Department of Planning, Housing and Infrastructure

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Modification 2 – Nepean Hospital Redevelopment – Stage 2

State Significant Development Modification Assessment Report (SSD-16928008-Mod-2)

September 2024



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Modification 2 of Nepean Hospital Redevelopment – Stage 2 (SSD-16928008-Mod-2) Assessment Report

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of modification 2 of the State significant development (SSD) application for the Nepean Hospital Redevelopment – Stage 2 located at the Nepean Hospital Campus lodged by Health Infrastructure (on behalf of Health Administration Corporation). The report includes:

- an assessment of the modification against government policy and statutory requirements, including mandatory considerations.
- a demonstration of how matters raised by the community and other stakeholders have been considered.
- an assessment of the likely environmental, social and economic impacts of the modification.
- an evaluation which weighs up the likely impacts and benefits of the modification, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable.
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether the consent should be modified and any conditions that should be imposed.

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1 Introduction

1.1 The proposal

On 9 December 2022, Health Infrastructure, on behalf of Health Administration Corporation (the Applicant), sought and was granted approval for the Stage 2 Redevelopment of Nepean Hospital, involving demolition of existing structures, construction of a part seven, part 11, storey tower connecting into the Stage 1 tower, reconfiguration of public and service access and ancillary landscaping works. The Applicant now proposes to modify the consent to make changes to the car parking design and public domain works along Barber Avenue, tree removal, design changes to the entry and port cochere and modifications to the landscape design.

1.2 Project location

The existing hospital campus is located at 35-65 Derby Street, Kingswood in the Penrith local government area (LGA). The site is legally described as Lot 1 in DP 1114090. The development site forms part of the Nepean Hospital Campus (NHC), which is comprised of existing hospital buildings, several at-grade carparks and a multi-level carpark structure at the south eastern corner of the site. Vehicle access is attained from Barber Avenue, Parker, Derby and Somerset Streets (see Figure 1). There is no direct vehicular access to the NHC from the Great Western Highway. A new multi-level carpark has recently been constructed on the western side of the site. The Stage 1 building approved under SSD-8766 has recently been completed.



Figure 1 | Existing campus layout with development site shaded red (Source: Nearmap)

1.3 Related projects and works

1.3.1 **Approval history**

Nepean Hospital Redevelopment – Stage 2 (SSD-16928008)

On 9 December 2022, the Director, Social and Infrastructure Assessments approved an SSD application for the Stage 2 Redevelopment of Nepean Hospital. The approved development included:

- demolition of parts of the existing North Block, the Total Asset Management facility and other satellite buildings.
- construction of a new seven storey health services building with an additional 78 overnight/in-patient beds.
- reconfiguration of the loading dock area and back-of-house functions.
- landscaping and other associated public domain and infrastructure works, including offcampus high voltage feeder upgrade.
- Barber Avenue upgrade and construction of new access road to the forecourt, port cochere and front-of-house area.

The consent has been modified on one occasion (see Error! Reference source not found.).

Table 1 | Summary of modifications

Modification	Description	Decision-maker	Туре	Date
Mod-1	Additional tree removal	Department	4.55(1A)	21 September 2023

2 Proposed modification

2.1 Modification overview

The key aspects of the modifications sought are summarised as follows:

Barber Avenue - car parking design and public domain works

- Removal of parallel car parking spaces and introduction of 90 degree car parking spaces.
- Re-design of car parking spaces to ensure that all spaces are accommodated either wholly on Council land or wholly on hospital land.
- The design changes to the car parking design result in a total of 29 available car parking spaces within Barber Avenue compared to the previous 24 spaces, as approved.
- Realignment of kerb and guttering, new footpath along the southern boundary of the Barber Avenue road reserve, changes to location of stormwater drainage and other services conduits.
- Deletion of pedestrian ramp and retaining wall.
- Reconfigured and relocated access driveways into the porte cochere.

Landscape changes

- Redesign of the landscaping for Barber Avenue, including additional landscaping (as understorey grasses) within the road reserve and new turf between the redesigned entry and exit driveways.
- Redesign of the landscaping within the hospital land, including: reconfiguration of the yarning circle; redesign of pedestrian access; refined landscaping to accommodate the expanded waste management area; and redesign of internal courtyard areas at-grade and at the Level 1 terrace within the Stage 2 building.
- Removal of four tallowood trees at the northern end of the site, adjacent to the Tresillian building.
- Removal of three newly planted Eucalyptus trees to the east of the existing multi-deck carpark south of Barber Avenue to accommodate expansion of the waste management area.
- Updated planting schedule, including increased provision of new/offset canopy tree planting from the previous 108 new trees to 179 new trees.

