

Project Application

Section 75J of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 25 January 2010, I approve the project application referred to in Schedule 1, subject to the conditions in Schedules 2 and statement of commitments in Schedule 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



Deputy Director-General
Development Assessment and Systems Performance
Department of Planning & Infrastructure

Sydney

17th August

2011

SCHEDULE 1

Application No.:	MP 09_0220
Proponent:	Aesthete No.3 Pty Ltd
Approval Authority:	Minister for Planning and Infrastructure
Land:	Corner of Great Western Highway, Parker Street, Barber Avenue, Kingswood (Lot 100 DP 701623, Lot 1 DP 1093052, Lot 4-6 DP 29524)
Project:	Stage 1 of the Nepean Health Precinct Mixed Use Development, including: <ul style="list-style-type: none">• construction of two buildings for commercial, retail and serviced apartment purposes;• car parking; and• landscaping, site works and services.

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DEFINITIONS

Advisory Notes	Advisory information relating to the approved project but do not form a part of this approval
BCA	Building Code of Australia
Construction Council	Any works, including earth and building works Penrith City Council
Department	Department of Planning & Infrastructure or its successors
Director-General	Director-General of the Department of Planning & Infrastructure, or nominee
EA	Environmental Assessment titled <i>Nepean Health Precinct Mixed Use Development Environmental Assessment and Appendices</i> prepared by <i>Cityscape Planning + Projects</i> , dated November 2010
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
FSR	Floor space ratio means the ratio of the floor space of a building to the site area of the land on which the building is proposed to be erected
GFA	Gross floor area means floor space which includes all wall thicknesses, ducts, vents, staircases and lift wells, but does not include: (a) any car parking space in a building, being a space provided to meet the standards required by the responsible authority (but not car parking space provided in excess of those standards), or any internal access to that car parking space; (b) space used for the loading or unloading of goods; or (c) lift towers, cooling towers, machinery and plant rooms and any storage space related thereto.
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval
Major Development SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning & Infrastructure, or nominee
PPR	Preferred Project Report titled <i>Nepean Health Precinct Mixed Use Development Preferred Project Report and Appendices</i> prepared by <i>Cityscape Planning + Projects</i> , dated May 2011
Project	The project and the accompanying plans and documentation described in Schedule 2, Terms of Approval.
Proponent	Aesthete No.3 Pty Ltd
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build
Residential Accommodation	Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following: attached dwellings, boarding houses, dual occupancies, dwelling houses, group homes, hostels, multi dwelling housing, residential flat buildings, rural workers' dwellings, secondary dwellings, semi-detached dwellings, seniors housing, shop top housing, but does not include tourist and visitor accommodation or caravan parks.
Serviced Apartment	Serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents. Note. Serviced apartments are a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.
Site Area	Means an allotment of land the subject of an application excluding any land upon which the development to which the application relates is not permitted by or under this Concept Plan.
Stage 1	Refer to Major Project MP 09_0220, Stage 1 Project Application
Statement of Commitments	The Proponent's Statement of Commitments in Schedule 3
Storey	Storey in relation to a building does not include a floor or level of the building used exclusively for the purposes of car parking, storage or laundry facilities, or any combination of these purposes, where the ceiling is not greater than 500 millimetres above ground level.
Subject Site	Corner of Great Western Highway, Parker Street, Barber Avenue, Kingswood (Lot 100 DP 701623, Lot 1 DP 1093052, Lot 4-6 DP 29524)

SCHEDULE 2

PART A1 - ADMINISTRATIVE CONDITIONS

A1 Development Description

Except as amended by the conditions of this approval, approval is granted only to carrying out the development as described in Schedule 1, and development must be carried out consistently with the Statement of Commitments in Schedule 3.

A2 Development in Accordance with the Plans and Documentation

The development will be undertaken in accordance the following documents and plans:

Environmental Assessment Report titled <i>Nepean Health Precinct Mixed Use development Environmental Assessment</i> and Appendices prepared by Cityscape Planning + Projects, dated November 2010;			
Preferred Project Report titled <i>Nepean Health Precinct Mixed Use development Preferred Project Report</i> and Appendices prepared by Cityscape Planning + Projects, dated May 2011			
Architectural (or Design) Drawings prepared by <i>TURNER + ASSOCIATES</i>			
Drawing No.	Issue	Name of Plan	
EA10	I	BASEMENT 03	
EA11	I	BASEMENT 02	
EA12	I	BASEMENT 01	
EA13	I	LOWER GROUND PLAN	
EA14	I	GROUND PLAN	
EA15	H	LEVEL 1	
EA16	H	LEVEL 2	
EA17	H	LEVEL 3	
EA18	H	LEVEL 4	
EA19	H	LEVEL 5	
EA20	H	LEVEL 6	
EA21	H	LEVEL 7	
EA22	H	ROOF PLAN	
EA30	H	NORTH ELEVATION	
EA31	H	SOUTH ELEVATION	
EA32	G	EAST ELEVATION	
EA40	H	SECTION AA	
EA41	H	SECTION BB	
EA42	H	SECTION CC	
EA44	G	SECTION EE / WEST ELEVATION	
EA45	H	SECTION FF	
Architectural (or Design) Drawings prepared by <i>TURNER + ASSOCIATES</i>			
Drawing No.	Issue	Name of Plan	Date
LC-02	B	LOWER GROUND FLOOR LANDSCAPE PLAN	29/04/11
LC-03	B	GROUND FLOOR LANDSCAPE PLAN	29/04/11

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA; and
- (2) otherwise provided by the conditions of this approval.

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, including the Proponent's Statement of Commitments, the conditions of this approval prevail.

A4 Additional Approvals Required

Separate application(s) shall be submitted to the consent authority for consideration of:

- (1) any building identification signage and business identification signage; and
- (2) the internal fit-outs of any buildings; and

A5 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of approval under Clause 98 of the Environmental Planning and Assessment Regulation 2000 in relation to the requirements of the Building Code of Australia (BCA).

A6 Lapsing of Approval

Approval of the Project Application shall lapse 5 years after the determination date unless construction work authorised by this Project Approval has physically commenced.

A7 Demolition

The Proponent shall ensure that all demolition work is carried out in accordance with Australian Standard AS26012001: The Demolition of Structures, or its latest version.

A8 Compliance with the Building Code of Australia and Australian Standards

Work must be carried out in accordance with the requirements of the Building Code of Australia and Australian Standards.

A9 Development Expenses

It is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expense incurred in complying with the conditions imposed under this approval.

A10 Car Parking and Swept Paths

The layout of car parking, including driveways, grades, turns paths, sight distance requirements, aisles widths, aisle lengths, and parking bay dimensions, are to be in accordance with AS 2890.1 – 2004, AS 2890.2 – 2002 and AS2890.6. Additionally, swept paths for the longest vehicles entering the site are to be in accordance with AUSTROADS.

A11 Further Consent Requirements

- (1) This approval authorises the use of the units in Building B as serviced apartments **ONLY**. Any alternative use including permanent residential use may require further approval.
- (2) Future applications for the fit-out and occupation of the nominated retail and commercial tenancies in Building A and Building B are to demonstrate that the uses proposed are of a medical nature, or ancillary to other medical uses in the vicinity of the site.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Construction Certificate

The stamped drawings must be lodged with the Certifying Authority (Penrith City Council, or a private certifier) for a Construction Certificate. The Proponent must supply the Department of Planning & Infrastructure with a copy of the Construction Certificate within two days from the date of its issue.

B2 Mechanical Ventilation

All mechanical ventilation systems shall be designed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 Microbial Control of Air Handling and Water Systems of Building, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection.

B3 Construction Management Plan

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be prepared. The Plan shall include, but not be limited to, the following matters which are to be addressed by suitably qualified person(s):

- (1) **Hours of work**, which must be in accordance with the conditions of this approval;
- (2) **Contact details** of the site manager and all principle contractors;
- (3) **Traffic management**, which is to be developed in consultation with Council and is to include:
 - ingress and egress of vehicles to the site;
 - management of loading and unloading of materials;
 - number and frequency of vehicles accessing the site;
 - the times vehicles are likely to be accessing the site;
 - management of existing vehicular, pedestrian and bicycle movements / routes around the site throughout the various stages of construction;
- (4) **Erosion and sediment control**, identifying appropriate measures to be installed during construction which shall be designed in accordance with in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1 (2004)* by Landcom; and must include:
 - The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device; and
 - The procedures to be adopted for the prevention of run-off loose material and litter from the site onto the public way.
- (5) **Noise and vibration management**, identifying specific activities that will be carried out and associated noise sources, identify all potentially affected sensitive receivers, noise and vibration monitoring reporting and response procedures, description of specific mitigation treatments management measures and procedures to be implements, and address any other relevant provisions of Australian Standard 2436-1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* and DECCW's *Interim Construction Noise Guideline*.
- (6) **Waste management**, identifying options for minimising waste in construction; reuse and recycling of materials; the storage, control and removal of construction waste.
- (7) **Dust control** measures to be implemented to prevent the movement of airborne particles from the site throughout the construction process, and the tracking of material from the site by trucks and other vehicles. This is to include the appropriate use of physically barriers and the dampening of exposed excavated surfaces. The storage and stockpiling areas for material is also to be detailed.

B4 Stormwater Plan

The Proponent is to prepare and submit detailed stormwater and drainage works plan to the satisfaction of the Certifying Authority for approval prior to the issue of a construction certificate.

An on-site stormwater detention (OSD) system must be designed by a chartered civil engineer and constructed in accordance with the following requirements:

- (a) The design storm for the storage volume of the proposed OSD for the development is to be a 100 year Average Recurrence Interval (ARI) with the permissible site discharge from the developed site being limited to a 5 year ARI discharge rate for the site pre-development conditions;
- (b) Have a surcharge/inspection grate located directly above the outlet of the OSD(s). The pipe line from the surcharge pit shall be designed for a 20 year ARI and connected in Council Drainage System.

Drainage from the development is not to impact the down stream catchment or downstream properties.

B5 Access and Movement

An Access and Safety Plan will be prepared to maintain access and use of the site during the construction of the building to ensure the safety of staff, visitors and the public.

B6 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy.

B7 Long Service Levy (if required)

Prior to the issue of a Construction Certificate, evidence of the payment of the long service levy under section 34 of the Building and Construction Industry Long Service Payment Act 1986 must be provided to the Certifying Authority (or, where such a levy is payable by instalments, the first instalment of the levy).

B8 Reflectivity

The light reflectivity from any building materials used on the facades of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B9 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B10 Contamination

Prior to the commencement of any building works a Phase 2 Soil Contamination Assessment is to be undertaken in accordance with the contaminated land planning guidelines under section 145C of the EP&A Act and relevant guidelines produced or approved under section 105 of the *Contaminated Land Management Act 1997*.

Should the contamination assessment identify the requirement for remediation works, and be considered Category 2, a Remedial Action Plan (RAP) is to be prepared and approved by OHE and approved through the issue of a Section B Site Audit Statement by a NSW EPA accredited Site Auditor.

Note: The current guidelines under section 145C of the EP&A Act are the guidelines "Managing Land Contamination Planning Guidelines, SEPP 55 – Remediation of Land 1998".

B11 Sydney Water – Notice of Requirements

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the Sydney Water Act 1994 (compliance Certificate) prior to certification of any Crown Building Works.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e_Developer" icon or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and changes to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveways or landscape design.

B12 RTA – Geotechnical Requirements

The Proponent is to submit detailed design drawings and a geotechnical report relating to the excavation of the site and support structures to the RTA for assessment. The developer is to meet the full cost of the assessment by the RTA.

The Geotechnical Report will need to address:

- The impact of excavation/rock anchors on the stability of the Great Western Highway and Parker Street and detail how the carriage way would be monitored for settlement;
- The impact of the excavation on the structural stability of the Great Western Highway and Parker Street; and
- Any other impacts to RTA assets.

B13 Roads Act

- (1) Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Roads Act application, including the payment of application and inspection fees, has been lodged with, and approved by the Roads and traffic Authority (being the Roads Authority under the Roads Act), for the following works on the Great Western Highway: Provision of the proposed egress driveway.

Civil design drawings are to be prepared strictly in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
 - b) Contact Penrith City Council's Development Engineering Unit on (02) 4732 7777 to ascertain applicable fees.
- (2) Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works within the Great Western Highway, Parker Street (The Northern Road) and Barber Avenue road reserve.
- a) Provision of heavy-duty vehicular crossing/s.
 - b) Provision of path paving for the full property frontage.
 - c) Provision of private drainage connections to Council's road drainage system.
 - d) Removal of redundant vehicular crossings and reinstatement of kerb and gutter.
 - e) Opening the road reserve for the provision of services including stormwater.
 - f) Placing of hoardings, containers, waste skips, etc. in the road reserve.
 - g) Replacement of damaged kerb and gutter for the full property frontage.
 - h) Erection of any awnings.
 - i) Utility lead in works.

- (3) All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's City Works Department on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

B14 Car Parking

Prior to the issue of any Construction Certificate, the Proponent is to prepare and submit revised basement car parking plans and a parking allocation statement to the satisfaction of the Director-General. The revised basement car parking plans and parking allocation statement are to address the land use car parking allocation requirements established in the below table.

Car Parking Requirements						
	Stage 1		Stage 2		S1 + S2	
Land Use	GFA or Rooms	Requirement	GFA or Rooms	Requirement	GFA or Rooms	Requirement
Commercial	19,558m2	489	1,504m2	38	21,062m2	527
Serviced Apartments	61 x 1 bed 10 x 2 bed	71	-	-	61 x 1 bed 10 x 2 bed	71
Retail	1,669 m2	64	1,640m2	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

Provision of disabled car parking is to be in accordance with the Disability Discrimination Act Access Code 2010.

B15 Developer Contributions

Prior to the issue of a Construction Certificate, the Proponent is to pay monetary contributions to Penrith City Council in accordance with the following Section 94 Contributions Plan mentioned below.

(1) **Cultural Facilities**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Cultural Facilities. Based on the current rates \$8,970 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

(2) **District Open Space**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates \$129,392 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

(3) **Local Open Space**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Local Open Space. Based on the current rates \$46,818 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

(3) **Kingswood Neighbourhood Centre**

This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for Kingswood Neighbourhood Centre. Based on the current rates \$10,218 is to be paid to Council prior to a Construction Certificate being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 94 Contributions Plan for Kingswood Neighbourhood Centre may be inspected at Council's Civic Centre, 601 High Street, Penrith.

PART C - PRIOR TO COMMENCEMENT OF WORKS

C1 Notice to be Given Prior to Commencement / Excavation

- (a) The Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- (b) The Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

C2 Vehicle Cleansing

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

C3 Utility Services

- (a) Prior to the commencement of building works, the Proponent is to negotiate with the utility authorities (e.g. Energy Australia, Sydney Water Corporation Limited and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.
- (b) Any necessary alterations to public utility installations being at the Developer/Demolisher's expense and to the requirements of both Council and the appropriate authorities.

C4 Contact Telephone Number

The Proponent shall ensure that a 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development. The contact number shall be forwarded to Council and the Department prior to commencement of works.

C5 Haulage Routes

The routes for import of any fill materials or export of any spoil being submitted to and agreed to by the relevant road authorities prior to the commencement of haulage. Unacceptable deterioration or failures within public roads attributable to these operations is to be restored to the requirements of, and at no cost to the road authorities.

C6 Dilapidation Report

A dilapidation survey of Council's assets and adjoining property including photographs and written record must be prepared and submitted to Council and adjoining properties prior to the commencement of works. Failure to identify any damage to Council's assets and the adjoining properties will render the Proponent liable for the costs associated with any necessary repairs.

PART D - DURING CONSTRUCTION

D1 Hours of Work

The hours of excavation and work on the development must be as follows:

- (a) All excavation and construction work and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools) in connection with the approved development must only be carried out between the hours of:
 - 7.00am and 6.00pm on Mondays to Fridays.
 - 8.00am and 1.00pm on Saturdays.
 - No work must be carried out on Sundays or public holidays.
- (b) Works may be undertaken outside these hours where:
 - the delivery of materials is required outside these hours by the Police or other authorities
 - it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm
 - the work is approved by the Director General or his nominee.

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- (a) Details of the Builder, Certifying Authority and Structural Engineer for all stages of the project;
- (b) The approved hours of work;
- (c) the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (d) To state that unauthorised entry to the site is not permitted.

D3 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction of any stage of the project, shall be replaced, to the satisfaction of Council.

D4 Noise Control

- (a) All work, including excavation and construction work must comply with the Australian Standard 2436-1981 '*Guide to Noise Control on Construction, Maintenance and Demolition Sites*'.
- (b) Noise and vibration emissions from equipment and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents or businesses and the relevant provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

D5 Standards and Codes

All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the Building Code of Australia.

D6 Work Cover Requirements

To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

D7 Hoarding Requirements

- (a) To ensure an appropriate presentation of the site to the public domain during the construction period, temporary artwork shall be provided along any hoarding/fencing proposed to be erected around the subject site.
- (b) The temporary artworks shall inform the general public about the proposed works being undertaken by the Proponent, the site's history and heritage significance.
- (c) No third party advertising is permitted to be displayed on the subject hoarding/fencing.

- (d) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

D8 Loading and Unloading During Construction

A Works Zone is required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council prior to commencement of the work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the day to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

D9 No Obstruction of Public Way

The public way (outside of the work area) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

D10 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during excavation shall not be pumped to the street stormwater system unless separate prior approval is given in writing by the relevant Authority.

D11 Erosion and Sediment Control

Sediment controls are to be in place for the duration of the works to ensure that no sediment, fines, and like material can enter the waterway or drainage system. The Proponent is to carry out works generally in accordance with the Construction Management Plan and controls are to be maintained at design level throughout the duration of the works and are to be inspected for this purpose at frequent intervals. Any deficiencies are to be immediately made good.

D12 Dust Control Measures

Dust control measures are to be in place or are to be undertaken for the duration of the works to prevent dust from affecting the amenity of the immediate area during construction. The Proponent is to carry out works generally in accordance with the Construction Management Plan, and controls are to be maintained at design level throughout the duration of the works and are to be inspected for this purpose at frequent intervals. Any deficiencies are to be immediately made good.

D13 Pedestrian Access During Construction

Pedestrian access along the Great Western Highway, Parker Street and Barber Avenue is to be maintained throughout construction. Alternative routes, including those for persons with disabilities, shall be clearly identified and signposted for the duration of the works, and until such time as the permanent accessible paths are provided.

D14 Setting Out of Structures

The new building shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels.

D15 Directional Signage

- (a) Directional signage shall be modified as required to accommodate any altered pedestrian and vehicular movements within the area.
- (b) Particular attention is to be paid to:
- wheelchair accessible paths of travel
 - safe road crossing areas including signalised and other designated crossings
 - key landmarks
 - access to transport nodes including public transport
 - the vehicular entrance and exit driveways and the direction of traffic movement within the site being clearly indicated by means of reflectorised signs and pavement markings.

D16 Traffic Movement

- (a) All loading and unloading associated with works must occur on site.

- (b) All vehicles must enter and leave the site in a forward direction.
- (c) The cost of all traffic management works shall be borne by the Proponent.
- (d) No trucks associated with the approved works are permitted to park or stand on public roadways.
- (e) Gates shall be closed between vehicle movements.
- (f) Movement of trucks to and from the site shall be staggered so as to limit access and egress during peak traffic periods.
- (g) The Contractor shall make provision for safe, continuous movement of traffic and pedestrians in public roads and private roads accessible to the public and erecting traffic warning signs conforming to the Roads and Traffic Authority's General Specifications (RTA Spec. Part G10 "Control of Traffic" and RTA Spec. 3355). Traffic control is to be carried out only by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3 – 2002.

D17 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, or Council.

D18 Work on Site to Cease

- (a) If any unidentified historical archaeological remains or deposits are exposed during the works excavation is to cease immediately in the affected areas and the archaeologist is to undertake an evaluation of the potential extent and significance of such relics. The Heritage Council is to be notified in accordance with section 146 of the *NSW Heritage Act, 1977*.
- (b) Should any Aboriginal relics or artefacts be discovered during the course of any works on-site, then work is to cease immediately. Work may only be resumed following written consent being obtained from the National Parks and Wildlife Service.

D19 Excavated Material

Any excavated material to be removed from the site must be assessed, classified, transported and disposed of in accordance with the *EPA's Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes*.

D20 Imported Fill

Any imported fill onto the site being validated to ensure its suitability for the proposed land use from a contamination perspective. Imported fill is to be certified that it is not contaminated, based upon analysis or the known past history of the site from which it is obtained.

PART E - PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

E1 Noise Control – Plant and Machinery

Prior to the issue of an Occupation Certificate for the building a report is to be prepared by a qualified acoustic engineer and submitted to the Certifying Authority confirming that the installation and performance of the mechanical systems complies with:

- (a) The noise emission assessment (Part 6) of the acoustic report included in the EA (Acoustic Logic, Document Reference: 2010716/0209A/R1/GC)
- (b) the Building Code of Australia
- (c) Australian Standard AS1668 and other relevant codes
- (d) the project approval and any relevant modifications
- (e) any dispensation granted by the New South Wales Fire Brigade.

E2 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the Certifying Authority for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the Occupation Certificate for the building. A copy of the Fire Safety certificate must be submitted to the relevant authority and Council.

E3 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate for any structural work is to be submitted to the satisfaction of the Certifying Authority prior to issue of the Occupation Certificate.

E4 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent prior to the issue of the Occupation Certificate for the building.

E5 Waste Management

Prior the issue of the Occupation Certificate being issued, the Certifying Authority must ensure that waste handling works have been completed in accordance with the Waste Management Plan; other relevant approval conditions; and any relevant Council policy.

E5 Pedestrian Fence

A permanent pedestrian fence is to be erected on the median in Parker Street, extending from the signalised intersection at the Great Western Highway and Parker Street intersection, past the Barber Avenue/Parker Street Intersection. The Pedestrian fence is to be designed and constructed in accordance with RTA requirements and relevant Australian standards.

PART F - POST OCCUPATION

F1 Annual Fire Safety Certificate

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued. This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.

F2 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.
- (b) A sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential property between the hours of 12.00 midnight and 7.00am.

F3 Loading and Unloading

All loading and unloading, including deliveries to and from the site in connection with the use must be carried out in a manner so as not to cause inconvenience to the public or detrimentally impact the amenity of the locality.

F4 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

F5 Annual Occupancy Certification for Use of Serviced Apartments

The owner of the units in Building B shall, upon request by Council, make premises available for inspection and/or provide documentary evidence that the premises are being used for short term serviced apartment accommodation only and not for any form of permanent rental accommodation utilising Residential Tenancy Agreements.

ADVISORY NOTES

AN1 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the Proponent shall ensure the following matters are complied with:

- (a) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions
 - at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (b) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN2 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN3 Disability Discrimination Act

This application is to comply with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

AN4 Temporary Structures

A Barricade/Hoarding Permit must be obtained prior to the commencement of construction works from the relevant Authority. The permit application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must also be submitted to the relevant Authority to certify the structural adequacy of the design of the temporary Barricades/Hoarding.

AN5 Structural Capability for Existing Structures

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN6 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act, 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

PROPOSERS STATEMENT OF COMMITMENTS

5.0 USE AND PERMISSIBILITY

- Commercial that is for the use of or ancillary to medical, health, educational or research uses within the precinct.
- Residential uses to include market apartments, serviced apartments, aged care facilities, medical step down, patient low care, rehabilitative care, hotel facilities.
- Retail uses that are for or ancillary to medical, health, educational, research or food consumption.

5.1 PUBLIC DOMAIN & LANDSCAPING

- A publicly accessible through-site link will be provided and maintained between the Great Western Highway and Barber Ave.
- Lighting to pedestrian plaza will be provided to the relevant Australian Standard.
- A public domain and landscape implementation report shall be prepared and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- All elements of the public domain and landscaping will be maintained by the Proponent throughout the life of the development.

5.2 TRANSPORT AND ACCESSIBILITY

- The Proponent will widen the footpath at the southern side of the Great Western Highway from across the frontage of the development.
- The Proponent will prepare and implement a Transport Access Guide (TAG) for the development that will outline how the development will reduce private vehicle usage by 10%. The TAG will ensure that residential elements of the project are allocated parking in accordance with the requirements of Penrith DCP 2006.
- The TAG will be placed prominently within the development to guide future residents, employees and visitors to the site.
- The access and internal design aspect of the development are acceptable and individual Project will comply with AS 2890.
- A construction Traffic Management Plan will be prepared prior to the issuing a construction certificate.
- A pedestrian fence is to be provided along the entire frontage of the Parker St frontage extending past Barber Ave to prevent uncontrolled pedestrian crossing of Parker St.
- Preparation of a Parking Management Plan that identifies the intended location spaces to users of the site, short and long stay parking and control mechanism for managing compliance.
- Preparation of a Workplace Travel Plan (WTP) for future staff prior to construction.
- Provision of adequate bicycle parking spaces and level of amenities for staff at a convenient location on basement level 1 near the lifts to maximise surveillance, convenience and use.
- Provision of bicycle parking at the appropriate entrances to the development.

5.3 NOISE MANAGEMENT

- A construction Noise Management Plan in accordance with the DECCW's *"Interim Construction Noise Guidelines"* will be prepared prior to the issuing of a construction certificate.
- All glazing will be provided as per Table 3 of the Acoustic Assessment report prepared by Acoustic Logic.
- A detailed review of all external mechanical plant should be undertaken at construction certificate stage (once a plant selections and locations are finalised). Acoustic treatments should be then determined in order to control plane noise emissions to the level identified.
- The Loading Dock shall only be used during business hours (between 7am and 10pm).

