

**JOINT REGIONAL PLANNING PANEL  
(Hunter and Central Coast Region)**

<b>JRPP No</b>	2012HCC007
<b>DA Number</b>	16-2012-38-1
<b>Local Government Area</b>	Port Stephens
<b>Proposed Development</b>	Health Services Facility
<b>Street Address</b>	4 Jacaranda Avenue, Raymond Terrace
<b>Applicant/Owner</b>	Health Administration Corporation
<b>Number of Submissions</b>	Three
<b>Recommendation</b>	Approval with Conditions
<b>Report by</b>	Priscilla Emmett, Senior Development Planner

## ASSESSMENT REPORT AND RECOMMENDATION

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### 1.0 APPLICATION DETAILS

Application no:	16-2012-38-1
Property:	4 Jacaranda Avenue RAYMOND TERRACE
Lot & DP:	LOT: 22 DP: 1088281
Description of development:	Health Services Facility
Applicant:	Health Administration Corporation
Date lodged:	27/01/2012
Present use:	Vacant site
Zoning:	2(a) - Residential
Issues:	Jacaranda trees in road reserve, flooding
Submissions:	Three
Recommendation:	Approval with conditions
Integrated development:	No

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### 2.0 THE PROPOSAL

The application is for the construction of a two storey health services facility with parking for 100 vehicles (over two levels), landscaping and associated infrastructure. The building has an approximate gross floor area of 2500sqm.

The building has a maximum height of approximately 12m on the south west corner of the site. The height varies along the facades (generally between 8 and 10m) due to the articulation and use of different building elements.

The ground floor of the building includes an entrance, waiting area, public amenities, reception and clerical areas located towards the middle of the facility. GP consulting and treatment rooms and associated utility rooms are located on the eastern side of the facility. Additional consulting rooms are located on the south and western side of the building for visiting specialists, pathology, child and family health, podiatry and community health services.

The first floor comprises of a waiting area and reception, meeting rooms, dental consulting rooms, community health offices, a renal unit, support and storage facilities, public and staff amenities, general administration areas and a small gym and rehabilitation area for patients. A lift and stairway provide access to the first floor.

The parking area is divided into three areas with vehicular access points located on Jacaranda Avenue and Swan Street. The main parking area to the north of the building contains 45 spaces, including 10 disabled spaces at ground level. A two level carpark is

located on the north western corner of the site with 15 spaces located on the upper level and 28 located on the lower level. 18 of these spaces are in a secure undercover parking area (located under the 15 upper level spaces). An additional 12 secure car parks are located under the western wing of the building, with a lift and stairs providing entrance to the building. The 30 secure car parks are designed for staff use, with security gates restricting access.

A designated Ambulance and service bay is located on the southern side of the building with separate access off Swan St.

Access for persons with a disability has been considered in the design of the building through the provision of accessible facilities such as car parking, toilets and lifts. A Disability Access Report was submitted with the application.

The applicant provided an Arborist report and design report to accompany the landscape plans for the development. The Arborist report identified 11 trees located within the road reserve of Jacaranda Avenue as *Jacaranda mimosifolia*, which are to be retained and protected during construction with designated tree protection zones. In addition, 32 existing trees are proposed to be removed from the site due to age, species and location in relation to the proposed facility. The report provides details on each of these trees with the reasons for its proposed removal with approximately half of the trees being in the proposed carpark or building area and half of the trees being of poor health or a weed species.

The health care facility involves the clinical integration of primary and community health care services including GPs, community health, oral health, renal dialysis, private specialists and other identified service providers in a 'one stop shop' location. It aims to provide a multidisciplinary team based service to:

- Prevent illness and reduce the risk and impact of disease and disability
- Improve chronic disease management in the community
- Reduce avoidable admissions to hospital
- Improve service access and health outcomes for disadvantaged groups
- Build a sustainable model of health care delivery

The facility will operate between the hours of 8am and 10pm, seven days a week. The pedestrian entrance is located towards the bowling club to minimise any impact on nearby residents.

The Renal Dialysis Unit will operate from 7am until 11pm. The proposed hours of operation is to facilitate the operation of this service as Renal staff will operate two shifts per day (6 days a week). The current format is patients receive treatment three days per week, either on a Monday, Wednesday and Friday run or Tuesday, Thursday and Saturday program. There are a maximum of 8 patients per shift. The Raymond Terrace area currently has 18 patients who travel to John Hunter Hospital or the Wansey Centre for treatment. If all 18 patients are transferred to Raymond Terrace this will require six days of day shift and three days of afternoon shift. Day shift will operate for patients from 8am (2 staff will get there at about 7am to prepare treatment). The afternoon shift will start at 3pm which means they

finish at 11pm. There is little to no noise as patients are chair bound for 5 hours for treatment then leave. There are only two staff members per shift.

### 3.0 THE SITE AND SURROUNDING AREA

#### 3.1 The Site

Area	5283m <sup>2</sup>
Dimensions	Irregular shape with approximate dimensions of 100.71m (E), 57.10m (N), 65.65m (W) and 54.1m (S) with a curved area of 21.81m (S)
Slope	Slight cross fall from south east to north west
Existing development	Vacant site
DP and 88b instrument	No restrictions to development
Vegetation	Scattered trees are located on site, 32 will be removed and 11 will be retained (located within the road reserve)
Constraints	Acid Sulphate Soils (Level 4), Flood Prone Land
Stormwater and drainage	Stormwater and drainage plans have been submitted and are acceptable
Access	Vehicular access will be via Swan St and Jacaranda Avenue
Services	Water, sewer, electricity

#### 3.2 Site Description:

The site is located on the south western edge of the Raymond Terrace town centre. It is 5283m<sup>2</sup> in size and has a dual frontage to Jacaranda Avenue and Swan Street of approximately 100m and 54m respectively.

The site has a gentle fall of approximately 1.3m to the north west and is not constrained by any easements. It contains scattered trees along the eastern and western boundaries and is cleared in the centre of the site.

#### 3.3 Site Constraints:

**Acid Sulphate Soils** - The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). Accordingly, any works more than 2 metres below the natural ground surface require consideration under clause 51A of the Port Stephens LEP 2000. Further details on this issue are discussed later in the report.

**Flood Prone land** – The site is considered to be flood prone. The flood planning level for the site is RL 5.1m AHD (minimum floor level for habitable rooms). The building floor level has been designed at RL 5.8m AHD to meet these requirements.

The parking area is located in a section of the site that is affected by flooding from the 0.5% AEP flood event (RL 3.1m AHD under the building and RL 4m AHD in the undercroft parking). Depth of flow is likely to be in the order of 2m deep. Concern was raised over this parking area. However changes were made to the design and the applicant submitted additional information that satisfied the concerns over the flooding in this area.

### **3.4 Surrounding Development:**

The site is located within 200m of the Raymond Terrace commercial centre. The area contains residential uses, commercial uses and education facilities with the Raymond Terrace Public School located on the southern end of Jacaranda Avenue.

Raymond Terrace Bowling Club is located to the north of the site, with bowling greens facing Jacaranda Avenue. An access way separates the bowling club from the site and is used by the club as a vehicle exit from their carpark to Jacaranda Avenue. The carpark adjoins the western boundary of the site.

Two dwellings are located to the east of the site, across Jacaranda Avenue. One dwelling is used as a bed and breakfast and the other is a heritage listed single storey building that forms part of the St Johns Anglican Church group of buildings.

Swan St is located to the south of the site and contains one and two storey detached dwellings.

The vegetation in the area consists of a mix of native and exotic trees. Jacaranda Avenue consists of an established avenue of mature Jacaranda mimosifolia street trees which have local heritage significance.

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## **4.0 SITE HISTORY**

The Raymond Terrace War Memorial Pool was constructed on the site in 1960 by the Shire Council. The pool was closed in 2000 and demolished in 2002 after the opening of Lakeside Leisure Centre on the edge of Raymond Terrace. Port Stephens Council subsequently sold the site after the land was cleared.

In 2006 a development application for 21 aged care units was approved on the site. This consent has not been acted on to date. In 2010 Hunter New England Health purchased the site and in January 2011 submitted an application for a health service facility. This application was withdrawn in July 2011. The subject application for a health services facility was submitted in January 2012.

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## **5.0 CONSULTATION – COMMUNITY**

In accordance with Council's Notification Policy, adjoining neighbours were notified of the proposed development and an advertisement was placed in the local paper. In response, three submissions were received.

Concerns raised in the submissions include:

- Traffic – increase in vehicle movements

Comment

The Traffic report submitted with the application has stated that the peak hour trip demand for the site is 70vph allowing for am peak staff arrival and commencement of patient trips. It is also stated that the traffic flow in Swan St will be a small volume per hour in the business peaks and the traffic flow on Jacaranda Ave will be minimal (47 in morning peak and 61 in afternoon peak). The site has two vehicular access points which reduces the volumes of traffic on either Jacaranda or Swan St at any one time.

There are a number of traffic calming measures in the vicinity of the site including a 50km speed limit, a 40km School zone and a School Crossing on Swan St, south of the Sturgeon St intersection.

It is acknowledged that there will be an increase in traffic compared to the existing situation, as the site is vacant. However, it is also acknowledged that the site is within 200m of the town centre and the area currently contains a number of uses other than residential. There is also the potential that some staff or patients will catch public transport or will walk to the facility, reducing traffic movements. The benefits of the facility within close proximity to other facilities and services are considered to outweigh any minor traffic impacts on the local residents.

- Location of the ambulance entry and exit – vehicle lights

Comment

The location of this entrance/exit is considered appropriate for safety reasons and to respect the dignity of any person using an ambulance. It is not preferred for the ambulance to use the same entrance as other people visiting the facility. It is not anticipated that the ambulance will be used to the degree that it will cause annoying light to enter into neighbouring properties. The ambulance entry is approximately 32m away from the nearest dwelling and with the existing vegetation in front of the houses any impact is considered to be very minor.

- Noise

Comment

The main noise sources for the use include vehicles accessing the site and people entering the building. The pedestrian entrance to the facility is located internally to face the parking area and the Raymond Terrace Bowling Club, to minimise any noise disturbance to surrounding properties. It is anticipated that the noise impacts from the facility will be minor. The proposed use is not a generator of offensive noise or significant noise. Vehicle noise associated with the site will cease by 11pm.

- Operating hours

Comment

The proposed hours of operation of the facility are considered acceptable for the type of use proposed. The applicant has stated that the services offered until 11pm at night will be significantly

less than throughout the day. This mainly relates to the Renal Dialysis Unit which is required to operate longer hours to accommodate two shifts and groups of patients per day.

- Devaluation of property

There is no evidence that the proposed use will impact on property values and this is also not a consideration under s79C of the Environmental Planning and Assessment Act 1979.

- Stormwater

The applicant has submitted acceptable stormwater plans for the proposed development which meets Council's standard requirements.

- Drunk and drug affected visitors in the area

This is not a valid issue to consider in the assessment of the application. It can not be proven that a medical centre will attract drunk and drug affected persons.

- Security

It is unsure what the actual concern in relation to security was, as the objector did not expand on this issue. If the concern related to a perception of less personal security to their property or within the area, the use of the facility would bring more people to the immediate area and therefore increase the natural passive surveillance of the area. A condition has been recommended to be placed on the consent to ensure that appropriate lighting is used on site and that graffiti resistant paint is used on the site to discourage criminal activity.

- Height of building

The height of the building in this location is assessed on merit. The building is generally two storeys, with a small portion being classified as three storeys where the basement parking is located 1.2m above ground level. The height of the building is generally between 8 and 10m for the majority of the site, with a maximum height of approximately 12m. This height is considered to be appropriate in the location, as two storey dwellings are located in Swan St and the building does not cause any overshadowing impacts on neighbouring properties. The building is also well articulated and varies in facade treatments to minimise the impact of the height.

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## **6.0 INTERNAL REFERRALS**

### **6.1 Engineering and Traffic**

Council's Engineers reviewed the application and provided the following comments:

- The existing kerb and road pavement partially intrudes onto the property as a legacy of the site formally containing a public pool. The road pavement, kerb and verge will need to be relocated and rectified; preliminary concept plans were submitted and the relevant conditions will be placed on the consent.
- A 0.9m wide footpath currently exists along Jacaranda Avenue which is under the 1.2m wide footpath required for disabled access. The street has heritage listed trees within the road pavement which makes civil works problematic if they impact on the root zones.
- There is currently no footpath on the splay corner between Jacaranda Avenue and Swan Street and along Swan Street.

- The Traffic Engineer expressed a desire to have provision for a bus stop on the splay corner. Widening the footpath to 2m against the back of kerb will enable this to be provided in the future. This was considered to be an acceptable solution given the need for a bus stop be located in close proximity to the development. Although there is no bus service currently past the site there is ample road width in Swan Street and an excellent opportunity to include provision for public transport in the future.
- As the road is constructed across the corner of the property, a Traffic Control Plan will be required for the construction of the building due to the impact on road uses.

## 6.2 Flood Engineer

Council's Flood Engineer reviewed the application and provided the following comments.

The subject site is flood prone from flooding of the Hunter and Williams River and the Williams River Flood study has determined that the 0.5% AEP flood level for the site is RL 5.1m and that approximately 75% of the site would be inundated in a 0.5% AEP design flood event. The 0.5% AEP design flood level has been adopted as the Flood Planning Level in this catchment therefore for most development it is the minimum.

