

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0538
Proposed development:	Conversion of a Dwelling to Health Care Consulting Rooms & Construction of Car Parking
Property address:	194 Bennett Road, ST CLAIR NSW 2759
Property description:	Lot 1142 DP 259309
Date received:	21 July 2021
Assessing officer	Donna Clarke
Zoning:	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone R2 Low Density Residential - LEP 2010
Class of building:	Class 9a
Recommendations:	Approve

Executive Summary

Council is in receipt of Development Application 21/0538 proposing a health service facility under State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) at Lot 1142 DP 259309, 194 Bennett Road St Clair.

As Council has received over 10 unique submissions objecting to the proposed development, the application will be reported to and determined by the Penrith Local Planning Panel.

The subject site is located is zoned R2 Low Density under Penrith Local Environmental Plan 2010. The proposal is defined as a health service facility and while such a use is not identified within the subject site's R2 zone under the Penrith Local Environmental Plan 2010 as permissible with consent, it is a permitted use within the subject zone under Clause 57 of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP).

The development application was advertised in local newspapers and notified to all adjoining and adjacent property owners and placed on public exhibition from 2 August 2021 to 16 August 2021. During this period, Council received 12 submissions.

Key issues identified for the proposed development include parking, hours of operation, safety and amenity impacts.

An assessment under Section 4.15 of the EP&A Act 1979 (as amended) has been undertaken and the application is recommended for approval subject to appropriate conditions.

Site & Surrounds

The site is identified as Lot 1142 DP 259309, 194 Bennett Road St Clair and contains a single storey dwelling with garage. The site is located on the corner of Bennett Road with McLaren Grove and has an area of 809m².

The site has a formal driveway to Bennett Road and a secondary gate for informal vehicular access from McLaren Grove. A brick wall is provided to both street frontages, as well as along the side boundaries to the adjoining dwellings.

The site is located within a residential area. St Clair Shopping Centre and Leisure Centre is located 500m to the north of the site and various other commercial businesses are located within the residential area including child care centres, home businesses, out of school care, hairdresser, dentist and the medical practice which is currently operated by the applicant is located at 168 Bennett Road, St Clair approximately 400m north of the subject site. St Clair Primary and High Schools are also located next to St Clair Shopping Centre, as well as recreational areas.

Background

On 20 August 2001, Council granted consent to DA 00/5472 for Health Consulting Rooms on the subject site. Notably, the consent includes the following requirements and restrictions via conditions of consent:

- 12 month timeframe for the use after issue of the Occupation Certificate, with the need for a further DA for continuance of the use.
- Parking Management Strategy to be implemented.
- The 'health care consulting room' shall not involve use of the premises by more than two health care professionals, contain more than two consulting rooms, provide health care services to persons other than outpatients of the health care consulting room, employ more than three employees (two health care professionals and one receptionist) in connection with the health care services provided by the health care consulting room, or involve procedures such as x-rays, ultrasounds, cat scan, radiography, pathology tests or the like.
- The number of outpatients booked/visiting the site is to be limited, and subject to an appointment system so as to ensure that vehicles associated with the health care consulting room can be predominantly parked on the site.
- The approved hours of the health care consulting room are from 8am to 6pm Mondays to Fridays, and from 9am to 12noon on Saturdays. The development is not to function on Sundays and public holidays.
- Signage comprised a Doctor's cube and two directional signs within the two front setbacks.
- The brick wall facing McLaren Grove, with the exception of the 2.5m return, shall be demolished and replaced with 1.2m high open style fencing (eg. pool fencing) and associated landscaping to ensure that the car park area is visible from McLaren Grove at the same time as providing security to the site. A gate that does not open out onto the road reserve and in line with the fencing shall also be provided across the 5.5m wide driveway (off McLaren Grove) to provide security to the site outside the approved operating hours. This gate is to remain open only during the approved operating hours.
- Provision of concrete footpath to both street frontages of the property.
- Provision of a 1 m driveway splay west of the driveway (off McLaren Grove).
- Increase the width of the driveway to 6m (off Bennett Road) and 5.5m (off McLaren Grove).
- Direct access to the building being provided from the rear, adjacent the car park.
- Closure of the access to the building from Bennett Road.
- Deletion of the gate adjacent to the "waiting room window".
- The pathway in front of the doctor's room shall be replaced with landscaping.
- A submission is to be made to Council's Local Traffic Committee seeking consideration to the imposition of 'No Stopping' zone restrictions.
- The three parking spaces, including the garage space, that is accessed off Bennett Road shall be designated for use by the two health care professionals and a staff member of the health care consulting rooms. The six parking spaces located at the rear of the site are to be made available for patients of the health care consulting rooms at all times during the approved operating hours.

Proposal

The proposed development comprises the conversion of a dwelling house to a health service facility under State

Internal fit out works

- Two (2) doctor's consulting rooms
- One (1) treatment room
- A reception desk with open waiting room
- Two (2) bathrooms (a staff toilet and accessible bathroom)
- Kitchen

Demolition works

- Removal of fixed glass panels and replacement of existing front entrance door to accommodate expansion of entrance for equitable access
- Removal of bedroom wardrobe and hallway cupboard to provide wider internal walkway for equitable access
- Demolition of internal nib walls to expand proposed reception/waiting room
- Demolition of internal bathroom walls to create an accessible bathroom and a separate staff only toilet (accessible via treatment room)
- Demolition of rear veranda and brick columns including paving
- Demolition of detached rear pergola and shed structures to accommodate new landscaping
- Demolition of side gate from Bennett Road frontage to accommodate equitable access
- Partial demolition of side boundary wall to accommodate suitable vehicular access from McLaren Grove

New Construction work

- Bricking up garage window to north-western elevation (to match existing) to comply with BCA requirements
- Construction of driveway layback at McLaren Grove and expansion of existing driveway layback at Bennett Road
- Replacement of flooring throughout to achieve compliance with accessibility requirements

External works

- Construction of new ramp to front entrance of Bennett Road to achieve equitable access
- Paving and associated drainage works to rear yard to accommodate new car park
- New landscaping works throughout the site incorporating a range of trees and low-lying shrub plantings

Hours of operation

- 8am-6pm Monday to Friday (more specifically 8am – 12pm for the morning session and 2:30pm – 6pm for the afternoon session)
- 8am-12pm Saturdays, Sundays and Public Holidays.
- Consultations are by appointment only.
- Typical patient appointment times vary between 10-30 minutes each.

