan.
There are 2 medium sized trees on the site and a small number of shrubs. Existing Vegetation on the site has minimal landscape and ecological value and is proposed to be removed, together with a street tree, located near the northeast corner of the site.

At least 10 new trees are proposed within the deep soil area, including within the Orth Street frontage and a replacement street tree will also be provided in Orth Street.

Clause 6.1 Earthworks

Clause 6.1 relates to earthworks and aims to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of surrounding land.

Excavation is required to construct 3 levels of basement parking and an access driveway to the basement. Excavation is setback from the street frontage and clear of existing buildings on neighbouring sites. Excavation will be undertaken in a manner that ensures the stability of adjoining land and the structural integrity of existing buildings on neighbouring properties.

The development application is accompanied by a Geotechnical Desktop Study, a copy of which is attached at **Appendix K** and demonstrates that with appropriate temporary shoring support during excavation and permanent retaining wall support using a continuous pile wall and suitable consideration of lateral support, proposed excavation can proceed in a satisfactory manner.

The Geotechnical Study also considers groundwater issues and recommends installation of groundwater wells to monitor groundwater flow on-site and inform final basement structural design, construction methods and management of groundwater inflows.

Proposed excavation will have a limited and acceptable impact on existing drainage patterns and will not materially impact on groundwater flows or soil stability in the locality or the likely future use or redevelopment of land in the locality. Excavation will not impact on drinking water catchment or environmentally sensitive area and it is unlikely that any relics would be disturbed.

While there will be some environmental impacts associated with the excavation process, appropriate groundwater management and dust mitigation measures will be put in place and hours of excavation limited to 7am to 5.30pm Monday to

Saturday, to ensure no noise nuisance during noise sensitive hours. Once excavation and construction are completed, there will be no ongoing amenity impacts on adjoining properties.

5.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no draft environmental planning instruments that are or have been placed on exhibition that are of relevance to the proposed development.

5.3 Any development control plan.

Section E12 Part A of Penrith DCP 2010 (PDCP 2010) outlines general provisions and objectives for development in the Hospital Precinct at Kingswood. Relevant provisions of E12 Part A of the DCP are identified and considered in the following discussion:

Section 12.1 - Background

The subject land is located within the Hospital Precinct at Kingswood. With respect to the Hospital precinct, the DCP aims to provide for development that contributes to the growth and character of Kingswood as a specialised medical precinct, deliver a balanced social, economic and environmental outcome and protect and enhance the public domain.

The proposed development is consistent with the objective for the Hospital Precinct by providing for a mixed-use building that is consistent with the desired future character for the locality and includes commercial floor space at ground level, suitable for medical related activities and includes a landscaped plaza area fronting the site in Orth Street and Somerset Street. The proposal will provide positive social and economic outcomes and enhance the public domain.

Section 12.1.3 of E12 Part A of the DCP sets out a range of general objectives for development relating to matters such as sustainability, urban design, architectural excellence, mixed use building forms, amenity, encouragement of medical facilities, public domain, improved access to transport and desired future character. As demonstrated in this SEE, the proposal is consistent with the general objectives for development in the Hospital Precinct.

Section 12.1.4 of E12 Part A of the DCP relates to Character Areas. The subject land is located within the Medical Mixed Use Character Area, which is designed to encourage development that would support the operation of the hospital and includes medium to high density housing developed in a similar nature to existing institutional scale development within the Precinct. The proposed development meets these objectives, as demonstrated in this SEE.

The planning controls encourage the provision of commercial floor space by providing a 20% building height bonus where developments provide the ground and first floor levels with floor to ceiling height clearances of at least 3.5m and

include commercial floor space. Notwithstanding this height bonus, Council has acknowledged the limited viability of commercial floor space in this locality and in the case of the recently approved development at 28-32 Somerset, allowed the development to proceed with commercial floor space limited to only 1 small commercial tenancy on the ground floor.

Figure 5 below, shows the Character Areas located within the Hospital Precinct at Kingswood.

Figure 5 – DCP Section E12.2 Part A Character Areas

The Medical Mixed Use Character Area envisages building heights of between 4 to 6 storeys, which incorporate ground floor active uses, with commercial and residential uses located above. The Character Statement notes that the western vista will be a key consideration when designing development within the Medical Mixed Use Precinct.

Proposed building height extends to 7 storeys, although proposed FSR is some 16.7% less than is available for the site by PLEP 2010. The 7th storey occupies a reduced floorplate, with increased boundary setbacks so that it does not materially contribute to the overall bulk and scale of the development.

Orth Street is identified as a major connector between the hospital and the main area of local community space located on Bringelly Road, to the east. This connection is required to accommodate pedestrians and cyclists with a generous, landscaped southern verge. The proposal includes a 4m landscaped front setback to Orth and Somerset Streets, facilitating a wider verge and potential for a shared walkway/cycleway on the southern side of the Orth Street road pavement.

Section 12.2 Land use controls

Section 12.2 of E12 Part A of the DCP provides land use controls designed to encourage a variety of mixed use developments in the Hospital Precinct, particularly those that are capable of accommodating medical based uses and facilities in close proximity to the hospital and create additional jobs to support the hospital and local community and increased density to allow hospital workers to live close to work.
Other objectives for this mixed use precinct are to create lively streets and public spaces, day and night, increase diversity and range of shopping and recreational activities, enhance public safety, minimise land uses conflicts, ensure design addresses residential amenity , create legible safe access and circulation, ensure development addresses the public domain and street and ensure an appropriate scale between new development and street width, local context, adjacent buildings and public domain.

As demonstrated in this SEE, the proposal is consistent with the land use objectives for mixed use development in the Hospital Precinct. The land use development controls for mixed use development in the Hospital Precinct are identified and addressed in the following assessment table.

Section 12.2 Land Use Development Controls Assessment Table

DEVELOPEMNT CONTROL	PROPOSAL	COMPLIES Yes/No
1. Mixed use developments are to provide flexible floor areas and layouts to both the ground and first floor of buildings to accommodate a range of commercial uses.	Flexible floor areas provided for ground & first floor and include higher floor to ceiling heights to accommodate a range of commercial uses.	YES
2. Standard floor to ceiling heights apply for mixed-use developments in accordance with the Building Code of Australia and the Residential Flat Design Code. However, where an applicant is seeking to take advantage of the additional building height incentives prescribed by LEP 2010, the following floor to ceiling heights apply: *a) 3.5m on the ground and first floor; and* *b) 2.7m on the upper floors* *These floor to ceiling heights must be applied to the entire floor in order to be granted the height bonus.* *To demonstrate that 2.7m floor to ceiling heights can be achieved (allowing for recessed lighting) a minimum floor to floor height of 3.1m is to be provided.*	3.5m floor to ceiling height clearance provided on ground and first floor levels to take advantage of LEP height incentives and provide 2 levels of commercial floor space. All residential floor levels above 2 storey podium are provided with floor to ceiling heights of at least 2.7m The design of residential floors allows a 2.7m floor to ceiling height to be achieved and provides a complying 3.1m floor to floor height.	YES YES YES
3. Where it is proposed to vary the height of building controls to take	The proponent has undertaken a Pre-DA	YES

advantage of the height incentives, applicants are to consult Council early in the design process.	Lodgement consultation process with Council.	
4. The commercial and residential activities of the building are to have separate service provision, such as loading docks, lobbies and lift access, defined parking areas, garbage storage and servicing.	Separate commercial and residential entries, lobbies, lifts, parking and garbage storage areas are provided. Separate loading docks are not considered necessary given the modest scale of the development.	YES
5. Mixed use developments are to provide commercial frontage (retail/business/office premises) as a part of the development as shown in Figure E12.3 for the ground and first floors. Variation may be considered to this control in order to provide adaptable housing.	Commercial frontage is provided at ground & first floor levels to Orth Street and Somerset Street.	YES
6. The ground floor of a mixed use development is to provide a minimum of 75% commercial frontage.	The commercial frontage &, commercial lobby exceeds 75% of the building's frontage to Orth St and Somerset St.	YES
7. A minimum site width of 24m is required for any mixed use development.	Site width exceeds 24m.	YES
8. Residential entries shall be clearly marked and provide direct access to the street. Vehicular access is to be from rear lanes, where practicable and possible. Pedestrian entrances are to address the main streets.	Both commercial and residential lobbies provide direct access to the street and the pedestrian entries address the street. Vehicular access from Orth Street is appropriate as it maximises separation distance to the Somerset St. intersection.	YES
9. Commercial and residential uses should have clearly separate entries and vertical circulation.	Commercial & residential uses have clearly separate entries and lifts.	YES
10. Security access controls must be provided to all entrances into private areas, including car parks and internal courtyards.	Secured access controls will be provided to all entrances and private areas.	YES
11. Buildings are to provide an active ground floor setback zone, free of columns, balustrades and other visual barriers to the primary streetfront.	A front setback of at least 4m is provided that is free of columns, balustrades & other visual barriers.	YES
12. Blank building walls at ground level are to be avoided.	Blank walls to Orth St. and Somerset St. are avoided.	YES

Section 12.3 Built form controls

Section 12.3 relates to built form controls designed to encourage buildings that provide high quality design, innovation and creativity. The objectives of the built form controls are as set out as follows:

a) To establish an appropriate scale, dimension, form and separation of buildings;
b) To achieve active street frontages with good physical and visual connections between buildings and the street;
c) To ensure there is consistency in the main street frontages of buildings by having a common alignment to reinforce the streetscape sense of enclosure;
d) To provide for pedestrian comfort and protection from weather conditions;
e) To define the public street to provide spaces that are clear in terms of public accessibility and safety, and are easy to maintain;
f) To ensure building depth and bulk is appropriate to the environmental setting and landform;
g) To achieve visual interest and a reduction in scale through building design and finishes;
h) To achieve design excellence;
i) To achieve a high quality public domain through innovative use of landscape and public domain upgrades
j) To achieve a high level of amenity throughout the Hospital Precinct and a sustainable urban environment; and
k) To ensure that buildings are responsive to the overall character of the Hospital Precinct.

As detailed in the SEE and Built Form Controls Assessment Table, the proposal achieves consistency with the DCP built form objectives. The proposal provides a suitable scale, dimension and form and adequate tower building separation is provided to neighbouring properties. An active street frontage is provided and will align with future building setbacks on neighbouring properties and suitably define the future streetscape and makes provision for pedestrian comfort and a high-quality public domain.

Public spaces are clearly defined, easy to maintain, accessible and safe, with ample opportunities for passive surveillance and opportunities for concealment minimised.

The proposal achieves a high level of amenity and visual interest. The design is responsive to the desired future character of the Hospital Precinct and achieves design excellence.

Built form development controls for mixed use development in the Hospital Precinct, as set out in Section 12.3 are identified and addressed in the following assessment table.

Section 12.3 Built Form Controls Assessment Table

DEVELOPMENT CONTROL	PPROSAL	COMPLIES Yes/No
Street alignment, building height and setbacks		
1. Street building alignments are to be provided as specified in Figure E12.4.	A front setback of at least 4m is provided to site frontages..	YES
2. Minor projections into front building	There are no projections into	YES

lines and setbacks for sun shading devices, entry awnings and cornices are permissible.	the 4m front setback to Orth Street and Somerset Street.	
3. Building height will generally be restricted to a maximum podium height of 2-4 storeys addressing the main streets, with any additional storeys set back.	Podium height is limited to 2 storeys and addresses both streets. Floor levels above podium provide additional setback to the side and rear boundaries of the site.	YES
4. Developments located within the Residential Edge Precinct must step down in height and demonstrate that the development does not adversely impact on the adjoining residential area in terms of visual amenity or overshadowing.	The site is not located within the Residential Edge Precinct.	N/A
Building depth and bulk		
1. Non-residential buildings greater than 12m in height are to have a maximum depth of 25m.	The proposal is for a mixed-use building. Almost all of the building above podium has a depth of 25m or less.	YES
2. All points of an office floor should be no more than 10m from a source of daylight (e.g. window, atria or light wells).	All offices are less than 10m in depth to natural light sources and have ample access to natural light.	YES
3. Atria, light wells and courtyards are to be used to improve internal building amenity and achieve cross ventilation and/or stack effect ventilation.	Light wells and atria are not required. Each common circulation hallway in the tower has access to natural light and ventilation.	YES
4. Large unrelieved expanses of wall or building mass will not be supported and should be broken up by the use of suitable building articulation, fenestration or alternative architectural enhancements.	No large unrelieved expanses of wall are proposed. Wall masses above podium are broken up by balconies, windows, articulation and architectural features.	YES
Boundary setbacks & building separation		
1. The minimum side and rear building setbacks for non-residential uses are specified in Table E12.1.	The commercial podium (2 storeys) provides a zero setback to the rear boundary and 3m to the eastern side and western side boundaries. A zero setback is allowed to these boundaries for the non-residential component up to a height of 12m	YES
2. If the specified setback distances cannot be achieved when an existing building is being refurbished or converted to another use, appropriate visual privacy levels are to be achieved through other means.	The proposal does not entail refurbishment or conversion of an existing building.	YES

<table>
<tr>
<td>
3. Minimum separation distances for buildings within a site and between adjoining sites for buildings are:
Up to four storeys (approximately 12m):
* 9m between habitable and non-habitable
* 6m between non-habitable
Five to eight storeys (approximately 25m)
* 12m between habitable and non-habitable
* 9m between non-habitable rooms

Table E12.1 Side and rear setback requirements
<table>
<tr><td>Building height and use</td><td>Min Side and Rear Setback</td></tr>
<tr><td>Non-residential uses:</td><td></td></tr>
<tr><td>– up to 12m</td><td>0 m</td></tr>
<tr><td>– 12m to 24m</td><td>6 m</td></tr>
</table>
</td>
<td>Building separation distances are variable to provide optimal building articulation and address the L shaped site configuration and relatively limited site depth, particularly at the western end.

The locality is about to undergo redevelopment, therefore building separation distances are appropriately split 50/50 between adjoining development sites. Where side or rear setbacks do not provide 50% of the required separation distance, privacy measures are included. Separation distance is addressed in detail in the assessment of the proposal against the building separation provisions of the Apartment Design Guide (ADG) and has regard to the building design approved by Council for redevelopment of 28-32 Somerset Street.

Side and rear setbacks for the non-residential ground floor level generally comply with Table E12.1.

Setbacks of less than 6m are proposed to the boundary interface to 28-32 Somerset Street. In this location proposed setback and privacy measures, including deep soil area, complement the building design and setbacks approved by Council for redevelopment of 28-32 Somerset Street.</td>
<td>NO (variations requested for the residential levels above podium)

YES (for the 2 storey commercial podium)

YES (for eastern side and southern rear (setbacks)

PARTIAL (for setbacks to 28 Somerset Street to the south and west)</td>
</tr>
<tr><td colspan="3">Site coverage and deep soil zones</td></tr>
<tr><td>Open space must be provided equivalent to 25% of the total site area.</td><td>Communal open space areas totalling 450.838m2 are proposed. This equates to 25.3% of site area.</td><td>YES</td></tr>
<tr><td>The maximum site cover and minimum deep soil zone for development is specified in Table E12.2:</td><td>A maximum site coverage of 1,255.595m2 is proposed. This equates to a readily compliant 70.5% of site area.</td><td>YES</td></tr>
</table>

Table E12.2 Maximum site cover and minimum deep soil zone *Character Area* / *Max Site Cover* / *Min Deep Soil Zone (% of Site Area)* *Commercial Mixed Use and Medical Mixed Use* / *75%* / *10%* *Note: Council may consider 100% site coverage on land within the Commercial Mixed Use character area along the Great Western Highway only.*	A minimum deep soil area of 299.286m2 is proposed. This equates to a readily compliant 16.24% of site area.	
3. The deep soil zone is to be provided in one continuous block. If multiple deep soil zones are provided, they must have a minimum dimension (in any direction) of 6m.	One continuous deep soil area equating to more than 10% of site area is provided along the common boundary with No. 28 Somerset Street. A 2nd large deep soil area is provided along the Somerset Street frontage extending around into Orth Street, with 2 smaller areas, further east fronting Orth Street. All these areas are of sufficient width to accommodate trees and large shrubs.	YES
4. Where non-residential developments result in full site coverage and there is no capacity for water infiltration, planting on roof tops or over basement carport structures can be provided as a component of the mixed use development. In such cases, compensatory stormwater management measures must be integrated within the development to minimise stormwater runoff.	Full site coverage is not proposed.	N/A
5. Where deep soil zones are provided, they must be associated with any existing mature trees as well as allowing for the planting of additional trees and landscape.	The 2 existing trees are located within the footprint of the building and are not of landscape or habitat significance. The deep soil area provides space for at least 10 replacement trees.	YES
6. No structures, works or excavations that may restrict vegetation growth are permitted in deep soil zones (including, but not limited to, car parking, hard paving, patios, decks and drying areas).	The deep soil zone is clear of structures, works and excavation.	YES

Building Exteriors		
1. Adjoining buildings are to be considered when designing new buildings and extensions to existing buildings in terms of: *a) Appropriate alignment and street frontage heights;* *b) Setbacks above street frontage heights;* *c) Selection of appropriate materials and finishes;* *d) Facade proportions including horizontal or vertical emphasis; and* *e) Provision of enclosed corners at street intersections.*	Existing adjoining buildings are single storey cottages that will in the future be demolished and the sites redeveloped for large 6 storey contemporary mixed-use buildings. The proposal generally accords with the street front setbacks and heights and design measures specified at items (a), (b), (c), (d) and (e) for new buildings in the Hospital Precinct. The site provides a splay corner at the intersection of Orth St. and Somerset St.	YES
2. Balconies and terraces should be provided, particularly where buildings overlook parks and on low rise parts of buildings. Gardens on the top of setback areas of buildings and on roofs are encouraged.	Balconies and terraces are provided and landscaping within planters provided to a number of terraces/balconies and roof top areas. The site does not overlook a park.	YES
3. Reliance on continuous balconies to create the main façade is not supported.	Continuous balconies are not proposed across the front façade.	YES
4. Building façades are to be articulated so that they address the street and add visual interest.	The front building façades are articulated & include features that add visual interest. The façades address the streets.	YES
5. The design of the street and laneway facades should respond to the existing lot subdivision pattern in the vertical expression of the building.	The main front façade provides 3 distinct vertical elements, acknowledging the existing subdivision pattern.	YES
6. External walls should be constructed of high quality and durable materials and finishes with 'self-cleaning' attributes, such as face brickwork, rendered brickwork, stone, concrete and glass. Use of painted render as the primary material is not encouraged.	External walls are predominantly masonry with a rendered and painted finish that is easy to maintain and clean. Ample areas of glazing, architectural features and balconies ensure that the rendered masonry finish does not visually dominate.	YES
7. To assist articulation and visual interest, large expanses of any single material are to be avoided.	Large expanses of any single material or finish are avoided.	YES
8. Glazing for retail uses is to be maximised, but broken into sections to avoid large expanses of glass.	Glazing to offices fronting Orth and Somerset Streets is maximised	YES
9. Highly reflective finishes and curtain	Highly reflective finishes and	

wall glazing are not permitted above ground floor level.	curtain wall glazing are avoided above ground level.	YES
10. A materials sample board and schedule are required to be submitted with applications for development over $1 million or for that part of any development built to the street edge.	A sample of materials and schedule of materials is included with the DA.	YES
11. The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building, and in residential buildings, may be screened by roof pergolas.	Roof plant & the lift overruns are centrally located within the roof to minimise visual impact and avoid any shadow impact. They are small in size, and only extend up to 1m above the roof.	YES
Landscape Design		
1. Recycled water should be used to irrigate landscaped areas.	A rainwater tank is included for supply water to irrigate landscape areas.	YES
2. Commercial and retail developments are to incorporate planting into accessible outdoor spaces.	Planting is provided within accessible outdoor spaces.	YES
3. Remnant vegetation must be maintained throughout the site, wherever practicable.	It is not practicable to retain any existing vegetation. This vegetation has minimal landscape or habitat value and replacement tree planting is provided.	YES
4. A long term landscape concept plan must be provided for all landscaped areas, including the deep soil zone, in accordance with the Landscape Design section of this DCP. The plan must outline how landscaped areas are to be maintained for the life of the development.	A landscape plan is provided at **Appendix E**. Landscaping is designed to minimise maintenance demands and where located in common areas, will be regularly maintained by the future Body Corporate. At least 10 new trees will be provided	YES
Planting on Structures		
1. Planting should be designed for optimum conditions for plant growth by: *a) Providing soil depth, soil volume and soil area appropriate to the size of the plants to be established;* *b) Providing appropriate soil conditions and irrigation methods; and* *c) Providing appropriate drainage.*	Planting on structures such as terraces and balconies will comprises small shrubs and ground covers and is proposed to be contained within suitably drained and irrigated planter boxes, with soil depths of at least 400mm.	YES
2. Planters should be designed to support the appropriate soil depth and plant selection by: *a) Ensuring planter proportions accommodate the largest volume of soil*	Planter boxes with widths of at least 500mm and soil depth of at least 400mm are proposed.	YES

possible and soil depths to ensure tree growth; and *b) Providing square or rectangular planting areas rather than narrow linear areas.*		
3. Minimum soil depths should be increased in accordance with: *a) The mix of plants in a planter, for example, where trees are planted in association with shrubs, groundcovers and grass;* *b) The level of landscape management, particularly the frequency of irrigation;* *c) Anchorage requirements of large and medium trees; and* *d) Soil type and quality.*	Soil depths of at least 400mm in proposed planter boxes are adequate to successfully accommodate small shrubs and ground covers. No trees are proposed within planter boxes.	YES

Section 12.4 Other controls

Section 12.4 of the DCP contains other development controls primarily related to the public domain, pedestrian amenity, permeability, active street frontages, safety and security, awnings, vehicle crossings, car parking and site facilities and services.

All public domain works within the Hospital precinct must be undertaken in accordance with the provisions of Penrith Council's "Kingswood Public Domain manual" (2013) and the relevant parts of PDCP 2010. Proposed public domain works will be designed in accordance with these requirements. A suitably worded consent condition can be imposed to ensure that this occurs.

With respect to pedestrian amenity, Section 12.4 of the DCP seeks to encourage future through site links at ground level, where applicable, active street frontages, provision of awnings and protection of significant views and vistas along streets. The proposal suitably addresses these pedestrian amenity objectives. A through site link at ground level is not required.

Other development controls for mixed use development in the Hospital Precinct, as set out in Section 12.4 are identified and addressed in the following assessment table.

Section 12.4 -Other Development Controls Assessment Table

DEVELOPMENT CONTROL	PPROSAL	COMPLIES Yes/No
Permeability		
1. Through site links are to be provided as shown in Figure E12.6 with accessible paths of travel that are:	Figure E12.6 does not require any through site links within the subject land.	N/A

a) A minimum width of 4m for its full length and clear of all obstructions including columns, stairs, building overhangs etc; *b) Direct and publicly accessible thoroughfares for pedestrians;* *c) Open-air for its full length and have active frontages or a street address; and* *d) Activated by retail or commercial for a minimum of 70% of its length.*		
2. Existing dead-end lanes are to be extended through to the next street as redevelopment occurs.	The site does not adjoin a lane, dead-end or otherwise.	N/A
3. New through site links should be aligned and connected with existing and proposed through block lanes, shared zones and pedestrian ways and opposite other through site links.	There is no requirement to provide through site links.	N/A
4. Existing publicly and privately owned links are to be retained.	There are no existing publicly, or privately owned, links within the site.	YES
5. Signage is to be located at street entries indicating public access through the site as well as the street to which the link connects.	No through site links are required for the site, hence no such signage is required.	N/A
6. Lanes are to be designated pedestrian routes that are: *a) Accessible paths of travel, with a minimum width of 6m for the full length, which is clear of all obstructions;* *Penrith Development Control Plan 2014 E12 Penrith Health and Education Precinct E12-17* *b) Designed, paved and well lit; and* *c) Appropriately signposted indicating the street(s) to which the lane connects.*	The site does not adjoin any laneway and no laneways are proposed within the site.	YES
Active street frontages and address		
1. Active frontage uses are defined as one or a combination of the following, at street level: *a) An entrance to retail premises;*	The street level elevation of the building at ground floor level is provided with a predominantly glazed	YES

b) A shop front; *c) Glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage, to a maximum of 12m frontage;* *d) A café or restaurant if accompanied by an entry from the street;* *e) Active office uses, such as a reception, if visible from the street; and* *f) A public building, if accompanied by an entry.*	frontages to the proposed offices and lobbies. Glazing to office tenancies fronting Orth Street enables receptions and the like to be seen from the street. Both these tenancies have potential to be utilised as a café or other food premises.	
2. Active street fronts are to be located at the ground level of all buildings located in those areas as shown in Figure E12.7.	Figure E12.7 does not designate an "active street frontage" for the site.	N/A
3. Ground floor active street frontage uses are to be at the same level as the adjoining footpath and must be directly accessible from the street.	The ground floor active street frontage uses are at substantially the same level as the footpath in Orth Street and are directly accessible from the office lobby. It is also possible for future office tenants to provide front doors.	YES
4. Restaurants, cafes and the like are to consider providing openable shop fronts. A separate approval from Council is required under the Roads Act and Local Government Act for outdoor street dining.	The proposal does not include any restaurants or cafes. If such uses are proposed in the future, a separate development application would be submitted.	YES
5. Street address is defined as entries, lobbies, and habitable rooms with full height to a minimum of 2.1m clear glazing to the street.	Offices and lobbies front onto Orth Street and include glazing to a height of at least 2.1m. Glazing also fronts Somerset Street.	YES
6. Residential developments are to provide a clear street address and direct pedestrian access off the primary street front or laneway (if provided), and allow for residents to overlook all surrounding streets.	The residential lobby provides a clear street address with direct pedestrian access off Orth Street and allows for overlooking of Orth Street from the lobby and from apartments above.	YES
7. Commercial entries are to be separate to residential entries and are to address the primary street frontage.	The commercial lobby is separate from the residential lobby, addresses Orth Street and is directly accessible from Orth Street.	YES
8. Large developments should provide multiple entrances including an entrance on each street frontage leading to separate	The proposed building is not large enough to warrant multiple entrances and only has a narrow street frontage	N/A

cores.	to Somerset Street.	
9. Residential buildings are to provide not less than 65% of the lot width as street address.	The residential tower, above the podium presents a residential frontage to Orth Street and Somerset Street equating to at least 65% of site width to these streets.	YES
Safety and security		
1. For residential lobbies the lift is to be visible upon entry to the foyer.	The lobby adjoining the residential lifts is within direct line of site of the residential building entry and foyer off Orth Street.	YES
2. The extent of corridors between the entry doors and the lift is to be minimised.	Corridor length (9m) to the lift lobby is not significant, and the foyer is wide enough to provide seating and some indoor plants or other features.	YES
3. The minimum width of the corridor is to be at least 3m leading to the lift on the ground floor.	The lobby is at least 4m wide.	YES
4. All residential lobbies are to be provided with a seating area and space for letterboxes.	The lobby provides sufficient space for seating and letterboxes.	YES
5. Developments are to address the provisions of the Site Planning and Design Principles section of this DCP as it relates to Crime Prevention through Environmental Design (CPTED) principles.	The proposed development includes secure key/card controlled entries to lobbies and resident car parking. and surveillance cameras can be installed, if required. Opportunities for concealment in publicly accessible areas are minimised and there is passive surveillance of public areas. The proposal is consistent with the principles of CPTED.	YES
6. Building design, particularly for higher density residential buildings, are to allow for passive surveillance of public and communal spaces, accessways, entries and driveways.	Glazing to offices and lobbies provide direct passive surveillance of public and communal spaces at ground level, including pedestrian entries and the driveway entry.	YES
7. For large scale retail and commercial development with a gross floor area of over 5,000m2, a 'safety by design' assessment by a qualified consultant, is to be provided in accordance with the CPTED principles.	A commercial floor space of less than 5,000m2 is proposed.	N/A
8. Certain types of development will be referred to Council's Community Safety Officer and,	Such referrals are a matter for Council to determine but are not considered necessary for a	YES

where appropriate, NSW Police in accordance with the CPTED protocol between Penrith City Council and NSW Police.	primarily residential development of the scale proposed.	
Awnings		
1. Continuous street frontage awnings are to be provided for all new developments where active street frontages have been identified in Figure E12.7.	The site is not identified as an active street frontage on Figure E12.7.	N/A
2. Awnings should generally: *a) Be a minimum 2.8m deep where street trees are not required, otherwise a minimum 2.4m deep;* *b) Have a minimum soffit height of 3.2m and a maximum of 4m;* *c) Be stepped for design articulation or to accommodate sloping streets, integral with the building design and not exceed 700mm;* *d) Be low profile, with slim vertical fascias or eaves (generally not to exceed 300mm height); &* *e) Be setback from the kerb to allow for clearance of street furniture, trees, etc (minimum 600mm).*	As above – an awning is not required, nor is an awning over the footpath feasible as the building must provide a 4m setback to Orth Street and Somerset Street. The first floor level partially overhangs the ground floor level in Orth Street, providing weather protection.	YES
3. Awning design must match building facades and be complementary to those of adjoining buildings. *Penrith Development Control Plan 2014 E12 Penrith Health and Education Precinct E12-21*	An awning is not required or proposed.	N/A
4. Awnings must wrap around corners for a minimum of 6m.	An awning is not required or proposed.	N/A
5. Under-awning lighting, recessed into the soffit of the awning or wall mounted onto the building, is to be provided to facilitate night use and to improve public safety.	An awning is not required or proposed.	N/A
6. One under-awning sign may be attached to the awning and must be 6m away from the sign of the adjoining property.	An awning is not required or proposed.	N/A
Vehicle footpath crossings		

1. A maximum of one vehicle access point (including the access for service vehicles and parking for non-residential uses within mixed use development) will be permitted for each development.	Only one vehicular access/footpath crossing is proposed.	YES
2. Where practicable, vehicle access is to be from lanes and minor streets rather than primary street fronts or streets with major pedestrian activity.	The site does not have access to a lane or minor street. Orth Street is the most appropriate option for vehicular access, to optimise separation distance to Somerset St. intersection.	YES
3. Where practicable, adjoining buildings are to share or amalgamate vehicle access points. Internal on-site signal equipment is to be used to allow shared access. Where appropriate, new buildings should provide vehicle access points so that they are capable of shared access at a later date.	Adjoining sites comprise single dwelling residential properties. There are no constraints to redevelopment of properties to the east and south of the site. No isolated development sites are created.	YES
4. To ensure pedestrian safety, vehicle entry points should not be located adjacent to building entry points.	A landscaped area separates the vehicular entry from the walkway to the residential and commercial lobbies.	YES
5. Vehicle access widths and grades are to comply with the Australian Standard.	Vehicular access widths and grades comply with the applicable Australian Standard.	YES
6. Vehicle access ramps parallel to the street frontage will not be permitted.	The access ramp is at a right angle from the street.	YES
7. Vehicle access ramps must be integrated into the building design and are not permitted as separate structures, Ramps must not be exposed along the side boundary.	The vehicular access ramp is integrated into the design of the building and does not dominate the front elevation of the building, nor is it exposed along the-side boundary, except for the limited length of driveway forward of the front building line.	YES
8. Vehicle entry points are to be integrated into building design.	The vehicular entry point is integrated into the building design.	YES
9. Doors to vehicle access points are to be roller shutters or tilting doors fitted behind the building facade.	The entry shutter/door to the driveway is located behind the building's façade.	YES
10. Vehicle entries are to have high quality finishes to walls and ceilings as well as high standard detailing.	The driveway entry extending south to the turntable area is provided with good quality	YES

No service ducts or pipes are to be visible from the street.	finishes to walls and ceiling. No service ducts or pipes will be visible from the street.	
11. Porte cocheres disrupt pedestrian movement and do not contribute to active street frontage. They may only be permitted for hotels, medical use buildings and major tourist Penrith Development Control Plan 2014 E12 Penrith Health and Education Precinct E12-22 venues subject to urban design, streetscape, heritage and pedestrian amenity considerations.	No porte-cocheres are proposed.	N/A
12. If justified, porte cocheres are to be internal to the building with one combined vehicle entry and exit point, or one entry and one exit point on two different street fronts of the development.	No porte-cocheres are proposed.	N/A
13. In exceptional circumstances for buildings with one street frontage only, an indented porte cochere with separate entry and exit points across the footpath may be permitted, as long as it is constructed entirely at the footpath level, provides an active frontage at its perimeter and provides for safe and clear pedestrian movement along the street.	No porte-cocheres are proposed.	N/A
Car Parking		
1. Car parking above ground level is to have a minimum floor to ceiling height of 2.8m so it may be adapted to another use in the future.	No car parking is proposed at or above ground level.	N/A
2. Where possible, natural ventilation is to be provided to underground parking areas with ventilation grilles and structures that are: *a) Integrated into the overall façade and landscape design of the development;* *b) Located away from the primary street façade; and* *c) Oriented away from windows of habitable rooms and private*	Limited natural ventilation is provided to the uppermost basement parking level. It is not feasible to provide any natural ventilation to the lower levels of the basement car park. Ventilation grills and plant are integrated into the design of the development and located away from the primary street façade and habitable rooms	YES

open space areas.	and balconies of apartments.	
3. Proposals for basement parking areas are to be accompanied with a geotechnical report, prepared by an appropriately qualified professional, and any other supporting information.	A geotechnical desktop study is attached at **Appendix K**.	YES
4. Basement car parking should be located directly under building footprints to maximise opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.	Basement car parking is located within the footprint of the building, apart from some extensions to the Orth Street front boundary, beneath the front setback. 3 areas of deep soil are provided between the areas where the basement extends to the Orth Street frontage. These deep soil areas have sufficient space to support trees.	YES
5. The appearance of car parking is to be improved by locating parking so that it is not visually prominent from the street.	Parking is located within basement levels and is not visible from the street.	YES
6. Car parking structures located above ground and viewed from the public domain are to be architecturally treated or where practical, sleeved with development.	No car parking is proposed at or above ground level.	N/A
7. Car parking layouts are to comply with the relevant Australian Standards.	Car parking layout complies with the applicable Australian Standards.	YES
Site Facilities & Services		
1. Letterboxes should be integrated into a wall immediately adjacent to the building entrance(s). Where there are a number of entrances into the building, the letterboxes located at each entrance should service the tenancies that will utilise that building entrance.	Locations for letterboxes, adjacent to the 2 entry lobbies are available and can be readily integrated into the subject lobby walls.	YES
2. Letterboxes shall be secure and large enough to accommodate articles such as newspapers.	Secure letter boxes of sufficient size to accommodate small articles and newspapers are provided at each lobby entry.	YES
3. Telecommunication infrastructure should be built into the development and predominantly below ground,	Telecommunications infrastructure will be provided in accordance with DCP requirements and details	YES

