



MARCH 28, 2023

(AS AMENDED)

CHANGE OF USE OF EXISTING VACANT COMMERCIAL UNIT TO MEDICAL  
CENTRE

SHOP 7 343 BARRENJOEY ROAD NEWPORT

PREPARED FOR PITTWATER MEDICAL CENTRE

BY

CHARLES HILL PLANNING



## **INTRODUCTION**

Charles Hill Planning has been engaged by Pittwater Medical Centre, to prepare a planning report in relation to the proposed change of use from gymnasium to a medical centre, at the property known as Lo1 1 in DP 584141, being Shop 7 at 343 Barrenjoey Road Newport.

The change of use, and the urgent need for new premises to service the medical needs of the community, arises from a recent fire which destroyed the Pittwater Medical Centre's existing practice at 16/331 Barrenjoey Road Newport.

This planning report describes the proposed development, having particular regard to the provisions of the Environmental Planning and Assessment (E P and A) Act, and examines any potential impacts with regard to the relevant sections of the Act, and relevant statutory and non- statutory requirements of the Northern Beaches Council.

The conclusion of the report is that the development as proposed, is appropriate in that it will have no adverse environmental effects on adjoining neighbours, and will enhance the availability of professional and medical services provided within the Newport shopping centre

Accordingly it can be concluded that the proposed development is suitable for approval by Council, subject to the imposition of appropriate conditions.

### **1.0 THE SITE**

The subject site consists of one (1) allotment located on the north-western side of Barrenjoey Road.

The site is located in a commercial zone, being B2 Local Centre, with a range of commercial land uses, including shop top housing, surrounding the site.

The site has two frontages to Barrenjoey Road (pedestrian and public transport access) and Foamcrest Avenue (vehicular access).

Barrenjoey Road is a main road in Newport with a number of bus services operating in the area, and a bus stop immediately in front of the premises.



**The Site** (Source: Council report DA 2020/0158)

The premises is an existing vacant unit within a multi-unit, one-storey commercial premises, with an arcade facilitating pedestrian access from Barrenjoey Road to the carpark at the rear along Foamcrest Avenue.

The site has an existing car parking area at the rear of the property containing 26 spaces, with a number of additional spaces on the adjoining sites capable of being used for clients, as well as, substantial on street parking on Barrenjoey Road and Foamcrest Avenue.

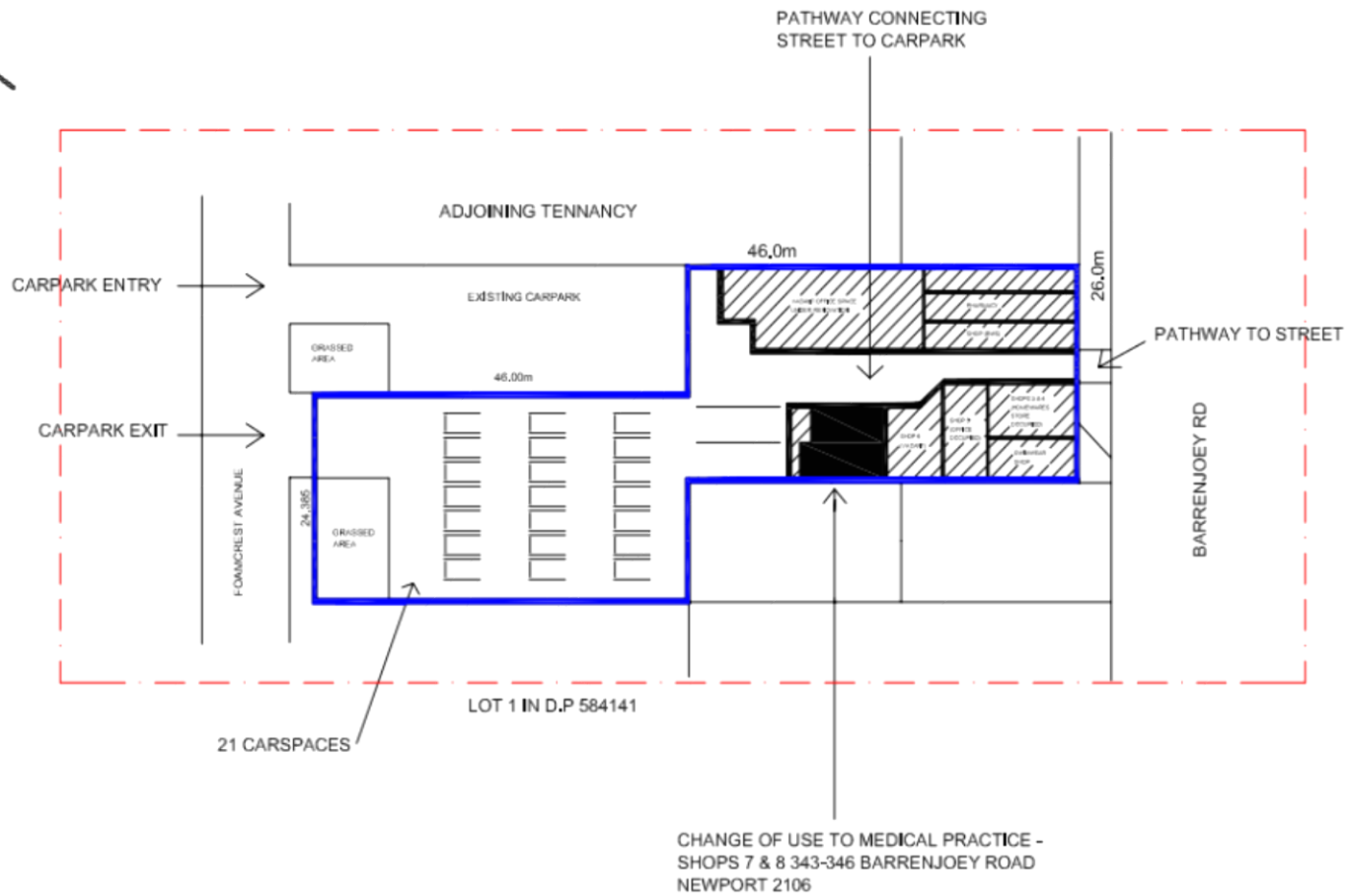
The site is irregular in shape with a frontage of 26.0m along Barrenjoey Road and a maximum depth of 92.0m. The site has a surveyed area of 2369.0m<sup>2</sup>.

The site has a north-easterly orientation and is located on a relatively flat block, with a gentle slope from the rear of the site (Foamcrest Avenue) towards the street frontage along Barrenjoey Road.

The site is a commercial space and has no vegetation.

The site is not identified as being an item of heritage significance, nor is it located within a heritage conservation area.

A Plan of the subject Unit within the site is provided below.



SITE PLAN  
1:500

Source: Mocolino. D.S Design and Building Consultants.

## **SITE HISTORY**

3 October 2003 Development Application (N0685/03) was submitted to Council for the demolition of the existing structure and construction of shop-top housing comprising a retail component and 34 residential units with basement car parking.

The Applicant brought Land and Environment Court proceedings to Council under a deemed refusal determination. The final determination of N0685/03 was a refusal. 30 September 2004

A Development Application (N0731/04) was submitted to Council for the demolition of the existing building and construction of a three (3) storey shop-top housing development comprising 30 residential units, 2 retail units, basement car parking and landscaping.

This application was refused by the Land and Environment Court.

21 August 2008 Development Application (N0398/08) was submitted to Council for the fit out and use of an existing retail outlet as a liquor store and associated signage.

This application was approved, subject to conditions.

A Construction Certificate was submitted to Council on 19 January 2009 to commence the works as approved under N0398/08.

9 April 2020 DA 20200158 proposing use of subject premises as a recreation facility (indoor gym) was approved by Council

9 February 2023, following submission of a Development Application for a change of use to the subject premises, Council requested additional information related to owner's consent, access report, Building Code of Australia Report, Fire Safety Schedule, and missing architectural Drawings.

## **2.0 THE PROPOSAL**

The subject Unit has a frontal internal measurement of 8.79 metres, and a side boundary of 8.27 metres, providing a total operational area of 67.78 square metre.

A rest room and toilet facilities are located in the south western corner of the unit having a total floor area of 4.73 square metres.

It is proposed to subdivide the internal space to provide for the doctor's consulting room, a treatment room, storage area (Room 3) and reception area.

