

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/1236
Proposed development:	Demolition of Existing Garage & Fit-Out & Use of Existing Dwelling as Health Consulting Rooms
Property address:	77 Lethbridge Street, PENRITH NSW 2750
Property description:	Lot 15B DP 344265
Date received:	16 October 2015
Assessing officer	Kate Smith
Zoning:	Zone R4 High Density Residential - LEP 2010
Class of building:	Class 9a
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for the conversion of an existing dwelling to health consulting rooms at 77 Lethbridge Street Penrith. Under State Environmental Planning Policy (Infrastructure) 2007, the proposal is defined as health service facility and is permitted in the R4 High Density zone with the consent of Council.

Concern was raised regarding the location of the development within a high density zone, however, given the size of the lot and surrounding development it is unlikely in the short term that the site would be suitable for higher density residential development. It is considered that this type of development in the current situation is compatible with the residential character of the area.

The application has been notified to adjoining properties and exhibited between 22/10/2015 and 5/11/2015.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is situated on the northern side of Lethbridge Street approximately 30m west of the intersection of Doonmore Street and Lethbridge Street. The site is 558m² in area and is square in shape. The site has a frontage of 23.16m.

The site contains an existing dwelling, which is the subject of the conversion, and a detached secondary dwelling. The site is surrounded by a mixture of low and medium density residential development and is in close proximity to Penrith City Centre.

Proposal

The application seeks approval to convert an existing dwelling to health consulting rooms.

The development includes the following aspects:

- internal alterations to the existing dwelling to create one consulting room, a surgery room, filing room, waiting area and staff room;
- the demolition of the existing secondary dwelling on the site;
- construction of a new car parking area x 5 car parking spaces (inc. 1 accessible space);
- complementary landscaping across the front of the site; and
- accessible ramp into the building from the driveway.

The building will be used by one medical practitioner at any one time. The proposed hours of operation are Monday to Friday 8am - 5pm and Saturday 8am - 12pm.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

State Environmental Planning Policy (Infrastructure) 2007

Division 10 of State Environmental Planning Policy (Infrastructure) 2007 provides controls relating to Health Services Facilities. The proposed development is suitably defined as a health service facility which means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

Clause 57(1) provides for the development of 'health services facilities' to be carried out by any person with consent on land in a prescribed zone. In this case, an R4 High Density zone is considered a prescribed zone. As such, the proposed health services facility is permissible with consent.

There are no other provisions within this policy or clause relevant to the subject application.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Does not comply - See discussion

Clause 2.3 Permissibility

The proposed health services facility is a prohibited form of development in the zone. Notwithstanding the provisions of the LEP, the proposal is permissible with consent under Clause 57(1) of State Environmental Planning Policy (Infrastructure) 2007.

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

Development Control Plan 2014

Provision	Compliance
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	Complies
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A

Section 79C(1)(a)(iv) The provisions of the regulations

Subject to the imposition of conditions of consent, Council's Building Surveyor has raised no objection to the proposed development regarding fire safety considerations as prescribed under the *Environmental Planning and Assessment Regulation 2000*.

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

Future character of the area

Concern was raised whether the location of the development was unsuitable given the R4 High Density zoning of the site. In this instance, the development does not meet the minimum lot requirements for high density housing such as a residential flat building or town house style development. In addition, the subject site is positioned between an existing dual occupancy and townhouse development. Despite the high density zoning it is unlikely that these sites will redevelop in the short term and that the use of the site for medical related services is suitable.

Neighborhood amenity

To ensure that the development does not impact on the amenity of the area and remains compatible with residential developments throughout the operation and management of the facility, recommended conditions of consent will restrict the number of practitioners operating from the site as well as the hours of operation to those supplied in the application.

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

The site is considered suitable for the proposed development.

Section 79C(1)(d) Any Submissions

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	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions

Development Engineer

Council's Engineers advised that the site is located within an area where on-site detention is mandatory. However, in accordance with Council's policy 'Stormwater Drainage For Building Developments' existing developments that result in an increase of impervious area of less than 10% or 100m² may not require OSD. The proposed development is increasing the amount of hard stand area by approximately 11m² across the site and in this case the proposal does not require OSD given the minor nature of the works.

Further, it is considered given the current R4 high density zoning and existing developments in the locality that this use may only be in the short term and OSD would be required when the site is re-developed entirely.

Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

With the recommended conditions of consent, the development is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing residential character of the surrounding developments.

Recommendation

1. That DA15/1236 for the fit-out and use of an existing dwelling as health consulting rooms at 77 Lethbridge Street Penrith, be approved subject to the attached conditions.

CONDITIONS

General

1 A001

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

Drawing	Drawing Ref	Revision	Prepared By	Dated
Architectural Plans	01 - 10	A	Bio-Building Design Pty Ltd	29/06/2015
Landscape Plan	1614LAN1	A	Bio Engineered Solutions Pty Ltd	19/08/2015
Stormwater Drainage	102236-1	-	Kneebone, Beretta & Hall Pty Ltd	25/08/2015

2 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

The development shall not be used or occupied until an Occupation Certificate has been issued.

3 A024 - HEALTH CARE CONSULTING ROOM

The health care consulting rooms shall not:

- involve more than one (1) health care professional operating from the site at any one time,
- provide health care services to persons other than outpatients of the health care consulting room,
- employ more than one (1) employee in connection with the health care services provided by the health care consulting room,
- involve any procedures such as x-rays, ultrasounds, cat scan, radiography, pathology tests or the like.

4 A029 - HOURS OF OPERATION AND DELIVERY TIMES

The approved operating hours are from 8:00 am to 5:00 pm Monday to Friday, and 8:00 am to 12:00 pm Saturday. Delivery and service vehicles generated by the development are limited to these times.

5 A039 - Graffiti

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

6 A046 - Obtain Construction Certificate before commencement of works

A **Construction Certificate** shall be obtained prior to commencement of any building works.

Demolition

7 B001 - Demolition of existing structures

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

8 B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE

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

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

9 B003 - ASBESTOS

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

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

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

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

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

10 B004 - Dust

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

11 B005 - Mud/Soil

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

12 B006 - Hours of work

Demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

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

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

Environmental Matters

13 D001 - Implement approved sediment& erosion control measures

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

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

14 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

15 D009 - Covering of waste storage area

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

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

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

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

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

17 **D014 - Plant and equipment noise**

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

18 **D026 - Liquid wastes**

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

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

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

BCA Issues

19 **E001 - BCA compliance**

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

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

(b) formulating an alternative solution which:

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

20 **E006 - Disabled access and facilities**

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility".

21 **E009 - Annual fire safety-essential fire safety (Class 2-9 buildings)**

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

(a) deal with each essential fire safety measure in the building premises, and

(b) be given:

- within 12 months after the last such statement was given, or
- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
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As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

22 E01A - BCA compliance for Class 2-9

A portable fire extinguisher is to be installed and an installation certificate obtained prior to the issue of an Occupation Certificate.

Health Matters and OSSM installations

23 F182 - Health Care Premises – toilets and waiting areas

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

24 F184 - Waste disposal containers

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

25 F185 - Dental treatment rooms

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

Construction

26 H002 - All forms of construction

Prior to the commencement of construction works:

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

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

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

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

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

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

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

27 H032 - Painting

Prior to the issue of an Occupation Certificate, the building is to be painted internally and externally in a colour scheme that complements surrounding residential developments.

28 [H041 - Hours of work \(other devt\)](#)

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

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

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

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

29 [H041 - Hours of work \(other devt\)](#)

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

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

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

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

Engineering

30 [K201 - Infrastructure Bond](#)

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Councils adopted fees and charges.

An application form together with an information sheet and conditions are available on Councils website.

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

31 [K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS](#)

Prior to the issue of any Construction Certificate, a S138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council. Penrith City Council is the Roads Authority for any works required in a public road.

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

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Opening of road reserve for the provision of stormwater drainage.

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

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

Note: Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. All works associated with the Roads Act approval must be completed prior to the issue of an Occupation Certificate or Subdivision Certificate as applicable.

32 [K209 - Stormwater Discharge – Minor Development](#)

Stormwater drainage from the site shall be discharged to the:

- a) Street drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

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

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

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith Development Control Plan 2014.

34 [K Special Condition BLANK](#)

Prior to the issue of an Occupation Certificate, the vehicular crossing shall be reconstructed to have minimum width of 5.5m

Landscaping

35 [L001 - General](#)

All landscape works are to be constructed in accordance with the stamped approved plan and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

36 [L002 - Landscape construction](#)

The approved landscaping for the site must be constructed by a suitably qualified landscape professional.

37 [L006 - Aust Standard](#)

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

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

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

The existing landscaping as shown on the approved landscape plan shall be retained and maintained at all times.

Payment of Fees

39 [P002 - Fees associated with Council land \(Applies to all works & add K019\)](#)

Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

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

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

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

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

41 [Q05F - Occupation Certificate for Class10](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the building as health consulting rooms.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

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