

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0414
Proposed development:	Conversion of Existing Dwelling to Health Services Facility & Construction of Associated Car Parking
Property address:	77 Lethbridge Street, PENRITH NSW 2750
Property description:	Lot 15B DP 344265
Date received:	15 June 2021
Assessing officer	Sufyan Nguyen
Zoning:	SEPP WSA - Affected by Obstacle Limitation Zone R4 High Density Residential - LEP 2010
Class of building:	Class 9a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application which seeks approval for the conversion of an existing dwelling to a health services facility including the construction of car parking at 77 Lethbridge Street, Penrith. The subject site is zoned R4 High Density Residential Use under Penrith Local Environmental Plan 2010 (PLEP). The proposal is a permissible use within a *prescribed zone* under Clause 57 of the State Environmental Planning Policy (Infrastructure) 2007.

Concerns were initially raised in relation to potential impacts on two large trees situated on the north-eastern corner of the site due to the close proximity of the new car park (5 x car parking spaces) which will replace an existing detached secondary dwelling and garage and required an additional 2.3m wide hardstand area. The applicant subsequently provided amended plans in response, which deleted one car space situated adjacent to the trees. The revised car parking area no longer requires additional hardstand area in this vicinity and shows the retention of these trees. However, it is considered appropriate that a consent condition be recommended to ensure that adequate tree protection measures will be in place during demolition and construction works.

Given the minor nature and scale of the proposal, it is not considered likely to result in any adverse impacts on the immediate surrounds, noting that servicing is adequate and vehicle access is maintained, with a new car park provided. In addition, a recommended consent condition is imposed to ensure compliance with AS 2890.1 guidelines.

The proposal was notified to adjoining and nearby properties and was publicly exhibited for a period of 14 days in accordance with Penrith Development Control Plan 2014 (DCP) and Penrith Council's Community Engagement Strategy and Community Participation Plan. During the notification period, two public submissions were received in response. The matters raised in relation to tree impacts, poor condition of an existing eastern side boundary fence (adjacent to the new car parking area) and the nature of the use are adequately addressed via the amended site and landscape plans, and through the recommended consent conditions as detailed in this report.

An assessment of the proposal under Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act) has been undertaken and the application is recommended for Approval, subject to recommended consent conditions. The development application will be determined by Council, under delegation.

Site & Surrounds

The subject site has a property address of 77 Lethbridge Street, Penrith and is legally described as Lot 15B DP 344265. The site is situated on the northern side of Lethbridge Street, approximately 30m west of the intersection of Doonmore Street and Lethbridge Street. The site has a land area of 558m² and is overall square in shape, with a south-facing frontage of 23.16m.

The site contains an existing dwelling and a detached secondary dwelling/garage and a number of large significant trees situated adjacent to the rear boundary. The site is surrounded by a mixture of low and medium density residential development and is located in proximity to Penrith City Centre.

History

- Development consent no. DA12/0626 for a Secondary Dwelling was refused on 11 September 2021;
- Development consent no. DA14/0742 for Residential-Alterations and additions - Existing Outbuilding was granted on 27 October 2014; and
- Development consent no. DA15/1236 for Demolition of Existing Garage & Fit-Out & Use of Existing Dwelling as Health Consulting Rooms was granted 21 January 2016, which has since lapsed.

Proposal

The application seeks approval to convert an existing dwelling to a health services facility at 77 Lethbridge Street, Penrith. The proposal comprises of the following aspects:

- Internal alterations to the existing dwelling to create one consulting room (3.6m x 3.6m), a surgery room (3.6m x 4.2m), a reception room (3.5m x 4.8m) and filing area (2.4m x 3.7m), waiting area (3.6m x 4.2mm), staff room (3.2m x 5.7m) and amenities (toilet and accessible toilet);
- Demolition of an existing detached secondary dwelling/garage;
- Construction of a new car parking area with four car parking spaces (inc. 1 accessible space);
- Complementary landscaping across the front of the site;
- Accessible ramp to the front of the building from the driveway;
- One health care professional;
- One supporting staff; and
- Hours of operation from Monday to Friday, 8am - 6:30pm and Saturday, 8am - 4pm.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 4.15 - Evaluation**

The development proposal has been assessed in accordance with the matters for consideration under Section 4.15 of the Act, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 7.12 - Developer Contributions**

The development proposal is subject to Council's City-Wide Section 7.12 Development Contributions Plan for Non-Residential Development. Based on the applicable rate under this Development Contributions Plan, the following development contribution applies to the proposal:

Type of Contribution	Cost of Works	Rate	Amount
Section 7.12 Fixed Development Consent Levy	\$149,710.00	0.5%	\$749.00
Total Contribution			\$749.00

A condition of consent requiring the payment of this development contribution, prior to the issue of a Construction Certificate, has been recommended.

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

State Environmental Planning Policy (Infrastructure) 2007

Division 10 Health services facilities of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) provides controls relating to health services facilities. The development proposal is appropriately defined as a health service facility, which means:

"a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,*
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) patient transport facilities, including helipads and ambulance facilities,*
- (e) hospital."*

Clause 57(1) of SEPP Infrastructure provides for the development of 'health services facilities' to be carried out by any person with consent on land in a prescribed zone. In this case, an R4 High Density zone is identified as a prescribed zone and as such, the proposed health services facility is permissible with consent. The proposal involves alterations and additions to an existing residential dwelling to facilitate a change of use to a health services facility. The proposal was notified in accordance with the requirements of Council's DCP and Community Participation Plan. Two submissions were received in response, however, the tree impact, boundary fencing and nature of the development concerns raised are not considered to impede approval of the application (refer also to the submissions section of this report).

It is noted that there are no other provisions within this policy or clause relevant to the subject application.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (SEPP WSA) contains an Obstacle Limitation Surface Map, which identifies the subject site being within this area. Clause 24 Airspace operations of SEPP WSA relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. In this regard, the proposal neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55—Remediation of Land (SEPP 55) provides aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Under Clause 7 of SEPP 55, it must be considered as to whether the land is contaminated, and if so, Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which development is proposed to be carried out.

In this regard, the subject site has predominately been used for residential purposes and the nature of the proposed use of the site will be used for commercial purposes (health services). In addition, a review of historical aerial mapping indicates that the site does not appear to contain any unknown imported fill or waste material, which further demonstrates that the site is suitable for the development proposal.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against relevant criteria within Sydney Regional Environmental Plan No. 20—HawkesburyNepean River (No. 2—1997). This Policy aims “to protect the environment of the HawkesburyNepean River system by ensuring that the impacts of future land uses are considered in a regional context”. The Policy requires Council to assess development applications with regard to general and specific considerations, policies and strategies.

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

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Complies
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

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

There are no draft environmental planning instruments that specifically apply to the development.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	Complies - see Appendix - Development Control Plan Compliance
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements in place, which are applicable to the proposal.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia (BCA) and fire safety requirements, will be imposed as conditions of consent where applicable, noting that Council's Building Surveyor raised no objections to the proposal. In this regard, the proposal complies with the relevant BCA and fire safety requirements of the Environmental Planning and Assessment Regulation 2000.

In addition, the development application has been notified and publicly exhibited in accordance with the requirements of the Regulations.

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

Under Section 4.15(1)(b) of the Act, consideration must be given to the likely impacts of the development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

In regards to the context of the locality, the development proposal involves minor alterations and additions to an existing residential dwelling and the demolition of a detached secondary dwelling/garage. The proposed works are minor in scale and recommended consent conditions are imposed to paint the external facades of the building and provide for new eastern side boundary fencing, which will in turn, improve amenity. It is noted that the new car park will replace the detached secondary dwelling/garage, however, two plum trees and shrub buffers will be provided in front of the car parking area to aid in softening views of the car park. As such, it is unlikely that the proposal will result in any unreasonable impacts on the character of the locality or streetscape.