5.4 STORM WATER

- Two separate detention storage tanks with a total volume of 122 cubic meters will be provided to limit post development discharges from the site to less than pre developed flow rates.
- Further investigations and detailed design (will be undertaken prior to the Construction Certificate) is required to provide for the safe carriage of overland flows generated within the site during major storm events and to ensure that the finished floor levels of habitable floor space are at a sufficient height above defined flow paths to avoid inundation.
- Further investigation and detailed design (will be undertaken prior to the Construction Certificate) is required to identify the capacity of the drainage network servicing the Nepean Private Hospital and at what location a legal piped connection draining from the Eastern Catchment of the proposed development can be made.
- Sediment and erosion control during the construction phase will be managed generally in accordance with the plan included in Appendix C of the Stormwater Management and Utilities Report prepared by *Hyder*.
- Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the on-site detention system/s 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 Design and Construction Guidelines and Construction Specification for Civil Works.

5.5 CONTAMINATION

- Undertake a preliminary Phase 2 environmental site assessment to include sampling and analysis of soil and ground water.
- Undertake an inspection of the existing buildings prior to demolition, to assess the potential use of hazardous construction materials such as asbestos, lead and PCB's.
- If contamination and/or hazardous construction materials are encountered prepare a remediation action plan (RAP) for the proposed development. The RAP will provide remedial procedures to be followed during the proposed development works.
- Undertake a validation assessment for the remedial works undertaken at the site and prepare a validation report.

5.6 ESD

- Energy modelling will be performed during the design stage to assess the energy efficiency of the building and to assist in optimizing the design.

- A Building User's Guide which includes information on Energy and Environmental Strategy, Monitoring and Targeting, Building Services, Transport Facilities, Material and Waste Policy, and Expansion/Re-fit Considerations will be supplied to all users of the building.
- There will be a contractual requirement with the contractor to have an Environmental Management Plan (EMP) and have an ISO 14001 Environmental Management System Accreditation applicable to the building.
- The Proponent will commit to a firm 12 month commissioning building tuning period after handover with minimum of quarterly reviews.
- A comprehensive waste management plan will be implemented with 60% of all waste by weight being recycled or reused. A dedicated on-site waste management area will be established to sort and segregate the waste. Waste skips or bins will be provided for the following materials;
 - Cardboard
 - Timber
 - Metal
 - Soft Plastic
 - Polystyrene
 - Insulation
 - Concrete
 - Glass
 - Bricks

Records will be kept by the contractor to demonstrate the actual percentage of waste recycled.

- A dedicated storage area will be provided for the separation, collection and recycling of office consumables. The storage area will be located in the basement next to the lift shaft to provide easy access for all building occupants and recycling companies. The storage area will provide recycling bins for the following waste streams, paper, glass, plastics, metals and organic (compost) materials.
- The car park has been designed at the minimum planning allowance to assist in reducing the number of cars. In the car park 10% of the car parks will be dedicated solely for small cars, carpool participants or hybrid/alternative fuel vehicles.
- Secure cyclist facilities will be provided to Council's satisfaction and no greater than 100 spaces. The facilities will include secure bicycle storage and lockers, accessible showers with changing facilities. Visitors bicycle storage will be provided in an accessible location, signposted near the main public entrances.
- A Green Star Accredited Professional will have intimate involvement during the design stage to assist in implementing all of the ESD initiatives.

5.7 ACCESSIBILITY

- Residential serviced apartment passenger lifts will have a 1400mm x 1600mm internal dimension (travel more than 12m), compliant with the DDA Access Code 2010 Table E3.6 (b).
- The development will provide 9 x accessible serviced apartments under DDA Access Code.
- 5 (2%) of the total amount of retail car parking to be made available as wheelchair accessible, compliant with the DDA Access Code 2010.
- 5 (1%) of the total amount of commercial car parking to be made available as wheelchair accessible, compliant with the DDA Access Code 2010.
- The development will provide 9 x accessible residential car parking bays allocated for this development, compliant with the DDA Access Code 2010 Table D3.5.

5.8 ELECTROLYSIS FROM RAIL OPERATIONS

- Prior to the issue of a Construction Certificate the Proponent will engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Proponent will incorporate in the development all the measures recommended in the report to control that risk. A copy of that report will be provided to the Principal Certifying Authority with the application for a Construction Certificate.