

Applicant contact details

Title	
First given name	Tyron
Other given name/s	
Family name	Nicholson
Contact number	
Email	
Address	PO Box 438 Broadway 2007
Application on behalf of a company, business or body corporate	Yes
Company, business or body corporate name	Principal Healthcare Finance (Opal HealthCare)
ABN / ACN	
Is the nominated company the applicant for this application?	Yes

Owner/s of the development site

Owner/s of the development site	A company, business, government entity or other similar body owns the development site
Owner #	1
Company, business or body corporate name	Principal Healthcare Finance (Opal HealthCare)
ABN / ACN	

I declare that I have shown this document, including all attached drawings, to the owner(s) of the land, and that I have obtained their consent to submit this application. - Yes

Note: It is an offence under Section 10.6 of the Environmental Planning and Assessment Act 1979 to provide false or misleading information in relation to this application.

Developer details

ABN	
ACN	
Name	
Trading name	
Address	
Email Address	

Development details

Application type	Development Application
Site address #	1
Street address	94-100 EXPLORERS WAY ST CLAIR 2759
Local government area	PENRITH
Lot / Section Number / Plan	36 / - / DP239502
Primary address?	Yes

Planning controls affecting property	Land Application LEP	Penrith Local Environmental Plan 2010
	Land Zoning	R2: Low Density Residential
	Height of Building	8.5 m
	Floor Space Ratio (n:1)	NA
	Minimum Lot Size	550 m ²
	Heritage	NA
	Land Reservation Acquisition	NA
	Foreshore Building Line	NA
	Local Provisions	30 km
	Obstacle Limitation Surface	230.5-230.5
Bushfire Prone Land	Vegetation Buffer	
1.5 m Buffer around Classified Roads	Classified Road Adjacent	

Proposed development

Proposed type of development	Other
Description of development	Development application for construction of a residential care facility, including demolition of an existing dwelling house, landscaping, drainage and associated works. See accompanying Statement of Environmental Effects for further details.
Provide the proposed hours of operation	
Proposed to operate 24 hours on Monday	
Monday	-
Proposed to operate 24 hours on Tuesday	
Tuesday	-
Proposed to operate 24 hours on Wednesday	
Wednesday	-
Proposed to operate 24 hours on Thursday	
Thursday	-
Proposed to operate 24 hours on Friday	
Friday	-
Proposed to operate 24 hours on Saturday	
Saturday	-
Proposed to operate 24 hours on Sunday	
Sunday	-
Dwelling count details	
Number of dwellings / units proposed	154
Number of storeys proposed	

Number of pre-existing dwellings on site	
Number of dwellings to be demolished	
Number of existing floor area	
Number of existing site area	
Cost of development	
Estimated cost of work / development (including GST)	
Do you have one or more BASIX certificates?	No
Subdivision	
Number of existing lots	
Is subdivision proposed?	
Proposed operating details	
Number of additional jobs that are proposed to be generated through the operation of the development	
Number of staff/employees on the site	
Number of parking spaces	
Number of loading bays	
Is a new road proposed?	
Concept development	
Is the development to be staged?	
Crown development	
Is this a proposed Crown development?	

Related planning information

Is the application for integrated development?	Yes
Acts under which licences or approvals are required	Rural Fires Act 1997
Is your proposal categorised as designated development?	No
Is your proposal likely to significantly impact on threatened species, populations, ecological communities or their habitats, or is it located on land identified as critical habitat?	No
Does the application propose a variation to a development standard in an environmental planning instrument (eg LEP or SEPP)?	Yes
Would you like to answer questions in this form to complete the variation request or upload a supporting document	Complete questions
What is the name of the relevant environmental planning instrument? eg. LEP, SEPP	Local Environmental Plan (LEP)
Relevant LEP	
What is the zone of the land?	
Address	94-100 EXPLORERS WAY ST CLAIR 2759
Zone	R2
	<ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To promote the desired future character by ensuring that development