As a health facility some consideration is needed as to whether it constitutes a special needs evacuation development and therefore whether it needs to be sited above the PMF flood level. The Probable Minimum Flood level (PMF) for the site is RL 9.5m AHD.

On the review of the plans the building can be supported from a flood perspective for the following reasons:

1. With a ground floor level of RL 5.8m AHD the minimum floor level is well above the 0.5% AEP flood level.
2. Even though a medical facility, it is not a true hospital as it caters for out patients only and has no overnight beds for patients. The first floor level at RL 9.7m AHD is above the PMF flood level providing a suitable flood refuge and storage area in PMF events for any patients, staff and valuable medical equipment and records.
3. Flood warning for this site is good, therefore notice of flooding will be long enough to ensure a suitable flood evacuation and management plan could be satisfactorily implemented.

The building can be suitably flood proofed and provide an appropriate level of flood protection given the operational importance of this particular land use.

Concern was initially raised over the lower level parking area being below the FPL. However, these concerns have been rectified and one wall is partially open to allow the flow of water out in the event of a flood. The applicant has stated that the Hunter New England Local Heath District has a 'disaster management policy' restricting the operation of venues in the event of natural disasters, meaning it is highly unlikely that there will be individuals in locations of high risk during such an event. They also stated that the under croft car park is protected from 1 in 20 year flood events and vehicles located within the carpark during such an event are able to exit via the Swan St ramp up to the ground level car park. The under croft car park is a staff access controlled area and is provided with two emergency paths of



travel as required by the BCA. When considered in conjunction with the 'disaster management policy' that restricts the use of the facility during flooding and the accessibility restricted to authorised staff only, it is unlikely that anyone will become 'caught' in the carpark and if they do, they will have a choice of two exits leading them to higher ground. In addition, equipment has been relocated to minimise any damage in a flood event.

Overall the proposed development has sufficient flood protection and the development is supported subject to conditions relating to the preparation, implementation and actioning of a flood evacuation management plan during extreme flood events.

### **6.3 Building Assessment**

Council's Building Surveyor reviewed the application and has no concerns subject to a number of conditions being placed on the consent.

### **6.4 Natural Resources**

Council's Vegetation Management Officer has reviewed the application and its impact on the locally significant Jacaranda trees along Jacaranda Avenue. The recommendations for the site discussed in the Arborist and landscape report are supported and need to be adopted during the construction of the development.

No concerns have been raised subject to a number of conditions being placed on the consent that address the following issues:

- The adoption of specific recommendations in the Arborist and landscaping report;
- Tree protection fencing;
- Construction access;
- Works within the tree protection zones;
- Encroachment of the tree protection zones; and
- The location of bollards.

### **6.5 Heritage Advisor**

Council's Heritage consultant reviewed the application and noted that the Statement of Heritage Impact (SOHI) for the project is very comprehensive and detailed and meets the requirement for a SOHI.

The retention of the locally listed Jacaranda trees has been incorporated into the design as a positive streetscape element and is supported. However, concerns were raised about the following issues which are to be included as conditions of consent:

- No details on signage have been included. Any proposed signage for the development should be subject to a separate development application.
- External Colours & Materials:
  - a) The external low level façade of face masonry is not to contain contrasting banding and is to be of small masonry brick units, preferably a dry pressed brick. Similarly any banding to masonry that addresses the street façades should be in the same material colour etc. This is to enable a transition of the

- building to occur in context.
- b) The random patterning and colours of external vertical battens on facades to the streetscape is to be kept to neutral tones with stronger colours reserved for internal site facades.
- c) The colour scheme for the building should draw on a heritage colour pallet and be used minimally on the building face, especially on the street frontage. The final scheme is to be submitted to the Heritage Advisor for approval prior to undertaking this work.

#### 6.6 Community Planner

Council's Community Planner reviewed the application and has no concerns subject to a number of conditions being placed on the consent regarding disabled access.

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### 7.0 EXTERNAL REFERRALS

The application was referred to the Roads and Maritime Service (RMS) for comment. The RMS reviewed the application and has no objection to or requirements for the proposed development as it is considered the development would have no significant impact on the classified road network.

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### 8.0 STATUTORY PROVISIONS

#### 8.1 State Environmental Planning Policies (SEPP)

##### SEPP Infrastructure 2007

The *Infrastructure SEPP (ISEPP)* was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency. The SEPP simplifies the process for providing infrastructure in areas such as education, hospitals, roads, railways, emergency services, water supply and electricity delivery.

The application has been submitted as a 'health services facility' under the ISEPP. Division 10, Clause 57 of the ISEPP relates to health services facilities and identifies the type of development permitted with consent as such:

*Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*

Clause 56 identifies the relevant definitions as such;

**health services facility** means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Rural Small Holdings,
- (b) RU5 Village,
- (c) RU6 Transition,
- (d) R1 General Residential,
- (e) R3 Medium Density Residential,
- (f) R4 High Density Residential,
- (g) R5 Large Lot Residential,
- (h) B2 Local Centre,
- (i) B3 Commercial Core,
- (j) B4 Mixed Use,
- (k) B5 Business Development,
- (l) B6 Enterprise Corridor,
- (m) B7 Business Park,
- (m1) B8 Metropolitan Centre,
- (n) SP1 Special Activities,
- (o) SP2 Infrastructure.

The proposed development falls into the definition of a health services facility. Therefore this use must be permissible within a prescribed zone.

The site is currently zoned 2(a) Residential under *Port Stephens Council's Local Environmental Plan 2000*. The *Port Stephens Local Environmental Plan 2000* (LEP) does not define a 'health service facility'. This facility would be defined as a medical centre under the LEP, as such:

**medical centre** means a building or place used for the purpose of providing professional health services (such as preventative care, diagnosis, medical or surgical treatment or counselling) to out-patients only.

The proposed use is prohibited in the 2(a) residential zone.

In this case, for the use to be permissible, the 2(a) zone must be equivalent to the zones listed in clause 56 of ISEPP. To determine the equivalent zone, Clause 6 of the ISEPP states:

(1) A reference in this Policy to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 33A (2) of the Act:

(a) that the Director-General has determined under clause 1.6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is a land use zone in which equivalent land uses are permitted to those permitted in that named land use zone, or

(b) if no such determination has been made in respect of the particular zone, that is a land use zone in which (in the opinion of the relevant authority) equivalent land uses are permitted to those permitted in that named land use zone.

(2) An assessment made by a relevant authority under subclause (1) (b) applies only in respect of the particular development that is proposed to be carried out and more than one such assessment may be made in respect of the same land use zone.

(3) In this clause, **relevant authority** means:

(a) the public authority proposing to carry out the development, or on whose behalf the development is proposed to be carried out, or

(b) if the development is to be carried out by or on behalf of a person other than a public authority, the Director-General.

**Note.** Land use zones that are named in this Policy are those set out in the standard instrument.

With regard to clause 6, the Director General has not made a determination on the equivalent land use zone. Clause 6(1)(b) of the SEPP allows the relevant authority to form an opinion about whether equivalent land uses are permitted in each of the zones. Health Administration Corporation is the public authority proposing the development and in accordance with clause 6(1)(b) of the SEPP, have formed the view that land uses permitted in a 2(a) zone are equivalent to those permitted in the R1 zone. Health Administration Corporation is of the opinion that the development is permissible under clause 57 of the SEPP.

As Port Stephens Council does not have a Standard Template LEP the Department of Planning required Council to review their current LEP zones and determine what the "equivalent" zone will be in the interim period. Strategic Planning reviewed the current 2(a) and 2(c) zones. The uses in the zones are generally similar excluding the prohibition of medical centres in the 2(a), however the "intensity" of the zones, as prescribed in the LEP are quite different. In the LEP the 2(a) zone has a height limit on residential development of either 8/9 metres, where as the 2(c) zone allows for a height of 15 metres. As a result the density and character of the two zones are significantly different. There is clearly a low and medium density outcome.

Both 2(a) and 2(c) zones have a primary function of facilitating residential outcomes not commercial. With all this in mind, Strategic Planning reviewed the intent of the Standard Template residential zones and determined that the R2 Low Density Residential was equivalent to the 2(a) and the R3 Medium Density Residential was equivalent to the 2(c). This methodology has also been employed when transitioning the current LEP into a new Principal LEP which is currently being developed.

Council is of the view that although the ISEPP does override the Port Stephens LEP, medical centres are still prohibited in a 2(a) zone, as the 2(a) zone is the equivalent of the R2 zone under the *Standard Instrument (Local Environmental Plans) Order 2006*, the effect of which is that medical centres in that zone are not permissible under the ISEPP. However, Council received legal advice on this issue and it was determined that the use is not prohibited in the zone and the decision as to which R-zone under the Standard Instrument is the equivalent of Port Stephens LEP Residential 2(a) zone, is one which is made by the applicant being the public authority, not the consent authority.

In this case, the use is permissible as determined by Health Administration Corporation.

### **SEPP Major Development 2005**

Part 3, Clause 13B of the *Major Development SEPP* identifies classes of *regional development* to be determined by Regional Panels. The subject application falls under this classification as it has a capital investment value of over \$5 million (\$5.5M) and is Crown development. The application is to be determined by the Regional Panel, which in this case is the Hunter and Central Coast Regional Planning Panel.

The application has been assessed by Port Stephens Council and has been submitted to the Panel for determination on 10 May 2012. Council has recommended the application be approved subject to conditions of consent.

#### **SEPP 71 – Coastal Protection**

*State Environmental Planning Policy No. 71* aims to protect and manage the New South Wales coast and foreshores and requires certain development applications in sensitive coastal locations to be referred to the Director-General for comment, and it identifies master plan requirements for certain developments in the coastal zone.

The proposal of a health services facility in this location will not impact on the foreshore or the interface with the waterways and related activities and as such is considered to be consistent with Clause 2 and 8 of SEPP 71. As such the application is acceptable under this policy.

#### **SEPP 55 – Remediation of Land**

SEPP 55 requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Council's contaminated land register lists the site as having possible contamination due to the large amount of fill that was installed on the site after the removal of the municipal swimming pool.

The previous development application on the site for the construction of aged housing submitted a Geotechnical and Preliminary Contamination Report. The report concluded that the sand fill placed in the pool excavation area appears to have been uncontaminated controlled fill. As such, no further investigation of the site is required as it is considered to be suitable for the proposed development.

### **8.2 Port Stephens Local Environmental Plan 2000 (PSLEP 2000)**

#### *Clause 16 – Residential zonings*

The site is zoned 2 (a) Residential under the LEP and development for the purpose of a medical centre is prohibited in this zone. However, as the provisions of the ISEPP override the LEP to the extent of any inconsistency and as discussed above the proposed development is permissible in this zone and is defined as a health services facility.

#### *Clause 37 and 38 - Development on flood prone land*

The site is flood prone and consideration has been made to the risks and extent of potential flooding on the site. Further details on flooding have been discussed in the comments from the flood engineer.

#### *Clause 51A - Development on land identified on Acid Sulphate Soils Planning Map*

The subject site is identified as containing Class 4 Acid Sulphate Soils (ASS). Accordingly, any works more than 2 metres below the natural ground surface require consideration under clause 51A of the Port Stephens LEP 2000.

An Acid Sulphate Soils Management Plan was submitted with the application as a preliminary Acid Sulphate Soils Assessment conducted in January 2012 identified

concentrations of hydrogen ions and percent sulphur in some samples, indicating the presence of acid sulphate soils. The Management Plan provides recommendations on how to manage and remediate any excavated soil to mitigate risks to the environment and human health. A condition has been placed on the consent to ensure that the Plan is complied with during the construction works.

The application is considered acceptable with regards to Clause 51A of *Port Stephens LEP 2000*.

*Clause 55 – Protection of Heritage Items, Heritage Conservation Areas and Relics*

The site is not identified within a Heritage Conservation Area. However, the impact of the proposed development on the significance of any nearby heritage conservation area or heritage item must be considered.

There are a number of items of individual state significance in the immediate area including:

- 48 Sturgeon St - the St Johns Anglican Church Group rectory and ornamental planting of two Norfolk Island Pines
- 1 Jacaranda Avenue - former Parish Hall, St John's Anglican Church Group.

There are also a number of items of local significance in the vicinity including:

- 12 Swan St – 'Roeth house', two story weatherboard cottage
- 14 Swan St – brick cottage. Former Headmaster's residence
- 2a Jacaranda Ave – Raymond Terrace war memorial
- Jacaranda Ave road reserve – ornamental planting of Jacaranda trees

A Heritage Impact Statement was submitted with the application and has been reviewed by Council's Heritage Consultant. The proposed development is considered to be sympathetic to nearby heritage items.

As discussed previously concerns were raised by the heritage consultant including the battens on the facades to be in neutral tones and the low level façade to not contain contrasting banding and be of small masonry brick units. These issues are to be addressed via conditions of consent as well as a condition stating that a development application is required for any signage to be installed on the site.

In addition, Council's Vegetation Management Officer has reviewed the impact of the development on the Jacaranda trees. The impacts on these trees are considered to be satisfactory and appropriate conditions have been placed on the consent to minimise any impacts.

