

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1004
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Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 20 DP 1242304, 68 - 90 Evans Street FRESHWATER NSW 2096
Proposed Development:	Use of a 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 (Transport and Infrastructure) 2021
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mount Pritchard & District Community Club Ltd
Applicant:	Design Doctors Australia

Application Lodged:	26/07/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	04/08/2022 to 18/08/2022
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 86,900.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the use of a premises as a health services facility. The existing Suite MS9 is to be a pathology clinic and will include a pathology room, staff room and store room.

The pathology clinic will have the following hours of operation:

- Monday to Saturday: 8:00am-6:00pm
- Sunday and Public Holidays: 8:00am-12:00pm

This proposal does not involve any demolition or construction works and relates to a change of use only. The internal fit-out will be subject to a Complying Development Certificate separate to this application.

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 consists of 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 zoned R2 Low Density Residential and benefits from additional permitted uses.</p> <p>The site is currently occupied by seniors housing, child care centre, registered club and a health services facility. Suite MS9 is currently vacant and was previously used as a club room.</p> <p>The surrounding development is characterised by residential developments varying from residential flat buildings to detached dwelling houses.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. 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.
- Development Application **DA2021/1470** for the use of a premises as a health services facility was approved on 1/10/2021

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	There are no current draft environmental planning instruments.
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 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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</p>

Section 4.15 Matters for Consideration	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 04/08/2022 to 18/08/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Pamela Hansen	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>

Internal Referral Body	Comments
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>The subject DA seeks consent for a change of use of the existing Suite MS9 to a pathology clinic at 80 Evans Street, Freshwater. The new pathology clinic will support the approved medical services facilities on the site and will include a pathology room, staff room and store room, with all fit out works being undertake separate to the DA, under a Complying Development Certificate (CDC).</p> <p>Environmental Health supports the proposal without conditions.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Transport and Infrastructure) 2021

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.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential / commercial land use.

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

The application does not propose any new works, therefore there are no principal development standards under Part 4 of the WLEP 2011 to consider as part of this assessment.

Compliance Assessment

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

Detailed Assessment

Zone R2 Low Density Residential

Land use definition: WLEP 2011	Permitted or Prohibited
Health Services Facility	Prohibited

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 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. As a result, the proposed use is permissible with consent, pursuant of the enabling provisions of that EPI.

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The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The subject site consists of a large land holding in which portions of the site provide housing. The site is surrounded by residential developments and the proposal does not impact on the provision of housing to meet the needs of the community.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

The proposal will provide a health service facility to nearby residents which is necessary in meeting their day to day needs.

It is considered that the development satisfies this objective.

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposal does not alter the built form or appearance of the building as no physical works are proposed as part of this application.

It is considered that the development satisfies this objective.

Warringah Development Control Plan

Built Form Controls

This application does not propose any new works, therefore the built form controls are not relevant to the assessment.

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
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	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.	3	>300
Total		3	>300

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

The site provides an existing underground car park of which 3 spaces are to be allocated for the use of the health services facility. The proposed pathology is considered to be ancillary to the other medical facilities offered at the site and in itself is not considered to generate a demand for car parking, that necessitates the provision of additional car spaces.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The existing underground car park will be used and as such parking does not dominate the street frontage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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 2022

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 2021;
- 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 DA2022/1004 for Use of a 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 with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

00B P17 - Club / Tenanted Hospitality Area Plan	20 March 2017	Paul Kelly Design
TF-01 Rev03 - Proposal Plan Harbord Diggers	2 June 2022	Design Doctors Australia

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Fire Engineering Memo	13 June 2019	WSP

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

d) The development is to be undertaken generally in accordance with the following:

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 MS9 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 (as amended) 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.

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

5. **Allocation of Spaces**

A minimum of 3 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.

6. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Saturday: 8:00am-6:00pm
- Sunday and Public Holidays: 8:00am-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.

7. **Storage and disposal of clinical waste**

All clinical waste generated on the premises are to be stored in a secure location within the premises and handled in accordance with AS/NZS 3816 – 2018 *Management of clinical and related wastes*. An agreement with an appropriately licensed waste transporter is required to remove clinical waste from the premises.

Reason: To protect public health.

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

Signed



Olivia Ramage, Planner

The application is determined on 07/09/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments