PENRITH
CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0713
Proposed development:	Demolition of Existing Structures and Construction of a Seven (7) Storey Mixed Use Development Including Ground and First Floor Commercial Tenancies, 41 Residential Apartments & Three (3) Levels of Basement Car Parking
Property address:	40 Orth Street, KINGSWOOD NSW 2747 38 Orth Street, KINGSWOOD NSW 2747 26 Somerset Street, KINGSWOOD NSW 2747
Property description:	Lot 61 DP 36728 Lot 60 DP 36728 Lot 62 DP 36728
Date received:	17 October 2019
Assessing officer	Paul Anzellotti
Zoning:	Zone B4 Mixed Use - LEP 2010
Class of building:	Class 2 , Class 7a , Class 6
Recommendations:	Refuse

Executive Summary

Council is in receipt of a development application from AC Project Group proposing the demolition of existing structures and construction of a seven (7) storey mixed use development including ground and first floor commercial tenancies, forty one (41) residential apartments and three (3) levels of basement car parking at 38-40 Orth Street and 26 Somerset Street, Kingswood.

The subject site is zoned B4 Mixed Use under Penrith Local Environmental Plan 2010 (PLEP 2010). Development for the purposes of a mixed use building is permissible within the B4 Mixed Use zone.

The Minister for Planning gave directions under Section 9.1 of the Environmental Planning and Assessment Act 1979 on the development applications that are to be determined on behalf of Council by a Local Planning Panel. These directions, dated 23 February 2018, outline that development within the Penrith Local Government Area (LGA) that is for a residential flat building under the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and is 4 or more storeys in height requires determination by a Local Planning Panel. As the proposal is a total of seven (7) storeys in height and provides for five (5) residential levels, the development meets this criteria.

The proposed development was advertised in the local newspaper and notified to the owners and occupiers of adjoining and nearby properties. The public exhibition period for the proposal was from the 1 November to the 29 November, 2019. During this period, one (1) submission was received.

A number of key issues identified for the proposed development include:

Non Compliance with Maximum Height Requirement

The proposal provides a numerical non compliance for the proposed building on the subject site in relation to the LEP height bonus of 20% (equating to 21.6m) pursuant to Clause 7.11 of the LEP with an overall height non compliance of 22.7m to the top of the roof (overall height non compliance of 1.1m or 5% above the maximum height required) and a non compliance to the lift overrun of 23.7m (overall height non compliance of 2.1m or 9.7%

above the maximum height required). In this regard, the application has been accompanied by a Clause 4.6 variation request prepared by Ingham Planning Pty Ltd requesting a variation to the development standard. The accompanying variation request has been reviewed and taking into consideration the circumstances of the case is not considered acceptable in this instance as outlined within this report.

Building Form and Presentation

The proposal is not considered to provide for an acceptable articulation to both the Orth Street and Somerset Street frontages or an appropriate relationship to the adjoining properties. The built form is provided with non compliant building separations to the side and rear boundary for all residential levels while the treatment of the southern elevation with a series of blank walls is considered to create an immediate and overbearing visual impact upon the adjoining property. The proposal will also provide for large and expansive blank wall panel features in the vicinity of the south eastern corner of the subject site in association with the operation of the waste collection facilities which will also serve to enhance the visual prominence of the development. The presentation of the building is also considered to be further exacerbated via the proposal's failure to provide for effective landscaping along the buildings perimeters, not only within the front setback area but also to its side and rear boundaries.

Communal Open Space

The proposal has identified two (2) separate areas within the subject site to be used for the purposes of communal open space for future occupants. While so, the total area for all identified spaces is not considered to satisfy the minimum area requirements under the Apartment Design Guide while providing for a disjointed layout which is not considered to also allow for equitable access to be achieved. The open spaces are not considered to have been designed as 'destination places' and are hence considered unlikely to encourage social interaction between residents. The ground floor communal open space area is considered to be severely compromised via its dual function purpose as an access area to the building, its partial position within the front setback area, its relationship with the commercial tenancy and position of an identified substation and its irregular 'dog leg' shape which provides for narrow widths and ineffective areas.

Inability to Satisfy SEPP 55

The application was accompanied by a Preliminary Site (Contamination) Investigation which has identified a number of measures to be undertaken to allow for the site to be considered suitable for the proposed use, the report stating only that *'the site can be rendered suitable for the proposed mixed use development'* subject to the implementation of a number of recommendations including preliminary soil testing. As a result, it is not considered that the proposed development has identified compliance with the provisions of SEPP 55.

Basement and Car Parking Layout

The proposal has identified the location of waste collection facilities in a position which is considered to interfere with the normal movement of vehicles to and from the basement levels below. In addition, Basement level 1 has provided for a mixture of residential visitor car parking spaces and commercial spaces. Basement level 2 has provided for a mixture of residential parking spaces and commercial spaces. This is not considered an acceptable design as this may create potential safety concerns for the users of these areas with the mix of persons provided and the opportunity to access different parts of the building.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) has been undertaken and the application is recommended for refusal.

Site & Surrounds

The subject site consists of three allotments with a frontage to Orth Street and Somerset Street. The legal property description of the site is provided below;

- 38 Orth Street, Kingswood (Lot 62, DP 36728)
- 40 Orth Street, Kingswood (Lot 61, DP 36728)
- 26 Somerset Street, Kingswood (Lot 60, DP 36728)

The subject site has an area of 1,781.6m^2 and provides for a frontage of 55.78m onto Orth Street and a frontage of 16.08m onto Somerset Street. The subject site also currently maintains a splay of 5.17m to the intersection of Orth and Somerset Streets. The subject site is irregular in shape and is provided with an eastern boundary of 39.545m and a southern boundary with a total overall length adjoining neighbouring lots of 71.135m. Currently existing on each subject lot is a detached single dwelling and associated structures including a detached garage for 38 Orth Street.

The locality is considered to maintain a mixed character with development along the western side of Somerset Street comprising of the Nepean Hospital. Directly adjoining the subject site to the east along Orth Street and opposite the site along the northern side of Orth Street are single level detached dwellings.

The locality is expected to undergo a significant transition noting the B4 zoning with maximum height limits subject to appropriate floor to ceiling heights of up to 21.6m.

It is noted that a Development Consent was granted on the 12 January, 2017 (DA16/0597) for the adjoining lots to the south of the subject site being 28 - 32 Somerset Street for the demolition of existing structures and construction of a six (6) storey mixed use development including a ground floor commercial tenancy, fifty two (52) residential apartments and two (2) levels of basement carparking. This development consent has been substantially commenced via demolition works which have occurred on the site. Council is also currently in receipt of a Development Application under assessment (DA19/0801) at No. 39-41 Orth Street, Kingswood for the demolition of all structures, remediation of the site and construction of a five (5) storey health services facility and lot consolidation.

Development Application DA16/0999 was previously received and assessed by Council which in part incorporated part of the subject site. The full address for this application was 38-40 Orth Street and 1-5 Hargrave Street, Kingswood and proposed the demolition of existing structures, construction of a seven (7) storey mixed use development including ground floor commercial tenancy, 121 residential apartments, three (3) levels of basement car parking and associated works. This application was considered by the Sydney West Planning Panel on the 26 July, 2017 who determined to refuse the development application.

Proposal

The development proposes the demolition of existing structures and construction of a seven (7) storey mixed use development including ground and first floor commercial tenancies, forty one (41) residential apartments and three (3) levels of basement car parking. Specifically, the proposed development includes the following key aspects;

Basement Level 3

- The provision of a total of a total of thirty five (35) residential car parking spaces including three (3) stacked car parking spaces,
- Two (2) motorcycle parking spaces,
- Nine (9) bicycle lockers,
- Twenty four (24) residential storage spaces,
- Ramp access for vehicles to upper levels, and
- Separate circulation cores providing for a total of two (2) lifts, two (2) fire stairs and service rooms.

Basement Level 2

- The provision of a total of thirty (30) car parking spaces including four (4) accessible spaces and one (1) car wash bay. This car parking level is provided with a mixture of ten (10) residential car parking spaces and

nineteen (19) commercial car parking spaces,
- Two (2) motorcycle parking spaces,
- Fifteen (15) bicycle lockers,
- Sixteen (16) residential storage spaces,
- Ramp access for vehicles to upper levels, and
- Separate circulation cores providing for a total of three (3) lifts (one provided as a commercial lift and two provided for the residential component of the building), two (2) fire stairs and service rooms.

Basement Level 1

- The provision of a total of eighteen (18) car parking spaces including two (2) accessible spaces. This car parking level is provided with a mixture of ten (10) commercial car parking spaces and eight (8) visitor spaces,
- The provision of a waste truck loading area including turntable. This loading area is provided with a void space in relation to its operation to the ground floor above,
- The provision of waste infrastructure related to the operation of the building including a commercial garbage room, garbage compactors room, bulky waste room and residential garbage storage room,
- Four (4) residential storage spaces,
- Ramp access for vehicles to lower levels as well as ramp access to Orth Street, and
- Separate circulation cores providing for a total of three (3) lifts (one provided as a commercial lift and two provided for the residential component of the building) and one (1) fire stairs and service rooms.

Ground Floor Level

- Vehicular access to the basement levels from Orth Street,
- Provision of two (2) commercial tenancies with a size of 166m^2 and 210m^2 including toilet facilities to service each tenancy,
- Pedestrian entry area from both Orth Street and Somerset Street. A commercial lobby is provided fronting Orth Street. In addition a residential lobby area is provided with access from both Orth Street and Somerset Street,
- Circulation core providing for two (2) residential lifts, one (1) commercial lift, two (2) fire stairs, service room, mechanical service room,
- Communal open space located along the southern boundary including a bbq area, and
- Substation fronting Somerset Street.

Level 1

- A total of seven (7) commercial tenancies ranging in size from 125m^2 to 235m^2 including common toilet facilities. Each tenancy is provided with separate balcony areas, and
- Circulation core providing for two (2) residential lifts, one (1) commercial lift and two (2) fire stairs.

Levels 2 to 5

- The provision of one (1) x 1 bedroom and eight (8) x 2 bedrooms units to each level all with an associated balcony providing for an overall total of nine (9) units to each level, and
- Circulation core providing for two (2) lifts, two (2) fire stairs, garbage room with dual waste chutes and mechanical ventilation shaft.

Level 6

- The provision of four (4) x 2 bedrooms units and one (1) x 3 bedrooms unit all with an associated balcony providing for an overall total of five (5) units to this level,
- Provision of a roof top communal area with a sitting area and bbqs,
- Services plant room, and
- Circulation core providing for one (1) lift, two (2) fire stairs, garbage room with dual waste chutes and mechanical ventilation shaft.

The proposed apartment mix is provided by the table below;

Unit Type	No of units
1 bedroom unit	6
2 bedroom unit	31
3 bedroom unit	4
Total	41

Background

The proposal has been subject to a pre-lodgement meeting (PL18/0077) held on the 11 October, 2018 prior to lodgement of the application. It is noted that this pre-lodgement meeting reviewed a proposal which was located only on No's. 38-40 Orth Street, Kingswood. In this regard, the following commentary was provided by Council in the subsequent notes to the applicant relating to 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 has been made to the owner of this 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.

Furthermore, the following commentary was provided in the pre-lodgement correspondence in regard to the requirement for an Urban Design Review Panel review;

After consideration of the feedback outlined in this information, and if an application is to be pursued, 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 application was subsequently received by Penrith City Council on the 17 October, 2019 incorporating No. 26 Somerset Street into the proposal along with No. 38-40 Orth Street, therefore removing isolation concerns previously raised. It is noted that the request to pursue an Urban Design Review Panel meeting was not acted upon by the applicant. Consequently an internal Urban Design Review Panel meeting was conducted upon the receipt of the application on the 21 February, 2020 with the following commentary provided;

The architectural plans that accompany the Development Application and a presentation of the application by Council's Assessment Officer was considered by the Panel and it is the Panel's recommendation that the application is unsupportable necessitating significant amendments that reflect a site responsive design solution. The key issues identified as requiring amendment and address are as follows:-

<u>Key Design Issues</u>

- *The site is irregular in shape and warrants careful consideration of adjoining existing developments, and approved developments to inform necessary setbacks, spatial massing and landscape design.*
- *The proposed non compliance with the LEP height limit, beyond additional allowances under the floor space bonus is not considered to be contextually responsive or a demonstration of a better planning outcome than that which would be otherwise provided by a compliant development proposal.*
- *The massing and building length is excessive as presenting to Orth Street and warrants a more broken built form response. This would enable two distinct building forms that significantly widens the current suggested separation which is inadequate and results in poor amenity outcomes for both the circulation corridor and adjacent tenancies and units.*
- *The basement provides nil front and side setbacks which is unsupportable. Deep soil zone planting to the front setback and side setbacks is critical to ameliorate the massing of the development and provide a uniform and complimentary streetscape presentation given the area is in a state of transition.*
- *The waste collection arrangements and void space is concerning, coupled with nil boundary setbacks east and south to the driveway, this arrangement is not supportable from an urban design perspective.*
- *The communal open space areas are poorly located, largely inaccessible and do not provide suitable opportunities for social congregation and interaction. The required break in building mass as required above will in part assist to address this concern without reliance on side setback / separation conditions.*
- *The setback / separation of between 3.0m and 4.5m to the southern irregular boundary is inadequate, resulting in an irregular and complicated corridor arrangement.*
- *The ground floor setback and design treatment at the southern and eastern property boundary (nil setback built over the top of the driveway) does not sufficiently consider or respond to the existing development to the*

east. Upper floor roof top planting and recessed levels is not sufficient to maintain existing levels of amenity to the adjacent residential dwelling. A landscape setback is recommended to the eastern boundary with neighbouring tree retention and protection potentially informing a suitable rear boundary setback condition. Aerial photography would suggest that a nil boundary basement condition is not achievable given the development must protect and retain trees on adjoining sites.

- *The design scheme subject of a preceding pre-lodgement meeting was significantly different to that reflected within the lodged Development Application. If the application is not supported and is determined on that basis, any new development application pursued warrants a new Pre-lodgement Meeting and an Urban Design Review Panel Meeting.*

Given the issues relating to building design and non-compliance with the relevant planning instruments, the applicant was requested to withdraw the development application on the 25 February, 2020. Council records indicate that no request to withdraw the development application has been received.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 65—Design Quality of Residential Flat Development
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

- ## Section 4.15 - Evaluation

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

- ## Section 4.46 - Integrated development

A Geotechnical and Hydrogeological Investigation has been undertaken by Douglas Partners and submitted with the Development Application. The report assesses the proposed excavation to 9 metres below natural ground level to accommodate 3 levels of basement parking.

The desk top investigation identified that no intrusive sampling or testing was conducted on the site so commentary was based on experience on nearby sites in the area. Furthermore, any excavation identified that this would occur through weathered rock and low and medium strength shale.

Given the proposed depth of excavation, it was considered that the development would require an Activity Approval under Section 91 of the Water Management Act 2000. Section 4.46 of the Environmental Planning and Assessment Act identifies any development which requires such an approval as Integrated Development.

The development was advertised as Integrated Development in accordance with the Regulations and referred to the NSW Office of Water (Natural Resources Access Regulator) for their General Terms of Approval. In this regard, correspondence was returned from the Natural Resources Access Regulator dated 25 November, 2019 advising that, *'a controlled activity approval is not required and no further assessment by this agency is necessary because the proposal is not a controlled activity as defined by the WM Act'*.

It is noted that WaterNSW are the public authority which would issue an Activity Approval in relation to any development which would encounter groundwater during the excavation process, which would be applicable in this instance due to the depth of the proposed basement levels provided. While, this has not occurred in this instance and comment has only been returned by the National Resource Access Regulator, it is noted that the application is recommended for refusal. Should the application be approved, it is considered plausible to provide for a condition of consent with any development consent granted to require an Activity Approval prior to the commencement of any works associated with the proposal.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

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

The application was submitted with BASIX Certificate No. 1025099M dated 15 October, 2018, which confirmed that the development will meet the NSW government's requirements for sustainability. Were the application to be approved, the BASIX Certificate will be included with any Development Consent granted.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007* identifies which type of development requires concurrence from the Roads and Maritime Services (RMS) as 'traffic generating development'. In this regard, the current Development Application is not identified as a traffic generating development requiring RMS concurrence noting that the site is not on a classified road and has no connection to a classified road within 90m of the site.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 (SEPP 55) outlines the following requirements that a consent authority must consider prior to the issue of a consent for any development:

A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

There is no record that the subject site is contaminated. While so, the application was accompanied by a Preliminary Site (Contamination) Investigation which did not confirm that the site is suitable for the proposed use, stating only that *'the site can be rendered suitable for the proposed mixed use development, subject to the implementation of the following recommendations:*

- *Pre-demolition hazardous building material assessment;*
- *Preliminary soil testing to determine if any surficial contamination is present from the deterioration of lead paint or asbestos from building materials;*
- *Waste classification of soils prior to off-site disposal; and*
- *An Unexpected Finds Protocol be developed.'*

In accordance with the recommendations of the Preliminary Site (Contamination) Investigation, the recommended soil testing is required to be undertaken by a suitably qualified environmental consultant to determine if the site is suitable for the proposed use. Should remediation be found to be required, all remediation works within the Penrith Local Government Area are considered to be Category 1 works under SEPP 55 and SREP 20 and require development consent.

As a result, it is not considered that the proposed development has identified compliance with the provisions of SEPP 55.

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

An assessment has been undertaken of the development proposal against the aims and objectives and specific provisions of State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development. In particular, the development proposal has been assessed against Clause 30 of the Policy which states that:

"Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to the design quality principles, and the objectives specified in the Apartment Design Guide for the relevant design criteria."

Clause 50 (1A) and (1AB) of the Environmental Planning and Assessment Regulation 2000 specifies:

50(1A) If a development application that relates to residential apartment development is made on or after the commencement of the Environmental Planning and Assessment Amendment (Residential Apartment Development) Regulation 2015, the application must be accompanied by a statement by a qualified designer.

50 (1AB) The statement by the qualified designer must:
(a) verify that he or she designed, or directed the design, of the development, and
(b) provide an explanation that verifies how the development:
(i) addresses how the design quality principles are achieved, and
(ii) demonstrates, in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.

The development application has been submitted with a design verification statement prepared by Haris

Sutanto (Nominated Architect 6230).

An assessment against Schedule 1 Design quality principles, of the Policy has been undertaken and is included in **Table 1** below and an assessment against the accompanying Apartment Design Guide is also provided in **Table 2** below.

Table 1: Assessment Against Schedule 1 - Design Quality Principles Assessment Against Schedule 1 - Design Quality Principles		Officer Discussion
Principle 1: Context and Neighbourhood Character	Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The design is not considered to respond to the context of the site. The development as proposed does not have regard to the recommended building separation distances and is not considered to respond adequately to the approved mixed use development (which is as yet to be constructed) directly adjoining to the south at No. 28-32 Somerset Street. The proposal is not considered to be appropriately positioned on the subject site culminating in the location of large and expansive blank walls along the eastern boundary adjoining No. 36 Orth Stret as well as to adjoining properties to the south being No's. 1-3 Hargrave Street. The proposal has also incorporated privacy measures along the southern elevation which create a blank building form appearance from the first to the fifth floor adjoining No. 28 Somerset Street and as such the design is not considered to reflect the desired future character of the area.
Principle 2: Built Form and Scale	Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook	The development is not considered to adequately respond to the site's context and is not considered to be sympathetic with the bulk and scale of the adjoining approved mixed use development. The proposal provides for non compliant setbacks to the side and rear boundary for all residential levels which is not considered an appropriate design solution. The visual presentation of the built form is also considered to be compromised via the provision of expansive blank wall presentations to part of the southern elevation which is considered to extenuate the bulk of the proposal.

Principle 3: Density	Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The development is not considered to be of an appropriate density noting the impact to the amenity of future residents as discussed within this report. In addition, the density of the development is considered excessive for the subject site noting the inadequate landscaping, deep soil areas and common open space proposed.
Principle 4: Sustainability	Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	While internal living areas are provided with direct access to external living areas, solar shades to the eastern and western elevations have not been provided to assist in restricting overbearing sunlight during the warmer summer period.
Principle 5: Landscape	Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.	While deep soil areas have been co-located with common open space it is noted that an inadequate amount of deep soil area is provided along the western and southern side boundaries as the majority of the basement level is setback to each respective boundary at less than 6m. The location and functionality of a communal open space at the ground level is also not considered acceptable due to the narrow widths provided, its irregular shape, relationship alongside both the waste collection area, an identified sub station and proposed commercial tenancies as well as being positioned in an area also co-used to access the residential lobby of the proposed building.

Principle 6: Amenity	Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	The proposal is not considered to provide for an appropriate level of amenity for the majority of future occupants in accordance with the requirements of the Apartment Design Guide noting non compliances with natural ventilation, depth of a number of open plan units, potential access concerns to and from the residential portion of the building via the use of stepping stones and inadequate communal open space provided.
Principle 7: Safety	Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	While it is acknowledged that the proposal will present to both Orth and Somerset Street with casual surveillance achieved via the location of balconies and windows to all elevations, the design of the ground floor residential lobby and communal open space are considered to provide for areas of concealment which will create safety concerns for residents accessing these areas.
Principle 8: Housing Diversity and Social Interaction	Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	The mix of units in the development is considered appropriate.

Principle 9: Aesthetics	Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The development is assessed to be not appropriate in bulk and scale. As detailed elsewhere in this table and in the assessment of the development against the Apartment Design Guide (ADG) below, the development is not considered to be consistent with the design criteria and design guidance statements of the ADG. The visual appearance of each proposed building is compromised by vast expanses of blank wall presentations along the southern elevation which is not considered to provide for an appropriate relationship to an approved development to the south while the provision of blank boundary walls to part of the eastern and southern boundaries will create a direct visual impact to adjoining properties. The use of strong vertical design elements to the Orth Street frontage is not considered appropriate while both the eastern and western facades are provided with elevations void of appropriate articulation.

Table 2: Assessment Against the Apartment Design Guide (ADG)
Assessment Against the Apartment Design Guide (ADG)

Part 3	Required	Discussion	Complies
3A-1	Each element in the Site Analysis Checklist should be assessed.	A Site Analysis plan was submitted with the application and identifies applicable elements as required within the Checklist. A written description of the proposal and subject site are also included in the submitted Statement of Environmental Effects and accompanying plans and reports.	Yes.
3B-1	Buildings to address street frontages.	The building frontage onto both Orth and Somerset Street is naturally orientated and allows for direct access from either street.	Yes.
3B-2	Living areas, Private Open Space (POS) and Communal Open Space (COS) to received compliant levels of solar access.	Refer to discussion under Part 3D and 4A.	N/A.

	Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%.	Submitted shadow diagrams are not considered to adequately demonstrate that additional overshadowing attributed to the subject development, does not reduce the amount of solar access available for the private open spaces and living zones, for instance to the adjacent southern property for the approved mixed use building (28-32 Somerset Street). The provided shadow diagrams are considered to be basic in nature and do not show appropriate detail to allow for satisfaction of this clause The submitted shadow diagrams have identified that the adjoining properties to the south of the subject site will be impacted by additional overshadowing. Noting the non compliant separation distances provided to all boundaries for levels 1 to 6, the bulk and scale is not considered to create an appropriate relationship with surrounding lots.	No.
	If the proposal will significantly reduce the solar access of neighbours, building separation should be increased.	As discussed above, adequate information has not been submitted with the development application to enable an accurate assessment in this regard. It is noted that the adjoining southern approved mixed use building is provided only with a 3m separation to the common boundary with the subject site, but while so, the mass and bulk of the proposal is not considered acceptable taking into consideration the considerable separation non compliances provided.	No.
3C-1	Terraces, balconies and courtyard apartments should have direct street entry, where appropriate.	Not applicable in this instance noting the proposed commercial uses to the ground floor.	N/A.
	Changes in level between private terraces, front gardens and dwelling entries above the street level provide surveillance and improve visual privacy for ground level dwellings.	Not applicable in this instance noting the proposed commercial uses to the ground floor.	N/A.
	Upper level balconies and windows to overlook the street.	All apartments along the street frontage overlook Orth or Somerset Street.	Yes.
	Length of solid walls should be limited along street frontages.	The presentation of the northern elevation fronting Orth Street is provided with large vertical features which is not considered to have minimised the presentation of any solid walls.	No.

	Opportunity for concealment to be minimised.	The position of the residential lobby area fronting Somerset Street is not considered acceptable noting the required 27m length from the property boundary to the entry area. The irregular shaped communal open space (provided in an irregular dog leg manner) in this location is considered to provide for a number of areas of concealment which will not be overlooked noting the treatment of the southern elevation and landscaped areas provided. The location of the lifts within the lobby area is also not considered acceptable as they provide for areas of concealment due to the irregular shape of the lobby area and obscured views from each street frontage.	No.
	Opportunities should be provided for casual interaction between residents and the public domain. Design solutions may include seating at building entries, near letter boxes and in private courtyards adjacent to streets.	No items of interest are provided to the entry areas of the residential portion of the building. The location of letter boxes within the lobby area is also not considered to provide for casual interaction for future residents in a pleasant social environment.	No.
3C-2	Mail boxes should be located in lobbies, perpendicular to the street alignment or integrated into front fences where individual street entries are provided.	Mail boxes are identified within the lobby area.	Yes.
	Substations, pump rooms, garbage storage areas and other service requirements should be located in basement car parks or out of view.	The position of the substation is considered to dominate the Somerset Street frontage while also noting the failure of the proposal to provide for any means of screening this feature. The garbage collection area is considered to dominate the south eastern corner of the subject site noting the provision of large blank walls along the boundary in this location.	No.

3D-1	Communal Open Space (COS) to have minimum area of 25% of site.	445.4m^2 of COS is required under the ADG (25% of total site area). An assessment of the submitted plans has identified that only 351m^2 or 19.7% of the site is provided as COS. The area of COS is provided in 2 portions on the ground floor (246m^2) and to the 6th floor (105m^2). The proposed COS areas are not considered to be of high amenity to future occupants or functional usable spaces noting the irregular shape and narrow widths provided to the ground floor portion, its positioning alongside an identified commercial tenancy as well as a substation and duplicated use as it would also serve in part as the residential access area from Somerset Street. The ground floor COS area is also not considered to provide for equitable access to all areas which is also considered to be primarily overshadowed throughout the majority of the day. The positioning of this area is also not considered to allow for an avenue of privacy noting its presentation fronting Somerset Street. The location of a COS area to level 6 is also not considered to provide for appropriate items of interest with seating around the perimeter and the provision of two bbq stations, at best, tokenistic. This area is also not provided with any shading mechanism which is considered to create an area which will be impacted upon by the westerly sun in the afternoon periods.	No.
	Achieve a minimum of 50% direct sunlight to the principle usable part of the communal open space.	The COS area provided to level 6 is considered to achieve 50% solar access for at least a period of 2 hours primarily during the afternoon period as indicated on the provided plans. While so, the primary and larger identified COS to the ground floor will not achieve any significant solar access as identified on the accompanying shadow diagram plans.	Partial.
	COS to be consolidated into a well-designed, usable area.	Refer to discussion above.	No.

	COS to be co-located with deep soil.	The ground level COS proposed is located within areas identified as providing for deep soil. While so, it is noted that this area does not comply with the minimum widths required for deep soil area as identified in the Apartment Design Guide.	Partial.
3D-2	COS is to be provided with facilities such as barbeque areas and seating.	Seating and bbq features are provided to either the ground level or to the sixth floor. While so, the features provided are not considered items of interest that would attract persons to this area.	No.
	COS is to be well lit and readily visible from habitable rooms.	The location of the communal open space to the ground level is not considered to receive acceptable solar access or provide for appropriate surveillance from units above noting the positioning and external treatment of the building facade. The location of the communal open space to the sixth floor is not considered to be readily visible noting it is accessed from a long external corridor.	No.
3D-4	Boundaries should be clearly defined between public open space and private areas.	Boundaries between public and private space are clear.	Yes.
3E-1	Deep soil is to be provided at a rate 7% with a minimum dimension of 6m.	124.7m^2 of deep soil is required under the ADG (7% of total site area). The application has been provided with a basement level positioned so as to provide for setbacks to all boundaries less than 6m. In this regard, it is not possible to include each of these areas noting the minimum 6m minimum dimension required to be provided. Consequently, the deep soil area is provided with a total area of only 8m^2 in a small portion alongside the southern boundary which does not allow for an appropriate and large portion of deep soil planting overall for the proposal.	No.

3F-1	Minimum required shared separation distances between habitable rooms and balconies are to be as follows: 1-4 storeys – 12m 5-8 storeys – 18m	Building separation is as follows (measured from the face of the balcony/building to the side boundary): <u>South Separation</u> Setbacks for levels 2 and 3 vary from 3m, 3.7m, 4.5m and 6m, with the majority of setbacks below 6m. Setbacks for levels 4 to 6 vary from 3m, 3.7m, 4.5m and 6m. Noting a separation of 9m is required to be provided, all setbacks are non compliant. As discussed, further within this report, the presentation of the southern elevation is not considered acceptable. <u>East Separation</u> A setback of 5m is provided to the boundary edge for Units 207 and 208 with Unit 206 provided with a 6m setback for level 2. All units to the 3rd floor are provided with a 6m setback. All units or balconies to levels 4 to 6 are provided with a 6m setback.	No.
3F-2	Communal open space, common areas and access paths to be separated from private open space and windows to apartments.	The proposal is considered to have delineated COS areas and private open space noting that the COS to the ground level does not adjoin any residential units. For the level 6 COS, delineation to Unit 601 adjoining is considered acceptable.	Yes.
	Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	An acceptable separation has been provided between habitable rooms and circulation spaces.	Yes.
	Balconies, and private terraces should be located in front of living rooms to increase internal privacy.	A number of balconies are provided to units from the side of living areas rather than directly to their front which consequently (due to apartment layouts) provides for their location to the front of bedrooms. In this regard, the use of the balcony is considered to potentially impact upon the amenity of bedrooms from the same unit.	Partial.

	Windows should be offset from the windows of adjacent buildings.	The proposal has provided for east and west facing windows along the southern elevation (rather than directly fronting the southern boundary) to offset their presentation to the adjoining approved building (as yet not constructed). While so, as discussed elsewhere within this report, this external finish treatment is not considered acceptable.	Yes.
3G-1	Building entries to be clearly identifiable.	The entryway from Somerset Street to the residential lobby area is not considered to be clearly identifiable noting the distance from the boundary to the lobby area and variance in levels from the footpath to the entry area. Building entries are considered clearly identifiable from Orth Street.	Partial.
3G-2	Building access ways and lift lobbies to be clearly visible from the public domain and communal spaces.	The building access way and lift lobbies from Somerset Street to the residential lobby area are not considered to be clearly identifiable noting the distance from the boundary to the lobby area and variance in levels from the footpath to the entry area. The building access way and lift lobbies are considered identifiable from Orth Street.	Partial.
3H-1	Carpark access should be integrated with the building's overall façade.	The entry to the basement carpark is not considered to be adequately integrated into the building off Orth Street due to the provision of 5.8m high boundary walls being provided along the eastern boundary alongside the driveway ramp separate to the proposed building form.	No.
	Clear sight lines to be provided for drivers and pedestrians.	Adequate sight lines are provided for pedestrians and drivers exiting the basement.	Yes.
	Garbage collection, loading and servicing areas are screened.	The bulky waste and garbage areas are screened from the street. While so, as discussed elsewhere in this report, the presentation of this screening is not considered to be visually acceptable.	Yes.

3J-1	The site is located within 800m of a railway station and is required to comply with the car parking rates for residents and visitors as set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is lesser. The Guide to Traffic Generating Developments provides for a lesser rate as compared to the requirements of the Penrith DCP as follows; 1 bedroom - 0.6 spaces 2 bedroom - 0.9 spaces 3 bedroom - 1.4 spaces 4+ bedroom - 1.4 spaces Visitor/dwelling - 0.2 spaces	The following rates are applicable; 6 one bedroom units x 0.6 = 3.6 spaces 31 two bedroom units x 0.9 = 27.9 spaces 4 three bedroom units x 1.4 = 5.6 spaces 41 units x 0.2 visitor spaces = 8.2 spaces Total Required = 45.3 spaces (rounded up to 46 spaces) Provided = 45 residential and 8 visitor spaces = 53 spaces The application is provided with an overall numerically compliant parking rate. Were Development Consent to be provided, the number of spaces would be conditioned to allow for an appropriate number of residential and visitor spaces	Yes.
3J-2	Secure undercover bicycle parking should be provided for motorbikes and scooters.	24 bicycle lockers are provided over basement levels 2 and 3.	Yes.
3J-3	Carpark design and access is safe and secure - A clearly defined and visible lobby area or waiting area should be provided to lifts and stairs.	Lift lobby areas within Basement 2 and 3 are clearly defined.	Yes.
4A-1	Living rooms and private open spaces of at least 70% of apartments to receive 2 hours direct sunlight between 9am and 3pm mid-winter.	Submitted plans are considered to demonstrate that compliance with this design criteria is met as 32 of the proposed 41 units (78%) will receive adequate solar access.	Yes.
	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter.	Submitted plans are considered to demonstrate that a total of 4 units (10%) will not receive any solar access.	Yes.
4A-2	Courtyards, skylights and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.	All units comply with this requirement.	Yes.
4A-3	Sun shading devices are to be utilised.	Sun shading devices are not provided to either the northern, western or eastern elevations.	No.
4B-3	60% of apartments are naturally ventilated and overall depth of cross-through apartments 18m maximum glass-to-glass line.	The submitted plans indicate that 49% of apartments (a total of 20 units) can achieve natural cross ventilation.	No.
4C-1	Finished floor to finished ceiling levels are to be 2.7m for habitable rooms, 2.4m for non-habitable rooms.	The proposal is for 3.1m to levels 2 to 6 measured from finished floor level to finished floor level resulting in a 2.7m finished floor level to underside of ceiling, which is compliant with the ADG.	Yes.

4D-1	Apartments are to have the following min. internal floor areas: 1 bed – 50sqm 2 bed – 70sqm 3 bed – 90sqm Additional bathroom areas increase minimum area by 5sqm.	All proposed apartment sizes comply with the ADG requirements.	Yes.
4D-2	In open plan layouts the maximum habitable room depth is 8m from a window.	Units 202, 205, 206, 207, 208 and 209 and respective units above to level 5 (a total of 28 units) are provided with a length of over 8m to a window. The length of Unit 209 (on level 2) and respective units above to level 5 is not considered acceptable noting the size of the nearest window creating a unit dependent on artificial lighting.	Partial.
4D-3	Master bedrooms to be 10sqm's and other rooms 9sqm's.	All units comply with this requirement.	Yes.
	Bedrooms to have a minimum dimension of 3m.	All units comply with this requirement.	Yes.
	Living rooms to have minimum width of 3.6m for a 1 bedroom unit and 4m for 2 & 3 bedrooms.	All units comply with this requirement.	Yes.
4E-1	All units to have the following primary balcony areas: 1 bed – 8sqm (2m deep) 2 bed – 10sqm (2m deep) 3 bed – 12sqm (2.4m deep)	All units comply with this requirement.	Yes.
4E-3	Air-conditioning units should be located on roofs, in basements, or fully integrated into the building design.	The proposal has not identified the location of any air conditioning units.	No.
4F-1	The maximum number of apartments off a circulation core on a single level is eight	The application provides for a maximum of 9 units to level 2 to 5 off a circulation core.	No.

4F-1	Daylight and natural ventilation to be provided to all common circulation spaces.	The residential lobby to the ground floor is provided with a northern perspective which will allow for adequate solar access. For levels 2 to 5 solar access to circulation spaces is restricted due to the positioning of northern facing units. While the building design is indented along the northern elevation creating a channel feature (this channel being 2.2m wide and 12.5m deep) to the lobby areas, the level of solar access achievable to the lobby area is considered restricted throughout the day. Solar access to level 6 is considered improved as compared to levels below. Each lobby area is considered to receive acceptable natural ventilation.	Partial.
4F-1	Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	All primary bedroom and living room windows do not directly front onto common circulation spaces. In this regard, visual and acoustic privacy is considered to be maintained.	Yes.
4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: 1 bed – 4m^3 2 bed – 6m^3 3 bed – 10m^3 With 50% of the above to be provided within the units.	Submitted plans indicate that storage cages are provided with the basement carpark. While so, plans have not appropriately identified the location of storage within units or the area of storage provided to respective units within the basement level. Furthermore, storage spaces have been positioned adjoining commercial car parking areas which is not considered to facilitate appropriate access to this area.	No.
4K-1	Flexible apartment configurations are provided to support diverse household types.	The proposal provides for 6 x 1 bedroom, 31 x 2 bedroom and 4 x 3 bedroom units.	Yes.
4L-1	Direct street access should be provided to ground floor apartments.	No ground floor apartments are proposed noting the mixed use nature of the proposal.	N/A.

4M-1	Building facades to be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal will provide for extensive blank walls to the southern elevation. In addition, the eastern and western building elevations are not considered appropriately articulated. The main frontage onto Orth Street is considered to be dominated by large vertical features which emphasize the bulk of the building.	No.
4O-1	Landscape design to be sustainable and enhance environmental performance.	The proposed landscaping design will allow for medium sized trees to be incorporated within deep soil areas. While so, the proposal is not considered to provide for an acceptable area to provide for the planting of mature trees. In addition, no landscaping is propsed along the eastern boundary alongside the driveway ramp or to the rear of the proposal adjoining the basement ramping and waste collection area.	No.
4Q-2	Adaptable housing is to be provided in accordance with the relevant Council policy.	A total of 4 adaptable units is proposed (9.7%) which is not acceptable having regard to the legislation. The proposal is deficient by 1 accessible unit.	No.
4U-1	Adequate natural light is provided to habitable rooms.	Apartment depths and open floor plan arrangements are considered to allow light into kitchens, dining and living areas.	Yes.
4V-2	Water sensitive urban design systems to be designed by suitably qualified professional.	The development application was referred to Council’s internal Environmental Waterways Unit and was not considered supportable.	No.
4W-1	A Waste Management Plan is to be provided.	The development application was referred to Council’s internal Waste Services Unit and was not considered supportable.	No.
	Circulation design allows bins to be easily manoeuvred between storage and collection points.	Waste areas and manoeuvring is not compliant with Council's DCP.	No.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No. 2 - 1997) (SREP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The plan applies to all parts of the catchment in the Sydney region (15 local government areas, including Penrith), except for land covered by *Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme*. SREP 20 is supported by an Action Plan which includes actions necessary to improve existing conditions.

The development proposal is not considered to be in accordance with the general planning considerations set out in Clause 5 of SREP 20 and the relevant specific planning policies and related recommended strategies set out in Clause 6. In particular, Council's Development Engineers have reviewed the application and did not consider the proposal supportable as it appears that an On-Site Detention system has been provided to restrict discharge to the kerb and gutter.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Does not comply - See discussion
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Does not comply - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	Does not comply - See discussion
Clause 4.4 Floor Space Ratio	Complies
Clause 4.6 Exceptions to development standards	Does not comply - See discussion
Clause 5.10 Heritage conservation	N/A
Clause 7.2 Flood planning	N/A
Clause 7.4 Sustainable development	Does not comply - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies
Clause 7.11 Penrith Health and Education Precint	Does not comply - See discussion

Clause 1.2 Aims of the plan

The proposal is not considered to comply with the following aims of the LEP:

(b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement

(c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity

The adverse amenity impacts on future occupants, in regards to the inadequate natural ventilation provided, non compliant communal open space area and non compliant unit configurations is not aligned with Council's vision for development in Penrith.

The proposal is also considered to create adverse impacts upon adjoining properties in regard to providing for a bulk and scale not in accordance with State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and Apartment Design Guide controls. In addition, the proposal is provided with a non compliant building height which is considered to culminate in a built form contributing to an inappropriate presentation and relationship with adjoining properties.

Clause 2.3 Zone objectives
The objectives for a B4 zone within the Penrith Local Environmental Plan 2010 are as follows;

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity.*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The design of the proposed development is not considered to ensure that a high level of residential amenity is achieved and maintained in that the proposal does not provide an acceptable communal open space or deep soil area, overall compliant natural ventilation for the number of units proposed, equitable access to the building as well as to the ground floor communal open space while a number of units are considered to be poorly designed which is considered to impact upon the amenity of future occupants.

Furthermore, the interaction between the commercial and residential components is not considered acceptable noting the combination of visitor and commercial parking spaces at basement level 1 while no separation is provided between commercial and residential parking spaces provided at basement level 2 which is considered to create immediate safety concerns for users of these areas. In addition, the location of a communal open space area adjoining one of the proposed commercial tenancies and fronting Somerset Street is not considered to provide for an acceptable interface between each use as well as to the public domain.

Noting the above concerns, the proposal is considered to be in direct conflict with objective points 1 and 5 for the B4 zone.

Clause 4.3 Height of buildings

Clause 4.3 of the Penrith Local Environmental Plan 2010 relates to building heights and states the following:

(1) The objectives of this clause are as follows:
(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.
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Building Map identifies a maximum height of 18m applying to the site, however as detailed elsewhere in this report, the proposal benefits from a LEP height bonus of 20% pursuant to Clause 7.11 of the LEP.

Clause 7.11(3) provides the following:

(3) Despite clause 4.3, development consent may be granted to development on land that exceeds the maximum height shown for that land on the Height of Buildings Map by up to 20% if the floor to ceiling height of both the ground and first floors are equal to or greater than 3.5 metres.

The proposal benefits from Clause 7.11 in that it provides for a 3.5m floor to ceiling height for both the ground and first floor of the development. This then provides for a maximum permitted building height of 21.6m on the site.

With a rise in the existing topography of 2.4m from the north east corner of No. 38 Orth Street to the south western corner of 28 Somerset Street, the proposal is provided with an overall non compliant height of 22.7m to the top of the roof (overall height non compliance of 1.1m or 5% above the maximum height permitted) and a non compliance to the lift overrun of 23.7m (overall height non compliance of 2.1m or 9.7% above the maximum height permitted).

In this regard, the application was accompanied with a *'4.6 Exception to development standard'* which has discussed the nature of the height non compliance. Discussion in regard to the non compliance is provided for under a separate title within this report.

Clause 4.6 Exceptions to development standards
The proposal is non compliant with the height of buildings development standard under Clause 4.3 of the Penrith Local Environmental Plan 2010. Furthermore, the proposal benefits from Clause 7.11 in that it provides for a 3.5m floor to ceiling height for both the ground and first floor of the development. This then provides for a maximum permitted building height of 21.6m on the site.

An assessment of the accompanying architectural plans has identified that the proposal is provided with an overall non compliant height of 22.7m to the top of the roof (overall height non compliance of 1.1m or 5% above the maximum height permitted) and a non compliance to the lift overrun of 23.7m (overall height non compliance of 2.1m or 9.7% above the maximum height permitted).

Clause 4.6 of the Penrith Local Environmental Plan 2010 provides that development consent may be granted for development even though the development would contravene a development standard. This is provided that the relevant provisions of the clause are addressed, in particular subclauses 3-5 which provide:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:
(a) the consent authority is satisfied that:
(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:
(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

In this regard, the non compliance is discussed below;

Building Height

The application has been accompanied by a Clause 4.6 Variation Request prepared by Ingham Planning dated October, 2019 in relation to the building height non-compliance. In this regard, the accompanying Variation request has provided for the following evaluation as to the identified variation in relation to Clause 4.3 of the PLEP;

The proposal achieves the above objectives as detailed in the following assessment.

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.

The existing character of the locality extending east from Somerset Street comprises single storey cottages interspersed with a few 2 storey dwellings. Larger and taller structures are located within the Nepean Hospital site, located on the western side of Somerset Street. The locality east from Somerset Street, including the subject land, has been zoned to allow for higher density redevelopment in the form of a mixed-use precinct comprising 6 storey mixed use buildings extending to heights of between 18m and 21.6m. Such development is not compatible with the existing character of the locality. Given these circumstances, it is not appropriate to assess the proposed development against the existing character of the area, but rather against the desired future character of the area, as envisaged by the planning controls, namely larger scale 6 storey mixed use buildings.

Redevelopment of the locality has not yet commenced. Council has approved a 6 storey mixed-use building on adjoining land to the southwest of the development site, at 28-32 Somerset Street. Other neighbouring and adjacent properties around the site are also zoned for 18m to 21.6m high mixed-use buildings and may be expected to accommodate buildings of similar bulk and scale to that which Council has approved for 28-32 Somerset Street.

The proposed building will closely compliment the future 6 storey mixed use building form that will occur on adjoining and adjacent sites in terms of height bulk and scale. The proposed building is very similar in height, bulk and scale to the approved development proposal for 28-32 Somerset Street. This is illustrated in the elevation drawings enclosed with the development application.

The bulk and scale impacts arising from the proposed modest additional building height are mitigated by providing a significantly reduced floor plate and increased building setbacks for the 7th storey.

The floor plate of the 7th storey is modest in size, some 516.605m^2 and occupies a floor plate 35% less

than the floor level below. 7th storey building setbacks are 9m to the eastern side boundary and southern rear boundary (eastern side). Increased street frontage setbacks are provided for the 7th storey, some 12m to Somerset Street and between 6m and 7m to Orth Street. Setbacks of the 7th storey to the shared boundary with 28-32 Somerset are almost double the 3m setback permitted on that development site.

The front northern elevation of the 7th storey is setback an additional 2m from Orth Street, providing a front setback of 6m and ensuring that only a minor portion of the 7th storey is visible from street level. This ensures a bulk, height and scale presentation to Orth Street which is very similar to a numerically height compliant 6 storey building. A 7th storey setback of at least 12m to Somerset Street ensures the 7th storey will not be readily seen from Somerset Street, presenting a 6 storey form to Somerset Street, matching the development approved for 28-32 Somerset Street.

*As demonstrated in the 3D drawing at **Figure 1**, the limited portion of the building extending above the 21.6m maximum building height control contributes minimally to the overall height, bulk and scale of the building.*

The height of the proposed building will complement the planned future 6 storey mixed-use building character and streetscape of the locality, east of Somerset Street.

(b) to minimise the 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

With respect to objective (b), the development, at the height proposed, will not materially change visual impact, views, privacy or solar access to existing or future development, or to public areas, compared to a similar building of complying height. These matters have been addressed in the Statement of Environmental Effects.

As noted in the assessment of building height, bulk and scale, the proposed development will have minimal, if any, increased visual impact, as viewed from neighbouring properties or the public domain.

The modest additional building height does not disrupt views of any significance from either the private or public domain.

The proposed 7th storey offers a high level of privacy to neighbours by way of a combination of increased building setbacks and perimeter planter boxes.

The southern portion of the 7th storey is limited in depth, generally less than 12m, with additional eastern, western and southern building setbacks to minimise shadow impacts on neighbouring properties. The shadow diagrams demonstrate that the additional shadows cast by the height encroachment are minimal and generally confined to non-solar access sensitive areas such as roofs and side yards.

The proposed design of the 7th storey, where the height encroachment exists, has been sensitively designed to minimise visual impact, disruption of views, loss of privacy and solar access.

(c) To minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance.

The development site does not contain any heritage items, nor are there any heritage items in the vicinity of the site. The development site is not located within a heritage conservation area or area of scenic or visual importance.

The development of the site, at the height proposed will have no adverse impact on any heritage item, heritage conservation area or area of scenic or visual importance.

(d) To nominate heights that will provide a high quality of urban form for all buildings and a transition in built form and land use intensity.

The proposal achieves a high quality mixed-use urban form consistent with the desired future character of the area, as envisaged in the planning controls. As demonstrated in this clause 4.6 submission, the development at the height proposed and utilising a reduced floor plate for the top floor level, achieves an

urban form that is closely compatible with the 6 storey mixed-use building form anticipated by the development controls and as approved for the neighbouring site at 28-32 Somerset Street.

The subject land does not constitute a transitional site. The site adjoins or is adjacent to properties on all sides that have been zoned for mixed-use buildings of a similar height, bulk and scale.

The accompanying Variation request has also provided the following discussion points in support of the proposed non compliant height;

The proposal achieves the objectives of the B4 Mixed Use Zone

The zone objectives of the B4 Mixed Use Zone are noted and commented upon below. The zone objectives for the B4 Mixed Use Zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity*
    - *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

      The proposal achieves these objectives as detailed in the following assessment.

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

The proposed uses, comprising residential apartments and office/medical centre tenancies, are compatible in the form proposed and are as envisaged in the B4 Zone. Separate floor levels and entries are provided for residential and commercial office uses and residential amenity of the apartments on levels 2 to 6 are not compromised. The additional building height in no way reduces the compatibility of the proposed uses.

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

The proposed mix of land uses is suitably integrated into the building form and layout and the site is within convenient walking distance of public transport (rail and bus), retail facilities, services and Nepean Hospital. The design makes provision for bicycle parking. The additional building height in no way reduces the integration of uses, or encouragement of walking and cycling.

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

The proposed development is compatible with future development on adjoining properties, which are also zoned B4 mixed use. The design includes suitable measures to ensure adequate acoustic and visual privacy between the proposed development and neighbouring properties. Emissions such as noise, odour and the like are suitably managed to ensure no material conflict. The site is surrounded, on all sides by a B4 Zone and does not adjoin any other zone.

The additional building height in no way increases any conflict between land uses within the B4 zone or other zones in the vicinity of the site.

(d) To create opportunities to improve amenity.

The provision of a reduced floor plate 7th storey with lift access is enabled by the requested modest increase in building height and also facilitates provision of rooftop common open space with communal facilities for use by residents, in a location providing an attractive outlook for users. The proposed increased building height therefore results in improved amenity.

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

The proposed development provides a suitable range of land uses including residential, offices and services, such as medical centres. The proposed increased building height makes it feasible to provide a second storey of commercial floor space. Provision of a higher percentage of commercial floor space within the building is considered to be directly supportive of Zone Objective (e).

The proposed development, at the height proposed, is consistent with the applicable B4 zone objectives. The minor additional building height in no way decreases the extent of consistency with the B4 zone objectives and in fact, results in greater consistency by facilitating a second storey of commercial floor space.

Compliance would result in a poorer planning outcome

One of the objectives of Clause 4.6 is to allow better planning outcomes to be achieved. In this case a substantially better planning outcome is achieved by facilitating the provision of a second storey of commercial floor space. The viability of commercial floor space in this locality is marginal at best. This has been acknowledged by Council in the Council's assessment of the DA for a mixed-use building at the adjoining development site, No. 28-32 Somerset Street.

The provision of a 7th storey with a reduced floor plate, accommodating 5 apartments, at least in part, offsets the lower returns from commercial floor space, enabling a second storey of commercial floor space, which more than doubles potential commercial floor space on the site. This is consistent with the planning outcomes envisaged for the Precinct, which seek to encourage 2 storeys of commercial floor space.

Strict enforcement of the maximum building height standard would require deletion of the 7th storey, with the second storey changed to residential apartments, rather than commercial floor space. A better planning outcome is achieved by allowing some modest flexibility on maximum building height, as a means of encouraging additional commercial floor space that can potentially enhance the health services objectives of the Precinct.

Lack of impact

As noted in the above discussion and in the Statement of Environmental Effects, despite the minor numerical height non-compliance, the environmental and visual qualities of the locality, streetscape and amenity of surrounding properties, including privacy, views and solar access, will be maintained to substantially the same extent as a development that is of a numerically compliant height.

There are sufficient environmental planning grounds to justify contravening the development standard

The planning objectives seek to achieve 6 storey high-density mixed-use buildings. Strict application of the maximum building height standard would significantly reduce the extent of commercial floor space that can be viably accommodated on the site, with no material gain in terms of environmental planning objectives, neighbourhood character and streetscape, visual impact or residential amenity. The minor numerical non-compliance is less than 10% apart from the small lift overrun which is within 12.4% of the building height control. The height encroachment results in no increase in environmental or amenity impact, compared to a numerically complying height.

A positive planning outcome is achieved in this instance by not strictly complying with the height standard. Further, the proposal also has benefits in broader environmental terms. One of the objects of the EP&A Act is the "orderly and economic use and development of land". The height of the proposed building is consistent with the 6 storey building scale and density anticipated by the planning controls.

It is appropriate to optimise commercial floor space in the Hospital Precinct to facilitate the development of this Precinct as an important hub for health services close to shops, services and public transport. Penrith Council has recognised the importance of encouraging additional commercial floor space by adding a building height bonus to the PLEP 2010 for buildings with increased floor to ceiling height at ground and first floor, to provide 2 levels of commercial floor space, where otherwise there would likely be only 1 level of such floor space.

Allowing an extra storey, with a significantly reduced floor plate, designed in a sensitive manner on the

subject land makes for a viable development capable of containing 2 storeys of commercial floor space. Such an approach is an outcome that is also supportive of another of the objects of the Act which is the facilitation of "ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental assessment".

Council must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above the proposal meets the objectives of the height standard and as detailed in the SEE and in this clause 4.6 submission, also meets the objectives of the B4 Mixed Use Zone.

Also, in acting in the Secretary's concurrence role, Council must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

In relation to (a), the proposed breach is minor and is not of any State or regional significance.

In relation to (b), there is no public benefit from maintaining the standard as there is no adverse impact on the public domain or neighbour amenity, the proposal is generally consistent with other relevant planning controls and a better planning outcome is achieved.

Building height standards should be applied with some degree of flexibility where a better planning outcome can be achieved, with no material increase in height, bulk and scale and no adverse streetscape or amenity impacts.

As noted above enforcement of the control would result in a poorer planning outcome, which is not in the public interest.

In relation to (c), there are no other matters that require consideration.

Discussion in regard to Building Height Non Compliance

It is not considered that the accompanying 4.6 Variation request has appropriately considered or justified the non compliances created by the proposal in relation to the requirements of SEPP 65 and the Apartment Design Guide. It is not accepted that the variation in building height will not create any adverse impacts to its surrounds or natural environment as for instance identified in this report in relation to increased overshadowing of neighbouring properties which would have been minimised were the proposal to provide for a compliant height as well as building separations.

The supporting documentation provides for an argument that the proposal is comparative in height to the adjoining proposal granted approval under DA16/0597 at No. 28-32 Somerset Street. While so, it is noted that this approval was provided in the form of a six level building as compared to the proposed seven level building. It is also noted that a minor building height non compliance for the adjoining proposal's approval was granted for the lift over run while comparatively with the subject proposal, the majority of level 7 as well as the lift over run as shown in the elevation and sectional plans exceeds the bonus building height maximum. In this regard, the supporting argument raised is not accepted.

The supporting documentation has identified that the upper level reduced floor plate is an appropriate justification to allow for the building height non compliance. While so, it is noted that the uppermost level as well as all residential levels below provide for non compliances in regard to building separation requirements for residential flat buildings as required by the Apartment Design Guide. In this regard, the proposal overall is not considered to maintain a high quality of urban form or an acceptable bulk and scale.

The Variation request has also deemed it appropriate to justify the building height non compliance via a discussion which offsets residential floor space to the upper level in light of providing additional commercial floor space to the first floor level. This approach is not considered to identify that a compliant building height and a reduced floor level for instance would not be a poorer planning outcome noting that the subject

site is already privy to a height bonus which in turn allows for an additional 3.6m height to be provided above the applicable 18m building height control.

Noting the above, it is not considered that the supporting Variation document has adequately identified that compliance with the development standard (being building height) is unreasonable or unnecessary in the circumstances of the case. Furthermore, it is not considered that the supporting documentation has adequately addressed the matters required to be demonstrated by Clause 4.6(3) (a) and (b) of the Penrith Local Environmental Plan. In this regard, support of the requested height variation is not considered to be in the public interest as it is not consistent with the objectives of the height development standard and the objectives for development in the B4 zone in which the development is proposed to be carried out.

Clause 7.4 Sustainable development
Clause 7.4 of the PLEP 2010 requires the consent authority to have regard to the principles of sustainable development as they relate to the development based on a "whole of building" approach and requires the consent authority to consider each of the following:

(a) conserving energy and reducing carbon dioxide emissions,
(b) embodied energy in materials and building processes,
(c) building design and orientation,
(d) passive solar design and day lighting,
(e) natural ventilation,
(f) energy efficiency and conservation,
(g) water conservation and water reuse,
(h) waste minimisation and recycling,
(i) reduction of vehicle dependence,
(j) potential for adaptive reuse.

The application is not considered to have been accompanied with information sufficient to demonstrate that appropriate natural ventilation is achieved with the current design which is not considered in line with the considerations of this clause of the PLEP.

Clause 7.6 Salinity
The subject site is affected by moderate salinity. While so, it is considered that appropriate measures could be taken to avoid or reduce any undesirable effects that may be created as a consequence of the proposed development via appropriate conditions of consent were development consent forthcomming.

Clause 7.11 Penrith Health and Education Precint

Clause 7.11 is provided with the following objectives;

(1) The objectives of this clause are as follows:

(a) to encourage a built form that is suitable for both residential and health service facilities,
(b) to encourage adaptive reuse of residential buildings for health services facilities in the Penrith Health and Education Precinct where the residential use within the building ceases in the future.

Taking into consideration objective (a) above, the proposal will provide for a mixed use development with two (2) commercial tenancies identified on the ground level and seven (7) commercial tenancies identified on the first floor. In this regard, while the application has not identified these tenancies as health services facilities, it is acknowledged that this may be a future use and objective (a) is considered to be satisfied. As objective (b) above is in relation to an existing building, this objective is not applicable in this instance.

In addition, the following controls are provided;

(2) This clause applies to land identified as "Penrith Health and Education Precinct" on the Clause Application Map.

The subject site is located within the area of the Clause Application Map.

(3) Despite Clause 4.3, development consent may be granted to development on land that exceeds the maximum height shown for that land on the Height of Buildings Map by up to 20% if the floor to ceiling height of both the ground and first floors are equal to or greater than 3.5 metres.

The development is provided with proposed floor to ceiling heights for the ground and first floor of 3.5m. In this regard, the height bonus is applicable. As the subject site is provided with an 18m height control, this is therefore increased to a maximum height of 21.6m for the proposed development. An assessment of the provided plans has indicated that the proposed building is provided with a maximum height of 22.7m to the top of the roof of the building and 23.7m to the top of the lift overrun and is therefore non compliant with objective (3) of this clause.

While so, the application is accompanied with a *'4.6 Exception to development standard'* which has discussed the nature of the height non compliance. Discussion in regard to the non compliance is provided elsewhere within this report.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.*

It is noted that the proposed changes to State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River (No. 2 – 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this draft instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land.

The proposed new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land,
- maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- clearly list the remediation works that require development consent, and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. Noting the above, the draft SEPP will not alter or affect the findings in respect to contamination of the site.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Does not comply - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Does not comply - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Does not comply - see Appendix - Development Control Plan Compliance
C5 Waste Management	Does not comply - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Does not comply - see Appendix - Development Control Plan Compliance
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Does not comply - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D2.1 Single Dwellings	N/A
D2.2. Dual Occupancies	N/A
D2.3 Secondary Dwellings	N/A
D2.4 Multi Dwelling Housing	N/A
D2.5 Residential Flat Buildings	Does not comply - see Appendix - Development Control Plan Compliance
D2.6 Non Residential Developments	N/A
E12 Penrith Health and Education Precinct	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to the proposal.

Section 79C(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 and fire safety requirements, will be imposed as conditions of consent where applicable should the application be approved. In this regard, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

Section 79C(1)(b)The likely impacts of the development

Context and Setting

The proposal will provide for a large mixed use built form on an irregular parcel of land with its location considered to be prominent in nature noting its presentation as a corner lot. Directly to the south of the subject site, development consent was granted (under DA16/0597) at No. 28-32 Somerset Street for the construction of a six storey mixed use development which will provide for a ground floor commercial tenancy to the corner of Hargrave Street and Somerset Street with the remainder of the ground floor and subsequent levels above provided as residential units. In this regard, this built form maintaining a total of 6 levels will provide for residential units to front the subject site.

While it is acknowledged that this adjoining proposal will provide for a 3m setback to the subject site, a review of these plans has identified a mixture of features provided to maintain amenity to the north including enclosed balconies, privacy screening and the provision of highlight windows. In contrast, the current proposal has identified the façade directly adjoining the approved development to be provided in a series of blank walls with a punctuation of western facing windows along the circulation corridor for levels 1 to 6. This approach is considered to create a visually prominent building for the future adjoining neighbours and is not considered an appropriate character to encourage in this location. This design feature does not allow for the softening of this elevation with the blank wall approach highlighting the bulk and scale of the proposal as compared to the adjoining proposal. Taking into consideration that the proposal will also provide for an additional level comparatively to No. 28-32 Somerset Street creating a built form higher than the applicable bonus height maximum, the built form is not considered responsive to the constraints of the subject site and will create an unnecessarily stark contrast to its surrounds.

Further to the above point, the failure of the proposal to consider its appropriate context is further highlighted via the placement of blank walls to the south eastern corner in association with the operations of the waste truck loading area and access to this area from Orth Street. The inability to provide for a proper setback to the eastern boundary and the positioning of Tenancies 5, 6 and 7 in the south eastern corner will create a prominent bulk and scale in this portion of the site which will be overbearing for existing adjoining properties and also have the potential to limit or create amenity concerns for future built forms adjoining which may be received under separate applications. With tenancy 6 and 7 setback only 1.39m from the southern boundary and a 3m setback provided in part to tenancy 6 and 5 to the eastern boundary, the combination of the blank walls to the subject site's corner and minimal setbacks provided to the first floor commercial tenancies creates an extenuated bulk to adjoining properties void of landscaping or architectural relief.

The presentation of the proposed building is considered harsh in nature with flush walls void of appropriate architectural relief provided to both the western and eastern elevations. In addition, a series of strong and dominant vertical forms to the northern elevation as well as entry features to both Orth and Somerset Street are considered to perpetuate the visual impact of this built form which is not considered an appropriate design solution extenuated by a bland finish schedule which does not soften its presentation.

Amenity for Future Occupants and Users

As discussed elsewhere within this report, the residential portion of this proposal is considered to maintain a number of concerns and non compliances which are contrary to the design quality principles set out under Schedule 1 of SEPP 65 - Design Quality of Residential Apartment Development which will create an immediate impact upon the future amenity of occupants. The proposal while naturally orientated to the north allowing for acceptable solar access is not considered to provide for a compliant natural ventilation rate, is deficient in communal open space with the ground floor layout especially considered inadequate in meeting adequate standards to be considered functional. The communal open space areas are considered to create safety concerns and areas of concealment while also providing tokenistic items of interest to attract future occupants.

In addition to the above, the availability of deep soil areas is considered scarce and will not allow for proper mature tree planting which will extenuate the bulk and scale of the building. A number of units have been identified as being dependent on artificial rather than direct lighting which is considered to create an unpleasant living standard. The failure to separate commercial and residential parking spaces in two of the three basement levels is considered to raise potential safety concerns, which are further extenuated via the location of residential storage spaces alongside commercial car parking spaces. In this regard, the layout and operation of below ground levels is not considered an acceptable operational design solution. Concern is also raised in regard to equitable access to the lobby areas off both Orth and Somerset Street via the pathway materials to be provided from each frontage, while the position of the sub station is visually

prominent and being alongside an identified communal open space area is poorly envisaged.

Accessibility

While it is acknowledged that the main frontage of the subject site will be Orth Street, the proposal is not considered to demonstrate that equitable access will be provided to the Somerset Street frontage taking into consideration the nature of stairs leading from this frontage to the path of travel to the residential lobby area with a drop in over 1m provided. Noting also that Somerset Street is identified as requiring an active street frontage under Council's planning controls, the design has not taken this into consideration with an expectation that all users of the commercial tenancies will access the site from Orth Street.

Furthermore, the selection of stepping stone pavers to access the lobby areas from each frontage is not considered to accommodate persons with an access disability from the either street in an acceptable manner. Access to the communal open space at the ground floor is also considered to be restricted in the failure to provide for pathways for instance to the bbq areas and also via the provision of the afore mentioned stepping stone pavers.

Environmental Sustainability

The subject application has been accompanied by a Section J Report and a Basix Certificate which has identified the incorporation of a number of sustainability initiatives for reduced water and energy consumption. In this regard, were an approval to be forthcoming these documents would be incorporated into the necessary conditions of consent.

Social and Socio-Economic Impacts

The proposal in its current amended form is considered likely to result in negative social impact in the area. The proposal has been assessed against the principles and objectives contained within the Penrith DCP, and as discussed later within this report is not considered consistent with a number of overarching principles of the DCP including site planning and design principles. In addition, the development of the site is not considered to facilitate the provision of high density residential accommodation and commercial tenancies in accordance with the aims of the Penrith LEP 2010.

Section 79C(1)(c)The suitability of the site for the development

The site is considered to be unsuitable for the proposed development for the following reasons:

- The proposal provides for a number of non compliances with the design quality principles of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development,
- The proposal provides for a number of non compliances against the Apartment Design Guide including building separation requirements, communal open space, deep soil areas, natural ventilation, opportunities for concealment and privacy and overlooking concerns,
- The proposal is not considered to identify that the site can be rendered suitable for a mixed use development in accordance with the requirements of State Environmental Planning Policy No. 55 - Remediation of Land,
- The proposal is not considered to provide for an acceptable On-Site Detention System or appropriately utilised the principles of Water Sensitive Urban Design,
- The proposal is not considered to have provided for an appropriate justification of the proposed building height non compliance, and
- The proposal is not considered to provide for adequate waste management facilities.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application was advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 1 November, 2019 to 29 November, 2019. During this period, one (1) submission was received.

The concerns raised in this submission are addressed below.

Issue: Concern that proposed development will create an increase in traffic issues in the immediate locality.

Comment: The application was referred to Council's Traffic Engineering Section who have indicated that the number of parking spaces provided are considered to be appropriate for the identified uses. In addition, were an approval to be forthcoming, any consent granted would be conditioned to require separate development applications to be received for each tenancy to determine based on the nature of the future operations if appropriate car parking has been provided.

As per most streets located directly to the eastern side of the Nepean Hospital, Orth Street is provided with a narrow width which is calculated to be 8.3m. Currently Orth Street provides for marked car parking spaces to both sides. In this regard, it is acknowledged that two way traffic along Orth Street is difficult at best and generally requires a motor vehicle to pull aside to allow another to pass. This scenario is not considered to change were the application to be approved all be it with an increase in the number of motorists in the vicinity in relation to the proposed commercial tenancies and residential apartments.

In regard therefore to traffic generation, it is noted that the application was accompanied by a Traffic, Parking and Access Report prepared by Transport and Traffic Planning Associates which was also considered in the assessment of the proposal. In this regard, the following comments were provided by Council's Traffic Engineering Section who have advised that the rate of traffic to be provided is acceptable as follows;

Based on the RMS Guide To Traffic Generating Developments, the application proposes traffic generation at a rate of 34 vtph (vehicle trips per hour) and 31 vtph during the AM and PM peaks respectively. it is anticipated that the additional traffic can be adequately accommodated within the surrounding road network.

Issue: Concern in regard to additional overshadowing created by proposal upon adjoining properties.

Comment: An assessment of the provided plans has identified that the proposal will create a significant increase in the overshadowing of adjoining properties throughout the day. In this regard, the proposal is not considered to have appropriately considered the impact of this overshadowing via the information provided. In this regard, the size, bulk and scale of the proposed building including the non compliant building height is not considered to have been appropriately justified and the application is recommended for refusal.

