

**MODIFICATION REQUEST:
Nepean Health Precinct - Mixed Use
Development**

- **Concept Plan Modification
(MP09_0197 MOD 1)**
- **Stage 1 Project Modification
(MP09_0220 MOD 1)**



Description of Modification Request

- reduction in GFA
- reduction in height of Building A
- reconfigured land uses in Buildings A and B
- reduced and reconfigured car parking
- modification to the levying of Section 94 contributions

Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

April 2013

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1. BACKGROUND

This report is an assessment of a modification application lodged under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act), by Aesthete No. 3 (the proponent), seeking approval to modify the concept plan and Stage 1 project approval for the Nepean Health Precinct Mixed Use Development, Kingswood (MP09_0197 MOD 1 and MP09_0220 MOD 1).

1.1 The Site

The Nepean Health Precinct Mixed Use Development site is located at the corner of Parker Street and the Great Western Highway, Kingswood, within the Penrith Local Government Area. The site is legally described as Lot 1 in DP 1093052, Lots 4-6 in DP 29524, and Lot 100 in DP 701623. The approved project location is shown in Figure 1.

Figure 1: Project Location



1.2 Approval History

On 17 August 2011, the Deputy Director-General, Development Assessment and Systems Performance, as delegate of the Minister for Planning and Infrastructure, approved a concept plan and Stage 1 project application for the Nepean Health Precinct Mixed Use Development, for the following:

Concept Plan

- Demolition of existing buildings on site.
- Construction of three new mixed use buildings with a combined total GFA of 35,750 sqm to be constructed across two stages of development, including:
 - o Stage 1:
 - Construction of 2 x 7 storey buildings (Building A and B) with a combined GFA of 25,062 sqm.
 - o Stage 2:
 - Construction of 1 x 7 to 8 storey building with a GFA of 10,688 sqm.

- Construction of three basement levels of car parking and at-grade car parking, and vehicular egress on to the Great Western Hwy.
- Provision of landscaping and construction of associated stormwater, infrastructure and utilities.

Stage 1 Project Application

- Demolition of existing buildings on site.
- Construction of 2 x 7 storey buildings (Building A and Building B) with a combined GFA of 25,062 sqm.
- Construction of basement and at-grade car parking.
- Provision of landscaping and construction of associated stormwater, infrastructure and utilities.

The layout of approved development is shown in Figure 2, with Stage 1 outlined in red and Stage 2 outlined in blue. Additionally, the northern elevation (from the Great Western Highway), and the western elevation (from Parker Street) of the approved development is shown in Figures 3 and 4.

Figure 2: Project Layout and Access (Stage 1 outlined in red and Stage 2 outlined in blue)

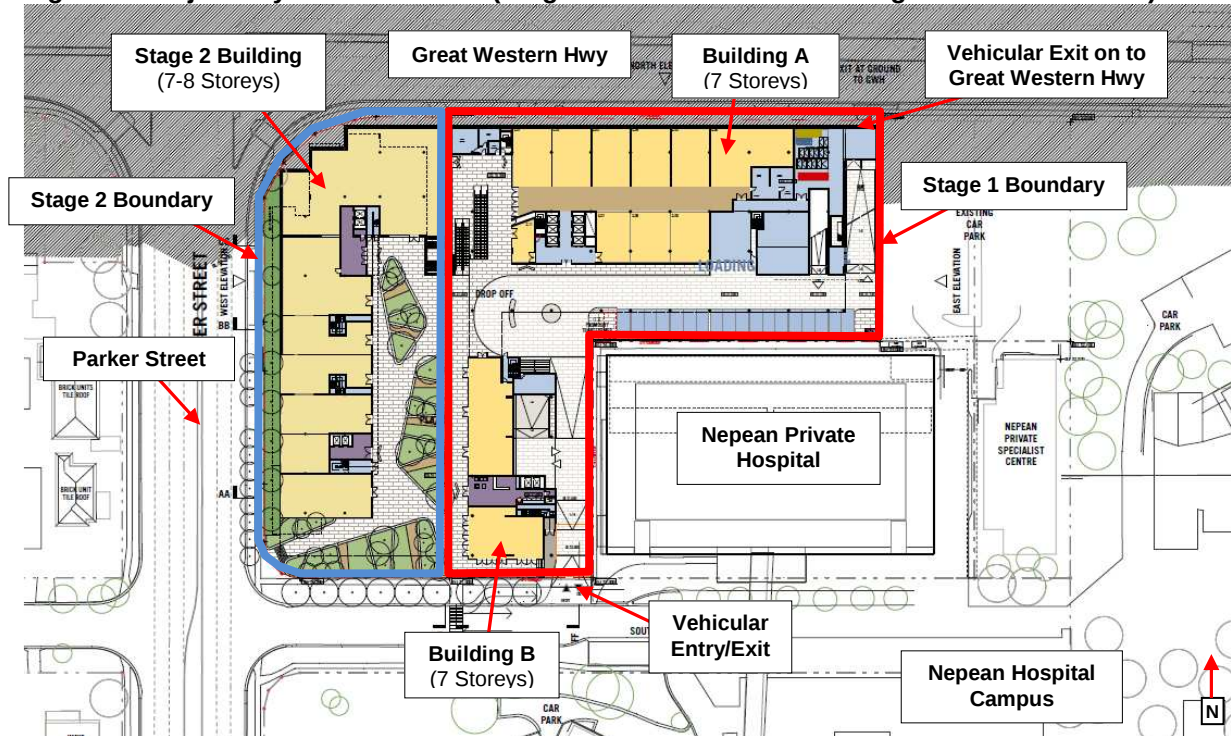


Figure 3: North Elevation (as seen from the Great Western Highway)

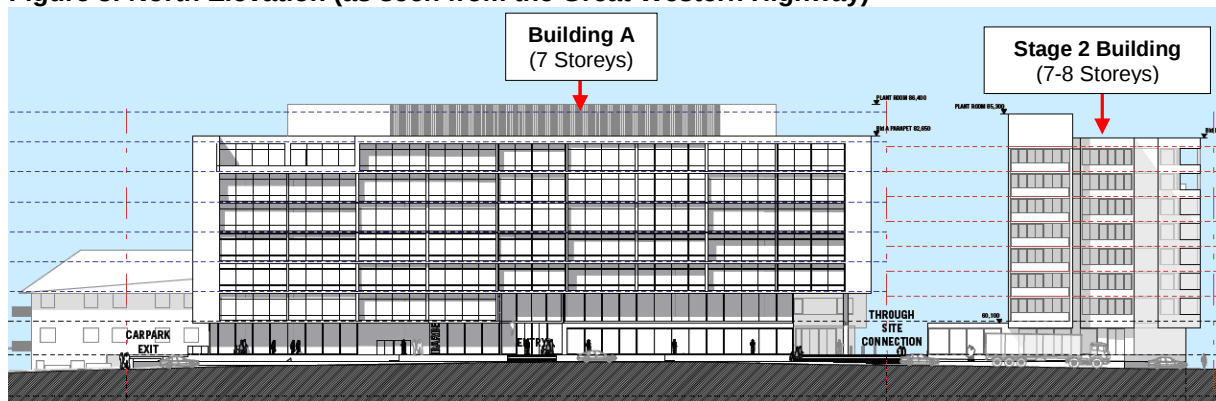
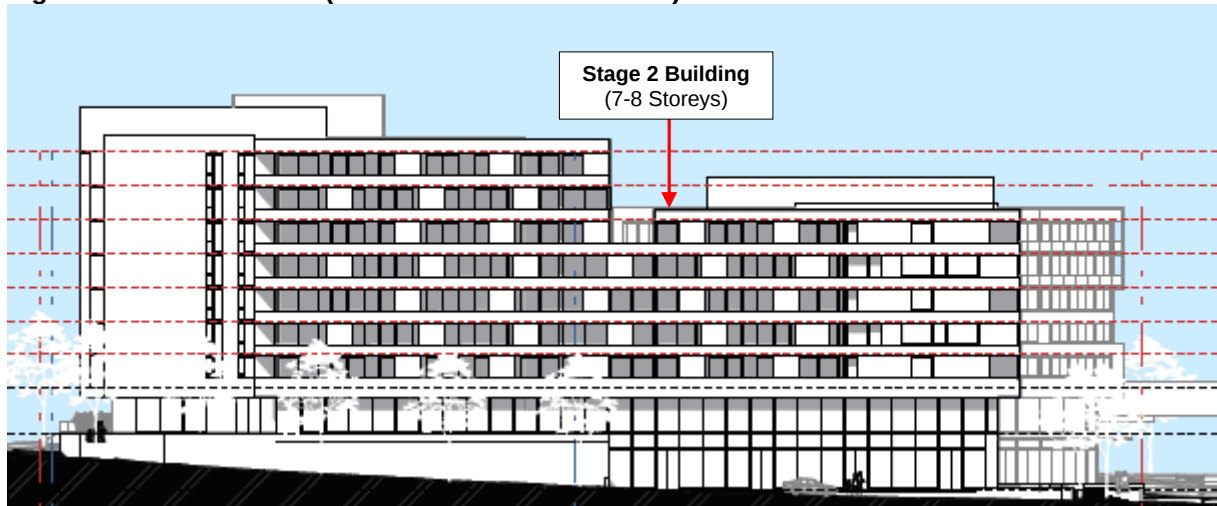


