



northern  
beaches  
council

## MEMORANDUM

**DATE:** 3 May 2018

**TO:** David Kerr, General Manager Planning, Place & Community

**FROM:** Peter Robinson, Executive Manager Development Assessment

**SUBJECT:** Category 3 Application – DA2017/1182 – Portion 1110 DP 752038, Oxford Falls Road, Frenchs Forest

**TRIM:** 2018/272077

---

### Purpose

To refer the assessment of Category 3 Application DA2017/1182, Portion 1110 DP 752038, Oxford Falls Road, Frenchs Forest along with the Independent Public Hearing findings and recommendation for determination.

### Summary

The above Development Application was detailed in the report of the Manager Development Assessment and was referred to a Northern Beaches Independent Public Hearing on 2 May 2018 as the proposal is a Category 3 development in the B2 Oxford Falls Locality and is required to be the subject of an independent public hearing pursuant to Clause 15 of WLEP 2000.

The Independent Public Hearing minutes and Assessment Report are attached as Attachment's 'A' and 'B' respectively. The Panel concurred with the recommendation of the Manager Development Assessment that this application for approval be adopted subject to amended conditions as outlined in the minutes.

I support the amendments by the panel to the conditions of consent.

Peter Robinson  
**Executive Manager Development Assessment**

### Decision

The General Manager Planning, Place & Community as the consent authority, **approves** Application No. DA2017/1182 for Alterations and additions to an existing premises and change of use for part of the building to a medical centre (children's health centre) and signage at Portion 1110 DP 752038, Oxford Falls Road, Frenchs Forest subject to the conditions and for the reasons set out in the Assessment Report, as amended by the Independent Hearing Panel on 2 May 2018.

David Kerr  
**General Manager Planning, Place & Community**



northern  
beaches  
council

## **ATTACHMENT A**

### **Minutes Northern Beaches Independent Public Hearing Meeting held 2 May 2018**

### 3.0 CATEGORY 3 APPLICATIONS

#### 3.1 DA2017/1182 - PORTION 1110 DP 752038 OXFORD FALLS ROAD FRENCHS FOREST - ALTERATIONS AND ADDITIONS TO AN EXISTING PREMISES AND CHANGE OF USE FOR PART OF THE BUILDING TO A MEDICAL CENTRE (CHILDREN'S HEALTH CENTRE) AND SIGNAGE

##### PROCEEDINGS IN BRIEF

Development consent is sought for additions and alterations including internal fit-out to an existing building and ancillary works and use of the building for the purposes of a Medical Centre.

The Panel viewed the site and its surrounds and considered the applicant's Statement of Environmental Effects. At the public meeting which followed the Panel was addressed by a neighbour and three representatives of the applicant.

##### DESIRED FUTURE CHARACTER

In relation to the assessment under the Desired Future Character of the area the Panel agrees with the assessment of the development application set out in the Council Assessment Report that the proposal will be consistent with the Desired Future Character of the B2 Oxford Falls Locality under the Warringah Local Environment Plan 2000.

The Panel finds that the manner in which the development application is now presented will result in a development that is low intensity and low impact use.

##### DECISION ON DEVELOPMENT APPLICATION

The Independent Hearing Panel, on behalf of Northern Beaches Council as the consent authority, recommends **approval** for Application No. DA2017/1182 for Alterations and additions to an existing premises and change of use for part of the building to a medical centre (children's health centre) and signage at Portion 1110 DP 752038, Oxford Falls Road, Frenchs Forest subject to the conditions and for the reasons set out in the Assessment Report, as amended by the following conditions:

1. The amendment of Condition 7 to read as follows:

7. **Signposting at northern driveway**

The car parking area on the northern end of the premises shall be allocated to the staff parking and be clearly signposted as staff-only car parking area at the entrance to the car park.

Reason: To enable the safe use of the driveway (DACTRCPC2)

2. The amendment of Condition 8 to read as follows:

8. **Enter and exit all driveways in a forward direction**

All vehicles are to enter and exit all driveways in a forward direction.

Reason: To comply with DCP (DACTRBOC2)

3. The amendment to Condition 24 to read as follows:

24. **Noise Impact on Surrounding Areas**

Any noise from the premise shall not exceed more than 5dB(A) above the ambient background level when measured at the property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise. (DACHPGOG5)

4. The amendment of Condition 28 to read as follows:

28. **Loading Within Site**

All loading and unloading operations, including the collection of waste/garbage, shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

5. The amendment to Condition 30 to read as follows:

30. **Operational Plan of Management**

The development shall operate in accordance with the Operational Plan of Management (OPM), as prepared by Kite Centre dated October 2017. To ensure compliance with this condition, the OPM is to be reviewed annually (or as required by the operator, the Council or any relevant authority) and any proposed amendments to the operation of the facility incorporated accordingly. All changes to the OPM must be supported by sound reasoning for the amendments and submitted to Northern Beaches Council each year for endorsement and confirming compliance.

Reason: To ensure compliance with the permissibility of the development under Warringah Local Environmental Plan 2000 (DACPLGOG1)

Vote: 4/0



northern  
beaches  
council

## **ATTACHMENT B**

**Report to Northern Beaches Independent Public Hearing Meeting held 2  
May 2018**

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/1182
Assessment Officer:	Lashta Haidari – Principal Planner
Land to be developed (Address):	Lot 1110 DP 752038, 752038 Oxford Falls Road, Frenchs Forest
Proposed Development:	Alterations and additions to an existing premises and change of use for part of the building to a medical centre (specialist paediatric medical facility) and signage
Locality :	B2 Oxford Falls Valley under WLEP 2000
Category:	Category 3 – Medical Centres (specialist paediatric medical facility)
Consent Authority:	Northern Beaches Council Clause 15 of WLEP 2000 – requires public hearing for Category 3 Development, accordingly the application is referred to Local Planning Panel
Land and Environment Court Action:	No
Owner:	Hajuan Pty Ltd
Applicant:	Kite Centre
Application lodged:	1 December 2017
Application Type:	Integrated
State Reporting Category:	Other
Notified:	11 December 2017 – 1 February 2018
Advertised:	9 December 2017
Submissions:	9 submissions which comprise of 8 Letters of support and 1 submission against the Development.
Recommendation:	Approval subject to conditions
Estimated Cost of Works:	\$ 281,446.00

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EP&A 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 EP&A Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

