

**TITLE PLANNING PROPOSAL S55 EP&A ACT LOT 981 DP 862346 NO 40-60
NICLINS ROAD MANGROVE MOUNTAIN APPLICANT - SJH PLANNING
AND DESIGN (IR 12779264)**

Directorate: Environment and Planning
Business Unit: Integrated Planning

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

"A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a '*relevant planning application*'.

No disclosure was made by the applicant pursuant to s147 EP&A Act.

BACKGROUND

Council considered a report in relation to the Planning Proposal to enable a Medical Centre to be permitted on the subject land. Council resolved in the following manner;

- A *Council supports the initiation of the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal for Lot 981 DP 862346, 60 Niclins Road Mangrove Mountain to enable a Medical Centre to be permitted on the land.***
 - B *A report be brought back to Council at the Ordinary Council Meeting to be held on 5 March 2013 on the Planning Proposal outlining proposed measures to limit the scale and operation of the Medical Centre on the subject site.***
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REPORT

In relation to Part B of Council's resolution the following is provided.

Option 1

An option that could be considered by Council in relation to the future operation of the medical centre is that the medical centre be required as part of the legal instrument accompanying the LEP to contain provisions that if in the future the number of doctors operating in the Mountains area reached a particular threshold, the centre would need to close at its current location and move to a site which will be zoned RU5 Village. Research has been undertaken as to what threshold(s) is appropriate. The following document produced for the Australian Government discusses the issue of thresholds.

'Australian Health Workforce Series – Doctors in Focus', 2012, Australian Government Supported Publication.

*“One measure of workforce availability is the ratio between the number of doctors and an area’s population (**noting that there is no internationally or nationally agreed ideal workforce to population ratio**)”.*

“In 2009, Major cities had the highest rate of doctors per 100,000 population (372). This rate was substantially higher than other remoteness areas, with Outer regional areas having the lowest rate at 188 per 100,000 population.”

*“Differences in the ratio of doctors per 100,000 population also exist across practitioner types. Primary care practitioners are the most evenly distributed, ranging from 99.3 primary care practitioners per 100,000 population in Outer regional areas to 125.8 in Remote/Very remote areas. In comparison, specialists are most concentrated in Major cities (with 131.3 specialists per 100,000 population). **It should be recognised that ratios, while useful for broad comparisons, can mask detailed issues.** For example, differences in service delivery models are not accounted for in ratios, and delivery in rural and remote settings can vary significantly to that in urban areas. For example, in a rural and remote area a doctor is more likely to deliver health services across acute, aged care and community settings and across traditionally separate professional disciplines, whereas in an urban setting, people often visit specialists within each setting and/or discipline. In recent years, there has been a call for a move away from specialisation and towards generalism for the rural health.”*

Based on the above it is suggested that Council not pursue the provision of ratios in the drafting of the legal instrument for the Medical Centre.

It is assumed for the purpose of drafting of the legal instrument that Council intends that the use is confined to the existing structures on the site that were subject to its inspection on 12 February 2013 (i.e. structures include the relocatable building used for a medical centre and attached shed).

Based on this assumption, Council could consider a number of further options.

Option 2 - Confine the medical centre use to the structure used for the purpose at the time of Council’s inspection with no floor area/floor space ratio control.

Option 3 - Set a floor space ratio of the area of the structures used or ancillary to the medical centre (including shed) in relation to the land area it is located upon.

Option 4 - Set a maximum floor area limit for the structure/s to be used as a medical centre (including shed).

In relation to option 2, Council at its inspection appeared to consider that the medical centre should operate as currently occurs and be confined to the existing unauthorised structures. Council could legally require that the use ‘*only take place in structures used for or attached to the medical centre at the time of the making of the subject plan*’. It is assumed the applicant will not undertake any other illegal works in the period between inspection on 12 February 2013 and the making of the plan. This would confine the use to those buildings located on the site currently and used for or attached to the medical centre use. Extensions to the structures could not occur through a State Environmental Planning Policy (SEPP 1) application.

In relation to option 3, it is possible that Council could set a floor space ratio for structures (relocatable) used and ancillary (attached shed) to the use of a medical centre. Based on the existing structures and land size the resultant FSR would be .0015:1, a figure that is not appropriate for inclusion in a planning instrument. The floor area could be considered as a development standard that potentially could be varied by a SEPP 1 accompanying a development

application with the potential result that the medical centre may be enlarged beyond that subject to the inspection by Council.

In relation to option 4, it is possible that Council could set a floor area for structures (relocatable) used and ancillary (attached shed) to the use of a medical centre. The applicant has indicated in plans provided that the medical centre has a floor area of 206 sq.m. with the adjoining shed having an estimated area of 4 sq.m. The floor area could be considered as a development standard that potentially could be varied by a SEPP1 application with the potential result that the medical centre is enlarged beyond that subject to the inspection by Council. This option is the preferred option.

Sunset Provision

A further issue may arise if the medical centre closes and the enabling clause still operates for the land. Council may consider a further addition to the legal instrument that provides that the enabling clause will sunset once the use no longer occupies the structures. This sunset provision would then encourage a new medical practice to operate from the RU5 zone, a desire of Council as expressed through the draft Gosford LEP 2009. Council should be mindful that another doctor may continue the "use" as a medical centre from the site after Dr Wade moved on, should this occur.

Health Care Practitioner limit

Council may recall that in a recent LEP made for Laura's Place in Tumby Rd at Wamberal a limit of four (4) counsellors or trainers was put in place to operate an 'educational training centre' out of the dwelling-house, dwelling or place.

The instrument for Dr Wade's site could seek to limit the number of full-time equivalent 'health care professionals' that can work in the medical centre.

Dr Wade has advised Council staff that her medical centre requires for its operation, in terms of full-time equivalent positions, the following:

- two (2) doctors (to cater for Dr Wade working in excess of 40 hours in a week)
- one (1) doctor in training
- one (1) registered nurse, and
- one (1) allied health care professional

Allied health care professionals cater currently for a physiotherapist (attending one day per week), a podiatrist (attending one day per fortnight) and there may be a need for a dietitian on a part time basis in the future. Dr Wade also advised that a courier collects pathology samples on behalf of a local pathologist for their processing. The courier is not a health care professional and would be treated like the receptionist, i.e. outside any LEP limit on 'health care professionals'. There would be difficulties with drafting a legal planning instrument addressing all the above desired positions in terms of 'full-time equivalent positions' for the medical centre.

The following is the advertised staffing of the medical centre in the Mangrove Mountain and Districts Community News: Dr Wade, pathology (by Douglass Hanly Moir), physiotherapy, podiatry and nutrition/dietary services.

Given Council's desire to support the existing medical centre's operation, the centre should be most accurately and simply limited to one Doctor, given that ancillary services would be dependent upon that doctor. However, under the Standard Instrument LEP, which must be used where possible when preparing Planning Proposals seeking to amend non-SI LEPs, a medical Doctor is not defined. A Doctor is covered by the definition of a **health care professional** which means any person registered under an Act for the purpose of providing health care (NB: a medical doctor is

not defined under IDO No 122). Therefore a limit in the LEP of one (1) ***health care professional*** for the medical centre would result in a limit of all other services in the centre, which does not meet Council's desire and should not be pursued.

Attachments: Nil

Tabled Items: Nil

FINANCIAL IMPACT STATEMENT

The recommendation does not impact on Council's financial position. There is no financial implication other than the processing of the proposal. The fees have been paid.

RECOMMENDATION

- A That Council adopt Option 4, which provides that Council set a maximum floor area for structures (relocatable) used and ancillary (attached shed) to the use of a medical centre of 206 sq.m. with the adjoining shed having an estimated area of 4 sq.m.
- B That a sunset clause be included that the enabling clause will sunset once the use no longer occupies the structures.