Figure 4: West Elevation (as seen from Parker Street)



2. PROPOSED MODIFICATION

2.1 Modification Description

The modification application seeks to modify the concept plan and Stage 1 project approval. The Stage 1 modifications outlined below are modifications proposed to both the concept plan and Stage 1 project approval, and the Stage 2 modifications are modifications proposed only to the concept plan.

- Stage 1:
 - o Building A
 - Reduce height of building by one storey (7 storeys to 6 storeys).
 - Replace commercial floor space on Levels 4 and 5 with 36 residential apartments.
 - Replace retail floor space on Lower Ground Level with car parking, and basement car parking access.
 - Replace commercial floor space on the Ground Level with retail floor space.
 - Relocation of void space on Level 1 from northern building face to the western building face.
 - o Building B
 - Replace retail floor space and basement car parking access on Lower Ground Level with commercial floor space and bike room.
 - Replace commercial floor space on Ground Level with serviced apartments.
 - o Reduce the supply of car parking in Stage 1 from 624 spaces to 402 spaces (reduction of 222 spaces) in response to floor space and land use changes. The reduced supply of car parking occurs through removing Basement Level 3 of car parking under Buildings A and B, replacing retail floor space on Lower Ground Level of Building A with car parking, and reconfiguration of the car parking layout.
 - o Modification to the levying of section 94 contributions, including removing the requirement to pay contributions against the serviced apartment component of the development, and levying contributions against the proposed new 36 residential apartments.
- Stage 2:
 - o No change in floor space or land uses.

- o Increase the supply of car parking in Stage 2 from 195 spaces to 286 spaces (increase of 91 spaces) and reconfiguration of vehicle access ramps, which results in an excess car parking supply of 91 spaces which are proposed to service the demand of other uses in the Nepean health precinct (Nepean public, private hospitals and medical centres).

The above modifications result in a reduction in total GFA of the concept plan from 35,750 sqm to 28,938 sqm (reduction of 6,812 sqm).

A breakdown comparison of the approved and proposed modified concept plan and Stage 1 and 2 GFA, landuse and car parking figures is provided in Table 1. Additionally, the proposed modified development, as viewed from the north-east corner, is provided in Figure 5, and the proposed modified northern elevation of the development is shown in Figure 6.

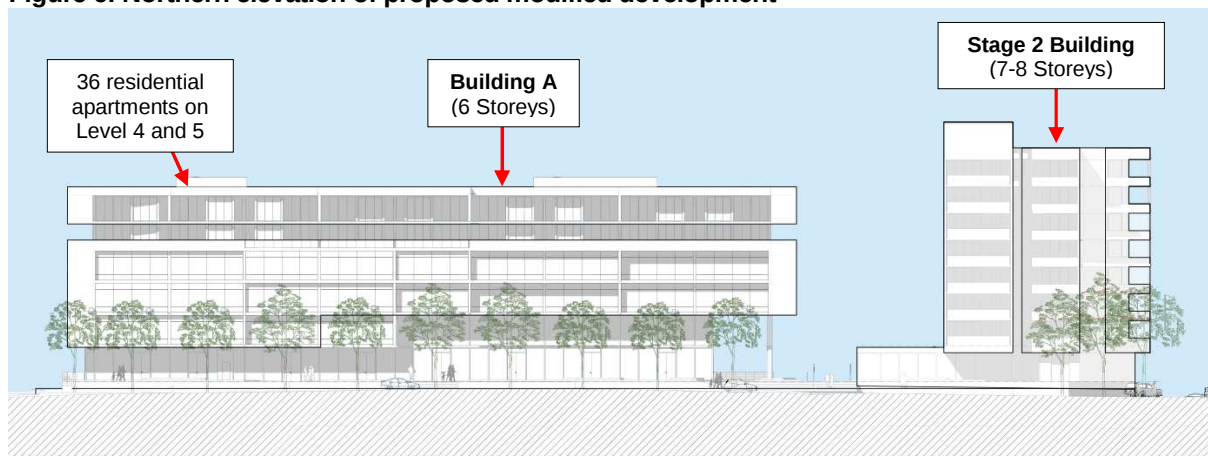
Table 1: Land Use and Car Parking Breakdown

Concept Plan							
Land Use		Approved GFA (sqm)		Modified GFA (sqm)		Change in GFA (sqm)	
Commercial		21,061		11,372		- 9,689	
Serviced Apartments		3,836		4,501		+ 665	
Residential		7,544		10,200		+ 2,656	
Retail		3,309		2,865		- 444	
TOTAL		35,750 sqm		28,938 sqm		- 6,812 sqm	
Stage 1							
Building A (sqm)				Building B (sqm)			
Land Use	Approved	Modified	Change	Land Use	Approved	Modified	Change
Commercial	18,817	9,280	- 9,537	Commercial	740	588	-152
Retail	1,270	1,225	- 45	Serviced A	3,836	4,501	+ 665
Residential	-	2,656	+2,656	Retail	399	0	-399
TOTAL	20,087	13,161	- 6,926	TOTAL	4,975	5,089	+ 114
Stage 2							
Stage 2 Building (sqm)							
Land Use	Approved	Modified	Change				
Commercial	1,504	1,504	0				
Residential	7,544	7,544	0				
Retail	1,640	1,640	0				
TOTAL	10,688	10,688	0				
Car Parking							
Car Parking	Approved	Modified	Change				
Concept Plan	819	688	-131				
Stage 1	624	402	-222				
Stage 2	195	286	+91				

Figure 5: North east corner of proposed modified development



Figure 6: Northern elevation of proposed modified development



2.1 Justification for Proposed Modification

The proposed modification seeks an overall reduction in floor space of the development, and changes in the composition of land uses, including a significant reduction in the volume of commercial floor space, a reduction in retail floor space, additional residential apartments and additional serviced apartments.

The proponent has identified that the reduction of the commercial and retail elements is in response to a reduction in demand for medical related commercial and retail floor space in the locality. Additionally, the proponent has identified that the additional residential apartments are in response to the demand for greater housing diversity in the locality, including an increase in the residential apartment market.

The proposed modification also seeks to modify the provision of car parking provided by the development in response to the floor space and land use changes. The modification also seeks approval of an excess car parking provision in Stage 2 (above the requirements of Penrith DCP), which is intended to act as a public car park to service the existing shortfall in car parking supply of the adjoining Nepean health precinct (Nepean public and private hospitals).

Additionally, the proposed modification seeks to remove the requirement to pay contributions against the serviced apartment component of the development on the basis that serviced apartments do not attract contributions under council's section 94 policies, and to include the levying of contributions against the additional residential apartments.

Further details of the justifications for the proposed modification and the department's assessment of key issues can be found in section 4 of this report.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Section 75W(2) of the EP&A Act provides that a proponent may request the Minister to modify the Minister's approval of a project. The Minister's approval of a modification is not required if the approval of the project as modified would be consistent with the original approval. As the proposal involves a reduction in floor space, a reduction in height of Building A, reconfigured land uses in Buildings A and B, reduced and reconfigured car parking and modification to the levying of section 94 contributions, the modification will require the Minister's approval.

3.2 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Director General with scope to issue Environmental Assessment Requirements (DGRs) that must be complied with before the matter will be considered by the Minister. Environmental Assessment Requirements were not issued for this modification as the proponent had addressed the key issues in the modification request.

3.2 Environmental Planning Instruments

Consideration of relevant State Environmental Planning Policy (SEPP) and EPI's was undertaken as part of the assessment of the original application. The department is satisfied that the proposed modified development remains consistent with the provisions of all relevant SEPP's and EPI's.

A detailed assessment of the proposed new 36 residential apartments in Building A in Stage 1 against State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65) is provided in section 5.3 and Appendix C of this report.

3.3 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division, effective from 1 October 2011, for applications made before or after 1 October 2011 where there are less than 10 public submissions (not including submissions from public authorities) in the nature of objection in respect of the modification application.

Only one submission was received from the general public, which did not object to the proposal, but provided comments (see section 4 of this report). Accordingly, the Director, Metropolitan and Regional Projects North may determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the EP&A Regulations, the modification application was made available on the department's website for a minimum of 14 days. The department also:

- publically exhibited the modification request from Wednesday 21 November 2012 to Friday 21 December 2012 (30 days) on the department's website, and at the Department of Planning and Infrastructure Information Centre and Penrith City Council
- advertised the public exhibition in the Penrith Press on the 20 November 2012
- notified adjoining landholders and relevant State and local government authorities in writing.

The department received six submissions from public authorities, including Penrith City Council, Environmental Protection Authority (EPA), Roads and Maritime Services (RMS), Office of Environment and Heritage (OEH), Nepean Blue Mountains Local Health District (NBMLHD) and Sydney Water. Additionally, the department received one submission from the general public.

A summary of the issues raised in submissions is provided in section 4.2 below.

4.2 Public Authority Submissions

A summary of submissions received from public authorities is provided below:

Penrith City Council

The council submission generally supports the proposed modifications. Council provided the following general comments and recommendations for the department's consideration:

- Council recommended that pedestrian entry point to the development be integrated within the Parker Street frontage.
- Council acknowledged that the proponent's methodology for calculating section 94 contributions was correct, however, the rate applied has not been adjusted to include CPI increases.
- Council identified that users of the new bike storage area in Building B would most likely use the driveway from Barber Avenue, and therefore the driveway should incorporate traffic calming measures and should clearly identify the area as a 'shared zone'.
- Council identified that the landscape plans do not reflect the slip lane to be constructed within Barber Avenue or the two accessible paths to the site within the Great Western Highway frontage.

The proponent responded to council's comments by identifying that Stage 2 of the development (currently only approved in concept) will provide an accessible pedestrian entry from Parker Street. Additionally, the proponent acknowledged that

the section 94 contributions will need to be adjusted to include CPI increases, and advised that it is willing to accept a condition reflecting the adjusted contribution rates.

The proponent also advised that a 'shared zone' has been included along part of the internal driveway, however it could be widened and extended to link with Barber Avenue. The proponent also advised that the use of textured surface material and signage would differentiate it as a 'shared zone' rather than a road, and that traffic calming devices (speed bumps) could be introduced at either end of the driveway to improve safety. The proponent advised that it is willing to accept a condition requiring the above changes.

The proponent also provided revised landscape plans addressing the discrepancies identified by council.

The department has given consideration to the comments provided by council and is satisfied that the proponent's response satisfactorily addressed the matters raised by council. The department has incorporated the above recommendations in the conditions.

Nepean Blue Mountains Local Health District (NBMLHD)

NBMLHD (who operates the adjoining Nepean Public Hospital for NSW Health) raised no objection to the proposed modification, and identified that the proposal (as modified) would continue to provide a mix of complementary land uses to support the Nepean hospital campus. NBMLHD provided the following general comments for the department's consideration:

- Concern was raised with the impact of traffic associated with the development on the surrounding road network and the potential for queuing along Barber Street, and with the limited vehicular access and egress arrangements for the development (entry / exit off Barber Avenue and exist only on to the Great Western Highway) and the potential impacts to traffic flows in the precinct.
- NBMLHD recommended that current parking restrictions in the surrounding streets be reviewed.
- Construction traffic associated with the development is a key issue for the hospital campus.
- NBMLHD identified that the proposed revised building heights should be reviewed against the operation of the Nepean hospital campus helipad and associated flight paths.
- NBMLHD requested further consideration of stormwater discharge from the development into an existing retention basin, and the potential for amplification works.

The proponent responded to NBMLHD by identifying that a traffic study was submitted as part of the modification application which demonstrated that the development (as modified) results in less traffic generation than the approved development, and concluded that the surrounding road network would not be adversely affected by the development (as modified). Additionally, the proponent advised that a review of parking restrictions in the surrounding streets was beyond the scope of the application, however, the proposed excess car parking provided by the modified development could assist in alleviating some of the existing shortfall in car parking in the adjoining Nepean health precinct.

The proponent also advised that the building heights were reviewed against the operation of the Nepean hospital campus helipad and associated flight paths as part of the original application, and given the proposed modified proposal would result in a reduction in building height (Building A is proposed to be reduced by 1 storey), it will not cause any new or unresolved impact on the operation of the helipad. The proponent also identified that a stormwater management plan has been submitted with the modification application that demonstrates the suitable management of stormwater from the development.

The department also notes that construction traffic is to be managed through the preparation of a Construction Management Plan (as required by Condition B3 of the Stage 1 project approval), which will address all issues relating to construction traffic management in the precinct.

The department has given consideration to the comments provided by NBMLHD and is satisfied the proponent's response has satisfactorily addressed the matters raised by NBMLHD. Further consideration of traffic issues is provided in section 4 of this report.

Environmental Protection Authority (EPA)

The EPA advised it has no comment on the proposed modification.

Roads and Maritime Services (RMS)

The RMS raised no objection to the proposed modification and identified that the traffic report accompanying the modification request confirms that the proposed modification further reduces traffic impacts on the surrounding road network.

Office of Environment and Heritage (OEH)

The OEH advised it has no comment on the proposed modification.

Sydney Water

Sydney Water advised that as the modified development is of a similar size and scale to the approved development, it has no new comments on the development.

4.3 Public Submissions

The department received one submission from the general public which did not object to the proposal, however it identified that the existing surrounding road network currently experiences on-street parking issues as a result of the Nepean public and private hospitals, and that any reduction in car parking for a development of this size would further exacerbate the existing on-street parking issues. The submission also recommended consideration of restricted on-street car parking in the locality and the issuing of resident parking permits.

The proponent responded to the public submission by identifying that the proposed modification will result in excess car parking provision (above Penrith DCP requirements) and that this excess car parking could be used to alleviate some of the existing shortfall in car parking across the Nepean health precinct, by providing public car parking.

4.4 Response to Submissions

The proponent provided a response to the issues raised in submissions and responded to issues raised by the department during the assessment, including issues regarding discrepancies in the land use and GFA figures and a request for further information on the intended use of excess car parking proposed in the modified development. The department is satisfied that the proponent's response has addressed all issues raised.

The department has considered all issues raised in submissions in its assessment of the proposed modification.

5. ASSESSMENT

The department considers the key issues for the proposed modification to be:

- land use
- built form and urban design
- SEPP 65 compliance
- traffic and parking
- contributions.

5.1 Land Use

The approved concept plan provides for a large scale urban renewal mixed use development comprising three separate buildings across two stages of development with a combined gross floor area of 35,750 sqm, including:

- Stage 1 Building A (7 storeys - 20,087 sqm) including commercial and retail floor space
- Stage 1 Building B (7 storeys - 4,975 sqm) including commercial, serviced apartments and retail floor space
- Stage 2 Building (7 to 8 storeys – 10,688 sqm) including commercial, residential and retail floor space.

The approved concept plan is intended to form a significant complementary element to the adjoining expanding health precinct, which comprises the Nepean Public Hospital, the Nepean Private Hospital and surrounding medical centres.

Pursuant to the Statement of Commitments in the approved concept plan and Stage 1 project approval, the fit out and occupation of the commercial and retail tenancies in the development are restricted to uses of a medical nature (private health specialists, consulting rooms, chemist and pharmaceutical services), or uses that are ancillary to other medical uses in the health precinct. The above restriction was included to refine the intended future use of the commercial and retail areas of the development to uses that support the health precinct, and to ensure that the development does not provide for uses that go beyond the role of servicing the health precinct and potentially impact on nearby surrounding commercial and retail centres (such as the nearby Kingswood Small Village Centre and the Penrith CBD).

The serviced apartment component of the development is intended to service the short stay accommodation demand generated by the visitors, patients and temporary staff associated with the adjoining health precinct.

In addition to the above land uses which have a direct nexus with the health precinct, the approved concept plan also includes a significant residential component, which is targeted more broadly at the residential apartment market in the locality.

The modification application proposes an overall reduction in floor space of the concept plan of 6,812 sqm (from 35,750 sqm to 28,938 sqm) and changes to the composition of land uses, including:

- a reduction in commercial floor space of 9,690 sqm (from 21,061 sqm to 11,372 sqm)
- a reduction in retail floor space of 444 sqm (from 3,309 sqm to 2865 sqm)
- a increase in serviced apartment floor space of 665 sqm (from 3836 sqm to 4501 sqm), being an additional 16 apartments (from 71 to 87 apartments)
- a increase in residential floor space of 2,656 sqm (from 7544 sqm to 10,200 sqm), being an additional 36 apartments (from 78 to 114 apartments).

The above changes relate only to Stage 1 of the concept plan and the Stage 1 project, and no changes are proposed to the Stage 2 building. The changes reflect a significant reduction in commercial floor space and a minor reduction in retail floor space when compared to the original approval. The proponent has identified that the reduction in floor space of these elements is in response to a reduction in demand for medical related commercial and retail floor space in the locality. Notwithstanding, the commercial element of the proposed modified concept plan remains the predominant land use, and in collaboration with the remaining retail element, and the increased serviced apartment element, the development will continue to have a strong nexus with the adjoining health precinct. In this regard, the concept plan (as modified) would remain consistent with the original intent of providing a significant scale mixed use development which supports the adjoining expanding health precinct.

The proposed modification also includes a significant increase in residential floor space, including the introduction of 36 additional residential apartments in Building A in Stage 1, which will replace some of the reduced commercial floor space. The proponent identified that the proposed increase in residential floor space is in response to the demand for greater housing diversity in the locality, including an increase in the residential apartment market.

Under Penrith Local Environmental Plan 1998 (Urban Land) (Penrith LEP), the site is zoned 2(d) Residential (Medium Density), and given the approved concept plan includes commercial, retail, serviced apartment and residential components, it effectively represented a rezoning of the site, as the commercial and retail land uses were not permitted, but the residential land uses were permissible in the residential zone. Accordingly, the expansion of the residential component in the proposed modified development represents a strengthening of the 'permissible' residential land uses in the development under Penrith LEP.

Penrith City Council raised no objection to the proposed changes in land use composition, and the submission from Nepean Blue Mountains Local Health District acknowledged that the proposed modified concept plan would continue to support the adjoining health precinct.

The department is satisfied that the proposed modified concept plan and proposed modified mix of land uses will continue to support the adjacent expanding health

precinct. The department also notes that the proposed reduction in floor space will result in reduced built form and amenity impacts when compared to the original approval, and the replacement of some of the commercial floor space with residential apartments will further reduce the land use intensity of the development, which will result in reduced traffic impacts when compared to the original approval (as discussed further in sections 5.2 and 5.4 of this report).

Accordingly, the department is supportive of the overall reduction in floor space and land use changes proposed in the modification application.

5.2 Built Form and Urban Design

The proposed modification includes changes to the floor space and land use composition of both Building A and Building B in Stage 1 of the concept plan.

Building A

The proposed modification includes the removal of the top storey (Level 6) of Building A, and replacing commercial Levels 4 and 5 with 36 residential apartments. The removal of the top storey results in a reduction in building height of 7.3 m (from RL 86.4 to RL 79.1). Additionally, the modification includes replacing retail floor space on Lower Ground Level with car parking, and replacing commercial floor space on the Ground Level with retail floor space.

The reduction in height will result in a reduction in overshadowing of the adjoining Nepean Private Hospital from the approved development, and will further emphasise the larger Stage 2 'marker' building (located at the corner of The Great Western Highway and Parker Street). The residential apartments on the upper two levels of Building A are also setback from the northern edge of the building facade (fronting the Great Western Highway) and will result in a slight change in the appearance of the building through the addition of residential balconies and fenestrations on the upper floors. However, the overall bulk and scale of the building will remain relatively unchanged, and the building will continue to present as a predominantly commercial building with horizontal expression addressing the Great Western Highway.

The car parking and land use changes on the Lower Ground Level will result in improved vehicular way finding and improved basement car parking access, and enable a reduction of one level of basement car parking within Stage 1 (from three levels to two levels). Further consideration of car parking and vehicular access issues is provided in section 5.5 of this report.

The proposed replacement of commercial floor space with retail floor space on the Ground Level will also enable further activation of the pedestrians areas along the Great Western Highway.

Building B

The proposed modification includes the replacement of retail floor space and basement car parking access on the Lower Ground Level with commercial floor space and a bike room. Additionally, commercial floor space on the Ground Level is proposed to be replaced with additional serviced apartments.

Whilst land use changes are proposed on the Lower Ground and Ground Levels of Building B, the overall building height, bulk and appearance will remain largely

unchanged from the original approval, with only a minor change on the eastern elevation where the basement car park entrance on the lower ground level is to be replaced with a bike storage area.

Building B and the future Stage 2 building define the eastern and western edges of the internal pedestrian through connection and plaza respectively, and the proposed modified mix of land uses on the lower levels will continue to provide activation and amenity to this part of the site.

Conclusion

The department considers that the key change in built form of the development is the reduction in height and in introduction of residential apartments to the upper floors of Building A. Whilst the appearance of the building will be slightly altered on the upper residential levels, it will continue to present as a predominantly commercial building fronting the Great Western Highway. Given the department was satisfied with the bulk and scale of the approved development, and the proposed modified development results in a minor reduction in overall bulk and scale when compared to the approved development (particularly for Building A), which results in a reduction in overshadowing impacts to the adjoining Nepean Private Hospital when compared to the approved development, the department is supportive of the proposed modifications.

The department is also satisfied that the proposed land use changes on the lower levels of Building A and B will continue to activate the key pedestrian areas of the site.

5.3 SEPP 65 Compliance

A comprehensive assessment of the proposed new 36 residential apartments in Building A in Stage 1 against State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65) and the Residential Flat Design Code (RFDC) is provided in Appendix C of this report. Whilst the proposed modified development continues to satisfactorily address the 10 design quality principles for residential flat development in SEPP 65, key departures from the RFDC are identified and considered below.

Building Separation

The RFDC identifies the following building separation requirements for buildings of five to eight storeys and up to 25 m:

- 18 metres between habitable rooms / balconies
- 13 metres between habitable rooms / balconies and non-habitable rooms
- 9 metres between non-habitable rooms.

Building A (as proposed to be modified) is six storeys and 22.8 m in height, therefore the above building separation requirements apply to the building. Building A interfaces with Building B (predominantly serviced apartments) in the south west and is separated by 10 m, which does not satisfy the minimum separation distance of 13 m between habitable rooms / balconies and non-habitable rooms. Additionally, Building A interfaces with the Stage 2 building (predominantly residential apartments) in the west, and is separated by 17.5 m which does not satisfy the minimum separation distance of 18 metres between habitable rooms / balconies.

The primary aspect of the proposed new 36 residential apartments is towards the north. The interface between the new residential apartments in Building A and Building B to the south affects only four apartments, and whilst entries to the residential apartments are located along the southern elevation, no habitable living spaces or windows are located along the southern elevation. Accordingly, no significant visual privacy or amenity issues will arise from the limited building separation with Building B.

Similarly, the interface between the new residential apartments in Building A and the future Stage 2 building affects four apartments on the western side of the building. The separation distance represents a minor non-compliance (shortfall of 0.5 m), and when considering that the primary aspect of the affected apartments is towards the north (not towards the Stage 2 building in the west), no significant visual privacy or amenity issues will arise from the limited building separation with the Stage 2 building.

The department therefore considers that the minor non-compliances with the building separation requirements of the RFDC to be acceptable.

Deep Soil Zones

The RFDC requires that a minimum of 25 percent of the open space area of a site should be a deep soil zone. The provision relates to amenity through the provision of large and medium sized trees, as well as the management of the water table and water quality.

No changes are proposed in relation to open space or deep soil zone areas from the approved development. The open space area of the development, as approved, comprises 3,532 sqm or 36.9 percent of the total site area (9,571 sqm), and the total deep soil zone area comprises 740 sqm or 20.9 percent of the open space area.

The open space, landscaping and deep soil zone areas of the development, as approved, are intended to facilitate pedestrian amenity and contribute towards the activation of the retail and commercial components of the development on the Ground and Lower Ground levels of the development (particularly within the through site connection and pedestrian plaza). Given the proposed new 36 residential apartments are proposed on Levels 4 and 5 of Building A, the deep soil zone outcomes on the Ground and Lower Ground levels will not translate to any improved amenity outcome at these elevated residential levels. Additionally, a comprehensive stormwater management plan was included in the original approval to address water infiltration and water quality management issues.

The department therefore considers that the minor non compliances with the deep soil zone requirements of the RFDC to be acceptable.

Apartment Layout

The RFDC requires that:

- Single-aspect apartments should be limited in depth to eight metres from a window.
- The back of a kitchen should be no more than eight metres from a window.
- If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable

Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)

- o 1 bedroom apartment 50 sqm
- o 2 bedroom apartment 70 sqm
- o 3 bedroom apartment 95 sqm.

The proposal includes 28 single aspect apartments which have a depth of nine metres, which does not satisfy the minimum depth requirement of the RFDC. Additionally, the single aspect apartments do not comply with the minimum distance of eight metres between the back of a kitchen and a window (the distance is nine metres) (the eight corner apartments achieve the requirement).

The rear sections of each single aspect apartment provides non-habitable areas (kitchen, bathroom and laundry) which allows the habitable areas of the apartment (lounge, dinning and bedroom) to take advantage of the good solar access and natural ventilation provided by the northern aspect of each apartment.

The department considers that the minor non-compliances with the apartment depth and kitchen distance requirements are acceptable given that the apartments will still achieve a high standard of residential amenity, particularly in the habitable areas.

Penrith City Council does not have an affordable housing strategy. All two bedroom apartments (comprising 32 of the 36 apartments) comply with the minimum 70 sqm requirement (two bedroom apartments are 75.25 sqm). However, the single bedroom apartments (comprising four of the 36 apartments) do not comply with the minimum 50 sqm requirement of the RFDC (single bedroom apartments are 44.25 sqm). The department considers that despite the minor deficit in floor space of the single bedroom apartments, the apartments include private balconies and are generally consistent with recommended apartment sizes, and are likely to achieve an affordable price point in the local housing market.

Conclusion

The development, as approved, and as proposed modified, is a mixed use development, and the design has been primarily based around the providing a significant complementary element to the adjoining expanding health precinct. In this regard, the residential component has not been the primary influence in shaping the design of the development, and as a result, the proposed residential elements do not strictly comply with all provisions of the RFDC. However, the department notes that the RFDC is a guideline which is intended to be applied with a degree of flexibility to accommodate residential development which may not strictly comply with the provisions, but which achieves the desired objectives. Whilst a number of minor departures have been identified above, the department considers that the new apartments broadly comply with the provisions of the RFDC and achieves the desired objectives.

Detailed consideration of the Stage 2 residential building against SEPP 65 and the RFDC will be undertaken as part of the assessment of the future application for the Stage 2 building.

5.4 Traffic and Parking

Traffic

The proposed modification includes a reduction in overall floor space and changes in the composition of land uses in Stage 1. No changes are proposed to the land use intensity of Stage 2. For the purposes of assessing the change in traffic impacts arising from the modification application, the department's assessment is focused only on Stage 1.

During the assessment, the proponent provided a trip generation analysis comparing the trip generation rates of the approved Stage 1 development against the trip generation rates of the proposed modified Stage 1 development. The findings of the analysis are identified below in Table 2.

Table 2: Trip Generation Comparison (trips per hour during the AM and PM peak periods)

Land Use	Approved Stage 1			Proposed Modified Stage 1		
	GFA / units	AM	PM	GFA / units	AM	PM
Retail	1,669 sqm	8	40	1,669 sqm	6	30
Commercial	19,557 sqm	235	235	9,868 sqm	119	119
Residential	0 units	0	0	36 units	11	11
Serviced	71 units	21	21	87 units	26	26
	Total	264	296	Total	162	186

The above table identifies that trip generation rates will decrease significantly in the both the AM and PM peak periods. Specifically, the proposed modification will result in a reduction of 102 trips during the AM period (from 264 to 162 trips) and a reduction of 110 trips during the PM period (from 296 to 186 trips) when compared to the approved development.

RMS and council raised no objection to the trip generation analysis of the proposed modified development and the RMS acknowledged that the proposed modification reduces traffic impacts on the surrounding road network. Nepean Blue Mountains Local Health District raised concern with traffic impacts associated with the development.

Given the department was satisfied with the trip generation rates and associated traffic impacts of the approved development, and the proposed modification will result in a significant decrease in trip generation rates, which would result in a reduced impact on the performance of surrounding intersections in comparison to the impacts that were assessed under the original concept plan and Stage 1 project application, the department is therefore supportive of the proposed modification.

The department is satisfied that the residual traffic generated by the development (as modified) will not result in any significant impacts on the surrounding road network.

Parking

During the assessment of the original concept plan and Stage 1 project application, the proponent sought approval of a total car parking provision of 761 spaces that was below the minimum requirements of the Penrith Development Control Plan 2006 (DCP) for each respective land use. However, the department's assessment concluded that the development should be self-sufficient in terms of car parking given the existing limited availability of on-street car parking in the locality, and the existing demand for car parking generated by the adjoining Nepean health precinct.

Accordingly, the concept plan and Stage 1 project approval stipulated that the provision of car parking should satisfy the requirements of the DCP for each land use, and identified that a total of 819 car parking spaces should be provided, in accordance with Table 3 below.

Table 3: Land Use and Car Parking Requirements (as per Penrith DCP 2006)

Land Use	Stage 1		Stage 2		S1 + S2	
	GFA or Rooms	Requirement	GFA or Rooms	Requirement	GFA or Rooms	Requirement
Commercial	19,558 sqm	489	1,504 sqm	38	21,062 sqm	527
Serviced Apartments	61 x 1 bed 10 x 2 bed	71	-	-	61 x 1 bed 10 x 2 bed	71
Retail	1,669 sqm	64	1,640 sqm	63		127
Residential	-	-	24 x 1 bed 54 x 2 bed	78	24 x 1 bed 54 x 2 bed	78
Residential Visitor	-	-	1/5 of units	16	1/5 of units	16
Total		624		195		819

The proposed modification seeks approval for an overall reduction in floor space and changes to the composition of land uses in Stage 1 of the development, while no floor space or land use changes are proposed in Stage 2. Consequently, the proponent has sought variation to the required car parking provision (whilst having consideration of the requirements of the DCP).

Specifically, the proposed modification seeks approval of a total of 688 car parking spaces (a decrease of 131 spaces from the approval), comprising:

- 402 spaces for Stage 1
- 286 spaces for Stage 2.

Stage 1

The proposed modification proposes 402 spaces for Stage 1 (a decrease of 222 spaces from the approval). The reduced supply of car parking in Stage 1 occurs through removing Basement Level 3 of car parking under Buildings A and B, replacing retail floor space on Lower Ground Level of Building A with car parking, and reconfiguration of the car parking layout. A breakdown of the proposed modified land uses in Stage 1 against the car parking requirements of the DCP is provided in Table 4.

Table 4: Proposed Modified Stage 1 Land Use and Car Parking Requirements (DCP)

Land Use	Floor space / No of Apartments	DCP Requirement	Required Car Parking	Car Parking proposed
Commercial	9,868 sqm	1 space per 40 sqm	247	247
Retail	1,225 sqm	1 space per 26 sqm	47	47
Serviced Apt	87 apartments	1 space per apartment	87	64
Residential	36 apartments	1 space per apartment (for residents) plus 1 space per 5 apartments (for visitors)	43	44
			Total Requirement 424	Total Proposed 402 (22 space shortfall)

Table 4 identifies that the proposed modification will result in a shortfall of 22 car parking spaces against the requirements of the DCP (which has been allocated to the serviced apartment component of Stage 1). The proponent has purported that the

proposed provision of car parking effectively complies with the requirements of the DCP, particularly when taking into account the ability to share parking within the mixed use development, when peak demands do not overlap.

Stage 2

The proposed modification proposes 286 spaces for Stage 2 (a increase of 91 spaces from the approval). No changes are proposed in relation to land use intensity in Stage 2, therefore the required car parking for Stage 2 remains at 195 spaces, and the proposed provision of car parking is therefore 91 spaces above the requirements of the DCP.

The proponent identified that the excess provision of car parking in Stage 2 could be used to meet the existing demand for other uses in the precinct. In effect, approval is being sought for the excess spaces to be used as a public car park.

During assessment of the modification application the department requested further information on the justification and intended use of the excess car parking provision in Stage 2, including details of any arrangements for other users of the precinct to access the excess parking supply.

The proponent responded by identifying that a number of extenuating circumstances exist within the broader health precinct that support the provision of the excess car parking, including:

- the adjoining expanding health precinct is currently significantly under supplied with car parking, which has lead to on-street parking problems within the precinct
- under supply of car parking in the precinct has been raised as an issue by both the private and public hospital as well as surrounding residents
- the subject site is currently vacant and informally used as an at-grade car park by local user groups, and once the development is constructed, this existing parking supply will be lost and further exacerbate the existing under supply of parking in the precinct
- Penrith Council recently converted public land in the vicinity of the site to parking to temporarily assist in meeting the demand generated by the precinct.

The proponent also advised that no formal arrangements have been made for the operation or management of the excess parking spaces, however, it would be willing to accept a condition requiring the preparation of a parking management plan to address the operation and management of the spaces.

Council raised no objection to the proposed excess parking provision, and the Nepean Blue Mountains Local Health District and the public submission raised car parking as a key issue for the locality.

Conclusion

It is noted that the proposed provision of car parking in Stage 1 is 22 spaces below the DCP requirement, and that the proposed provision of car parking in Stage 2 is 91 spaces above the DCP requirement. The department considers that the minor deficiency in car parking within Stage 1 is acceptable given that it can be absorbed through car park sharing when the peak demands of different land uses do not overlap.

Notwithstanding, given an excess car parking provision is proposed in Stage 2, the department considers that the minor shortfall in car parking in Stage 1 should be accommodated by this excess. Accordingly, of the 91 excess car parking spaces proposed in Stage 2, the department has recommended that 22 of these spaces be allocated towards the minor shortfall in Stage 1. Consequently, the remaining excess car parking provision is then reduced to 69 spaces in Stage 2.

The department has given consideration to the information provided by the proponent and comments made in submissions regarding car parking. The provision of car parking beyond the requirements of the development is generally not an appropriate outcome, and can potentially result in additional traffic generation. Whilst the application identifies that the proponent intends on using the excess car parking spaces to alleviate the existing shortfall in car parking across the health precinct, no specific assessment of the purported existing shortfall has been undertaken, and users who would occupy the spaces have not been identified. Additionally, the use of the excess car parking as a commercial car park could constitute an additional use, that is not included in the concept approval, and has not been explicitly sought in the modification application.

Accordingly, the department has recommended that the excess 69 spaces in Stage 2 be deleted from the proposal

The department is satisfied that, subject to the recommended conditions, the development, as modified, will adequately accommodate the car parking demand generated by the approved land uses.

Parking Access

The proposed modification seeks to relocate the basement car parking access from the lower ground level of Building B to the lower ground level of Building A (where at grade car parking is now proposed). The proponent identified that the proposed change is intended to facilitate improved vehicular way-finding and improved visibility for drivers, and will reduce confluence between vehicles entering and exiting the basement car park and vehicles travelling along the driveway. The proponent also advised that relocating the basement car park access has provided an opportunity to locate bicycle parking and end of trip facilities at grade (rather than in the basement levels).

Council and the RMS raised no objection to the proposed relocated basement car park entrance to the Lower Ground level of Building A, however, as identified in section 4.2 of this report, council identified that the proposed new bike storage area in Building B would most likely use the driveway from Barber Avenue, and therefore the driveway should incorporate traffic calming measures and should clearly identify the area as a 'shared zone'. The proponent responded by identifying it would be willing to accept a condition to incorporate appropriate identification and safety measures to create a 'shared zone' in this part of the site.

The department considers the proposed new basement car park access location to be acceptable given the identified benefits of improved safety, way-finding and reduced vehicle conflict along the driveway. The department has also included a condition requiring the inclusion of appropriate identification and safety measures to

create a 'shared zone' along the driveway from Barber Avenue, as recommended by council.

The department has also recommended additional future environmental assessment requirements regarding the subdivision and strata subdivisions of the development to ensure appropriate access to car parking and services is provided pursuant to section 88B of the Conveyancing Act 1919.

5.5 Contributions

The following section 94 contribution plans apply within the Penrith LGA:

- Cultural facilities
- District Open Space
- Local Open Space
- Kingswood Neighbourhood Centre
- Footpaths.

The above contributions plans apply when there is a nexus between new residential development and the demand for new infrastructure.

The approved Stage 1 development does not include any residential development (residential apartments are included in Stage 2 of the concept plan), however, it includes a significant serviced apartment component.

During the assessment of the original application, council requested that contributions be imposed on the serviced apartment component of Stage 1. The department initially raised concern with the imposition of contributions against the serviced apartment component of the development on the basis that they are only to be used for short stay accommodation and not for permanent residential use. However, council responded by identifying that short stay residential development (including serviced apartments) generate a demand for facilities commonly funded through section 94 contributions, and that residents of short stay accommodation typically use these facilities at a higher rate than residents of conventional residential development as they do not have the same access to private recreational facilities, and they are therefore inclined to visit and utilise public facilities whilst staying in the area. Additionally, council advised that there is no delineation between short stay and permanent residential development in the contributions plans, therefore the abovementioned contribution plans allow for contributions to be levied against the serviced apartment component of Stage 1. During the assessment of the original application, the department consulted with the proponent regarding council's requested contributions, and the proponent accepted the levying of contributions against the serviced apartment component of Stage 1. The Stage 1 approval included a requirement to pay council's requested section 94 contributions totalling \$195,398.

The proposed modification seeks to remove the requirement to pay contributions against the serviced apartment component of the development (\$195,398), and to have contributions levied against the proposed new 36 residential apartment included in Building A of Stage 1, which total \$200,030.40, as follows:

- Cultural facilities - \$10,713.60
- District Open Space - \$6,998.40
- Local Open Space - \$45,288.00

- Kingswood Neighbourhood Centre - \$125,288
- Footpaths - \$11,750.40

The proponent identified that subsequent to the original approval, it undertook further consideration of the application of council's section 94 policies and that serviced apartments (which were levied against in the Stage 1 approval) do not attract contributions under council's policies, and therefore this requirement should be removed. Notwithstanding, the proponent conceded that the new 36 residential apartments are for permanent residential use, and therefore attract contributions under council's policies.

Council's submission provided on the subject modification revised its position on the levying of contributions against the serviced apartment component of the development in the original proposal, and raised no objection to removing the requirement to pay contributions against serviced apartments. Additionally, council advised that the proponent has correctly applied the contributions applicable to the development on the new 36 residential apartments, however advised that the rates identified by the proponent have not been adjusted for recent CPI increases, and subsequently provided the adjusted contributions rates.

The department has considered the proponent's request to remove the levying of contributions against the serviced apartment component of the development, council's revised position on the application of the contribution plans, and reconsidered the intended application of council's contributions plans. The department considers that the intended application of the contribution plans relates to permanent residential development (as opposed to serviced apartments) for the following reasons:

- The cultural facilities and footpath contributions plans identify that they apply to new residential development including, but not limited to, housing for older people, multi-unit housing (including integrated housing), shop-top housing, dual occupancy and subdivision. The policy does not identify that it applies to serviced apartment development, or any other types of short stay accommodation development.
- The local open space and district open space contributions plans identify that contributions should be levied when there is a nexus between new development and the provision of open space facilities, including where there is an increase in and densification of population within the City of Penrith, which will increase the demand for open space facilities. The serviced apartment component of the development will not result in an increase in densification of the permanent population of the City of Penrith as it is only to be used for short stay accommodation purposes, and will therefore not result in an increase the demand for open space facilities in the long term.
- The Kingswood Neighbourhood Centre contributions plan identifies that contributions apply to new development which would result in an increase in densification of population within the identified catchment area which will increase the demand for a neighbourhood centre in the area, and will require council to expend funds before it otherwise would. The served apartment component of the development will not result in an increase in densification of the permanent population, and will therefore not increase the demand for a neighbourhood centre in the area.

The department therefore considers the removal of the levying of contributions against the serviced apartments to be acceptable, and has removed conditions in the Stage 1 approval relating to these contributions, thereby correcting the incorrect application of the policies in the original approval. Additionally, the conditions of the Stage 1 approval and concept plan approval stipulate that the approval authorises the use of the serviced apartments for short stay accommodation purposes only, and that any alternative use, including permanent residential use may require further approval (in which case, the apartments would then attract contributions under the identified contributions plans).

The department has however imposed conditions relating to contributions against the new 36 residential apartments which are for permanent residential use, which therefore attract contributions under the identified contributions plans. The contribution rates in the conditions have been adjusted for CPI increases, as recommended by council.

In addition to the above contributions, the department notes that the proponent will be undertaking some works-in-kind, including footpath widening along the Great Western Highway and the provision of street trees to all street frontages.

6. CONCLUSION

The proposed modification includes an overall reduction in floor space of the concept plan and will result in a reduction in height of Building A. The proposed modification also includes changes to the composition of land uses, including a reduction in commercial and retail floor space and an increase in serviced apartment and residential floor space.

The proposed modification also includes changes in the car parking supply, and changes to the levying of section 94 contributions.

The proposed changes will result in an overall reduction in building form, and reduced traffic generation and car parking demand when compared to the approved development. The proposed development, as modified, will continue to support the adjoining health precinct, and the additional provision of residential development will support the demand for increase housing diversity in the locality.

The department therefore recommends that the modification application be approved, and the concept plan and project approval be amended accordingly.

7. RECOMMENDATIONS

It is recommended that the Director, Metropolitan and Regional Projects North:

- a) **Consider** the findings and recommendations of this report
- b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act 1979*, and
- c) **Sign** the attached instruments of modification approval (**TAG A** and **TAG B**)

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 17/4/12

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APPENDIX A MODIFICATION REQUEST

See disk attached and the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5604

APPENDIX B SUBMISSIONS

See disk attached and the department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5604

APPENDIX C SEPP 65 ASSESSMENT

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

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development (SEPP 65) seeks to improve the design quality of residential flat buildings.

Under clause 30 of SEPP 65, in determining a development application for consent to carry out residential flat development, a consent authority is to take into consideration:

- the design quality of the residential flat development when evaluated in accordance with the 10 design quality principles in Part 2 of SEPP 65, and
- the publication Residential Flat Design Code (RFDC) (a publication of the then Department of Planning, September 2002).

A comprehensive assessment of the original proposal against the 10 design principles was undertaken as part of the original assessment, which identified that the proposal satisfactorily addressed the design quality principles for residential flat development.

Detailed consideration of the proposal against the RFDC was not undertaken as the Stage 2 residential building (the only building including residential land use) was only approved in concept. Consideration of the Stage 2 building against the RFDC is to be undertaken as part of the assessment of the detailed design and future application for the Stage 2 building.

The proposed modification includes an overall reduction in floor space and changes to the composition of land uses, including the addition of 36 residential apartments to Building A in Stage 1. The department considers that the proposed modified development continues to satisfactorily address the 10 design quality principles for residential flat development.

Detailed consideration of the proposed new 36 residential apartments in Building A in Stage 1 against the provisions of the RFDC has been undertaken below. On the basis of this assessment, the department considers that the proposed new residential component of the development broadly complies with the provisions of the RFDC and achieves the desired objectives.

The department therefore considers that the proposed modified proposal satisfactorily addresses the requirements of SEPP 65.

Residential Flat Design Code

The Residential Flat Design Code (RFDC) provides additional detail and guidance for applying the 10 design quality principles outlined in SEPP 65 to a specific locality. An assessment of the proposed modified proposal against the RFDC is provided in the table below.

RFBC Compliance Table

Part 1 – Local Context

Element	RFBC Requirements	Proposed	Compliance
Building Height	Objective: - To ensure future development responds to the desired scale and character of the street and local area. - To allow reasonable daylight access to all developments and the public domain	Building heights and footprints were established by the original concept plan. The proposed modified Building A comprises six storeys, with 2 storeys of residential apartments.	Yes
Building Depth	Requirement: In general, an apartment building depth of 10-18 metres is appropriate.	11 m building depth	Yes
Building Separation	Requirement: - For buildings of five to eight storeys and up to 25 metres: 18 metres between habitable rooms/balconies 13 metres between habitable rooms/ balconies and non-habitable rooms 9 metres between non-habitable rooms	Building footprints were established by the original concept plan. Building A interfaces with Building B (serviced apartments) in the south west and is separated by 10 m. Building A interfaces with the Stage 2 Building (Residential) in the west and is separated by 17.5 m from balcony and 19.4 from the living room window.	Non Compliance – See section 5.3 of this report.
Street Setbacks	Requirement: - Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls. - Relate setbacks to the area's street hierarchy. - Identify the quality, type and use of gardens and landscaped areas facing the street. - Test street setbacks with building envelopes and street sections. - Test controls for their impact on the scale, proportion and shape of building facades.	Setbacks were established by the original concept plan. Modification application does not propose changes to setbacks. Street trees are proposed along all street frontages.	Yes
Side and Rear Setbacks	Requirement: - Relate side setbacks to existing streetscape patterns. - Test side and rear setback with building separation, open space and deep soil zone requirements (see Building Separation, Open Space and Deep Soil Zones). - Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space.	Setbacks were established by the original concept plan. Modification application does not propose changes to setbacks. Detailed consideration of landscaping and overshadowing was undertaken as part of the original assessment.	Yes
Floor Space Ratio	Requirement: Test the desired built form outcome against proposed floor space ratio to	FSR established by concept plan was 3.74:1. The proposed modified	Yes

	ensure consistency with: - building height - building footprint - the three dimensional building envelope - open space requirements. • Test a variety of typical lot sizes and shapes in your area before establishing a blanket FSR control	proposal results in an FSR of 2.82:1 (reduction of 0.92:1 in FSR)	
Part 2 – Site Design			
Element	RFBC Requirements	Proposed	Compliance
Deep Soil Zones	Requirement: • A minimum of 25 percent of the open space area of a site should be a deep soil zone.	Deep soil zones were established by the original concept plan. Only 7.73% of the total site area is proposed to be deep soil zone.	Non Compliance – See section 5.3 of this report.
Fences and Walls	Objective: • To define the edges between public and private land. • To define the boundaries between areas within the development having different functions or owners • To provide privacy and security • To contribute positively to the public domain.	Modified proposal relates to the upper two levels of Building A, therefore consideration of fences and walls at ground level are not relevant.	N/A
Landscape Design	Objective: • To add value to residents' quality of life within the development in the forms of privacy, outlook and views. • To provide habitat for native indigenous plants and animals • To improve stormwater quality and reduce quantity • To improve the microclimate and solar performance within the development • To improve urban air quality • To contribute to biodiversity.	Landscaped areas were established by the original concept plan. 36.9% of the site area is landscaped area (including hard and soft landscaped areas and deep soil zones). Under the subject modification, additional landscaping is proposed on the upper two levels of Building A (where residential is proposed). The introduced landscaped elements on the upper two levels of Building A achieve the landscape design objectives.	Complies
Open Space	Requirement: • 30% of the total site area for larger and brown field sites	Open space areas were established by the original concept plan. 36.9% of the site area is landscaped area (including hard and soft landscaped areas and deep soil zones).	Complies
Orientation	Objective: • To optimise solar access to residential apartments within the development and adjacent development. • To contribute positively to desired streetscape character. • To support landscape design and consolidation of open space areas	The proposed new 36 residential apartments all have a direct northern aspect.	Complies

	- To protect the amenity of existing development - To improve the thermal efficiency of new buildings.		
Planting and Structures	Objective: - To contribute to the quality and amenity of communal open space on roof tops, podiums and internal courtyards - To encourage the establishment and healthy growth of trees in urban areas.	Soft landscape proposed on the roof top of level 4 which provides appropriate soil provision for the proposed vegetation.	Complies
Stormwater Management	Objective: - To minimise the impacts of residential flat development and associated infrastructure on the health and amenity of natural waterways. - To preserve existing topographic and natural features, including watercourses and wetlands - To minimise the discharge of sediment and other pollutants to the urban stormwater drainage system during construction activity.	Site does not accommodate any significant existing water ways, and a formal drainage network and connection to the surrounding network has been approved as part of the original development.	Complies
Safety	Requirement: Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings.	No formal crime risk assessment provided (apartment's are located on Level 4 and 5 of Building A, and can only be accessed via a secured lobby area).	N/A
Visual Privacy	Objective: - To provide reasonable levels of visual privacy externally and internally, during the day and at night. - To maximise outlook and views from principal rooms	The proposed new 36 residential apartments have northern aspects (away from Building B in the south and the Stage 2 building in the west), and therefore no significant visual privacy or amenity issues will arise.	Complies
Building Entry	Objective: - To create entrances which provide a desirable residential identity for the development. - To orient the visitor. - To contribute positively to the streetscape and building façade design.	All residential units are accessed by a lobby area. All car parking and servicing occurs in basement areas that are removed from public view.	Complies
Parking	Objective: - To minimise car dependency for commuting and recreational transport use and to promote alternative means of transport-public transport, cycling and walking - To provide adequate car parking for the building's users and visitors, depending on building type and proximity to public transport. - To integrate the location and design of car parking with the design of the site and the building.	The development satisfies Council's car parking DCP requirements. The development encourages non-car travel modes through the provision of bicycle parking spaces.	Complies

Pedestrian Access	Objective - To promote residential flat development which is well connected to the street and contributes to the accessibility of the public domain. - To ensure that residents, including users of strollers and wheelchairs and people with bicycles, are able to reach and enter their apartment and use communal areas via minimum grade ramps, paths, access ways or lifts.	The approved development provides at grade pedestrian access to all buildings, and direct access from the Great Western Highway and Parker Street. The proposal also includes a pedestrian through connection from the Great Western Highway to Barber Avenue.	Complies
Vehicle Access	Objective: - To integrate adequate car parking and servicing access without compromising street character, landscape or pedestrian amenity and safety. - To encourage the active use of street frontages.	Car parking access and egress is provided via Barber Avenue with an additional egress provided on the Great Western Highway.	Complies.

Part 3 – Building Design

Element	RFBC Requirements	Proposed	Compliance
Apartment Layout	Requirement: - Single-aspect apartments should be limited in depth to 8 metres from a window. - The back of a kitchen should be no more than 8 metres from a window. - If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: - 1 bedroom apartment 50m² - 2 bedroom apartment 70m² - 3 bedroom apartment 95m²	The proposal includes 28 single aspect apartments which have a depth of 9 metres. Eight of the proposed 36 apartments (the corner apartments) achieve the kitchen requirement, with the remainder being 9 m from a window. No cross through apartments are proposed. Single bedroom apartments do not comply with minimum size requirement (44.25 sqm). Two bedroom apartments comply with minimum size requirement (75.25 sqm).	Non Compliance – See section 5.3 of this report.
Apartment Mix	Objective: - To provide a diversity of apartments types, which cater for different household requirements now and in the future. - To maintain equitable access to new housing by cultural and socio-economic groups.	The development will improve housing diversity by introducing single and two bedroom apartments within a locality that is characterised by a predominance of traditional detached dwelling houses.	Complies.
Balconies	Requirement: Provide primary balconies for all apartments with a minimum depth of 2 metres.	All balconies range from 2 m to 3.4 m	Complies.
Ceiling Heights	Requirement: 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.	The development provides ceiling heights of 2.7 m for all apartments	Complies.

Flexibility	Objective: - To encourage housing designs which meet the broadest range of the occupants' needs possible. - To promote 'long life loose fit' buildings, which can accommodate whole or partial changes of use. - To encourage adaptive re-use. - To save the embodied energy expended in building demolition.	The configuration of the apartments is suitable for a broad range of users and occupants	Complies.
Ground Floor Apartments	Requirement: - Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site. - Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	No ground floor apartments proposed.	N/A
Internal Circulation	Requirement: - In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: - for adaptive reuse buildings - where developments can demonstrate the achievement of the desired streetscape character and entry response - where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	Apartments are not accessed via a double loaded corridor.	N/A
Mixed use	Objective: - To support the integration of appropriate retail and commercial uses with housing. - To create more active lively streets and urban areas, which encourage pedestrian movement, service the needs of the residents and increase the area's employment base. - To ensure that the design of mixed use developments maintains residential amenities and preserves compatibility between uses.	The development, as approved, and as proposed to be modified, is a mixed use development. The non-residential land uses are located on the lower levels to ensure a high level of amenity for residents located on the upper floors.	Complies.
Storage	Requirement: - In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - one-bedroom apartments 6 sqm - two-bedroom apartments 8 sqm	All apartments provide storage areas above the requirements.	Complies.
Acoustic Privacy	Objective: To ensure a high level of amenity by protecting the privacy of residents	Apartments are orientated along an east-west access, with primary living areas	Complies.

	within residential flat buildings both within the apartments and in private open spaces.	aligned to ensure no opportunity for noise disturbance between key living areas of the apartments. The use of glazing will reduce noise levels from traffic along the Great Western Highway to within acceptable levels.	
Daylight Access	Requirement: Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter.	77 percent of apartments receive a minimum of three hours direct sunlight. All apartments have a northern aspect.	Complies.
Natural Ventilation	Requirement: - Building depths, which support natural ventilation typically range from 10 to 18 metres. - Sixty percent (60%) of residential units should be naturally cross ventilated. - Twenty five percent (25%) of kitchens within a development should have access to natural ventilation.	Building depths discussed previously within this table. All apartments achieve cross ventilation through window openings on the northern elevation and additional ventilation openings above entry doors on the southern side of the apartments. All kitchens have access to natural ventilation	Complies.
Awnings and Signage	Objective: - To provide shelter for public streets. - To ensure signage is in keeping with desired streetscape character and with the development in scale, detail and overall design.	No signage or awnings proposed, and the provisions are not relevant to the apartments given they are elevated on Levels 4 and 5 of Building A.	N/A
Facades	Objective: - To promote high architectural quality in residential flat buildings. - To ensure that new developments have facades which define and enhance the public domain and desired street character. - To ensure that building elements are integrated into the overall building form and facade design.	The development provides numerous design features that demonstrate high architectural quality in its design, including varied building lines and recessed and protruding built elements that break up visual mass and provide shadow elements across the entire development. The recessed scale at upper residential levels also reduces the building bulk and scale and emphasise the larger Stage 2 'marker' building (located at the corner of The Great Western Highway and Parker Street).	Complies
Roof Design	Objective: To provide quality roof designs, which contribute to the overall design and performance of residential flat buildings.	The roof comprises metal roof sheeting and roof top plant is sensitively located away from the outer edges of the roof edge (so that it	Complies

	- To integrate the design of the roof into the overall facade, building composition and desired contextual response. - To increase the longevity of the building through weather protection.	is not visible from street level). The level roof design is intended to minimise the overall bulk and scale of the building.	
Energy Efficiency	Objective: - To reduce the necessity for mechanical heating and cooling. - To reduce reliance on fossil fuels. - To minimise greenhouse gas emissions. - To support and promote renewable energy initiatives.	A BASIX report accompanies the modification application which demonstrates that all water and energy reduction targets are achieved. The proposal incorporates a number of ecologically sustainable measures in the design of the building, including, orientating the buildings to maximise solar access, installation of double glazing windows, open doors creating natural ventilation, addition of an central atrium with glass roof in Building A to optimise solar access, rain water harvesting and water efficient water fittings and fixtures, and reverse cycle air conditioning.	Complies
Maintenance	Objective: To ensure long life and ease of maintenance for the development.	The design facilitates ease of maintenance for the development.	Complies
Waste Management	Requirement: Supply waste management plans as part of the development application submission as per the NSW Waste Board Objectives.	A waste management plan was submitted with the original application. The proponent has committed to a target of 60% of all waste being recycled or reused. Waste skips or bins will be provided for, cardboard, timber, metal, soft plastic, polystyrene, insulation, concrete, glass and bricks. The development will also provide a dedicated storage area in an accessible location for the separation, collection and recycling of office consumables during operation.	Complies
Water Conservation	Requirement: Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	The proposal incorporates rain water harvesting and the installation of water efficient water fittings and fixtures.	Complies

On the basis of the above assessment, the department is satisfied that the proposed modified development satisfactorily addresses the requirements and objectives of the RFDC.

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

The BASIX SEPP aims to establish a scheme to encourage sustainable residential development across NSW. The current BASIX targets for Residential Flat Buildings require all new residential dwellings in NSW to meet the following targets:

- 40% reduction in potable water use
- 20% reduction in energy use

The BASIX Certificate submitted with the modification application identified that the proposed modified proposal will satisfactorily achieve the above criteria.

APPENDIX D RECOMMENDED MODIFYING INSTRUMENTS