## STATUTORY CONTROLS

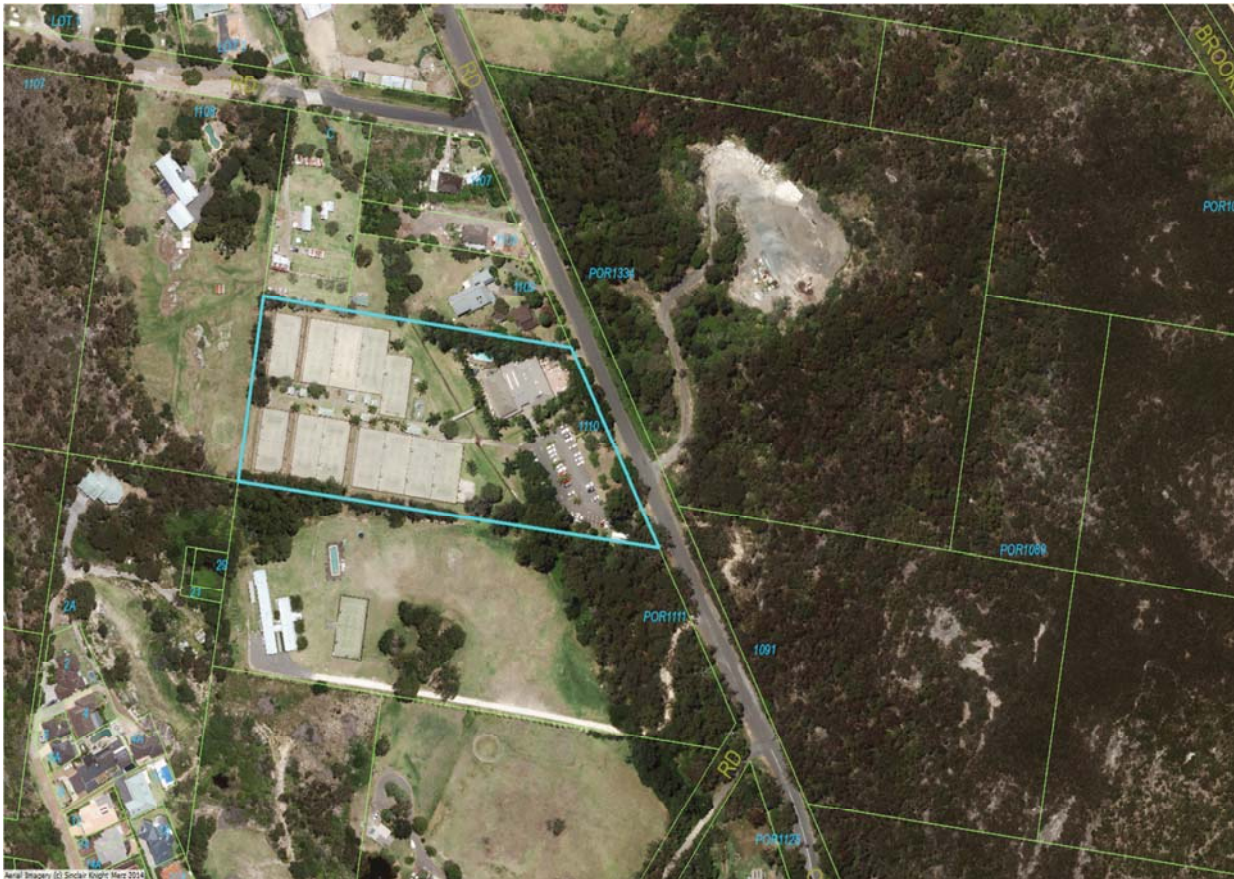
- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy No. 55 – Remediation of Land;
- d) State Environmental Planning Policy (Infrastructure) 2007; and
- e) Warringah Local Environment Plan 2000.

## NON-STATUTORY CONTROLS

- a) Warringah Development Control Plan No. 1.

## SITE DESCRIPTION

The site consists of one allotment which is located on the western side of Oxford Falls Road (between Wearden Road and Barnes Road) and known as Lot 1110 Oxford Falls Road, Frenchs Forest.



The lot is irregular in shape and has a frontage of 121.9m to Oxford Falls Road and side boundary lengths of 180.9m (north) and 248.65m (south). The site has a total area of 2.175ha.

The site operates as a tennis academy and short term accommodation and is occupied by twelve tennis courts, various sheds and pergolas, two shipping containers used for storage, a swimming pool and a part one – part two storey building which comprises the following:



#### Ground Floor

- Tennis and motel reception area
- Lounge
- Gymnasium
- Lecture room
- Ancillary rooms such as kitchens, staff room and toilet facilities

#### First Floor

- Twelve motel units (eastern wing)
- Three bedroom dwelling house (western wing)

The site also contains an open car parking area which can accommodate fifty-five (55) vehicles.

A valley is formed through the centre of the site by a creek which traverses the property from north to south. The site falls approximately 8m from the street to the creek bank and then rises approximately 7m from the creek bank to the rear boundary.

Surrounding development consists of single residential dwellings to north, south and west. Opposite the site on the eastern side of Oxford Falls Road is vacant, heavily vegetated Crown land.

### **SITE HISTORY**

#### Development Consent

Consent No.84/351 was granted on the 9 August 1984 for 'the erection of two stages of sports complex comprising twelve (12) tennis courts and erection of a part single storey/part two storey building containing six (6) racquet ball courts and associated facilities. This consent was subsequently modified on the 26 June 1985, 9 October 1985 and 12 September 1986.

Consent No. 91/131 (DA1993/43) was granted on the 7 April 1993 for 'an accommodation block in association with the existing tennis complex'.

Development consent DA2013/0733 was approved via Section 8.2 (previously known as Section 82A review – Rev2014/0001) in 26 March 2014 for short term accommodation (motel) and use of the premise as a restaurant and function centre. More specifically, this consent related to:

- the use of the building for motel (short term accommodation);
- the use of a restaurant catering for a maximum of 20 customers;
- the use reception area and a breakfast room for the motel;
- the use of a restaurant and function area with capacity for 88 customers;
- the use of the tennis courts from 7.30am to 10.30pm;
- two business identification signs, 800mm high by 2.4m with a maximum height above ground level of 1.8m externally up lit by lights located behind the existing front wall.

### **PROPOSED DEVELOPMENT**

- Development consent is sought for additions and alterations including internal fit-out to an existing building and use of the building for the purposes of a Medical Centre. The centre will provide a specialist paediatric medical facility, which will provide treatments for Children with special needs. This includes a shop which is ancillary to the medical centre providing goods specifically marketed for patients of the facility. This will include health foods, sensory tools, special needs toys, weighted blankets and vests and a dispensary/chemist. The shop will operate in association with the medical centre on the site, and is therefore considered to be ancillary and subordinate to the *medical centre*.



The specific details of the proposed development is included within the Statement of Environmental Effect (SEE), as prepared by BBF Town Planners, dated November 2017 and summarised as follows:

The proposed Additions and Alterations to the existing building include:

- Installation of lift in motel building;
- various internal building alterations to enable modified room configurations
- disabled access ramps x 3
- removal of the garage doors to be replaced by sliding glass to make therapy room.
- fencing to landscaped area to maintain children's safety.
- flat roofed shade structure on over existing terrace - to create an occasional outdoor exercise / movement therapy space
- flat roofed pergola off dining room for café

The proposed land use as a Medical centre will be in addition to the other land uses already approved on the property such as:

- Short stay accommodation – 4 rooms (reduced from 12 rooms) – land use approved
- Café – 20 seats – land use approved
- Function space – occasional use related to the KITE centre

#### Medical Centre

The proposed paediatric (children's) medical facility will be known as "*The KITE Centre*". It will primarily be staffed by allied health practitioners and medical staff. The applicant has indicated that the premises (Kite Centre) will operate on an appointment bases only and an Operational Management Plan (OMP) has been prepared for the Centre which includes a 15 minute turnaround between appointments.

The proposal will also retain 4 accommodation rooms to provide the opportunity for patients and their families / carers to travel from further afield and stay overnight. However, it should be noted that the overnight patients will not receive any treatments within the accommodation rooms overnight.

The existing function centre/restaurant will be converted to a reception/waiting area for patients. The KITE Centre will continue to hold the occasional function in the reception area outside of normal business hours. These special events will comprise educational classes for parents, Easter and Christmas parties for the children and fundraising events for special schools.

The existing cafe use will be retained however it will be relocated on the ground level to provide a new 20 seat cafe overlooking the pool area. The cafe will predominately cater for staff and visitors to the medical facility and the tennis use.

#### **Hours of operation**

Development consent is sought for the following hours of operation:

#### Medical Centre

- Monday to Friday: 9am to 5pm and Saturdays: 9am – 1pm;
- Sundays: occasional special events. Additionally, practitioners may open on Sundays with no reception support) 7am to 7pm.

#### Officer Administration

- Monday to Friday: 9am to 5pm

#### Cafe

- 7.00am to 10:30pm seven days a week

Other approved uses operating hours remain unchanged.

#### Signage

The proposal includes business identification signage on either side of the driveway entrance and for way finding within the property. The details of the proposed signs are:

1. Left side of entrance, attached below the existing Queenwood Tennis Centre signage; size: 2000mm (wide) x 350mm (vertical)
2. Right side of entrance (already approved sign - replacement of signage panel proposed), 3000mm x 600mm on existing sandstone wall. This signage replaces the existing approved signage panel containing the wording 'The Falls'
3. Building Entrance/wayfinding signage. Proposed to be attached to a new entrance pergola

### **PUBLIC EXHIBITION**

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, WLEP 2000 and WDCP. As a result, the application was notified for a minimum period of 21 calendar days commencing on 11 December 2017 and being finalised on 1 February 2017. Furthermore, the application was advertised in the Manly Daily on 9 December 2017 and a notice was placed on the site.

As a result of the public exhibition process, a total of 9 individual submissions have been received, which included:

- Eight (8) Letters of Support:
- 1 Letter objecting to the development.

The matters raised within the submission that is against the development are addressed as follows:

#### **Zoning under Warringah LEP 2011**

Concern has been raised that the use would be prohibited if the site was to be rezoned as E3 – Environmental Management under a Warringah Local Environmental Plan 2011. The submission states that there should be no change of use until the zoning issue is resolved.

#### Comment:

There has been no public exhibition of any Draft Environmental Planning Instruments relating to this site. Therefore the concern raised in relation to potential rezoning of the land as E3 – Environmental Management is not relevant to this application.

#### **Desired Future Character (DFC)**

Concern is raised that the development is inconsistent with the DFC of the B2 Locality and inappropriate development given the residential nature of the locality. The submission notes that *"a medical centre especially with lighted signage would be out of character with the surrounding rural residential area and the nocturnal wildlife habitat. A medical facility is unnecessary here in*

*Oxford Falls as a whole precinct has been set aside by State Government for a hospital and medical facilities within the new Northern Beaches Hospital area of interest”*

Comment:

An assessment of the proposed development against the DFC Statements for the B2 locality is provided in this report. In summary, the proposed development has been found to be consistent with the DFC for the B2 locality. Accordingly, the concerns raised do not warrant the refusal of the application.

In addition to the above, a condition is included to ensure that the signage associated with the proposed facility is not illuminated.

**Traffic and Parking**

Concern has been raised that the proposed development will generate additional flow of traffic from the car park and general increased usage to the area which is claimed to be already at optimum capacity.

Comment

Council's Traffic Engineer has reviewed the proposal and raised no objections regarding the impact of the development on local intersections or the increase in traffic generated by the proposal. In addition, the proposed development provides sufficient number of parking spaces for the proposed development.

For the above reasons, the concerns raised in relation to the traffic generation is noted but not considered to warrant the refusal of the application.

Letter of support

The following summarises the letters of support:

- *Northern Beaches needs this important facility, Located so close to the new hospital is also a great advantage of this location.*
- *This proposal must be approved to assist the many families in a similar situation on the Northern Beaches.*
- *This proposal for Oxford falls is low impact highly needed for the community and of less intensity than what is already there, that is a wedding reception centre and motel. The location is ideal as it is in the heart of the northern beaches, is close to the new hospital, has plenty of parking away from busy roads and is in a tranquil setting.*
- *Most importantly the integrated children's healthcare service they are proposing is not currently available on the northern beaches.*
- *The Kite Centre offers the Northern Beaches an excellent opportunity to enhance the health of children with developmental challenges.*
- *The Kite Centre shares core design features with the Community Health Centre.*
- *Certainly, those with developmental challenges in the Northern Beaches must be given this opportunity for enhanced growth by attending the Kite Centre.*
- *The idea of an integrated centre supplying expert medical and other support for such necessary children would be incredibly convenient and a welcome facility to have in our area.*

- The synergies between Queenwood Tennis and Sports Centre (QTSC) and the proposed KITE Medical Centre has unlocked potential to support and cater to community members in the area and create a strong interest in local community health and welfare. The facility provides ample off street parking and while QTSC currently occupies a small portion of the building space and with our tennis patrons congregating around the tennis courts when not playing, there is plenty of unused space on the site.

## MEDIATION

Mediation was not requested.

## External Referrals

Internal Referral Body	Comments Received
NSW Rural Fire Service (NSW RFS)	<p>The application was referred to the NSW RFS as Integrated Development on 6 December 2017.</p> <p>Section 100B of the <i>Rural Fires Act 1997</i> enables the Commissioner of the NSW RFS to issue a Bushfire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B (6) of that <i>Rural Fires Act 1997</i> identifies Seniors Housing (within the meaning of the <i>SEPP (HSPD) 2004</i>) as such development.</p> <p>In their response on 21 March 2018, the NSW RFS issued their Bushfire Safety Authority and General Terms of Approval which are to be included in any consent should the Panel be of the mind to approve this application</p>
Department of Primary Industries (DPI)	<p>The application was referred to the DPI as Integrated Development under s.91A (2) of the EP&amp;A Act 1979. The DPI provided comments on 19 March 2018 and has advised that a controlled activity approval is not required for the proposed development.</p>
Aboriginal Heritage	<p>There are known Aboriginal sites in the area although no sites are recorded in the current lot and the area has been subject to previous disturbance reducing the likelihood of unrecorded Aboriginal sites.</p> <p>If areas of in situ sandstone outcrop are in the proposed development area (such as overhangs over 1m in height or level platforms over 2m square), the Aboriginal Heritage Office would recommend a preliminary inspection ('due diligence' under the <i>National Parks and Wildlife Act 1974</i>) by a qualified Aboriginal heritage professional prior to any development. If there are no existing sandstone outcrops present (or if any outcrops that were present were properly excluded from future impacts), then no further assessment is required and the Aboriginal Heritage Office would not foresee any further Aboriginal heritage constraints on the proposal.</p>

## INTERNAL REFERRALS

Internal Referral Body	Comments Received
Building Assessment	No objections subject to conditions to ensure compliance with the Building Code of Australia
Environment Health	No objection subject to conditions
Development Engineers	No objection subject to conditions
Landscape Officer	No objection subject to conditions
Natural Environmental Unit (Biodiversity)	Council's Natural Environment and Climate Change (NECC) - Biodiversity section, raises no objection to approval, subject to conditions as recommended.