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	Not supported
Environmental - Environmental management	Not supported
Environmental - Waterways	Not supported
Waste Services	Not supported
Traffic Engineer	No objection subject to conditions
Community Safety Officer	No objections - subject to conditions

Section 79C(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 inconsistent with the relevant planning provisions related to the development of a mixed use building and on balance, it is considered that the application is unsupportable due in part to the proposal's failure to provide for adequate separation distances between buildings and the adjoining property boundaries, deficiencies in the provision of communal open space, lack of consideration for the principles of sustainable development, adverse impacts on residential amenity for future occupants of the proposed development, inapropriate waste facilities to be provided, failure to appropriately activate Somerset Street, failure to provide for equitable access to the site and inability to identify that the site can be rendered suitable as required by SEPP 55.

Section 94 - Developer Contributions Plans

Development contributions apply to the subject proposal, however as the application is recommended for refusal, a condition of consent requiring their payment prior to the issue of a Construction Certificate is not recommended.

Conclusion

The proposed development has been assessed in accordance with the relevant provisions of the environmental planning instruments and Development Control Plan pertaining to the land. The provision of a mixed use building is a permissible use under the site's B4 Mixed Use zoning. As the development application also includes a residential flat building portion under the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and is 4 or more storeys in height, the application is provided for determination by the Penrith Local Planning Panel.

The proposal will provide for a built form which is not considered to be consistent with the objectives of the Penrith Local Environmental Plan 2014 and the Penrith Development Control Plan 2010. The proposal has provided for a height of building non-compliance with the development standard under Clause 7.11 of the PLEP. A review of the documentation endorsing this variation is considered to identify that that the 'Exception to Development Standards' variation request as required under Clause 4.6 of the Penrith LEP is not acceptable and should not be supported.

The proposal is considered to provide for a number of non-compliances with the Design Quality Principles under State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development as well as requirements of the Apartment Design Guide. In this regard, the proposal is not considered to have adequately demonstrated that an acceptable level of amenity will be provided to future occupants with a number of significant non compliances provided for including building separations, communal open space area, deep soil zones, natural ventilation, opportunities for concealment, apartment size and layout and energy efficiency. The bulk, scale and presentation of the building is also not considered an appropriate inclusion to the area of Kingswood, nor is it considered to maintain an acceptable relationship to adjoining properties.

The operation of the proposed mixed use building is also viewed with concern noting conflicts between the waste loading area facilities and access to the basement, mixture of commercial and retail parking spaces on two levels and the inappropriate activation of the Somerset Street façade. The design is considered to create equity concerns for users of the building with visual bulk concerns created to adjoining properties. The presentation of the building is not considered to minimise its bulk and scale but rather create an intrusive addition to the existing urban streetscape and to its immediate surrounds.

The proposed development has been assessed against the relevant heads of consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and has found to be unsatisfactory in this instance. The site is unsuitable for the proposed development and the proposal in its current form is not considered to be in the public interest. The proposal is therefore recommended for refusal.

Recommendation

That DA19/0713 providing for the demolition of existing structures and construction of a seven (7) storey mixed use development including ground and first floor commercial tenancies, 41 residential apartments and three (3) levels of basement car parking be refused for the attached reasons.

CONDITIONS

Refusal

1 X Special (BLANK)
The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the application has not satisfied the provisions of the *State Environmental Planning Policy No. 55 - Remediation of Land*.

2 X Special 02 (Refusal under Section 4.15(1)(a)(i) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of Penrith Local Environmental Plan 2010 as follows:

(i) Clause 1.2 Aims of the plan - The proposal is inconsistent with the aims of the plan in relation to promotion of development consistent with Council's vision for Penrith and to meet the emerging needs of Penrith's communities while safeguarding residential amenity.

(ii) Clause 2.3 Zone objectives - The proposal is inconsistent with the objectives of the B4 Mixed Use zone, particularly (a) To provide for a mixture of compatible land uses and (e) To provide a wide range of retail, business, office, residential, community and other suitable land uses.

(iii) Clause 4.3 Height of buildings - The proposal exceeds the maximum building height standard for the subject site.

(iv) Clause 4.6 Exceptions to development standards - The proposal fails to satisfy the development standard for building height and the request for a variation to the development standard is not supported as the proposed development will not be in the public interest as it will not ensure a high level of commercial and residential amenity is achieved and maintained in accordance with the zone objectives.

(v) Clause 7.4 Sustainable development - The proposal does not demonstrate that the principles of sustainable development have been appropriately incorporated into the design.

(iv) Clause 7.11 Penrith Health and Education Precinct - The proposal does not demonstrate that the design in exceedance of the 20% bonus to the height of building requirements is acceptable in nature.

3 X Special 03 (Refusal under Section 4.15(1)(a)(ii) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development as follows:

(i) Clause 30(2)(a) - compliance with the design quality principles specified in the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development and Apartment Design Guide:
- 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

(ii) Clause 30(2)(b) - compliance with the objectives and design guidance specified in the Apartment Design Guide:
- 3B Orientation
- 3C Public Domain Interface
- 3D Communal and Public Open Space
- 3E Deep Soil Zones
- 3F Visual Privacy
- 3G Pedestrian Access and Entries
- 3H Vehicle Access
- 4A Solar and Daylight Access
- 4B Natural Ventilation
- 4D Apartment Size and layout
- 4E Private Open Space and Balconies
- 4F Common Circulation and Spaces
- 4G Storage
- 4M Facades
- 4O Landscape Design
- 4Q Universal Design
- 4V Water Management and Conservation
- 4W Waste Management

4 X Special 04 (Refusal under Section 4.15(1)(a)(iii) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979,* as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:

(i) The proposal is unsatisfactory with respect to the requirements under Part B - 'DCP Principles', specifically:
- The proposal does not provide areas for positive social interaction or promote positive community interaction, and the proposal does not minimise its ecological footprint or promote sustainable production and consumption.

(ii) The proposal is unsatisfactory with respect to the requirements under Section C1 'Site Planning and Design Principles', specifically:
- The proposal is not considered to be site responsive nor has it demonstrated how the proposed building is contextually appropriate in the location.

(iii) The proposal is unsatisfactory with respect to the requirements under Section C3 'Water Management', specifically:
- The proposal is not considered to be in compliance with Council's Stormwater controls, nor is the proposal considered to utilise the principles of Water Sensitive Urban Design.

(iv) The application is unsatisfactory with respect to the requirements under Section C4 'Land Management', specifically:
- The provided Preliminary Site (Contamination) Investigation is not considered to identify that the subject site

is suitable for the proposed use.

(v) The proposal is unsatisfactory with respect to the requirements under Section C5 'Waste Management', specifically:
- The proposal has not demonstrated that the mixed use building can accommodate or manage waste in an acceptable manner.

(vi) The proposal is unsatisfactory with respect to the requirements under Section C8 'Public Domain', specifically:
- The proposal has not demonstrated that the Somerset Street frontage has been appropriately activated noting the difference in finished floor levels from the ground floor to the existing footpath along Somerset Street.

(vii) The proposal has not satisfied Council with respect to the requirements under Section C10 'Transport, Access and Parking', specifically:
- The proposal is considered to create an immediate conflict between vehicles accessing the car parking levels and location and operation of the waste facilities via the positioning of the service vehicle turntable and loading bay, and
- The proposal is considered to create a safety concern for users of Basement Level 1 and 2 via the mixture of residential and commercial car parking spaces.

(viii) The proposal has not satisfied Council with respect to the requirements under Section D2 'Residential Development', specifically:
- Clause D2.5.8 - The building design does not ensure that overlooking problems are minimised between the proposed building and adjoining properties as part of the proposal,
- Clause D2.5.12 - The proposal is not considered to incorporate sufficient architectural articulation or façade variation to adequately address the bulk and scale of the building,
- Clause D2.5.13 - The building design does not allow for appropriate natural ventilation to a necessary number of apartments,
- Clause D2.5.19 - The design does not ensure that the safety and security of occupants is able to be maintained, and
- Clause D2.5.20 - The proposal is deficient by 1 adaptable unit with a minimum of 5 to be provided and is not considered to provide for an equitable path of travel from Orth Street and Somerset Street to the commercial or residential lobby areas on the ground floor.

(viii) The proposal is unsatisfactory with respect to the requirements under Section E12 'Penrith Health and Education Precinct', specifically:
- The proposal does not provide for an appropriate separation of commercial and residential activities due to the conflict provided between the operation of the basement level car parking with the location of a turntable and waste truck loading area and via the mixture of residential and commercial car parking spaces at Basement Levels 1 and 2,
- The entry design solution for the Somerset Street residential lobby will create safety concerns, is not clearly identifiable and will not assist in activating this street frontage,
- The proposal does not provide for a 4m building alignment for the ground floor to the Somerset Street frontage,
- The proposal does not provide for any sun shade devices for Level 1 upwards to assist in minimising the harshness of the sun,
- Points of the proposed tenancy 1 are greater than 10m from a daylight source,
- The blank wall presentation along the southern elevation in addition to the blank wall presentation at the south eastern corner of the subject site associated with the operation of the waste truck loading area will create an immediate visual impact upon adjoining properties,
- The proposal is not considered to provide for appropriate areas of deep soil,
- The design of the proposal has not suitably considered its immediate impact upon the nature of adjoining buildings surrounding the subject site,
- The external appearance of the building is not considered to enhance the existing streetscape,
- The proposal is not considered to encourage an active street front presentation onto Somerset Street,
- Ground floor activities fronting Somerset Street are not provided at the same level as the existing footpath, and
- The proposal does not provide for a continuous street frontage awning.

5 X Special 07 (Refusal under Section 4.15(1)(b) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of that development including those related to:

(i) Streetscape and Local Character,
(ii) Limited Landscaping and Deep Soil Zone,
(iii) Traffic, Access and Car Parking,
(iv) Bulk, Scale and Overbearing,
(v) Privacy Impacts,
(vi) Waste Management Impacts,
(vii) Amenity, Safety and Security Impacts Related to the Basement Floor Layout and Pedestrian Access,
(viii) Communal Open Space, and
(x) Environmental Sustainability.

6 X Special 08 (Refusal under Section 4.15(1)(c) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is deemed not suitable for the scale of the proposed development.

7 X Special 10 (Refusal under Section 4.15(1)(e) of EPA Act 1979)
The proposal is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest.

8 X Special 9 (Refusal under Section 4.15(1)(d) of EPA Act 1979)
Based on the above deficiencies and submission received, approval of the proposed development would not be in the public interest pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979.*

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposal has been assessed against the overarching principles of the Penrith Development Control Plan 2014 and is found to be unacceptable, particularly with regard to Principle 2 and 4 which read as follows;

Principle 2: Achieve long term economic and social security

The proposal does not provide areas for positive social interaction or promote positive community interaction via an inappropriate Communal Open Space design and layout. Nor is it considered to demonstrate that the principles of 'Crime Prevention Through Environmental Design' have been adopted by the design.

Principle 4: Enable communities to minimise their ecological footprint

The proposed development does not provide for adequate natural ventilation, apartment depths for a number of apartments in open plan layouts in relation to window locations or appropriate sun shade devices to either the eastern or western elevations as described in the SEPP 65 section of this report. These deficiencies in the building design are considered to inhibit the ability of future occupants to naturally regulate temperatures and increase reliance on artificial heating and cooling.

Part C - City-wide Controls

The proposal has been assessed against the applicable provisions of the Penrith Development Control Plan 2014, in particular those under Part C, City Wide Controls and is found to be non compliant. Compliance with particular Sections is discussed below.

C1 Site Planning and Design Principles

The proposal has been assessed against the key aims and objectives of the Chapter and is not considered to comply in that, the design of the mixed use building is of a height that exceeds the maximum permissible height (noting also that it exceeds the maximum bonus height provisions), is not considered to be of an acceptable bulk and scale in the context of the location taking into consideration the non compliant separations provided in relation to the Apartment Design Guide requirements, does not allow for ground floor plates in line with existing footpath levels, is not considered to maximise safety and security for future occupants and is considered to create accessibility concerns for persons accessing the site and for future residents wanting to utilise the ground floor communal open space area.

C2 Vegetation Management

The subject site is not considered to maintain trees or vegetation which are considered necessary for retention in regard to habitat for native fauna and biodiversity or to protect and enhance native vegetation for its scenic values. In this regard, the removal of all trees as identified via the current proposal is acceptable in this instance. Furthermore, it is noted that the subject site is not identified as being affected by the Biodiversity Values Map under the Biodiversity Conservation Act 2016.

C3 Water Management

The proposal is not considered to utilise the principles of Water Sensitive Urban Design (WSUD) in the design of the development. It is noted that the application was referred to Council's Development Engineering Section who were not supportive of the application. Concerns raised specifically noted that the proposed On-Site Detention System had been provided to restrict discharge to the kerb and gutter.

Further to the above, the application was referred to Council's Senior Water Management Officer who advised that the proposal was not supportable as the supporting information provided does not fully demonstrate compliance with the requirements of Council’s WSUD Technical Guidelines. It is also

noted that no MUSIC modelling was submitted in support of the application. In this regard and based on the information submitted on the engineering plans, it is not clear what the devices are and whether any testing of their performance has been undertaken.

In this regard, the application is not considered to be in line with the requirements of this section of the Penrith DCP.

C4 Land Management

The application was accompanied by a Preliminary Site (Contamination) Investigation prepared by Douglas Partners to address the requirements of *State Environmental Planning Policy No. 55 - Remediation of Land.* The report advised that a review of the site history has identified that the site has remained in residential land use from between 1965 and 1970. Prior to development, the previous primary vacant land uses are considered to have low or limited potential for contamination impact. While so, the Preliminary Site (Contamination) Investigation also identified the following potential sources of contamination:

- Imported fill material;
- Hazardous building materials (lead based paint and asbestos); and
- Pesticide use (termite control).

When determining a development application for any development of land, Clause 7 of State Environmental Planning Policy No. 55 requires the consent authority consider *"whether the land is contaminated'* and *'if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out*'. However, the Preliminary Site (Contamination) Investigation does not confirm that the site is suitable for the proposed use, stating only that *'the site can be rendered suitable for the proposed mixed use development'*, subject to the implementation of the following recommendations:

- Pre-demolition hazardous building material assessment;
- Preliminary soil testing to determine if any surficial contamination is present from the deterioration of lead paint or asbestos from building materials;
- Waste classification of soils prior to off-site disposal; and
- An Unexpected Finds Protocol be developed.

In accordance with the recommendations of the Preliminary Site (Contamination) Investigation, the recommended soil testing is required to be undertaken by a suitably qualified environmental consultant to determine if the site is suitable for the proposed use. Should remediation be found to be required, all remediation works within the Penrith Local Government Area are considered to be Category 1 works under SEPP 55 and SREP 20 and require development consent. In this regard, the proposal in its current form is not considered to have adequately identified that the requirements of SEPP 55 have been satisfied

C5 Waste Management

The proposal provides for waste collection infrastructure at basement level 1 in the form of separate residential and commercial garbage store rooms as well as a bulk waste room and garbage compactors room. This area is accessed from Orth Street via a ramped driveway with a waste truck loading area and associated turntable provided. The design proposes the use of Council's 10.5m Heavy Rigid Vehicle with a clearance of 4.66m provided from the ramp entry area to the building and a floor to ceiling height of 6.2m within the waste truck loading area in turn creating a void area to the ground floor above.

Council's Waste Management Officer has reviewed the proposal and is not supportive of the current design for the following reasons;

- Swept path models have not been provided to illustrate how Council's standard waste collection vehicle will enter, service and exit the site.
- The current configuration requires protrusion to the rear of the development impacting upon rear

setbacks and deep soil provisions. A wholly integrated configuration is not considered to have been provided.

- The current location of the turntable at the base of the ramp is considered to result in conflict with basement traffic flows during collection operations. A designated collection area has not been provided free from pedestrian and vehicle movements to permit a safe and efficient waste collection service.
- An integrated on-site loading bay has not been provided to facilitate use by removalists and other service vehicles when not utilised by Council's standard waste collection vehicles. The loading bay is required to be located within close proximity to the elevator core to facilitate unobstructed access which has not been provided in this instance.
- The commercial on-site waste collection room has not been located to permit direct and unobstructed access to the loading bay to permit a safe and efficient waste collection service.

It is noted that this advice was provided to the applicant at the pre-lodgement meeting on the 11 October, 2018 with the application subsequently maintaining these concerns.

C8 Public Domain

It is noted that Somerset Street is identified as requiring an active street frontage as provided by Section E12 'Penrith Health and Education Precinct' of the Penrith DCP. In this regard, Clause 8.1(2)(c) of chapter C8 of the Penrith DCP advises as follows;

c) Active street frontages are to be at the same level as the adjoining footpath and directly accessible from the street.

The existing footpath fronting No. 26 Somerset Street is provided with an RL which varies from 48.76m to 48.49m. It is noted that the existing front yard is provided with varying existing ground contours from RL 48.20m to RL 48.40m. A review of the proposal has identified that the ground floor commercial tenancies and commercial and residential lobbies are provided with a finished floor level of RL 47.40m which is considered to align with the existing footpath levels along Orth Street rather than Somerset Street. This also has the effect of creating a stepped entry to the Somerset Street frontage, identified via the 6 stepped entry adjoining No. 28 Somerset Street.

Noting the above, the proposal is not considered to align with the intention of an appropriate activation of the Somerset Street frontage and also does not allow for equitable access to be provided from this frontage. The reduced floor levels to the ground floor of the proposed building is not considered to enhance the public domain or create a safe entry from Somerset Street.

C10 Transport, Access and Parking

The proposal includes 53 residential car spaces and 29 commercial car spaces, being a total of 82 car spaces. Bicycle parking facilities are also proposed, being a total of 24 bike parking spaces. The parking spaces provision for the residential portion of the building is considered acceptable as previously outlined within this report under the requirements of SEPP 65. The proposal was accompanied with a Traffic and Parking Assessment Report prepared by Transport and Traffic Planning Associates which has been reviewed by Council's Traffic Engineering Section who provided the following comments in regard to the proposed commercial car parking component;

It should be noted that the likely tenants will be medical consultants and health care providers which, were the applicable rate to be applied (depending on the scale of future operations and services) might require a higher parking provision, however it is difficult to determine the level that may be required without further detail on proposed tenancies/services. It's also possible that a lower parking rate may be required, again depending on the numbers of health care professionals and support staff that might be accommodated on the premises.

Noting the above, were Development Consent to be forthcoming, a condition would be included on the consent requiring that prior to the occupation of the future commercial tenancies within the building, a separate development approval is to be obtained to use each tenancy within the building to determine if appropriate car parking have been provided. While so, it is noted that the application is recommended for refusal.

Council's Traffic Engineering Section has raised no objection in regard to the traffic generation created by the proposal based on the RMS Guide to Traffic Generating Developments. The application proposes traffic generation at a rate of 34 vtph (vehicle trips per hour) and 31 vtph during the AM and PM peaks respectively. It is anticipated that the additional traffic can be adequately accommodated within the surrounding road network.

It is noted that the turntable associated with refuse collection and servicing for the site as well as the dedicated loading bay is within the vicinity of a ramp for resident and visitor vehicle access to the basement level. This is considered to create am immediate conflict between vehicles accessing the car park and waste trucks on the turntable. In addition, the swept path analysis provided in support of the proposal as provided within the Traffic and Parking Assessment Report indicates that a waste truck may conflict with parked vehicles when entering and exiting the driveway.

Basement level 1 has provided for a mixture of residential visitor car parking spaces and commercial car spaces. Basement level 2 has provided for a mixture of residential parking spaces and commercial car spaces. This is not considered an acceptable design as this may create potential safety concerns for the users of these areas with the mix of persons provided and the opportunity to access different parts of the building.

Noting the above, while it is accepted that a compliant number of parking spaces is provided, the proposed layout of the basement levels providing for a mixture of parking uses rather than clearly delineating their uses for instance via a physical means is not acceptable. Furthermore, the positioning of the turntable and loading bay associated with service vehicles is considered to impact upon the movement of other vehicles and is not supportable.

C12 Noise and Vibration

The application was accompanied with a Noise Assessment Report prepared by Acoustic Consulting Engineering which was referred to Council's Environmental Management Team for consideration. In this regard, the following comments were provided;

This application was accompanied by an acoustic report. The Noise Assessment does not adequately address noise and vibration impacts from:

- *the demolition, excavation and construction phase of the development;*
- *traffic and vehicle movements;*
- *the outdoor and rooftop communal spaces;*
- *underground car parking;*
- *mechanical plant (including lifts/ventilation);*
- *waste management, including garbage compactors, waste chute, commercial garbage room, bulk waste room and truck loading areas; and*
- *residential and commercial tenancies.*

Noting the commentary provided, it is not considered that the proposal has adequately identified that the noise impacts created by the proposal are of a nature to warrant approval to be forthcoming.

D2 Residential Development

The proposal has been assessed against the applicable provisions of the chapter and is found to be non-compliant. Compliance with particular clauses is discussed below.

D2.5 Residential Flat Buildings

Clause D2.5.8 Visual and Acoustic Privacy and Outlook

The proposal is not considered to demonstrate that the proposed development will not result in negative privacy and overbearing impacts related to the proposed non compliance with building separation requirements to the adjoining boundaries of the subject site.

Clause D2.5.12 Building Design

The development is not considered to incorporate sufficient architectural articulation or façade variation to adequately address the bulk and scale of the building. The residential levels are not compliant with the ADG separation requirements resulting in overbearing bulk and an unsympathetic and dominating building form.

The residential entry of the building being tucked away from view from the Somerset Street façade as well as incorporating a large amount of planting to this access way is insufficiently articulated, while also resulting in poor opportunity for social interaction and safety and security impacts.

Clause D2.5.13 Energy Efficiency

As discussed elsewhere within this report, the proposal will not achieve the minimum 60% natural ventilation requirements under the ADG which is not considered to reflect a design which has optimised the number of apartments receiving an appropriate amenity to habitable rooms.

Clause D2.5.19 Safety and Security

The objective of this clause is as follows:

Achieve a high level of passive security within and surrounding dwellings.

As discussed elsewhere within this report, the mixture of the communal open space (COS) with a residential entry access path from Somerset Street is not considered to allow for an appropriate design solution also taking into consideration the potential for areas of concealment to the irregular shaped 'dog leg' COS area adjoining the Somerset Street residential lobby entry area. In this regard, the proposal is not considered to give appropriate consideration to the design to minimise ground floor access safety concerns.

Clause D2.5.20 Accessibility and Adaptability

Clause D2.5.20 of the DCP specifies that '*10% of all dwellings or a minimum one dwelling, whichever is greater, must be designed in accordance with the Australian Adaptable Housing Standard (AS 4299-1995), to be capable of adaptation for people with a disability or elderly residents'*.

The proposal includes 41 units, including 4 adaptable units (No's. 209, 309, 409 and 509). To meet the control a minimum of 5 adaptable units are required noting that 10% of 41 units is 4.1 which rounded up is 5 units. The proposal is therefore considered to be non compliant.

It is also noted that the provided architectural plans have identified stepping stones to be provided to both the Orth Street and Somerset Street pathways to lobby areas. The use of these stones is not considered to provide for an equitable path of travel for a person with disability and is therefore not considered an acceptable design solution in this instance.

E12 Penrith Health and Education Precinct

The proposal has been assessed against the applicable provisions of Part E12, Penrith Health and Education Precinct of the Penrith Development Control Plan 2014 and is found to be partially non-

compliant. Compliance with particular sections is discussed in the table below.

Requirement	Proposed	Compliance/Discussion
Provision of flexible floor areas and layouts to the ground and first floor to accommodate a range of commercial uses.	The ground and first floor will provide for commercial uses.	Yes.
Floor to ceiling heights for an applicant seeking to take advantage of the additional building height incentives prescribed by LEP 2010: 1. 3.5m on the ground and first floor; and 2. 2.7m on the upper floors.	Ground floor: 3.5m First floor: 3.5m Upper floors: 2.8m	Yes.
The commercial and residential activities of the building are to have separate service provisions, such as loading docks, lobbies and lift access, defined parking areas, garbage storage and servicing.	• Separate lobby areas are provided. • Separate lift access provided. • Defined parking spaces not provided • Separate garbage storage provided	Partial non compliant.
Mixed use developments are to provide commercial frontage (retail / business / office premises) as part of the development as shown in Figure E12.3 for the ground and first floors.	The ground and first floor will provide for commercial uses.	Yes.
The ground floor of a mixed use development is to provide a minimum of 75% commercial frontage.	62% commercial frontage provided.	Non compliant but acceptable in this instance.
A minimum site width of 24m is required for any mixed use development.	A site frontage of 55.78m is provided onto Orth Street and a frontage of 16.08m onto Somerset Street.	Non compliant but acceptable in this instance.
Residential entries shall be clearly marked and provide direct access to the street. Vehicular access is to be from rear lanes, where practical and possible. Pedestrian entrances are to address the main street.	Entries are provided from both Orth and Somerset Street which are not considered to maintain an acceptable eye line from the street.	Non compliant.
Commercial and residential uses should have clearly separate entries and vertical circulation.	Separate entries and lifts are provided.	Yes.
Security access controls must be provided to all entrances into private areas, including car parks and internal courtyards.	Security access is not considered to be provided with the current design noting the shared residential and commercial car parking levels.	Non compliant.
Buildings are to provide an active ground floor setback zone, free of columns, balustrades and other visual barriers to the primary street front.	The proposal is provided with a setback void of visual barriers.	Yes.
Blank building walls at ground level are to be avoided.	No blank walls are provided at ground level fronting public areas.	Yes.

Street building alignments are to be provided as specified in Figure E12.4.	The proposal is provided with a 6m setback to the ground floor fronting both Orth and Somerset Street. Upper levels are provided with a 4m setback to both Orth and Somerset Street.	Partial non compliance.
Minor projections into front building lines and setbacks for sun shade devices, entry awnings and cornices are permissible.	No sun shade devices, entry awnings and cornices are provided.	Non compliant.
Non-residential buildings greater than 12m in height are to have a maximum depth of 25m.	Not applicable noting mixture of commercial and residential levels.	Non applicable.
All points of an office floor should be no more than 10m from a source of daylight (e.g. window, atria or light wells).	Commercial tenancy 1 is non compliant. Commercial tenancy 2 is compliant.	Partial non compliance.
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 alternate architectural enhancements.	The proposal is provided with a blank wall on the southern boundary which is not considered to have been appropriately broken up.	Non compliant. Please refer to discussion below.
Site coverage: 75% of site	61% site coverage provided.	Yes.
Deep soil zone: 10% of site area	355m^2 or 20% deep soil zone provided.	Compliant but not acceptable in this instance.
Adjoining buildings are to be considered when designing new buildings and extensions to existing buildings.	Consideration of adjoining properties has not been suitably provided for.	Non compliant.
Building faces are to be articulated so that they address the street and add visual interest.	The proposed design is not considered acceptable.	Non compliant.
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.	The proposed design is not considered acceptable.	Non compliant.
Active frontage uses are defined as one or a combination of the following, at street level: 1. An entrance to a retail premises; 2. A shop front; 3. Glazed entries to commercial and residential lobbies occupying less than 50% of the street frontage, to a maximum of 12m frontage; 4. A café or restaurant if accompanied by an entry from the street; 5. Active office uses, such as a reception, if visible from the street, and 6. A public building, if accompanied by an entry	The proposed design is considered acceptable.	Yes.

Active street fronts are to be located at the ground level of all buildings located in those areas as shown in Figure E12.7.	Somerset Street is not considered to be provided with an active street frontage.	Non compliant.
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 activities are not provided at the same level as the adjoining footpath.	Non compliant.
Continuous street frontage awnings are to be provided for all new developments where active street frontages have been identified in Figure E12.7.	A street frontage awning is not provided onto Somerset Street.	Non compliant.

The following commentary is provided on the areas of non-compliance or additional design discussion points identified within the above table;

Separation of commercial and residential activities

The proposal provides for separate residential and commercial lobbies to the ground floor which is an acceptable design solution.

It is not considered that separate garbage storage and servicing areas have been provided with the current design noting the location of a turntable and waste truck loading area being positioned in the vicinity of a ramp for vehicular access to the basement level. The operations of the loading area by service vehicles is considered to create a direct conflict with the movement of motor vehicles for either the residential or commercial components in and out of the basement levels.

Furthermore, the proposal is not considered to provide for defined parking spaces to both the residential and commercial components of the building noting the mixture of residential and commercial parking spaces to basement level 2 and visitor and commercial car spaces to basement level 1. The mixture of parking spaces at these basement levels is considered to create a higher potential of safety concerns in regard to unwanted access by persons to various areas of the building above.

Commercial frontage

A review of the provided plans has identified that 62% of the frontage to the ground floor is occupied with commercial uses. This is non-compliant with the minimum 75% commercial frontage requirement. While so, the presentation of the commercial tenancies to both the Orth Street and Somerset Street frontages is considered acceptable in this instance. It is noted that the ground floor plate is occupied with a residential lobby as well as fire stair exits for the levels above.

The size and width of these non-commercial uses is not considered excessive within the context of the proposed ground floor presentation which is considered to achieve primarily a commercial outlook in this instance.

Minimum site width

It is noted that the subject site is provided with an irregular shape with a site frontage of 55.78m onto Orth Street and 16.08m onto Somerset Street. While so, the length of the Somerset Street frontage is restricted in this instance noting the adjoining proposal granted approval under Development Consent DA16/0597 for 28-32 Somerset Street. In this regard, no opportunity exists to enlarge the width of the Somerset Street frontage to allow compliance with the DCP site width control.

Entries shall be clearly marked

While the proposal is considered to provide for a clear identification of both the residential and commercial lobby entries when viewed from Orth Street, it is not considered that the residential lobby area entry from Somerset Street is of an acceptable design to clearly identify its location.

It is considered that the ground floor of the Somerset Street frontage is provided with a number of conflicting uses which do not assist in identifying the residential lobby entry. It is noted that the ground

floor level is provided with a finished level difference of between 1.2m and 1.4m from the Somerset Street footpath level, noting the stair access provided to a pathway leading to the residential lobby. In addition, this entry point from the footpath is considered to be poorly identifiable (notwithstanding the architectural design feature provided at the landing fronting Somerset Street) due to the positioning of the substation directly adjoining and abutting the street frontage.

In addition to the above, the entry path way and front setback of the building is combined into also providing for a communal open space area which if in frequent use by residents is to occur, is not considered to distinguish this area as a clear entry to the building. Furthermore, the Somerset Street frontage is considered to be dominated by the façade of the commercial tenancy positioned at this corner as well as doors associated with the exit of fire stairs.

The location of the residential entry lobby facing Somerset Street is also not considered to be clearly distinguishable noting its setback distance from the property boundary. At a distance of 26.5m from the western boundary, its position is not considered clearly identifiable as compared to the Orth Street frontage.

Noting the above, the entry design solution for Somerset Street is not considered appropriate and will not assist in activating this street frontage.

Security access controls

The proposal is not considered to have provided for appropriate access controls to the basement levels noting the shared residential and commercial car parking spaces provided for basement levels 1 and 2. Each level is provided with a mixture of commercial and residential car parking spaces which is considered to allow the opportunity for persons for instance accessing a residential parking space the opportunity to enter the commercial component of the building and vica versa. The proposal has therefore failed to identify or provide for appropriate treatment of these parking levels to mitigate possible future security concerns for users.

Street building alignment

As indicated by the above table, a building setback of 4m is required for the Somerset Street frontage to the applicable lot boundary. The proposal will provide for a 6m ground floor boundary setback contrary to this control with the upper levels maintaining a 4m boundary setback. The nature of this setback presentation will provide for cantilevered upper levels above the ground floor building envelope when viewed from Somerset Street.

The setbacks provided are considered to provide for an undesirable presentation onto Somerset Street, especially so when viewed in relation to the adjoining proposal for No. 28-32 Somerset Street approved under DA16/0597 which maintains a consistent 4m front boundary setback from the ground floor level upwards.

The cantilevered presentation of the proposal is not considered to provide for an appropriate architectural relief more so noting the external cladding feature proposed to the exterior of the building as well as the identified location of a substation along this street frontage. In this regard, the varied street setbacks to the ground floor and upper levels is not considered appropriate in this instance with a lack of architectural features provided to enhance the importance of the adjacent intersection.

Minor projections into front building lines

As discussed above, the proposal has provided for the cantilevering of upper levels above the ground floor plate which is not considered to enhance the presentation of the building. Furthermore, the design has not provided for any sun shade devices for level 1 onwards which would assist in minimising the harshness of the westerly sun during the afternoon period.

All points of office space should be no more than 10m from daylight source

The proposal will provide for two tenancies of varying size and depth. It is noted that commercial tenancy 1 is provided with a width of 10m and a varied depth of between 19.2m and 21m.

While providing for window openings along the eastern elevation alongside the proposed driveway ramp, a review of the plans has identified that areas exist up to 14m in length in which the proposed commercial space will be away from these openings or the main façade. This is considered a consequence of the depth of the proposed tenancy which will create amenity concerns for future users, also noting the expectation that this tenancy will not remain in its current open plan nature.

A review of the layout of tenancy 2 has shown that with a depth of 7.5m, solar access to this area is appropriate.

Blank wall presentation

The proposal has identified the treatment of the circulation areas along the southern elevation with a series of blank wall treatments at varying depths punctuated with slim western facing windows to allow for solar access into these levels. Consequently, when viewed from the adjoining southern property, this will create a large expansive presentation of blank walls from the first to the fifth floor levels. This treatment is not considered appropriate for not only the adjoining property but also from certain perspectives when viewed from Somerset Street and is not an acceptable design solution.

Furthermore, blank wall presentations are also provided for large portions in the vicinity of the south eastern corner of the subject site in response to the location of the ramped entry off Orth Street and the operation of the waste truck loading area. Up to a height of 5.5m, these walls will create an immediate visual impact upon adjoining properties and is also not considered an acceptable design solution and is considered to compromise the future orderly development of adjoining lots.

Deep soil

A calculation of the deep soil areas has identified that 20% of the subject site is provided as deep soil and is therefore compliant with the minimum 10% requirement. While so, as required by the Apartment Design Guide for the residential flat building component, deep soil areas are required to be provided with a minimum dimension of 6m.

As the proposal is provided with basement levels with the majority of its setbacks less than 6m from the subject site's boundaries, the efficiency of these areas to provide for effective landscaping to the ground level has not been demonstrated. In addition, the application was accompanied with a landscape plan which has identified plant species which will clash with the upper levels of the cantilevered nature of the building in many areas, especially along the southern boundary which shows canopy spread within the envelope of upper levels.

Adjoining buildings are to be considered when designing new buildings

The proposal is not considered to have appropriate consideration of the adjoining proposal at No. 28-32 Somerset Street (granted approval under DA16/0597) via the provision of a series of blank walls along its southern façade to levels 1 to 5. It is noted that the northern façade of the adjoining proposal fronting the subject site is provided on all levels with residential apartments which will be confronted with extensive bulk and scale in the form of the proposed blank wall presentation. This response to the approved building is considered unsightly and will create a direct visual detriment for future occupants of these units.

In addition, and as previously discussed, the proposal will provide for blank walls up to a height of 5.5m in the vicinity of the south eastern corner of the subject site. Were the proposal to be constructed in this manner it is also considered that this would create an inappropriate relationship to adjoining properties along this boundary and potentially restrict the nature of the built form which may be in developed in the future.

Articulation of building faces / external building appearance

The proposal is considered to be overly dependent on an external cladding finish to all elevations which is considered to extenuate the bulk and scale of the built form. The ground floor elements containing the commercial tenancies are not considered to have been articulated by the design and are not considered

distinguishable comparative to the remaining residential portion of the building.

The proposal does not allow for a podium element but alternatively via the provision of upper levels with a larger building envelope than the ground floor is considered to create a design that extenuates bulk rather than diminishing its impact the higher the building rises. The bulk of the building is extenuated also via the flush wall presentation to both the eastern and western facades creating a visual eyesore for the location.

The use of black framed aluminium windows and curtain walls is considered to contribute to the visual bulk as well as the darkened glass tinting which fails to offer architectural relief to a series of vertical forms to both the Orth Street and Somerset Street elevations noting the prominent location of this corner site.

The application is also not considered to be accompanied with an acceptable schedule of colours and finishes noting that the façade is not clearly defined in regard to the materials and finishes to be used. In this regard, the proposal is not visually and bulk wise an acceptable inclusion into the surrounding vicinity of the subject site.

Active frontage

The provision of an active frontage area promoted via the provision of non-residential uses is necessary with the subject development. In this regard, Part E12 of the Penrith DCP has identified the Somerset Street frontage as requiring an active street frontage associated with the ground level use.

The proposal is not considered to provide for a clear residential lobby area fronting Somerset Street as previously discussed, which is also not considered to be clearly identifiable or directly accessible from the footpath, nor does it address it. The cantilevered design of the levels above the ground floor envelope is considered to diminish the importance of the necessary activation of this street frontage which is further impacted upon via the mixture of activities identified within the front setback area. The proposal does not maintain an awning which would assist in identifying the commercial ground floor level while the identified location of a substation in this location is considered to create an immediate visual impact upon the streetscape which is not considered appropriate.

Ground floor activities should be at the same level as the footpath

As discussed previously within this report, the application will provide for a finished ground floor level between 1.2m and 1.4m below the existing footpath level along Somerset Street which is not considered to allow for an appropriate activation of this frontage. Furthermore, the design has not provided for any consideration of equitable access from Somerset Street with entry also to the residential lobby provided as stepping stones. In this regard, the proposal is not considered to activate the street frontage as envisaged by the Penrith DCP controls.

Street frontages should be provided with a continuous street frontage awning

As discussed elsewhere within this report, the proposal has provided for the cantilevering of the upper levels above the ground floor, created by the ground floor maintaining a greater front boundary setback than the upper levels. This design feature is not considered to distinguish the commercial nature of the ground floor which is considered would have been enhanced via the provision of an awning which has not been provided in this instance. The provision of an awning would have assisted to distinguish the ground floor activities, rather than creating a design which is not considered dissimilar to the residential upper levels.

PROPOSED DEVELOPMENT SUMMARY

Council: Penrith Zoning: B4 (MIXED USE) Total Site Area: 1781.6SQM

	PROPOSED	*REQUIRED*
SITE COVERAGE	1,255.595sqm/70.5%	*Max. 75% of Site Area Or Max. 1336.2sqm*
GFA/FSR	5,146.638sqm/2.889:1	*Max. 6235.6sqm/3.5:1*
COMMUNAL OPEN SPACE	Residential Only: Ground Level: 303sqm + Roof Top Communal Area: 147.838sqm= Sub Total 450.838sqm	*Min. 25% of Site Area Or 445.4sqm*
	Orth Street Public Shared Communal Area: 284sqm	
	Total: 734.838sqm Or 41.24% of Site Area	
DEEP SOIL AREA	Deep Soil With Min.4x4m:210sqm Or 11.79% of Site Area	*Min 10% of Site Area Or 178.16sqm*
	Overall Deep Soil: 299.286sqm	
LANDSCAPE	897sqm/50.34%	*Min. 35% of Site Area Or 623.56sqm*
SOLAR ACCESS	80.5% Min. 2 Hours	*Min. 70% of Units*
CROSS VENTILATION	71%	*Min. 60% of Units*
BUILDING HEIGHT	23.70m excluding Lift Overrun 1m	*Max. 18m or 21.6m(With Bonus)*

CAR PARKING SUMMARY

COMMERCIAL PARKING	*DCP GUIDE: 1 per 40sqm of Commercial Area*
REQUIRED	*Commercial area:1148sqm equate to 28.7spaces*
PROVIDED	29 car spaces Including 1 Disable Parking
RESIDENTIAL PARKING	*DCP GUIDE: 1 Visitor Parking per 5 Units*
	1 per 1 or 2 Bedrooms Unit
	2 per 3 Bedrooms Unit
REQUIRED	*Vistor: 8 spaces, Residential: 45 spaces*
PROVIDED	Vistor: 8 spaces(Including 1 Disable Parking), Residential: 45 spaces(Including 4 Disable Parking & 1 Car Wash Area)

	PROVIDED	**REQUIRED**
TOTAL PARKING	82	*82*

DEVELOPMENT MIX

APARTMENT TYPE	**No.**	**Mix**
1 BED	6	15%
2 BED	31	75%
3 BED	4	10%
TOTAL APARTMENTS	41	
COMMERCIAL TENANCY	1148sqm	

ADAPTABLE SUMMARY

	PROVIDED	**REQUIRED**
APARTMENTS	4 (Unit 209, 309, 409, 509)	10% of Dwelling Or 4.1
ACCESS PARKING	4	10% of Dwelling Or 4.1

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Accreditation no.: 20920
Certificate date: 15 October 2019
Dwelling Address: 38-40 Orth St Kingswood, NSW 2747

7.6 Average star rating — NATIONWIDE HOUSE ENERGY RATING SCHEME — www.nathers.gov.au

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Sheet Number	Sheet Name
DA00	Cover Page
DA01	Survey/Demolitian Plan
DA02	Context & Site Analisys Plan
DA03	Site Plan
DA03.1	Perspective 01
DA03.2	Perspective 02
DA04	Basement 1
DA05	Basement 2
DA06	Basement 3
DA07	Ground Floor Office
DA07.1	Floor Space Diagram
DA07.2	Orth St Frontage
DA07.3	Street View Landscape
DA07.4	Private Open Space
DA07.5	Somerset St Frontage
DA07.6	Communal Space Area
DA07.7	BBQ Area
DA08	First Floor Office
DA09	2nd Floor Plan
DA10	3rd Floor Plan
DA11	4th Floor Plan
DA12	5th Floor Plan
DA13	6th Floor Plan
DA13.1	Roof Top Communal Space
DA14	Roof Plan

Sheet Number	Sheet Name
DA15.0	North Elevation
DA15.1	North Elevation Dim
DA16.0	East Elevation
DA16.1	East Elevation Dim
DA17.0	West Elevation
DA17.1	West Elevation Dim
DA18.0	South Elevation
DA18.1	South Elevation Dim
DA19.0	Orth St Perspective
DA19.1	Somerset St Perspective
DA19.2	Somerset St View
DA19.3	Orth St Perspective 2
DA20	Section A
DA21	Section B
DA22	Section C
DA23	Section D
DA24	Section E
DA25	Floor Area Caculation
DA26	Solar Access Study
DA27	Cross Ventilation
DA28	Sun & Shadow Diagram
DA29	2-5th Pre & Post Adaptable Layout
DA30	3D Building Height Envelope
DA31	Materials & Finishes Schedule

Basix Requirements Summary - Multi Units

Biogiene Property Investment Pty Ltd
38-40 Orth Street & 26 Somerset Street
Kingswood NSW 2747

Prepared by Chapman Environmental Services
www.basixcertificates.com.au
1300 004 914

CES CHAPMAN ENVIRONMENTAL SERVICES

Water Target	40	Water Score	**43 TBC**		
Energy Target	25	Energy Score	**39 TBC**		
Max Average Heating Load is (MJ/m²)	55.7	Actual Average Heating Load	**26.2**		
Max Average Cooling Load is (MJ/m²)	56.2	Actual Average Cooling Load	**29.6**	Average Star Rating	**TBC**

Basix Commitments

Fixtures	Shower heads	3 star (> 7.5 but <= 9 L/min)	Toilets	4 star	All taps	4 star
Alternative Water	No water tank required in order to comply with Basix water commitments					
Energy	Hot water system	Gas instantaneous	Rating	5 star		
	Bathroom ventilation	Individual fan, ducted to facade or roof	with	Manual switch on/off		
	Kitchen ventilation	Individual fan, ducted to facade or roof	with	Manual switch on/off		
	Laundry ventilation	Individual fan, ducted to facade or roof	with	Manual switch on/off		
	Cooling - living areas	No active cooling system	Rating	n/a		
	Cooling - bedrooms	No active cooling system	Rating	n/a		
	Heating - living areas	No active heating system	Rating	n/a		
	Heating - bedrooms	No active heating system	Rating	n/a		
	Gas cooktop & electric oven	No outdoor clothesline required		No indoor clothesline required		

Thermal Performance Assessment Based on the Following Requirements

Floor Types	Concrete	with	No insulation required	
Floor Coverings	Tiles	Living and wet areas	Timber	Nil
	Carpet	Bedrooms	Concrete	Nil
External Walls	75mm Hebel (AAC)	with	R2.0 insulation	
Party Walls	Lightweight (Boral KH2 or similar)	with	R2.0 on both sides of shaftliner	
Internal Walls	Plasterboard	with	No insulation required	
Ceiling (floor over)	Concrete above plasterboard (Unit above)	with	No insulation required	
	Concrete above plasterboard (Terrace above)	with	R2.5 insulation	
Ceilings (roof over)	Timber above plasterboard.	with	R3.5 bulk insulation	
Roof	Metal	1 degrees	with	R1.3 roof blanket

Windows and Doors	AF single glazed clear to all windows and glazed doors unless noted otherwise	Group A | ALM-001-01 | U-Value 6.70 or less | SHGC 0.57 +/- 5% Group B | ALM-002-01 | U-Value 6.70 or less | SHGC 0.70 +/- 5%
	AF single glazed LowE To U201 only	Group A | ALM-001-04 | U-Value 5.60 or less | SHGC 0.36 +/- 5% Group B | ALM-002-04 | U-Value 5.60 or less | SHGC 0.41 +/- 5%
	Group A windows are Awning, Bifold, Casement or Tilt'n'turn	Group A doors are Bifold, Entry, French or Hinged
	Group B windows are Double hung, Fixed, Louvre or Sliding	Group B doors are Sliding or Stacker
	AF = Aluminium Framed | TB = Thermally Broken Aluminium Framed	TF = Timber Framed

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A	ISSUED FOR DA	27/09/2019

PROJECT TITLE:
Mixed Use Developments

PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Cover Page

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DA00

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ABSA
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Accreditation Period 30/04/19-31/03/2020
Assessor Name Terry Chapman
Assessor Number 20920
Assessor Signature
This Accredited Assessor is qualified to use NatHERS Accredited software and has agreed to follow the ABSA Code of Practice

1 Demolition Plan
Scale 1 : 200

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Survey/Demolitian Plan

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DA01

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B4 - MIXD USE

R3 - MEDIUM DENSITY

RE1 - PUBLIC RECREATION

SP2 - INFRASTRUCTURE

STRONG SOUTHERLY WINDS

7.6 Average star rating
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Context & Site Analisys Plan

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DA02

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PROJECT TITLE: Mixed Use Developments

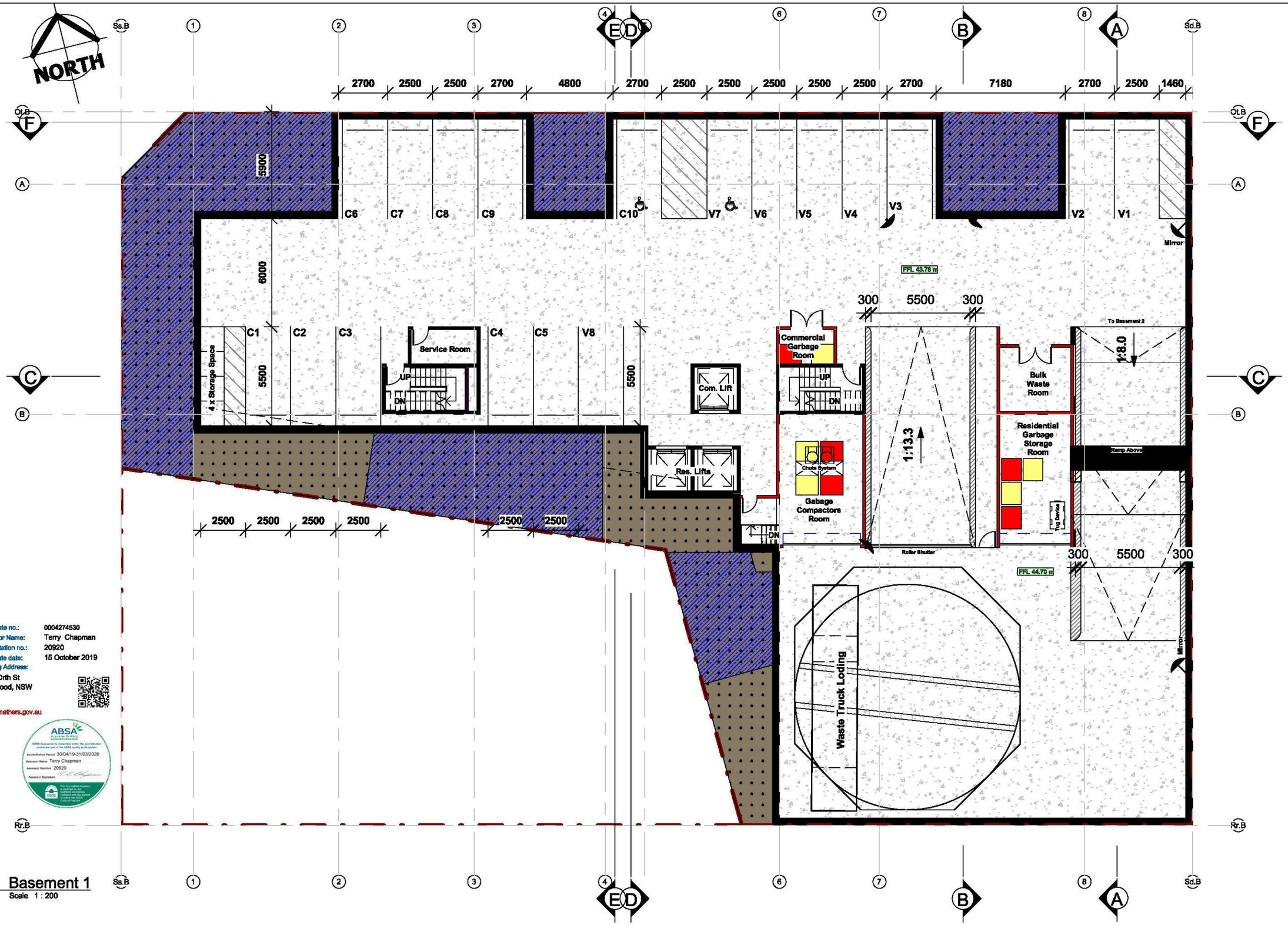
PROJECT ADDRESS: 38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT: Biogiene Property Investment Pty Ltd

Site Plan

1 Site Plan
Scale 1 : 200

DESIGNER: S.H & T.C	DATE 18/09/2019 12:07:56 PM		DA03
DRAWN BY: J.Y	REV. A		
JOB NO: 1714	SHEET SIZE: A3		



1 Basement 1
Scale 1 : 200

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Basement 1

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DA04

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1 Basement 2
Scale 1 : 200

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Basement 2

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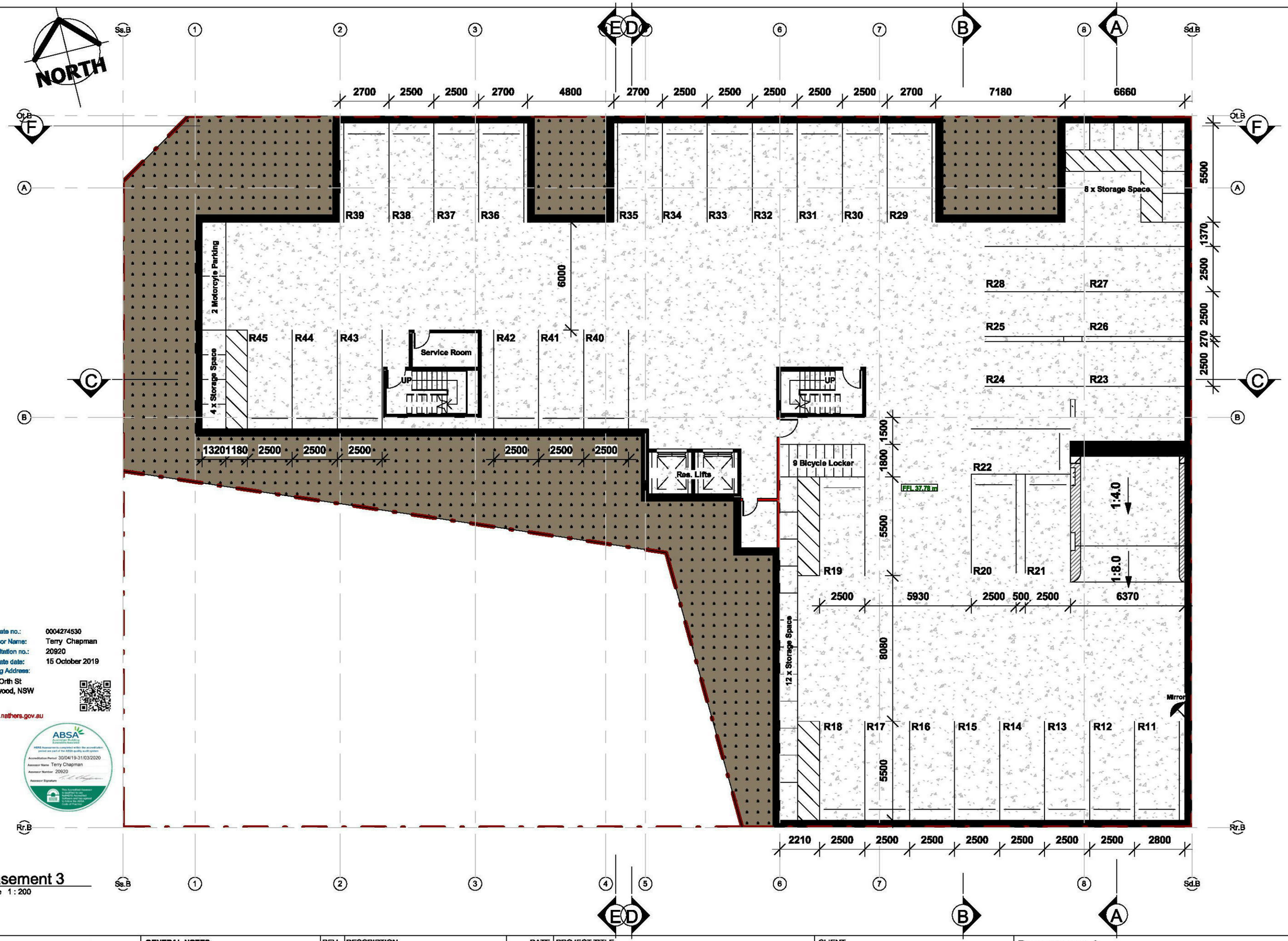
DA05



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1 Basement 3
Scale 1 : 200

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Basement 3

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DA06

NORTH

Modify Existing Foorpath & Street Landscape

Modify Existing Driveway Crossing

6100 | 300 | 5500 | 300

DECKING AREA

6000

4000

6100

Substation

COMMERCIAL TENANCY 2
166m2

FFL 47.40 m

COMMERCIAL LOBBY

SERVICE ROOM

Letter Box

Letter Box

FFL 47.40 m

COMMERCIAL TENANCY 1
210m2

UP

DN

DN

UP

DN

M Toilet

F Toilet

MECHANICAL SERVICE ROOM

RESIDENTIAL LOBBY

Male Toilet

Female Toilet

Disable Toilet

3000

COMMUNAL OPEN SPACE

4500

BBQ AREA

VOID

1:25.0

1:10.0

1:6.5

1:14.0

7500

7000

7810

7000

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1 Ground Floor Office
Scale 1 : 200

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Ground Floor Office

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DA07

NORTH

TENANCY 3
235m2

TENANCY 4
138m2

TENANCY 5
125m2

TENANCY 7
146m2

TENANCY 6
128m2

DN
UP

Disable Toilet

Female Toilet

Male Toilet

4000
3000
4500
6000
1390

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1 First Floor Office
Scale 1 : 200

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First Floor Office

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:08:39 PM
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DA08

7.6
Average star rating
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1 Roof Plan
Scale 1 : 200

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CLIENT
Biogiene Property Investment Pty Ltd

Roof Plan

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:09:59 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA14

NORTH ELEVATION
SC: 1/200

AC PROJECT GROUP
Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
Tel: 02 9188 7258
Email: info@acproject.com.au

GENERAL NOTES:
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REV.	DESCRIPTION	DATE
A	ISSUED FOR DA	27/09/2019

PROJECT TITLE:
Mixed Use Developments

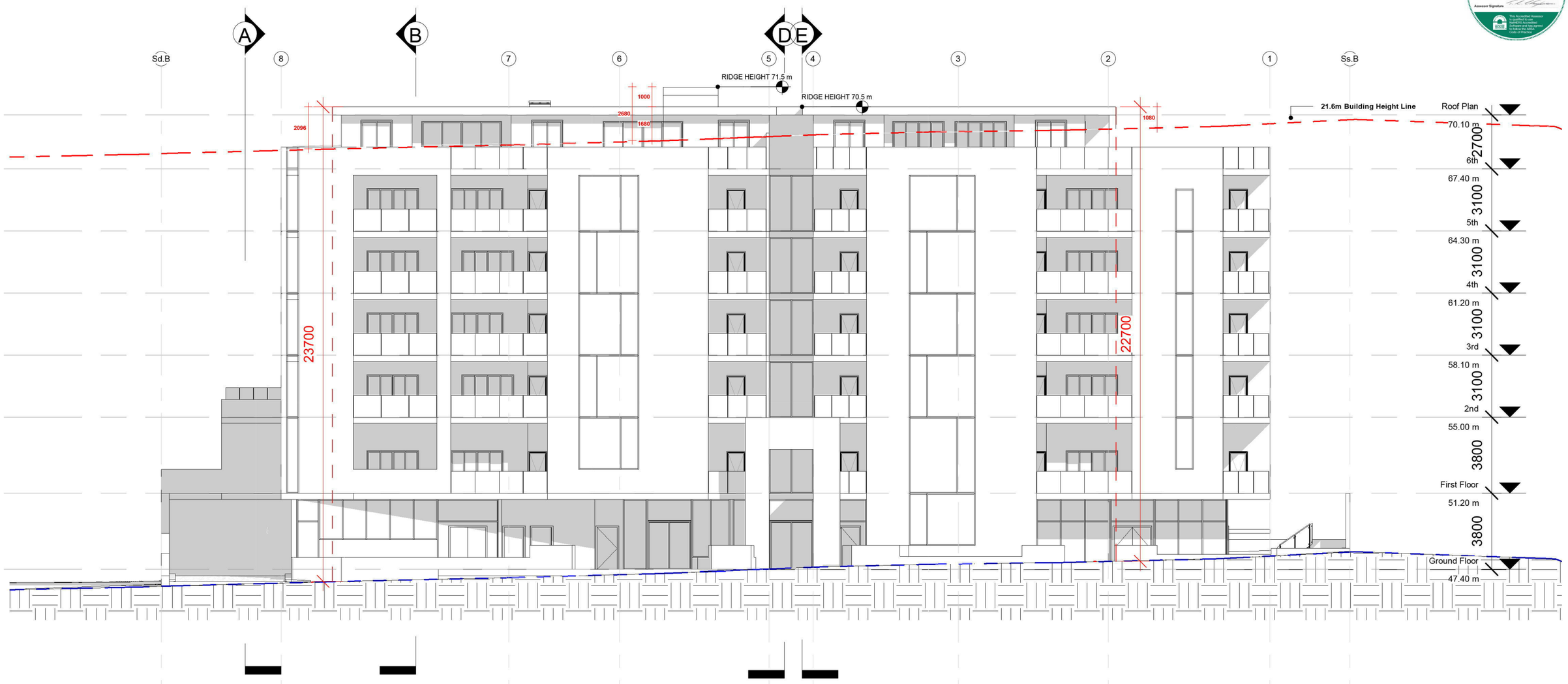
PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

North Elevation

DESIGNER:	Designer	DATE	4/09/2019 9:09:50 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA15.0



1 North Elevation
Scale 1 : 200

AC PROJECT GROUP

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PROJECT TITLE:
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

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North Elevation Dim

DESIGNER:	S.H & T.C	DATE	15/10/2019 1:51:25 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA15.1

EAST ELEVATION
SC: 1/200

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Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
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PROJECT TITLE:
Mixed Use Developments

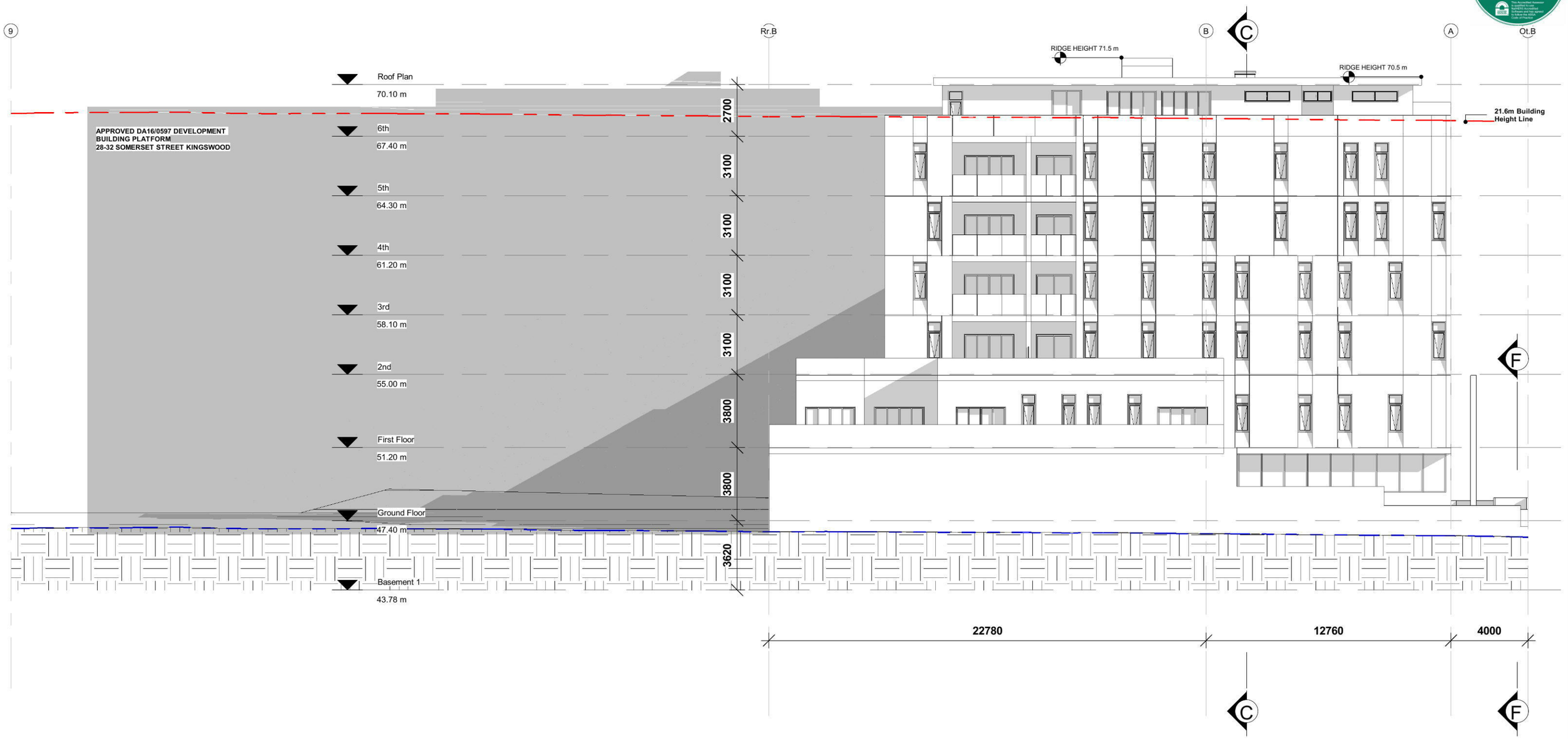
PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

East Elevation

DESIGNER:	Designer	DATE	4/09/2019 9:10:10 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA16.0



1 East Elevation
Scale 1 : 200

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East Elevation Dim

DESIGNER:	S.H & T.C	DATE 18/09/2019 12:10:12 PM	
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA16.1

WEST ELEVATION
SC: 1/200

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PROJECT TITLE:
Mixed Use Developments

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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

West Elevation

DESIGNER:	Designer	DATE	4/09/2019 9:10:37 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA17.0

1 West Elevation
Scale 1 : 200

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PROJECT TITLE:
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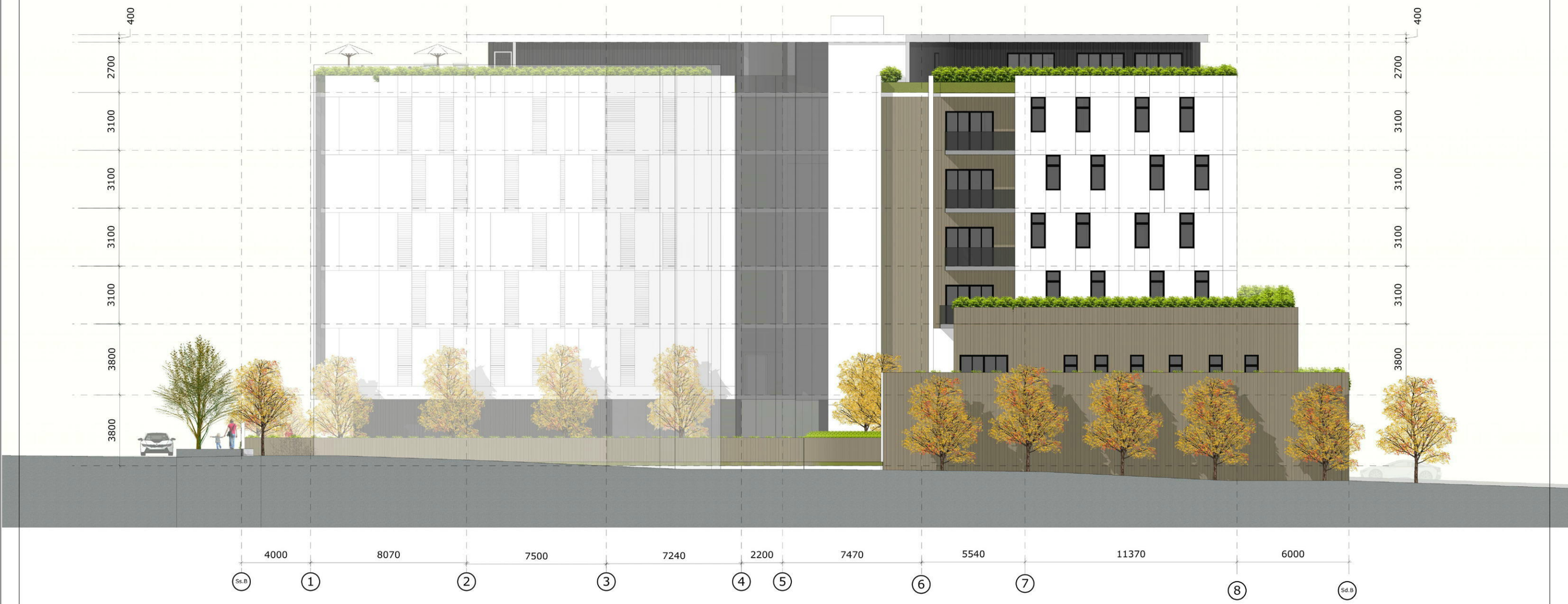
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

West Elevation Dim

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:10:16 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA17.1



SOUTH ELEVATION
SC: 1/200

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REV.	DESCRIPTION	DATE
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PROJECT TITLE:
Mixed Use Developments

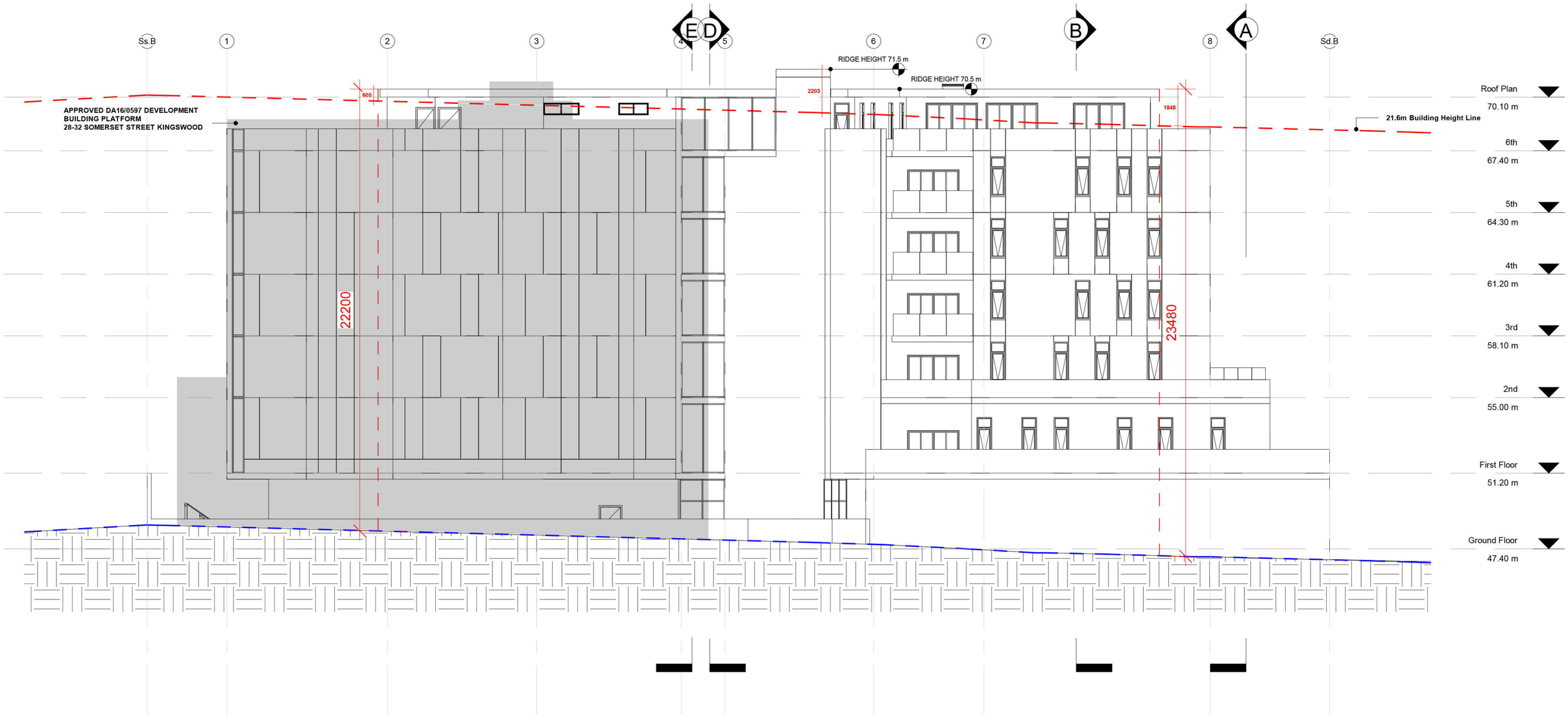
PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

South Elevation

DESIGNER:	Designer	DATE	4/09/2019 9:11:08 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA18.0



1 South Elevation
Scale 1 : 200

AC PROJECT GROUP
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

South Elevation Dim

DESIGNER:	S.H & T.C	DATE	15/10/2019 1:51:30 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA18.1

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PROJECT TITLE:
Mixed Use Developments

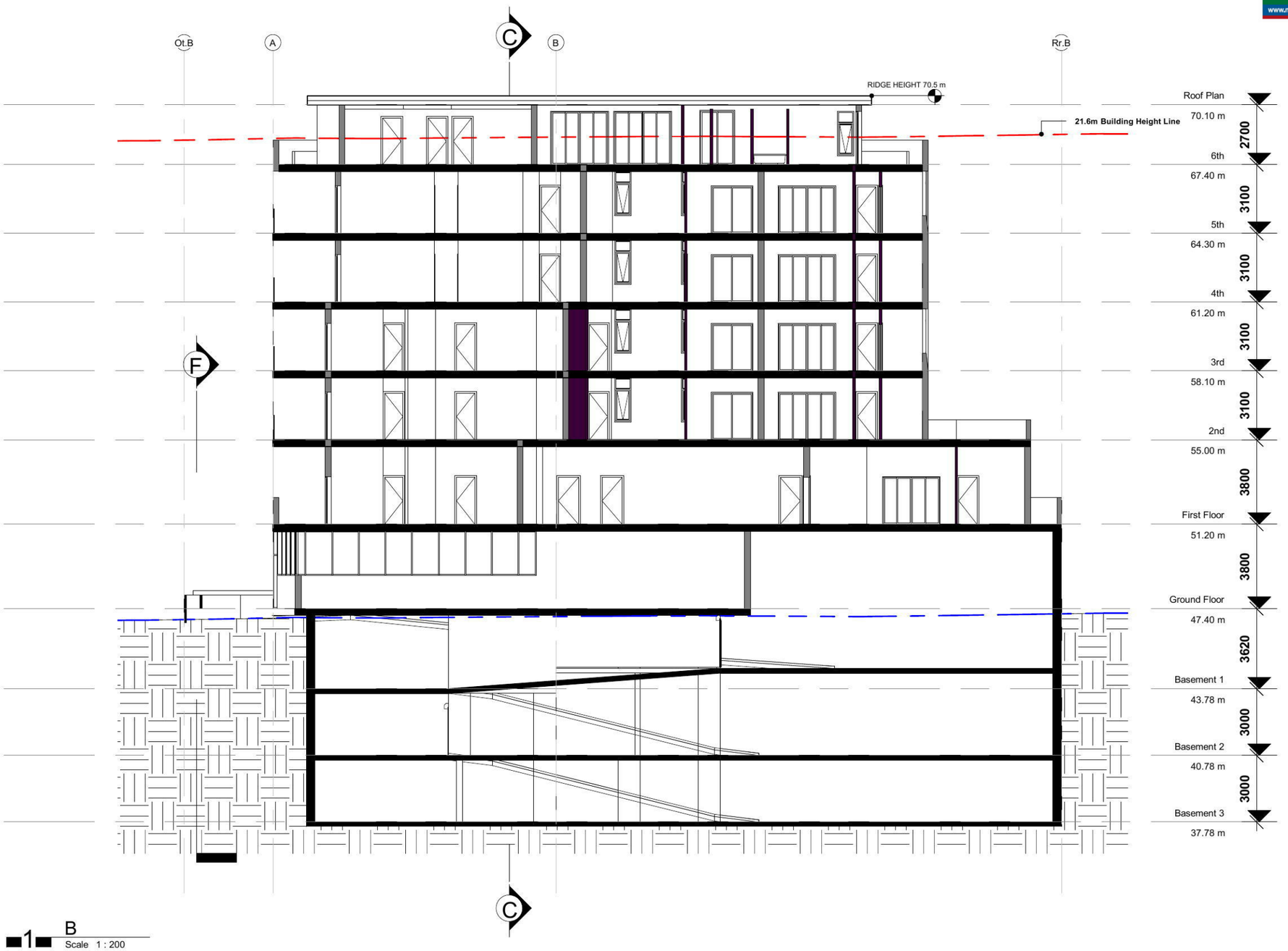
PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Section A

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:10:36 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA20



1 B
Scale 1 : 200

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PROJECT TITLE:
Mixed Use Developments

PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

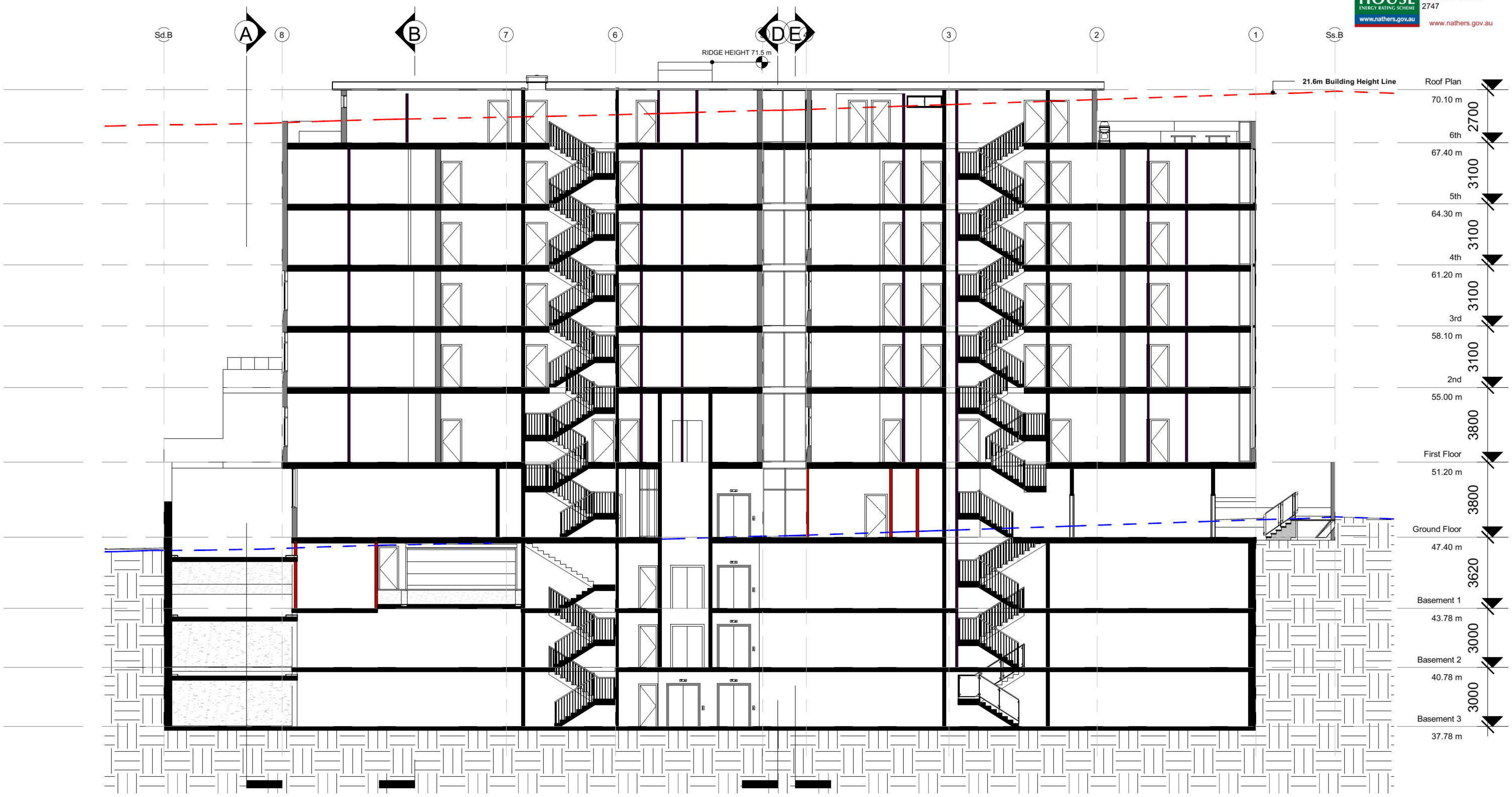
CLIENT
Biogiene Property Investment Pty Ltd

Section B

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:10:42 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA21

Certificate no.: 0004274530
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 15 October 2019
Dwelling Address: 38-40 Orth St Kingswood, NSW 2747
7.6 Average star rating
NATIONWIDE HOUSE ENERGY RATING SCHEME
www.nathers.gov.au



1 C
Scale 1 : 200

ABSA Australian Building Sustainability Association
Accreditation Period 30/04/19-31/03/2020
Assessor Name Terry Chapman
Assessor Number 20920
Assessor Signature

AC PROJECT GROUP

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A	ISSUED FOR DA	27/09/2019

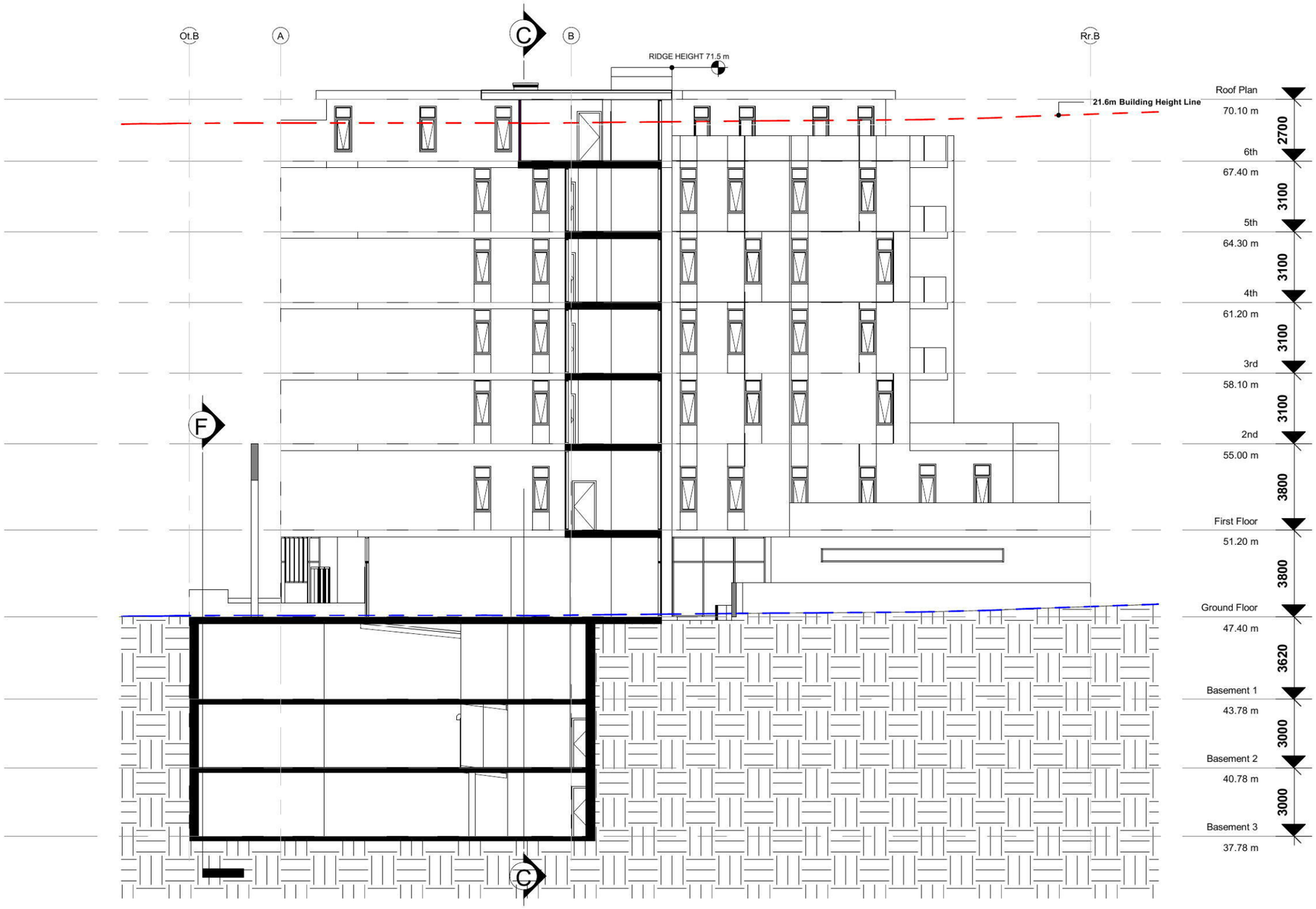
PROJECT TITLE: Mixed Use Developments

PROJECT ADDRESS: 38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT: Biogiene Property Investment Pty Ltd

Section C

DESIGNER: S.H & T.C	DATE 18/09/2019 12:10:46 PM		
DRAWN BY: J.Y	REV. A		DA22
JOB NO: 1714	SHEET SIZE: A3		



1 D
Scale 1 : 200

AC PROJECT GROUP
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Email: info@acproject.com.au

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PROJECT TITLE:
Mixed Use Developments

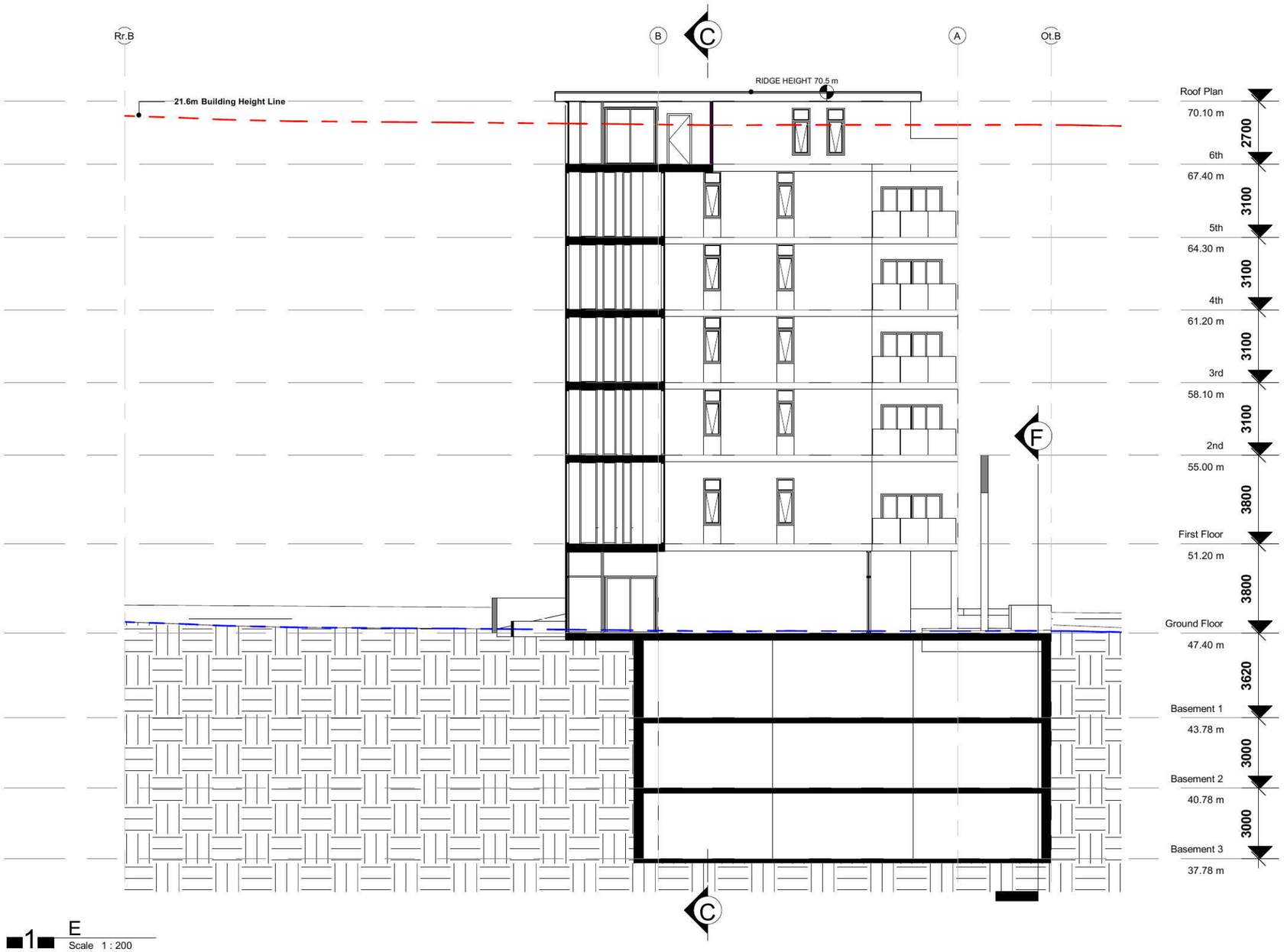
PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Section D

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:10:49 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA23



1 E
Scale 1 : 200

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PROJECT TITLE:
Mixed Use Developments

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CLIENT
Biogiene Property Investment Pty Ltd

Section E

DESIGNER:	S.H & T.C	DATE	18/09/2019 12:10:52 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA24

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Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Perspective 01

DESIGNER:	Designer	DATE	3/09/2019 4:32:23 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA03.1

AC PROJECT GROUP
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PROJECT TITLE:
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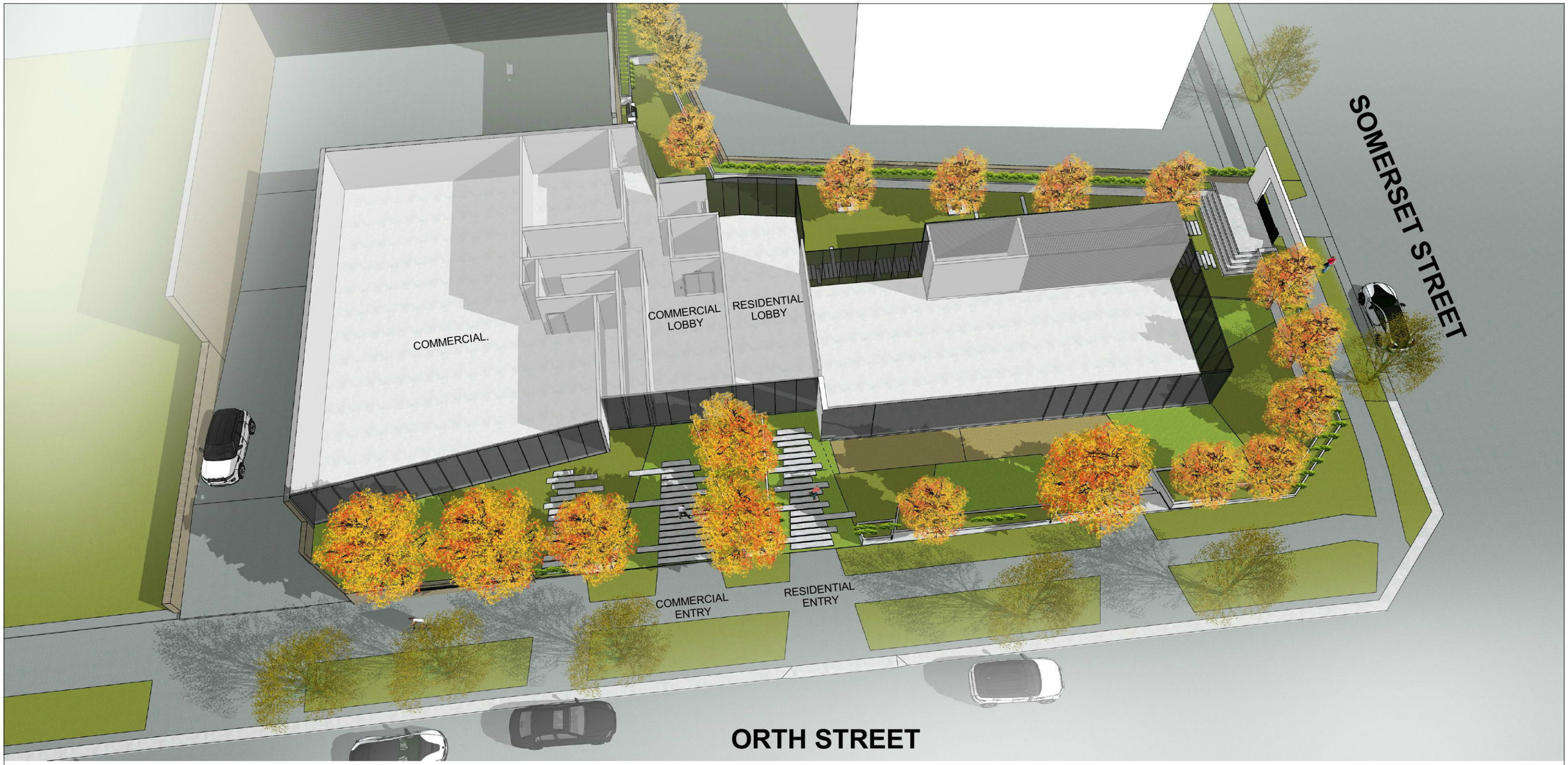
Biogiene Property Investment Pty Ltd

Perspective 02

DESIGNER:	Designer	DATE	3/09/2019 4:32:27 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA03.2



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Biogiene Property Investment Pty Ltd

Floor Space Diagram

DESIGNER:	Designer	DATE	3/09/2019 4:37:28 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.1

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PROJECT TITLE:
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

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Orth St Frontage

DESIGNER:	Designer	DATE	3/09/2019 4:37:30 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.2

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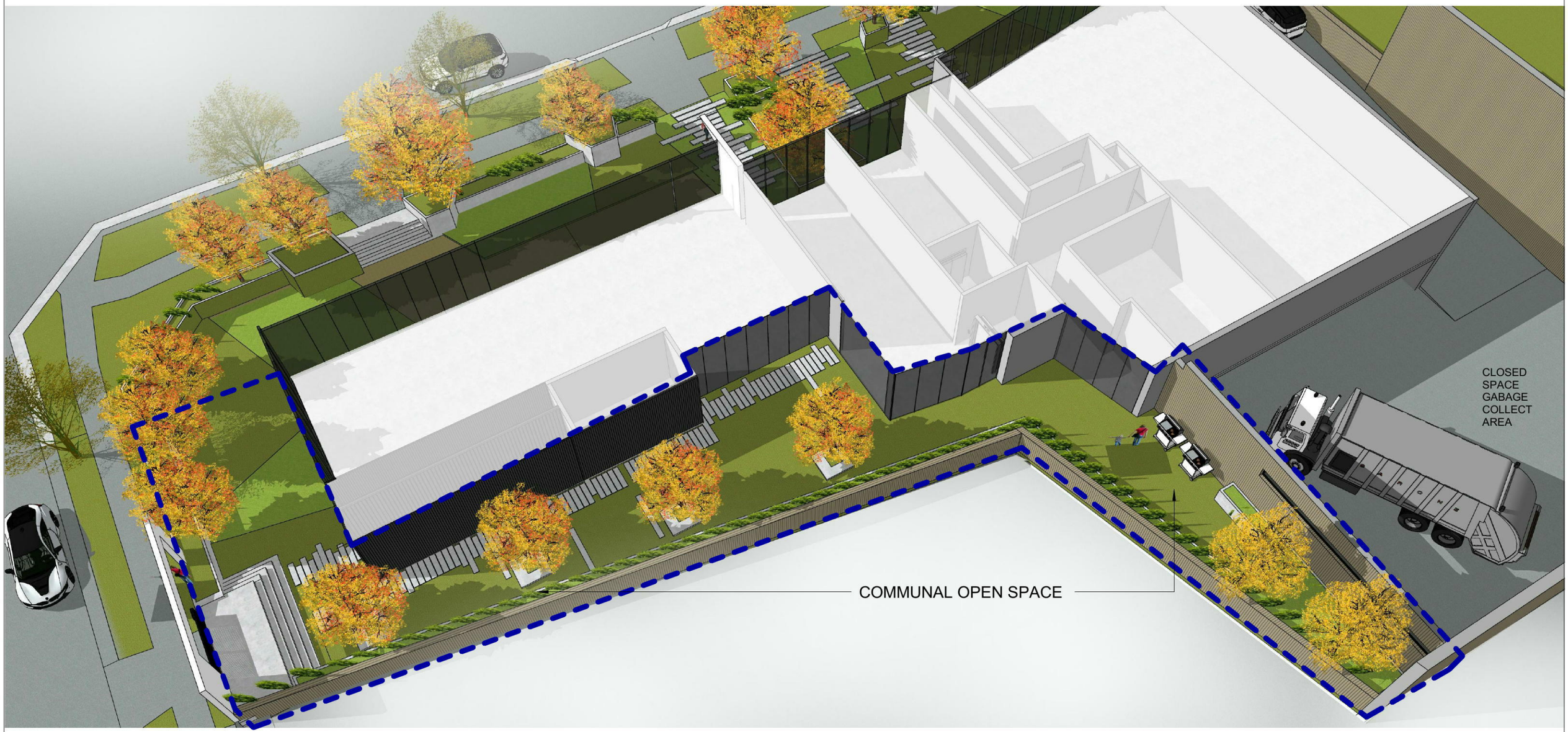
Street View Landscape

DESIGNER:	Designer	DATE	3/09/2019 4:37:32 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.3



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PROJECT TITLE:
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

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Biogiene Property Investment Pty Ltd

Private Open Space

DESIGNER:	Designer	DATE	3/09/2019 4:37:35 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.4

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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
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Somerset St Frontage

DESIGNER:	Designer	DATE	3/09/2019 4:37:37 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.5

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CLIENT
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Communal Space Area

DESIGNER:	Designer	DATE	3/09/2019 4:37:40 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.6

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BBQ Area

DESIGNER:	Designer	DATE	3/09/2019 4:37:43 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA07.7

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Biogiene Property Investment Pty Ltd

Roof Top Communal Space

DESIGNER:	Designer	DATE	3/09/2019 4:38:33 PM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA13.1

AC PROJECT GROUP
Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
Tel: 02 9188 7258
Email: info@acproject.com.au

GENERAL NOTES:

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REV.	DESCRIPTION	DATE
A	ISSUED FOR DA	27/09/2019

PROJECT TITLE:
Mixed Use Developments

PROJECT ADDRESS:
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Orth St Perspective

DESIGNER:	Designer	DATE	4/09/2019 9:11:15 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA19.0

AC PROJECT GROUP
Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

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Biogiene Property Investment Pty Ltd

Somerset St Perspective

DESIGNER:	Designer	DATE	4/09/2019 9:11:19 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA19.1

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Biogiene Property Investment Pty Ltd

Somerset St View

DESIGNER:	Designer	DATE	4/09/2019 9:11:22 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA19.2

AC PROJECT GROUP
Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
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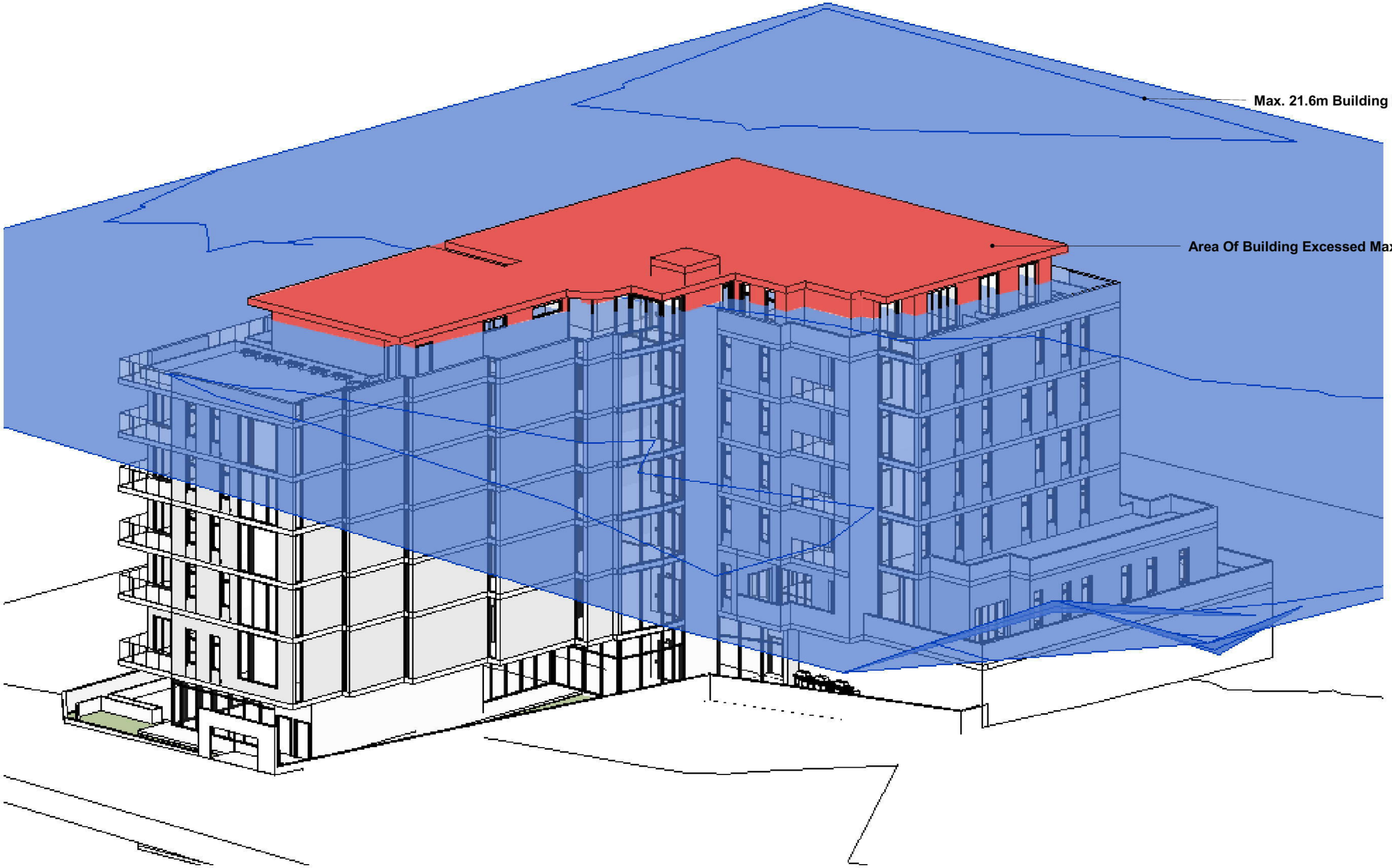
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Orth St Perspective 2

DESIGNER:	Designer	DATE	4/09/2019 9:11:24 AM
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA19.3



AC PROJECT GROUP
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Email: info@acproject.com.au

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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

3D Building Height Envelope

DESIGNER:	Designer	DATE 18/09/2019 12:11:23 PM	
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA30

7.6
Average star rating
NATIONWIDE HOUSE ENERGY RATING SCHEME
www.nathers.gov.au

Certificate no.: 0004274530
Assessor Name: Terry Chapman
Accreditation no.: 20920
Certificate date: 15 October 2019
Dwelling Address:
38-40 Orth St
Kingswood, NSW
2747

www.nathers.gov.au

ABSA
HERS Assessments completed within the accreditation period are part of the ABSA quality audit system
Accreditation Period 30/04/19-31/03/2020
Assessor Name Terry Chapman
Assessor Number 20920
Assessor Signature
This Accredited Assessor is qualified to use NatHERS Accredited Software and has agreed to follow the ABSA Code of Practice

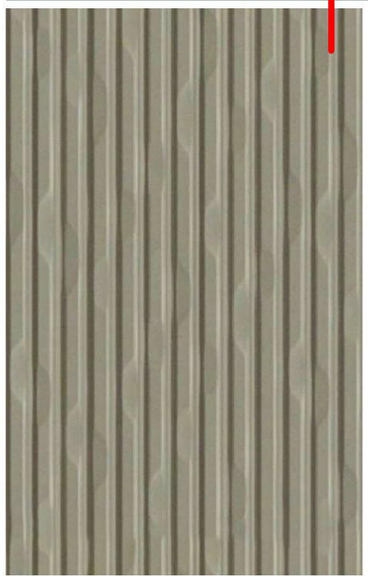
01: CIMENTEL TERRITORY STEPPE TUNDRA _ EXTERNAL CLADDING SYSTEM

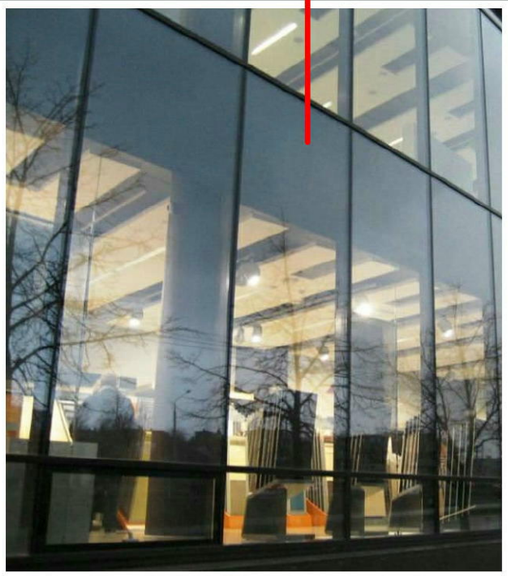
02: BLACK FRAME ALUMINUM WINDOWS

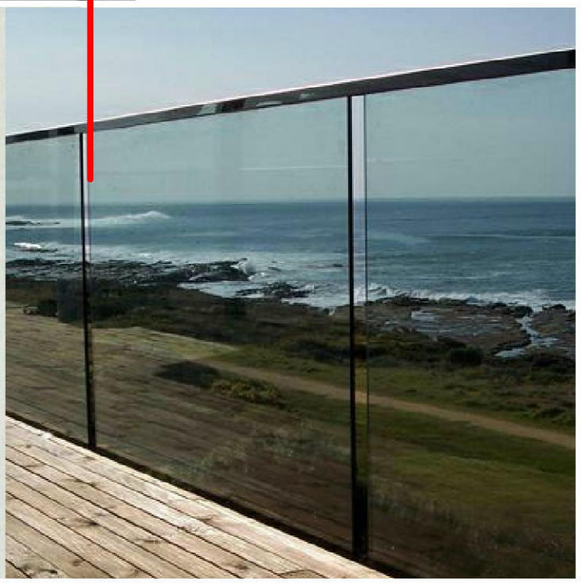
03: BLACK FRAME ALUMINUM CURTAIN WALL

04: DULUX WHITE PAINT FINISH

05: GLASS BALUSTRADE







PROJECT GROUP
Address: SUITE 310/7 RAILWAY ST, CHATSWOOD NSW 2067
Phone: 0288188 7258
Email: info@acproject.com.au

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Mixed Use Developments

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38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

Materials & Finishes Schedule

DESIGNER:	Designer	DATE 18/09/2019 12:11:27 PM	
DRAWN BY:	Author	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA31

1 2nd Solar Access
Scale 1 : 500

2 3rd Solar Access
Scale 1 : 500

3 4th Solar Access
Scale 1 : 500

4 5th Solar Access
Scale 1 : 500

5 6th Solar Access
Scale 1 : 500

80.5% Apartments Receive Min.2 Hours Solar Access To Living Area From 9am-3pm On 21th June (33 OF 41)

NORTH

AC PROJECT GROUP

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Tel: 02 8188 7258
Email: info@acproject.com.au

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Mixed Use Developments

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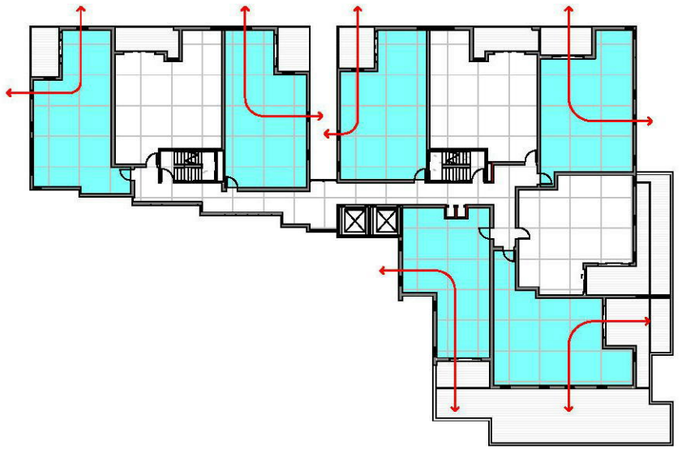
38-40 Orth Street Kingswood & 26 Somerset Street Kingswood

CLIENT
Biogiene Property Investment Pty Ltd

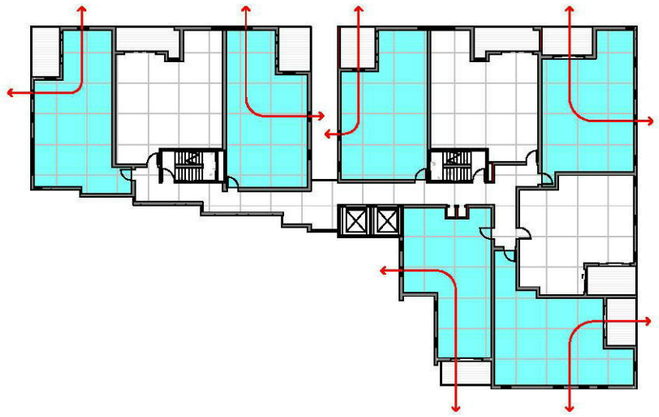
Solar Access Study

DESIGNER:	S.H & T.C	DATE 18/09/2019 12:10:59 PM	
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

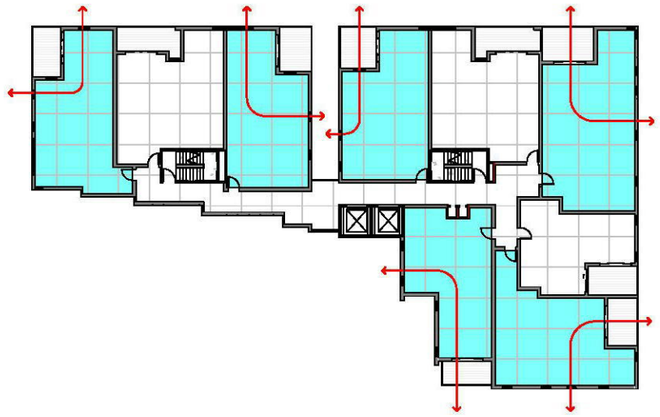
DA26



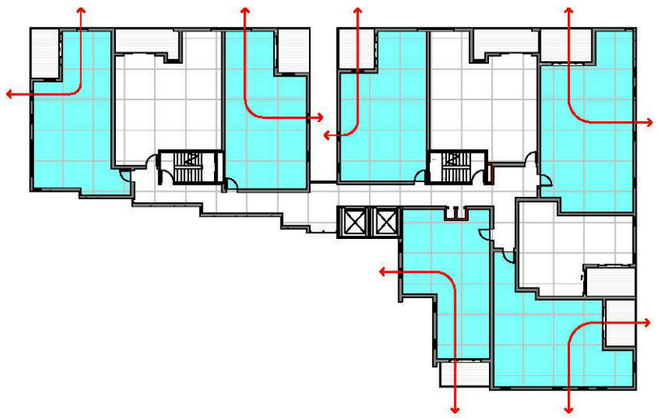
1 2nd Cross Ventilation
Scale 1 : 500



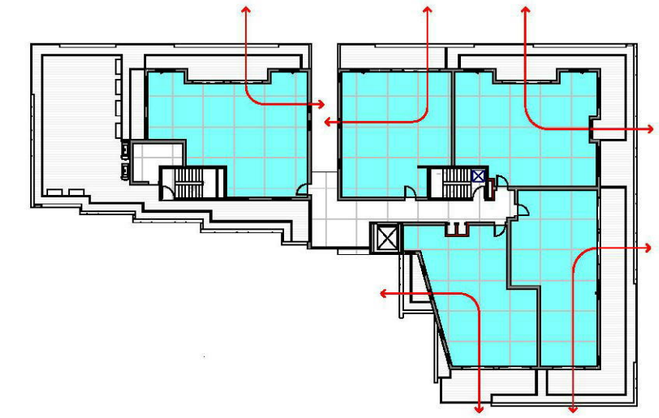
2 3rd Cross Ventilation
Scale 1 : 500



3 4th Cross Ventilation
Scale 1 : 500



4 5th Cross Ventilation
Scale 1 : 500



5 6th Cross Ventilation
Scale 1 : 500

71% Cross Ventilation (29 OF 41)

NORTH

AC PROJECT GROUP

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CLIENT
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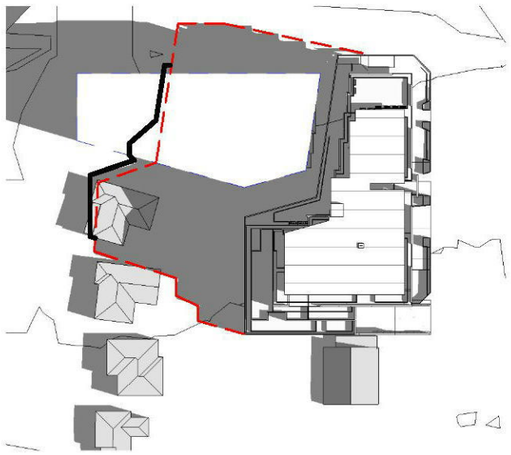
Cross Ventilation

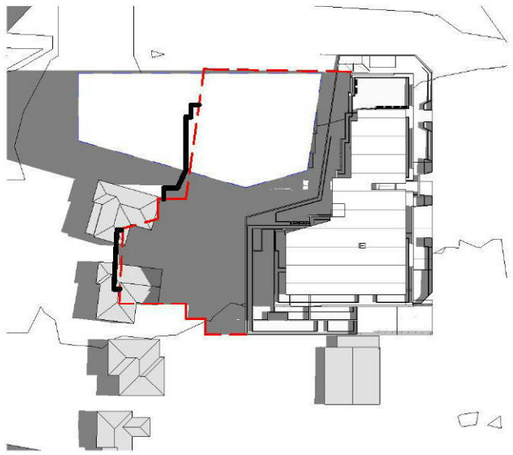
DESIGNER:	S.H & T.C	DATE	18/09/2019 12:11:02 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA27

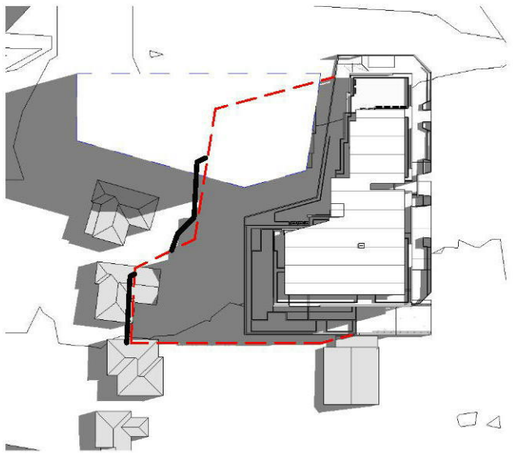
1 Site Solar 9am
Scale



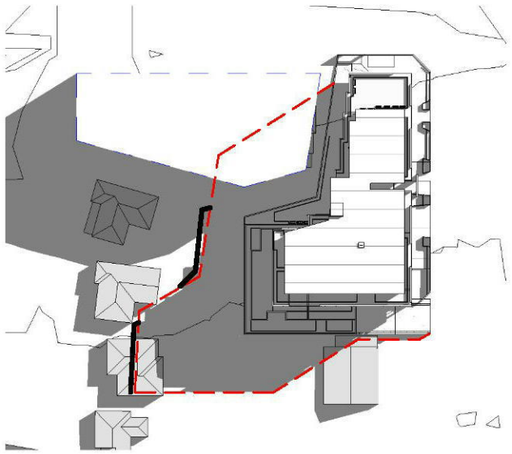
2 Site Solar 10am
Scale



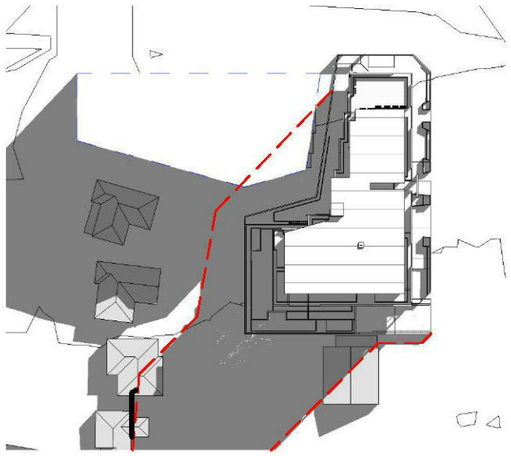
3 Site Solar 11am
Scale



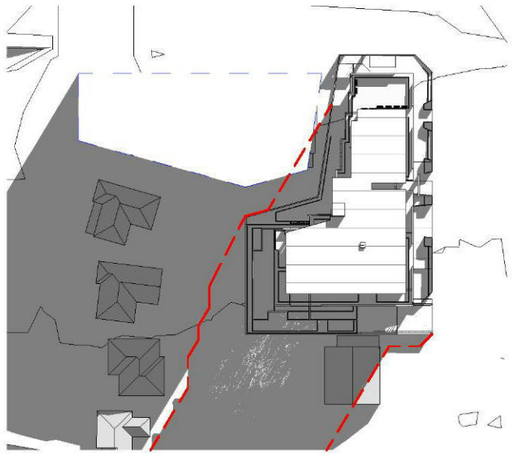
4 Site Solar 12pm
Scale



5 Site Solar 1pm
Scale



6 Site Solar 2pm
Scale



7 Site Solar 3pm
Scale

Shadow Line Up to 6th Floor

Shadow Line Up to 7th Floor

APPROVED DA16/0597
DEVELOPMENT BUILDING PLATFORM
28-32 SOMERSET STREET
KINGSWOOD

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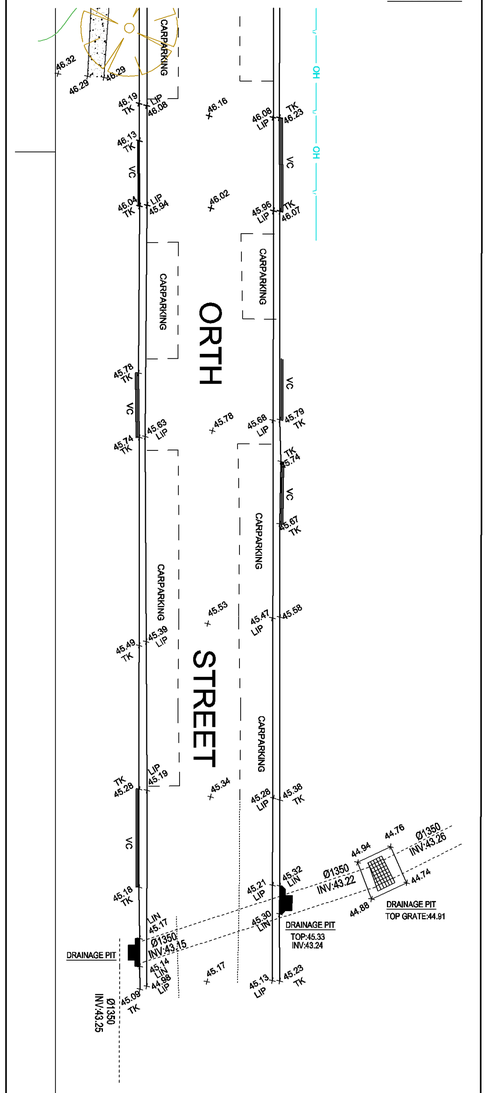
Sun & Shadow Diagram

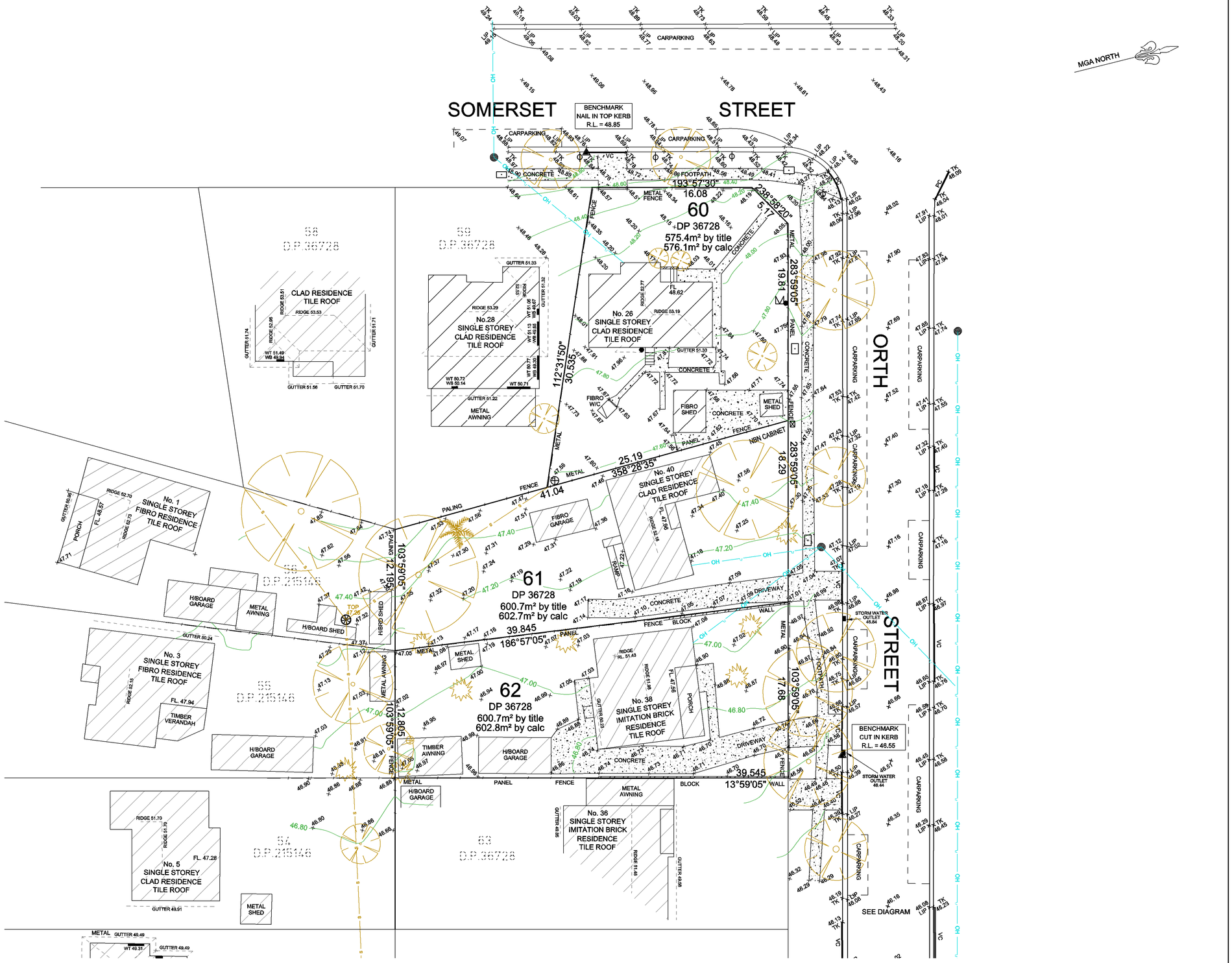
DESIGNER:	S.H & T.C	DATE	18/09/2019 12:11:14 PM
DRAWN BY:	J.Y	REV.	A
JOB NO:	1714	SHEET SIZE:	A3

DA28

A1

DIAGRAM





NOTES :

1. THIS DETAIL SURVEY IS NOT A 'SURVEY' AS DEFINED BY THE SURVEYING & SPATIAL INFORMATION ACT, 2002.
2. DATUM OF LEVELS : AUSTRALIAN HEIGHT DATUM
3. ALL AREAS AND DIMENSIONS HAVE BEEN COMPILED FROM PLANS MADE AVAILABLE BY THE OFFICE OF LAND & PROPERTY INFORMATION (NSW) AND ARE SUBJECT TO FINAL SURVEY.
4. NO SEARCH MADE OF LOCATION AND NATURE OF TELEPHONE, ELECTRICITY, SEWER, WATER, GAS AND DRAINAGE RECORDS AT THE RELEVANT AUTHORITY. PRIOR TO ANY CONSTRUCTION THE RELEVANT AUTHORITY SHOULD BE CONTACTED FOR LOCATION OF SERVICES.
5. THE POSITION OF IMPROVEMENTS IN RELATION TO BOUNDARIES IS DIAGRAMMATIC ONLY.
6. VISIBLE, ACCESSIBLE SERVICES LOCATED ONLY
7. SIGNIFICANT TREES LOCATED ONLY.
8. NEIGHBOURING HOUSES, RIDGE AND ROOF POSITIONS ARE APPROXIMATE ONLY.
9. THIS TITLE BLOCK AND NOTES IS AN INTEGRAL PART OF THIS DRAWING WHICH IS NOT TO BE REMOVED.
10. CONTOURS ARE INDICATIVE ONLY. SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION.

DENOTES SHRUB
HYDRANT
SEWER MANHOLE
COMMS. PIT
SIGN POST
WATER METER
POWER POLE
SEWER INSPECTION POINT
WATER

APPROX SEWER
OVERHEAD POWER

PC DENOTES PRAM CROSSING
WT DENOTES LEVEL AT TOP OF WINDOW
WB DENOTES LEVEL AT BOTTOM OF WINDOW
VC DENOTES VEHICULAR CROSSING
TK DENOTES LEVEL AT TOP OF KERB
LIP DENOTES LEVEL AT LIP OF KERB
LIN DENOTES LEVEL AT TOP OF LINTEL

1:200
5 0 5 10 15 20 25
METRES

RHCO RICHARD HOGAN & CO.
SURVEYING & DEVELOPMENT CONSULTANTS
ABN 59 082 453 165
P.O. BOX 4365, Penrith Plaza, NSW 2750.
Phone: (02) 4732 6599
Web: www.rhco.com.au Email: admin@hoganco.com.au

SURVEYOR: SR/HN/SW
DRAWN: DM/CL/SW
REDUCTION RATIO: 1:200 @ A1
CONTOUR INTERVAL: 0.2m
SHEET 1 OF 1

ORIGIN OF LEVELS:
PM 30119
R.L. = 43.443 (SCIMS)
DATUM: AUSTRALIAN HEIGHT DATUM
DATE: 06.06.2019
VERSION No.: A

PLAN OF DETAIL AND LEVELS OVER
LOTS 60, 61 & 62 IN DP 36728 AT
No. 38 & 40 ORTH STREET & No. 26 SOMERSET STREET
KINGSWOOD

CLIENT: J. YUAN
L.G.A.: PENRITH
JOB REF: 19333

CAD FILENAME: X:\2019 - RHCO\19333 - 26 Somerset St Kingswood\ACAD\19333 - 26 Somerset Street, Kingswood - DETAIL.dwg

DEVELOPMENT APPLICATION

PROPOSED LANDSCAPE PLAN - MIXED USE DEVELOPMENT

38-40 ORTH STREET, KINGSWOOD, NSW, 2747

DRAWING LIST

SHEET NO.	SHEET TITLE	DATE
L/00	COVER SHEET	19/06/19
L/01	PROPOSED LANDSCAPE PLAN - GROUND FLOOR	19/06/19
L/02	PROPOSED LANDSCAPE PLAN - FIRST FLOOR	19/06/19
L/03	PROPOSED LANDSCAPE PLAN - SECOND FLOOR	19/06/19
L/04	PROPOSED LANDSCAPE PLAN - SIXTH FLOOR	19/06/19

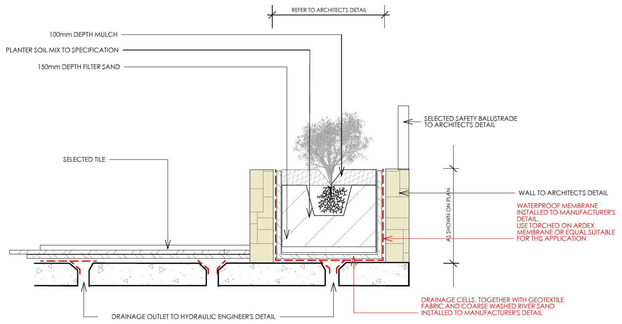
PLANTING SCHEDULE

Latin Name	Common Name	Quantity	Scheduled Size	Spread	Height
Acacia howitti	Honey Bun Wattle	39	200mm	800	1000
Acmena smithii 'Allyns Magic'	Lillypilly 'Allyns Magic'	12	200mm	800	1200
Agonis flexuosa 'Copper Wave'	Willow Peppermint	38	75lt	1000	1000
Aloe 'Outback Orange'	'Outback Orange'	50	200mm	1000	1000
Banksia spinulosa	Hairpin Banksia	4	150mm	3000	3500
Callistemon viminalis	Bottlebrush	4	75lt	4000	6000
Carpobrotus glaucescens	Pigface	34	150mm	800	2000
Dichondra repens	Kidney Weed	322	75lt	700	100
Doryanthes excelsa	Gymea Lily	39	250mm	1800	2000
Elaeocarpus eumundi	Quandong	6	75lt	3500	8000
Grevillea 'Poorinda Royal Mantle'	Grevillea	94	200mm	1000	2000
Hibbertia scandens	Climbing Guinea Flower	131	150mm	800	2000
Lomandra 'Tanika'	Dwarf Lomandra	48	Tube	800	500
Lophostemon conferta	Brush Box	1	75lt	8000	45000
Myoporum parvifolium	Carpet Spreading Myoporum	154	150mm	800	2000
Philodendron 'Xanadu'	Dwarf Philodendron	22	200mm	1200	1200
Strelitzia reginae	Bird of Paradise	16	300mm	1800	2000
Syzygium australe 'Resilience'	Lillypilly	39	350mm	1200	2700
Tristianiopsis laurina 'Luscious'	Water Gum	7	75lt	4000	8000
Zamia furfuracea	Cardboard Plant	10	350mm	1800	2000

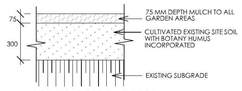
INDICATES PROPOSED AUSTRALIAN NATIVE PLANT SPECIES

NOTE: ALL PROPOSED PLANT SPECIES ARE WATER-WISE.

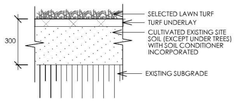
LANDSCAPE DETAILS



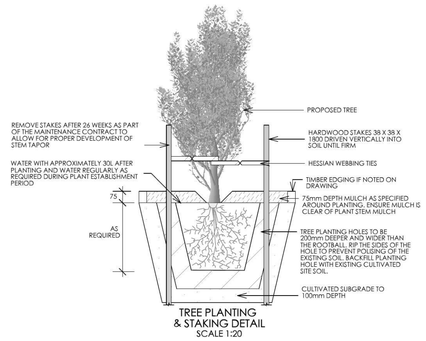
LANDSCAPED AREAS ON SLAB TYPICAL DETAIL
SCALE 1:20



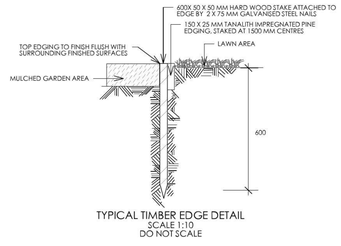
SOIL TO GARDEN AREAS
SCALE 1:20



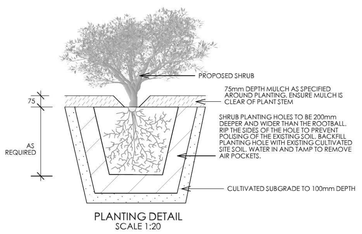
TYPICAL TURF DETAIL
SCALE 1:20



TREE PLANTING
& STAKING DETAIL
SCALE 1:20



TYPICAL TIMBER EDGE DETAIL
SCALE 1:10
DO NOT SCALE



PLANTING DETAIL
SCALE 1:20

OUTLINE LANDSCAPE SPECIFICATION

Preparation by Builder: Builder shall remove all existing concrete pathways, fences, footings, walls etc. not notated to be retained and complete all necessary excavation work prior to commencement on site by Landscape Contractor (Contractor). Builder shall also install new retaining walls, kerbs, layback kerb, crossover, pathways etc. and make good all existing kerbs, gutters etc. as necessary and to approval of Council. Builder shall ensure that a minimum 450mm of topsoil in garden areas and a minimum 150mm of topsoil in lawn areas exists. Should required depths not exist Builder shall contact Landscape Architect and ask for instructions prior to completion of excavation works.
Excavate as necessary, then fill with approved site topsoil to allow for minimum 500mm soil depth in garden areas and 150mm soil depth in lawn areas and to gain required shapes & levels. Ensure all garden and lawn areas drain satisfactorily. All levels & surface drainage shall be determined by others & approved on site by Head Contractor. Note: Approved imported topsoil mix may be utilised if there is insufficient site topsoil available. State in Tender a m3 rate for additional imported topsoil and the quantities of both site topsoil and imported topsoil allowed for in Tender.
Initial Preparation: Verify all dimensions & levels on site prior to commencement. Do not scale from drawings. Locate all underground & above ground services & ensure no damage occurs to them throughout contract. Spray approved weedicide to all proposed lawn & garden areas to manufacturer's directions. Remove existing concrete pathways, footings, walls etc. not notated to be retained & weeds from site. Levels indicated on Plan are nominal only and are derived from Architectural Plans & Drawings by others. Final structural integrity of all items shall be the sole responsibility of Landscape Contractor.
Tree Protection: Trees to be retained shall be protected during site works and construction by the erection of solid barricades to the specification of Council. Storage of machinery or materials beneath canopy of trees to be retained shall not be permitted. Changes to soil level and cultivation of soil beneath canopy of trees to be retained shall not be permitted unless under direct supervision of Landscape Architect. Existing trees shall be pruned to Landscape Architects onsite instructions.
Soil Preparation: Cultivate to depth of 300mm all proposed lawn & garden areas incorporating minimum 100mm depth of organic clay breaker into existing site soil. Do not cultivate beneath existing trees to be retained. In areas where fill is required gain required shapes & levels using a premium grade soil mix. In areas where excavation is required (if in clay) over excavate as required to to allow for installation of 500mm depth of premium grade topsoil mix to garden areas and 300mm depth of premium grade topsoil mix to lawn areas. Undertake all required action to ensure that no rootballs of proposed plants sit in clay wells and that all garden areas and lawn areas drain satisfactorily. Note it is intended that wherever possible existing levels shall not be altered through garden and lawn areas. It is the Contractors responsibility to ensure that the end result of the project is that all lawn and garden areas drain sufficiently (both surface & subsurface), are at required finished levels and have sufficient soil depths to enable lawn and plants to thrive and grow. Should alternative works to those specified be required to achieve the above result, Contractor shall inform Builder at time of Tender and request instructions.
Lawn Edging and Stepping Stones:(i) 125 x 25mm approved tanalith impregnated pine edging shall be installed, to lines as indicated on plan and staked with approved stakes at maximum 1500mm centres at ends and changes of direction; stakes shall be nailed to edging with approved galvanised steel nails. Top of edging shall finish flush with surrounding surfaces. Top of stakes shall finish 25mm below top of edging.(ii)Contractor shall install approved bricks on edge on a minimum 100mm deep x 90mm wide concrete footing with brick tor set in, to lines nominated on plan as brick edging. Bricks shall be laid with a nominal 10mm wide approved coloured mortar joint. Bricks needing to be cut shall be done so with clean sharp cuts. Top of edging shall finish flush with surrounding finished surfaces. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed. Approved sandstone stepping stones shall be positioned as indicated on plan on a 25mm river sand bed.
Retaining Walls: Positions, detail and heights of retaining walls shall be by others.
Planting: Purchase plants from an approved nursery. Plants to be healthy & true to type & species. Set out plants to positions indicated on plan. Following approval, plant holes shall be dug approximately twice width and to 100mm deeper than plant rootballs that they are to receive. Base and sides of hole shall be further loosened. Fertiliser, followed by 100mm depth of topsoil mix shall then be placed into base of hole and lightly consolidated. Base of hole shall then be watered. Remove plant container and install plant into hole. Rootball shall be backfilled with surrounding topsoil and topsoil firmed into place. An approved shallow dish shall be formed to contain water around base of stem. Base of stem of plant shall finish flush with finished soil level. Once installed plant shall be thoroughly watered and maintained for the duration of the Contract.
Staking: All trees shall be staked using 2 x 38mm x 38mm x 2000mm long hardwood stakes per plant and with hessian webbing ties installed to Landscape Architect's on site instructions.
Mulching: Install 75mm depth of 25mm diameter hardwood mulch to all garden areas, coving mulch down around all plant stems & to finish flush with adjacent surfaces.
Turfing: Prepare for, level & lay cultivated Palmetto Buffulo turves to all areas nominated on plan as being lawn. Roll, water, fertilise, mow & maintain lawns as necessary until completion of maintenance period. At same time make good all existing lawn areas using same lawn type. Lawns in shade shall be over sown with an approved seed mix. Allow to retrim and returf councils nature strip as required.
Fencing: Retain all existing fences unless advised otherwise by builder. Install timber paling fences to heights indicated on Plan.
Paving: Areas to be paved shall be excavated or filled to allow for installation of bedding materials. Levels and falls shall be as per Plan. Surface drainage on paving shall be towards grated drains with all drains connected to stormwater system and installed by Builder.
Irrigation: Contractor shall supply and install an approved fully automatic, vandal resistant, computerised irrigation system to all garden and lawn areas, excluding council nature strip. Entire system shall be to approval of Water Board
Completion: Prior to practical completion remove from site all unwanted debris occurring from work. Satisfy Council that all landscaping work has been undertaken in strict accordance with Councils landscape codes & guidelines.

