

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1470
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Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 20 DP 1242304, 68 - 90 Evans Street FRESHWATER NSW 2096
Proposed Development:	Use of premises as a Health Services Facility
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes, under State Environmental Planning Policy Infrastructure (SEPP)
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mount Pritchard & District Community Club Ltd
Applicant:	Mount Pritchard & District Community Club Ltd

Application Lodged:	24/08/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	02/09/2021 to 16/09/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

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

The application seeks to expand an approved health service facility into the neighbouring tenancy MS5 which is 90sqm in size.

Development approval (DA2020/1238) was granted by Northern Beaches Council in November 2020 for the change of use of an existing club space (tenancy MS6) to a health service facility (Mounties Care). Mounties Care is a health and well being service offered to Club members.

The combined health service facility (MS5 and MS6) will offer healthcare specialists that provide

consultation and non-surgical procedures within six consulting rooms. The health services will include:

- Medical Services
- Exercise Physiology, physiotherapy and dietetics
- Podiatry
- Aged Care Services
- Pathology
- Massage Therapy
- Mental Health services

Internal Fit-Out

There are no works as part of this application. The internal fit-out will be subject to a complying development certificate once the development application has been approved.

Hours of Operation

The proposal seeks to maintain the approved operating hours under DA2020/1238.

The proposed operating hours are:

Monday to Friday – 7:00am to 7:00pm

Saturday – 8:00am to 3:00pm

Sunday and Public Holidays – 9:00am to 12:00pm

Staff

A maximum of six (6) practitioners

Parking

Car parking will be accommodated in the existing car parking area accessed via Evans Street. The Club's existing loading facilities will be utilised to service the health care facility.

Waste

The Harbord Diggers will engage a suitably qualified Waste Management Company that can provide a range of services to dispose of all clinical and pharmaceutical waste.

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 Local Environmental Plan 2011 - Zone R2 Low Density Residential
Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 20 DP 1242304 , 68 - 90 Evans Street FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site is a large land holding on the Freshwater Beach Headland and is bound by Carrington Parade, Evans Street and Lumsdaine Drive.</p> <p>The site is upon land zoned for R2 Low Density Residential development and benefits from additional permitted uses.</p> <p>Presently the site is occupied by seniors housing, child care centre, and registered club and associated uses.</p> <p>Surrounding developments consist of residential buildings varying from residential flat buildings to detached dwelling houses.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history:

- Development Application **DA2013/0412** for Stage One redevelopment of the Harbord Diggers

Site for seniors housing, new club facility, child care, gymnasium, community centre and respite care was approved on 20/09/2013 by the Sydney East Joint Regional Planning Panel.

- Development Application **DA2014/0875** for the demolition and excavations works and construction of Seniors Housing, Registered Club, Childcare Centre and associated carparking and landscaping (Harbord Diggers Club site) was approved on 01/12/2014 by the Sydney East Joint Regional Planning Panel. This application was subsequently modified by applications **Mod2015/0152** (23/11/2015), **Mod2016/0298** (05/01/2017), **Mod2017/0063** (01/06/2017) and **Mod2020/0312** (29/09/2020).
- Development Application **DA2020/0101** for the stratum subdivision of the Harbord Diggers Development Site was approved on 20/03/2020.
- Development Application **DA2020/1238** for the change of use of an existing club space to a health care facility was approved on 09/11/2020.
- Development Application **DA2021/0749** for the alterations and additions to a mixed use development was approved on the 06/07/2021.

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 and commercial purposes for an extended period of time. The proposed development retains the uses 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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>

Section 4.15 Matters for Consideration'	Comments
	<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>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). 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 02/09/2021 to 16/09/2021 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Peter Ashcroft	Address Unknown

During the notification period, one (1) submission was received that was in support of the application.

As a result, no issues were raised in the submission, and no further details on the proposed change of use is required.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>The proposal comprises the change of use only of an existing area 90m² in size, within the Harbord Diggers Club to a health services facility, known as Mounties Care. Mounties Care is a health and well being service offered to Club members.</p> <p>The combined facility (MS 5 and MS6) will have six consulting rooms with a variety of healthcare specialists providing consultation and non-surgical procedures for Harbord Diggers Club members. The subject space is one of many 'tenancies' that form a row of supporting club services and amenities near the main reception/Club drop off area</p> <p>Apart from BCA requirements (and medical waste) there are no legal standards for Councils Environmental Health to enforce however the reader is referred to :The RACGP Standards for general practices (4th edition) (the Standards) provide a template for quality care and risk management in Australian general practice.</p> <p>Environmental Health has no objections to the proposal subject to conditions of consent.</p>
Traffic Engineer	<p>The proposal comprises the expansion of an existing health care facility within the Harbord Diggers Club (known as Mounties Care) from a service comprising 3 consulting rooms to service comprising 6 consulting rooms. This will be achieved by expanding the existing tenancy (MS6) into an adjacent tenancy (MS5 from a (tenancy MS6). Both tenancies are within the existing Harbord Diggers Club. The floor area of expansion of the health services facility will be 90sqm.</p> <p>The combined facility will provide six consulting rooms with a variety</p>

Internal Referral Body	Comments
	<p>of healthcare specialists.</p> <p>The parking availability review prepared by Arup for the applicant dated 10 June 2021 reveals that there is ample spare capacity within the existing Harbord Diggers carpark (a minimum of 180 spaces) to cater for the additional 9 parking spaces estimated to be required for the change of use. As the 9 parking spaces required for the proposed addition to the currently approved health services can be accommodated within the existing carpark there is no objection to the absence of any additional parking. The spaces are to be allocated for the exclusive use of the health service during its operation hours.</p> <p>The projected traffic generation from the proposed use is considered to have negligible impact on the road network.</p> <p>Therefore, the proposal can be supported by the transport team subject to condition.</p>

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

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

Council records indicate that the subject site has been used for residential/commercial purposes for a significant period of time with no prior land uses.