Staff

- A maximum of two (2) medical practitioners will operate at any given time.
- One (1) administration/support staff.

Parking

- Eight (8) off-street parking spaces on the site, with three (3) spaces allocated to staff and five (5) allocated to patrons.
- Ambulance loading bay adjacent the rear entrance of the facility.
- Parking for staff will be accessed via Bennett Road.
- Parking for visitors will be provided in the rear carpark accessed via McLaren Grove.

Signage

- 1 x Doctor's surgery illuminated red light box and 2 x Business identification signs both 610mm x 910mm.

- The signs will sit flush with the façade wall and will be located either side of the front entrance.
- The signage will provide details of the business name, address, contact number, hours of operation and doctor's names.

Waste

- Waste will be disposed of using the residential waste and recycling bins.
- Clinical waste (including sharps and contaminated waste) will be disposed of (as needed) via private waste contractors.

Plans that apply

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

Planning Assessment

• **Section 4.15 - Evaluation**

The proposal 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 7.12 - Developer Contributions**

While Section 7.11 (previously Section 94) contributions do not apply to the proposed development, the development is subject to contribution considerations under the adopted Section 7.12 Contribution Plan. The development however does not generate a Section 7.12 contribution requirement either as the cost of works is less \$100,000.00

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

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) provides for greater flexibility in the location of infrastructure and service facilities across the State. Division 10 'Health service facilities' of the ISEPP allows for health service facilities to be provided within prescribed zones. The following definition of a health service facility is provided under Clause 56 of the ISEPP;

"health service facility 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 of the ISEPP allows for development permitted with consent. Clause 57(1) reads as follows;

"(1) Development for the purpose of health service facilities may be carried out by any person with consent on land in a prescribed zone.

A prescribed zone means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Primary Production Small Lots,*
- (b) RU5 Village,*
- (c) RU6 Transition,*
- (d) R1 General Residential,*
- (d1) R2 Low Density Residential,*
- (e) R3 Medium Density Residential,*
- (f) R4 High Density Residential,*
- (g) R5 Large Lot Residential,*
- (g1) B1 Neighbourhood Centre,*
- (h) B2 Local Centre,*
- (i) B3 Commercial Core,*
- (j) B4 Mixed Use,*
- (k) B5 Business Development,*
- (l) B6 Enterprise Corridor,*
- (m) B7 Business Park,*
- (m1) B8 Metropolitan Centre,*
- (n) SP1 Special Activities,*
- (o) SP2 Infrastructure"*

The subject site is located within a R2 Low Density zone which is identified as a prescribed zone under Clause 57 of the ISEPP. In this regard, as the proposal is for a health service facility, the proposed development is a permissible use and may be carried out subject to development consent.

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 noting that the site is not on a classified road and has no connection to a classified road within 90m of the site. In addition, referral would be required to the RMS where there are 200 or more beds provided to a hospital and this application does not meet the trigger.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

The subject site is located outside of the Western Sydney Aerotropolis. However, the SEPP (Western Sydney Aerotropolis) 2020 contains a map that relates to wildlife buffer areas. This map is titled the "Wildlife Buffer Zone Map". The map shows that the subject site is within a 'wildlife buffer zone' of the airport.

The Aerotropolis SEPP commenced on 1 October 2020, before the development application was lodged. Consideration has been given to Clause 21 of the SEPP and the proposed development. The objective of Clause 21 is to regulate development on land surrounding the airport site where wildlife may present a risk to the operation of the airport. Certain types of development then trigger the requirements for further consideration under Clause 21. The proposed development, is not one of the types of uses that warrant additional consideration under the SEPP with regard to wildlife and the operation of the airport.

The subject site is also identified as being located within the Obstacle Limitation Surface Map. Clause 24 of the SEPP relates to development that would penetrate the prescribed air space for the airport and be a 'controlled activity'. The proposed development neither penetrates the prescribed air space, nor is it a controlled activity, therefore not triggering any additional considerations under this clause.

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 (SEPP 55) outlines the following requirements that a consent authority 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 or indication that the subject site is contaminated. The proponent has outlined that the site has been historically used for residential purposes. The historical use and location of the development and site suggests little likelihood for any onsite contamination as the land has not been the subject of recent agricultural use, nor is there any suggestion or evidence of any land contaminating activities previously occurring. The most notable source of potential contamination will be during the demolition phase of the development which can be managed as outlined in the recommended conditions of consent. Council's Environmental Management Department were satisfied that the key considerations in the SEPP have been suitably met to confirm that the site is suitable for the proposed development (noting a similar development has already been approved on the site in the past).

As a result, it is considered that the proposed development is compliant with the provisions of SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against the relevant criteria within the *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997)* and the application is satisfactory subject to recommended conditions of consent. The proposal suitably addresses and complies with water quantity and water quality management measures as outlined within Council's Water Sensitive Urban Design Policy and Stormwater Management Policies. This compliance addresses the relevant considerations within Clause 6 of the SREP instrument. Clause 11 which outlines development specific controls is not relevant to the proposed development.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.1 Earthworks	Complies
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

Clause 2.3 Permissibility

The provision of a *health service facility* is not identified within the subject site's R2 Low Density zoning as being specified in Item 2 (Permitted without consent) or Item 3 (Permitted with consent) within the Penrith Local Environmental Plan 2010 'Land Use Table' and may be defined therefore as a prohibited use.

While so, as discussed previously within this report, the provision of a health service facility is permitted under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP (ISEPP) 2007. In this regard, no concern is raised in this instance in regard to the permissibility of the proposed use noting that the provisions of the ISEPP override the provisions of the Penrith Local Environmental Plan 2010 (PLEP) where there is an inconsistency between the ISEPP and the PLEP.

Clause 2.3 Zone objectives

The objectives for a R2 Low Density zone within the Penrith Local Environmental Plan 2010 are as follows;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.*
- *To enhance the essential character and identity of established residential areas.*
- *To ensure a high level of residential amenity is achieved and maintained.*

The provision of a health service facility is considered to satisfy the objectives provided for the subject site's R2 zoning as it will allow for other land uses which will service the day to day needs of residents. The use of the existing dwelling retains the features and qualities of the form of buildings in the area and the low scale nature of the medical practice comprising two doctors and one staff member, as well as on site parking, ensures residential amenity is maintained.

It is considered that the objectives of the zone are met by the proposed development.

Clause 4.3 Height of buildings

The proposed development does not increase the height of the building from existing, which is one storey and well below the maximum height limit of 8.5m.

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

The only Draft State Environmental Planning Policy that is applicable to the proposed development is the Draft Remediation of Land SEPP. The intention of this draft SEPP was to repeal SEPP 55 however the Draft EPI has not progressed since its public exhibition in 2018. The draft provisions do not alter requirements for development to demonstrate that the land is suitable or can be made suitable, and therefore the Draft Instrument has no further considerations beyond what has already been addressed within commentary against SEPP 55 in this report.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	N/A
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Does not comply - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	Complies - see Appendix - Development Control Plan Compliance
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
D5.11 Boarding Houses	N/A

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

There are no planning agreements applying to the proposal or subject site.

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

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the Environmental Planning and Assessment Regulation 2000.

Council's Building Surveyor reviewed the proposal and noted that under the Environmental Planning and Assessment Regulation 2000 Clause 143 a certifier must not issue a CC unless;

" the fire protection and structural capacity of the building will be appropriate to its new use, and "

" the building will comply with such of the Category 1 fire safety provisions as are applicable to the new use".

Under the Environmental Planning and Assessment Regulation 2000 Clause 94 Council can include conditions on the consent requesting upgrade works to comply with the BCA. Conditions will be recommend for compliance with Parts C, D, and E of the BCA.

The building has a floor area of approximately 146m² so the applicable Category 1 provisions would be minor and will need to be determined by the PCA issuing the CC. A BCA report has been submitted verifying this requirement and advising that further details are to be provided with the CC application. The SOEE also states that the proposal will be *"capable of achieving deemed compliance with the relevant BCA requirements"*.

Appropriate conditions of consent have been recommended.

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

Context and Setting

This form of low scale medical use is appropriate to be located within a residential area and provides a service to the nearby residents. The location on a corner is ideal and the site meets the requirements of ISEPP and where applicable D5 the DCP for this form of development.

The existing building form and scale as single storey will remain and the amended building is appropriate in regard to considerations of scale and bulk which is compatible with its surrounds. Appropriate landscaping and accessible pathway has been incorporated into the plans.

Privacy

The layout of the car parking, proposed landscaping and building entry will ensure that privacy impacts are minimised for adjoining dwellings. Further, a condition of consent is recommended for the existing boundary wall to be repaired or replaced with a new dividing fence with a minimum height of 1.8m to ensure that the privacy for the two immediately adjoining dwellings is maintained.

Noise

Given that the development proposes two consulting rooms and one waiting room with three staff and limited clients (as stated by appointment only) it is not anticipated that offensive noise will be generated. Given the location and similar type of businesses along the same stretch of road, any noise produced will have minimal impact on the surrounding environment. The carpark and entry to the building have been sited to provide maximum separation to the existing dwellings to minimise noise impacts.

The application proposes hours of operation 7 days a week. Given this is a residential area, it is not considered appropriate to allow 7 day operation. The original consent under DA 00/5472 allows for Monday to Saturday, with no operations on Sundays or Public Holidays. This is considered a more suitable outcome and conditions of consent have been recommended which limit the hours of operation. In the future, should it be demonstrated that there are no adverse noise impacts from the facility as a result on going operation, the applicant may lodge an application to extend the hours of operation which would be considered on its merits at that time.

Air and Odour

It is not anticipated that there will be any air quality or odour impacts due to the development.

Waste Management

The application is considered to have adequately demonstrated that the proposed waste management arrangements associated with future tenancies will be adequately catered for. It is considered that appropriate areas have been provided for by the proposal for both general waste and clinical waste storage.

Water Management

Comments provided from Council's Development Engineering and Water Management Departments have also indicated that drainage works proposed in association with the development will comply with Council's Water Sensitive Urban Design Policy. The proposed development will connect to existing systems, including roads.

The addition of a rainwater tank and a bio-retention swale will allow water conservation and is sufficient in addressing concerns regarding water management on site.

Accessibility

The proposal either complies with, or can comply with, the relevant accessibility provisions within the Building Code of Australia, Premises Standard and Penrith DCP 2014.

Social & Socio-Economic Impacts

The development is not considered likely to result in any negative social impact in the area. The proposal has been assessed against the principles and objectives contained within the Penrith DCP specifically those related to safety and security and is compliant in this regard. The development of the site as a health service facility is in accordance with the aims of the Penrith LEP 2010.

Public Health

The application details indicate that skin penetration equipment will be sterilised onsite, an autoclave has been identified in the plans however a single wash basin for the sole purpose of washing of equipment has not been provided. Conditions of consent will be recommended to ensure an equipment wash sink is provided with a supply of warm water, soap, and paper towels.

The plans show the treatment room and consult room 1 as separate rooms. The treatment room is required to have a hand wash basin with a supply of warm water, soap, and paper towels. The hand wash basin in the toilet cannot be used for washing of hands prior to performing treatment on a patient. Conditions of consent will be recommended to ensure that this is provided.

The plans indicate the treatment room indicates carpeting on the flooring, this flooring is inappropriate for effective cleaning of spills and bodily fluids. Conditions of consent will be recommended to ensure that the floor of the treatment room is constructed of materials that are durable, smooth, impervious to moisture and capable of being easily cleaned.

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

The proposal is considered to have addressed the constraints of the subject site, in particular with regard to the interface with the adjoining residential dwellings.

Overall, the subject site is deemed suitable for the development for the following reasons:

- The development is permissible with consent and consistent with the zone objectives.
- The development is considered compatible with the desired future land uses expected for a low density residential area and supports the residents.
- Stormwater from the site is able to drain to Council's satisfaction.
- The site is adequately serviced by transport, water and sewage infrastructure which has the capacity to cope with any increase in demand associated with the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

Between 2 August 2021 to 16 August 2021, the Application was advertised and notified to adjoining and nearby residences. Twelve (12) individual submissions were received, as well two submissions from the same people clarifying or expanding upon their earlier submission. The following issues were raised:

Issue Raised	Comment
Traffic & Parking:	Council's Engineers reviewed the proposal and information provided and raised no objections in terms of traffic generation and the capacity within the existing road network. The applicant's information is used by Council's Engineer's as one component of their review and does not form the basis for suitability on its own.
- Already issues with parking impacting traffic movements, especially from driveways.	The proposed Convex Mirror is not supported by Council's Engineers.
- Traffic impacts on quiet cul-de-sac.	
- Who will maintain the Convex mirror.	With respect to parking, the DCP requirements are satisfied, with 7 spaces required and 8 proposed (including the existing garage).
- No footpaths or pedestrian crossings and should be provided.	Accessible parking is required as a percentage of the parking required, not in addition to. As such, the 1 accessible space is satisfactory and is not required in addition to the 7 spaces generated by the development.
- Overflow parking will spill onto McLaren Grove and Bennett Rd, removing parking on-street for residents and obstructing driveways and garbage collection.	A condition of consent is recommended which restricts the number of practitioners to 2 and staff to 1, to correspond with the available on-site car parking.
- Turning out of McLaren Grove is already difficult and a fatality occurred in this section. McLaren is only a narrow, light residential street.	A condition of consent is also recommended for directional signage within the frontage / setback which indicates on-site parking is available from McLaren Grove and that staff should be advising patients to park on-site and not in surrounding streets. This will assist with education of patients and less on-street overflow parking.
- Insufficient car parking and does not meet DCP requirements.	This DA cannot consider the cumulative impact of other undetermined DA's as there is no certainty they will be supported.
- Disabled space can only be used by permit holder.	
- Number of practitioners should be restricted and not allowed to increased to ensure traffic and parking impacts addressed.	

- Unclear if Covid was considered in traffic data and was for only 2 days.
- Proposal places extra pressure on McLaren Grove and Bennett Rd, and up to Roper Road which is being enlarged for airport.
- No directional signage to carpark or parking management strategy. Current practice has signage advising patients not to park onsite, forcing parking on the street.
- Cumulative impact from this DA and nearby child care DA under assessment.

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| <p>Amenity:</p> <ul style="list-style-type: none"> - Noise from commercial use in residential area. - Application incorrectly identifies garage adjoining at No. 192 Bennett Rd, not a carport and bedroom, which will be affected by noise. - Noise from vehicles, as well as car doors opening and closing. - Noise impacts for shiftworkers. - Light spill from headlights, in particular during winter. - Hours of Operation excessive for weekends and should not be on Sundays or Public Holidays. | <p>There will be potential for noise and light impacts from the site during operational hours, however these are considered to be manageable.</p> <p>Conditions of consent have been recommended which require the boundary wall to be made structurally sound and/or replaced with a new boundary fence which is of solid construction.</p> <p>The hours of operation are recommended by way of a condition of consent to be limited to not allow Sunday or Public Holiday operations.</p> |
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Safety: The principles of Crime Prevention Through Environmental Design (CPTED) have been considered with respect to the proposed development. The proposed layout allows for access control via one main clearly marked entry, clear and unobstructed pathways, no hidden recesses and provides for casual surveillance from the building to all areas of the site. A condition of consent is recommended to ensure that the operation of the premises reduces opportunities for crime by incorporating security systems, such as alarms and CCTV, and appropriate signage is provided that indicates cash and medicine is not stored on the premises.

- Loss of feeling of safety with medical use introduced.
- Potential safety issues for children.
- Concerned about potential after hours criminal activities and drug use.
- Traffic will make unsafe for children riding bikes and skating in the cul-de-sac.
- Existing brick walls around all boundaries are unstable and requires maintenance. Previous DA in 2001 requires structural certification, but not undertaken.
- Asbestos.

A condition of consent is also recommended which requires the existing walls to be repaired and deemed structurally sound, or replaced with new appropriate fencing / wall, as well as standard conditions regarding removal and disposal of asbestos.

All vehicles will be entering and leaving the visitor car park and onto McLaren Grove in a forward direction, which will assist with the safety of children playing in the cul-de-sac.

Loss of property value.

This is not a matter for consideration in the assessment of the development application under the Environmental Planning & Assessment Act.

Planning Controls:

- Not permissible.
- Businesses are creeping into residential areas.
- Should not be located on a cul-de-sac or no through road.

Whilst the proposed use is not permissible within the zone, the provision of a health service facility is permitted under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP (ISEPP) 2007. In this regard, no concern is raised in this instance in regard to the permissibility of the proposed use noting that the provisions of the ISEPP override the provisions of the Penrith Local Environmental Plan 2010 (PLEP) where there is an inconsistency between the ISEPP and the PLEP.

The R2 zone objectives encourage the location of facilities or services to meet the day to day needs of residents within residential zones.

Council's DCP states that "health consulting rooms should not be located in a cul-de-sac or on a no through road". Given the location of the site on the corner, at the entrance to McLaren Grove, the intent of the control is still satisfied. The intent is to avoid these types of facilities being located within the cul-de-sac head where there is limit room for parking or manouvering and greater opportunity for congestion.

Waste:

- Rubbish / litter along Bennett Rd that residents pick up currently and should be responsibility of the owner.
- Concerned that the site will not be maintained and remain dilapidated given the same owners.

An appropriate condition of consent has been recommended which requires the site and verge to be kept tidy and free of litter or waste at all times.

Drainage: The assessment by Council Officers has concluded that there is adequate infrastructure in the area to withstand the proposal and that stormwater can be managed adequately with disposal to a legal point of discharge.

- Current water issues between subject site and No. 2 McLaren Grove, with water seeping and not drainage, primarily due to dilapidation, lack of repair or maintenance on subject site.

Site Suitability: Relocation and/or expansion of the business to the current site is a commercial decision and not a matter for consideration in the assessment of the development application under the Environmental Planning & Assessment Act. The DA indicates that the existing practice is relocating to the subject site.

- Current site is more suitable, being closer to other services, easier to park, closer to public transport. Questions the need to relocate and if this site will be a second location for the surgery.

- Previous 2001 Development Application for medical use with 3 practitioners on the site was rejected or restrictive conditions imposed. Unsure if the current application is truthful that there will only be 2.

DA00/5472 for Professional Consulting Rooms was approved at the Council Meeting of 20 August 2001. The DA was originally deferred at the Council meeting of 23 April 2001 and after being deferred for an on-site meeting, re-considered on 6 August 2001 pending additional information regarding the stability of the brick fence along the western boundary and suitability of landscaping on sight lines at the intersection. The 2001 consent included conditions of consent which clearly restricted the number of practitioners and staff, which have been replicated as draft conditions of consent.

Conflict of Interest / Dishonesty / Inappropriate Dealings may have occurred. Council is not aware of any conflict of interest, dishonesty or inappropriate dealings.

Unauthorised works: Council's Compliance Team can separately investigate reported unauthorised works (including tree removal) and take action if deemed necessary.

- tree removal in May 2021. The proposed plans indicate that the awning is to be removed and the area replaced by landscaping. A condition of consent is recommended which requires this area to remain uncovered and landscaped at all times.

- Awning erected without consent and blew off and damaged No. 2 McLaren Grove.

With respect to the internal referrals, Council's Engineers have indicated they do not support the proposal given the staff / practitioner car parking spaces require vehicles to reverse into Bennett Road. The reversing manouvre however is considered to be no different to the existing situation of the dwelling house where residents are required to reverse into the public road. While a health services facility is not a residential dwelling, the duration of stay for staff parking is similar to that of a residential occupant as these spaces are used long term throughout the day. Further the parking arrangement in this location is consistent with the 2001 approval. Refer to further discussion under DCP assessment. Notwithstanding this concern, appropriate conditions of consent have been provided.

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, however conditions provided
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Traffic Engineer	Not supported, however conditions provided

Section 4.15(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposed works are considered to be consistent with the relevant planning provisions. Subject to compliance with conditions of any development consent, the proposal is considered worthy of support.

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. While the provision of a Health Service Facility is a prohibited use under the site's R2 Low Density zoning, it is a permitted use within the subject zone under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP 2007.

The proposal will provide for a built form which is considered to be consistent with the objectives of the R2 Low Density zone under the Penrith Local Environmental Plan and Part D5 of Penrith Development Control Plan 2014.

The proposal is not considered to create an unacceptable amenity impact to surrounding properties in regard to amenity impacts.

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 been found to be satisfactory. The site is suitable for the proposed development and the proposal subject to compliance with conditions is in the public interest. The proposal is therefore worthy of support.

Recommendation

1. That DA 21/0538 for a health service facility under State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) at Lot 1142 DP259309, 194 Bennett Road St Clair be approved subject to the attached conditions.
2. That the individuals who made a submission be advised of this decision and of the consideration given to their concerns.

CONDITIONS

General

1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as may be amended in red or by the following conditions within this consent:-

Plan No.	Plan Title	Prepared By	Revision	Date
A0.1	Cover Sheet, Notes & Abbreviations	Lara's Design	D	7/6/21
A1.1	Existing Site / Demolition Plan	Lara's Design	D	7/6/21
A1.2	Proposed Site / Landscape Plan	Lara's Design	E	8/7/21
A2.1	Existing / Demolition Floor Plan	Lara's Design	D	7/6/21
A2.2	Proposed Floor Plan / Street Elevation & Sign	Lara's Design	E	8/7/21
210431	Stormwater Plans	Engineering Studio	B	16/6/21
Report / Document Title		Prepared By		Date
Design Compliance Report		BCA Vision		1/6/21
Waste Management Plan		L. Gibson		20/7/21

2 [A019 - OCCUPATION CERTIFICATE \(ALWAYS APPLY\)](#)

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

3 [A025 - Sign on Residential property](#)

The health services facility shall be restricted to the following signage:

- 1 x doctor's cube,
- 2 x Business identification signs both 610mm x 910mm on the windows either side of the entrance door;
- 1 x sign (maximum dimensions 1.2m x 0.6m) in the front yard facing Bennett Road directing access and parking at the rear,
- 1 x sign (maximum dimensions 1.2m x 0.6m) to be erected on the fence facing McLaren Grove directing access and parking at the rear.

With regard to points 3 and 4 above, the applicant shall submit details of the location, height and the following wording "Access and parking only at the rear" to Penrith City Council for approval prior to the installation of the signs.

Signage in accordance with this condition shall be erected prior to the commencement of operation of the health services facility.

No other signs, other than signage prescribed by this condition, are to be displayed on the property.

4 [A029 - HOURS OF OPERATION AND DELIVERY TIMES](#)

The operating hours are from 8am to 6pm Mondays to Fridays and 8am to 12pm Saturdays.

Delivery and service vehicles generated by the development are limited to the hours stated above.

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.

7 [A19f - Compliance Certificate \(use instead of A019 for other devt earthworks subdivision\)](#)

Prior to the issue of the Construction Certificate the requirements of Clause 143 of the Environmental Planning and Assessment Regulation 2000 are to be addressed.

8 **A Special (BLANK)**

The site and verges are to be kept tidy and free of litter or waste at all times.

9 **A Special (BLANK)**

A parking management strategy for the development is to be prepared and submitted to Council for approval.

The strategy is to be approved prior to the issue of a Construction Certificate for the development. The strategy is to show the measures that the applicant/operators of the health care consulting rooms will employ to actively ensure that patients, visitors and staff of the health care consulting room are, in most circumstances, parking in accordance with the development consent.

The number of outpatients booked/visiting the site is to be limited, and subject to an appointment system so as to ensure that vehicles associated with the health care consulting room can be predominantly parked on the site.

The approved parking management strategy shall be implemented on commencement of operation of the health care consulting room.

10 **A Special (BLANK)**

The health services facility shall not:

- involve use of the premises by more than two health care professionals,
- contain more than two consulting rooms,
- provide health care services to persons other than outpatients of the health care consulting room,
- employ more than a total of three employees (two health care professionals and one receptionist) in connection with the health care services provided by the health services facility,
- involve procedures such as x-rays, ultrasounds, cat scan, radiography, pathology tests or the like.

11 **A Special (BLANK)**

To ensure no obstruction for vehicles and safety of the site:

- The brick wall facing McLaren Grove, with the exception of the 2.5m return (subject to structural integrity or replacement), shall be demolished and replaced with 1.2m high open style fencing (eg. pool fencing) and associated landscaping to ensure that the car park area is visible from McLaren Grove at the same time as providing security to the site.
- A gate that does not open out onto the road reserve and in line with the fencing shall also be provided across the driveway (off McLaren Grove) to provide security to the site outside the approved operating hours. This gate is to remain open only during the approved operating hours.
- The type of trees and their location on the corner of Bennet Road and McLaren Grove are to ensure they do not introduce any intrusion into the motor vehicle drivers' sightlines.
- Landscaping adjacent to the Bennett Road driveway is to be maintained to a maximum height of 1.0m that allows for unimpeded sight lines for motorists and pedestrians.

Details of the replacement fencing, gate and landscaping are to be submitted to Penrith City Council for approval prior to the issue of the Construction Certificate. Prior to the preparation of the drawings, the applicant shall liaise with Council in respect to the appropriate planting species and pot sizes to ensure that the aim of this condition is achieved.

12 **A Special (BLANK)**

Prior to the issue of a Construction Certificate, a structural engineer's certificate certifying to the structural adequacy of the existing brick fence, for its full length and on all boundaries is to be submitted and any identified deficiencies in the wall corrected.

Alternatively, details are to be submitted Prior to the issue of a Construction Certificate of the new replacement boundary fencing, as agreed with the adjoining landowners for the two portions along common boundaries and having a minimum height of 1.8m.

Prior to the issue of an occupation certificate, boundary fencing work to satisfy the above requirements, are to be completed by the applicant at the applicants expense.

13 **A Special (BLANK)**

To prevent crime, the operation of the premises is to incorporate security systems, such as alarms and CCTV, and appropriate signage is provided that indicates cash and medicine is not stored on the premises. A gate is to be provided to the visitor car parking area and is to remain closed when the facility is not in operation.

Details of the security measures are to be included on the Construction Certificate plans.

14 **A Special (BLANK)**

The existing pergola in the northern corner of the site is to be removed and replaced with landscaping, as per the stamped approved plans. This area is to remain uncovered at all times.

Demolition

15 **B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE**

In accordance with the Environmental Planning and Assessment Regulation 2000 Clause 94 the building is to be upgraded to comply with Parts C, D, and E of the Building Code of Australia. Details are to be provided with the Construction Certificate application.

16 **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**.

17 **B004 - Dust**

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

Environmental Matters

18 **D001 - Implement approved sediment& erosion control measures**

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

{Note: Visit www.urbangrowth.nsw.gov.au to obtain a copy of the publication.}

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until [the landscaping, driveway and on-site parking areas have been completed for the development]**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

19 **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.

20 D010 – Appropriate disposal of excavated or other waste

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

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

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

BCA Issues

21 E006 - Disabled access and facilities

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

22 E01A - BCA compliance for Class 2-9

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

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

(b) formulating an alternative solution which:

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

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

Health Matters and OSSM installations

23 F006 - Water tank & nuisance

The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

24 F111 - Premises construction

The walls and floor of the treatment room/s are to be constructed of materials that are durable, smooth, impervious to moisture and capable of being easily cleaned. No exposed brickwork, timber or carpet is permitted.

25 F112 - Hand wash basin

A hand wash basin in the treatment room/s is to be provided where skin penetration procedures are to be carried out. The hand wash basin is to have a supply of clean, warm, potable water provided through a single spout. The hand wash basin/s is also to be supplied with appropriate hand cleaning and drying equipment (i.e. pump pack antibacterial soap and disposable paper towels).

26 F113 - Designated sink for cleaning

Provide a designated sink (separate to the hand wash basin) that has a supply of clean, warm water provided through a single spout for the cleaning of equipment (if equipment used in skin penetration procedures at the premises is cleaned at the premises).

27 F114 - Equipment sterilisation - Autoclave

Any equipment used to penetrate the skin or which is capable of penetrating the skin, must be sterilised in a Therapeutic Goods Administration (TGA) approved autoclave prior to reuse. If reusable articles are sterilised at the premises, a bench top autoclave is to be supplied and operated in accordance with Australian Standard "AS/NZS 4815:2006 *Office-based health care facilities - Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment*"

28 F116 - Autoclave record keeping - onsite

Adequate sterilization records, including the time and date the item was sterilized, the length of time the equipment was sterilised and the temperature and pressure of the autoclave must be kept on the premises. These records must be kept for at least 12 months.

29 **F118 - Sterile needles & sharps**

All needles and sharps that penetrate the skin are to be sterile.

30 **F119 - Sharps containers**

An appropriate sharps container must be provided at the premises that complies with either AS/NZS 4261:1994 *"Reusable containers for the collection of sharps items used in human and animal medical applications"*, if reusable sharps are used; or that complies with AS 40311992 *"Non-reusable containers for the collection of sharp medical items used in health care areas"*, if non-reusable sharps are used.

31 **F120 - Sharps disposal**

All sharps generated from the operation of the business must be disposed of at a licensed waste facility. Receipts for disposal must be kept at the premises and available for inspection by an authorised officer upon request. Details of how sharps will be disposed (e.g. details of waste contractor, frequency of disposal etc) must be provided to Council prior to the issuing of the occupation certificate and commencement of the business.

32 **F122 - Staff belongings**

Staff belongings and other items not associated with the business shall be kept completely separate from skin penetration activities and equipment and maintained in a clean condition.

33 **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

Utility Services

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

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

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

35 **G004 - Integral Energy**

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

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

Construction

36 H001 - Stamped plans and erection of site notice

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

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

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

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

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

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

37 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 back filling 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.

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

Construction works or subdivision 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

39 [K101 - Works at No Cost to Council](#)

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

40 [K201 - Infrastructure Bond](#)

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

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

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

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

The development is required to provide a continuation of the existing footpath along the McLaren Road frontage of the site.

Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road).

These works must include the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths to both road frontages
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures where required (including temporary construction work zones and tower crane operation)

These works may also include:-

- i) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- ii) Temporary construction access
- iii) Temporary ground anchors (for basement construction)

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

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

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

42 [K209 - Stormwater Concept Plan](#)

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Engineering Studio , reference number 210431, revision B, dated 16/06/2021.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

43 [K210 - Stormwater Management](#)

The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Engineering Studio, reference number 210431, revision B, dated 16/06/2021.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

Engineering plans and supporting calculations for the stormwater management system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

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

Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, and AS2890.6.

Note: The above requirement excludes staff parking as accessed from Bennett Road which is to be provided as per that approved on the stamped plans detailed within Condition 1.

All parking spaces must be appropriately sealed.

A bike rack is to be provided within the car parking area (to accommodate two bikes) and be in accordance with AS 2890.3.

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

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

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

46 [K405 - Turf to Verge](#)

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

47 [K501 - Penrith City Council Clearance - Roads Act / Local Government Act](#)

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

48 [K502 - Works as executed – General and Compliance Documentation](#)

Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

49 **K503 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

50 **K503 - Works As Executed - Stormwater Management**

Prior to the issue of any Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifier.

51 **K504 - Restriction as to User and Positive Covenant**

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

52 **K504 - Stormwater Compliance**

Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the stormwater management systems (including water sensitive urban design):

- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
- have met the design intent with regard to any construction variations to the approved design, and;
- Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

53 **K505 - Restriction on the Use of Land and Positive Covenant**

Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the stormwater management systems (including water sensitive urban design) shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

54 **K601 - Stormwater Management System Operation and Maintenance**

The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

55 **K - Waterways - Stormwater Management system operation and maintenance**

The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s

56 **K Special (BLANK)**

Vehicles (excluding those entering the site from Bennett Road) must enter and exit the site in a forward direction without the need to conduct more than a three point turn.

57 **K Special (BLANK)**

Sight distance requirements at driveways are to be in accordance with AS 2890.2 Figure 3.2 and Figure 3.3

Landscaping

58 **L001 - General**

All landscape works are to be constructed in accordance with the stamped approved plan, Sections F5 "Planting Techniques", F8 "Quality Assurance Standards" and F9 "Site Management Plan" of Penrith Council's Landscape Development Control Plan.

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.

59 **L003 - Report requirement**

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 2 landscape works.

i. Implementation Report

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

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

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 2 landscape works.

60 **L005 - Planting of plant**

All plant material associated with the construction of approved landscaping is to be planted in accordance with Penrith Development Control Plan 2014 - Appendix F4 – Technical Information.

61 [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.

Development Contributions

62 [Noise](#)

In the event of Council receiving a complaint regarding excessive noise, the person(s) in control of the premises from where the noise is emanating may be directed by Council to, at their own cost, arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying any need for proposed methods for the control of noise emanating from the premises.

Certification

63 [Q006 - Occupation Certificate \(Class 2 - 9\)](#)

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

64 [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.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

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 generally 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 considered to comply in that, the design of the health services facility within the existing building is of an acceptable bulk and scale in the context of the location and is compliant with the maximum permissible height expressed for the site within the Penrith Local Environmental Plan 2010.

The car parking layout is considered to be appropriate to allow for convenient access by visitors.

C5 Waste Management

The DCP does not include controls specific to a health service development. Notwithstanding this, an assessment has been made of the proposal against applicable objectives and general waste controls relating to the practical and sustainable management of waste at the site.

The waste management plan provided was sufficient in addressing any waste impacts by the development. Waste will be disposed of using the residential waste and recycling bins and clinical waste (including sharps and contaminated waste) will be disposed of (as needed) via private waste contractors.

C9 Advertising and Signage

The development application has identified areas on the building façade / frontage where proposed tenancy signage is to be provided and includes 1 x Doctor's surgery illuminated red light box and 2 x Business identification signs both 610mm x 910mm. The signs will sit flush with the façade wall and will be located either side of the front entrance. The signage will provide details of the business name, address, contact number, hours of operation and doctor's names.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 allows for Business Identification Signage without consent. Whilst the proposed signage is considerably smaller than permitted under the SEPP, the signage has been broken into two, being either side of the doorway on a window. To be Exempt Development, the Business Identification Signage is limited to one sign per frontage and not on a window. As such, consent is required for the proposed signage.

The DCP allows for only one business identification sign to be erected on the property in association with the approved business or activity being conducted on the land and in residential zones, the business identification sign is not to exceed 3m² and must not be illuminated. Each sign has an area of 0.55m², which cumulatively has an area of 1.1m². This is well below the maximum area permitted for the signage and it is a superior design outcome to be either side of the entry, providing balance to the façade.

Directional signage is to be provided by way of recommended conditions of consent to ensure that the visitor car park is clearly identified for users.

C10 Transport, Access and Parking

The proposal has been assessed against the provisions of this Section and is found to be acceptable.

Clause 10.2 Car Parking Rates provides the following parking rates for health consulting rooms / medical centres:

Health Consulting Rooms / Medical Centres

3 spaces per health care professional practicing at any one time
plus 1 space per receptionist/support staff,
plus 1 space per associated dwelling

The proposal includes 2 health care professionals and 1 receptionist/support staff. No residential use remains.

Based on this, 7 spaces are generated.

The rate of 3 spaces per health care professional practicing at any one time includes 1 spaces for the practitioner, 1 space for the current patient and 1 space for the waiting patient. As such, of the 7 spaces generated, 3 are for staff and 4 are for visitors.

The proposal provides:

- Eight (8) off-street parking spaces on the site, with 3 spaces allocated to staff and 5 allocated to patrons.
- Ambulance loading bay adjacent the rear entrance of the facility.
- Parking for staff will be accessed via Bennett Road.
- Parking for visitors will be provided in the rear carpark accessed via McLaren Grove.

The proposed development satisfies the numerical requirements of the DCP.

Council's Engineers have raised concern regarding the staff parking arrangement within the existing driveway and garage accessing Bennett Rd as these vehicles cannot enter/exit in a forward direction and internal dimensions of the existing garage do not meet AS 2890.1.

The garage is an extra space beyond the DCP requirements and is an existing structure which is not easily capable of being altered. The garage currently functions and will continue to do so by a staff member, who will be familiar with the garage, not visitors to the site.

This type of arrangement of reversing out of a space is usually only supported for residential single dwellings, however the two spaces affected are allocated to staff and therefore will be utilised for less movement's, unlike the visitor spaces within the new car parking area. This is an existing situation which is managed by the current dwelling. There is not expected to be high traffic movements from these spaces given that the user of the space will be a doctor or staff, who will be running the clinic and their vehicle will be parked there for the day. This will likely be a reduced number of movements from these spaces onto Bennant Rd given the change from a dwelling house.

It is also noted that the car parking layout is consistent with the approved stamped plan (marked up in red) under DA 00/5472, which was deemed acceptable by Council by granting of consent.

As such, the traffic and parking arrangements are considered to be satisfactory and appropriate conditions of consent are recommended.

D5 Other Land Uses

The provision of a health service facility is permitted under Clause 57 of the State Environmental Planning Policy (Infrastructure) SEPP (ISEPP) 2007. In this regard, the provisions of the ISEPP override the provisions of the Penrith Local Environmental Plan 2010 (PLEP) and Penrith Development Control Plan (PDCP) where there is an inconsistency between the ISEPP and PLEP and PDCP.

Importantly, ISEPP does not restrict the location of a health service facility and therefore overrides any restriction in the DCP.

Section 5.3 of the DCP contains controls specifically related to Health Consulting Rooms, as outlined in the table below.

1) Location

a) Health consulting rooms in residential areas shall not include procedures such as Xrays, ultrasounds, cat-scans, radiography, pathology tests or the like. These services are to be separated from residential activities and only located either in or immediately adjacent to commercial centres or precincts established specifically for other nonresidential activities.

A condition of consent is recommended which restricts these uses. This is consistent with the condition imposed on DA 00/5472.

b) Health consulting rooms shall not be located on sites where they are likely to have a significant impact on adjoining and surrounding residences, including but not limited to traffic and noise impacts.

Given the small scale nature of the operations and the recommended conditions of consent which limit the number of medical practitioners to two and ancillary staff to 1, the overall intensity of the use is limited and considered appropriate within the context in which it is located.

Noise impacts will be addressed by way of repair or new boundary fencing / wall and associated new landscaping, as per the plans. The entry has been centrally located on the building, away from the neighbouring dwellings, in order to quickly and easily allow access for the visitors from the car park to the building, with minimal impact upon the neighbouring properties.

There will be an increase in traffic given the change of land use from a single dwelling to a health services facility. However, the recommended conditions of consent require a Parking Management Strategy and booking system to be implemented, as well as limits on practitioner and staff numbers, and signage to advise of parking on site. These measures will all assist to limit the impact upon the road network.

c) Health consulting rooms should not be located in a cul-de-sac or on a no through road, or in a location where additional vehicles may create traffic conflict or an adverse impact on the amenity of the area.

Given the location of the site on the corner, at the entrance to McLaren Grove, the intent of the control is still satisfied. The intent is to avoid these types of facilities being located within the cul-de-sac head where there is limited room for parking or manouvering and greater opportunity for congestion. Further, the ISEPP does not restrict the location of a health service facility and is considered to overrides this clause as a DCP provision cannot prohibit an otherwise permissible development. The site was deemed suitable for health consulting rooms in 2001 by way of granting of consent to DA 00/5472 and this current application is consistent with that development.

d) The site is to have a minimum effective lot width of 18m to provide sufficient area for parking and access, as well as achieve an appropriate separation between the development and adjoining properties.	Both frontages exceed the 18m requirement.
2) Access and Parking	
a) Parking areas shall be easily accessible from the street and suitably screened by landscaping. Vehicular access into the car parking area is to include a landscaped area, which will act as a noise and visual buffer to adjoining properties. Parking areas, where possible, are to be located to the rear of sites where they do not impact on streetscape character.	The proposed car parking satisfies these requirements.
b) Parking for a health consulting room shall be provided at the rate specified in the Transport, Access and Parking section of this Plan.	Complies. Refer to discussion under Chapter C10 of the Penrith DCP.
c) In instances where one practitioner is operating as a home business, the parking arrangements will be assessed on merit.	Not applicable.
3) Visual and Noise Impact	
a) Landscaping is to be established and maintained to adequately screen the development from adjoining residential properties. Landscaping shall be established prior to the use commencing.	Complies.
b) The development is to be compatible with the existing residential streetscape. Renovations and/or additions, which seek to remove the residential character of the dwelling house, will not be supported.	The overall appearance remains as a single dwelling house, which retains the character and the streetscape.
c) The scale and character of the development is to be compatible with surrounding residential development.	The scale of the development remains in keeping with the surrounding residential environment.
d) Fencing shall be of a height, design and material suitable to contain noise generated from cars accessing and parking within the site, while being compatible with the residential environment.	No new fencing is proposed. However, conditions of consent are recommended for the front fencing and any side boundary fencing to be repaired or replaced.
e) Business identification signs should be appropriately designed and located to ensure that it is visually compatible with the surrounding development.	The proposed signage is considered to be acceptable. Refer to discussion under C9 of the DCP.
f) A standard doctors' 'cube' (having minimum dimensions of 3m by 4m) may be erected in the front boundary setback of the property.	A doctor's cube has been included.
The proposal is considered to be acceptable with respect to Section 5.3 of the DCP.	