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## **9.0 POLICY PROVISIONS**

### **9.1 Port Stephens Development Control Plan 2007**

The application has been assessed against the relevant provisions of *Port Stephens Development Control Plan 2007* (DCP) as follows:

#### **B2 - Environmental and Construction Management**

The application has been assessed against the applicable provisions of *Port Stephens Development Control Plan, 2007* – Environmental and Construction Management and is considered satisfactory as follows:

DCP Control	Control	Applicable	Compliance
B2.2	General Standards	Yes	Yes
B2.3	Water Quality Management	Yes	Yes
B2.4	Acid Sulphate Soils	Yes	Yes
B2.5	Landfill	Yes	Yes
B2.6	Contaminated Land	Yes	Yes
B2.7	Vegetation Management	Yes	Yes
B2.8	Koala Management	No	N/A
B2.9	Mosquito Control	Yes	Yes
B2.10	Weed Control	Yes	Yes
B2.11	Tree Management	Yes	Yes
B2.12	Waste Water	Yes	Yes
B2.13	Aircraft Noise	No	N/A
B2.14	Erosion and Sediment Control	Yes	Yes
B2.15	Construction Waste	Yes	Yes
B2.16	Public Domain	Yes	Yes
B2.17	Neighboring buildings	No	N/A

#### Landscaping

An Arborist report was submitted with the application and an assessment was made on 11 trees on the road reserve and 32 trees within the subject property. The heritage listed Jacaranda trees were considered to be of good health and condition with minor deadwood only. They range in height from 9 to 14 metres and are to be retained. Four of these trees require protection measures during the construction period as they are located along the site frontage.

In total 32 trees are proposed for removal on site. These trees are to be removed due to their location in relation to the proposed development or for reasons of poor health.

The proposed landscaping and treatment of the existing Jacaranda trees sufficiently addresses Council's requirements for landscaping under the DCP.

### **B3 Parking, Traffic & Transport**

Council's DCP requires 4 parking spaces per 100sqm of gross floor area and 1 disabled space per 10 parking spaces. The gross floor area of the building is 2500sqm, requiring 100 spaces with 10 of these being disabled parking spaces. The proposal meets these requirements.

The design of the carpark including driveway access points, widths and turning paths has been reviewed and is considered to be satisfactory. Pedestrian footpaths will be provided along the road frontages of the site to improve pedestrian amenity and access. A condition

has been placed on the consent for the footpath on Jacaranda Avenue to be replaced to be 1.2m wide and be designed to minimise any potential damage caused by the tree roots.

Bus stops are required to be located as close as possible to the destination point. A provision for a bus stop will be included in the design of the splay corner.

#### **B4 Commercial and Mixed Use Development**

<b>DCP Control</b>	<b>Control</b>	<b>Applicable</b>	<b>Compliance</b>
<b>B4.2</b>	Site Analysis	Yes	<b>Yes</b>
<b>B4.3</b>	Uses	Yes	<b>Yes</b>
<b>B4.4</b>	Street character and front setback	Yes	<b>No</b>
<b>B4.5</b>	Scale and bulk	No – relates to 3a zone	<b>N/A</b>
<b>B4.6</b>	Building height	No – relates to 3a zone	<b>N/A</b>
<b>B4.7</b>	Side and rear setback	Yes	<b>Yes</b>
<b>B4.8</b>	Building design	Yes	<b>Yes</b>
<b>B4.9</b>	External Lighting	Yes	<b>Yes</b>
<b>B4.10</b>	Energy Efficiency	Yes	<b>Yes</b>
<b>B4.11</b>	Landscape	Yes	<b>Yes</b>
<b>B4.12</b>	Public art	Yes	<b>Yes</b>
<b>B4.13</b>	Access, parking and servicing	Yes	<b>Yes</b>

In relation to B4.4, the building is required to be built to the street property boundary along both frontages, the entrances must be recognisable from the street and a 3m awning must be provided around the street frontage. The building has been setback a minimum of three metres from Jacaranda Avenue to provide a landscape buffer and to acknowledge the surrounding residences, rather than adopt the zero setback for commercial premises. The entrance is located internally and accessed from the car park and no awning has been provided. However, these design elements are supported as the provision of awnings in this location and a prominent entrance would further highlight the non residential nature of the development in the residential zoning and may impact on the nearby heritage items. On this basis, the building design is consistent with the controls and the objectives of the DCP.

Public art is required to form part of the development. A condition of consent is to be placed on the consent in this regard.

#### **Part C1 – Raymond Terrace**



DCP Control	Control	Applicable	Compliance
C1.2	Town Structure	Yes	Yes
C1.3	Streetscape	Yes	No
C1.4	Building height	Yes	Yes
C1.10	Residential Areas	Yes	Yes
Figure C1.23	Heritage Conservation Area	Yes	Yes

The site is located in the Residential precinct of the Raymond Terrace town centre. Clause C1.3 states that development must provide continuous awnings along the entire frontage of new buildings to the public street. The site is located in a residential zone and large awnings would be out of character in this area and would detract from the amenity of the heritage trees along Jacaranda Avenue. The proposed variation to the DCP is supported.