incorporating the following services fundamental in the effective operation of businesses, home businesses and dwellings: *a) Multiple telecom services including high speed internet (including broadband), voice and data systems; and* *b) Cabling from all telephone lines and cable TV.*	included in the Construction Certificate drawings. This can be addressed by imposition of a suitably worded DA consent condition.	
4. Where a master antenna is provided, the antenna must be sited in a location that is least visible from surrounding public spaces/ open areas.	A master antenna will be provided on the roof in a location that is not readily seen from the street. A DA consent condition to this effect can be imposed.	YES
5. Air conditioning units, service vents and other associated structures should be: *a) Located away from street frontages and lanes;* *b) Located in a position where the likely impact is minimised; and* *c) Adequately setback from the perimeter wall or roof edge of buildings.*	Air conditioning plant is suitably located away from the street frontage and neighbouring dwellings.	YES
6. Where they are to be located on the roof, they should be integrated into the roofscape design and in a position where such facilities do not become a feature in the skyline at the top of building(s).	Roof top air conditioning plant is integrated into the design of the roof and would not become a feature in the skyline.	YES
7. Separate waste storage and collection areas are to be provided for domestic and commercial waste.	Separate waste storage areas are provided in the uppermost basement level for residential and commercial waste.	YES
8. For developments comprising residential uses, a separate storage and collection area for bulky waste (such as cardboard boxes) and old or discarded furniture/appliances shall be provided.	A separate storage room for bulky waste items is provided in the uppermost basement level.	YES
9. Vehicular access to the waste collection areas should be from rear lanes, side streets and right of ways.	The site does not have any frontage to a laneway, side street or right of way.	N/A
10. The responsibility for the ongoing management of waste facilities must be determined prior to work commencing on the development. Details of the	A Waste Management Plan prepared in accordance with Council's requirements is included at **Appendix G**.	YES

management of waste by future tenants are to form part of the Waste Management Plan for the development. (See Appendix F3 for details on waste management plans).		
11. Loading/unloading areas are to be: *a) Integrated into the design of developments;* *Penrith Development Control Plan 2014 E12 Penrith Health and Education Precinct E12-24* *b) Separated from car parking and waste storage and collection areas;* *c) Located away from the circulation path of other vehicles;* *d) Designed for commercial vehicle circulation and access complying with AS2890.2; and* *e) Vehicles are to enter and exit the site in a forward direction.*	The loading/unloading area is integrated into the basement design, separated from residential parking and designed in accordance with AS2890.2. A turntable is provided to enable trucks to enter and leave in a forward direction and is engineered to accommodate traffic movements over the turntable. Sufficient space is provided to allow manoeuvring of trucks with minimal disruption to traffic flows to car parking spaces. Due to the modest area of commercial floor space and its office use, the frequency of large truck movements will be very low.	YES
12. Separate loading/unloading areas are to be provided for commercial/retail and residential uses.	Given the modest scale of the development and the focus on small to medium sized office tenancies (rather than retail) modest area of commercial space and the limited basement area, it is not feasible or necessary to provide a separate loading area for the office tenancies. There is sufficient space to accommodate 1 large truck or 2 smaller trucks.	NO (variation sought to allow a single loading dock)
13. Generally, provision must be made for all emergency vehicles to enter and leave the site in a forward direction, particularly NSW Fire Brigade vehicles where: *a) NSW Fire Brigade cannot park their vehicles within the road reserve due to the distance of hydrants from the building or restricted vehicular access to*	The design enables emergency vehicles to enter and leave the site in a forward direction. The development will be designed in accordance with any necessary NSWFB standards including provision of a fire hydrant if required. These matters can be addressed by suitably worded DA consent	YES

hydrants; or *b) Otherwise required by the NSW Fire Brigade's Code of Practice – Building Construction – NSWFB Vehicle Requirements.*	conditions.	
14. For developments where NSW Fire Brigade vehicle(s) are required to enter the site, the circulation path and access/egress provision is to comply with the NSW Fire Brigade's Code of Practice – Building Construction – NSWFB Vehicle Requirements.	It will not be necessary for NSWFB vehicles to enter the basement of the building.	N/A

5.4 Any matter prescribed by the regulations that apply to the land to which the development relates.

There are no matters prescribed by the regulations that are applicable to the subject land.

5.5 The likely impacts of that development.

The likely impacts of the development have been assessed in Sections 5.1, 5.2 and 5.3 of this SEE. There will be no material adverse impacts on the natural, social or economic environment, or neighbour amenity. Replacement tree planting will be provided for trees to be removed and there is no loss of native habitat or impact on any flora or fauna of environmental value.

The proposal will have positive social and economic outcomes and will make an important contribution towards developing the Kingswood Medical Precinct and providing accommodation for hospital staff employed in the Precinct. The overall impact of the development is considered positive.

5.6 The suitability of the site for the development;

The site has been zoned to provide for medium to high-rise mixed-use development and all necessary urban services are available to the site. There are no site development hazards such as flooding, land slip, bushfire, steep topography or contamination that would prevent its use for a mixed-use development in the form proposed.

The site has a long previous history of residential use, with no activities likely to cause land contamination. The site is not exposed to high noise levels such as railways, highways or industry, or to source of pollution, dust and other nuisances that could impact on occupant amenity.

The site is well suited to the proposed mixed-use development, being close to Nepean Hospital and within easy walking distance of shops, services and public transport.

5.7 Any submissions made in accordance with the Act or the regulations;

Any submissions made in respect to this application will be addressed by Council as part of the assessment process of this development. The proposal has been designed to minimise amenity impacts on adjoining residential development.

5.8 The public interest;

There are no matters of the public interest that would warrant refusal of the proposal. The provision of a mixed-use building in the form proposed will contribute positively to the desired future character of the area and the planned development of the locality as a medical support precinct. Such an outcome is considered in the public interest.

5.9 Section 7.11 Developer Contributions

Developer contributions will be payable to Council prior to issue of the Construction Certificate, in accordance with the Council's section 7.11 Developer Contributions Plan.

5.10 Response to Penrith Council Pre-DA Key Issues and Outcomes

As part of the preparation of the Development Application, the proponent prepared draft plans and participated in a Pre-DA Meeting with officers of Penrith City Council in October 2018, The Key Issues and Outcomes, as outlined in Council's Meeting Notes are identified and addressed in the following response table.

Penrith Council Pre-DA Key Issues and Outcomes Response Table

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COUNCIL ISSUE/OUTCOME	PROPONENT'S RESPONSE
Integrated Development *Due to the excavation needed for the basement construction a controlled activity permit will be required from the NSW Office of Water. The development application will be nominated as integrated development. Early consultation with NSW Office of Water is recommended. A Geotechnical and Hydrogeological Report will be required to support an application.*	The DA is accompanied by Geotechnical and Hydrological Reports, attached as appendices to the SEE. In accordance with the requirements for Integrated Development, Council will forward the DA to the Office of Water for comment. The required fee is included with the DA.
Site Isolation *The proposal will isolate 26 Somerset Street. All attempts should be made to acquire this site and incorporate into the development. Adequate documents will need to be submitted to satisfy Council that a reasonable offer have been made to the owner of the site. Council will require evidence that at least two recent independent valuations have been undertaken, by appropriately qualified professionals, and requires evidence to be submitted indicating offers and negotiations have been undertaken with the property owner.*	The proponent has been able to negotiate an option over No. 26 Somerset Street, enabling this site to be included with the original development site (38-40 Orth Street), to provide a single generously sized development site, leaving no isolated development sites.
Building Height	

It appears the development is seeking a 20% height bonus under clause 7.11 and a clause 4.6 variation for height in excess of the maximum Height of Building permissible under clause 4.3. There is no justification to support a clause 7.11 bonus. An adaptability plan would be needed to demonstrate that the first floor can be adaptable for commercial purpose once Strata Titled, this also includes lift arrangements. It is unlikely that a clause 7.11 and clause 4.6 will be supported to achieve the overall height proposed.	The proposed development now includes a 2 storey commercial podium with increased floor to ceiling height clearances and on this basis is able to utilise the 20% height bonus, allowing a height of up to 21.6m. The previously proposed first floor residential level has been deleted and replaced with office floor space. The roof extends up to 1.1m above this height limit and the lift overrun extends 2.1m above this height limit. The DA is accompanied by a clause 4.6 submission demonstrating that in this case, strict numerical compliance with the height standard is unreasonable and unnecessary.
SEPP 65 & Apartment Design Guide ***Setbacks*** *- The proposed reduced setbacks do not meet the required separation distances under the ADG. The required setbacks attribute to the reduction in privacy impacts, reduction of bulk/scale and overbearing nature of the built form and enables the required solar access to be achieved. The reduced setbacks proposed are not supported.* ***Deep Soil*** *- The proposal does not meet the deep soil requirements. The calculation provided on the plans has not considered footpaths, services, OSD, and cannot be only contained in the front setback. The basement design to the side and rear boundaries does not allow for deep soil planting. A basement redesign is required to allow an appropriate deep soil zones that can support the type and height of planting.* ***Communal open space*** *- Communal space in the front set back and ground level is not acceptable. The communal space at the ground floor and front set back interfaces with the commercial area and doesn't not provide any amenity to the residential component of the building.*	The ADG allows reduced setbacks where reasonable neighbour amenity, including solar access, privacy, outlook and natural ventilation are maintained. The proposed development is similar in bulk and scale to the recently approved redevelopment adjoining the site at 28 – 32 Somerset St., which has also been approved with reduced setbacks to the northern side boundary. A complying deep soil zone of more than 17% of site area is provided along the common boundary with No. 28 Somerset Street and along the Somerset Street frontage and part of the Orth Street frontage within the front setback. The extent of deep soil area, as a percentage of site area, is much higher than was approved for No. 28-32 Somerset Street. Pathways, seating and the and the like do not impact on the ability of this area to accommodate trees and large shrubs, as detailed in the landscaping plan. Substantial facilities such as OSD or substations are not proposed within the deep soil area. Communal open space now includes a landscaped rooftop terrace for the exclusive use of residents, in addition to the ground level communal open space at the rear of the western portion of the building.
DCP 2014 ***Commercial*** *– All points of an office floor should be no more than 10m from a source of daylight. The ground floor commercial has limited windows or other sources to meet this control.* ***Parking*** *– the proposal has used RMS guidelines as opposed to Council's DCP and this has resulted in a shortfall of car parking (11.4). Based on the current proposal (which requires revision) 56.1 car parking spaces would be required.*	All office suites have been designed so that all floor space is within 10m of a window. Car parking has been increased to 82 car spaces to achieve full compliance with Council's DCP. At least 1 car space is provided for each apartment (2 for each 3 bedroom unit) and commercial parking (29 car spaces) provided at the rate of 1 car space per 40m2 of commercial floor space. There are ample visitor parking spaces (8 spaces) provided at the rate of 1 per 5 units.

	24 commercial car spaces are provided (1 per 40m2 of office space). There is potential for residential visitors and commercial tenant customers to share 18 car spaces in the uppermost basement level.
Urban Design Review Panel *After consideration of the feedback outlined in this information, and if an application is to be pursed, it is highly recommended that the proposal is booked in for review with Council's Urban Design Review Panel prior to the lodgement of a DA.*	The proponent does not wish to further delay submission of the DA. It is our understanding that as part of the assessment process, the DA will be referred to Council's Urban Design Panel
Contamination *A development application will need to be accompanied by a contamination assessment prepared by a suitably qualified and experienced consultant. In addition to soil contamination, the assessment will also need to address potential groundwater contamination given the proposed 3 levels of basement and the higher chance of intercepting groundwater as part of the development.* *If the contamination investigation recommends additional investigations be conducted, these investigations need to occur and a report based on the findings submitted to Council. If remediation is required, the application needs to be accompanied by a Remediation Action Plan.* *All contamination assessments need to be prepared in accordance with relevant NSW EPA guidelines and NEPM 2013.*	The subject land has had a long history of residential use and is not identified as a potentially contaminated site. Any potentially contaminated waste arising from the demolition of existing buildings would be managed in accordance with legislative requirements. Notwithstanding the above, a phase 1 land contamination assessment has been completed and the proponent is agreeable to a consent condition that requires the carrying out of a more detailed contamination assessment and if required the preparation of a Remediation Action and the remediation of the site prior to issue of a Construction Certificate.
Acoustics *An acoustic assessment of all mechanical plant and equipment needs to be provided. This includes, but is not limited to air conditioning units, basement mechanical ventilation and elevators. In addition, given the partly open nature of the proposed garbage bay, noise from waste collection activities and operation of the vehicle turntable need to be included in the assessment.* *The acoustic assessment needs to be prepared in accordance with the NSW EPA's* *Noise Policy for Industry by s suitably qualified and experienced consultant.*	The site is not located within an area subject to industrial, transport or other excessive noise. The proposal does not result in any excessive noise generation. The basement loading dock is fully enclosed so that potential noise emissions from the basement are mitigated. All plant and equipment, including mechanical ventilation will be designed and located to ensure noise emissions at the boundaries comply with the relevant noise emission standards. A preliminary acoustic assessment, which also includes recommendations for minimising noise impacts, is attached as an appendix to the SEE.
Engineering General *Council's engineering requirements for subdivisions and developments, including policies and specifications listed herein, can be located on Council's website at the following link: https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-*	The DA plans have been prepared having regard to Council's engineering design requirements for development.

Applications/Engineering-requirements-for-developments/ *All engineering works must be designed and constructed in accordance with Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Council's Engineering Construction Specification for Civil Works.*	
Stormwater *Stormwater drainage for the site must be in accordance with the following:* *o Council's Development Control Plan,* *o Stormwater Drainage Specification for Building Developments policy, and* *o Water Sensitive Urban Design Policy and Technical Guidelines.* *A stormwater concept plan, accompanied by a supporting report and calculations, shall be submitted with the application* *A water sensitive urban design strategy prepared by a suitably qualified person is to be provided for the site. The strategy shall address water conservation, water quality, water quantity, and operation and maintenance.*	The DA plans have been prepared having regard to Council's engineering design specifications and DCP requirements for stormwater management. A stormwater plan and supporting calculations is included with the DA and has appropriate regard to the Water Sensitive Urban Design Policy. The DA includes a Water Sensitive Urban Design Strategy intended to address water quantity and optimise water conservation and water quality.
Local Overland Flows *Due to proximity to overland flows, the access ramp to the underground basement shall be the greater of 300mm above the top of kerb level.*	The access ramp to the basement has a height at the entry at least 300mm above the top of the kerb level.
Roadworks *The development will require the following external road works:* *Driveway works and kerb works.*	The proponent will be constructing the access driveway and kerb works in accordance with Council standards as part of the development.
Earthworks *Dilapidation Report as excavation works are the proposed to the boundaries of all adjoining properties.* *Earthworks and retaining walls must comply with Council's Development Control Plan.* *The application is to be supported by a geotechnical report prepared by a suitably qualified person for the basement car parking areas and should include, but not be limited to, the following items; ground water movement, salinity and contamination.*	A dilapidation report will be provided prior to any works, including demolition, commencing on the site. Earth works and retaining walls will be designed in accordance with the Council's DCP requirements and suitably detailed in the Construction Certificate plans. A preliminary geotechnical report and a hydrological report for the development are included as appendices to the SEE.
Traffic *The application is requested to be supported by a traffic, parking and access statement addressing but not limited to traffic generation, impact on traffic and parking in Orth Street, impact on the intersection of Orth Street with Somerset Street and*	A Traffic Parking and Access Report is included as an appendix to the SEE. This Report addresses traffic generation, intersection capacity, public transport, servicing vehicles, loading and unloading,

intersection of Orth Street with Bringelly Road. The size, type and volume of vehicle access onto the site and fronting the site, access to car park, arrangements for waste collection vehicles and other service, delivery and removalist vehicles, accessible pedestrian access from the car park to the buildings and from the fronting footway to the buildings, car parking provision numbers and arrangements, and manoeuvring swept turn paths. *The car parking numbers, bicycle parking numbers, wash space numbers service vehicle numbers, visitor space numbers as well as dimensions, clearances, headroom compliance with AS 2890.1, AS 2890.2, AS 2890.6, Council Waste Services guidelines, Council DCP C10.* *The application is requested to demonstrate that access (including pedestrian access and access for mobility impaired), car parking, clearances from obstructions (walls and columns), ramp and car park headroom to overhead obstructions (including service pipes, lights etc.) and vehicle swept path manoeuvring details comply with AS2890 Parts 1, 2 & 6 and Council's Development Control Plans (DCPs) including DCP C10.* *The application is requested to demonstrate that access (including pedestrian access and access for mobility impaired), car parking, clearances from obstructions (walls and columns), ramp and car park headroom to overhead obstructions (including service pipes, lights etc.) and vehicle swept path manoeuvring details comply with AS2890 Parts 1, 2 & 6 and Council's Development Control Plans (DCPs) including DCP C10.* *The car park entry / exit, movements past loading areas and movements on ramps should be two way to avoid potential conflicts. A two way ramp will require a minimum of 5.5 metre roadway with 0.3 metre clearances to walls which will result in a total a minimum ramp width of 6.1 metres. Ramps and bends will require widening to accommodate two way turning swept paths in accord with AS 2890.1 Figure 2.9. Any alternative option of a one lane basement car park ramp could only be considered if there are appropriate traffic management measures such as traffic signals and there are complying areas at each end to allow passing. Other options for arranging heavy rigid vehicle (HRV) turntable clear of the car park aisle and providing loading areas, waste collection and manoeuvring areas clear of the car park aisle and in in accordance with Council's Waste Services Development Control Plans and Guidelines are also requested to be considered. If the proposed HRV turntable is proposed to be located in*	pedestrian access, vehicular access, car parking, including accessible parking), bicycle parking, traffic management within the site, vehicle manoeuvring and headroom compliance. The Report demonstrates compliance with the applicable design standards.

the car park aisle, then traffic management measures such as traffic signals would be required to restrict other vehicles passing when the turntable is in operation and to control any two way contraflow at one lane restrictions. *The proposed ramp grades and grade transitions should comply with AS 2890.1. All car parking spaces should have complying, headroom, additional widths and clearances from columns, walls and other obstructions.* *Accessible parking is to be provided in the car park and have complying, accessible paths of travel to the building common areas. This would include headroom clearance of at least 2.5 metres above an accessible space and a clear area (possibly a shared space, pedestrian area or aisle) beside the space to allow wheelchair and other access beside the vehicle in accordance with AS 2890.6* *The car spaces, aisles, column locations, clearances, headroom are not dimensioned and should comply with the AS and DCP requirements including DCP C10 requirement for full opening doors at car spaces in accord with AS 2890.1 Table B1 = 2.6m wide spaces. Please note that parking space widths are measured to the outside face of any columns as shown on AS 2890.1 Figure 5.1. The storage space shown on Basement 2 and 3 have storage spaces that have no access or very tight and impractical access.* *The bicycle parking shown on Basement 2 has very tight and impractical access. The floor to ceiling headroom shown on Section AA has 3.0m for basement 2 and 2.8m for basements 3 which appear suitable however particular compliance with the minimum headroom (from floor to lowest fitting, light, pipe etc.) of 2.2m (desirably 2.3m) to car spaces with minimum 2.5m above disable spaces is requested.* *Accessible parking should be provided be as close as practicable to lifts and the building entries with accessible paths of travel. The proposed accessible parking is to be designed to conform to AS 2890.6 and Council requirements.* *Wheel stops shall be provided for any parking spaces that front/back onto a pedestrianised area to control kerb overhang. Wheel stops shall be designed in accordance with AS2890.* *The access driveway widths must accommodate swept movements of the largest vehicle servicing the site and be designed to conform with AS 2890.1 and AS2890.2.* *Sight distance requirements and driveway widths*	

are to be met in accordance with AS 2890.1, AS 2890.2 and Council requirements. This is to include the requirements set out in AS 2890.1 Figure 3.2 Sight Distance Requirements at Driveways and Figure 3.3 Minimum Sight Lines for Pedestrian Safety. Also AS 2890.2 Figure 3.3 Sight Distance Requirements at Access Driveway Exits and Figure 3.4 Minimum Dimensions for Access Driveway Sight Splays for Pedestrians. *The required sight lines around the driveway entrance and exit are not to be compromised by street trees, landscaping, fencing or signposting.* *All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.* *All vehicles are to enter/exit the site in a forward direction.*	
<u>Building</u> *Access to and within the building will need to comply with Part D3 of the BCA and AS1428.1-2009.* *Ensure accessible car parking spaces are located close to lifts. Ensure adaptable units are spread evenly throughout the building.* *Ensure construction and essential services provided comply with the provisions of Volume 1 of the Building Code of Australia.* *The DtS provisions in the Building Code of Australia require 2 exits from the basement carpark and state that the fire isolated exit from upstairs must not discharge into the foyer.* *Ensure that any non-combustible cladding must be used complying with the relevant provisions of the BCA.* *Provide details of the location of the hydrant and sprinkler booster with DA application.* *Consider the proposed changes to the 2019 version of the Building Code of Australia in regard to sprinkler protection.*	A BCA Accessibility Report is included with the DA as an appendix to the SEE. This Report demonstrates compliance with accessibility requirements. The proponent is agreeable to a consent condition requiring preparation of a BCA Compliance Report relating to Volume 1 of the BCA and including matters such as essential services, fire protection and egress and fire hydrants and sprinklers prior to the issue of a Construction Certificate. Cladding will be designed in accordance with the applicable combustibility standards. Due regard has been given to proposed BCA changes anticipated to be adopted in 2019.
<u>Waste</u> *The waste collection infrastructure and collection proposal is not supported in its current state.*	Waste collection infrastructure has been redesigned to meet Council requirements.
<u>Waste Concept Designs</u> *To facilitate the development of an integrated on-site waste collection solution for the proposed development, Waste Services is happy to review concept design configurations. This process will allow various configurations/solutions to be explore prior to formalising and submitting amended*	The proponent has undertaken further consultation with Council's Waste Services Division and prepared revised designs relating to waste collection, storage and disposal to meet Council's requirements.

architectural plans to Council.	
Waste Onsite Loading Bay *Residential Flat Building developments as outlined in the C5 Waste Management DCP 2014, Section 5.2.2.4;* *Subsection 2: Developments comprising three or more storeys, the development is to incorporate a waste chute system.* *Subsection 5: On-site collection is required to service the development. Adequate and safe access must be provided for Council's Standard Waste Collection Vehicles and waste collection staff* *The current configuration proposes a turn table at the bottom of the basement ramp. Note: The current configuration will inhibit vehicle movements within the basement during waste collection. The following information is consistent with previous information provided to Joe Yuan in email correspondence dated 09/10/18 prior to PL18/0077.*	The proposal includes a waste chute system designed in accordance with Council's requirements. Appropriate vehicular access (including a turntable to allow trucks to enter and leave in a forward direction), together with a suitably sized loading dock adjoining the garbage storage rooms have been provided in the uppermost basement level. The configuration of the turntable and loading dock has been amended to ensure waste collection vehicles and other trucks do not obstruct the movement of cars into and out of the basement levels.
Turn Table *Turn tables are to be provided in accordance with section 2.4 of the 'Residential Flat Building Guideline' document.*	A suitably sized and robust turntable is provided in the basement.
Alternate Waste Collection Proposal *Alternated Waste Collection solutions may be proposed in accordance with section 2.5 of the 'Residential Flat Building Guideline' document.*	An alternative waste collection solution is not proposed.
Bin assignment to the dwelling *The waste generation rates provided below are in accordance with section 3.3 of the* *"Residential Flat Building Developments Waste Management Guideline" document:* *2x1100L Residual Bins (no compaction)* *- Chute system must be implemented* *2x1100L Recycling Bins (no compaction)* *- Chute system must be implemented* *2x1100L Service Bins (no compaction)* *- Chute system must be implemented* *Total: 6x1100L bins* *NOTE: Compaction of Residual and Recyclable waste streams is NOT supported by council.*	A chute system is proposed, and waste storage rooms have been designed to accommodate the waste storage capacity required by Council A consent condition can be imposed to ensure compliance with Council's requirements.
Commercial on-site collection infrastructure *The commercial on-site collection infrastructure will need to incorporate the following infrastructure into its design in accordance with section 2.2.9 of the "Residential Flat Building Developments Waste*	A suitably sized commercial waste collection room is provided and there will be on-site collection of commercial waste. A consent condition can be imposed to ensure compliance with Council's

Management Guideline" document: *On-site collection infrastructure to be provided in accordance with section 2.2.1 and the wide provisions outlined in section 2.2 of the "Residential Flat Building Developments Waste Management Guideline" document* *Waste collection room to be built in accordance with section 3.5.2 of the* *"Residential Flat Building Developments Waste Management Guideline" document.* *Commercial developments to submit a plan of operations in accordance with section 2.2.9 of the "Residential Flat Building Developments Waste Management Guideline" document* *Note: Waste Generation rates in accordance with Councils "Commercial Waste Generation Rates Guideline" document.*	requirements relating to commercial waste on-site collection infrastructure.
<u>Waste Chute System</u> *The waste chute room located in basement 1 will need to incorporate the following infrastructure into its design as outlined in section 3.5.1 of the "Residential Flat Building Developments Waste Management Guideline" document:* *Incorporation of linear track or a circular carousel device under each individual chute* *Minimum 0.9m clearance around the linear or circular carousel system to allow for manoeuvrability and system maintenance* *1.8m unobstructed clearance zone between the linear/circular track system and the entrance for access and manoeuvrability* *Suitable door access for the service of bins with a minimum width of 1.8m, and accessed by a 1.8m unobstructed access corridor.* *Should a roller door be provided an additional 0.9m service door is required inclusive of an abloy key system* *Accommodate two additional 1,100L service bins in each chute room with a minimum access clearance of 1.8m wide for the loading of 1100L bins onto the track system.* *The room is to be fully enclosed, walled and not permit through access to other on-site waste infrastructure. Separate unobstructed access is required.* *Note: A model chute room configuration is outlined in section 3.7.1 of the 'Residential Flat Building*	The waste chute system has been revised to comply with Council's requirements. A consent condition can be imposed to ensure compliance with Council's requirements relating to waste chute systems.