The minor nature of the development is not considered likely to result in adverse impacts on the surrounding natural environment. The proposal has existing connections to services and retains significant trees on site. Stormwater drainage works and on-going waste management will ensure that adequate servicing is provided for the proposal.

In terms of socio-economic impacts, the proposal will be of minimal impact on adjoining properties and traffic congestion in the locality. The proposal is for a maximum capacity of one health care professional and one receptionist on site and satisfies the minimum four off-street parking spaces requirement. Vehicular manoeuvring to the side car parking area will be in accordance with AS 2890.1 guidelines via a recommended consent condition. In addition, health servicing practices will be regulated by NSW Health Department requirements in accordance with the Protection of the Environment Operations Act 1997 and Regulation via recommended consent conditions.

It should be noted that two public submissions were received in regard to the retention of the two significant trees situated at the rear corner of the site and the poor condition of the eastern side dividing boundary fence, adjacent to the proposed car parking area. These concerns will be addressed via the requirement of tree protection measures during any works and new fencing by way of recommended consent conditions.

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

The site is suitable for the proposed development for the following reasons:

- The development proposal is a permissible land use in the R4 zone;
- The proposal is of a minor scale;
- The proposal is unlikely to result in any significant impacts on the surrounding natural or built environments;
- The proposal will have negligible impacts on traffic flows and on-street parking;
- The site has existing connections to services and new infrastructure will ensure adequate servicing for the site;
- The site's soil profile is suitable for the development and the proposal does not include the removal of any significant flora or fauna; and
- The site is in proximity to amenities and recreational activities.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F2 of the DCP, the development application was notified to 14 adjoining and nearby properties and publicly exhibited from 28 June to 12 July 2021. During this period, two public submissions were received in response, however, the concerns raised are not considered to impede approval of the application. Key concerns raised in relation to the proposal were as follows:

Issue Raised	Comments
Tree Impacts On Site	<ul style="list-style-type: none"> • The applicant subsequently amended the proposed car parking area to delete one car space due to tree impact concerns raised by Council. • The reduction in car parking spaces no longer requires an additional 2.3m width of hardstand area adjacent to the two large trees situated at the north-eastern corner of the site. • A recommended consent condition will be imposed to provide for a tree protection plan in accordance AS 470-2009, prior to any demolition and construction works to ensure that that the subject trees will not be adversely impacted during any works.
Site (Eastern) Boundary Fencing	<ul style="list-style-type: none"> • It is noted that the existing eastern side boundary fence is in poor condition, Given the proximity of works and the proposed eastern side car parking area, a recommended consent condition is imposed to install a new side fence at the full cost of the developer.
Nature of Use	<ul style="list-style-type: none"> • The applicant subsequently clarified that the nature of the health services facility is currently unknown, as there is no future tenant secured. Nevertheless, the development is restricted to a use such that is not to provide health care services to persons other than outpatients of the health care consulting room and to not involve any procedures, such as x-rays, ultrasounds, cat scans and radiography or the like, which is imposed via a recommended consent condition.

Written responses were sent to those who lodged a submission on 30 September 2010, advising of the recommendation and the above consideration given to the concerns raised.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	Not supported
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	Not supported

Environmental - Environmental management

Council's Environmental Management Officer raised concerns regarding appropriate storage of associated medical waste during the business operations. In this regard, the applicant subsequently advised that there is currently no tenant secured for the site and therefore, the nature of health services facility is unknown and the exact nature of waste materials cannot be confirmed, nor can the details of waste contractors.

As such, it is considered appropriate that a recommended consent condition be imposed such that suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated waste or related waste prior to final disposal of the material at a facility approved by the NSW Office of Environment and Heritage.

Traffic Engineer

Council's Traffic Engineer erroneously concluded that the proposal includes two health care professionals on site due to the provision for a consulting room and a surgery room, which warrants a total of six parking spaces in accordance with DCP parking rates. In addition, the car park aisle width was originally shown as being approximately 4.6m wide, with no swept paths shown on the site plan.