The site is identified in the DCP as being located within a Heritage Conservation Area. However, Amendment No. 34 to the *Port Stephens Local Environmental Plan 2000* resulted in the site being removed from the Conservation Area.

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## 10.0 SECTION 94 CONTRIBUTIONS

The development is subject to the provisions of *Port Stephens S94A Development Contributions Plan*. This plan requires that any consent granted for the development is subject to the applicant paying Council a levy of 1% of the proposed cost of carrying out the development. A condition to this effect has been placed on the consent.

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## 11.0 LIKELY IMPACTS

### 11.1 Built Environment

#### Adjoining Properties

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon adjoining properties.

#### Streetscape and Amenity

The development of a contemporary building on the street will improve the existing amenity and streetscape of the area, in comparison to the existing vacant and somewhat degraded site. The proposed building has been articulated to create an interesting façade to both Jacaranda Avenue and Swan Streets. The proposed development will not have an adverse impact upon the local streetscape and amenity of adjoining properties.

#### Landscaping

There will be no significant impact on the existing Jacaranda trees as a result of the development and no objections have been raised to the removal of trees on the site. The

proposed landscaping concept will provide a buffer to the development and will improve the visual appearance of the site upon completion.

### **Views**

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing views of neighbouring properties.

### **11.2 Access and Traffic**

Council has considered the Traffic Report submitted with the application and is satisfied that the development will not have a significant impact on the existing road network. Vehicular access is provided off Jacaranda and Swan St. In addition, a separate access is provided for loading and emergency vehicles off Swan St.

### **11.3 Natural Environment**

#### **Flora and Fauna**

The development is considered to have minimal impact on flora and fauna. A significant number of existing trees are to be removed from the site, however many of these trees are in poor health or are a weed species. To mitigate the removal of these trees the landscape plan includes the planting of trees, shrubs and ground covers on the site.

#### **Water**

The flood constraints for the site have been considered and are not a major impediment to the development of the site.

The construction of the proposed development at the subject site is considered unlikely to result in any adverse impacts upon existing water within the locality. Furthermore, appropriate conditions of consent shall be imposed to ensure that the site will be managed appropriately during construction to mitigate any potential environmental impacts.

#### **Site Contamination**

Council's contaminated land register lists the site as having possible contamination due to the large amount of fill that was placed on the site after the removal of the municipal swimming pool.

The previous development application on the site in 2006 for the construction of aged housing submitted a Geotechnical and Preliminary Contamination Report. This report concluded that the sand fill placed in the pool excavation area appears to be uncontaminated controlled fill. As such, no further investigation of the site is required as the site is considered to be suitable for the proposed development.

#### **Noise**

The construction of the proposed development at the subject site is considered unlikely to result in any adverse acoustic long term impacts within the locality.

The operation of the health facility is considered to have minimal noise impacts on the surrounding neighbourhood. The hours of operation have been restricted to between 7am and 11pm.

#### **11.4 Social and Economic Impacts**

The construction of the proposed development at the subject site is considered to have a positive social impact as it will provide much needed health facilities to Raymond Terrace. Health Administration Corporation has stated that there is a shortage of and access to medical practitioners in the Lower Hunter Region and the facility will allow for the provision of quality medical facilities in close proximity to existing infrastructure. On this basis, the development is considered unlikely to result in any adverse social or economic impacts upon the local community.

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### **12.0 SUITABILITY OF THE SITE**

The site is considered to be suitable for the proposed development. It is located within walking distance to the Raymond Terrace town centre and is of sufficient size to adequately supply parking and associated facilities to the development. The use is also permissible on the site subject to the provisions of the Infrastructure SEPP and the development has been designed with consideration to the site constraints, such as flooding and the Jacaranda trees.

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### **13.0 PUBLIC INTEREST**

The approval of the application is considered to be in the public interest.

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### **14.0 ANY OTHER RELEVANT MATTERS**

There are no other matters for discussion. However, it is noted that relevant owners consent has been received and all submitted plans have been stamped by Hunter Water Corporation.

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### **15.0 UNAUTHORISED WORKS**

None identified.

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### **16.0 CONCLUSION**

Having regard to the provisions of section 79C of the *Environmental Planning and Assessment Act 1979*, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved.

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### **17.0 RECOMMENDATION**

THAT the Joint Regional Planning Panel grant development consent to Development

Application No. 16-2012-38-1 for the construction of a health services facility on land at Lot: 22 DP: 1088281; 4 Jacaranda Avenue, Raymond Terrace subject to the recommended conditions of consent.