



STATEMENT OF ENVIRONMENTAL EFFECTS

**Change of Use to Business
Premises (Remedial
Massage)**

**Level 1, 28 Lawrence
Street, Freshwater NSW
2096**

✉ mathew@fourtowns.com.au

☎ 0425232018

www.fourtowns.com.au

PO Box 361, Balgowlah NSW 2093

This report has been prepared to support a Development Application under the *Environmental Planning and Assessment Act 1979*.

Report prepared by:

Mathew Quattroville

Director – Four Towns Pty Ltd

Report prepared for:

Mesa Body

2 February 2021

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1. Introduction and Background Information

1.1 Introduction

This report has been prepared as supporting documentation for a Development Application for a change of use to a business premises (remedial massage) at Level 1, 28 Lawrence Street, Freshwater, being Lot 1 within Deposited Plan 900061.

This report has been prepared following instructions from the client, Mesa Body. In preparing this application consideration has been given to the following:

- *Environmental Planning and Assessment Act, 1979* (as amended) (EP&A Act);
- Environmental Planning and Assessment Regulation 2000;
- Relevant State Environmental Planning Policies;
- Warringah Local Environmental Plan 2011 (WLEP 2011);
- Warringah Development Control Plan (WDCP);
- Architectural Plans;
- Fire Safety Statement;
- Waste Management Plan.

This Statement of Environmental Effects describes the proposed development having particular regard to the provisions of Section 4.15 of the EP&A Act 1979 and examines any potential environmental impacts with regard to the relevant sections of the Act, State policies and requirements of Northern Beaches Council's WDCP.

The conclusions of the Statement of Environmental Effects are that the proposed development, being a change of use to a business premises is permissible with development consent and is consistent with the relevant statutory planning instruments including the Warringah Local Environmental Plan 2011 and planning policies of the Warringah Development Control Plan.

Accordingly, the Development Application succeeds on its merits and should be approved by Council as submitted.

1.2 Background Information

General

Mesa body lodged a GIPA application with Council to access records for any approvals granted for the original building, in particular Level 1. It is noted that Council's records team advised that no files were on record for the building relating to Level 1. Applications were found for the ground floor dry cleaners.

Site History

It is understood that the site has been used as a commercial building for decades. The google image below from 2008 shows that a Chiropractor used of the first floor for numerous years. It is noted that the premises have been vacant for a few years with recent renovations (cosmetic) completed by the previous land owner.



Source: Google Streetview - 2008

Level 1 – 28 Lawrence St - 2008

2. Site Profile

2.1 Property Description

The subject allotment is described as 28 Lawrence Street, Freshwater, being Lot 1 within Deposited Plan 900061. The site is zoned B2 Local Centre under Warringah Local Environmental Plan 2011.

The site is not listed as a heritage item, nor is it located within a heritage conservation area.

2.2 Site and Locality Description

The site is located on the corner of Lawrence Street and Dowling Street. The site is rectangular in shape with a 15.24m frontage to Lawrence Street and 30.48m frontage to Dowling Street. The property has vehicular access off Dowling Street with access to approx. 25 car spaces. The subject tenancy has an approx. floor area of 140sqm.

The building is two storeys in height with various tenancies off both the ground floor and first floor. The locality maps below show the location and area of the site:

Locality Maps



Source: Nearmap 2021

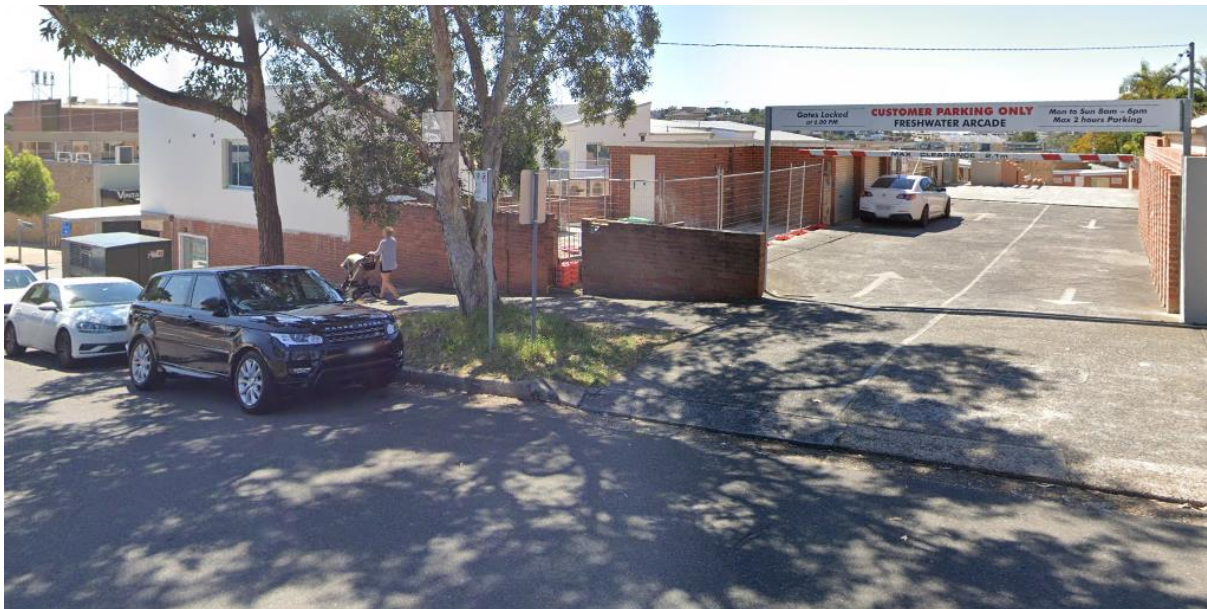
The locality has a variety of property types and sizes. The existing surrounding development comprises a mix of commercial, mixed use developments and residential properties. The site is located within the Freshwater Village Centre. The site is located with access to a major public transport network out the front of the site on Lawrence Street with links to Manly, the City CBD and Warringah Mall.

The photos below show the site:



Source: Google Streetview

Photograph of the site



Source: Google Streetview

Photograph of vehicular and pedestrian access off Dowling Street

3. Proposal

The proposed development is for a change of use only for use as a business premises (remedial massage) at Level 1, 28 Lawrence Street, Freshwater, being Lot 1 within Deposited Plan 900061. The proposal remains consistent with the building and the objectives of the locality.

Use

The proposed development is for a change of use only for use as a business premises (remedial massage).

The client has provided the following information regarding the business:

Mesa is a Massage Therapy and Infrared Sauna studio, a professional offering in a spa environment. We invite our clients to take time to nourish themselves with our holistic approach of modalities and complimentary small range of products that will reflect our values as a business being all organic and sustainable, local where possible naturally adding to the positive experience to encourage self care outside of Mesa's walls.

Our offering is: Remedial, Relaxation/Swedish, Deep Tissue/Sports Massage Therapies. Usage of organic natural skin/body care products Infrared Sauna/Light Therapy

Small retail: candles, product range used in treatments, jewellery, ceramics, apothecary, tea.

Appointment Length: 60/90 minute

Website- not available at this time

Bookings- will be made through reception, and a new booking system via website facilities

Internal Fit Out Works

Cosmetic works only that are exempt development (painting and new flooring).

Hours of Operation

Proposed hours of operation:

Monday to Sunday 6am – 9pm

Staff

Four (4) full time employees plus casuals on as needs basis.

Loading/Unloading

Existing loading and unloading facilities on-site or along Lawrence Street within Loading zones.

Carparking

The site has access to approximately 25 car spaces on-site, along with metered on-street parking.

Waste Management

The proposal will have a designated waste area. The majority of waste will be rubbish associated with office requirements. Waste will be separated, stored and recycled where possible. The waste will be collected as required by a commercial contractor.

4. Statutory Planning Controls

The proposal has been assessed in accordance with the following instruments and controls:

- *Environmental Planning and Assessment Act 1979*, and Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policies;
- Warringah Local Environmental Plan 2011; and
- Warringah Development Control Plan.

4.1 *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)

The EP&A Act 1979 governs all environmental planning instruments within New South Wales. The proposal has been reviewed pursuant to the matters for consideration within Section 4.15 of the EP&A Act 1979.

The proposal is not Designated Development under Section 4.10 of the EP&A Act 1979 or Schedule 3 of the EPA Assessment Regulation 2000, therefore Northern Beaches Council is the Consent Authority. In addition, the proposal does not constitute an Integrated Development under the EP&A Act 1979, Section 4.46 with no further approvals from other Government agencies required.

4.2 State Environmental Planning Policies (SEPPs)

SEPP (Infrastructure) 2007

It is submitted that the proposal does not fall under the provisions of SEPP (Infrastructure) 2007 and therefore no assessment is required.

BASIX and Energy Efficiency (SEPP Building Sustainability Index: BASIX) 2004

Not applicable.

SEPP No. 55 Remediation of Land

Clause 7 of SEPP No. 55 Remediation of Land requires the consent authority to consider whether land is contaminated prior to granting of consent to the carrying out of any development on that land. The proposal is for a change of use with no contamination expected.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces the repealed provisions of clause 5.9 of the standard instrument LEP relating to the preservation of trees and vegetation. The aims of this Policy are to protect the biodiversity values of trees and other vegetation, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The development remains consistent with the provisions of the SEPP as it does not propose the removal of any significant vegetation.

4.3 Warringah Local Environmental Plan 2011 (WLEP2011)

The relevant matters to be considered under the WLEP2011 are outlined below in the LEP summary compliance table.

Part 1: Preliminary		
Standard	Control	Comments
1.2 Aims of Plan	(e) in relation to non-residential development, to— (i) ensure that non-residential development does not have an adverse effect on the amenity of residential properties and public places, and (ii) maintain a diversity of employment, services, cultural and recreational facilities,	Complies – the proposal is for a change of use which will not impact residential or adjoining land uses.

Part 4: Principal Development Standards			
Standard	Permitted	Proposed	Comments
4.1 Minimum subdivision lot size	N/A	N/A	N/A - No change to existing lot size
4.1AA Minimum subdivision lot size for community title schemes	N/A	N/A	N/A
4.2 Rural subdivision	N/A	N/A	N/A
4.2A Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones	N/A	N/A	N/A
4.3 Height of buildings	11m	N/A	N/A – change of use only
4.3A Special height provisions	N/A	N/A	N/A
4.4 Floor space ratio	N/A	N/A	N/A
4.5 Calculation of floor space ratio and site area	Noted	N/A	Noted
4.6 Exceptions to development standards	Noted	N/A	N/A – no breaches to development standards proposed

Part 5: Miscellaneous Provisions	
Provisions	Comments
5.1 Relevant acquisition authority	N/A
5.1A Development on land intended to be acquired for a public purpose	N/A
5.2 Classification and reclassification of public land	N/A
5.3 Development near zone boundaries	N/A
5.4 Controls relating to miscellaneous permissible uses	N/A
5.5 (Repealed)	N/A
5.6 Architectural roof features	N/A
5.7 Development below mean high water mark	N/A
5.8 Conversion of fire alarms	N/A
5.9, 5.9AA (Repealed)	N/A
5.10 Heritage conservation	N/A
5.11 Bush fire hazard reduction	N/A
5.12 Infrastructure development and use of existing buildings of the Crown	N/A
5.13 Eco-tourist facilities	N/A
5.14 Siding Spring Observatory – maintaining dark sky	N/A
5.15 Defence communications facility	N/A
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones	N/A
5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations	N/A
5.18 Intensive livestock agriculture	N/A
5.19 Pond-based, tank-based and oyster aquaculture	N/A
5.20 Standards that cannot be used to refuse consent – playing and performing music	N/A

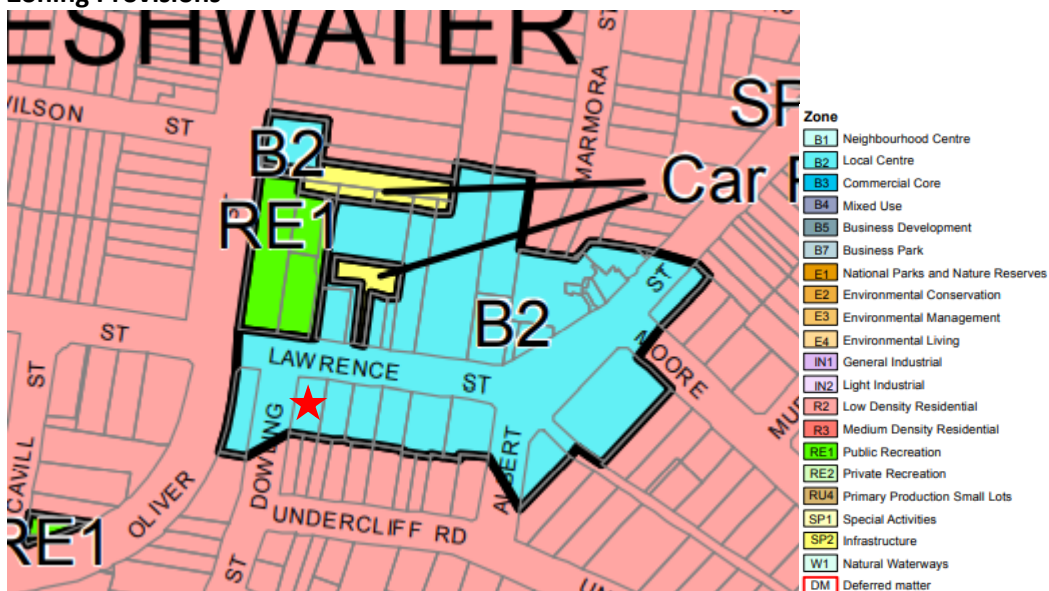
Part 6: Relevant Additional Local Provisions	
Provisions	Comments
6.1 Acid sulfate soils	N/A – the proposal is for a change of use only
6.2 Earthworks	N/A – no proposed earthworks
6.3 Flood Planning	N/A
6.4 Development on sloping land	N/A – the proposal is for a change of use only
6.5 Coastline hazards	N/A

6.6 Erection of dwelling houses in Zone E3 Environmental Management	N/A
6.7 Residential flat buildings in Zone B4 Mixed Use	N/A
6.8 Subdivision of certain land	N/A
6.9 Location of sex service premises	N/A
6.10 Development for the purposes of secondary dwellings in zones R2 and R3	N/A

Part 7: Dee Why Town Centre	
Provisions	Comments
7.1 to 7.14	N/A – the site is not located within Dee Why Town Centre.

Relevant Schedules	
Schedule	Comments
Schedule 1 – Additional permitted uses	N/A
Schedule 2 – Exempt development	N/A
Schedule 3 – Complying development	N/A
Schedule 4 – Classification and reclassification of public land	N/A
Schedule 5 – Environmental heritage	N/A
Schedule 6 – Pond-based and tank-based aquaculture	N/A

Zoning Provisions



Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide an environment for pedestrians that is safe, comfortable and interesting.
- To create urban form that relates favourably in scale and in architectural and landscape treatment to neighbouring land uses and to the natural environment.
- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Medical centres; Oyster aquaculture; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Animal boarding or training establishments; Boat building and repair facilities; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Environmental facilities; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Open cut mining; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Rural industries; Sex services premises; Storage premises; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recreation structures; Wharf or boating facilities; Wholesale supplies

Definitions:

business premises means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

Note— Business premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

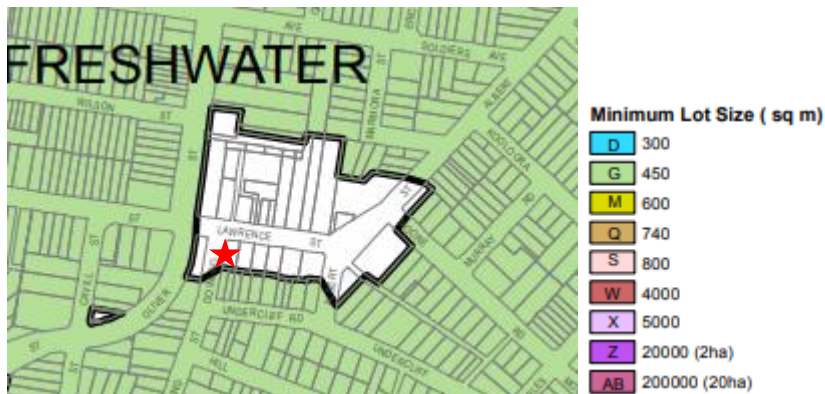
Comment: The site is zoned B2 Local Centre. The use as a business premises (remedial massage) is a permissible land use. The proposed land use is consistent with the objectives of the zone, as supported below:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To provide an environment for pedestrians that is safe, comfortable and interesting.
- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of any adjoining or nearby residential land uses.

Part 4 Principal development standards

4.1 Minimum subdivision lot size



(1) The objectives of this clause are as follows—

- to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,
- to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,
- to protect the integrity of land holding patterns in rural localities against fragmentation,
- to achieve low intensity of land use in localities of environmental significance,
- to provide for appropriate bush fire protection measures on land that has an interface to bushland,
- to protect and enhance existing remnant bushland,
- to retain and protect existing significant natural landscape features,
- to manage biodiversity,
- to provide for appropriate stormwater management and sewer infrastructure.

(2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

(3A) For the purposes of subclause (3), in calculating the size of a lot the area of any access corridor (including any right of carriageway, access way or other area that provides for vehicle access) is to be excluded, whether the access corridor is to be created or is in existence at the time of the application for development consent for the subdivision.

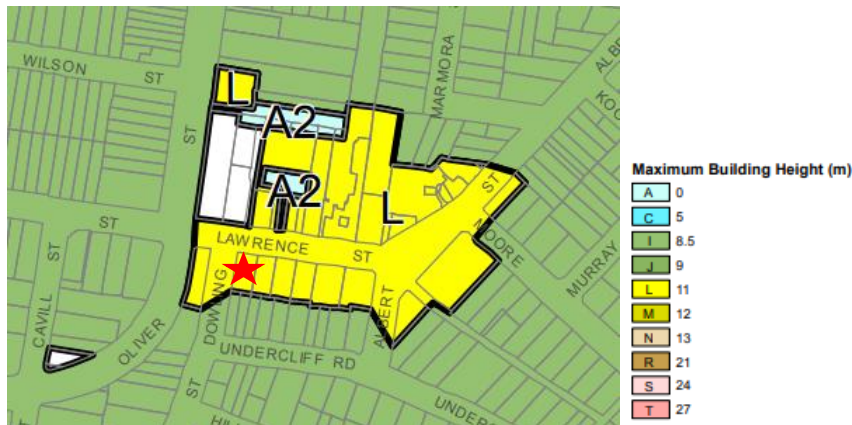
(4) This clause does not apply in relation to the subdivision of any land—

- by the registration of a strata plan or strata plan of subdivision under the [Strata Schemes Development Act 2015](#), or
- by any kind of subdivision under the [Community Land Development Act 1989](#).

Comment:

Clause 4.1 is not applicable to this assessment.

4.3 Height of buildings



4.3 Height of buildings

(1) The objectives of this clause are as follows—

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

(2A) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.

Comment:

The site has a maximum building height provision of 11m. The proposal is for a change of use only and does not change the existing building height.

4.4 Floor space ratio

Comment: Not applicable.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows—

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
 - (4) Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*
 - (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
 - (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** When this Plan was made it did not contain Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU6 Transition or Zone R5 Large Lot Residential.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
 - (8) This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) a development standard for complying development,*
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) clause 5.4.*
 - (8A) Also, this clause does not allow development consent to be granted for development that would contravene a development standard for the maximum height of a building shown on the Height of Buildings Map on land shown on the Centres Map as the Dee Why Town Centre.*
 - (8B) Despite subclause (8A), development on Site C or Site E may exceed the maximum height of building shown on the Height of Buildings Map if the maximum height is allowable under clause 7.14.*

Comment:

Not applicable – no breaches to development standards.

6.1 Acid sulfate soils



6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

Class of land Works

- | | |
|---|---|
| 1 | Any works. |
| 2 | Works below the natural ground surface.
Works by which the watertable is likely to be lowered. |
| 3 | Works more than 1 metre below the natural ground surface.
Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface. |
| 4 | Works more than 2 metres below the natural ground surface.
Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. |
| 5 | Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. |

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—

- (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and
- (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—

- (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,

- (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),*
- (c) minor work, being work that costs less than \$20,000 (other than drainage work).*
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if—*
 - (a) the works involve the disturbance of less than 1 tonne of soil, and*
 - (b) the works are not likely to lower the watertable.*

Comment:

Not applicable – the site is not identified as Acid Sulfate Soils.

6.2 Earthworks

- (1) The objectives of this clause are as follows—*
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - (b) to allow earthworks of a minor nature without requiring separate development consent.*
- (2) Development consent is required for earthworks unless—*
 - (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) the work is ancillary to other development for which development consent has been given.*
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—*
 - (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) the quality of the fill or the soil to be excavated, or both,*
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) the source of any fill material and the destination of any excavated material,*
 - (f) the likelihood of disturbing relics,*
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

Note— The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

Comment:

Not applicable – the proposal is for a change of use only with no earthworks.

6.3 Flood planning

- (1) The objectives of this clause are as follows—*
 - (a) to minimise the flood risk to life and property associated with the use of land,*
 - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
 - (c) to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) This clause applies to land at or below the flood planning level.*

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN: 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.

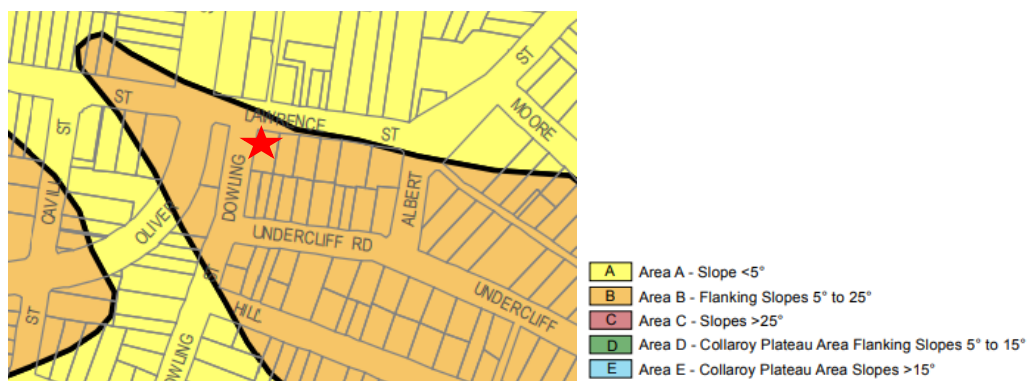
(5) In this clause—

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Comment:

Not applicable – the site is not identified within a flood planning area.

6.4 Development on sloping land



(1) The objectives of this clause are as follows—

- (a) to avoid significant adverse impacts on development and on properties in the vicinity of development sites resulting from landslides originating either on or near sloping land,
- (b) to ensure the impacts of storm water runoff from development on or near sloping land are minimised so as to not adversely affect the stability of the subject and surrounding land,
- (c) to ensure subsurface flows are not adversely affected by development so as to not impact on the stability of existing or adjoining land.

(2) This clause applies to land shown as Area A, Area B, Area C, Area D and Area E on the Landslip Risk Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (a) the application for development has been assessed for the risk associated with landslides in relation to both property and life, and
- (b) the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and
- (c) the development will not impact on or affect the existing subsurface flow conditions.

Comment:

The site is identified as Area B on the landslip risk map. The application is for a change of use only with a desktop study showing no risks to the proposed use of level 1 as a business premises.

4.4 Warringah Development Control Plan (WDCP)

In designing the proposed changes to the built form, due consideration has been given to the respective sections and objectives of WDCP, in particular:

- Part B Built Form Controls
- Part C Siting Factors
- Part D Design
- Part E Natural Environment
- Part F Zones and Sensitive Areas
- Part G Special Area Controls
- Part H Appendices

Key components of the DCP have been detailed below. The proposal is compliant with relevant provisions of the WDCP.