Other

•	Changes to the Back of House plan to reflect the proposed expanded waste
	management area resulting from the need to accommodate compliant manoeuvring
	space for the largest vehicles to service the hospital.

•	Revise land	dscaping	conditions	D26 and E1	0 to insert	the word	"generall ₎	у".
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3 Statutory context

3.1 Scope of modification and assessment pathway

Details of the legal pathway under which modification is sought and are provided in **Table 2** below.

Table 2 | Permissibility and assessment pathway

Consideration	Description	
Scope of modification	The Department has reviewed the scope of the modification and considers that it can be characterised as a modification involving minor environmental impact as the proposal would not significantly increase the environmental impacts of the project as approved.	
	The Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.	
Consent Authority	 Minister for Planning and Public Spaces The Minister continues to be the consent authority under section 4.5(a) of the EP&A Act and has the capacity to modify the consent of the project. 	
Decision-maker	Under the Minister's delegation dated 9 March 2022, the Team Leader, Social Infrastructure, may determine the application as: - Penrith City Council (Council) has not made an objection. - a political donation statement has not been made. - public exhibition of the application was not required and therefore no public submissions objecting to the proposal were received.	

3.2 Mandatory matters for consideration

3.2.1 Matters of consideration required by the EP&A Act

In determining the modification, the consent authority must take into consideration such of the matters referred to in section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons

given by the consent authority for the grant of the consent that is sought to be modified. The Department's consideration of these matters is shown in Table 3 below.

Table 3 | Matters for consideration

Matter for consideration	Department's assessment	
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Section 5 – Assessment	
EP&A Regulation	Section 6 – Evaluation	
Likely impacts	Section 5 - Assessment	
Suitability of the site	Section Error! Reference source not found Modification background and Section 5 - Assessment	
Public submissions	Section 4 - Engagement & Section 5 - Assessment	
Public interest	Section 4 - Engagement, Section 5 - Assessment and Section 6 - Evaluation	

3.2.2 **Objects of the EP&A Act**

In determining whether or not to modify the consent, the consent authority should consider whether the modified project is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ecologically sustainable development. The Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

3.2.3 Biodiversity development assessment report

Section 7.17(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD modifications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the authority or person determining the application is satisfied that the modification will not increase the impact on biodiversity values (as identified in the BC Act and in the Biodiversity Conservation Regulation 2017)

The modification application was accompanied by an addendum report to the Biodiversity Assessment Development Report for the Stage 2 Redevelopment of the Nepean Hospital. This report notes the following:

- there is no additional loss of PCT 849 (Cumberland Plain Woodland CEEC).
- an additional 300sqm of planted native vegetation is proposed to be/has been cleared, which does not require biodiversity credit offsetting as per the BDAR. This equates to an approximate total of 1,521sqm (0.15 ha) of planted native vegetation to be removed. The additional impacts are considered relatively minor in nature and extent and does not alter the outcomes of the existing BDAR.
- the recommendations and mitigation measures outlined in the BDAR are to be applied to the additional clearing areas. This necessitates to replacement tree planting which is reflected in the updated landscape plan.

The Department has taken the BDAR (as amended) and proposed landscaping into account as part of its assessment (see Section 5).

4 Engagement

4.1 Department's engagement

In accordance with the EP&A Regulation the Department made the modification application publicly available on the Department's website on 1 August 2024 and also forwarded the application to Penrith City Council on 2 August 2024 for comment. The modification application was not required to be publicly notified or advertised given the nature of the modifications sought.

4.2 Notification of the modification

4.2.1 Public exhibition of the modification application

After accepting the modification request and report, the Department made the documents publicly available on the NSW Planning Portal.

4.2.2 **Summary of Council submission**

Penrith City Council provided comments on the project. A summary of the matters raised by Council is provided in Table 4 below.

Table 4 | Summary of matters raised by Council

Council	Submission summary
Penrith City Council	 Tree Management and Protection Impacts of established tree canopy loss and diminished urban heat mitigation. Compliance action should be taken in response to the unauthorised tree removal that has occurred. A Tree Protection Plan should be implemented for new trees provided. Barber Avenue works Confirmation provided that Council's engineers have reviewed the proposed amendments to the public domain works in Barber Avenue and generally raise no concerns in relation to the design amendments. Council also noted that given the realigned parking spaces, stormwater drainage and hospital access driveway, conditions B30, B31, B32 and D28 have been addressed.

Submission summary

 Advice that Council is in receipt of a section 138 Roads Act application for the works proposed in Barber Avenue and it is noted that the proposed modifications are consistent with the information submitted as part of the Roads Act application.

Traffic management

- The submitted swept path plans demonstrate that fire truck access to Barber Avenue from Parker Street cannot be performed without encroachment into oncoming traffic.
- There is reliance on the private property section at the end of Barber Avenue for truck turning manoeuvres and it is noted that trucks would be unable to turn if this area is later developed.
- Prior to the installation of regulatory/advisory signage and line marking, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Landscape design

- Requirement for a planting maintenance agreement with Council.
- Additional street trees should be provided in the garden beds separating the Barber Avenue car spaces.
- Street tree planting in the Barber Avenue road reserve should match the street tree species at the western end of Barber Avenue (southern side), being *Melaleuca linariifolia*.
- The proposed tree planting design does not appear to have been informed by mature species sizes, intensity of planting proposed and proximity to paths and other hardstand areas.

4.3 Request for further information

On 21 August 2024 the Department asked the Applicant to provide further information to address the comments raised by Council in its submission. The Applicant provided a written response on 3 September 2024, noting the following:

Tree Management and Protection

- The modification is addressing unintended unauthorised works relating to the Stage 2 redevelopment.
- The proposed replating of trees and offset planting will serve to provide a wider and denser tree canopy to mitigate urban heat at the site.

• A 12 month establishment and maintenance program is a blanket requirement for all trees to be planted under Stage 2 works.

Barber Avenue works

All matters are noted and accepted.

Traffic Management

- Swept paths for fire truck access to Barber Avenue is beyond the scope of the original consent.
- Trucks turning at the end of Barber Avenue is within an area that is beyond the scope of the modification and its design. This is a new matter not previously raised and is of no direct relationship to the modification and the design and operation of Barber Avenue.
- The required Council approvals for any new signage/line marking will be sought where required.

Landscape Design

- Landscaping to all Barber Avenue verge areas will be changed to turf in lieu of the currently proposed mixed grass planting. The landscape plans have been updated accordingly.
- Additional street trees are not considered feasible between car parking and vehicle
 entry and exit points, as they will block visibility of vehicles entering and exiting the
 drop-off area, as well as pedestrians crossing the driveway which is a safety risk.
- Street tree species have been amended in accordance with Council's comments.
- Large trees have been set back from hard surfaces and built form in line with best practice, and some trees have been intentionally clustered to encourage an upright habit for a positive visual amenity impact.

The above matters are discussed in further detail in Section 5 below.

5 Assessment

5.1 Barber Avenue – car parking design and public domain works

This aspect of the modification application is primarily driven by the changes required to the car parking design and public domain works along Barber Avenue because of the original imposition of conditions B30, B31, B32 and D28. The key design modifications are assessed below, including their relationship to the abovementioned conditions of consent.

Barber Avenue On-Street Parking

B30. Prior to the commencement of the relevant road works on Barber Avenue:

- (a) on-street parking arrangements are to be redesigned and submitted to the Planning Secretary for approval demonstrating that the eastern most parallel on-street parking space on the southern side of Barber Avenue at its termination is wholly located within the road reservation; or
- (b) evidence is to be provided to the satisfaction of the Planning Secretary that a boundary adjustment or other agreement has been agreed to by Council and the Applicant in relation to the parking space not being wholly located within the road reserve.

The modification application was accompanied by updated landscape and civil engineering drawings (see Figure 2), which have addressed part (a) of the above condition by removing parallel parking spaces within Barber Avenue. Only 90 degree car parking spaces are now proposed within the Barber Avenue road reserve and no parking spaces extend beyond the road reservation into hospital owned land.

The Department has reviewed the proposed revised car parking layout and considers that the amended design satisfies part (a) of condition B30. Furthermore, due to the reconfiguration of the car parking spaces, part (b) of condition B30 is now redundant. The Department is satisfied that condition B30 can therefore be deleted.



Figure 2 | Extract from civil engineering drawings showing modified car parking layout at the eastern end of Barber Avenue (Source: ptc)

B31. Prior to the commencement of the relevant road works on Barber Avenue, swept path plans are to be submitted to the Planning Secretary for approval demonstrating that vehicles can safely turnaround to access the three parallel parking spaces at the eastern end of Barber Avenue, unless the spaces are redesigned as 90 degree spaces to satisfy condition B30(a), in which case the swept path plans are not required.

The submitted civil engineering drawings address this condition by removing the three parallel to kerb spaces from the termination of Barber Avenue and redesigning the spaces in this location as 90 degree car parking spaces. Accordingly, the Department is satisfied that swept path diagrams are not required and condition B31 can be deleted.

B32. Prior to the commencement of the relevant road works on Barber Avenue, the two parallel onstreet parking spaces within Barber Avenue between the new hospital entry and exit driveways are to be redesigned and constructed as four 90 degree spaces.

The proposed modified development presents a layout which does not conform to the requirements of condition B32. The access driveways into the porte cochere have been shifted slightly to the west. The car parking spaces between the entry and exit driveways have been deleted altogether and replaced with turf (see Figure 3). The information submitted with the application states that no parking within the area between the driveways is sought for safety and visibility reasons for motorists and to segregate and differentiate the driveways from adjacent car parking. The Department supports this design change on the basis of the safety reasons

identified by the Applicant and further notes that the design changes made to the car parking design results in a total of 29 car parking spaces within Barber Avenue, compared to the previous 24 spaces, despite the inclusion of soft landscaping between the driveway access points.

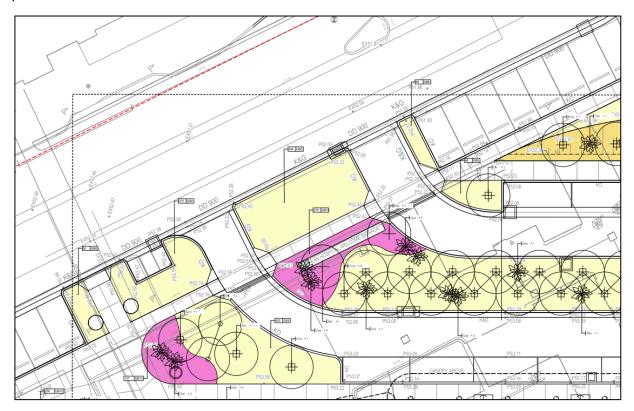


Figure 3 | Extract from the landscape plans showing removal of car parking spaces between the driveways (Source: Tract)

The Department is therefore satisfied that condition B32 can be deleted.

Private Infrastructure Works Adjacent to Barber Avenue

D28. Prior to the commencement of operation, a revised design for the pedestrian ramp, retaining wall and stormwater pipe that encroach on the current Barber Avenue road reservation (the area shown hatched on plan ALL-00010123 – Barber Avenue Edited Design dated 15/11/22 and attached as Appendix 3 of this consent) is to be submitted to the Planning Secretary for approval. The revised design is to demonstrate that all private infrastructure is located within the hospital site unless evidence is submitted to the satisfaction of the Planning Secretary that Council has agreed to or granted approval/consent for the private infrastructure referred to above (or part thereof) to be constructed within Council land.

The requirements of condition D28 have been addressed in the amended civil engineering drawings that accompany the modification application. In summary, the following changes are proposed:

- the ramp and retaining wall in the area marked red (as referenced in condition D28) have been deleted and replaced with at-grade mounding with understorey grasses.
- the road and footpath alignment has been squared-off and stormwater infrastructure and piping has been re-located to be wholly within the hospital owned land.

The proposed revised design ensures that all private infrastructure is located within the hospital site, as required by condition D28, rendering the condition (and Appendix 3) unnecessary.

Overall, the Department considers that the proposed car parking design and public domain changes within Barber Avenue are acceptable. The Department also notes that Council supports the design changes made and stated the following within their letter dated 15 August 2024: Council's engineers have reviewed the proposed amendments to the public domain works in Barber Avenue and generally raise no concerns in relation to the design amendments. Noting the realigned parking spaces, stormwater drainage network and hospital access driveway, Conditions B30, B31, B32 and D28 of the SSD consent appear to have been addressed by the modification application.

In view of the above, conditions B30, B31, B32 and D28 are recommended to be deleted.

5.2 Landscaping and tree removal

Landscaping

The proposed modified development incorporates landscaping design changes within the Barber Avenue road reserve and within the hospital site. Within the Barber Avenue road reserve, new landscaping in the form of turf is proposed between the redesigned entry and exit driveways and a street tree is also proposed at the termination of Barber Avenue (see Figure 4).

Amended landscape plans were provided with the RFI response to change the species of the street tree from *Eucalyptus moluccana* to *Melaleuca linarifolia*, at the request of Council. It is acknowledged that Council has sought the provision of further street trees in garden beds separating the Barber Avenue driveways. The Applicant has identified potential issues with visibility and sight lines of vehicles entering and egressing the porte cochere. The Department accepts this justification and considers there to be sufficient new trees planted across the balance of the site, noting that the subject modification application seeks to increase the number of new trees planted from 108 to 179.



Figure 4 | Extract from the landscape plan identifying turd and street tree (Source: Tract)

The proposed redesign of the landscaping within the hospital land includes: reconfiguration of the yarning circle; redesign of pedestrian access; refined landscaping to accommodate the expanded waste management area; and redesign of internal courtyard areas at-grade and at the Level 1 terrace within the Stage 2 building. Overall, the proposed changes to the landscaping within the hospital land are considered to be relatively minor and would not diminish the design quality of the approved development. Accordingly, the Department considers the amended landscaping design to be acceptable.

Landscaping conditions

The modification application seeks to amend the wording of landscaping conditions D26 and E10 to add "generally" in accordance with the approved plans as set out below:

Landscaping

D26. Prior to the commencement of operation, landscaping of the site must be completed generally in accordance with landscape plan(s) listed in condition A2(d).

Landscaping

E10. The Applicant must maintain the landscaping and vegetation on the site generally in accordance with the approved Landscape Management Plan required by condition D27 for the duration of occupation of the development.

The proposed modified wording would allow for any minor, aesthetic changes that may arise which would not otherwise be possible under the existing wording that is inflexible. Accordingly, the Department considers the proposed wording changes to be acceptable.

Tree removal

The modification application seeks consent for removal of four tallowood trees at the northern end of the site, adjacent to the Tresillian building (see Figure 5). The information provided with the modification application states that these trees were removed in error for the establishment of a site compound associated with the approved works. The application also seeks consent for removal of three newly planted Eucalyptus trees to the east of the existing multi-deck carpark, south of Barber Avenue, to accommodate expansion of the waste management area. The design changes made to the waste management area have resulted from the need to accommodate sufficient manoeuvring space for the largest vehicles to service the hospital (i.e. 13m garbage truck), ensuring that they are able to leave in a forward direction.

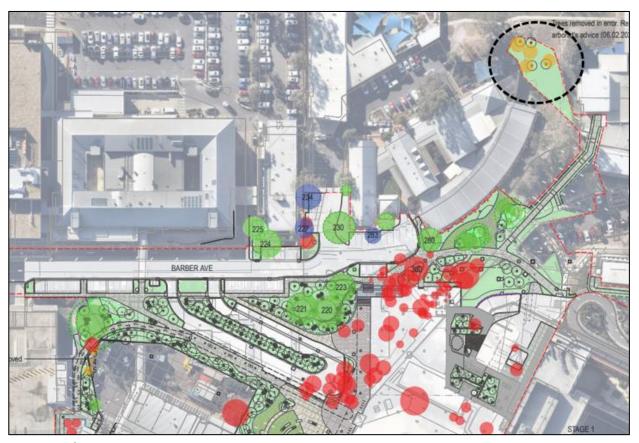


Figure 5 | Location of tallowwood tree removal shown circled (Source: Tract)

The Department considers the tree removal to be satisfactory in the circumstances for the following key reasons:

 the ecologist advice submitted with the application states the changes to the proposed/and already removed trees account for the additional loss of 300sqm of planted native vegetation. However, no additional credit offsets for the planted native

- vegetation are required and the additional impacts are consistent with the current impacts assessed in the BDAR and are minor in nature and extent.
- the three Eucalyptus trees to the east of the existing multi-deck carpark proposed to be removed are in their infancy, having been planted in 2019. A garden bed will remain in this general area with new large native and small native canopy trees proposed to replacement the trees identified for removal.
- suitable replacement tree planting has been incorporated into the proposed modified development. The ecologist advice confirms that the selection of replacement tree planting is appropriate and conforms to the mitigation measures set out in the original BDAR.
- an updated planting schedule has been provided, including increased provision of new/offset canopy tree planting from the previous 108 new trees to 179 new trees. As a result, there will be a significant long-term improvement to the greening and spread of canopy trees across the campus.

5.3 Other issues

The Department's consideration of other issues is summarised in Table 5 below.

Table 5 | Assessment of other issues

Issue	Findings and conclusions	Recommended conditions
Tree Protection Plan	In light of the proposed changes to some of the civil infrastructure as well as the landscape design on the campus, an updated Tree Protection Plan was provided as part of the addendum Arboricultural Impact Assessment Report. Various recommendations are made to ensure that the works, as sought to be modified, do not cause any adverse impacts for trees that are identified for retention.	Condition C19 – Tree Removal and Fauna Protection is recommended to be amended to reflect the updated documentation provided.
Traffic Management	Council's submission noted that the submitted swept path plans demonstrate that fire truck access to Barber Avenue from Parker Street cannot be performed without encroachment into oncoming traffic. Furthermore, it was identified that there is reliance on the private property section at the end of Barber Avenue for truck	No further conditions are considered necessary.

Issue	Findings and conclusions	Recommended conditions
	turning manoeuvres and trucks would be unable to turn if this area is later developed.	
	The Applicant addressed these concerns within the RFI response and noted that:	
	 swept paths for fire truck access to Barber Avenue is beyond the scope of the original consent. 	
	trucks turning at the end of Barber Avenue is within an area that is beyond the scope of the modification and its design. This is a new matter not previously raised and is of no direct relationship to the modification and the design and operation of Barber Avenue.	
	The Department concurs with the justification provided by the Applicant and does not consider any further design changes or conditions of consent to be warranted.	

6 Evaluation

The Department has reviewed the proposed modifications, assessed the merits of the modified proposal, and issues associated with the proposal have been addressed. Overall, the modifications sought would not significantly change the nature of the approved development.

The Department considers that the application is consistent with the objects of the EP&A Act and continues to be consistent with the strategic directions for the State.

The development as modified would be substantially the same as that originally approved and would deliver a significant public benefit by providing facilities to support the expansion of health facilities and supporting the expansion of Nepean Hospital in line with the vision for the precinct. The Department concludes the impacts of the proposed modifications are acceptable.

The Department has formed the opinion that the modification should be approved subject to conditions.

7 Recommendation

It is recommended that the Team Leader, Social Infrastructure, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report.
- accepts and adopts the findings and recommendations in this report as the reasons for making the decision to approve the modification.
- agrees with the key reasons for approval listed in the notice of decision.
- modifies the consent for the Nepean Hospital Redevelopment Stage 2 (SSD-1928008-Mod-2) as amended, subject to the conditions in the attached instrument of modification.
- signs the attached instrument of modification (Appendix C).

Recommended by:

P Nash

Patrick Nash
Senior Planning Officer
Social Infrastructure

8 Determination

The recommendation is adopted by:

Tanil 6— 16 September 2024

David Gibson
Team Leader
Social Infrastructure

Glossary

Abbreviation	Definition
Council Penrith City Council	
Department	Department of Planning, Housing and Infrastructure
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation Environmental Planning and Assessment Regulation 2021	
EPI Environmental planning instrument	
ESD Ecologically sustainable development	
Secretary	Secretary of the Department of Planning, Housing and Infrastructure
SSD	State significant development

Appendices

Appendix A – List of referenced documents

https://www.planningportal.nsw.gov.au/major-projects/projects/modification-2-changes-public-domain-works-along-barber-avenue

Appendix B - Consolidated Consent

https://www.planningportal.nsw.gov.au/major-projects/projects/modification-2-changes-public-domain-works-along-barber-avenue

Appendix C – Recommended instrument of modification

https://www.planningportal.nsw.gov.au/major-projects/projects/modification-2-changes-public-domain-works-along-barber-avenue