A plan of the proposed internal renovations are shown below, a full size copy of which is also attached to this report.

The hours of operation will be from 9 am to 5pm, Monday to Friday inclusive.

It is proposed that 2 staff would be generally employed, with the occasional addition of one extra staff member from time to time.

### 3.0 STATUTORY CONTROLS

The following statutory controls are relevant to the consideration of this application:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policy (Resilience and Hazards) 2021
- Pittwater Local Environmental Plan (WLEP) 2014.

#### 4.1 Environmental Planning and Assessment (EP and A) Act 1979

The relevant objective of the EP and A Act 1979 is as follows:

*c) to promote the orderly and economic use and development of land,*

#### COMMENT

It is considered that the proposal, the subject of this application, is consistent with this objective because it will enhance the economic use of an existing commercial development, by facilitating the use of the subject land for the purposes of a medical centre, providing medical services to the local community.

#### 4.2 State Environmental Planning Policy (Resilience and Hazards) 2021

This SEPP contains planning provisions:

- for land use planning within the coastal zone, in a manner consistent with the objects of the Coastal Management Act 2016
- to manage hazardous and offensive development
- to provide a state-wide planning framework for the remediation of contaminated land and to minimise the risk of hazards.

Chapter 4 refers **to Remediation of land**

*(1) The object of this Chapter is to provide for a State-wide planning approach to the remediation of contaminated land.*

*(2) In particular, this Chapter aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—*

*(a) by specifying when consent is required, and when it is not required, for a remediation work, and*

*(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*

*(c) by requiring that a remediation work meet certain standards and notification requirements.*

**According to Clause 4.6 Contamination and remediation to be considered in determining development application:**

*(1) A consent authority must not consent to the carrying out of any development on land unless—*

*(a) it has considered whether the land is contaminated, and*

*(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

*(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In that regard it is noted from the previous application, that Council indicated that the subject site had been used for residential purposes for a significant period of time with no prior land uses

Accordingly it can be concluded that the site poses no risk of contamination and therefore, no further consideration is required of the SEPP, and the land is considered to be suitable for the commercial land use.

#### **4.3 State Environmental Planning Policy (SEPP) (Infrastructure) 2007**

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.

Whilst it is noted that Council is required to forward the application to Ausgrid, it is also noted that no external works are proposed.

#### **4.4 Pittwater Local Environmental Plan (PLEP) 2014.**

The particular aims of this Plan are as follows—

- (a) *to promote development in Pittwater that is economically, environmentally and socially sustainable,*
- (c) *to support a range of mixed-use centres that adequately provide for the needs of the Pittwater community,*
- (b) .....
- (d) *to retain and enhance land used for employment purposes that is needed to meet the economic and employment needs of the community both now and in the future,*
- (e) .....
- (f) .....
- (g) .....
- (h) .....
- (i) .....
- (j) .....

#### **COMMENT**

It is considered that the proposal is consistent with the relevant objectives of the zone in that it retains, enhances and promotes economic activity within the Newport locality, satisfying the medical needs of that community.



The subject land is zoned **B2 Local Centre** in accordance with PLEP 2014.

A medical centre is a use which is permissible with Council consent.

A medical centre is defined as follows:

***medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.*

In that regard it is noted that the provisions of State Environmental Planning Policy Exempt and Complying Development do not apply to the change of use in this instance.

**Clause 2.3** (Zone objectives and Land Use Table) provides as follows:

*(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.*

The **Objectives** of this zone area as follows:

- *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 healthy, attractive, vibrant and safe local centres.*
- *To strengthen the role of centres as places of employment.*
- *To provide an active day and evening economy.*
- *To provide for residential uses above street level where they are compatible with the characteristics and uses of the site and its surroundings.*

#### **COMMENT**

It is considered that the proposal is consistent with the relevant objective of the zone in maintaining and enhancing the medical services available within the Newport business precinct.

#### **PART 4 PRINCIPLE DEVELOPMENT STANDARDS**

There are no applicable development standards.

#### **PART 5 MISCELLANEOUS PROVISIONS**

There are no applicable miscellaneous provisions

#### **Part 7 Additional Local Provisions**

##### **7.4 Floodplain risk management**

The objectives of this clause is essentially to ensure that evacuation or emergency response procedures are in place to enable evacuation of land subject to flooding in events exceeding the flood planning level.