Part A – Introduction

A.5 Objectives

The overriding objective of the DCP is to create and maintain a high level of environmental quality throughout Warringah. Development should result in an increased level of local amenity and environmental sustainability. The other objectives of this plan are:

Objectives

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome*
- *To inspire design innovation for residential, commercial and industrial development*
- *To provide a high level of access to and within development.*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained*
- *To achieve environmentally, economically and socially sustainable development for the community of Warringah*

Comments:

Complies – the proposal is for a change of use only to a business premises (remedial massage). The site is located within Freshwater Village and retains the commercial uses as previously utilised within the building.

Part B – Built Form Controls

Part B Built Form Controls B1 to B14 not applicable to a change of use only.

Part C – Siting Factors

C2 Traffic, Access and Safety

Objectives

To minimise:

- a) traffic hazards;*

- b) vehicles queuing on public roads*
- c) the number of vehicle crossings in a street;*
- d) traffic, pedestrian and cyclist conflict;*
- e) interference with public transport facilities; and*
- f) the loss of “on street” kerbside parking.*

Requirements

Vehicular Access

- 1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives.*
- 2. Vehicle access is to be obtained from minor streets and lanes where available and practical.*
- 3. There will be no direct vehicle access to properties in the B7 zone from Mona Vale Road or Forest Way.*
- 4. Vehicle crossing approvals on public roads are to be in accordance with Council’s Vehicle Crossing Policy (Special Crossings) LAP-PL413 and Vehicle Access to Roadside Development LAP-PL 315.*
- 5. Vehicle crossing construction and design is to be in accordance with Council's Minor works specification.*

On-site loading and unloading

- 6. Facilities for the loading and unloading of service, delivery and emergency vehicles are to be: appropriate to the size and nature of the development; screened from public view; and designed so that vehicles may enter and leave in a forward direction.*

Exceptions

Reference should be made to Part G for additional, site specific requirements

Comments:

Not applicable – the proposal is for the use of existing commercial premises only with no changes to traffic, pedestrian or parking arrangements.

C3 Parking Facilities

Objectives

- To provide adequate off street carparking.*
- To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
- To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Requirements

- 1. The following design principles shall be met:*
 - Garage doors and carports are to be integrated into the house design and to not dominate the façade. Parking is to be located within buildings or on site.;*
 - Laneways are to be used to provide rear access to carparking areas where possible;*
 - Carparking is to be provided partly or fully underground for apartment buildings and other large scale developments;*
 - Parking is to be located so that views of the street from front windows are not obscured; and*
 - Where garages and carports face the street, ensure that the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser.*
- 2. Off street parking is to be provided within the property demonstrating that the following matters have been taken into account:*
 - the land use;*

- the hours of operation;
 - the availability of public transport;
 - the availability of alternative car parking; and
 - the need for parking facilities for courier vehicles, delivery / service vehicles and bicycles.
3. Carparking, other than for individual dwellings, shall :
- Avoid the use of mechanical car stacking spaces;
 - Not be readily apparent from public spaces;
 - Provide safe and convenient pedestrian and traffic movement;
 - Include adequate provision for manoeuvring and convenient access to individual spaces;
 - Enable vehicles to enter and leave the site in a forward direction;
 - Incorporate unobstructed access to visitor parking spaces;
 - Be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant places;
 - Provide on site detention of stormwater, where appropriate; and
 - Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1.
4. Carparking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. Where the carparking rate is not specified in Appendix 1 or the WLEP, carparking must be adequate for the development having regard to the objectives and requirements of this clause. The rates specified in the Roads and Traffic Authority's Guide to Traffic Generating Development should be used as a guide where relevant.
5. Adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.
6. For bulky goods premises adequate on-site parking spaces for service/delivery vehicles at a convenient location, separated from customer parking must be provided.
7. Where appropriate, car parking which meets the needs of people with physical disabilities must be provided in accordance with the relevant Australian Standard.
8. For Forest Way Village car parking at ground level is to be provided for individual units.

Exceptions

Reference should be made to Part G for additional, site specific requirements.
Community title subdivisions are to include provision for one visitor parking space per five dwellings or part thereof. These spaces are to be located within the neighbourhood property lot. Cross reference is in appendix 1.

Comments:

Complies – the proposal is for the use as business premises with no change to the existing GFA. The premises has access to twenty-five (25) shared dedicated car spaces.

C3(A) Bicycle Parking and End of Trip Facilities

Applies to Land

This control applies to land to which Warringah Local Environmental Plan 2011 applies.
This control does not apply to development that is a dwelling house, a change of use when no additional floor space is being created or subdivision of land.

Comments:

Not applicable – adequate storage space available for bike parking.

C4 Stormwater

Objectives

- To protect and improve the ecological condition of Warringah's beaches, lagoons, waterways, wetlands and surrounding bushland;
- To minimise the risk to public health and safety;
- To reduce the risk to life and property from flooding;
- Integrate Water Sensitive Urban Design measures into the landscape and built form to maximise amenity.
- To manage and minimise stormwater overland flow, nuisance flooding and groundwater related damage to properties.
- To protect Council's stormwater drainage assets during development works and to ensure Council's drainage rights are not compromised.
- To minimise the quantity of stormwater runoff from new development on Council's drainage system.

Requirements

1. Stormwater runoff must not cause downstream flooding and must have minimal environmental impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake and waterway or the like.
2. The stormwater drainage systems for all developments are to be designed, installed and maintained in accordance with Council's Water Management Policy.

Exceptions

- Refer to Council's Water Management Policy for exceptions.

Comments:

Not applicable – change of use application only.

C5 Erosion and Sedimentation

Objectives

- To reduce the potential for soil erosion and adverse sedimentation impacts upon the environment.
- To prevent the migration of sediment off the site onto any waterway, drainage systems, public reserves, road reserve, bushland or adjoining private lands.
- To prevent any reduction in water quality downstream of the development site.

Requirements

1. All developments which involve the disturbance of land must install and maintain erosion and sediment controls until the site is fully stabilised.
2. Any erosion and sedimentation is to be managed at the source.
3. Erosion, sediment and pollution controls including water discharge from the site must comply with Council's Water Management Policy.
4. An Erosion and Sediment Control Plan must be prepared in accordance with Landcom's Managing Urban Stormwater: Soil and Construction Manual (2004) for all development which involves the disturbance of up to 2500m² of land.
5. Soil and Water Management Plan must be prepared in accordance with Landcom's Managing Urban Stormwater: Soil and Construction Manual (2004) for all development which involves the disturbance of more than 2500m² of land.

Exceptions

Reference should be made to Part G for additional, site specific requirements.

Comments:

Not applicable – change of use application only.

C6 Building over or adjacent to Constructed Council Drainage Easements

Objectives

To ensure that Council's drainage infrastructure is not damaged and that costs and liabilities are minimised when constructing, replacing, maintaining or obtaining emergency access to constructed public drainage systems located within private property

Comments:

Not applicable – change of use application only.

C7 Excavation and Landfill

Objectives

- To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.*
- To require that excavation and landfill does not create airborne pollution.*
- To preserve the integrity of the physical environment.*
- To maintain and enhance visual and scenic quality.*

Requirements

- 1. All landfill must be clean and not contain any materials that are contaminated and must comply with the relevant legislation.*
- 2. Excavation and landfill works must not result in any adverse impact on adjoining land.*
- 3. Excavated and landfill areas shall be constructed to ensure the geological stability of the work.*
- 4. Excavation and landfill shall not create siltation or pollution of waterways and drainage lines, or degrade or destroy the natural environment.*
- 5. Rehabilitation and revegetation techniques shall be applied to the fill.*
- 6. Where landfill is necessary, it is to be minimal and shall have no adverse effect on the visual and natural environment or adjoining and surrounding properties.*

Comments:

Not applicable – the proposal is for a change of use application only with no excavation or landfill.

C8 Demolition and Construction

Objectives

- To manage demolition and construction sites so that there is no unreasonable impact on the surrounding amenity, pedestrian or road safety, or the natural environment.*
- To promote improved project management by minimising demolition and construction waste and encouraging source separation, reuse and recycling of materials.*
- To assist industry, commercial operators and site managers in planning their necessary waste management procedures through the preparation and lodgement of a Waste Management Plan*
- To discourage illegal dumping.*

Requirements

- 1. All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.*

Comments:

Not applicable – change of use application only.

C9 Waste Management

Objectives

- To facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development (ESD).
- To achieve waste avoidance, source separation and recycling of household and industrial/commercial waste.
- To design and locate waste storage and collection facilities which are convenient and easily accessible; safe; hygienic; of an adequate size, and with minimal adverse impacts on residents, surrounding neighbours, and pedestrian and vehicle movements.
- To ensure waste storage and collection facilities complement waste collection and management services, offered by Council and the private service providers and support on-going control for such standards and services.
- To minimise risks to health and safety associated with handling and disposal of waste and recycled material, and ensure optimum hygiene.
- To minimise any adverse environmental impacts associated with the storage and collection of waste.

Requirements

1. All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.

Comments:

The proposal will have adequate storage for on-going waste as per Council's Waste Management Guidelines and Plan. Refer to the Waste Management Plan.

Part D - Design

D1 Landscaped Open Space and Bushland Setting

Objectives

- To enable planting to maintain and enhance the streetscape.
- To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.
- To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.
- To enhance privacy between buildings.
- To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.
- To provide space for service functions, including clothes drying.
- To facilitate water management, including on-site detention and infiltration of stormwater.

Requirements

1. The required minimum area of landscaped open space is shown on DCP Map Landscaped Open Space and Bushland Setting. To measure the area of landscaped open space:

a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;

b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;

c) Landscaped open space must be at ground level (finished); and

d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.

2. Where land is shown on DCP Map Landscaped Open Space and Bushland Setting as “Bushland Setting”, a minimum of 50% of the site area must remain undisturbed by development and is to be kept as natural bushland or landscaped with locally indigenous species.

3. In Cottage Point the relationship of the locality with the surrounding National Park and Cowan Creek waterway will be given top priority by enhancing the spread of indigenous tree canopy and protecting the natural landscape including rock outcrops and remnant bushland.

Exceptions

Any conflicting requirements in Part G override this control

Comments:

Not applicable – change of use application only.

D2 Private Open Space

Objectives

- To ensure that all residential development is provided with functional, well located areas of private open space.
- To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings.
- To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces.
- To ensure that private open space receives sufficient solar access and privacy.

Requirements

1. Residential development is to include private open space for each dwelling.

2. The minimum area and dimensions of private open space are as follows:

DWELLING Type	Area and Minimum Dimensions per dwelling
Dwelling houses (including dual occupancy) and attached dwellings with 1 or 2 bedrooms	A total of 35m ² with minimum dimensions of 3 metres
Dwelling houses (including dual occupancy) and attached dwellings with 3 or more bedrooms	A total of 60m ² with minimum dimensions of 5 metres
Multi dwelling housing (not located at ground level); residential flat buildings and shop top housing	A total of 10m ² with minimum dimensions of 2.5 metres

3. Private open space is to be directly accessible from a living area of a dwelling and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children’s play.

4. Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.

5. Private open space shall not be located in the primary front building setback.

6. Private open space is to be located to maximise solar access.

Comments:

Not applicable – change of use application only.

D3 Noise

Objectives

- To encourage innovative design solutions to improve the urban environment.
- To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.

Requirements

1. Noise from combined operation of all mechanical plant and equipment must not generate noise levels that exceed the ambient background noise by more than 5dB(A) when measured in accordance with the [NSW Industrial Noise Policy](#) at the receiving boundary of residential and other noise sensitive land uses.

See also NSW Industrial Noise Policy Appendices

2. Development near existing noise generating activities, such as industry and roads, is to be designed to mitigate the effect of that noise.
3. Waste collection and delivery vehicles are not to operate in the vicinity of residential uses between 10pm and 6am.
4. Where possible, locate noise sensitive rooms such as bedrooms and private open space away from noise sources. For example, locate kitchens or service areas closer to busy road frontages and bedrooms away from road frontages.
5. Where possible, locate noise sources away from the bedroom areas of adjoining dwellings/properties to minimise impact.

Comments:

Complies – the proposal is for use as a business premises (remedial massage) which does not omit or increase noise greater than that existing on-site. The use does not change from the commercial nature of the existing building, therefore, no increase to expected noise levels at the premises.

D4 Electromagnetic Radiation

Objectives

- To ensure the safety of the community from electromagnetic radiation.
- To ensure that mobile phone base station and associated infrastructure and equipment does not result in an adverse visual impact on the natural or built environment.

Requirements

Radiation levels from mobile phone base stations, antennas and transmitters which emit electromagnetic radiation are to comply with the following requirements: [Telecommunications Act](#)

Comments:

Not applicable.

D6 Access to Sunlight

Objectives

- To ensure that reasonable access to sunlight is maintained.
- To encourage innovative design solutions to improve the urban environment and public open space.
- To promote passive solar design and the use of solar energy.

Requirements

- 1. Development should avoid unreasonable overshadowing any public open space.*
- 2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.*

Exceptions

Council may consider a variation to this control in the particular circumstances of a proposal, where an applicant can demonstrate, to the satisfaction of Council that:

- i) the slope or topography of the site or adjoining property makes compliance impractical; and*
- ii) other design options have been investigated which would comply but would unreasonably constrain the development of an otherwise compliant building.*

Comments:

Not applicable – change of use application only.

D7 Views

Objectives

- To allow for the reasonable sharing of views.*
- To encourage innovative design solutions to improve the urban environment.*
- To ensure existing canopy trees have priority over views.*

Requirements

- 1. Development shall provide for the reasonable sharing of views.*

Comments:

Not applicable – change of use application only.

D8 Privacy

Objectives

- To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*
- To encourage innovative design solutions to improve the urban environment.*
- To provide personal and property security for occupants and visitors.*

Requirements

- 1. Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.*
- 2. Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.*
- 3. The effective location of doors, windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.*
- 4. The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.*
- 5. Planter boxes, louvre screens, pergolas, balcony design and the like are to be used to screen a minimum of 50% of the principal private open space of a lower apartment from overlooking from an upper apartment.*

Comments:

Not applicable – change of use application only.

D9 Building Bulk

Objectives

- *To encourage good design and innovative architecture to improve the urban environment.*
- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Requirements

1. *Side and rear setbacks are to be progressively increased as wall height increases.*
2. *Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.*
3. *On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:
The amount of fill is not to exceed one metre in depth.
Fill is not to spread beyond the footprint of the building.
Excavation of the landform is to be minimised.*
4. *Building height and scale needs to relate to topography and site conditions.*
5. *Orientate development to address the street.*
6. *Use colour, materials and surface treatment to reduce building bulk.*
7. *Landscape plantings are to be provided to reduce the visual bulk of new building and works.*
8. *Articulate walls to reduce building mass.*

Comments:

Not applicable – change of use application only.

D10 Building Colours and Materials

Objectives

- *To ensure the colours and materials of new or altered buildings and structures are sympathetic to the surrounding natural and built environment.*

Requirements

1. *In highly visible areas, the visual impact of new development (including any structures required to retain land) is to be minimized through the use of appropriate colours and materials and landscaping.*
2. *The colours and materials of development on sites adjoining, or in close proximity to, bushland areas, waterways or the beach must blend in to the natural landscape.*
3. *The colours and materials used for alterations and additions to an existing structure shall complement the existing external building façade.*
4. *The holiday/fisherman shack character of the waterfront of Cottage Point is to be enhanced by the use of building materials which are sympathetic to the small timber and fibro cottages currently in existence on the waterfront. All buildings visible from the water are to utilise materials such as weatherboard, fibre cement, corrugated steel and timber. The use of masonry is discouraged.*

Comments:

Not applicable – change of use application only.

D11 Roofs

Objectives

- *To encourage innovative design solutions to improve the urban environment.*
- *Roofs are to be designed to complement the local skyline.*
- *Roofs are to be designed to conceal plant and equipment.*

Requirements

1. *Lift overruns, plant and other mechanical equipment are not to detract from the appearance of roofs.*
2. *Roofs should complement the roof pitch and forms of the existing buildings in the streetscape.*
3. *Articulate the roof with elements such as dormers, gables, balconies, verandahs and pergolas.*
4. *Roofs shall incorporate eaves for shading.*
5. *Roofing materials should not cause excessive glare and reflection.*
6. *Service equipment, lift overruns, plant and other mechanical equipment on the roof shall be minimised by integrating as many services, etc as possible into the building.*

Comments:

Not applicable – change of use application only.

D12 Glare and Reflection

Objectives

- *To ensure that development will not result in overspill or glare from artificial illumination or sun reflection.*
- *To maintain and improve the amenity of public and private land.*
- *To encourage innovative design solutions to improve the urban environment.*

Requirements

1. *The overspill from artificial illumination or sun reflection is to be minimised by utilising one or more of the following: Selecting an appropriate lighting height that is practical and responds to the building and its neighbours;*
 - *Minimising the lit area of signage;*
 - *Locating the light source away from adjoining properties or boundaries; and*
 - *Directing light spill within the site.*
2. *Any glare from artificial illumination is to be minimised by utilising one or more of the following:*
 - *Indirect lighting;*
 - *Controlling the level of illumination; and*
 - *Directing the light source away from view lines.*
3. *Sunlight reflectivity that may impact on surrounding properties is to be minimised by utilising one or more of the following:*
 - *Selecting materials for roofing, wall claddings and glazing that have less reflection eg medium to dark roof tones;*
 - *Orienting reflective materials away from properties that may be impacted;*
 - *Recessing glass into the façade;*
 - *Utilising shading devices;*
 - *Limiting the use of glazing on walls and glazed balustrades and avoiding the use of highly reflective glass; and*
 - *Selecting windows and openings that have a vertical emphasis and are significantly less in proportion to solid massing in walls.*

Comments:

Not applicable – change of use application only.

D13 Front Fences and Front Walls

Objectives

- To ensure that fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.
- To encourage innovative design solutions to improve the urban environment.
- To avoid a 'walled in' streetscape.

Requirements

1. Fences, including side fences, located within the street setback area are to be compatible with the existing streetscape character.
2. Where a solid fence is required it is to be articulated to provide visual interest and set back to allow for landscaping to soften and screen the appearance of the fence.
3. Fences located within the front building setback area are to complement the existing streetscape character.
4. Fences are to be constructed to allow casual surveillance, except where there is excessive noise.
5. Gates are not to encroach over the property boundary when opening or closing.
6. Fences should complement the architectural period of the building.

Exceptions

No solid front fences or front walls will be permitted on flood prone land.

Reference should be made to Part G Belrose Corridor for site specific requirements.

Comments:

Not applicable – change of use application only.

D14 Site Facilities

Objectives

- To provide for the logical placement of facilities on site that will result in minimal impacts for all users, particularly residents, and surrounding neighbours.
- To encourage innovative design solutions to improve the urban environment.
- To make servicing the site as efficient and easy as possible.
- To allow for discreet and easily serviceable placement of site facilities in new development.

Requirements

1. Site facilities including garbage and recycling enclosures, mail boxes and clothes drying facilities are to be adequate and convenient for users and services and are to have minimal visual impact from public places. In particular:

- Waste and recycling bin enclosures are to be durable, integrated with the building design and site landscaping, suitably screened from public places or streets and located for convenient access for collection;
- All dwellings which are required to have landscaped open space are to be provided with adequate open air clothes drying facilities which are suitably screened from public places or streets;
- Garbage areas are to be designed to avoid common problems such as smell, noise from collection vehicles and the visibility of containers;
- Landscaping is to be provided to reduce the impact of all garbage and recycling enclosures. They are to be located away from habitable rooms, bedrooms or living areas that may detract from the

amenity of occupants; and

- Mail boxes are to be incorporated into the front fence or landscaping design. They are to be easily accessible and clearly identifiable.*

Comments:

Complies – the premises has access to waste facilities and a letterbox for mail.

D15 Side and Rear Fences

Objectives

- To encourage innovative design solutions to improve the urban environment.*

Requirements

- 1. Generally, side and rear boundary fences are to be no higher than 1.8 metres on level sites, or 1.8 metres measured from the low side where there is a difference in either side of the boundary.*
- 2. For sloping sites, the height of fences may be averaged and fences and walls may be regularly stepped.*
- 3. All fencing materials are to complement the existing neighbourhood. The use of corrugated metal, barbed wire or broken glass is not permitted.*

Comments:

Not applicable – change of use application only.

D16 Swimming Pools and Spa Pools

Objectives

- To ensure swimming pools and spas are located to preserve the natural environment, streetscape and residential amenity.*
- To encourage innovative design solutions to improve the urban environment.*

Requirements

- 1. Pools are not to be located in the front building setback.*
- 2. Where there are 2 frontages, swimming pools and spas are not to be situated in the primary street frontage.*
- 3. Swimming pools and spas are to be setback from any trees. Australian Standard AS4970-2009 Protection of trees on development sites is to be used to determine an appropriate setback.*

Comments:

Not applicable – change of use application only.

D17 Tennis Courts

Objectives

- To encourage innovative design solutions to improve the urban environment.*

Requirements

- 1. Tennis courts are to be located behind the front building setback.*
- 2. Where there are 2 frontages, the location of the tennis court is not to be in the primary street frontage.*
- 3. Tennis courts are to be setback from any trees. Australian Standard AS4970-2009 Protection of trees on development sites is to be used to determine an appropriate setback.*

4. *The height and location of court fencing is to enable:*
 - a) *Sharing of views from surrounding residences; and*
 - b) *Provision of sunlight to surrounding properties.*
5. *Fencing material is to be a dark colour.*
6. *Fences are to be setback a minimum of 1.5 metres from front, side and rear boundaries.*

Comments:

Not applicable – change of use application only.

D18 Accessibility and Adaptability

Objectives

- *To ensure vehicular access points for parking, servicing or deliveries, and pedestrian access are designed to provide vehicular and pedestrian safety.*
- *To ensure convenient, comfortable and safe access for all people including older people, people with prams and strollers and people with a disability.*
- *To provide a reasonable proportion of residential units that should be designed to be adaptable and easily modified to promote ‘ageing in place’ and for people with disabilities.*

Comments:

Not applicable – no change to existing accessibility and adaptability provisions on-site.

D19 Site Consolidation in the R3 and IN1 Zone

Objectives

- *To encourage lot consolidation to allow efficient use of land.*
- *To encourage innovative design solutions to improve the urban environment.*
- *To avoid lot sterilization.*

Comments:

Not applicable.

D20 Safety and Security

Objectives

- *To ensure that development maintains and enhances the security and safety of the community.*

Requirements

1. *Buildings are to overlook streets as well as public and communal places to allow casual surveillance.*
2. *Service areas and access ways are to be either secured or designed to allow casual surveillance.*
3. *There is to be adequate lighting of entrances and pedestrian areas.*
4. *After hours land use activities are to be given priority along primary pedestrian routes to increase safety.*
5. *Entrances to buildings are to be from public streets wherever possible.*
6. *For larger developments, a site management plan and formal risk assessment, including the consideration of the ‘Crime Prevention through Environmental Design’ principles may be required. This is relevant where, in Council’s opinion, the proposed development would present a crime, safety or security risk. See Crime Prevention and Assessment of Development Applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979 prepared by the Department of Urban Affairs and Planning (now Department of Planning).*

7. Buildings are to be designed to allow casual surveillance of the street, for example by:
 - a) Maximising the glazed shop front on the ground level so that views in and out of the shop can be achieved;
 - b) Providing openings of an adequate size in the upper levels to maximise opportunities for surveillance;
 - c) Locating high use rooms to maximise casual surveillance;
 - d) Clearly displaying the street number on the front of the building in pedestrian view; and
 - e) Ensuring shop fronts are not obscured by planting, signage, awnings and roller shutters.
8. Casual surveillance of loading areas is to be improved by:
 - a) Providing side and rear openings from adjacent buildings that overlook service areas and clear sight lines; and
 - b) Providing adequate day and night lighting which will reduce the risk of undesirable activity.
9. Design entrances to buildings from public streets so that:
 - a) Building entrances are clearly identifiable, defined, lit and visible;
 - b) The residential component of a shop top housing development has a separate secure pedestrian entrance from the commercial component of the development;
 - c) Main entrances are clearly identifiable;
 - d) Pavement surfaces and signage direct pedestrian movements; and
 - e) Potential conflict between pedestrians and vehicles is avoided.

Exceptions

Reference should be made to Part G4 Warringah Mall for site specific requirements.

Comments:

Not applicable – change of use application only with no change to building entrances.

D21 Provision and Location of Utility Services

Objectives

- To encourage innovative design solutions to improve the urban environment.
- To ensure that adequate utility services are provided to land being developed.

Requirements

1. If a proposed development will involve a need for them, utility services must be provided, including provision of the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.
2. Service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and suitably screened from public places or streets.
3. Where possible, underground utility services such as water, gas, telecommunications, electricity and gas are to be provided in a common trench. The main advantages for this are:
 - a) A reduction in the number of trenches required;
 - b) An accurate location of services for maintenance;
 - c) Minimising the conflict between services;
 - d) Minimising land required and cost;
4. The location of utility services should take account of and minimise any impact on natural features such as bushland and natural watercourses.
5. Where natural features are disturbed the soil profile should be restored and landscaping and tree planting should be sited and selected to minimise impact on services, including existing overhead cables.
6. Where utilities are located above ground, screening devices should include materials that complement the streetscape, for example fencing and landscaping. The location of service structures

such as electricity substations should be within the site area.

7. Habitable buildings must be connected to Sydney Water's sewerage system where the density is one dwelling per 1050 square metres or greater.

8. On land where the density is less than one dwelling per 1050 square metres, and where connection to Sydney Water is not possible, Council may consider the on-site disposal of effluent where the applicant can demonstrate that the proposed sewerage systems or works are able to operate over the long term without causing unreasonable adverse effects.

Comments:

The site is adequately serviced by the essential utilities (i.e. water, electricity, sewer).

D22 Conservation of Energy and Water

Objectives

- *To encourage innovative design solutions to improve the urban environment.*
- *To ensure energy and water use is minimised.*

Requirements

1. *The orientation, layout and landscaping of sites is to make the best use of natural ventilation, daylight and solar energy.*
2. *Site layout and structures are to allow for reasonable solar access for the purposes of water heating and electricity generation and maintain reasonable solar access to adjoining properties.*
3. *Buildings are to be designed to minimize energy and water consumption.*
4. *Landscape design is to assist in the conservation of energy and water.*
5. *Reuse of stormwater for on-site irrigation and domestic use is to be encouraged, subject to consideration of public health risks.*
6. *All development must comply with Council's Water Management Policy.*

Comments:

Not applicable – change of use application only.

D23 Signs

Objectives

- *To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*
- *To achieve well designed and coordinated signage that uses high quality materials.*
- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*
- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*
- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comments:

Not applicable – any future signage will be exempt development or the subject of a separate Development Application.

Part E – The Natural Environment

E1 Preservation of Trees or Bushland Vegetation

Objectives

- To protect and enhance the urban forest of the Northern Beaches.*
- To effectively manage the risks that come with an established urban forest through professional management of trees.*
- To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.*
- To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.*
- To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.*

Comments:

Not applicable – change of use application only.

E2 Prescribed Vegetation

Objectives

- To preserve and enhance the area's amenity, whilst protecting human life and property.*
- To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- To provide habitat for local wildlife, generate shade for residents and provide psychological & social benefits.*
- To protect and promote the recovery of threatened species, populations and endangered ecological communities.*
- To protect and enhance the habitat of plants, animals and vegetation communities with high conservation significance.*
- To retain and enhance native vegetation communities and the ecological functions of wildlife corridors.*
- To reconstruct habitat in non vegetated areas of wildlife corridors that will sustain the ecological functions of a wildlife corridor and that, as far as possible, represents the combination of plant species and vegetation structure of the original 1750 community.*
- Promote the retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable plant and animal communities to survive in the long-term.*

Requirements

1. The following is prescribed for the purposes of clause 5.9(2) of Part 2 of the Vegetation SEPP:

All native vegetation identified on:

a) DCP Map Threatened and High Conservation Habitat

b) DCP Map Wildlife Corridors

c) DCP Map Native Vegetation

d) known or potential habitat for threatened species, populations or ecological communities as listed under the NSW Threatened Species Conservation Act 1995 and/or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

2. Development is to be situated and designed to minimise the impact on prescribed vegetation, including remnant canopy trees, understorey vegetation, and ground cover species.

Comments:

Not applicable.

E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat

Objectives

- To protect and promote the recovery of threatened species, populations and endangered ecological communities.*
- To protect and enhance the habitat of plants, animals and vegetation communities with high conservation significance.*
- To preserve and enhance the area's amenity, whilst protecting human life and property.*
- To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits.*

Comments:

Not applicable.

E4 Wildlife Corridors

Objectives

- To preserve and enhance the area's amenity, whilst protecting human life and property.*
- To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits.*
- To retain and enhance native vegetation and the ecological functions of wildlife corridors.*
- To reconstruct habitat in non vegetated areas of wildlife corridors that will sustain the ecological function of a wildlife corridor and that, as far as possible, represents the combination of plant species and vegetation structure of the original 1750 community. See Warringah Natural Area Survey, August 2005.*

Requirements

- 1. For modification of native vegetation where the area of land supporting the vegetation to be modified is greater than 50m² or the land supporting the vegetation to be modified forms part of an allotment where vegetation has been modified in the last five years:
 - i. The applicant must demonstrate that the objectives have been achieved through a Flora and Fauna Assessment prepared in accordance with Council guidelines; and*
 - ii. The applicant must demonstrate that the objectives have been achieved through a Biodiversity Management Plan prepared in accordance with Council guidelines that will protect, manage and enhance wildlife corridors, and where appropriate reconstruct wildlife corridor areas on the subject property.**
- 2. For modification of native vegetation in all other cases, the applicant must demonstrate that the objectives have been achieved.*

Comments:

Not applicable.

E5 Native Vegetation

Objectives

- *To preserve and enhance the area's amenity, whilst protecting human life and property.*
- *To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- *To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits.*
- *Promote the retention of native vegetation in parcels of a size, condition and configuration which will as far as possible enable local plant and animal communities to survive in the long term.*
- *To maintain the amount, local occurrence and diversity of native vegetation in the area*

Comments:

Not applicable – the proposal does not remove any native vegetation.

E6 Retaining unique environmental features

Objectives

- *To conserve those parts of land which distinguish it from its surroundings.*

Requirements

1. *Development is to be designed to address any distinctive environmental features of the site and on adjoining nearby land.*
2. *Development should respond to these features through location of structures, outlook, design and materials.*

Comments:

Not applicable - the proposal does not alter any landscaped or unique environmental features.

E7 Development on land adjoining public open space

Objectives

- *To protect and preserve bushland adjoining parks, bushland reserves and other public open spaces.*
- *To ensure that development responds to its adjacent surroundings to preserve and enhance the natural qualities of the environment.*
- *Development on land adjoining open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.*

Comments:

Not applicable.

E8 Waterways and Riparian Lands

Objectives

- *Protect, maintain and enhance the ecology and biodiversity of waterways and riparian land.*
- *Encourage development to be located outside waterways and riparian land.*
- *Avoid impacts that will result in an adverse change in watercourse or riparian land condition.*
- *Minimise risk to life and property from stream bank erosion and flooding by incorporating appropriate controls and mitigation measures.*
- *Maintain and improve access, amenity and scenic quality of waterways and riparian lands.*

- *Development on waterways and riparian lands shall aim to return Group B and Group C creeks to a Group A standard (as described in Warringah Creek Management Study, 2004) through appropriate siting and development of development.*

Comments:

Not applicable.

E9 Coastline Hazard

Objectives

- *To minimise the risk of damage from coastal processes and coastline hazards for proposed buildings and works along Collaroy Beach, Narrabeen Beach and Fisherman's Beach.*
- *To ensure that development does not have an adverse impact on the scenic quality of Collaroy, Narrabeen and Fisherman's Beaches.*
- *To ensure that development does not adversely impact on the coastal processes affecting adjacent land.*
- *To retain the area's regional role for public recreation and amenity.*

Comments:

Not applicable.

E10 Landslip Risk

Objectives

- *To ensure development is geotechnically stable.*
- *To ensure good engineering practice.*
- *To ensure there is no adverse impact on existing subsurface flow conditions.*
- *To ensure there is no adverse impact resulting from stormwater discharge.*

Requirements

1. *The applicant must demonstrate that:*
 - *The proposed development is justified in terms of geotechnical stability; and*
 - *The proposed development will be carried out in accordance with good engineering practice.*
2. *Development must not cause detrimental impacts because of stormwater discharge from the land.*
3. *Development must not cause detrimental impact on the existing subsurface flow conditions including those of other properties.*
4. *To address Requirements 1 to 3:*
 - i) *For land identified as being in Area A:*

Council may decide that a preliminary assessment of site conditions is required. If Council so decides, a preliminary assessment of site conditions must be prepared, in accordance with the Checklist for Council's assessment of site conditions (see Notes) by a suitably qualified geotechnical engineer/ engineering geologist. The preliminary assessment must be submitted to Council before the granting of any development consent.

If the preliminary assessment determines that a geotechnical report is required, the same provisions apply in Area A as those that apply in Area B and Area D.

Comments:

The site is identified as Area B on the landslip risk map. The proposal is for a change of use only with no building works proposed.

E11 Flood Prone Land

Objectives

- *Protection of people.*
- *Protection of the natural environment.*
- *Protection of private and public infrastructure and assets.*

Comments:

Not applicable – the site is not identified within flood prone land.

Part F Zones and Sensitive Areas

F1 Local and Neighbourhood Centres

Applies to Land

This control applies to land identified as zone B1 Neighbourhood Centre or B2 Local Centre on the Warringah Local Environmental Plan 2011 - Land Zoning Map.

Objectives

- *To encourage good design and innovative architecture.*
- *To provide a safe and comfortable environment for pedestrians.*
- *To provide a range of small-scale shops and business uses at street level with offices or low-rise shop-top housing to create places with a village-like atmosphere.*
- *To enhance the established scale and pattern of development and the continuity of existing streetscapes.*
- *To enhance the public domain.*
- *To increase adaptability, environmental performance and amenity of buildings.*

Comments:

Not applicable – the proposal is for a change of use only to an existing commercial building with no building works proposed.

Part G Special Area Controls

G5 Freshwater Village

Comments:

Not applicable – the proposal is for a change of use only to an existing commercial building with no building works proposed.

Part H – Appendices**Appendix 1 Car Parking Requirements**

Office and Business	
Use	Requirement
Business park	Apply rates for component uses, i.e. Industry/warehouse or distribution centre component at industry rate; Office premises at office rate (Where office premises is a component of a factory/warehouse distribution centre development, the first 20% of office premises floor area is calculated at the industry rate).
Business premises	1 space per 40 m ² GFA excluding customer service/access areas, plus for customer service/access areas 1 space per 16.4 m ² GFA.
Office premises	1 space per 40 m ² GFA.

Comments:

The subject application retains the commercial use of the building. It is noted that the prospective tenants completed a GIPA form to obtain any development consents for the level 1 premises. It is noted that Council advised that no documents could be found within Councils records. The site has been used for commercial uses for many years with google streetview showing the use of level 1 as a chiropractor in 2008.

It can therefore be assumed that the use of the level 1 premises has been for business/office/commercial uses for many years. As the proposal is for a change of use application only with no changes to the existing GFA of approximately 140sqm, it is safe to assume that the site has a neutral credit for parking, therefore complying with parking requirements.

The proposal for a change of use to a business premises (remedial massage) retains the existing GFA of the premises and the assumed use for the site. It is therefore supported that the proposal meets the relevant requirements for parking, has access to 25 car spaces on-site, along with on-street metered parking and will not have an adverse impact to traffic and parking within the immediate precinct.

5. Matters for Consideration Pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979

The following matters are to be taken into consideration when assessing an application pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). Guidelines (in *italic*) to help identify the issues to be considered have been prepared by the Department of Planning and Environment. The relevant issues are:

(a) The provisions of:

(i) The provision of any Environmental Planning Instrument

Comment: The proposed use is permissible and consistent with the intent of the Warringah Local Environmental Plan and Development Control Plan as they are reasonably applied to the proposed works.

(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

Comment: Not applicable.

(iii) Any development control plan

Comment: The proposal has been reviewed and assessed under Warringah Development Control Plan.

(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and

Comment: Not applicable.

(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

Comment: Complies – the proposal has been assessed under the relevant Regulations.

(v) (repealed)

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality,

Context and Setting:

i. What is the relationship to the region and local context in terms of:

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

Comment: The proposal is for the change of use to an existing commercial building on level 1.

ii. What are the potential impacts on adjacent properties in terms of:

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*

- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

Comment: The proposal is for the use as business premises with no adverse amenity impacts to neighbouring tenancies or properties.

Access, transport and traffic:

Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:

- *Travel Demand*
- *dependency on motor vehicles*
- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

Comment: The proposal is for the use as a business premises within an existing commercial building. No changes to existing access, traffic and transport requirements to the site.

Public Domain

Comment: The proposed development will have no adverse impact on the public domain.

Utilities

Comment: Existing utility services will connect to service the premises.

Flora and Fauna

Comment: The proposal is for a change of use only and will not have an adverse impact to flora or fauna.

Waste Collection

Comment: Normal waste collection applies to the existing site.

Natural hazards

Comment: The site is located within an area identified as Area B landslip. The proposal is for a change of use on level 1 only with no envisaged risks from the hazards.

Economic Impact in the locality

Comment: The proposed development will not have any significant impact on economic factors within the area.

Site Design and Internal Design

i) Is the development design sensitive to environmental considerations and site attributes including:

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*
- *Landscaping*

Comment: The proposal is for the use only as a business premises within an existing commercial building.

ii) How would the development affect the health and safety of the occupants in terms of:

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

Comment: The proposal is for a change of use only. The proposal can comply with the relevant standards pertaining to health and safety and will not have any detrimental effect on the occupants.

Construction

i) What would be the impacts of construction activities in terms of:

- *The environmental planning issues listed above*
- *Site safety*

Comment: Not applicable.

(c) The suitability of the site for the development

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

Comment: The site is located within the Freshwater Village Local Centre. The adjacent development does not impose any unusual or impossible development constraints. The proposed development will not cause unmanageable levels of transport demand to the existing premises proposed.

(d) Any submissions received in accordance with this act or regulations

Comment: No submissions are available at this time.

(e) The public interest

Comment: The proposal is permissible and consistent with the intent of WLEP2011 and WDCP controls as they are reasonably applied. The development would not be contrary to the public interest. In our opinion, the development satisfies the planning regime applicable to development on this particular site, having regards to the considerations arising from its context.

The proposal is acceptable when assessed against the heads of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* (as amended), and is appropriate for the granting of consent and accordingly, is in the public interest.

6. Summary and Conclusion

The proposal for a change of use to a business premises (remedial massage) at Level 1, 28 Lawrence Street, Freshwater, being Lot 1 within Deposited Plan 900061, is permissible and consistent with the intent of the controls as they are reasonably applied for the subject development. It is considered that the proposal is appropriate on merit and is worthy of the granting of development consent for the following reasons:

- The merits of the application have been assessed in accordance with the provisions of the relevant requirements of WLEP 2011 and the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended). There is no evidence that the impacts of the development would warrant amendment to the subject proposal or justify refusal.

Accordingly, the proposal for a change of use to a business premises (remedial massage) at Level 1, 28 Lawrence Street, Freshwater, being Lot 1 within Deposited Plan 900061, is acceptable from environmental, social, and planning perspectives and approval should therefore be granted by Council.