In this regard, the proposal is for only one health care professional and one supporting staff at any one time, which requires a minimum of four parking spaces. The applicant submitted amended plans and details in response to tree impact concerns, which make provision for four parking spaces and a 5.8m wide aisle width. While so, the swept path does not appear to be drawn by a Traffic Consultant, the swept path does indicate vehicle manoeuvring for the car parking area is adequate. Nevertheless, a recommended consent condition will be imposed to ensure compliance with AS 2890.1 guidelines.

Section 4.15(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposal is considered to be generally consistent with the relevant planning provisions and subject to compliance with the recommended conditions of consent, the proposal is considered worthy of support and is not considered likely to pose any significant public interest impacts.

Conclusion

In assessing this development proposal against the relevant environmental planning policies, including Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Western Sydney Aerotropolis) 2020, State Environmental Planning Policy No. 55—Remediation of Land and Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2— 1997), the proposal generally satisfies the aims, objectives and provisions of these policies. The site is considered to be suitable for the development and the proposal is in the public interest. Therefore, the application is worthy of support and is recommended for approval, subject to conditions.

Recommendation

That DA21/0414 for the fit-out and use of an existing dwelling as a health services facility at 77 Lethbridge Street, Penrith, be approved subject to the following conditions.

CONDITIONS

General

1 [A001 - Approved plans table](#)

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

Drawing Title	Prepared By	DWG No.	Date
Proposed Site Plan	Bio-Building Design Pty Ltd	06/A	24.08.2021
New Floor Plan	Bio-Building Design Pty Ltd	07	29.06.2015
New Section AA	Bio-Building Design Pty Ltd	08	29.06.2015
New South Elevation, New North Elevation	Bio-Building Design Pty Ltd	09	29.06.2015
New East Elevation, New West Elevation	Bio-Building Design Pty Ltd	10	29.06.2015
Proposed Landscaping Plan	Bio-Building Design Pty Ltd	12	25.08.2021
Stormwater Drainage Details	Kneebone, Beretta & Hall Pty Ltd	102236-1	25.08.2015

Documents:

- Waste Management Plan prepared by Benchmark Building Certifiers, dated September 2015.
- ### 2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)
- The development shall not be used or occupied until an Occupation Certificate has been issued.**
- ### 3 [A024 - HEALTH CARE CONSULTING ROOM](#)
- The "health services facility room" shall not:
- Involve more than one health care professionals at any one time;
 - Provide health care services to persons other than outpatients of the health services facility;
 - Employ more than one employee in connection with the health care services provided by the health services facility; and
 - Involve x-ray, ultrasound, cat scan or radiography procedures.
- ### 4 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)
- The operating hours are from Monday to Friday, 8am - 6:30pm and Saturday, 8am - 4pm. Delivery and service vehicles generated by the development are limited to these operating hours.
- ### 5 [A032 - Goods in buildings](#)
- All materials and goods associated with the use shall be contained within the building at all times.
- ### 6 [A038 - LIGHTING LOCATIONS](#)
- Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- ### 7 [A039 - Graffiti](#)
- The finishes of all structures and the building are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- ### 8 [A046 - Obtain Construction Certificate before commencement of works](#)
- A **Construction Certificate** shall be obtained prior to commencement of any building works.
- ### 9 [A19f - Compliance Certificate \(use instead of A019 for other devt earthworks subdivision\)](#)
- Prior to the issue of a Construction Certificate**, the requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000 are to be considered.
- ### 10 [A Special \(BLANK\)](#)
- All client visits to the premises shall be staggered and arranged on an appointment only basis to sufficiently manage the demand on on-site car parking.
- ### 11 [A Special \(BLANK\)](#)
- Prior to the issue of an Occupation Certificate**, new eastern side boundary fencing shall be installed. All side and rear boundaries shall contain 1.8m high boundary fencing, which is sturdy and in good condition. All site fencing works shall be at the full cost of the site operator/property owner. The materials and colours of any fencing shall match or complement the external materials of the building.

12 [A Special \(BLANK\)](#)

Prior to the issue of a Construction Certificate, a Tree Protection Plan shall be submitted and approved by the Principal Certifying Authority. The Tree Protection Plan shall ensure that the two large significant trees situated at the north-eastern corner of the site. Tree protection measures shall comply with Australian Standard AS 4970-2009 Protection of trees on development sites and are to be protected in accordance with Penrith Council Development Control Plan 2014, C2 Vegetation Management, i.e., to be retained and protected from construction damage and detrimental pruning.

Demolition

13 [B001 - Demolition of existing structures](#)

The existing secondary dwelling (granny flat) is to be demolished as part of the approved works.

14 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

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

15 [B003 - ASBESTOS](#)

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

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

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

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

16 [B004 - Dust](#)

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

17 [B005 - Mud/Soil](#)

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

Environmental Matters

18 [D001 - Implement approved sediment& erosion control measures](#)

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

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

19 [D009 - Covering of waste storage area](#)

All waste materials stored onsite are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays/bins so as to allow for the separation of wastes, and the areas are to be fully enclosed when the site is unattended.

20 **D010 – Appropriate disposal of excavated or other waste**

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

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

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

21 **D014 - Plant and equipment noise**

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

22 **D026 - Liquid wastes**

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

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

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

BCA Issues

23 **E006 - Disabled access and facilities**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

24 **E01A - BCA compliance for Class 2-9**

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

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

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

Health Matters and OSSM installations

25 **F182 - Health Care Premises – toilets and waiting areas**

Public waiting areas and toilets in the premises shall be maintained in a clean and hygienic condition free from a build up of waste at all times

26 **F184 - Waste disposal containers**

Suitably constructed waste disposal containers with securely fitting lids must be kept on the property for the storage of any clinical, contaminated waste or related waste prior to final disposal of the material at a facility approved by the NSW Office of Environment and Heritage. A licensed clinical waste contractor must be engaged to collect and dispose of all clinical waste generated on site and produced to Council upon request. Receipts of service must be kept on site specifying the volume collected and the dates of service.

27 **F special BLANK**

All medical treatments and procedures are to be carried out by suitably qualified and accredited practitioners and in accordance with the requirements of the NSW Health Department.

28 **F special BLANK**

Floors of any surgery/treatment rooms and any sterilisation areas are to be smooth, non-slip and impervious to moisture.

29 **F special BLANK**

The kitchen must be for staff use only. It is not to be used for the preparation or sale of food to the public.

30 **F Special BLANK**

The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health or the environment. The operation of the premises must be in accordance with the Protection of the Environment Operations Act 1997 and Regulations.

Utility Services

31 **G002 - Section 73 (not for**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

32 **G004 - Integral Energy**

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

Construction

33 **H001 - Stamped plans and erection of site notice**

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

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

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

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

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

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

34 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

35 H041 - Hours of work (other devt)

Demolition and construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

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

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

Engineering

36 K101 - Works at No Cost to Council

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

37 [K201 - Infrastructure Bond](#)

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

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

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

38 [K202 - S138 Roads Act - Minor Works in the Public Road](#)

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

- a) Vehicular crossings 5.5m wide;
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage); and
- c) Road occupancy or road closures (including temporary construction work zones and tower crane operation).

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
 - Separate approval may be required from Transport for NSW for classified roads.
 - All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.
 - On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.
- 39 [K209 - Stormwater Discharge - Minor Development](#)
Stormwater drainage from the site shall be discharged to the street drainage system.

The stormwater drainage system shall be designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments Policy. The design shall ensure that the development has no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifier.

40 [K222 - Access, Car Parking and Manoeuvring - General](#)

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

41 [K301 - Sediment & Erosion Control](#)

Prior to the commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

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

42 [K405 - Turf to Verge](#)

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

43 [K Special Condition BLANK](#)

Prior to issue of any Occupation Certificate, a new vehicle crossing shall be constructed a minimum 5.5m of width.

Landscaping

44 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plan and Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

45 [L002 - Landscape construction](#)

The approved landscaping for the site shall be constructed by a suitably qualified and experienced landscape professional.

46 [L003 - Report requirement](#)

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category (2/3) landscape works.

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

47 [L005 - Planting of plant](#)

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

48 [L006 - Aust Standard](#)

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

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

49 [L007 - Tree protection measures—no TMP with DA](#)

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in AS 4970-2009 Protection of trees on development sites and Penrith Development Control Plan 2014.

50 [L008 - Tree Preservation](#)

No trees are to be removed, ring barked, cut, topped or lopped or willfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Part C, C2 Vegetation section of Penrith Development Control Plan 2014.

51 [L012 - Existing landscaping \(for existing development\)](#)

Existing landscaping is to be retained and maintained at all times.

Development Contributions

52 [N Special \(Section 7.12 Citywide Development Contributions Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 7.12 Citywide Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$749.00 is to be paid to Council prior to a Construction Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contributions Plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. The Section 7.12 Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

53 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

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

54 [Q06F - Occupation Certificate \(Class 2 - 9\)](#)

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

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

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

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C2 Vegetation Management

C2.1 Preservation of Trees and Vegetation

The subject site contains several mature and significant trees situated along the rear boundary, including two large trees along the north-eastern corner of the site within an existing courtyard. The original site plan and landscape plan failed to identify and illustrate the two large trees situated within the courtyard. The original car park proposed five car spaces, which requires an additional 2.3m of hardstand area extended to the north in close proximity to the structural root zones and tree protection zones of these two trees.

As such concerns were raised and the applicant subsequently provided amended plans in response, which deleted the closest car space adjacent to the trees and shows the retention of the trees. Notwithstanding, it is considered appropriate that a consent condition be recommended to ensure tree protection measures will be in place during any works to ensure the protection and longevity of these trees.

In addition, it should be noted that two plum trees were initially proposed between the car park and the eastern side boundary. Given the narrow eastern side setback and the likelihood of future damage to the car park area and side boundary fence, these trees have been deleted and replaced with ground cover. In addition, it is noted that the existing eastern side boundary fence is in poor condition and therefore a recommended consent condition is imposed to provide for a replacement 1.8m high eastern side boundary fence. It is noted that this issue was also raised in one of the received submissions.

C5 Waste Management

C5.3.4 Siting and Design of Waste Storage and Collection Areas

The submitted waste management plan indicates that the development will accommodate two commercial mobile garbage bins, which will be serviced by a private waste contractor. However, it is not clear where medical waste will be stored on site and in this regard, the applicant subsequently clarified that a future lease agreement is yet to be secured and therefore the specific details cannot be provided in this regard. As such, a recommended consent condition is imposed to provide for suitable on site waste storage for medical waste and the like.

C10 Transport, Access and Parking

C10.5 Parking, Access and Driveways

Health consulting rooms and medical centres are subject to a minimum parking rate of three parking spaces per health care professional on site at any one time, plus one parking space per receptionist/support staff member, plus 1 parking space per associated dwelling. The proposal includes one health care professional and one supporting staff, which requires a minimum of four off-street parking spaces. The proposal (as amended) makes provision for four off-street parking spaces, with a 5.8m wide aisle width. A car park swept path was provided, which indicates that vehicle manoeuvring is adequate. Notwithstanding, a recommended consent condition is imposed to ensure compliance with AS 2890.1 requirements.

D5 Other Land Uses

D5.3 Health Consulting Rooms

It is not confirmed what the exact nature of the health services facility will be for its future use. As detailed environmental information is not provided conditions of consent are recommended to ensure that the health services facility does not include the following procedures x-rays, ultrasounds, cat-scans or radiography, as per DCP requirements.

In terms of the other relevant provisions, the site provides an adequate lot frontage and lot width, with suitable access and parking. The landscape plan provides for tree and shrub buffers situated in front of the new car parking area, which will minimise visual quality impacts on the streetscape. Given that alterations to south elevation of the existing dwelling which fronts the streetscape are limited to the removal of steps and a new path leading to the front patio, a widened front entry door and the removal of a chimney, the proposal will have minimal impact on the local character and the immediate surrounds.