It also requires Council to be satisfied that certain developments will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land.

Notwithstanding that the proposed medical centre is not one of those purposes identified by PLEP, it is noted that although flooding affects the front of the building on Barrenjoey Road, the subject unit is outside of the flood affected part of the building.

### **7.10 Essential services**

This Clause states as follows:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

#### **COMMENT**

All essential services are provided.

## **5.0 NON STATUTORY CONTROLS**

The Pittwater Development Control Plan (PDCP) 2014 is the relevant non-statutory document in this instance.

The following is an assessment of Council is relevant DCP requirements

### **A1.7 Considerations before consent is granted**

Before granting development consent, Council must be satisfied that the development is consistent with:

- i Pittwater Local Environmental Plan 2014; and*
- ii the desired character of the Locality; and*
- iii the development controls applicable to the development.*
- iv the matters for consideration under section 4.15 Evaluation of the *Environmental Planning and Assessment Act 1979*.*

**COMMENT**

These matters have been considered as part of this assessment report.

**B3.11 Flood Prone Land****The Objectives of this Clause are as follows:**

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

**COMMENT**

The impact of flooding is addressed in this report.

**B6.3 Off-Street Vehicle Parking Requirements**

As indicated previously, the site has an existing car parking area at the rear of the property containing 26 spaces, with a number of additional spaces on the adjoining sites capable of being used for clients, as well as, substantial on street parking on Barrenjoey Road and Foamcrest Avenue.

The stated outcomes of this policy however is as follows:

- *An adequate number of parking and service spaces that meets the demands generated by the development.*
- *Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety. Safe and convenient parking.*

Council requirements in respect of parking is as follows:

*2.5 car parking spaces per 100m<sup>2</sup> Gross Lettable Area (GLA)*

*Provision of accessible parking spaces for people with disabilities must be at the rate of 3% of required car parking spaces and must be appropriately signposted.*

**COMMENT**

Based on the above and a gross leasable area of 73 square metres, 1.8 car spaces would be required and 0.09 spaces for people with disabilities.

In that regard it is noted that there are 26 existing car parking spaces on site and is compliant with the car parking requirements for each use within the existing building.

The proposed change of use will operate as a medical centre with a general maximum of 2 staff, and a maximum of 2 patients on site at any one time.

The premises will operate between 9am - 5pm Monday to Friday,

## **B6.6 On Street Parking Facilities**

It is considered that the existing 26 car parking spaces onsite, combined with ample on-street parking available on Barrenjoey Road and Foamcrest Avenue, will be sufficient to cater for the proposed change of use, without adversely impacting the operation of the adjoining tenancies.

It should also be noted that the site has access to a bus service immediately outside the premises on Barrenjoey Road and is surrounded by residential dwellings in walking distance to the site.

There are no proposed changes to the layout of the existing car park nor to the vehicular access point from Foamcrest Avenue.

The change of use of the existing premises to a medical centre will not result in an unreasonable increase in traffic generation to the site, or any adverse impact in terms of traffic and parking.

## **C2.2 Safety and Security**

The outcomes of this policy relate to the on-going safety and security of the Pittwater community, including surveillance, territorial reinforcement, and space management,

In that regard it is noted that the existing building and unit design, allows occupants to overlook public places and communal areas to maximise casual surveillance.

In relation to territorial reinforcement, walkways are clearly defined, and direct visitors to the correct entrance and away from private areas.

In respect of space management, the public space is attractive, well maintained and a well-used space, and adequate lighting is provided according to the intended use of the development.

## **D10.2 Character - Newport Commercial Centre**

The Outcomes of this Clause are as follows:

*Achieve the desired future character of the Locality.*

*To provide a sense of place by acknowledgement of the setting, history, landscaping and built character and to give residents a sense of belonging, community pride and security. (S)*

*To encourage vitality within the Commercial Centre and to give people the opportunity to meet most of their needs locally. (S, Ec)*

*To reduce pedestrian/vehicle conflict and to provide good accessibility to the main elements of the Commercial Centre. (S, Ec)*

*To provide urban design elements at a human scale at which people do not feel overwhelmed by buildings. (S, Ec)*

*To encourage a high standard of architectural design in development to ensure an*

*improved individual identity and seaside character for the Newport Commercial Centre. (S, Ec)*

## **COMMENT**

It is considered that the proposed change of use is consistent with the outcomes of this Clause, in that it maintains the built character of the premises and the locality in which it is placed, providing the residents with a sense of belonging, community pride and security, encouraging vitality within the community to meet their medical needs, and reducing pedestrian/vehicular within the commercial centre.

**D10.19** refers to **Subdivision and Amalgamation** within the Newport Commercial Centre, and is not relevant to this application.

## **4.0 ASSESSMENT**

In accordance with the EP and A Act, the following considerations have been undertaken.

### **6.1 Planning agreement (Clause 1 (a) (iii) (a))**

There are no planning agreements.

### **6.2 Provisions of the Environmental Planning and Assessment Regulation 2021 (Clause (1) (a) (IV))**

Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via a condition of consent.

Clauses 36 and 94 of the EP&A Regulation 2021 allow Council to request additional information.

Additional information was requested by Council on 9 February 2023<sup>1</sup>, and that information is now addressed in this report.

Clause 61 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.

Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter could be addressed via a condition of consent.

Clause 69 of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA).

A BCA report has been prepared a copy of which is attached to this report.

A Fire Safety Statement dated February 2023 is also attached.

### **6.3 The likely impacts (Clause 1(b))**

As detailed in this report there are no adverse environmental impacts arising from the proposed development.

### **6.4 The suitability of the site (Clause 1(c))**

For reasons detailed in this report it is considered that the proposal is a most suitable use of the site, and will have no adverse amenity impacts on adjoining commercial development.

The proposal is to change the use of the existing commercial site previously used as a recreational facility (internal gym), to a medical centre.

According to the details related to the previous application, the number of staff anticipated to be onsite at any one time was 3, and patron's onsite should not exceed 6.

Given that the change of use to a medical centre would at most times employ only 2 fulltime staff, with a maximum of three from time to time, and as it would not be anticipated that no more than 2 patrons would be in the reception area at any one time, it is not expected that there would be any significant impacts to traffic generation.

The site is not classified as bush fire prone land.

Although flooding affects the front of the building on Barrenjoey Rd, the subject unit is outside of the flood affected part of the building –

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

The proposal is consistent with the principles of Crime Prevention through environmental design.

The proposed change of use to a medical centre will have no adverse acoustic impacts on neighbouring properties, and there will be no adverse impacts in relation to visual privacy, solar access, bulk and scale, and or view loss,

The proposal will not contribute to any social and economic adverse impacts.

The revitalisation and use of the premises as a medical centre will have a positive social and economic impact on the Newport locality.

### **6.5 Any submissions (Clause 1(d))**

There are no submissions at this stage.

### **6.6 The public interest (1e)).**

The public interest in this instance is the establishment of a use in an existing commercial area, providing and maintaining, medical services to the local community

## **CONCLUSION**

This planning report describes the proposed developments, having particular regard to the provisions of the Environmental Planning and Assessment (E P and A) Act, and examines any potential impacts with regard to the relevant sections of the Act, and relevant statutory and non- statutory requirements of the Northern Beaches Council.

The proposal has been reviewed under the provision of Section 4.15 of the Environmental Planning and Assessment Act, 1979 (as amended) and is considered a development that can be supported by Council and is worthy of an approval for the following reasons

- It is consistent with the legislative planning requirements applicable to the proposed development including Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan.
- The proposed use of the premises as a medical centre is a permissible land use within the B2 Local Centre Zone.
- The proposed use of the premises meets the objectives of the zone in that it will provide a land use that supports the medical needs of the community.
- The proposal will have no adverse impact on the amenity of neighbouring commercial land uses in terms of acoustic or traffic impacts.
- The existing onsite parking is considered to be sufficient to cater for the proposed change of use

The conclusions of the report is that the development as proposed, is appropriate in that it will have no adverse environmental effects on adjoining neighbours, and will enhance the availability of medical services provided to the community.

Accordingly it can be concluded that the proposed development is suitable for approval by Council, subject to the imposition of appropriate conditions.