The development is only for a change of use with no works to be conducted at ground level which would otherwise disturb the existing ground concrete pads of ground levels.

Council's Environmental Health Officer has reviewed the report and does not raise any objection to the proposal nor impose any conditions.

In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the mixed land use.

SEPP (Infrastructure) 2007

Division 10 Health services facilities

Clause 57 of the Infrastructure SEPP stipulates that development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone. The R2 Low Density Residential zone is a prescribed zone under this Division.

As such, the proposed change of use of the tenancy to a health service facility is permissible with consent on the site.

Warringah Local Environmental Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

As the proposed development is for a change of use which does not involve any external building works, the development standards are not applicable in this application.

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes

Detailed Assessment

Zone R2 Low Density Residential

The application proposes the change of use of the subject tenancy to a *'health services facility'*.

The subject site is located within the R2 Low Density Residential zone where a *"health service facility"* is a prohibited land use.

However, a *'health services facility'* is permitted with development consent in the prescribed R2 Low Density zone via Division 10, Clause 57 of the State Environmental Planning Policy Infrastructure (SEPP). As a result, the proposed use is permissible with consent.

Warringah Development Control Plan

Built Form Controls

As the proposed development is for consent for a change of use with no external building works, the built form controls are not applicable to this application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C9 Waste Management	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided
Health Service Facility	3 spaces per room used to see patients.	9	>500
Total		9	>500

The applicant has provided a traffic and parking study to address the parking demand and availability of spaces provided on site for the change of use.

The Traffic and Parking Impact Assessment submitted by the applicant, dated August 2020, provides further detail of the impacts on parking for the additional health consulting rooms:

'The parking survey identified an average occupancy of 50 to 70 per cent, even during busy periods such as Badge Draw events, which equates to a minimum of 180 spaces being available at all times. Subsequent parking occupancy studies to date identified that parking occupancy rates are generally lower than the occupancy observed in the 2020 survey.'

In consideration of the provision of adequate car parking for the health consulting room, it is clear from the above, that the increase in parking provisions for the increase in health consulting rooms has the capacity to accommodate the additional parking spaces within the Harbord Diggers Club.

Further, Councils Traffic Engineer has not raised concern with the additional parking requirements, and supports the change of use subject to recommended conditions of consent. Conditions will be applied to ensure the nine (9) required parking spaces are allocated and signposted for the exclusive use of the proposed *health service facility*.

On this basis, it is considered that the existing parking provision is adequate for the demand associated with the proposed expansion of the Health Service Facility, Mounties Care.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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 DA2021/1470 for Use of premises as a Health Services Facility on land at Lot 20 DP 1242304, 68 - 90 Evans Street, FRESHWATER, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Area Plan Rev A	25 May 2021	Unauthored

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Waste Management Plan	Undated	Unauthored
Harbord Diggers Club, Freshwater – Parking Assessment for a new use to the club - Health Service Facility letter	10 June 2021	ARUP

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Approved Land Use**

Nothing in this consent shall authorise the use of the unit "MS5" as detailed on the approved plans for any land use of the site beyond the definition of a *health services facility*.

A *health services facility* is defined as:

a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—

- (a) a medical centre,
- (b) community health service facilities,

- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

(development is defined by the Warringah Local Environment Plan 2011 Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

3. No Approval for Internal Fit-Out

This consent does not grant approval for the internal fit-out of the tenancy. Separate development consent must be obtained for the internal tenancy fit-out.

Reason: To ensure compliance with the terms of this consent.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

4. Allocated Parking Spaces (retail/commercial)

A minimum of 9 parking spaces are to be allocated for the exclusive use of the proposed health service facility. Parking allocated to this use must be clearly signposted and linemarked as being for the exclusive use of this development during its approved hours of operation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

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

5. Commercial Waste Collection & Deliveries

Waste and recyclable material, generated by this premises, must not be collected and deliveries to the tenancy must not occur between the hours of 7pm and 7am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

6. Medical Waste

Suitably constructed waste disposal containers must be kept on the property for the storage of any clinical, contaminated, sharps or related waste prior to final disposal of the material at a facility approved by the Department of Environment and Climate Change and as per the requirements of the NSW Health Department.

Reason: To comply with legislation and protect public health and safety.

7. Compliance with the Waster Management Plan

Compliance with the Waster Management Plan supplied with the application documentation is required at all times

Reason: To ensure the health and safety of persons.

8. **Compliance with Health Standards**

The facilities shall be constructed and operated in accordance with relevant Health Standards and Guidelines.

Reason: To ensure Public Health and Medical Standards are maintained.

9. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 7:00am to 7:00pm
- Saturday – 8:00am to 3:00pm
- Sunday and Public Holidays – 9:00am to 12:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons 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



Catriona Shirley, Planner

The application is determined on 01/10/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments