

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH060
Application Number	DA2017/0711
LGA	Northern Beaches
Proposed Development	Construction of a Health Services Facility, being a private Hospital with multiple health care services, basement parking, signage and landscaping
Land to be developed (Address)	Lot 11 DP 270323, 11 Tilley Lane FRENCHS FOREST NSW 2086
Owner	PMK Investment Services Pty Ltd
Applicant	Space For Health Pty Ltd
Date of Application lodgement	20/07/2017
Number of Submissions	3
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Private Infrastructure and Community facilities over \$5 million - Capital Investment Value is \$16,065,275.00
List all documents submitted with this report for the Panel's consideration	Attachment 1: Recommended Conditions - Attachment 2: Pre-lodgement Meeting Notes - Attachment 3: Architectural Plans
Report prepared by	Alex Keller
Report date	24/11/2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **YES**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **N/A**

Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to

reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

YES

EXECUTIVE SUMMARY

The proposal is near the new Northern Beaches Public Hospital site and is seeking approval for construction of an independent private hospital facility offering multiple healthcare services. Generally the building is configured as a five (5) storey building plus roof top service/plant room level, with two (2) basement parking levels. The ground floor contains a reception lobby, kiosk, lift / stair access, service plant rooms, car parking, ambulance/delivery / loading dock and vehicle ramp to the lower basement levels. Floor Levels (L) L1 to L4 have no specified layout as the intent is to enable final fit out and occupation by a range of medical suites to be tenanted, post development / construction approval. Indicative uses include; cosmetic surgery, chemotherapy, renal dialysis, radiotherapy, medical imaging, general practitioner, specialist clinics and dental.

It is intended that complying development certificates may be used for the internal fit-out, consistent with the development application plans and conditions. However, in order to ensure occupancy remains consistent with the available parking, conditions are recommended to provide floor layout details (L1 to L4) to confirm the assumptions made by the applicant that the final occupation will not compromise the projected parking ratio for staff to visitor/ patient parking and will not worsen existing kerbside parking congestion in the vicinity of Tilley Lane.

The proposal received three (3) submissions relating to issues of view impacts, commercial value, height and scale, traffic, parking and noise. The issues have been considered in detail and conditions recommended to address the issues, where appropriate.

Furthermore, detailed assessment issues have also included non-compliances with the built form controls for setbacks, site coverage and landscaping. The proposed building height is deemed to be acceptable, given the *B7 Business Park* zone in this location has no height restriction. The building height and scale of the building is compatible with the objectives of the zone and will not create an unreasonable impact on adjacent development, or the existing streetscape amenity. Additional merit assessment considerations and conditions have also been required to address parking, noise, external appearance, construction impacts, dilapidation, standard BCA issues and landscaping / environmental protection work. No objection to the proposal has been raised by external referrals authorities, including *Ausgrid* and the *Rural Fire Service*.

The proposal is recommended for approval subject to conditions.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - B4 Site Coverage

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - B10 Merit assessment of rear boundary setbacks

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

Warringah Development Control Plan - D7 Views

Warringah Development Control Plan - D9 Building Bulk

SITE DESCRIPTION

Property Description:	Lot 11 DP 270323 , 11 Tilley Lane FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of a single allotment located on the eastern side of Tilley Lane in Frenchs Forest.</p> <p>The site is a rectangular shape with a frontage of 36 metres (m) to Tilley Lane and a depth of 50m. The site has a surveyed area of 1,800 square metres (sqm).</p> <p>The land is currently vacant and has been cleared of structures and levelled as part of previous subdivision works to create the Lot and surrounding Lots fronting Tilley Lane. Some medium trees and regrowth vegetation exists on the land. The property drains southwards to a stormwater system (detention basin) that services the whole of Tilley Lane. Tilley Lane is a private road (Lot 1) within a Community Title (CT) arrangement associated with Deposit Plan 270323.</p> <p>The site is located within bushfire prone land and an electricity easement extends across the rear 13.1 to 12.7m of the site.</p> <p>Development immediately adjoining and surrounding the site is characterised by light industrial and business park</p>

uses, including childcare, commercial office, warehouses and other compatible uses. The Northern Beaches Hospital is located 360m north-west of the site at the corner of Warringah Road and Wakehurst Parkway. The adjacent multi-storey office building at No.10 Tilley Lane has views across the subject site toward the Sydney City skyline and local hinterland from its upper floors.

Map:



SITE HISTORY

The site and surrounding land fronting Tilley Lane was occupied by "ABC Television Studios" prior to 2001. The land was subsequently re-developed for subdivision within the Business Park zone, undertaken by "Bridgehead Properties Pty Ltd", following approval by the NSW Land & Environment Court (LEC) in proceedings No.1999/10608. A number of past development approvals have been issued for the site, however no commencement of works has been made, therefore the site has remained vacant since 2002.

Pre-lodgement meeting No.PLM2016/0122 was held with Council on 2 February 2017. The proposed private hospital is generally consistent with the PLM advice and notes issued by Council and the identified potential issues have been addressed where there has been a departure from the built form controls.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the construction of new health care facility, being a private hospital. The private hospital will offer cosmetic surgery, accommodation, and medical suites with a mix of health care services and clinical areas. The medical suites will be tenanted when complete and indicative uses include chemotherapy, renal dialysis, radiotherapy, medical imaging, general practitioner, specialist consulting clinics and dental.

Details of the development works proposed include:

- Site preparation and excavation works;
- Construction of a 6 (six) storey private hospital building with two (2) basement levels configured as follows:
 - **RL140.9 Basement Level 2:** parking (28 cars), vehicle ramp & lift and stair access.
 - **RL143.8 Basement Level 1:** parking (25 cars), vehicle ramp & lift and stair access.
 - **RL147.0 Ground Level:** reception, building plant/services rooms, parking (19 cars) and loading, vehicle ramp, stair and lift access.
 - **RL151.5 Level 1 to RL163.8 Level 4:** Medical rooms, service lift and stair access
 - **RL167.8 Level 5:** Roof Terrace area with landscaping, building plant / service rooms, lift and stair access
 - **RL172.675** Top of lift overrun.
- Building signage, landscaping, drainage and ancillary site works.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. Additional information was received from the applicant to provide details of landscaping along the northern setback, enhancement to the northern façade, roof service element changes and supporting information for the building design. The additional information involved only minor changes to assist in addressing preliminary assessment issues and the changes were not deemed to not require re-notification.</p>

Section 79C 'Matters for Consideration'	Comments
	<p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 79C (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 Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal to provide private specialist medical services to the wider area. The use is consistent with the Business Park zone and compatible with the major service delivery provided by the Northern Beaches Hospital.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the Business Park zone and recent development of the Northern Beaches Hospital precinct.</p>
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development having retained appropriate landscape space around the building, basement parking and a building footprint that is consistent with the development controls applicable to the land.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	Subject to conditions, no matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.

