

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2487
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Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 1 DP 588603, 33 Oaks Avenue DEE WHY NSW 2099 Lot A DP 326907, 33 Oaks Avenue DEE WHY NSW 2099
Proposed Development:	Use of Premises as a medical centre
Zoning:	Warringah LEP2011 - Land zoned B4 Mixed Use
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Jinyan Dee Why Pty Ltd
Applicant:	Y Squared Pty Ltd

Application Lodged:	14/01/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	25/01/2022 to 08/02/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks to modify the hours of the existing approved* medical centre as follows:-

Existing:

- Monday to Friday – 7.00 am to 10.00 pm
- Saturday, Sunday and public Holidays – 7.00 am to 8.00 pm

Proposed:

- Monday to Friday – 7.00 am to 10.00 pm
- Saturday, Sunday and public Holidays – 8.00 am to 10.00 pm

* Approved via CDC2021/0607 - First use and internal fitout to tenancy 1 as a medical centre approved

25 June 2021

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D3 Noise

SITE DESCRIPTION

Property Description:	Lot 1 DP 588603 , 33 Oaks Avenue DEE WHY NSW 2099 Lot A DP 326907 , 33 Oaks Avenue DEE WHY NSW 2099
Detailed Site Description:	<p>The subject site is identified as 33 Oaks Avenue, Dee Why, and is legally described as Lots A & B DP 326907 and Lot 1 DP588603.</p> <p>The site is irregular in shape and exhibits an area of approximately 5,854sqm. The subject site is zoned B4 Mixed Use and is subject to the applicable provisions of the Warringah Local Environmental Plan (WLEP2011). The proposed works relate to Tenancy 9C which forms part of the larger Dee Why Market Shopping Centre.</p> <p>The current site comprises a single level neighbourhood shopping centre with dual street frontage of approximately 79m to Oaks Avenue on the north boundary and 31m to Pacific Parade to the south boundary.</p>

Map:



SITE HISTORY

CDC2021/0607 - First use and internal fitout to tenancy 1 as a medical centre approved 25 June 2021

DA2021/1314 - Construction of business identification signage approved 20 October 2021

MOD2021/0885 - Section 4.55 (1a) Minor Environmental Impact - Modification of Development Consent DA2021/1314 granted for Construction of business identification signage was lodged 18 November 2021 and still under assessment.

"The purpose of this modification is to amend the following:

- *Invert the colour scheme of Sign 1, delete the blue background, and maintain the colour of the building façade proper; and*
- *Amend the hours of illumination to correlate to the approved hours of operation of the existing medical centre."*

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the

Section 4.15 Matters for Consideration'	Comments
	residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 25/01/2022 to 08/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

No referrals were sent in relation to this application

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Land Use Table	Yes
Part 5 Miscellaneous provisions	Yes
5.21 Flood planning	Yes
Part 6 Additional Local Provisions	Yes
6.4 Development on sloping land	Yes
Part 7 Dee Why Town Centre	Yes
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes
7.6 Height of buildings	Yes
7.10 Allowance for external ancillary plant and roof access	Yes
7.11 Town Square and pedestrian connections	Yes
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
C3 Parking Facilities	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
Part E The Natural Environment	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
Part G Special Area Controls	Yes	Yes
Notes	Yes	Yes

Detailed Assessment

C3 Parking Facilities

The applicant's planning consultant stated:-

"In accordance with the WDCP2011, car parking requirements for a medical centre should be provided at a rate of 4 spaces per 100m² of Gross Floor Area (GFA). Given the proposed development is solely for the purpose of extending the operating hours and does not seek to increase the existing GFA, the proposed development does not result in the requirement of any additional car parking spaces across the Site.

The Dee Why Market has approximately 118 cars spaces available which would include a surplus for the current tenancies on the site given many users would utilise a number of services at each visit. This would ensure that there are sufficient spaces available to meet the demand of the current proposal.

Further, the proposal does not involve any changes to the existing access, parking and transport arrangements to the Site."

Given the above it is considered that there is sufficient carparking for the existing and approved medical centre on site.

D3 Noise

It is considered that the current approved use (medical centre) that the proposed additional two (2) hours on Saturday, Sunday and Public Holidays will not create noise emissions that would

unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for workers, customers or visitors.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2487 for Use of Premises as a medical centre on land at Lot 1 DP 588603, 33 Oaks Avenue, DEE WHY, Lot A DP 326907, 33 Oaks Avenue, DEE WHY, subject to the conditions printed below:

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

1. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 7.00 am to 10.00 pm
- Saturday, Sunday and public Holidays – 8.00 am to 10.00 pm

Upon expiration of the permitted hours, all service shall immediately cease, no customers shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Phil Lane, Principal Planner

The application is determined on 04/03/2022, under the delegated authority of:



Rodney Piggott, Manager Development Assessments