Maintenance Period: A twelve month maintenance period shall be undertaken by owner or owners representative as set out herein. Owner shall have care and maintenance of all work specified under this Contract and shall rectify any defective work for a period of 52 weeks following Practical Completion of Landscape Works. This period shall be herein known as the Maintenance Period. Work shall also include for the care and maintenance of all existing vegetation to be retained and proposed vegetation. Site shall be attended at least weekly and as otherwise required. The following works shall be undertaken during the Maintenance Period.
(a) Recurrent works Undertake recurrent works throughout the Maintenance Period. These works shall include but are not limited to watering, weeding, fertilising, pest and disease control, returfing, staking and tying, replanting, cultivation, pruning, aerating, renovating, top dressing and the like.
(b) Watering Regularly water all plants and lawn areas to maintain optimal growing conditions. Contractor shall adjust the water quantity utilised with regard to climatic conditions prevalent at the time.
(c) Replacements Immediately replace plants which die or fail to thrive (at discretion of Landscape Architect) with plants of same species or variety and of same size and quality unless otherwise specified. Plant replacement shall be at Contractors expense, unless replacement is required due to vandalism or theft, which shall be determined by Landscape Architect. Required replacement of plants due to vandalism or theft shall be undertaken by Contractor and shall be paid for by Client at an agreed predetermined rate.
(d) Mulched surfaces Maintain mulched surfaces in clean, tidy, weed-free condition and shall reinstate mulch as necessary to maintain specified depths.
(e) Stakes & ties Adjust and/or replace stakes and ties as required. Remove stakes and ties at end of Maintenance Period if directed by Landscape Architect.
(f) Lawn areas Lawn areas shall be mown at regular intervals to ensure non heading of lawn with a fine-cutting mulching mower and clippings left on lawn to mulch and self-fertilise lawn areas. Primary cut after laying of lawn by others shall be determined on site taking into consideration season, watering and growth rate of lawn. Following the primary cut all lawns shall be regularly mown as required to ensure a healthy lawn and a neat appearance. Care shall always be taken to ensure that no clippings are left on surrounding roads or garden areas after mowing. Replace lawn areas that fail to thrive at discretion of Landscape Architect. All new and made good lawn areas shall be barricaded off from pedestrian traffic by use of star pickets and brightly coloured plastic safety mesh until establishment of lawn. Barricades shall be removed upon establishment of lawn area.
(g) Weeding Remove by hand, or by carefully supervised use of weedicide, any weed growth that may occur throughout Maintenance Period. This work shall be executed at weekly intervals so that all lawn and garden areas may be observed in a weed-free condition.
(h) Pruning Prune new and existing plants (excluding existing trees) as necessary to maintain dense foliage conditions. Any rogue branches, or branches overhanging or obstructing pathways, roads, doorways, etc., shall be removed by approved horticultural methods.
(i) Spraying Spraying for insect, fungal and disease attack shall be undertaken as required and in accordance with spray manufacturers recommendations at intervals taking into account the season of year during which landscape works are to be implemented.
(j) Tree Care Should any existing trees be damaged during construction works immediately engage an experienced arboriculturist and then undertake any rectification work recommended by arboriculturist.

Client

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Architect

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Project

PROPOSED MIXED USE DEVELOPMENT

Notes

1. All dimensions and levels shall be verified by Contractor on site prior to commencement of work.
2. Do not scale from drawings.
3. If in doubt contact Landscape Architect.
4. This design is copyright and shall not be copied, utilised or reproduced in any way without prior written permission of A Total Concept Landscape Architects.
5. This plan has been prepared for Development Application purposes only.

Revision	Description	Date
A	ARCHITECTURAL AMENDMENT	28.06.19
B	ARCHITECTURAL AMENDMENT	18.07.19
C	ARCHITECTURAL AMENDMENT	27.09.19

DRAWING
PROPOSED LANDSCAPE PLAN - GROUND FLOOR

ADDRESS
38-40 ORTH STREET, KINGSWOOD, NSW, 2747

DWG #
L/01

A Total Concept Landscape Architects
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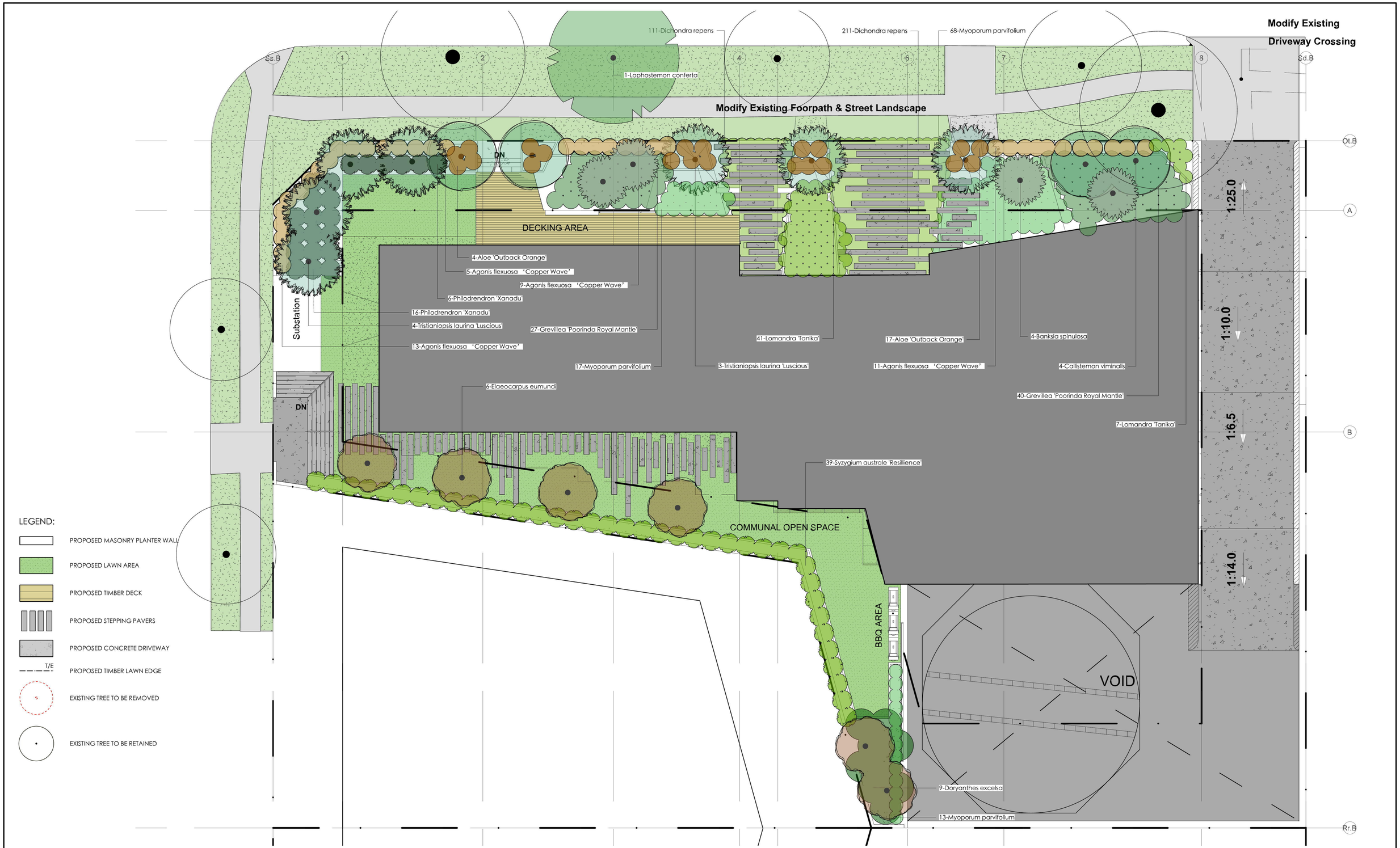
atc a total concept landscape architects & swimming pool designers

SCALE @ A1 1:100
DRAWN JS
CHKD SW
PROJECT # AC HOMES



Client

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DRAWING
PROPOSED LANDSCAPE PLAN - GROUND FLOOR

ADDRESS
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DWG #
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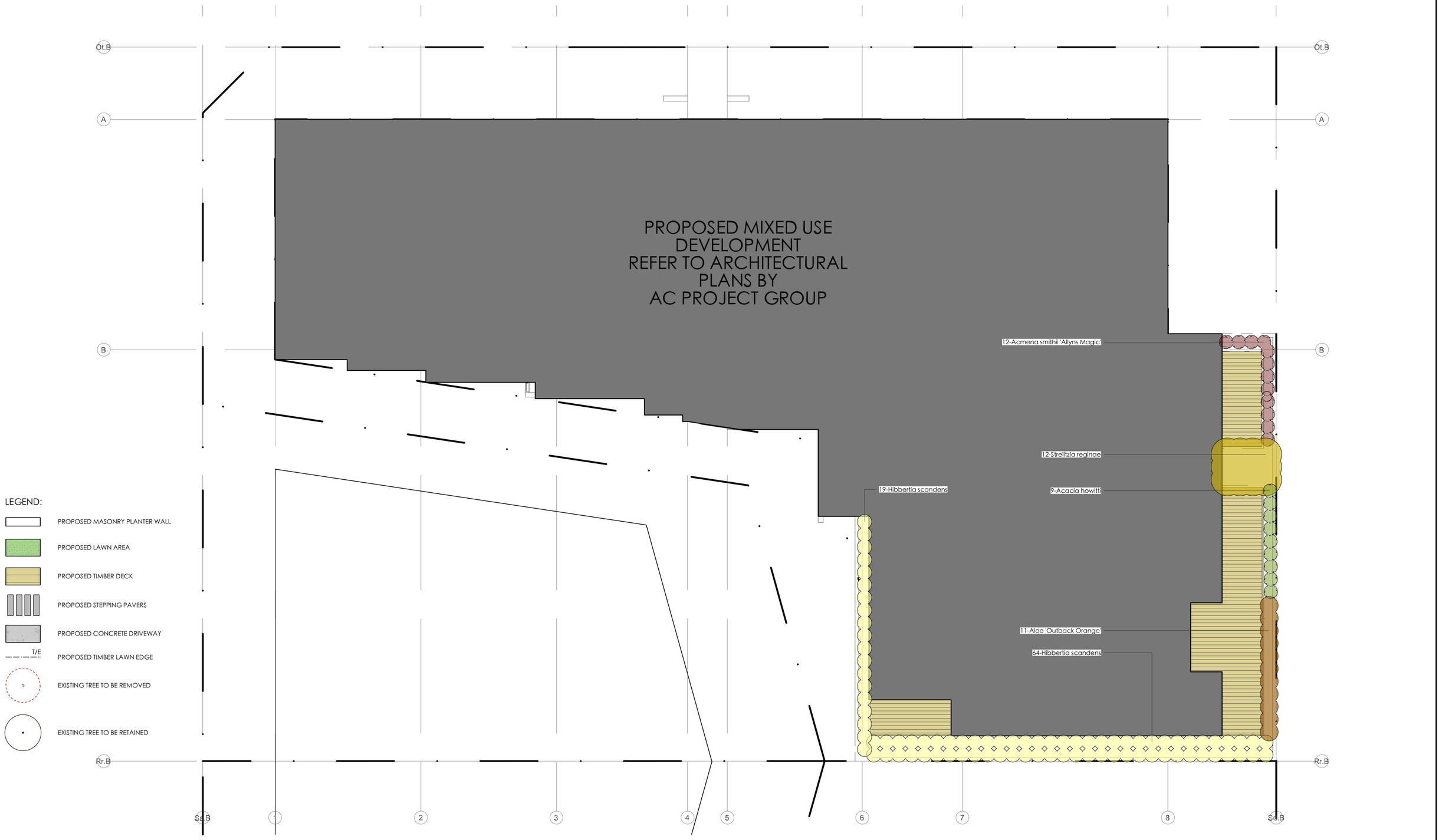
DRAWN JS
CHKD SW
PROJECT # AC HOMES



Client

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Revision	Description	Date
B	ARCHITECTURAL AMENDMENT	18.07.19
C	ARCHITECTURAL AMENDMENT	27.09.19

DRAWING
PROPOSED LANDSCAPE PLAN - LEVEL 1

ADDRESS
38-40 ORTH STREET, KINGSWOOD, NSW, 2747

DWG # L/02

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Project

PROPOSED MIXED USE DEVELOPMENT

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Revision	Description	Date
B	ARCHITECTURAL AMENDMENT	18.07.19
C	ARCHITECTURAL AMENDMENT	27.09.19

DRAWING
PROPOSED LANDSCAPE PLAN - LEVEL 2

ADDRESS
38-40 ORTH STREET, KINGSWOOD, NSW, 2747

DWG #
L/03

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PROPOSED MIXED USE DEVELOPMENT

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Revision	Description	Date
B	ARCHITECTURAL AMENDMENT	18.07.19
C	ARCHITECTURAL AMENDMENT	27.09.19

DRAWING
PROPOSED LANDSCAPE PLAN - LEVEL 6

ADDRESS
38-40 ORTH STREET, KINGSWOOD, NSW, 2747

DWG #
L/04

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SCALE @ A1 1:100
DRAWN JS
CHKD SW
PROJECT # AC HOMES

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REQUEST FOR A VARIATION TO DEVELOPMENT STANDARDS

CLAUSE 4.3 & CLAUSE 7.11 MAXIMUM BUILDING HEIGHT PURSUANT TO CLAUSE 4.6 OF PENRITH LOCAL ENVIRONMENTAL PLAN 2010

7 STOREY MIXED USE DEVELOPMENT
AT 38-40 ORTH STREET & 26 SOMERSET STREET KINGSWOOD

1. Introduction

Clause 4.6 of Penrith Local Environmental Plan 2010 (PLEP 2010) allows for flexibility in the application of certain development standards to achieve *"better outcomes for and from development by allowing flexibility in particular circumstances."*

The proponent seeks approval for a 7 storey mixed use building, with the 2 storey podium providing increased floor to ceiling heights suitable for commercial floor space capable of being used for offices and medical centres. PLEP 2010 allows additional building height where increased floor to ceiling heights are provided for commercial floor levels.

While the planning controls require that only the ground floor level comprise commercial floor space, Council encourages a greater proportion of commercial floor space, where feasible. The viability of commercial floor space above ground floor level in Kingswood Hospital precinct is marginal and certainly results in substantially lower returns compared to residential floor space.

A modest variation to the maximum building height control facilitates construction of an additional floor level, with a reduced floor plate, resulting in an increased percentage of residential floor space within the building, improving the viability of the project. The additional building height for the lift overrun also facilitates lift access to a substantial area of residential common open space, in the form of a rooftop terrace and garden.

Notwithstanding the provision of an additional floor level, total assessable gross floor area (GFA) is some 16% less than the maximum permitted and building height encroachment is for the most part less than 2m, with the lift overrun, extening up to 2.68m above the 21.6m maximum building height. The reduced floor plate proposed for the additional storey ensures that perceived bulk and scale is not materially different from a building of numerically compliant height. The additional height also does not create any adverse amenity impacts, such as reduced privacy or any material increase in overshadowing.

As detailed in this clause 4.6 submission, strict numerical compliance with the 21.6m maximum building height prescribed in clause 4.3 of PLEP 2010 is unreasonable and unnecessary in the circumstances and a better planning outcome is achieved, be facilitating the provision of a 2nd level of commercial floorspace on the site, in a manner that achieves the objectives of the building height control and the B4 Mixed Use zoning applying to the site.

2. The relevant development standard

Clause 4.3 of FLEP 2013 sets out requirements in relation to height of buildings. Sub-clause 4.3(2) requires that a building on any land is not to exceed the maximum height shown for land on the Height of Buildings Map. The maximum building height for the subject land, as shown on this Map is 18m. Building height is measured as height above existing ground level, to the highest point of the building. The 18m building height standard is designed to provide for a building scale of up to 6 storeys.

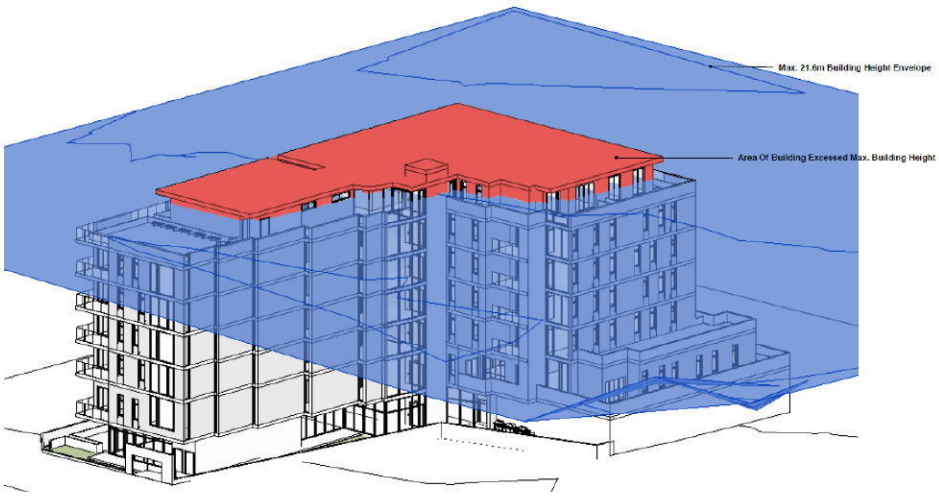
Clause 7.11 provides that for land located within the Penrith Health and Education precinct, which includes the subject land, building height may be increased by up to 20% (in this case 3.6m), notwithstanding the provisions of clause 4.3, if the floor to ceiling height of both the ground floor and first floors are equal to or greater than 3.5m. The additional building height 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 and first floor levels and provides commercial office space/medical centres for both these floor levels. Accordingly, the maximum permitted building height for the site pursuant to clause 4.3 and 7.11 of PLEP 2010 is 21.6m.

3. Requested variation to the standard

The proponent seeks a modest increase in building height of up to 2000mm for the 7th storey and up to 2680mm for the small lift overrun, above the 21.6m maximum building height standard, which applies to the site, pursuant to clauses 4.3 and 7.11, which in combination allow a building to have a maximum building height of up to 21.6m above existing ground level on this site. The requested additional building height allows for a 7th storey comprising 5 apartments and equates to a 9.27% increase in maximum building height for this floor level and 12.4% for the lift overrun. **Figure 1**, below shows the 3D view of the proposed building, highlighting in red the component of the building that is above a height of 21.6m

Figure 1 – 3D Height Plane Representation of Height Encroachment



The development application plans include elevation and section drawings illustrate the extent of height encroachments at the various sections of the building. The 3D height plane diagram clearly demonstrates that only a very minor portion of the overall building volume exceeds the 21.6m height limit. A material portion of the height non-compliance arises from the slope of the land, in the eastern half of the site.

The southeast corner of the 7th storey roof extends to a height of 23.48m, or 1880mm above the 21.6m height limit, while the southwest corner of the roof extends to a height of 22.9m, or 1300mm above the 21.6m height limit. The northeast corner of the 7th storey roof extends to height of 23.70m, or 2100mm above the 21.6m height limit, while the northwest corner of the roof extends to a height of 22.70m, or 1100mm, above the 21.6m height limit. Apart from the lift overrun, no portion of the 7th storey extends more than 2100m (9.72%) above the 21.6m maximum building height control.

The small 2.8m x 2.5m (7m2) lift overrun is centrally located within the roof of the 7th storey, with substantial setback to all side boundaries. This lift overrun extends to a maximum of 2600mm (12.4%) above the 21.6 height limit.

4. Requirements of clause 4.6 – Exceptions to development standards

The objectives of clause 4.6 are as follows:

"(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances."

Clause 4.6(3) requires that a request to contravene the control, to demonstrate:

"(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard."

In considering whether to grant consent for a development that contravenes a development standard, a consent authority must be satisfied that:

"(i) the applicant's request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is to be carried out, and

(iii) the concurrence of the Secretary has been obtained.

These matters are addressed below in Sections 5 and 6.

5. Compliance with the development standard is unreasonable or unnecessary

It is considered that enforcing compliance would be unreasonable and unnecessary in this case, for the following reasons.

The proposal achieves the objectives of the Clause 4.3 height control.

The objectives of the control are noted and commented upon below:

The objectives for the height control are as follows:

(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 the 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 achieves the above objectives as detailed in the following assessment.

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.,

The existing character of the locality extending east from Somerset Street comprises single storey cottages interspersed with a few 2 storey dwellings. Larger and taller structures are located within the Nepean Hospital site, located on the western side of Somerset Street.

The locality east from Somerset Street, including the subject land, has been zoned to allow for higher density redevelopment in the form of a mixed-use precinct comprising 6 storey mixed use buildings extending to heights of between 18m and 21.6m. Such development is not compatible with the existing character of the locality. Given these circumstances, it is not appropriate to assess the proposed development against the existing character of the area, but rather against the desired future character of the area, as envisaged by the planning controls, namely larger scale 6 storey mixed use buildings.

Redevelopment of the locality has not yet commenced. Council has approved a 6 storey mixed-use building on adjoining land to the southwest of the development site, at 28-32 Somerset Street. Other neighbouring and adjacent properties around the site are also zoned for 18m to 21.6m high mixed-use buildings and may be expected to accommodate buildings of similar bulk and scale to that which Council has approved for 28-32 Somerset Street.

The proposed building will closely compliment the future 6 storey mixed use building form that will occur on adjoining and adjacent sites in terms of height bulk and scale. The proposed building is very similar in height, bulk and scale to the approved development proposal for 28-32 Somerset Street. This is illustrated in the elevation drawings enclosed with the development application.

The bulk and scale impacts arising from the proposed modest additional building height are mitigated by providing a significantly reduced floor plate and increased building setbacks for the 7th storey.

The floor plate of the 7th storey is modest in size, some 516.605m2 and occupies a floor plate 35% less than the floor level below. 7th Storey building setbacks are 9m to the eastern side boundary and southern rear boundary (eastern side). Increased street frontage setbacks are provided for the 7th storey, some 12m to Somerset Street and between 6m and 7m to Orth Street. Setback of the 7th storey to the shared boundary with 28- 32 Somerset are almost double the 3m setback permitted on that development site.

The front northern elevation of the 7th storey is setback an additional 2m from Orth Street, providing a front setback of 6m and ensuring that only a minor portion of the 7th storey is visible from street level. This ensures a bulk, height and scale presentation to Orth Street which is very similar to a numerically height compliant 6 storey building. A 7th storey setback of at least 12m to Somerset Street ensures the 7th storey will not be readily seen from Somerset Street, presenting a 6 storey form to Somerset Street, matching the development approved for 28-32 Somerset Street.

As demonstrated in the 3D drawing at **Figure 1**, the limited portion of the building extending above the 21.6m maximum building height control contributes minimally to the overall height, bulk and scale of the building.

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The height of the proposed building will complement the planned future 6 storey mixed-use building character and streetscape of the locality, east of Somerset Street.

(b) to minimise the 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

With respect to objective (b), the development, at the height proposed, will not materially change visual impact, views, privacy or solar access to existing or future development, or to public areas, compared to a similar building of complying height. These matters have been addressed in the Statement of Environmental Effects.

As noted in the assessment of building height, bulk and scale, the proposed development will have minimal, if any, increased visual impact, as viewed from neighbouring properties or the public domain.

The modest additional building height does not disrupt views of any significance from either the private or public domain.

The proposed 7th storey offers a high level of privacy to neighbours by way of a combination of increased building setbacks and perimeter planter boxes.,

The southern portion of the 7th storey is limited in depth, generally less than 12m, with additional eastern, western and southern building setbacks to minimise shadow impacts on neighbouring properties. The shadow diagrams demonstrate that the additional shadows cast by the height encroachment are minimal and generally confined to non-solar access sensitive areas such as roofs and side yards.

The proposed design of the 7th storey, where the height encroachment exists, has been sensitively designed to minimise visual impact, disruption of views, loss of privacy and solar access.

(c) To minimise the adverse impact of development on heritage items, heritage conservation areas and areas of scenic or visual importance.

The development site does not contain any heritage items, nor are there any heritage items in the vicinity of the site. The development site is not located within a heritage conservation area or area of scenic or visual importance.

The development of the site, at the height proposed will have no adverse impact on any heritage item, heritage conservation area or area of scenic or visual importance.

(d) To nominate heights that will provide a high quality of urban form for all buildings and a transition in built form and land use intensity.

The proposal achieves a high quality mixed-use urban form consistent with the desired future character of the area, as envisaged in the planning controls. As demonstrated in this clause 4.6 submission, the development at the height proposed and utilising a reduced floor plate for the top floor level, achieves an urban form that is closely compatible with the 6 storey mixed-use building form anticipated by the development controls and as approved for the neighbouring site at 28-32 Somerset Street.

The subject land does not constitute a transitional side. The site adjoins or is adjacent to properties on all sides that have been zoned for mixed-use buildings of a similar height, bulk and scale.

<u>The proposal achieves the objectives of the clause 7.11 maximum building height bonus</u>

Clause 7.11 of PLEP 2010 provides a 20% height bonus for development in the Penrith Health and Education Precinct where the floor to ceiling height of both the ground and first floors are equal to or greater than 3.5m. The proposed development provides 3.5m floor to ceiling height clearances for both the ground and first floors and accordingly, utilises the 20% height bonus, which allows a 3.6m increase in the 18m the maximum building height control prescribed for the site and locality pursuant to clause 4.3 of the LEP.

The objectives of the clause 7.11 building height bonus are as follows:

(a) *to encourage a built form that is suitable for both residential and health services facilities,*

(b) *to encourage adaptive reuse of residential buildings for health services facilities in the Penrith Health and Education precinct where the residential use within the building ceases in the future.*

Clause 7.11 is designed to optimise the provision of commercial floor space suitable for health services facilities within the Precinct by allowing additional building height, where both the ground and first floor levels have higher ceilings to accommodate such uses. The proposal is consistent with this objective.

Council in its assessment of the DA for 28-32 Somerset Street allowed the development to proceed with only a small area of commercial floor space at ground floor level and no commercial floor space at first floor level, on the grounds that commercial floor space, particularly at first floor level, has limited viability in this locality.

The proponent is more optimistic with respect to potential demand for commercial floor space, particularly having regard to the recent decision to upgrade and substantially enlarge the nearby Nepean Hospital. However, without the 5 additional apartments on the 7th storey level, generating additional return, it is not viable to provide 2 floor levels of commercial floor space. Strict numerical enforcement of the 21.6m building height control would require the building to be reduced to 6 storeys and the first-floor level utilised as residential, rather than commercial floorspace. Such an outcome would be a poorer planning outcome, compared to allowing a minor increase in building height to facilitate a 7th storey in the form of a substantially reduced floorplate.

<u>The proposal achieves the objectives of the B4 Mixed Use Zone</u>

The zone objectives of the B4 Mixed Use Zone are noted and commented upon below:

The zone objectives for the B4 Mixed Use Zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To create opportunities to improve public amenity*
- *To provide a wide range of retail, business, office, residential, community and other suitable land uses.*

The proposal achieves these objectives as detailed in the following assessment.

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

The proposed uses, comprising residential apartments and office/medical centre tenancies, are compatible in the form proposed and as are envisaged in the B4 Zone. Separate floor levels and entries are provided for residential and commercial office uses and residential amenity of the apartments on levels 2 to 6 are not compromised. The additional building height in no way reduces the compatibility of the proposed uses.

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

The proposed mix of land uses is suitably integrated into the building form and layout and the site is within convenient walking distance of public transport (rail and bus), retail facilities, services and Nepean Hospital. The design makes provision for bicycle parking. The additional building height in no way reduces the integration of uses, or encouragement of walking and cycling.

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

The proposed development is compatible with future development on adjoining properties, which are also zoned B4 mixed use. The design includes suitable measures to ensure adequate acoustic and visual privacy between the proposed development and neighbouring properties. Emissions such as noise, odour and the like are suitably managed to ensure no material conflict. The site is surrounded, on all sides by a B4 Zone and does not adjoin any other zone.

The additional building height in no way increases any conflict between land uses within the B4 zone or other zones in the vicinity of the site.

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

The provision of a reduced floor plate 7th storey with lift access is enabled by the requested modest increase in building height and also facilitates provision of rooftop common open space with communal facilities for use by residents, in a location providing an attractive outlook for users. The proposed increased building height therefore results in improved amenity.

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

The proposed development provides a suitable range of land uses including residential offices and services, such as medical centres. The proposed increased building height makes it feasible to provide a second storey of commercial floor space. Provision of a higher percentage of commercial floor space within the building is considered to be directly supportive of Zone Objective (e).

The proposed development, at the height proposed, is consistent with the applicable B4 zone objectives. The minor additional building height in no way decrease the extent of consistency with the B4 zone objectives and in fact, results in greater consistency by facilitating a second storey of commercial floor space.

Compliance would result in a poorer planning outcome

One of the objectives of Clause 4.6 is to allow better planning outcomes to be achieved. In this case a substantially better planning outcome is achieved by facilitating the provision of a second storey of commercial floor space. The viability of commercial floor space in this locality is marginal at best. This has been acknowledged by Council in the Council's assessment of the DA for a mixed-use building at the adjoining development site, No. 28-32 Somerset Street.

The provision of a 7th storey with a reduced floor plate, accommodating 5 apartments, at least in part, offsets the lower returns from commercial floor space, enabling a second storey of commercial floor space, which more than doubles potential commercial floor space on the site. This is consistent with the planning outcomes envisaged for the Precinct, which seek to encourage 2 storeys of commercial floor space.

Strict enforcement of the maximum building height standard would require deletion of the 7th storey, with the second storey changed to residential apartments, rather than commercial floor space. A better planning outcome is achieved by allowing some modest flexibility on maximum building height, as a means of encouraging additional commercial floor space that can potentially enhance the health services objectives of the Precinct.

Lack of impact

As noted in the above discussion and in the Statement of Environmental Effects, despite the minor numerical height non-compliance, the environmental and visual qualities of the locality, streetscape and amenity of surrounding properties, including privacy, views and solar access, will be maintained to substantially the same extent as a development that is of a numerically compliant height.

6. There are sufficient environmental planning grounds to justify contravening the development standard

The planning objectives seek to achieve 6 storey high-density mixed-use buildings. Strict application of the maximum building height standard would significantly reduce the extent of commercial floor space that can be viably accommodated on the site, with no material gain in terms of environmental planning objectives, neighbourhood character and streetscape, visual impact or residential amenity. The minor numerical non-compliance is less than 10% apart from the small lift overrun which is within 12.4% of the building height control. The height encroachment results in no increase in environmental or amenity impact, compared to a numerically complying height.

A positive planning outcome is achieved in this instance by not strictly complying with the height standard. Further, the proposal also has benefits in broader environmental

terms. One of the objects of the EP&A Act is the *"orderly and economic use and development of land"*. The height of the proposed building is consistent with the 6 storey building scale and density anticipated by the planning controls.

It is appropriate to optimise commercial floor space in the Hospital Precinct to facilitate the development of this Precinct as an important hub for health services close to shops, services and public transport. Penrith Council has recognised the importance of encouraging additional commercial floor space by adding a building height bonus to the PLEP 2010 for buildings with increased floor to ceiling height at ground and first floor, to provide 2 levels of commercial floor space, where otherwise there would likely be only 1 level of such floor space.

Allowing an extra storey, with a significantly reduced floor plate, designed in a sensitive manner on the subject land makes for a viable development capable of containing 2 storeys of commercial floor space. Such an approach and is an outcome that is also supportive of another of the objects of the Act which is the facilitation of *"ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision- making about environmental assessment"*.

Council must also be satisfied that the proposal meets the objectives of the standard and the objectives of the subject zone. As discussed above the proposal meets the objectives of the height standard and as detailed in the SEE and in this clause 4.6 submission, also meets the objectives of the B4 Mixed Use Zone.

Also, in acting in the Secretary's concurrence role, Council must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

In relation to (a), the proposed breach is minor and is not of any State or regional significance.

In relation to (b), there is no public benefit from maintaining the standard as there is no adverse impact on the public domain or neighbour amenity, the proposal is generally consistent with other relevant planning controls and a better planning outcome is achieved.

Building height standards should be applied with some degree of flexibility where a better planning outcome can be achieved, with no material increase I height, bulk and scale and no adverse streetscape or amenity impacts.

As noted above enforcement of the control would result in a poorer planning outcome, which is not in the public interest.

In relation to (c), there are no other matters that require consideration.