Traffic	The proposal is supported on traffic ground subject to conditions
---------	-------------------------------------------------------------------

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the *EP&A Act 1979* are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See the discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None Applicable
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	The application was notified in accordance with WDCP
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None Applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider <i>AS 2601 - 1991: The Demolition of Structures</i>. This matter may be addressed via a condition of consent should this application be approved.</p> <p>Clause 98 of the EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. A condition of consent could be included in the consent if the application was worthy of approval that all works to be consistent with the provisions of the Building Code of Australia.</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) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report.</p> <p>(ii) The development will provide medical centre designed specifically for children with special needs and therefore the development will not have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site does not contain any significant constraints and therefore, the site is considered suitable for the use proposed.
Section 4.15 (1) (d) – any submissions made in accordance with the EP&A Act or EPA Regulation 2000	In regards to public submissions refer to the discussion on "Notification & Submissions Received" within this report.
Section 4.15 (1) (e) – the public interest	<p>Pursuant to case law of <i>Ex Gratia P/L v Dungog Council</i> (NSWLEC 148), the question that needs to be answered is “<i>Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development?</i>” For the reasons stated in this report, it is apparent that there is public benefit to be gained from the operation of this facility. There are no unreasonable impacts that will result from the operation of the proposed development, therefore, the finding is that the benefits outweigh any disadvantage and as such the proposed development will have an overall public benefit.</p> <p>Additionally, the proposal satisfies the requirements of WLEP 2000 and will have no detrimental effect</p>

Section 4.15 'Matters for Consideration'	Comments
	on the public interest, subject to appropriate conditions being proposed.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (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 EPIs (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)

A further consideration is required for the following State policies:

#### State Environmental Planning Policy No 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 as a tennis academy and short term accommodation for a significant period of time with no prior land uses other than for residential purposes. 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 proposed land use.

#### SEPP No. 64 – Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1) (a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Considerations	Comment	Complies
<b>1. Character of the area</b> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	<p>The site is located within the B2 Oxford Falls Valley Locality. Although the locality envisages development for low density residential purposes, there are established uses in the area which are of a commercial nature and subsequently require signage.</p> <p>The proposed signage is minimalist in its design and of a size and scale commensurate with the buildings on the site. Visibility of the proposed signage from the public domain will be limited due to the vegetation surrounding the</p>	Yes



	site and the colours proposed to be used are complementary to the natural environment. In this regard, the signage is compatible with the existing and future character of the locality.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There is no consistent theme for signage in the locality. However, as mentioned above, the proposed signage is considered compatible with the existing and future character of the area.	Yes
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The site is located opposite heavily vegetated crown land and residential properties. However, due to the size, height and location of the proposed signage, it is not considered to detract from natural conservation areas or adjoining residential development.	Yes
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposed signs have a maximum height of 350mm and will be located behind a low height wall at the front of the property. Views and vistas will not be obscured or compromised as a result of the proposed signs.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signs will not result in any changes to the skyline or quality of vistas	Yes
Does the proposal respect the viewing rights of other advertisers?	The proposed signs do not obstruct viewing rights of other current or future advertisers in the vicinity of the site	Yes
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed signs are appropriate given the scale of the development and the use proposed.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signs provide business identification for the Falls Retreat which occupies the site. The signs provide an appropriate level of visual interest and will not appear visually dominant	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signs are complementary to the design of the existing development and character of the area and do not result in any 'visual clutter'.	Yes
Does the proposal screen unsightliness?	The proposed signs will be located behind an existing low wall and given their height will not screen any unsightly part of the building.	Yes
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signs will not protrude above the existing buildings or tree canopies in the area.	Yes
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the	The scale of the proposed signs is considered to be commensurate with the size of the site and the development, building and structures on the property.	Yes



proposed signage is to be located?		
Does the proposal respect important features of the site or building, or both?	The proposed signage is respectful of the existing and proposed built form.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signs are of a standard form. The design is considered satisfactory for the intended identification purposes.	Yes
6. Associated devices and logos with advertisements and advertising structures  Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage will satisfactorily integrate with the existing wall structure.	Yes
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation	No illumination is proposed.	Not Applicable
<b>8. Safety</b>  Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Due to the size and angle of the proposed signage, location of the site and the surrounding vegetation, the proposed signage would not reduce the safety of any public road, pedestrians or cyclists.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage would not obscure sightlines from public areas and therefore would not reduce the safety of pedestrians.	Yes

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provision of the SEPP and its underlying objectives.

### State Environmental Planning Policy - Infrastructure

#### Ausgrid

Clause 45 of SEPP Infrastructure 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 5m 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 5m of an overhead electricity power line

The proposal is not within or immediately adjacent to any of the above electricity infrastructure and does not include a proposal for a swimming pool; as such the development application is not required to be referred to the electricity supply authority. Notwithstanding, the application was

forwarded to Ausgrid for comment. 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. In this regard, the subject application is considered to satisfy the provisions of Clause 45 of SEPP Infrastructure.

### **Regional Environment Plans (REPs)**

There are no Regional Environmental Plans relevant to this property.

### **Local Environment Plans (LEPs)**

#### **Warringah Local Environment Plan 2000 (WLEP 2000)**

#### **Desired Future Character (DFC)**

The subject site is located in the B2 Oxford Falls Valley Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

*"The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.*

*Future development will be limited to new detached style housing conforming to the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained."*

The subject site contains existing Category 3 uses, being the tennis courts with an ancillary shop, restaurant, short term accommodation (motel) and a function centre. The extent / intensity of the approved function centre and short stay accommodation land uses will be altered in order to accommodate the proposed medical centre use. In this regard, the proposed changes to the existing Category 3 are summarised as follows:

- Short stay accommodation – operating of 4 rooms (reduced from 12 rooms);
- Café – 20 seats – to be relocated on the ground level overlooking the pool area; and
- Function centre – will be converted to a reception/waiting area for patients. The KITE Centre will continue to hold the occasional function in the reception area outside of normal business hours. These special events will comprise educational classes for parents, Easter and Christmas parties for the children and fundraising events for special schools.

Clause 16 of the LEP makes provisions for changes to existing Category 3 development. The proposed change to the existing Category 3 land uses (as described above) represents a minor intensification and these works are consistent with the requirement of Clause 16.

In addition to the land uses that are approved on the site, the proposed development seeks consent for a specialist paediatric facility, which is appropriately defined as a 'Medical Centre' pursuant to the dictionary section of the WLEP 2000, and accordingly is classified as a Category 3 development in this locality.

An ancillary shop is also proposed, the ground floor shop will provide goods specifically marketed for patients of the facility. This will include health foods, sensory tools, special needs toys, weighted blankets and vests and a dispensary/chemist.

Clause 12(3)(b) of WLEP 2000 requires that, prior to granting consent for Category 3 development, the consent authority must be satisfied that the proposed development is consistent with the Locality's Desired Future Character statement.

Accordingly, an assessment of consistency of the Medical Centre against the locality's Desired Future Character statement is provided as follows:

***The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows***

***Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.***

Comment:

The existing character of the Oxford Falls Valley is predominantly low density residential with commercial uses interspersed. There is a high ratio of landscaped open space and vegetated areas compared to built form. The development will generally maintain the existing character of the locality.

The physical works proposed on site are minimal and comprise internal fitout and some external alterations. The main element of the proposal is to change the use of part of the existing building on site to operate as a specialist paediatric medical facility (*medical centre*), that specialises in the treatment of Children with specific needs offering specialist medical and allied health care. As such the following assessment is provided in relation to the "low impact" "low intensity" requirement.

A more objective interpretation of what constitutes low intensity, low impact uses was used in the Land and Environment Court judgement *Vigor Master Pty Ltd v Warringah Shire Council [2008] NSWLEC 1128*. The interpretation within the judgement is provided as follows:

**Intensity** - is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore "low intensity" would constitute a development which has a low level of activities associated with it."

**Impact** - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality.

## **Intensity Assessment**

If intensity is best measured by the activities associated with a development, then the key measure for the proposal is the number of traffic movements generated by the operation of the premises as a medical centre in combination with the existing motel (reduced in size), the tennis academy, and restaurant.

A Traffic and Parking Impact Assessment, prepared by Terraffix Pty Ltd dated 20 November 2017, was submitted with the application. The report indicates that the peak traffic generating potential of the proposed medical facility operating at 100% capacity is in the order of 27 vehicle trips in the peak periods. Council's Traffic Engineer has reviewed the submitted report and concurred with the findings. Accordingly, the proposed use can be considered low intensity.

## Impact Assessment

The primary impacts of the proposed use as a medical centre are related to noise, traffic and parking. An assessment of each of these impacts is provided below.

**Noise:** No acoustic report has been submitted with the application to demonstrate that the impacts of the proposal on the adjoining property would be acceptable and no noise attenuation is proposed as part of the application.

However, it is noted that the location of the building will provide a physical buffer between the uses and the nearest adjoining residential neighbour therefore minimising noise transfer. In this regard, subject to conditions of consent, the noise impacts of the proposed development would be low.

**Traffic:** As mentioned above, a Traffic and Parking Impact Assessment was submitted with the application which, following surveys of vehicle movements found that a maximum of 27 vehicle trips occurred during the peak period. Both the report and Council's Traffic Engineer consider that the number of vehicle trips would have a minimal impact on the surrounding road network.

**Parking:** Parking is discussed in detail later in this report. In summary, the existing uses in combination with the proposed use would generate a parking requirement of 58 spaces under WLEP 2000. A total of 58 off –street parking spaces are provided on site/

On balance, the development is considered to be a low intensity, low impact use that would maintain the existing character of the locality.

***The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

### Comment:

The proposed works will have minimal impact the natural landscape as the prospered works are within the footprint of the existing building and hard surface area. There is sufficient area at the front of the site to allow for the siting of the proposed signage without requiring the removal of any trees. The retention of trees will be reinforced by a condition of consent.

The new works are of minimal bulk and scale and will successfully integrate with the existing landscape. Conditions will be imposed to ensure colours and materials are complementary to the character of the area to minimise the visual impact of the development.

***A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.***

### Comment:

The site does not adjoin either Forest Way or Wakehurst Parkway. Further, no fencing is proposed as part of the application. Even so, the existing development on site provides a landscape buffer to Oxford Falls Road which is to remain unchanged. Accordingly the proposal is considered to satisfy the underlying intent of the DFC.

***Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.***

### Comment:

Councils Natural Environment Unit has raised no objection to the proposal and accordingly the development will not create siltation or pollution of Narrabeen Lagoon and its catchment.

Given the above assessment, the proposed development is considered to be consistent the Desired Future Character statement of the B2 Oxford Falls Valley locality.

#### Built Form Controls (Development Standards)

The following table outlines compliance with the Built form Control of the above locality statement:

Control	Requirement	Proposed	Compliant
<b>Housing Density</b>	1 dwelling/20ha of site area	No changes are proposed	Not Applicable
<b>Building Height (Overall)</b>	8.5m	4m to the proposed new shade structure and pergola	Yes
<b>Building height (Natural ground to topmost ceiling)</b>	7.2m	No changes proposed to the existing building	Not Applicable
<b>Front Building Setback</b>	20m	Existing approximately 8-12m  6.1 – 8m to the proposed new shade structure	No
<b>Rear Setback</b>	10m	No changes proposed	
<b>Side Setback</b>	North: 10m South: 10m	North: 10.2m to the proposed new shade structure  South: No changes proposed	Yes  Not Applicable
<b>Landscaped Open Space</b>	30% (6525m <sup>2</sup> )	Existing unchanged ad remains at 47% (10275m <sup>2</sup> )	Not Applicable

The proposed development fails to satisfy the Locality's Front Setback Built Form Control, accordingly, further assessment is provided against the provisions of Clause 20(1) is provided as follows:

#### **Clause 20(1) stipulates:**

*“Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.”*

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

#### **(i) General Principles of Development Control**

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

#### **(ii) Desired Future Character of the Locality**

The proposal is consistent with the Locality's Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

### (iii) Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under 'State Environmental Planning Policies'). Accordingly the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

#### Front Building Setback Built Form Control

*Required:* 20m

*Proposed:* The proposed encroachment relates to a shade structure comprising a metal roof on structural support posts, providing 6.1 to 8m from the site's front boundary

*Response:*

In assessing this non-compliant element of the proposal, it is necessary to consider the merit considerations of the Front Building Setback Built Form Control. Accordingly, consistencies with the merit considerations are addressed below:

- **Create a sense of openness.**

Comment:

The non-compliant components of the proposal have a maximum height of 4m at the highest point which, when considered in the context of the entire site, is relatively minor and would not appear visually dominant. The non-compliant works occupy less than 1% of the total front setback area therefore retaining a sense of openness across the property.

- ***Provide opportunities for landscaping.***

Comment:

The front setback of the site as it exists comprises significant landscaping across the street frontage. No tree removal is proposed as part of the proposed development. The proposed shade structure will be screened from the street by the existing landscaping. Extensive opportunities for landscaping are retained across the site to ensure the character and appearance of the area is maintained.

- ***Minimise the impact of development on the streetscape.***

Comment:

The setback area comprises established trees and shrubs which successfully screen the shade structure from the street. The non-compliance will not be prominent when viewed in a streetscape context. Accordingly, the compliance does not result in any significant impact on the streetscape

- ***Maintain the visual continuity and pattern of buildings, front gardens and landscape elements.***

Comment:

The proposal will maintain a vegetated front setback to the street for almost the entire width of the site. The non-compliant elements of the proposal are minimal in bulk and scale and would not upset the continuity of landscape elements within the streetscape. The development will appear complementary to its surroundings and is consistent with the pattern of buildings and front gardens along Oxford Falls Road.



As detailed above the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition the proposal is considered to be consistent with the underlying objectives of the Front Building Setback Built Form Control. It is for these reasons that the variation to the Front Building Setback Built Form Control (Development Standard) pursuant to Clause 20(1) is supported.

### General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principle	Applies	Comments	Complies
Clause 38 Glare & Reflections	Yes	<p>A standard condition may be included in the consent, should this application be approved, to ensure that the reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes (subject to condition)
Clause 39 Local Retail Centres	No	The site is not located within a Local Retail Centre.	Not Applicable
Clause 40 Housing for Older People and People with Disabilities	No	The proposal is not for Seniors Housing	Not Applicable
Clause 42 Construction Sites	Yes	<p>The site provides adequate area for the handling and storage of building materials, and will not unreasonably impact on the amenity of the locality.</p> <p>Conditions of consent will be imposed that adequately address the construction requirements associated with the building works proposed on the site.</p>	Yes (subject to condition)
Clause 43 Noise	Yes	<p>Clause 43 states that development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.</p> <p>The medical centre use is located a significant distance from the properties and as such will not result in noise emissions which are unreasonable in the locality in which they are located.</p> <p>Accordingly, it is considered that the proposed development is capable of complying with the requirements of this Clause subject to conditions requiring that all noise emissions to be carried out in accordance with Environment Protections Authority guidelines for noise emissions from construction/ demolition works.</p>	Yes (subject to condition)
Clause 44 Pollutants	Yes	The proposed medical centre operation will not result in the emission of atmospheric, liquid or other pollutants which would unreasonably diminish the amenity of adjacent properties, the locality or waterways.	Yes
Clause 47 Flood Affected Land	No	The site is not located within, or near to, any identified flood affected land.	Not Applicable



General Principle	Applies	Comments	Complies
Clause 48 Potentially Contaminated Land	Yes	This issue has been addressed under SEPP 55 of this report. In summary, the site is considered to be suitable for the proposed development.	No
Clause 49 Remediation of Contaminated Land	Yes	Refer to assessment under SEPP 55 and Clause 48.	Yes
Clause 49a Acid Sulphate Soils	No	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	Not Applicable
Clause 50 Safety & Security	Yes	The nature of the proposed use and the provision of on-site management will provide an enhanced level of passive surveillance to the adjoining roadway.	Yes
Clause 51 Front Fences and Walls	No	The plan submitted with the application does not show any front fencing.	Not Applicable
Clause 52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	The site is a privately owned property which is surrounded by private properties.  Accordingly, the application is considered capable of satisfying the provisions of this General Principle	Yes
Clause 53 Signs	Yes	The signage would not result in visual clutter, obscure sightlines or diminish the amenity of the locality, as addressed under SEPP 64 above.  The proposed signage is consistent with Clause 53.	Yes
Clause 54 Provision and Location of Utility Services	Yes	Appropriate conditions may be imposed, should this application be approved, to ensure that the development is connected to required utilities.	Yes (subject to conditions)
Clause 55 Site Consolidation in 'Medium Density Areas'	No	Not applicable to the proposed development	Not Applicable
Clause 56 Retaining Unique Environmental Features on Site	Yes	The proposed development will not affect any unique environmental features on the property.	Yes
Clause 57 Development on Sloping Land	Yes	The proposal provides for no change to the building bulk and no excavation is proposed therefore consistency with these provisions is demonstrated.	Yes
Clause 58 Protection of Existing Flora	Yes	No tree removal is proposed to facilitate the development.	Yes
Clause 59 Koala Habitat Protection		Councils Natural Environment Unit has raised no objections to the proposal therefore consistency with these provisions is demonstrated.	Yes
Clause 60 Watercourses & Aquatic Habitats	Yes	Councils Natural Environment Unit and office of Water has raised no objections to the proposal therefore consistency with these provisions is demonstrated.	Yes
Clause 61 Views	Yes	Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views, which will warrant the refusal of the application.	Yes
Clause 62 Access to sunlight	Yes	The proposed development would not result in any overshadowing of adjoining properties	Yes
Clause 63 Landscaped Open Space	Yes	The application does not propose to remove any significant vegetation from the site and over 47% of the site is maintained as landscaped open space providing opportunities for the planting of indigenous shrubs and trees. The development is consistent with Clause 63 of WLEP 2000.	Yes

General Principle	Applies	Comments	Complies
Clause 63A Rear Building Setback	Yes	No changes are proposed to the existing rear building setback.	Yes
Clause 64 Private open space	No	No further assessment required.	Not Applicable
Clause 65 Privacy	Yes	The development is located a sufficient distance from other residential properties such that it will not result in any unreasonable direct overlooking into habitable rooms and principal private open spaces. No additional architectural privacy treatments are considered to be required.	Yes
Clause 66 Building bulk		<p>Clause 66 requires buildings to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land.</p> <p>The proposal is considered to satisfy the provisions of the General Principle for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed works are minor and of minimal building bulk.</li> <li>• The proposed works are single storey structures that will not exceed the building height control and will maintain consistency with surrounding development.</li> <li>• The proposed building works are generally screened from the streetscape by existing landscaping and structures on the site.</li> </ul>	Yes
Clause 67 Roofs	Yes	No changes are proposed to the existing roof/s of the existing building.	Yes
Clause 68 Conservation of Energy and Water	Yes	The proposed development will maintain sufficient natural ventilation and solar access to the restaurant areas. Additionally, no trees are proposed to be removed from the site ensuring areas for shade and relief from the sun are maintained around the tennis court area.	Yes
Clause 69 Accessibility – Public and Semi-Public Buildings	Yes	The building subject of this application can be made accessible for people with disabilities. Conditions are recommended requiring compliance with the relevant Australian Standards.	Yes (subject to condition)
Clause 70 Site Facilities	Yes	The development provides for all required site facilities which may be situated such that they are convenient to the needs of users and have a minimal visual impact from public places.	Yes
Clause 71 Parking Facilities (visual impact)	Yes	The parking facilities on site are existing and will remain unchanged.	Yes
Clause 72 Traffic access & safety	Yes	<p>Vehicle access into the site is existing and unchanged.</p> <p>According to the submitted Traffic and Parking Impact Assessment, the proposed use of the site as a medical centre in combination with the existing uses on the property, will generate peak flows of approximately 27 vehicle trips which would have a minimal impact on the surrounding road network. Council's Traffic Engineer concurs with the findings and is satisfied that the additional trips would not compromise traffic safety.</p>	Yes
Clause 73 On-site Loading and Unloading	Yes	All loading and unloading will occur within the boundaries of the subject site and therefore	Yes

General Principle	Applies	Comments	Complies
		considered to be satisfactory in relation to this Clause.	
Clause 74 Provision of Car Parking	Yes	An assessment of car parking under Schedule 17 of WLEP 2000 is provided later in this report.	
Clause 75 Design of Car Parking Areas	Yes	No changes are proposed to the existing design and layout of the car parking area.	Yes
Clause 75 Design of Car Parking Areas	Yes	No changes are proposed to the existing design and layout of the car parking area.	Yes
Clause 76 Management of Stormwater	Yes	Council's Development Engineer has assessed the application and raised no objections to the development on the basis of stormwater management.	Yes
Clause 77 Landfill	No	No Landfill is proposed as part of this application	Not Applicable
Clause 78 Erosion & Sedimentation	Yes	Appropriate conditions associated with management of erosion and sedimentation can be included on the consent should this Development Application be approved.	Yes (Subject to Condition)
Clause 79 Heritage Control	No	The site is not identified as a heritage item nor is it located within a conservation area.	Not Applicable
Clause 80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service		The application was referred to the NSW Aboriginal Heritage Office pursuant to the provisions of Clause 80 of the WLEP 2000 as the site may contain or may be within the vicinity of an Aboriginal place or place of Aboriginal cultural significance.  NSW Aboriginal Heritage Office raised no objections to the development	Yes
Clause 81 Notice to Heritage Council	No	No further assessment required.	
Clause 82 Development in the Vicinity of Heritage Items	No	No further assessment required.	
Clause 83 Development of Known or Potential Archaeological Sites		The property is not a known or potential archaeological site	

## RELEVANT SCHEDULES

### Schedule 5 - State Policies

<b>Koala Habitat Protection</b>	Councils Natural Environment Unit has raised no objections to the proposal therefore consistency with these provisions is demonstrated.
---------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------

### Schedule 8 - Site analysis

<b>Site Analysis</b>	<p>Clause 22(2)(a) of WLEP 2000 requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.</p> <p>It is considered that submitted plans, in conjunction with the Statement of Environmental Effects, to have satisfactorily addressed the requirement of this Schedule</p>
----------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## Schedule 15 - Statement of Environmental Effects

Pursuant to Clause 15 of WLEP 2000, consent may be granted to development classified as Category Three only if the consent authority has considered a Statement of Environmental Effects that includes the items in Schedule 15.

The applicant has submitted a Statement of Environmental Effects, which addresses the items listed in Schedule 15 of WLEP 2000. An assessment of Category 3 element (being the Medical Centre) against the provisions of Schedule 15 is provided below:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	<p>A Statement of Environmental Effects has been submitted with the application.</p> <p><b>Comment:</b> It is considered that the statement submitted adequately addresses the proposal's consistency with all relevant planning controls.</p>
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	<p>The applicant has addressed the consistency of the proposal with the desired future character statements for the B2 Locality and the general principles of development control in the Statement of Environment Effects. In summary, the applicant has concluded that the proposal is consistent with DFC statement for the B2 Locality and the development is also consistent with the general principles as contained in Part 4 of the WLEP 2000.</p> <p><b>Comment:</b> An assessment of the proposal with all relevant controls in WLEP 2000 is detailed in this report. The assessment has found that the proposal is consistent with the relevant planning controls.</p>
(3) Objectives of the proposed development.	<p>The applicant has advised that the primary objectivities of the proposed development are to:</p> <p><i>"The objective of the proposal is to serve the unique needs of child patients with a range of specialists under one roof, offering extended consultations for diagnosis and treatment. The site is somewhat unique due to its setting, established buildings / facilities, and range of indoor and outdoor spaces. Such a facility, in this location, is ideal for its intended purpose and will offer various social benefits to the community."</i></p> <p><b>Comment:</b> The proposal is an attempt to provide medical services to the general public. The applicant has satisfactorily described the objectives of the proposal.</p>
<p>(4) An analysis of feasible alternatives.</p> <p>(including (a) Consequences of not carrying out the development and (b) Justification for the development)</p>	<p>The applicant has advised that the consequences of not carrying out the development include the loss of potential opportunity to provide a much needed medical facility for children with special needs. The reason why the applicant has stated that the development is necessary, is summarised as follows:</p> <p><i>"If the application is not approved, the organisation will then be required to find an alternative venue, obtain consent to carry out the proposed uses and fit-out the premises. Given the lack of appropriate premises for the proposed uses and the fact that this is a specialised organisation with limited funds, this process is likely to be time consuming and costly. The ultimate consequence may be the loss of a business which will provide a significant contribution to the local and broader community."</i></p> <p><b>Comment:</b> The justification for the development is to provide for a convenient facility for children with special needs. The development is not considered to impact upon locality and is considered to constitute a "low impact and low intensity" use by virtue of the nature of the proposed facility.</p>

Consideration	Proposed
(5) Development and context analysis.	<p>The SEE submitted with the application provides a detailed description of the proposed development and the context of the development.</p> <p><b>Comment:</b> The SEE has provided an appropriate description of the development and an analysis of the context of the subject site.</p>
(6) Biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>The applicant has stated there are no adverse environmental impacts associated with the development.</p> <p><i>The SEE states that the proposal seeks to serve the unique needs of child patients with a range of specialists under one roof, offering extended consultations for diagnosis and treatment. The site is somewhat unique due to its setting, established buildings / facilities, and range of indoor and outdoor spaces. Such a facility, in this location, is ideal for its intended purpose and will offer various social and health benefits to the community.</i></p> <p><b>Comment:</b> The proposal not considered to provide adverse impacts in relation to the biophysical, economic and social considerations and the principles of ecologically sustainable development.</p>
(7) Measures to mitigate any adverse effects of the development on the environment	<p>The applicant has stated there are no adverse environmental impacts associated with the development. The SEE has indicated that mitigation measures for the proposed development is that the traffic generation outcome with the medical centre use will not present any unsatisfactory traffic capacity or safety implications.</p> <p><b>Comment:</b> Mitigation measures are contained within the SEE in relation to waste management and disposal and hours of operation of the medical centre.</p>
(8) Other approvals required	<p>The development is integrated development in relation to bushfire and proximity to water channels. Approvals from these authorities have been obtained.</p> <p>Aside from these concurrences there are no other approvals required to be obtained pursuant to the EP&amp;A Act or WLEP 2000 prior to the development being carried out other than the consent of the Council.</p>

#### Schedule 17 - Car parking Provision

Car parking Provision	<p>Motel: 1 space per unit (4 units) plus 1 space per 2 employees = 6 spaces</p> <p>Recreation Facility (Tennis Court) : 3 spaces per court = 36 spaces</p> <p>Restaurant ( 20 seats) : 1 space per 3 seats = 7 spaces</p> <p>Medical Centre (264m<sup>2</sup>) : 4 spaces per 100m<sup>2</sup> of GFA = 11 spaces</p> <p>TOTAL: 60 spaces required</p> <p>Provided: 58 spaces</p> <p>The development fails to provide sufficient parking to meet the requirements of WLEP 2000 by two (2) spaces. The Traffic Report prepared by Terraffix Pty Ltd, dated 20 November 2017, provides details of the methodology used to assess car parking demand and the parking surveys that was undertaken on the site. The report concludes that:</p> <p><i>The Car Parking and Traffic Impact Assessment finds that the proposed medical facility will have no adverse parking implications as:</i></p> <ol style="list-style-type: none"> <li><i>1. The parking potential of the existing motel and function centre (42 spaces) exceeds the potential of the proposed medical facility (28 spaces) when operating at 100% capacity.</i></li> <li><i>2. The survey of the existing carpark indicates there will be spare capacity during the midday peak period</i></li> <li><i>3. The proposal will be constructing 2 compliant disabled parking spaces;</i></li> </ol>
-----------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>and</p> <p>4. <i>The proposed 20 seat cafe will replace the 20 seat restaurant on the site and is expected to only be patronised by people already on the site.</i></p> <p>Council's Traffic Engineer concurrence with the finding of this report and the shortfall is considered acceptable due to different uses within the site.</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable, and it will be included as a condition of consent should the application be approved:

<b>Warringah Section 94 Development Contributions Plan</b>		
Contribution based on a total development cost of <b>\$281,446.00</b>		
<b>Contributions</b>	<b>Levy Rate</b>	<b>Payable</b>
Total Section 94A Levy	0.95%	\$ 2,673.74
Section 94A Planning and Administration	0.05%	\$140.72
<b>Total</b>	<b>1%</b>	<b>\$2,814.46</b>

A condition requiring payment of the Section 94A contribution is to be imposed if this application is approved.

## CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions relevant Environmental Planning Instruments including Warringah Local Environment Plan 2000 and the relevant codes and policies of Council.

The application seeks consent for an additional land use for a medical centre (a category 3 land use) within the existing building on the site. There are minimal external changes to the established building, car parking areas and signage on the site. The assessment of the application has found that the proposal satisfies the requirements of the Desirable Future Character statement as the proposal will provide an important health care facility (Medical Centre) to children with special needs to the community.

The application was notified for 21 days and 9 submissions were received, which included eight (8) letters of support, and one (1) letter objecting to the proposal. The issues raised by the objector was primarily in relation to relating to inconsistency with the Desired Future Character, increased traffic flow and car parking, and issues relating to the prohibition of the proposed under the provision of Warringah LEP 2011. All issues have been addressed in this report (see 'Public Exhibition') and were found not to warrant the refusal of the application.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions. On merit, it is considered that the proposed development satisfies the appropriate controls and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to conditions contained within the recommendation.

As a direct result of the application and the consideration of the matters detailed within this report it considered that Development Consent should be granted subject to the conditions recommended below.

## **RECOMMENDATION**

That the Local Planning Panel recommend to the Acting Chief Executive Officer of Northern Beaches Council that Development Application DA2017/1182 for Alterations and Additions to the existing premises and change of use for part of the building to a medical centre (specialist paediatric medical facility) and signage at Port 1110 752038 Oxford Falls Road, Frenchs Forest be approved subject to the attached draft conditions of consent.



## CONDITIONS OF APPROVAL

<b>Application Number:</b>	DA2017/1182
<b>Land to be developed (Address):</b>	Lot 1110 DP 752038 752038 Oxford Falls Road FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Alterations and additions to an existing premises and change of use for part of the building to a medical centre (Specialist Paediatric Medical Facility) and signage

## 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site Analysis Plan	28/02/01	S. Rose
Site Plan (DA 1C)	July 2017	JJ Drafting
DA2A, 3A, 4A, 5A, 6A, 7A, 7A, and 8A	July 2017	JJ Drafting
Signage	-	Kite Centre

#### b) Supporting Documentation

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Operational Plan of Management	October 2017	S. Rose
Building Code of Australia 2016 Report	14/11/2017	McCarthy Consulting Group NSW Pty
Access Report	-	Architecture and Access

#### 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. (DACPLB01)

**2. Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Rural Fire Service	NSW RFS Referral Response	21 March 2018

(NOTE: For a copy of the above-referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

**3. Approved Land Use**

Nothing in this consent shall authorise the use of premises as detailed on the approved plans for any land use of the site beyond the definition of:

- Medical Centre (Specialist Paediatric Medical Facility) and ancillary shop
- Short Stay Accommodation (as relates to 4 rooms)
- Restaurant/ Cafe with 20 seats
- Function space – occasional use for the purposes of the Kite Medical centre

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. (DACPLB03)

**4. No Approval for any Signage above the parapet / roof line**

No approval is granted under this Development Consent for the erection of any advertising or business identification signage located above the roof/parapet line. All signage above the roof/parapet shall be deleted.

Reason: Compliance with Warringah Local Environment Plan. (DACPLB07)

**5. Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (c) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

## 6. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
- Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2008
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

**7. Signposting at northern driveway**

The car parking area on the northern end of the premises shall be allocated to the staff parking and be clearly signposted as staff-only car parking area at the entrance to the car park.

Reason: To minimize reversing in/out of the driveway (DACTRCPC2)

**8. Enter and exit the southern driveway in forward direction**

All vehicles are to enter and exit the southern driveway (main driveway) in forward direction.

Reason: To comply with DCP (DACTRBOC2)

## FEES / CHARGES / CONTRIBUTIONS

**9. Policy Controls**

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 281,446.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 2,673.74
Section 94A Planning and Administration	0.05%	\$ 140.72
Total	1%	\$ 2,814.46

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

#### 10. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, 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.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

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

### CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

#### 11. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to

the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

12. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

13. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

14. **On-site loading and unloading**

All loading and unloading activities are to occur within the site.

Reason: To minimise impact on traffic and parking on the public road (DACTRBOC3)

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. **Tree protection**

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011



Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

16. **Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNEDPC1)

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

17. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

18. **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAE03)

19. **Aboriginal Heritage**

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

20. **Fire Safety Upgrade**

The fire upgrading measures and works to upgrade the building as detailed and recommended in the BCA and Fire Audit Report by McCarthy Consulting Group NSW Pty Ltd are to be constructed / provided / implemented in full, (and reflecting BCA Type B Construction where required), to the building with details demonstrating implementation and compliance, being submitted to the Principal Certifying Authority prior to use and occupation and prior the issue of the Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCF01)

21. **Fire Safety - Egress and Essential Services Upgrade**

Essential Fire Safety services and Building Code of Australia (BCA) compliant Egress provisions, (generally consisting of Emergency Lighting, Exit Signage, Portable Fire Extinguishers, Fire Detection & Alarm System, and compliant Egress doors, Door Hardware, and exit travel distances and the like) are to be provided to the building so as to comply with Parts D and E of the Building Code of Australia.

Details demonstrating implementation are to be submitted to the Principal Certifying Authority prior to prior to use or occupation, and prior the issue of any Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCFPOC2)

22. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification.

<https://www.warringah.nsw.gov.au/sites/default/files/documents/policies-register/environment/water-management-policy/2016-011845-water-management-policy-current.pdf>

A statement of compliance is to be prepared by a suitably qualified Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's Infrastructure (DACENF11)

23. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

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

24. **Noise Impact on Surrounding Areas**

Any noise from the premise shall not exceed more than 5dB(A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise (DACHPGOG5)

25. **Hours of Operation**

The hours of operation are to be restricted to that stipulated in the Operational Plan of Management, dated October 2017.

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. (DACPLG08)

26. **No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

27. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

28. **Loading Within Site**

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

29. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

30. **Operational Plan of Management**

The development shall operate in accordance with the Operational Plan of Management, as prepared by kite Centre dated October 2017

Reason: To ensure compliance with the permissibility of the development under the Warringah Local Environmental Plan 2000 (DACPLGOG1)

31. **Shop Associated with specialist paediatric medical facility' '**

The shop is to be used only in conjunction with the operation of the specialist paediatric medical facility and no external advertising is permitted for the shop.

Reason: To ensure compliance with the permissibility of the development under the WLEP 2000 (DACPLGOG2)