As a result of the public exhibition process council is in receipt of 3 submission/s from:

Name:	Address:
Mr Robert George Sloss	PO Box 147 WILLOUGHBY NSW 2068
Downie Holdings Pty Ltd	PO Box 419 FORESTVILLE NSW 2087
Mr Simon Tate	11 / 16 Aquatic Drive ALLAMBIE HEIGHTS NSW 2100

The following issues were raised in the submissions and each have been addressed below:

- **View impacts including loss of office / workplace amenity**
- **Loss of commercial value due to view loss affecting adjacent offices / workplace amenity**
- **Traffic and parking congestion in Tilley Lane and Fitzpatrick Avenue East.**
- **Noise from roof top services**
- **Construction noise disturbances to adjacent office spaces / employees.**
- **Excessive building bulk and height**

The matters raised within the submissions are addressed as follows:

- ***Concern that the building height and size will cause view loss toward the south from office space within No.10 Tilley Lane and reduce the amenity of the existing outlook.***

Comment:

This issue is addressed in detail under the heading *Part D7 Views* within this report. The issue of view impacts from an office building was considered by Council recently in a development application relating to an industrial building at *Austlink Business Park (Northern Beaches Council -ats- Just Units Pty Limited Land & Environment Court No. 2016/240696)*. In summary, the view impact is assessed as "severe", being a complete loss of view in a southern direction, despite being across a side boundary and alternative views to the east, north and west retained from No.10 Tilley Lane. However, as the B7 Business Park zone does not have a height limit control in this precinct, and whereby the views relate to non-residential development, a reduction in the building height is not recommended. A change to the building height would likely require a radical redesign and even a 4m (being an entire storey) reduction in height is unlikely to restore any view lines to the south. The applicant has however amended the northern elevation wall treatment for the building, to enhance visual interest and has provided additional large canopy trees within the side setback to maintain reasonable amenity for the affected outlook.

On balance of the view considerations and land uses affected the existing office outlook / view cannot be retained from No.10 Tilley Lane by conditions and this issue is not determined to warrant refusal of the development application.

- ***Concern over loss of commercial value due to view loss affecting adjacent offices and workplace amenity within No.10 Tilley Lane.***

Comment:

No professionally validated independent evidence is provided to support this issue raised over loss of commercial office value based on amenity impacts of the height, outlook and appearance of the adjacent development proposed. The assessment of future office floor space valuation is speculative and not a matter that can be objectively assessed pursuant to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*. Notwithstanding this, view impact issues have been assessed in detail under *Part D7 Views* within this report.

Therefore, property valuations cannot be addressed by conditions and view issues are addressed separately under the view assessment

- ***Concern that the proposal will contribute further to the existing traffic and parking congestion experienced in Tilley Lane and Fitzpatrick Avenue East.***

Comment:

This issue is addressed in detail under the heading *Part C3 Parking Facilities* within this report. The Traffic and Parking assessment report provided with the development application, prepared by *TEF Consulting*, dated 12.7.2017, has provided a detailed analysis of the traffic conditions in the vicinity of the site. This report makes assumptions based on a comparison study and the projected "journey to work" and parking analysis provided by the applicant. Assessment of this information is subject to Council's traffic engineering assessment and concern is raised that no confirmed occupancy or floor layout for L1 to L4 is known. While the proposal does not have a detailed fit-out for each floor a projected use (concept occupancy) analysis has been made to evaluate the car parking supply and demand required to operationally service the building. In order to ensure the appropriate balance of visitor / patient parking to staff parking, conditions are included to ensure a suitable ratio of patient to staff parking is allocated for the entire building. The provision of adequate parking is critical to the proposal to ensure, staff, visitor's and patients have appropriate access to sufficient on-site parking in order to prevent further parking congestion within Tilley Lane and Fitzpatrick Avenue East. Council's Transport and Traffic section have raised no objection to the projected traffic generation and the capacity of the surrounding road system to accommodate the hospital proposal, subject to conditions.

This issue is addressed by conditions, and does not warrant refusal of the application.

- ***Concern regarding noise from roof top services affecting adjacent office amenity, such as noise from lifts, air conditioning units and mechanical vents.***

Comment:

The lift plant room and roof top air conditioning units are enclosed within rooms located on the roof terrace level for the building. This level is above the roof of adjacent buildings and therefore the rooms are not directly in line with adjacent office workspaces. The proposal has been submitted with a detailed noise assessment report (prepared by *Norman Disney & Young*, dated 18.7.2017) with recommendations for noise abatement and maintaining workplace amenity to surrounding land within the business park.

Conditions are recommended to ensure noise levels do not exceed statutory limitations and maintain reasonable amenity.

This issue is addressed by conditions and does not carry determining weight for refusal of the application.

- ***Concern regarding construction noise impacts that will adversely affect surrounding businesses and workplaces for employees.***

Comment:

The basement excavation depth is proposed to be 7.2m (plus foundation / shoring) and therefore is likely to involve removal of rock and require heavy earth moving equipment. A construction management plan is required to address vehicle parking, delivery of building materials and ensure dust and noise is appropriately managed. Assessment of noise issues has been made by Council's Environmental Assessment Officer and conditions included to ensure no unreasonable amenity impacts during construction with appropriate site management.

This issue is addressed by conditions and does not warrant refusal of the application.

- ***Concern regarding the building having excessive height and scale for the location.***

Comment:

The *B7 Business Park zone*, within which the site is located, has no specified height limit control. As a consequence, Tilley Lane has a mix of existing buildings ranging from 2 storeys to 5 storeys (up to 18.9m). On the subject site the existing ground level (EGL) varies from RL148.3 to RL147.5 across the building footprint. Overall the proposed building height is 20.35m to the main roof level and 24.37m to the top of lift the shaft overrun. While the lift overrun and plant rooms add extra height to the building these are considered minor / ancillary elements to the upper level and occupy less than 14% of the roof area, with the upper terrace level containing no leasable floor area. In addition to this, the ground floor contains only reception and "back of house" service / plant rooms with at-grade (open) parking / loading dock areas. Therefore, the principal building bulk is massed within levels L1 to L4. With the proposal being a hospital, the use requires additional floor-to-ceiling height which influences the overall height of the building.

The exterior of the building is treated with a variety of materials and finishes that assist to create a high quality appearance and visual interest. The northern wall has been revised to demonstrate that the two stair-well elements will not be enclosed with solid walls and additional changes have been made to enhance fenestration. In addition, the northern setback will be planted with suitable tall native trees that reach a mature height commensurate with the building to soften the appearance and provide visible tree canopy elements to the outlook (south) from No.10 Tilley Lane. The ground floor area of the building is provided with landscape elements to provide a landscape setting compatible with surrounding development.

In summary, the building is proposal will be the tallest building within Tilley Lane, but is adjacent a similar scale building at No.10 Tilley Lane. The site is not readily visible from Wakehurst Parkway or Warringah Road and the building does not dominate the streetscape of Fitzpatrick Avenue East due to it being 80m from the intersection with Tilley Lane. The landscaped setbacks are consistent with other buildings within Tilley Lane and appropriate plantings are used to ensure tree planting that is commensurate with scale of the building.

This issue has been addressed by the building design elements and does not warrant refusal of the application.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	A building assessment for fire safety and disability access has been made. No objections is raised to the proposal subject to conditions to address Fire Safety Matters and compliance with the <i>Building Code of Australia</i> .
Development Engineers	Development Engineering has assessed the proposal and no engineering objection is raised to the proposed development subject to conditions addressing structural support for excavation, driveway gradients, basement tanking, stormwater disposal, loading and road reserve issues.
Environmental Investigations (Industrial)	<p>Environmental investigations section of Council has assessed the proposal and it is anticipated that the noise levels from construction noise will exceed the requirements for the childcare centre and the adjoining commercial buildings.</p> <p>The acoustic report titled "Acoustic Services – DA Noise Impact Assessment No.11 Tilley Lane Frenchs Forest Private Hospital", GHIS report, dated 18 July 2017, recommended measures to be utilised to minimise noise impacts from the site to the nearest commercial and proposed childcare facility. In order to prevent unreasonable noise impacts conditions are included to ensure noise criteria is met.</p> <p>A contamination report prepared by <i>Environmental Investigations Services</i>, report no. EIS Ref: E28007Khrpt-rev1, dated 12 July 2017, was also lodged and it is considered that the site is suitable for the proposed use. However, during excavation of the basement level it is recommended that additional inspections are to be undertaken to confirm the presence or absence of fibre-cement (asbestos) in the fill material for appropriate management and disposal of waste material.</p> <p>No objection is raised to the proposal, subject to conditions.</p>
Health and Protection (Food Premises, Skin Pen.)	Environmental Health (Commercial) has assessed the proposal and no objection is raised subject to conditions to address food preparation facilities within the building and environmental health issues for the appropriate disposal management of hospital medical waste.
Landscape Officer	Landscape assessment has been made for the proposal and no objection is raised subject to conditions, including tree planting and landscaping works in accordance with the revised landscape plans revision C dated 7 November 2017.
Natural Environment (Biodiversity)	Council's Natural environment, (Biodiversity) section has reviewed the proposal and raises no objections to the proposal and no conditions are recommended.
Road Reserve	<p>Council's Road Assets team has reviewed the proposal and provided the following comments:</p> <p><i>"No direct impact on existing Council road assets, however, the</i></p>

Internal Referral Body	Comments
	<p><i>following issues need to be addressed:</i></p> <ul style="list-style-type: none"> • <i>Provision of footpath access to public transport and potentially nearby car parking.</i> • <i>Identify demand for visitor parking and impact on on-street parking, some of which will be removed following the opening of Aquatic Drive/Fitzpatrick Ave East to Wakehurst Parkway.</i> • <i>Confirm results of traffic modelling - Allambie Road intersections are extremely congested in PM peak</i> • <i>Provide directional signage to basement bike parking.</i> • <i>Provide street level bike parking onsite to provide accessible short term cycle facilities - given linkages to NB Hospital and bike path networks.</i> • <i>Construct off road bike path on north side of Fitzpatrick Ave East between Tilley Lane to connect to Hospital CANE shared pathway"</i> <p><u>Planning Comment:</u> The site has an existing footpath connection to Allambie Road / Fitzpatrick Avenue East. Major works being undertaken by the RMS nearby will address pedestrian and bike links in the vicinity of the Northern Beaches Hospital and the CANE shared pathway. The site has compliant car parking for the building and conditions are included to ensure future fit-out and occupancy is consistent with the parking provided. Measures include management of patient visitor hours to minimise parking demand during business hours. Council's traffic engineer has raised no objection or concerns regarding the traffic modelling provided by the applicant. Conditions are included to provide directional signage for basement parking areas.</p> <p>Council's Road Assets section has raised no objection to approval, subject to conditions as recommended by development engineering and Council's transport network team.</p>
Strategic Planning (PDS)	<p>Council's Strategic Planning section have assessed the proposal and provided the following comments:</p> <p><i>"The site sits within the Frenchs Forest Business Park which, although included in the Structure Plan Precinct, is not affected by rezoning. The B7 zoning was retained in this area specifically to encourage employment uses that would support the new hospital. The proposal for a private hospital and medical suites is permissible in terms of use and meets the objectives of the B7 Zoning by providing additional and ongoing employment opportunities in the area. The proposed uses also complements the new NB Hospital.</i></p> <p><i>At this stage, the DA would not negatively impact on the implementation of the Structure Plan. Rather, it meets the vision set out for the Business Park including demand for jobs growth. "</i></p> <p>No objection is raised to the proposal and no conditions are recommended.</p>
Strategic Planning - Urban	Council's Strategic Planning (Urban Design) section has reviewed the



Internal Referral Body	Comments
Design	<p>proposal and raised no objection. Concerns regarding the treatment of the northern wall and building height / bulk have been reviewed. The design response provided by the applicant in the revised architectural plans (Revision B dated 31.10.17) and landscape plans (Revision C dated 1.11.2017) are satisfactory to provide screening, break up visual bulk and the upper building height elements and soften the appearance of the northern elevation.</p> <p>No objection to approval, subject to conditions.</p>
Traffic Engineer	<p>Council's Traffic Engineer has reviewed the traffic and parking study (TEF Consulting, dated 13.7.2017) submitted with the application.</p> <p><i>"Given that the premise is located in a business park, the traffic generation from the proposed development is considered to be comparable to other business units within the business park, and is acceptable.</i></p> <p><i>In regards with the parking provision, the information provided in the application is inadequate without the architectural plans to show the internal fit-out of the fully occupied building. Also the information provided in the Statement of Environmental Effects (including supplementary information dated 31.10.2017) and Traffic Report is not adequate to enable us to appropriately confirm assumptions of parking requirements.</i></p> <p><i>To resolve this, it is recommended that a deferred commencement condition be placed for the applicant to provide details, including the internal layout consistent with the projected parking provision (72 parking spaces). The parking spaces required for the staff and visitors are to be allocated in a final ratio for the parking layout. This enables all parking requirements, including staff and visitor spaces to be entirely provided within the site.</i></p> <p><i>The parking spaces are to be signposted to clearly identify staff, visitor, disabled, service delivery and ambulance parking spaces.</i></p> <p><i>In view of the above, no objection is raised on the proposal subject to the conditions."</i></p> <p><u>Planning Comment:</u> The use of a deferred commencement is not warranted given the proposal has provided concept floor layout and intended occupancy details suitable for construction certificate or complying development certificates. The issues raised above are satisfactory to address with operational and ongoing conditions of consent.</p>
Waste Officer	Council's Waste Services has reviewed the proposal and raise no

Internal Referral Body	Comments
	objection, subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	Prior to lodgement of the development application <i>Ausgrid</i> has provided written advice to the applicant, dated 2 March 2017, and raised no objection to the proposal including the basement carpark encroachment within the easement area, subject to <i>Ausgrid</i> requirements. The development application was referred to <i>Ausgrid</i> and no further conditions or additional advice has been provided by Ausgrid.
NSW Police - Local Command (CPTED)	The proposal was referred to the <i>NSW Police</i> (Local Command). No objection has been raised and no response comments or conditions have been received in respect of the proposal.
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	The proposal was referred to the <i>NSW Rural Fire Service</i> (RFS) pursuant to Section 91 of the <i>Environmental Planning and Assessment Act 1979</i> and Section 100B of the <i>Rural Fires Act 1997</i> . On the 23 August 2017, the NSW RFS provided a 'bush fire safety authority' raising no objection to the proposal subject to conditions addressing asset protection zones, water and utilities, evacuation and emergency management, design and construction and landscaping.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, 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) and State Regional Environmental Plans (SREPs)

SEPP 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 redeveloped for Business Park purposes for a significant period of time with the prior use being for "ABC Television Studios". In this regard, it is considered that the site poses no significant 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 use as a private hospital.

SEPP 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 Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Signage is integrated into the building façade elements and landscape entry areas. The signage is suitable for the business park location and is detailed on Plans DA.930-A, dated 20.7.17 prepared by <i>Space for Health</i> .	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with the architectural style of the building and landscape setting. Signage on the upper section of the façade comprises stainless steel lettering with LED lighting behind (backlit) "Frenchs Forest Private Hospital". A low ground level blade wall sign is proposed to identify the front entry / building identification near the main pedestrian link to Tilley Lane.	YES
2. Special areas 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?	Signage is of an appropriate scale and texture for the building and does not detract from the business park location.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The signage for the building does not have an adverse impact on views	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	Signage is integrated to the building and does not dominate the skyline or streetscape amenity of Tilley Lane. Signage is not readily visible from Fitzpatrick Avenue East, Wakehurst Parkway or Warringah Road.	YES
Does the proposal respect the viewing rights of other advertisers?	The signage does not obstruct other signs within the viewing area along the street or in the vicinity of the building.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the signage is proportionate to the building and the style and form is appropriate to the business park setting.	YES

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage is a minor element to the building and streetscape setting.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The signage provides visible identification for the building and does not detract from the access to directional requirements to identify parking and driveway areas.	YES
Does the proposal screen unsightliness?	Not applicable.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage is integrated to the building façade at the upper storeys and within landscape areas at ground floor near the access points. Signage does not protrude above the building.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The signage is compatible with the building and character of the business park zone.	YES
Does the proposal respect important features of the site or building, or both?	The signage does not obscure the main elements of the building and entry areas.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is designed to integrate with the architectural style of the hospital building.	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?	No safety platforms or safety devices are proposed.	YES
7. Illumination 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?	Signage does not rotate or flash.	YES
Can the intensity of the illumination be adjusted, if necessary?	Conditions are included to ensure no excessive illumination / light spill.	YES
Is the illumination subject to a curfew?	Not subject to a curfew, given the location and separation distance from the nearest residential areas.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Tiley Lane is a private road (community title) and the site does not have alternative frontage to a main road. Signage does not obstruct views for traffic, pedestrians or cyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by	The proposed signage is located appropriately to ensure it does not create safety issues for public	YES

obscuring sightlines from public areas?	areas, pedestrian movement or sightlines.	
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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 provisions of the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- 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 5.0m of an overhead electricity power line.

Comment:

Ausgrid have provided the applicant with general terms of agreement to undertake works within the easement zone at the rear of the property. Written advice was sent to the applicant by *Ausgrid*, dated 2 March 2017, which forms part of the development application. No additional referral response advice has been provided from *Ausgrid* to Council.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Hospital	200 or more beds	100 or more beds

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

"(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3."

Comment:

A total of 72 car parking spaces are proposed for staff, visitors and service vehicles in two basement parking levels and on ground level. A total of 5 motorbike spaces are included in Level B2. The proposed private hospital building will not contain more than 100 beds and is not within 90m of an intersection with a main road managed by the RMS. The site does not have frontage to Warringah Road or Wakehurst Parkway and therefore referral regarding traffic noise intrusion and traffic generation to the RMS is not required pursuant to *SEPP (Infrastructure) 2007*.

Warringah Local Environment Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	On merit (No set height limit for the location)	Consistent with adjacent building to north Additional height for lift over run and service / plant room on roof terrace area.	No numerical limit	Yes (See discussion within report)

Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
5.9 Preservation of trees or vegetation	Yes
5.9AA Trees or vegetation not prescribed by development control plan	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B4 Site Coverage	33.3% (600sqm)	34.17% (615 sqm)	2.5%	No*
B5 Side Boundary Setbacks	Nil (Southern Boundary)	11.7m to 12.0m (Building wall)	N/A N/A	Yes Yes



		2.0m (Basement wall)		
	Nil (Northern Boundary)	3.7m to 4.0m (Building wall)	N/A	Yes
		3.6m to 4.0m (Basement wall)	N/A	Yes
B7 Front Boundary Setbacks	10.0m (See Note below)	6.0m (Building wall)	40%	No*
B9 Rear Boundary Setbacks	Merit Assessment	13.2m (Building wall)	N/A	Yes
		4.05m to 5.7m (Basement wall)		Yes (1.0m landscaping depth above where possible)
D1 Landscaped Open Space (LOS) and Bushland Setting	33.3% (600 sqm)	30.0% (541.3 sqm)	9.8%	No*

*Refer to detailed merit assessment within the *Built Form Controls* section of this report.

Note: A reduced front setback of 4.0m was accepted along Tilley Lane in the NSW Land and Environment Court case *Bridgehead Properties Pty Ltd v Warringah Council* (10608 of 1999)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	No	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Easements		
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B4 Site Coverage

Description of non-compliance

The WDCP limits site coverage to 33.3% of the site area within the B7 Business Park zone. Proposed site coverage is 34.17% (615 sqm) being a 2.5% variation

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide opportunities for the provision of landscaping and the enhancement of existing native vegetation.*

Comment:

A range of native landscaping is proposed as detailed within the planting schedule shown on plans L01 and L02 Revision C, drawn by *Site Design Studios*, dated 7.11.2017. The landscaping proposed will ensure suitable ground covers, medium and large trees to provide a landscape setting to the building.

- *To minimise the bulk and scale of development.*

Comment:

The site is not affected by a numerical maximum height limit or storey limit therefore building bulk and scale is controlled balancing landscaping and site coverage with the remaining land able to be also used for parking, access and ancillary elements, outside the building footprint. Tilley Lane includes a range of buildings that vary from 2 storeys to 5 storeys. The ground floor of the proposed hospital contains a reception / kiosk area and service infrastructure, including an open parking area. The principal floor space is confined to Levels 1 to 4 with level 5 comprising roof top plant, lift overrun and open terrace / roof space. In addition, the floor to floor space within upper levels of the building is 4.0m to 4.2m, designed to suit medical equipment / fit-out which influences the overall height of the building. The building bulk is suitably addressed by external cladding, fenestration, landscaping and setbacks minimise adverse impacts on adjacent land.

- *To reduce the stormwater runoff, preventing soil erosion and siltation of the natural drainage network.*

Comment:

The site is required to be cleared and re-graded for the works and therefore erosion controls and replacement landscaping is required. Landscape areas have been provided around the perimeter of the site with comprehensive planting to reduce runoff, prevent soil erosion and maintain a landscape setting consistent with the business park location.

- *To limit impervious areas and encourage natural drainage into the sub-surface.*

Comment:

The proposal includes a minor non-compliance with landscaped open space, however Tilley Lane is subject to a community title arrangement that includes a shared stormwater detention basin servicing the whole of Tilley Lane. The building site coverage and ancillary impervious areas are consistent with development on adjacent land within Tilley Lane and will not create an unreasonable impact on natural drainage.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B7 Front Boundary Setbacks

Description of non-compliance

The DCP requires a 10.0 metre building setback for the zone. The proposal is setback 6.0m which is a 40% variation to the DCP. However, Tilley Lane is a private road and a reduced front setback of 4.0m was accepted for the Tilley Lane subdivision in the *NSW Land and Environment Court* case of *Bridgehead Properties Pty Ltd v Warringah Council (10608 of 1999)*.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To create a sense of openness.*

Comment:

The proposed setback for the building is 6.0m, which is greater than the reduced setback established by the *NSW Land and Environment Court* case of *Bridgehead Properties Pty Ltd v Warringah Council (10608 of 1999)*, being the subdivision approved to create Tilley Lane and the associated Lots. The front setback area does not contain any significant aboveground structures that will unreasonably diminish the sense of openness for the landscaped setting.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposed setback is 6.0m for the building (including the basement) which is consistent with the visual continuity along Tilley Lane. Minimal structure are located within the front setback, comprising driveway entry, pedestrian paths and ground level signage. Therefore, the pattern of building elements and landscape area is consistent with development on adjacent land.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The site is currently vacant and used for casual / informal parking. Development of site will provide an in-fill development of the last remaining (undeveloped) lot within Tilley Lane. The proposed setbacks, visual quality of the building, including the landscaped setting, is consistent with the B7 Business Park zone and will not create an unreasonable impact on the streetscape or surrounding public spaces.

- *To achieve reasonable view sharing.*

Comment:

The proposed setback of 6.0m is consistent with adjacent land and while view loss issues have been raised as a concern in respect of No.10 Tilley Lane the building cannot be set further back due to the electricity easement at the rear of the site. The issue of view impacts from an office building was considered by Council recently in a development application relating to an industrial building at Austlink Business Park, Belrose. *Northern Beaches Council -ats- Just Units Pty Limited Land & Environment Court No. 2016/240696*. In the

current situation, the view is over a side boundary and comprises views toward the Sydney City skyline.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

B10 Merit assessment of rear boundary setbacks

Description of inconsistency

The rear setback area is assessed "on merit". However, an *Ausgrid* easement (approx. 13m wide) along the eastern boundary forms the defacto rear setback line for properties along the eastern side of Tilley Lane. The rear boundary setback is up to 4.05m for the basement with the main building at 13.2m.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment:

The proposal has included a deep soil zone along the rear of the site, adjacent the basement area. The rear landscaped width varies from 13.2m at its widest, to 4.0m near the south-east corner. Deep soil planting can be maintained in the setback area, however this area cannot have large canopy trees due to the requirements of *Ausgrid*. Landscaping in the rear setback therefore has to be appropriate to being close to *Ausgrid* service infrastructure and also the requirements of the *Rural Fire Service*, since the site also interfaces bushfire prone land situated west of Tilley Lane.

- *To create a sense of openness in rear yards.*

Comment:

The rear setback of the building, above ground level, is 13.2m with some closer elements of ground level parking, stair access to the basement and a two-way vehicle ramp down to the basement levels. Therefore, minimal structures are proposed that are above ground along the rear setback area, which is consistent with adjacent land.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment:

The rear setback is consistent with the building alignment of adjacent land. Elements of ground level parking and driveway areas are consistent with adjacent development. The building will not pose any unreasonable impact on privacy adjacent land along, or beside the rear setback area.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment:

The building maintains rear setback above ground level consistent with allowances granted by *Ausgrid* for the wider easement area along the rear of the site. The encroachment within the rear setback for basement elements does not unreasonably compromise the landscape setting of the building or continuity with surrounding development. Ground level parking is consistent with adjacent development and *Ausgrid* has raised no objection to the ramp and parking elements within the wider easement area, subject to conditions.

- *To provide opportunities to maintain privacy between dwellings.*

Comment:

The basement encroachment within the rear setback area does not have any unreasonable impact on residential land.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

Analysis of the carparking arrangements proposed are detailed in the following assessment summary.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Hospital*	Comparisons must be drawn for a similar purpose.	Staff Estimated staff is 27 for the hospital suites and	51 spaces (as shown on architectural plans)	+24



	"Sydney Private Hospital Ashfield" used.	<p>reception area.</p> <p>Assuming 83% of staff drive based on 'Journey to Work' data in the Frenchs Forest area.</p> <p>27 (staff) x 0.83 JtW = 22.4 23 spaces</p> <p><u>Visitors</u></p> <p>1 visitor per 3 beds 1 x (3/10 beds) = 3.3 4 spaces</p>		
Medical Centre*	<p>4 spaces per 100 sqm GFA</p> <p>(Level L2)</p>	<p>525 sqm GFA</p> <p>4 x (525 / 100) = 21.1 21 spaces</p>	21 spaces (as available in parking area)	0
TOTAL		48	72	+24
Ancillary	<p>Ambulance</p> <p>Loading dock</p> <p>Bicycle rack</p> <p>Motorbike parking</p>	<p>1</p> <p>1</p> <p>No minimum</p> <p>No minimum</p>	<p>1</p> <p>1</p> <p>7</p> <p>5 (as shown on architectural plans)</p>	

* Spaces rounded up to whole parking space. Calculations includes disabled persons parking (shown on level B1 with direct lift access to Reception).

Ground Level (at grade) = 19 car parking spaces, plus delivery turning area, delivery dock and ambulance area.

Basement 1 Level = 25 car parking spaces (including 2 disabled persons spaces), plus 7 bicycle parking spaces.

Basement 2 Level = 28 car parking spaces, plus 5 motorbike spaces.

72 spaces

(11 car spaces have minimal "small car" 2.3m width)

Total GFA = 2,214.0 sqm.

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

Comment:

The building has a small ground floor area (GFA 105sqm, plus service / plant rooms, access lifts and stairs). The main floor areas components are proposed as follows as a conceptual arrangement to address parking facilities required.

Concept Layout (concept plan provided by applicant 22.11.2017)

The Traffic Report by TEF Consulting, dated 13.7.17, gives (updated 20.11.2017) the following conceptual parking analysis and projection."

"Ground Level: 104.6sqm - Reception comprising (Kiosk and "back of house"), 2 staff = 2 staff

Level 1: 526.4 sqm - Medical Imaging comprising 3 staff (3 ultrasound rooms) + 1 staff (x-ray) + 2 staff (MRI) + 2 staff (CT) + 1 receptionist = 9 staff

Level 2: 525.4 sqm - Medical Centre - comprising dental, specialist medical facilities and tenancies = 21 car spaces (incl. visitor allowance)

Level 3: 525.4 sqm - Day surgery and Recovery - 2 surgeons (2 operating theatres) + 4 nurses (recovery rooms) + 1 receptionist + 2 admins + 1 orderly/cleaner = 10 staff

Level 4: 525.4 sqm - Accommodation - 3 nurses (10 beds) + 1 manager + 1 director = 5 staff

Roof level: 6.8 sqm - Service/Plant room."

In summary, the provision of **72** car spaces is made for the proposal. This relies on an assumed scenario of 83% of staff driving to work from previous studies in the area. The plans therefore allow for availability of 24 additional visitors / patients / staff to provide off-street parking to service the hospital building. The precise internal fit-out is not provided, due to tenants (and associated consulting room equipment) being unsecured at this stage. However, adequate parking is provided, as detailed in the conceptual occupancy outlined above, giving an ample surplus of car parking balance between staff, visitors and patients for the available floorspace. The applicant has offered to accept a "maximum staff" condition to ensure the appropriate balance of parking is maintained at all times.

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

Comment:

The building will maintain a landscaped setback to the street and the presence of the reception area within at grade parking toward the southern side of the building. The ramp to the basement area is at the rear of the building and does not dominate the street frontage.

Having regard to the above assessment, it is concluded that the proposed development, subject to conditions to maintain adequate visitor parking for the intensity of use, is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposal requires 33.3% landscaped open space area (LOS). A total LOS area of 30% (5471.3 sqm) has been provided which is a variation of 9.8%.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The proposal includes a 6.0m wide deep soil setback to Tilley Lane. This area includes some spaced planting and the setback is consistent with the reduced setback allowed by the *NSW Land and Environment Court* with the establishment of the subdivision that created the adjacent lots and Tilley Lane.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

A selection of native trees and mixed plantings have been used as shown on the landscape plan to provide canopy trees and lower shrubs or ground covers to provide habitat for wildlife. Planting is appropriately designed to satisfy *Planning for Bushfire Protection 2006* with ongoing maintenance as the larger trees grow to full height.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

Suitable tree planting has been provided along the northern elevation to screen the building and mitigate the outlook from No.10 Tilley Lane. Native canopy trees have been selected that are suited to the available landscape space around the building and the local soil type on the property to ensure long term survival.

- *To enhance privacy between buildings.*

Comment:

The building has been designed to ensure privacy is maintained primarily by the internal layout, including location of plant / service rooms along the northern wall. Additional planting at ground level will assist in the maintaining a landscape setting. The building is not close to any residential development and therefore will not create any unreasonable privacy impacts.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The ground level landscape areas are open and accessible for staff to enable use for passive relaxation. An additional landscape terrace is provided on the top (roof) level area to enable casual use. The building has appropriate landscape buffer around the building for a landscape setting to suit the business park zone and maintain a compatible appearance to adjacent buildings.

- *To provide space for service functions, including clothes drying.*

Comment:

The landscaped areas on the site are not intended for service function use for the hospital building.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Tilley Lane is served by a private shared OSD system that drains to the common stormwater detention ponds located at the southern end of Tilley Lane fronting Fitzpatrick Avenue East. The reduced landscape open space area will not have a detrimental impact on runoff and OSD management within Tilley Lane.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment to Principle 1:

Site inspection was conducted to ascertain the surrounding view opportunities and appreciate the broad development pattern within Tilley Lane. The views affected include broad district and distant views toward the south, including bushland areas over Manly Dam Reserve and views toward the Sydney City skyline and adjacent urban areas. Views are obtained above the second floor with good uninterrupted views from office spaces from the top floors within No.10 Tilley Lane. Views are generally land views with iconic elements (CBD skyline) being more distant.

2. What part of the affected property are the views obtained

"The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic".

Comment to Principle 2:

View are obtained across a side boundary toward the south and are obtained from sitting and standing positions within the upper floors of the office building. This affords a level of visual amenity to the working environment within No.10 Tilley Lane. The proposed hospital building occupies a similar building footprint and is higher than the office building of No.10 Tilley Lane. Therefore, the protection of any or all of the view is unrealistic to achieve without radical change to the number of storeys and building design proposed for the hospital building. Alternative existing views toward the east, west and north from No.10 Tilley Lane will be unaffected.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment to Principle 3:

The extent of the impact on the view toward the south is severe for any internal office space within No.10 Tilley Lane that has a primary outlook to the south. However, for No.10 Tilley Lane the building as a whole has alternative views obtainable from other elevations to the east, west, and north where afforded by the window spaces and internal layout.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment to Principle 4:

The reasonableness of being able to protect or share district / distant views from an office / business park environment, across a side boundary was considered by Council recently in a development application relating to an industrial building at Austlink Business Park in Northern Beaches Council -ats- Just Units Pty Limited Land & Environment Court No. 2016/240696. In summary, the amenity afforded to the workplace office environment, being a place people spend a significant amount of time each day was weighed against the commercial reality of adjacent development in a business park setting. In certain circumstances a more skilful design may achieve the same development potential and retain a proportion of a view to achieve a degree of view sharing. However, in this case the B7 Business Park location has no height limit and the subject building satisfies the setback requirements with only minor non-compliances to the built form controls. Retention of views in favour of No.10 Tilley Lane would require the removal of significant height and floor space and it is unrealistic to expect the site to not be potentially developed for a multi-storey building of a similar proportion or scale to other larger buildings within Tilley Lane. Therefore, on balance no change to the building setbacks or building height is proposed.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

Notwithstanding the above view impacts, concern was raised with the applicant regarding measures that may be employed to improved the design of the northern elevation and

treatment within the northern setback to address visual outlook impacts on No.10 Tilley Lane. In this regard, amended plans have been submitted to realign the rooftop plant room to create a visual space at the upper level and break up the bulk along the top edge of the northern elevation. Design details have also been provided showing revised fenestration and wall treatment to the northern wall plane including the semi-open nature of the stair wells that assist to create relief in the wall plane at the eastern and western edge. The building therefore demonstrates design solutions to address the change in outlook as a consequence of the view loss and proposed narrow space between No.10 and No.11 Tilley Lane.

- *To ensure existing canopy trees have priority over views.*

Comment:

In consideration of this objective, concerns were raised with the application regarding "softening" the outlook from No.10 Tilley Lane. Considering the severity of the view impact, alternatives for landscaping opportunities using large canopy trees would afford a degree of amenity benefits for adjacent office space facing the northern elevation (service wall) of the hospital building. Therefore, additional endemic canopy trees have been proposed within the deep soil setback that are appropriate for the soil and shade conditions between the buildings. Landscaping elements proposed can be appropriately managed to ensure ongoing compliance with *Planning for Bushfire Protection 2006* and provide amenity benefits for the adjacent office outlook within No.10 Tilley Lane.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D9 Building Bulk

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To encourage good design and innovative architecture to improve the urban environment.*

Comment:

The architectural design and building appearance is consistent in scale and form with the other buildings in the business park zone including the neighbouring building to the north. The external treatment includes fenestration and design features to provide visual interest, articulation and variations in building form and facades to contribute to the Business Park zone. A range of materials and finishes are proposed to ensure a high quality appearance to the building and maintain the amenity of the urban environment.

External materials and finishes diagram:

Feature Curtain Wall



CW: Viridian EnviroShield Performance™ ITO



CW2: Viridian EVantage™ Clear

Exterior Wall Cladding

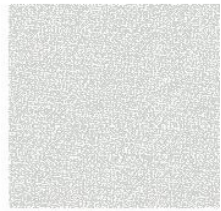


VP: Vitrabond Classic Oak (3300)



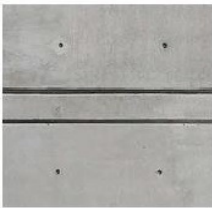
VP1: Vitrabond Champagne Metallic (920)

Vertical Fins



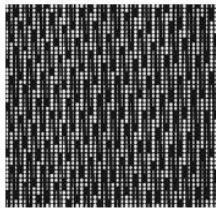
Fin: Duratec Powercoated Zeus Lunar Grey 90088417

Exterior Wall



OC: Off-form concrete with rebate

Firestair



MP1: Composite Perforated Panel



ST1: Open Stairway with Solid Balustrade

Paint



P1: Dulux: Natural White PN1E1 Base Paint Finished to rendered walls



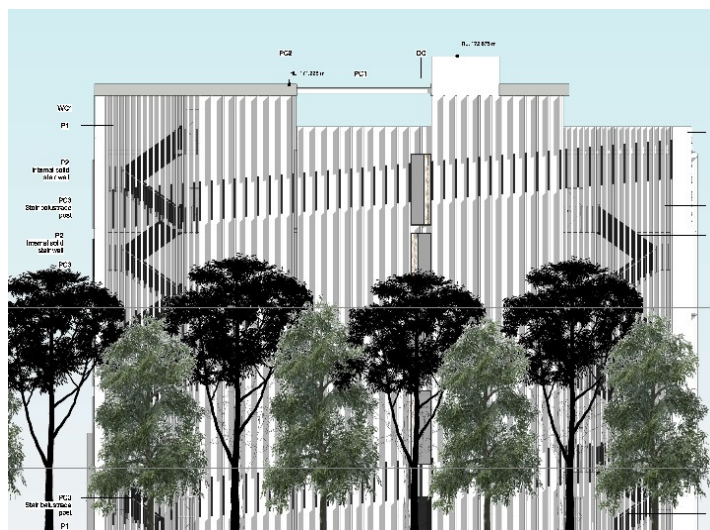
P2: Dulux: Marais PG1H8

- To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

Comment:

- The building presents as 5 main storeys (Ground, L1, L2, L3, L4) with the service elements on the top (L5 being the sixth storey) stepped back from the street view. Following amendments made to enhance the northern elevation of the building (refer to North elevation, Revision C diagram below) the proposal does not create an unreasonable impact from adjoining properties within the business park zone.

Street view and North Elevation diagram:



Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

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:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 16,065,276		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 152,620
Section 94A Planning and Administration	0.05%	\$ 8,033
Total	1%	\$ 160,653

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

The proposal is a permitted use as a "health services facility", being a private hospital within the B7 Business Park Zone. The proposal is consistent with the development in the vicinity of the site for business uses that provide employment and services to the community. The objectives of the zone also seek to ensure buildings fit appropriately within a landscape setting and contribute to creating a high quality working environment for the local area.

The site consists of a single vacant lot and requires minimal site preparation / clearing works, being the only remaining undeveloped Lot within Tilley Lane. Tilley Lane contains a mix of compatible Business Park style uses including, office premises, distribution and small business operations, childcare, and various small scale commercial service uses. Major land uses / works and development transition near the site includes the Northern Beaches Hospital, road and intersection upgrading to Warringah Road and Wakehurst Parkway and long term re-development for the Frenchs Forest Town Centre precinct. Therefore, the proposed use of the site for a private hospital is conveniently located to service the local area in the future.

The proposal involves two (2) basement levels with a six storey hospital building above (Ground, L1, L2, L3, L4, L5). The top floor (L5) contains only minor roof top elements, including a terrace and service plant rooms with the ground floor containing at-grade parking, loading areas, reception, kiosk (internal) and "back of house" service / building plant rooms. The proposed building provides a design response consistent with site coverage, setback and landscaping controls with suitable parking areas and vehicle / pedestrian access. Issues of built form, external materials, noise, stormwater management, building height, views, construction management have been addressed by the design response or conditions to ensure a suitable urban outcome for the physical attributes of the site and surrounding business park amenity.

The variations to the numerical development controls include setbacks, site coverage and landscaped open space. Overall the building has provided a satisfactory design response to those non-compliances that do not create unreasonable issues for adjacent land. The subject site does not have a building height limit however the number of storeys, scale, bulk and height metres has been considered in the context of surrounding development and the applicable development controls. In particular the height of the building and impact on views / outlook from No.10 Tilley Lane has been considered in detail and in conclusion does not warrant refusal of the application. In consideration of these issues the applicant has provided amended plans to provide large canopy trees along the northern setback and details of the treatment of the northern wall for visual interest / outlook, due to the view loss issue.

The public submissions received have been addressed within this report and those issues raised have been considered in the context of the objectives of the zone, building design response and likely impacts weighed against the applicable development controls. Submissions included concerns raised in respect of traffic / parking, construction noise, building height, landscaping, views, development values, and amenity. These matters have been considered in detail pursuant to Section 79C of the EP&A Act 1979 and the relevant local planning controls. No issues raised warrant refusal of the application and relevant issues have been addressed by conditions, where appropriate.

In summary, the proposal is supported, subject to conditions to ensure consistency with the Warringah DCP 2011 and Warringah LEP 2011. This includes conditions to address occupancy and car parking, dilapidation risk, noise, erosion control, fire and accessibility, and maintaining a landscape setting. Traffic engineering assessment has raised concern that the carparking ratio of staff-to-visitors/patients is based on assumptions that may create a shortfall in parking, however this is unlikely given the ample surplus of parking proposed. Therefore, the use of a condition to address final fit-out is appropriate and recommended as the proposal is suitable in concept and satisfactory for final detailed arrangements with the construction certificate.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant Development Consent to DA2017/0711 for Construction of a Health Services Facility, being a private Hospital with multiple health care services, basement parking, signage and landscaping on land at Lot 11 DP 270323, 11 Tilley Lane, FRENCHS FOREST, subject to the conditions outlined in Attachment 1.