Conclusion

The proposed building form and height is generally consistent with the 6 storey building scale and desired future character and streetscape, as envisaged in the planning controls for the B4 Mixed Use Zone in the Hospital Precinct, notwithstanding the minor numerical height non-compliance arising from the introduction of a 7th storey with reduced floor plate.

The development, in the form proposed, provides for an appropriate building typology and density, with no material environmental, streetscape or amenity impacts and is consistent with the objects of the EP&A Act. Requiring compliance is unreasonable and unnecessary in this case, as it would not result in any material benefit and in relation to urban design or amenity.

Requiring strict numerical compliance would create a less desirable planning outcome, by significantly reducing the amount of commercial floor space that can be viably accommodated on the site. Some flexibility with respect to the application of the building height controls should be allowed where a better planning outcome can be achieved and where there is no material increase I height, bulk and scale and no adverse streetscape or amenity impacts.

The additional building height, above a height of 21.6m is relatively minor and has no material effect on perceived building bulk and scale, the desired future character of the area or the amenity of neighbouring properties.

The proposal achieves the objectives of the B4 Mixed Use Zone and the building height standard, despite the minor numerical non-compliance. The requested 605mm to 2100mm variation to the 21.6m maximum building height standard for the uppermost portion of the 7th storey and 2680mm variation for the small 7m2 lift overrun is appropriate and worthy of support.

Nick Juradowitch Director
Ingham Planning Pty Ltd
October 2019

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DESIGN VERIFICATION STATEMENT

26 SOMERSET STREET AND 38-40 ORTH STREET, KINGSWOOD NSW 2747

INTRODUCTION

This Design Verification Statement is for 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 NSW 2747.

The Verification Statement is prepared with regard to architectural plans prepared by *Moderinn Pty Limited*, dated 14 October 2019 with drawing nos. as listed below:

DA – OO	COVER PAGE
DA – 01	SURVEY/ DEMOLITION PLAN
DA – 02	CONTEXT & SITE ANALISYS PLAN
DA – 03.1	PERSPECTIVE 01
DA – 03.2	PERSPECTIVE 02
DA – 04	BASEMENT 1
DA – 05	BASEMENT 2
DA – 06	BASEMENT 3
DA – 07	GROUND FLOOR OFFICE
DA – 07.1	FLOOR SPACE DIAGRAN
DA – 07.2	ORTH ST FRONTAGE
DA – 07.3	STREET VIEW LANDSCAPE
DA – 07.4	PRIVATE OPEN SPACE
DA – 07.5	SOMERSET ST FRONTAGE
DA – 07.6	COMMUNAL SPACE AREA
DA – 07.7	BBQ AREA
DA – 08	FIRST FLOOR AREA
DA – 09	2ND FLOOR PLAN
DA – 10	3RD FLOOR PLAN
DA – 11	4TH FLOOR PLAN
DA – 12	5TH FLOOR PLAN
DA – 13	6TH FLOOR PLAN
DA – 13.1	ROOF TOP COMMUNAL SPACE
DA – 14	ROOF PLAN
DA – 15.0	NORTH ELEVATION
DA – 15.1	NORTH ELEVATION DIM
DA – 16.0	EAST ELEVATION
DA – 16.1	EAST ELEVATION DIM

DA – 17.0	WEST ELEVATION
DA – 17.1	WEST ELEVATION DIM
DA – 18.0	SOUTH ELEVATION
DA – 18.1	SOUTH ELEVATION DIM
DA – 19.0	ORTH ST PERSPECTIVE
DA – 19.1	SOMERSET ST PERSPECTIVE
DA – 19.2	SOMERSET ST VIEW
DA – 19.3	ORTH ST PERSPECTIVE 2
DA – 20	SECTION A
DA – 21	SECTION B
DA – 22	SECTION C
DA – 23	SECTION D
DA – 24	SECTION E
DA – 25	FLOOR AREA CALCULATION
DA – 26	SOLAR ACCESS STUDY
DA – 27	CROSS VENTILATION
DA – 28	SUN & SHADOW DIAGRAM
DA – 29	2 – 5TH PRE & POST ADAPTABLE LAYOUT
DA – 30	3 BULDDING HEIGHT ENVELOPE
DA – 31	MATERIALS & FINISHES SCHEDULE

Moderinn Pty Ltd has been responsible for the design of the project on behalf of the applicant to provide reports and opinions on the development. Moderinn has prepared and reviewed the architectural drawings and is satisfied that the design meets the intent of the design quality principles provided in the Introduction of State Environmental Planning Policy No. 65 – Apartment Design Guide. ("SEPP 65") and relevant regulations and Codes insofar as they need to at this stage of such projects.

The Development Summary is located in Annexure A of this document.

PRINCIPLE 1: CONTEXT AND NEIGHBOURHOOD CHARACTER

"Good design responds and contributes to its context which can be defined as the key natural and built features of the area."

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.

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.

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.

This proposal , along with the recently approved 6 storey residential building at 28-32 Somerset Street , are the beginnings of the changing character of the area. A character appropriate to its local context of railway station, shops and Nepean Hospital.

Figure 1: aerial photograph (Source: Google Maps).

PRINCIPLE 2: BUILT FORM AND SCALE

"Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and manipulation of building elements and Good design provides an appropriate scale in terms of bulk and height that suits the scale of the street and the surrounding buildings."

The proposed height of 7 storeys taking advantage of the locality's proximity of to Kingswood Railway Station to the north and the adjacent Nepean Hospital to the west is consistent with the height controls of the desired future character of the Precinct.

The building facades have been appropriately articulated and setback to provide an appropriate level of visual bulk when viewed from surrounding areas and will achieve the desired future character of the area. The proposal remains within the proposed maximum building height.

The building is well articulated in massing and architectural design elements to break down its mass. This is achieved through placement of balconies, vertical blade elements, variation in texture and colour as well as textural variation.

The stepping back of the seventh storey will assisting in mitigating the bulk, and therefore scale of the building.

The scale of the proposed and DA approved neighbour are the commencement of the future scale in this area.

PRINCIPLE 3: DENSITY

"Good design has density appropriate to the site and its context, in terms of floor space yield or number of units or residents."

The LEP and PDCP promote an increased density for the Precinct. The proposed development provides 41 apartments which will deliver an appropriate residential density 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.

Although the proposal has a less FSR than the allowable, a higher density is appropriate, given the local facilities and infrastructure.

PRINCIPLE 4: SUSTAINAIBILTY

"Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction."

The building has been designed to maximize solar access and cross ventilation opportunities for the apartments.

The living areas of the apartments have been orientated to maximize sunlight, daylight and natural ventilation. The apartments are accessed from a single lift lobby, eliminating internal double loaded corridors; the living areas of most apartments are orientated to the North to achieve excellent solar access and district views.

All the units have been designed to maximize natural cross ventilation, and kitchens within 8 meters of windows. The development will not be reliant upon automatic climate control to provide appropriate amenity for residents.

Water conservation and energy efficiency is a paramount consideration in the design, through the selection of energy saving appliances, implementation of water harvesting and low maintenance plants, requiring minimised watering.

PRINCIPLE 5: LANDSCAPE

"Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic and amenity for both the residents and or the public domain."

The proposal includes a generous soft landscaped area of 897m2 on the ground level, L1, L2 and roof top, 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.

The open space areas have been made conducive to easy use by residents.
The Planters are provided around the terraces at the ground floor to provide a visual interest and amenity at the entry podium and hard paved areas.
Maximisation of deep soil areas returns water directly back into the local aquifer. An important ESD principle.
Low maintenance species have been selected to minimise energy and water usage.

PRINCIPLE 6: AMENITY

"Good design provides amenity through the physical, spatial, and environmental quality of a development."

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.

The residents will have good solar access and ventilation, and being a multi-storey development , will have unimpeded views , particularly to the west.

Common open space is easily accessible, with natural surveillance by residents.

PRINCIPLE 7: SAFETY

"Good design optimises safety and security, both internal to the development and for the public domain."

The design of the development optimizes safety and security, both internal to the development and to the public domain. Safety and security has also been considered in accordance with CPTED principles of surveillance, access, territorial reinforcement and space management.

The pedestrian entry point is highly visible from both the internal area of the development and the public domain which will allow safe access and egress from and to the building. The development has been designed to avoid hidden corners or concealment points.

The site has a street frontage and is currently activated by passing traffic or local workers and commuters. Natural surveillance will be facilitated from the two commercial levels facing Street frontage.

A secure basement is provided with security gates located at the vehicle entry to building, off Orth Street. The roller shutter will be activated by remote control with intercom access available for visitors.

Garbage management would be in accordance with Council requirements.

PRINCIPLE 8: HOUSING DIVERSITY AND SOCIAL INTERACTION

"Good Design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities."

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.

The two levels of commercial tenancy, offer excellent opportunities, particularly for Hospital support services and local residents.

All are within easy walking distance to Kingswood Railway Station.

PRINCIPLE 9: AESTHETICS

"Quality aesthetics require the appropriate composition of building elements, texture and colours and reflect the use, internal design and structure of the development.

The proposal responds to the context with appropriate articulation of façade to create interest a scale compatible with existing single storey housing. This articulation is achieved composition of componentry comprising building materials, including painted cement render, textured paint, cladding, glazing, metal cladding and louvres.

The building façade is broken up into a series of large painted render panels suspended from first to seventh floor. The breakup of these panels varies from containing a large area of fenestration of varying proportion, further subdivided by glazing frame, to panels containing windows as single punctuations in an interesting pattern. The type of fenestration responds to the internal planning. Inset balconies occur between panels, enhancing the light floating quality. The panels step in plan along southern boundaries in response to the irregular geometry of the site. This creates interesting chiaroscuro or façade modelling, all assisting with articulation.

Strong vertical fenestration at the lift lobby, works both as pivot re-entrant corner and break between panels.

The seventh floor setback with deep roof overhangs reduces bulk and finishes the top of the building. Seventh floor planting softens the façade and enhances interest and amenity to outdoor areas, whilst inhibiting overlooking into neighbouring properties.
This treatment is consistent throughout creating an interesting compositional treatment.

CONCLUSION

It is evident from the summary outlined above and associated drawing package that the design clearly complies with the twelve design principles articulated in SEPP 65 *Apartment Design Guide,* and in our opinion, given the pending draft and current planning regulations, offers a credible and workable design. The design also demonstrates that it positively contributes to the future trends and objectives of planning principles and local amenity expressed by both State and Local Government.

The design, in our opinion, also positively addresses technical matters relating to Building *Code of Australia* (BCA) and stormwater design in terms of design compliance.

Sincerely yours,

Haris Sutanto (Director),
B. Arch, Hons (UNSW), MBA (UTS)
Chartered Architect, RAIA 6230

ANNEXURE A - DEVELOPMENT SUMMARY

Sheet Number	Sheet Name
DA00	Cover Page
DA01	Survey/Demolitian Plan
DA02	Context & Site Analisys Plan
DA03	Site Plan
DA03.1	Perspective 01
DA03.2	Perspective 02
DA04	Basement 1
DA05	Basement 2
DA06	Basement 3
DA07	Ground Floor Office
DA07.1	Floor Space Diagram
DA07.2	Orth St Frontage
DA07.3	Street View Landscape
DA07.4	Private Open Space
DA07.5	Somerset St Frontage
DA07.6	Communal Space Area
DA07.7	BBQ Area
DA08	First Floor Office
DA09	2nd Floor Plan
DA10	3rd Floor Plan
DA11	4th Floor Plan
DA12	5th Floor Plan
DA13	6th Floor Plan
DA13.1	Roof Top Communal Space
DA14	Roof Plan

Sheet Number	Sheet Name
DA15.0	North Elevation
DA15.1	North Elevation Dim
DA16.0	East Elevation
DA16.1	East Elevation Dim
DA17.0	West Elevation
DA17.1	West Elevation Dim
DA18.0	South Elevation
DA18.1	South Elevation Dim
DA19.0	Orth St Perspective
DA19.1	Somerset St Perspective
DA19.2	Somerset St View
DA19.3	Orth St Perspective 2
DA20	Section A
DA21	Section B
DA22	Section C
DA23	Section D
DA24	Section E
DA25	Floor Area Caculation
DA26	Solar Access Study
DA27	Cross Ventilation
DA28	Sun & Shadow Diagram
DA29	2-5th Pre & Post Adaptable Layout
DA30	3D Building Height Envelope
DA31	Materials & Finishes Schedule

Area Calculation Schedules	
Name	Area
Com. Lobby	98 m²
Commercial	166 m²
Commercial	210 m²
Commercial	128 m²
Commercial	146 m²
Commercial	125 m²
Commercial	138 m²
Commercial	235 m²
Communal Open Space & Landscape	303 m²
Landscape	66 m²
Landscape	75 m²
Landscape	65 m²
Landscape	26 m²
Landscape	64 m²
Landscape	10 m²
Landscape	4 m²
Public Domain & Landscape	284 m²
Res. Lobby	55 m²

APARTMENT DESIGN GUIDE COMPLIANCE ASSESSMENT

PAGE	DESIGN CRITERIA/ OBJECTIVE	COMPLIANCE
3A – 1 OBJECTIVE	Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Yes
3B – 1 OBJECTIVE	Building types and layouts respond to the streetscape and site while optimising solar access within the development	Yes
3B – 2 OBJECTIVE	Overshadowing of neighbouring properties is minimised during mid-winter	Yes
3C – 1 OBJECTIVE	Transition between private and public domain is achieved without compromising safety and security	Yes
3C – 2 OBJECTIVE	Amenity of the public domain is retained and enhanced	Yes
3D – 1 DESIGN CRITERIA	1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm in 21 June (mid-winter)	Yes
3D – 2 OBJECTIVE	Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	Yes
3D – 3 OBJECTIVE	Communal open space is designed to maximise safety	Yes
3D – 4 OBJECTIVE	Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	N/A
3E – 1 OBJECTIVE	Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality	Yes
3E– 1 DESIGN CRITERIA	Deep soil zones are to be a minimum of 7% of the site area. Minimum dimensions are to be as follows: • 3m for the site area 650m² - 1,500m² • 6m for site area greater than 1,500m² • 6m for site area greater than 1,500m² with significant existing tree cover	Non-Compliances ("variation is acceptable in the circumstances – refer to SEE")
3F – 1 OBJECTIVE	Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.	Yes

	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room	
3F– 1 DESIGN CRITERIA	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: • Habitable rooms and balconies 6m and non-habitable rooms 3m for building height up to 12m (4 storeys) • Habitable rooms and balconies 9m and non-habitable rooms 4.5m for building height up to 25m (5-8 storeys) • Habitable rooms and balconies 12m and non-habitable rooms 6m for building height over 25m (9+ storeys) Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure3F.2). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties	Non-Compliances ("variation is acceptable in the circumstances – refer to SEE")
3F – 2 OBJECTIVE	Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space	Yes
3G – 1 OBJECTIVE	Building entries and pedestrian access connects to and addresses the public domain	Yes
3G – 2 OBJECTIVE	Access, entries and pathways are accessible and easy to identify	Yes
3G – 3 OBJECTIVE	Large sites provide pedestrian links for access to streets and connection to destinations	N/A
3H – 1 OBJECTIVE	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Yes
3J – 1 OBJECTIVE	Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas	Yes
3J– 1 DESIGN CRITERIA	For development in the following locations: • On sites that are within 800 metres of a railways station or light rail stop in the Sydney Metropolitan Area; or • On land zoned, and sites within 400 metres of land	Yes

	zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.	
3J – 2 OBJECTIVE	Parking and facilities are provided for other modes of transport	Yes
3J – 3 OBJECTIVE	Car park design and access is safe and secure	Yes
3J – 4 OBJECTIVE	Visual and environmental impacts of underground car parking are minimised	Yes
3J – 5 OBJECTIVE	On-grade car parking should be avoided	Yes
3J – 6 OBJECTIVE	Visual and environmental impacts of above ground enclosed car parking are minimised	Yes
4A – 1 OBJECTIVE	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space	Yes
4A– 1 DESIGN CRITERIA	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	Yes
4A – 2 OBJECTIVE	Daylight access is maximised where sunlight is limited	Yes
4A – 3 OBJECTIVE	Design incorporates shading and glare control, particularly of warmer months	Yes
4B – 1 OBJECTIVE	All habitable rooms are naturally ventilated	Yes
4B – 2 OBJECTIVE	The layout and design of single aspect apartments maximises natural ventilation	Yes
4B – 3 OBJECTIVE	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment	Yes

	for residents	
4B – 3 DESIGN CRITERIA	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only in any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	Yes
4C – 1 OBJECTIVE	Ceiling height achieves sufficient natural ventilation and daylight access	Yes
4C – 1 DESIGN CRITERIA	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: • 2.7m for habitable rooms • 2.m for non-habitable rooms • Two-story apartments: 2.7m for main living area floors and 2.4 metres for second floor, where its area does not exceed 50% of the apartment area • attic spaces: 1.8m at edge of room with a 30 degree minimum ceiling slope • it located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use These minimums do not preclude higher ceilings if desired	Yes
4C – 2 OBJECTIVE	Ceiling height increases the sense of space in apartments and provided for well-proportioned rooms	Yes
4C – 3 OBJECTIVE	Ceiling heights contribute to the flexibility of building use over the life of the building	Yes
4D – 1 OBJECTIVE	The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity	Yes
4D – 1 DESIGN CRITERIA	1. Apartments are required to have the following minimum internal areas: • 35m² for studio apartments • 50m² for 1 bedroom apartments • 70m² for 2 bedroom apartments • 90m² for 3 bedroom apartments The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.	Yes

	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each. 2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	
4D – 2 OBJECTIVE	Environmental performance of the apartment is maximised.	Yes
4D – 2 DESIGN CRITERIA	1. Habitable room depths are limited to a maximum of 2.5x the ceiling height 2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Yes
4D – 3 OBJECTIVE	Apartment layouts are designed to accommodate a variety of household activities and needs	Yes
4D – 3 DESIGN CRITERIA	1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space) 2. Bedrooms have a minimum dimensions of 3m (excluding wardrobe space) 3. Living rooms or combined living/ dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Yes
4E – 1 OBJECTIVE	Apartments provide appropriately sized private open space and balconies to enhance residential amenity	Yes
4E – 1 DESIGN CRITERIA	All apartments are required to have primary balconies as follows: • Studio apartments: minimum area of 4m² • 1 bedroom apartments: minimum area of 8m² and minimum depth of 2m • 2 bedroom apartments: minimum area of 10m² and minimum depth of 2m • 3+ bedroom apartments: minimum area of 12m² and minimum depth of 2.4m The minimum balcony depth to be counted as contributing to the balcony area is 1m. 2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead	Yes

	of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.	
4E – 2 OBJECTIVE	Primary private open space and balconies are appropriately located to enhance liveability for residents	Yes
4E – 3 OBJECTIVE	Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	Yes
4E – 4 OBJECTIVE	Private open space and balcony design maximises safety	Yes
4F – 1 OBJECTIVE	Common circulation spaces achieve good amenity and properly service the number of apartments	Yes
4F – 1 DESIGN CRITERIA	1. The maximum number of apartments off a circulation core on a single level is eight 2. For buildings of 10 storey and over, the maximum number of apartments sharing a single lift is 40	Yes
4F – 2 OBJECTIVE	Common circulation spaces promote safety and provide for social interaction between residents	Yes
4G – 1 OBJECTIVE	Adequate, well designed storage is provided in each apartment	Yes
4G – 1 DESIGN CRITERIA	1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: • 1 bedroom apartments: 6m³ • 2 bedroom apartments: 8m³ • 3+ bedroom apartments: 10m³ At least 50% of the required storage is to be located within the apartment	Yes
4G – 2 OBJECTIVE	Additional storage is conveniently located, accessible and nominated for individual apartments	Yes
4H – 1 OBJECTIVE	Noise transfer is minimised through the siting of buildings and building layout	Yes
4H – 2 OBJECTIVE	Noise impacts are mitigated within apartments through layout and acoustic treatments	Yes
4J – 1 OBJECTIVE	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	N/A
4J – 2 OBJECTIVE	Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission	Yes
4K – 1 OBJECTIVE	A range of apartment types and sizes is provided to cater for different household types now and into the future	Yes

4K – 2 OBJECTIVE	The apartment mix is distributed to suitable locations within the building	Yes
4L – 1 OBJECTIVE	Street frontage activity is maximised where ground floor apartments are located	Yes
4L – 2 OBJECTIVE	Design of ground floor apartments delivers amenity and safety for residents	Yes
4M – 1 OBJECTIVE	Building facades provide visual interest along the street while respecting the character of the local area	Yes
4M – 2 OBJECTIVE	Building functions are expressed by the facade	Yes
4N – 1 OBJECTIVE	Roof treatments are integrated into the building design and positively respond to the street	Yes
4N – 2 OBJECTIVE	Opportunities to use roof space for residential accommodation and open space are maximised	Yes
4N – 3 OBJECTIVE	Roof design incorporates sustainability features	Yes
40 – 1 OBJECTIVE	Landscape design is viable and sustainable	Yes
40 – 2 OBJECTIVE	Landscape design contributes to the streetscape and amenity	Yes
4P – 1 OBJECTIVE	Appropriate soil profiles are provided	Yes
4P – 2 OBJECTIVE	Plant growth is optimised with appropriate selection and maintenance	Yes
4P – 3 OBJECTIVE	Planting on structures contributes to the quality and amenity of communal and public open spaces	Yes
4Q – 1 OBJECTIVE	Universal design features are included in apartment design to promote flexible housing for all community members	Yes
4Q – 2 OBJECTIVE	A variety of apartments with adaptable designs are provided	Yes
4Q – 3 OBJECTIVE	Apartment layouts are flexible and accommodate a range of lifestyle needs	Yes
4R– 1 OBJECTIVE	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	N/A
4R – 2 OBJECTIVE	Adapted buildings provide residential amenity while not precluding future adaptive reuse	N/A
4S – 1 OBJECTIVE	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Yes

4S – 2 OBJECTIVE	Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	Yes
4T – 1 OBJECTIVE	Awnings are well located and complement and integrate with the building design	N/A
4T – 2 OBJECTIVE	Signage responds to the context and desired streetscape character	N/A
4U – 1 OBJECTIVE	Development incorporates passive environmental design	Yes
4U – 2 OBJECTIVE	Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	Yes
4U – 3 OBJECTIVE	Adequate natural ventilation minimises the need for mechanical ventilation	Yes
4V– 1 OBJECTIVE	Potable water use is minimised	Yes
4V – 2 OBJECTIVE	Urban stormwater is treated on site before being discharged to receiving waters	Yes
4V – 3 OBJECTIVE	Flood management systems are integrated into site design	Yes
4W – 1 OBJECTIVE	Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents	Yes
4W – 2 OBJECTIVE	Domestic waste is minimised by providing safe and convenient source separation and recycling	Yes
4X – 1 OBJECTIVE	Building design detail provides protection from weathering	Yes
4X – 2 OBJECTIVE	Systems and access enable ease of maintenance	Yes
4X – 3 OBJECTIVE	Material selection reduces ongoing maintenance costs	Yes

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

Prepared for
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Job No. 18012
October 2019

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LIST OF APPENDICES

1. INTRODUCTION

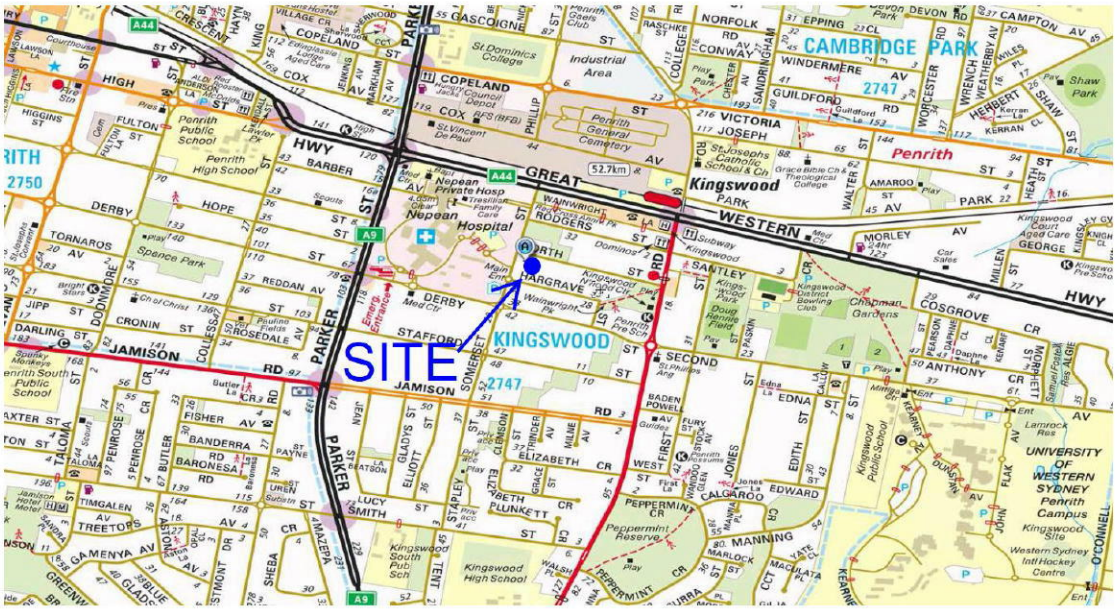
This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) for demolition of existing buildings and construction of a 7 storey mixed use building, comprising basement car parking, a 2 level commercial podium and 5 levels of apartments above, at 26 Somerset Street and 38-40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

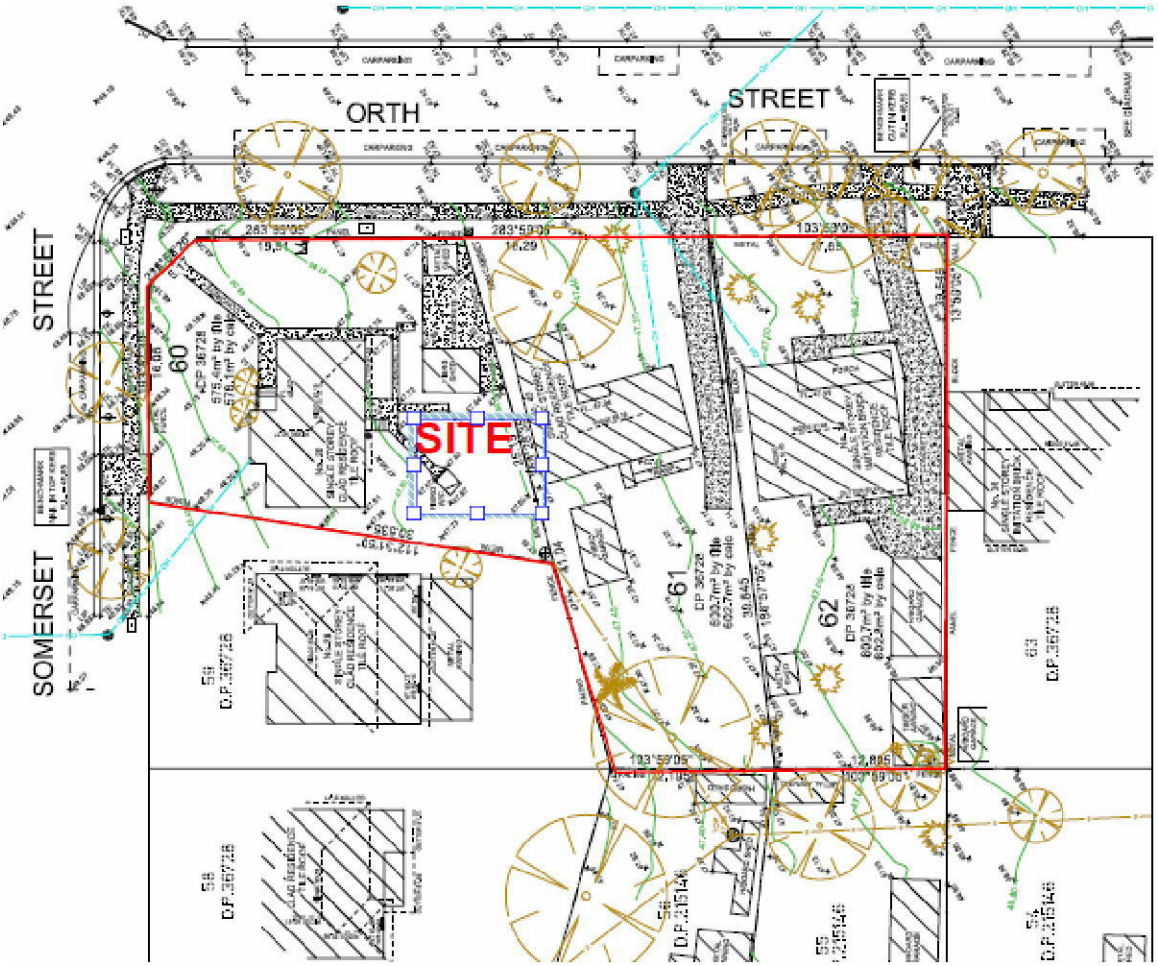
Figure 1 - Location



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

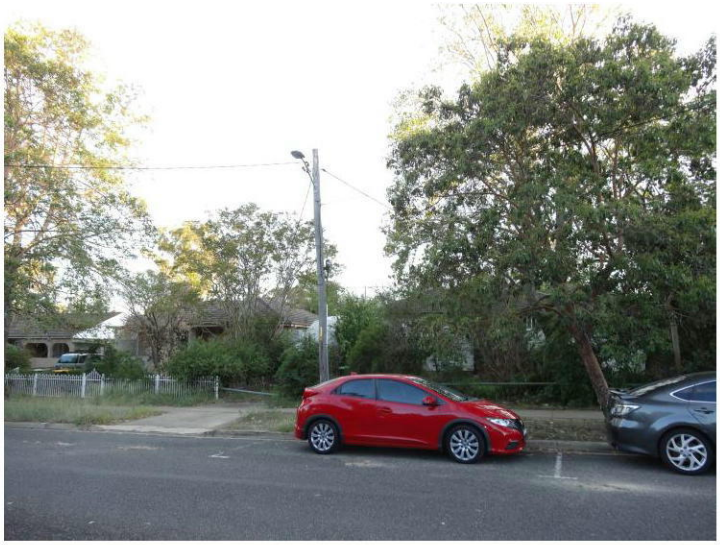


Photo 1

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.

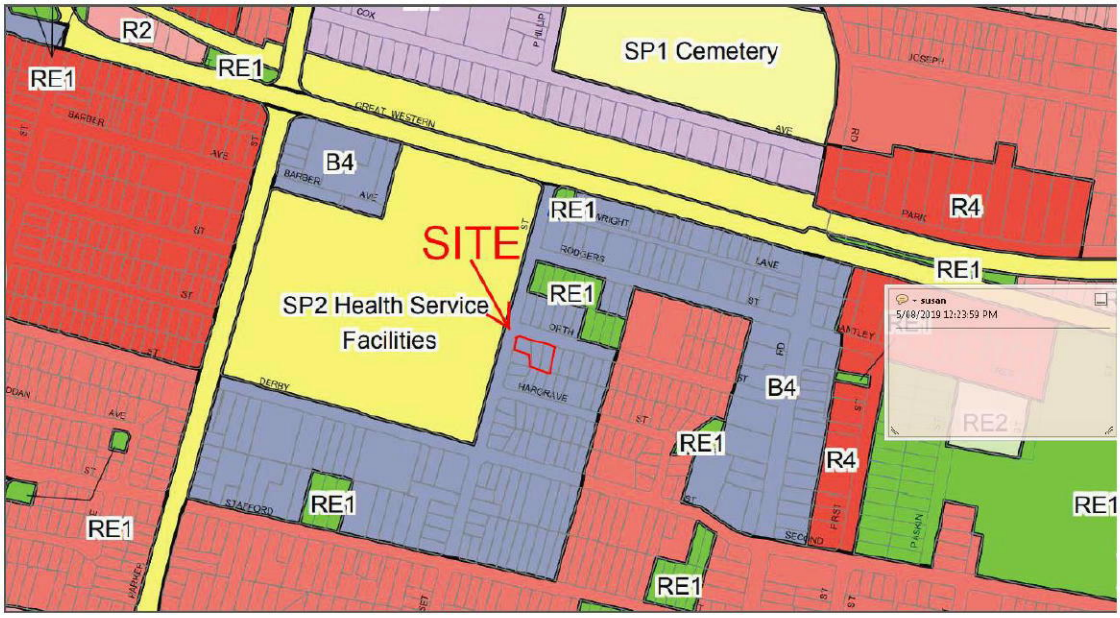
A total assessable gross floor area (GFA) of 5,146.638m2 is proposed, equating to a floor space ratio (FSR) of 2.889:1. Site coverage of 1,255.995m2 (70.5% of site area)) and landscaped area of 897m2 (50.4% of site area) are proposed. Landscaped area includes a deep soil area of 299.286m2 (16.24% of 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.*

.

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>
<tr>
<td>Table E12.2 Maximum site cover and minimum deep soil zone

<table>
<tr><td>Character Area</td><td>Max Site Cover</td><td>Min Deep Soil Zone (% of Site Area)</td></tr>
<tr><td>Commercial Mixed Use and Medical Mixed Use</td><td>75%</td><td>10%</td></tr>
</table>
Note: Council may consider 100% site coverage on land within the Commercial Mixed Use character area along the Great Western Highway only.</td>
<td>A minimum deep soil area of 299.286m2 is proposed. This equates to a readily compliant 16.24% of site area.</td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td>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.</td>
<td>YES</td>
</tr>
<tr>
<td>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.</td>
<td>Full site coverage is not proposed.</td>
<td>N/A</td>
</tr>
<tr>
<td>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.</td>
<td>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.</td>
<td>YES</td>
</tr>
<tr>
<td>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).</td>
<td>The deep soil zone is clear of structures, works and excavation.</td>
<td>YES</td>
</tr>
</table>

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