What are the objectives of the zone(s) ?	reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens. <ul style="list-style-type: none"> • To enhance the essential character and identity of established residential areas. • To ensure a high level of residential amenity is achieved and maintained.”
Development Standard Variation details	
Name of the development standard being varied	Height
Clause name	4.3
Numeric value of the standard being varied	8.5
Numeric value of the development against this standard	9.8
Percentage value of the proposed variation	15.2
What are the objectives of the development standard(s) ?	(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality, (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas, including parks, streets and lanes, (c) to minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance, (d) to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.
	The proposal is consistent with the objectives of the standard as set out in Section 4.2 above for the following reasons. In relation to Objective (a): The height, bulk and scale of development is compatible with the existing and desired future character of the locality and is appropriate for the context for the following reasons: <ul style="list-style-type: none"> • The building facades to the street and to side and rear boundaries are highly articulated and broken onto different components: • The materials of each of the building components provide further articulation with weatherboard panels, coloured fibre cement panels, glass, metal panels and brick. Sun blades and hoods provide additional articulation to the façade. • All components are grounded by a brick base (also preferred for maintenance purposes) and the panels on level one are differentiated by contrasting elements. The sitting rooms also have their own colour that continues inside. Timber look battens and aluminium blades and screens are applied to the façade. • Separate building components and recesses create breaks in the elevation. These changes reduce the perceived length of the building. • Generous setbacks are provided to all boundaries and the building complies with the building controls except to the north of the site where there are no adjoining residential buildings. The bulk and scale and visual impact of the building is acceptable having regard to the articulated façade design, the building setback and the opportunities for landscaping. The building design and on site arrangement will result in development that is consistent with the character of the St Clair locality. In relation to Objective (b): The proposed additional height has minimal visual impact for the following reasons: <ul style="list-style-type: none"> • The non-compliance relates predominantly to the roof and roof mounted plant; • The non-compliant elements of the building are mostly recessed behind the building façade and eaves height and thus would not generally be visible from the adjoining public domain or from adjoining sites; • The non-compliant plant elements are integrated into the design of the building with the plant areas recessed into the roof with roof cut-outs provided for plant areas which are to be screened; • The building has been designed with a pitch roof form consistent with the residential character of the area;

How is compliance with the development standard(s) unreasonable or unnecessary in the circumstances of this particular case ?

- There is no significant loss of views created by the non-compliance;
- Impacts on solar access to the adjoining park and to adjoining residences have been minimised by building setbacks and orientation;
- Privacy of adjoining residences is maintained and is not impacted by the extent of non-compliance;
- The non-compliance is minimal and localised.

In relation to Objective (c):

The development does not affect any heritage items, heritage conservation areas or areas of scenic or visual importance.

In relation to Objective (d):

The development provides an appropriate transition in urban form through the provision of generous setbacks and maintaining a two storey built form. The relationship with adjoining lands enables an appropriate transition from the proposed development to adjoining development including open space and dwelling houses.

The extent of the non-compliance is acceptable and reasonable

The extent of non-compliance is limited to part of the building as outlined in Section 4.1. Non-compliance with the 8.5 metres maximum building height standard in Clause 4.3 of the PLEP is acceptable and reasonable in the circumstances of the case for the following reasons.

- The development will be visually attractive and sympathetic to the existing and emerging character of the area;
- The development is two storeys in height which is compatible with the existing and expected neighbouring development;
- The residential suburb of St Clair includes a number of other land uses set in a detached residential environment including churches (St Clair Anglican, St Clair Uniting, Holy Spirit Catholic), schools (St Clair public and high schools, Clairgate public, Blackwell public, Holy Spirit), child care centres (Stepping Stones, Little Smarties, Academy, Kindana) and the shopping centres. These more institutional forms also influence the character and diversity of built form in the area;
- The development has an attractive and appropriate presentation to the street;
- The bulk and scale of the building is considered appropriate;
- The site is of sufficient size at 10,570 square metres to accommodate the proposed development;
- The proposed RCF will meet an important social need in providing aged care services in the new establishing local community.

The development will maintain the neighbourhood amenity and character of the local area presenting as a two storey building in a landscaped setting.

In these circumstances, the extent of the non-compliance with the height standard is considered acceptable and reasonable.

In this instance the context of the site is important particularly in terms of streetscape character, desired future character and the objective of the R2 Low Density Residential Zone - to provide for the housing needs of the community within a low density residential environment. It occupies a large site atypical of the area and is for a residential care facility being the only form of seniors housing permitted in the R2 zone.

The non-compliance results in a better planning outcome

The non-compliance results in a better planning outcome in that it facilitates the provision of a well-designed and functional residential care facility seniors housing in an established neighbourhood.

On this basis the proposal, notwithstanding its non-compliance with the height limit results in a better planning outcome. Following the decision in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, it can be noted that Clause 4.6 does not require that a proposed development which relies on a variation to a development standard must have a better (or neutral) environment planning outcome than one which is compliant with the standard.

There is an absence of significant adverse impact

There is an absence of significant adverse impacts for the reasons set out above in 4.3.1 and 4.3.2 above. The proposal will result in no significant adverse environmental planning impacts as a consequence of non-compliance with the standard.

The focus of this question is on the element of the development that contravenes the development standard, in this case the height of the roof form and plant. The contravention of the maximum building height

Are there sufficient environmental planning grounds to justify variation of the development standard(s) ?

development standard is justified on environmental planning grounds specific to this development for the following reasons (and for the reasons outlined in 4.3 above):

- As is shown in the survey plan, and as shown in the drawings and sections submitted with this proposal, the existing ground level of the site slopes up from south to north. The ground floor level of the building was set by the need to allow level vehicular and pedestrian access from Explorers Way.
- Because the development is for a residential aged care facility, it is appropriate that the floor levels are at a consistent RL, thus avoiding the need for ramps and stairs within the building and at the main entry to the building from the street which would otherwise cause accessibility and potential health and safety issues for residents.
- This results in a ground floor level of the building at RL55.8 metres. The ceiling height requirements, structure and services within the ceiling spaces inform the architectural design. A dimension of 3.5m floor to floor is required to accommodate ceiling space, services and structure. Once these levels are determined, the roof form is designed across the facility. The roof form is mostly below the 8.5m height limit.
- These carefully considered design factors lead to circumstances where the roof breaches the height standard in the north eastern and north western wings of the building.
- The plant which is non-compliant with the height standard services the building.
- The plant has been deliberately located approximately at the centre of the building so that it minimises the length and size of ducting needed to service the building.
- The plant, which consists of air conditioning plant, is located on the roof so as to achieve the most operationally efficient and unobtrusive outcome.
- Air conditioning units were selected to be the minimum size required to enable satisfactory ventilation of the building in accordance to both AS1668.2 and Opal standards. The small protrusion above the maximum height of building development standard includes an exhaust duct which is part of the unit heat exchanger which enables system to reclaim exhaust energy that would otherwise be wasted. This is an important component of fresh air processing unit that will greatly improve system energy efficiency to reduce carbon foot emission.
- The roof form and plant are acceptable in terms of bulk and scale.
- The extent to which the roof and plant exceeds the maximum building height does not change the relationship of the development to adjoining land.
- It is considered that there will be no significant adverse amenity impacts arising from the extent to which the building exceeds the maximum building height development standard in relation to overlooking, overshadowing, obstruction of light or air, obstruction of views or any other such impacts on nearby existing or future residential properties as a result of the height of the plant.

The height of the building where it exceeds the development standard is considered to be consistent with the objectives of relevant planning instrument and will result in no significant adverse environmental planning impacts. The need for a residential care facility to be constructed with a level building floor plate and the need for efficiently located plant results in a building height that departs from the maximum building height development standard by 1.8m and the contravention of the development standard by the roof and plant height is therefore justifiable on environmental planning grounds.

Is there any other relevant information to be considered to justify variation of the developmet standard(s) ?

Is the application accompanied by a voluntary planning agreement (VPA) ?

No

Section 68 of the Local Government Act

Is approval under s68 of the Local Government Act 1993 required?