Guideline' document.	
Waste Collection Room *The waste collection room will need to incorporate the following infrastructure into its design as outlined in section 3.5.2 of the "Residential Flat Building Developments Waste Management Guideline" document:* *Room built to store the entire fleet of bins plus 0.2m between bins to allow adequate manoeuvrability room.* *1.8m unobstructed clearance zone between the stored bins and the entrance for access and manoeuvrability* *Suitable door access for the service of bins with a minimum width of 1.8m, and accessed by a 1.8m unobstructed access corridor.* *Should a roller door be provided an additional 0.9m service door is required inclusive of an abloy key system,* *A room is to be located in close proximity to the on-site loading bay.* *The room is to be fully enclosed, walled and not permit through access to other on-site waste infrastructure. Separate unobstructed access is required.*	Waste collection rooms have been provided in accordance with Council's requirements. A consent condition can be imposed to ensure compliance with Council's requirements relating to waste collection rooms.
Bulky Households Goods Room *The Bulky Households Goods Room will need to incorporate the following infrastructure into its design as outlined in section 3.5.3 of the "Residential Flat Building Developments Waste Management Guideline" document:* *The room is to be 6m2 in area to allow service of the development* *Room dimensions are to be designed to ensure items can be placed and manoeuvred within the room, with a minimum width of 1.8m.* *Suitable door access for the service of bins with a minimum width of 1.8m and* *accessed by a 1.8m unobstructed access corridor. Minimum room width of 1.8m to all internal walls* *A room is to be located in close proximity to the on-site loading bay.* *The room is to be fully enclosed, walled and not permit through access to other on-site waste infrastructure. Separate unobstructed access is required.*	A bulky household goods room has been provided in accordance with Council's requirements. A consent condition can be imposed to ensure compliance with Council's requirements relating to the bulky household goods room.
Internal Waste Infrastructure	

All onsite waste infrastructure including the Waste Chute Room, Temporary Waste Storage Room, Waste Collection Room and Bulky Household goods room will need to incorporate the following minimum design specifications: *The floor must be finished so that it is non-slip and has a smooth and even surface covered at all intersections* *Floor graded to a central drainage point connected to the sewer, enabling all waste to be contained and safely disposed of* *Fully enclosed and roofed with a minimum internal room height in accordance with the Building Code of Australia 2016 (BCA)* *The room is to be provided with an adequate supply of water through a centralized mixing valve with hose cock* *Incorporation of adequate lighting and naturally/mechanical ventilation to meet Building Code of Australia 2016 requirements*	The waste collection room and bulky household goods room will be constructed in accordance with Council's requirements. A consent condition can be imposed to ensure compliance.
<u>Bin Transportation</u> *For the internal movement of 660L and 1,100L bins the following design specifications apply as outlined in section 3.6 of the "Residential Flat Building Developments Waste Management Guideline" document:* *The bin carting route from waste chute room to the waste collection room is to be as direct/short as possible, free from obstructions, and not require bins to be carried over any stairs.* *For larger bins (660L & 1100L), the maximum unassisted route of travel is 10m, maximum grade of 1:24 and via a 1.8m unobstructed access corridor* *The movement of bins from the basement to the waste collection room is not permitted via the basement ramp.* *To support the movement of bins within a development a bin tug device is required to be provided and stored within the development. Tug devices are categorised as Electric Ride On Tug Device and Electric Portable Bin Tug Devices. Device Specifications are outlined in section 3.6.1 and 3.6.2 respectfully of the "Residential Flat Building Developments Waste Management Guideline" document.*	Waste management facilities are designed to ensure compliance with Council's requirements in relation to bin transportation. A consent condition can be imposed to ensure compliance.
<u>Waste Infrastructure Guidelines</u> *For further specific waste operational and infrastructure information please see "Waste Guideline Document: Residential Flat Buildings"*	The subject guidelines have been considered in the preparation of the DA plans.

6. CONCLUSION

Having inspected the subject site and the surrounding locality and reviewed the plans and supporting documentation, we are of the opinion, that the proposed development of the site for a 7 storey mixed-use building in the form proposed is an appropriate development of the site and will make a positive contribution to the planned future development of the Hospital Precinct at Kingswood.

, The proposed development generally accords with the desired future character for the locality and will result in minimal and acceptable impact on the environment of the locality.

Amenity impacts on neighbouring properties will be acceptable, in the context that these existing low-density residential properties are zoned for future medium to high- rise mixed use redevelopment. Appropriate privacy protection measures are included in the development and the proposal will have a limited and acceptable impact on neighbour solar access.

Traffic generation is within the capacity of the local road system and proposed resident car parking spaces exceeds the minimum required by Council's DCP. Adequate commercial and visitor parking is provided, and the site is within easy walking distance of high frequency public transport services, as well as local retail and other services.

The proposal complies with the objectives and controls of PLEP 2010, apart from a relatively minor exceedance of the 21.6m maximum building height control that applies to the site for buildings with floor to ceiling heights of at least 3.5m for ground and first floor levels.

The proposal is accompanied by a clause 4.6 submission justifying a 2.1m height exceedance for the small lift overruns and a height exceedance of up to 1.1m for the roof and uppermost portion of the Level 6. The portion of the building above the 21.6m height control has a substantially reduced floor plate and additional boundary setbacks and has no material impact on bulk or scale, compared to a building with a fully compliant height. The requested height variation is worthy of Council's support and facilities the development of 2 levels of commercial floor space on the site.

The development achieves the relevant objectives of Penrith DCP 2010 and is substantially compliant with the primary DCP controls.

Given the limited depth of the site, particularly the western portion of the site, some flexibility with respect to the application of side setbacks controls is reasonable in the circumstances. Privacy protection measures are included where reduced setbacks are proposed and the setbacks provide for ample access to natural light and ventilation and are adequate to avoid creating a crowding of buildings of a 6 to 7 storey scale.

The proposal achieves substantial compliance with the SEPP 65 Apartment Design Guide, subject to some flexibility with respect to application of the building separation numerical controls to No. 28 Somerset Street. Council has applied the setback controls with a degree of flexibility in the case of the approved redevelopment of 28-32 Somerset Street.

Requested variations to recommended building separation numerical controls are reasonable in the circumstances and will maintain acceptable neighbour amenity in the context of a developing medium rise mixed-use precinct.

FSR is the primary measure of bulk and scale. Proposed FSR is some 16.7% less than the maximum permitted for the site. Accordingly, the bulk and scale of the proposed development is generally consistent with the planning controls for the site.

The 5 storey apartment building component located above the 2 storey podium provides for a suitable urban tower form, is of good design and offers a high level of amenity for occupants. The proposal includes ample private and common area open space and an adequate area of deep soil area, including landscaped plaza space to Orth Street and Somerset Street. A generous deep soil area is provided for trees and larger shrubs.

The proposal has positive social and economic impacts and will complement the planned major future redevelopment of the neighbouring Nepean Hospital complex.

We fully support the proposed development and respectfully seek Council's favourable consideration of the application.

Appendix A

Site Survey Plan prepared by Resolution Survey

Appendix B

Site Analysis Plan, Architectural Plans, 3D Views, Details of External Materials, Finishes & Colours & Shadow Diagrams prepared by AC Project Group

Appendix C

SEPP 65 Architectural Design Verification Report and ADG Compliance Table prepared by Moderinn Pty L:td

Appendix D

Traffic and Parking Review prepared by Transport and Traffic Planning Associates

Appendix E

Landscape Plan prepared by Total Concept

Appendix F

Stormwater Management Plan prepared by LP Consulting Australia Pty Ltd

Appendix G

Waste Management Plan prepared by ACE Project Group

Appendix H

BCA Accessibility Report prepared by Lindsay Perry Access Pty Ltd

Appendix I

BASIX Certificate prepared by Certified Energy

Appendix J

Clause 4.6 Submission – Request for a Variation to Building Height (PLEP Clauses 4.3 and 7.11) prepared by Ingham Planning P/L

Appendix K

Geotechnical Desktop Study prepared by Douglas Partners Pty Ltd.

Appendix L

Phase 1Land Contamination Assessment Report prepared by Douglas Partners Pty Ltd

Appendix M

Acoustic Impact Assessment prepared by Acoustic Consulting Engineers Pty Ltd