No

10.7 Certificate

Have you already obtained a 10.7 certificate?	No
Tree works	
Is tree removal and/or pruning work proposed?	Yes
Please provide a description of the proposed tree removal and/or pruning work	Removal of 76 trees for the construction of a residential care facility.
Number of trees to be impacted by the proposed work	76
Land area to be impacted by the proposed work	
Units	
Approximate area of canopy REQUESTED to be removed	300
Units	Square metres
Local heritage	
Does the development site include an item of environmental heritage or sit within a heritage conservation area.	No
Are works proposed to any heritage listed buildings?	No
Is heritage tree removal proposed?	No
Affiliations and Pecuniary interests	
Is the applicant or owner a staff member or councillor of the council assessing the application?	No
Does the applicant or owner have a relationship with any staff or councillor of the council assessing the application?	No
Political Donations	
Are you aware of any person who has financial interest in the application who has made a political donation or gift in the last two years?	No
Please provide details of each donation/gift which has been made within the last 2 years	

Payer details

Provide the details of the person / entity that will make the fee payment for the assessment.

The Environmental Planning and Assessment Regulation 2000 and Council's adopted fees and charges establish how to calculate the fee payable for your development application. For development that involves building or other works, the fee for your application is based on the estimated cost of the development.

If your application is for integrated development or requires concurrence from a state agency, additional fees will be required. Other charges may be payable based on the Council's adopted fees and charges. If your development needs to be advertised, the Council may charge additional advertising fees.

Once this application form is completed, it and the supporting documents will be submitted to the Council for lodgement, at which time the fees will be calculated. The Council will contact you to obtain payment. Note: When submitting documents via the NSW Planning Portal, credit card information should not be displayed on documents attached to your development application. The relevant consent authority will contact you to seek payment.

The application may be cancelled if the fees are not paid:

Application documents

The following documents support the application.

Document type	Document file name
Access report	Appendix 10 - Access Review
Acoustic report	Appendix 18 - Noise Impact Assessment
Arborists report	Appendix 19 - Arborist Report
Architectural Plans	Appendix 2 - Architecture Drawings
BCA Performance Requirements Compliance Statement	Appendix 12 - BCA Review
Bushfire report	Appendix 20 - Bushfire Report
Civil Engineering Plan	Appendix 11A - Civil Drawings
Clause 4.6 variation request	Appendix 15 - Clause 4.6 request
Contamination / remediation action plan	Appendix 7 - Detailed Site Investigation
Cost estimate report	210721 Opal St Clair CIV Report
Design verification statement	Appendix 3 - Design Statement
Geotechnical report	Appendix 6 - Geotechnical Report
Landscape plan	Appendix 4 - Landscape Drawings
Notification plans	Notification Plans
Other	Appendix 5 - Ecology Report Appendix 16 - Section J Report Appendix 21 -Opal Services Appendix 1A - CT and DP Appendix 17 - CPTED - Opal St Clair Appendix 13 -Construction Mangement Plan
Owner's consent	Penrith City Council - Owners Consent to Lodge an Application (O
Plan of management	Appendix 8 - Operational Plan of Management_FINAL
Statement of environmental effects	FIGURES HRES Statement of Environmental Effects
Stormwater drainage plan	Appendix 11B - Stormwater and Flood Report
Survey plan	Appendix 1B - Site Survey
Traffic report	Appendix 9 - Traffic Impact Statement
Waste management plan	Appendix 14 - Waste Management Plan

Applicant declarations

I declare that all the information in my application and accompanying documents is , to the best of my knowledge, true and correct.	Yes
I understand that the development application and the accompanying information will be provided to the appropriate consent authority for the purposes of the assessment and determination of this development application.	Yes
I understand that if incomplete, the consent authority may request more information, which will result in delays to the application.	Yes
I understand that the consent authority may use the information and materials provided for notification and advertising purposes, and materials provided may be made available to the public for inspection at its Offices and on its website and/or the NSW Planning Portal	Yes
I acknowledge that copies of this application and supporting documentation may be provided to interested persons in accordance with the Government Information (Public Access) 2009 (NSW) (GIPA Act) under which it may be required to release information which you provide to it.	Yes
I have read and agree to the collection and use of my personal information as outlined in the Privacy Notice	Yes
I agree to appropriately delegated assessment officers attending the site for the purpose of inspection.	Yes
I confirm that the change(s) entered is/are made with appropriate authority from the applicant(s).	