

AMENDED REPORT

23 June 2010
To the Ordinary Meeting

Key Issues
Shire Planning Department

2.4 DA 1396/2009 - Proposed Health Services Facility at Woongarra

TRIM REFERENCE: DA/1396/2009 - D02267000

AUTHOR: EG

SUMMARY

Council has received an application for a proposed “*health services facility*” as defined under State Environmental Planning Policy (SEPP) (*Infrastructure*) 2007. The subject site is located at 85 Sparks Road Woongarra, adjacent to Mackillop Catholic College with the main access to the development being from Minnesota Road which will be extended as part of the construction of the proposed development. The site is zoned R1 General Residential under SEPP (Major Development) 2005 with a “*health services facility*” being permissible with development consent by virtue of Clause 57 of SEPP (*Infrastructure*) 2007.

The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

| | |
|------------------------------|---|
| Applicant | Warnervale Medical Service Pty Limited c/o MSK Architects |
| Owner | Trustees of the Roman Catholic Church |
| Application No | DA/1396/2009 |
| Description of Land | Lot 8 in Deposited Plan 7738, No 85 Sparks Road Woongarra |
| Proposed Development | Health Services Facility |
| Site Area | 13,480m ² |
| Zoning | R1 General Residential |
| Existing Use | Vacant land |
| Employment Generation | 110 |
| Estimated Value | \$15, 814, 702.00 |

RECOMMENDATION

- 1 ***That Council provide a submission to the Hunter and Central Coast Joint Regional Planning Panel indicating its support for the application.***
- 2 ***That Council request the Hunter and Central Coast Joint Regional Planning Panel vary the height requirements specified in SEPP (Major Development) 2005 to permit the development.***
- 3 ***That Council request the Director-General/ Hunter and Central Coast Joint Regional Planning Panel to grant concurrence to the variation to the maximum height of the building.***

PRECIS

- The proposal involves the construction of a “*health services facility*”, as defined under State Environmental Planning Policy (SEPP) (Infrastructure) 2007, and comprises a series of interconnected two and three storey buildings incorporating a broad range of health/medical related services.
- The main vehicular access to the site is from the proposed extension to Minnesota Road off the intersection of Sparks Road. Access to staff parking (30 spaces) in the basement has been provided from the private road, Mackillop Close, that provides access to Mackillop Catholic College.
- The proposed development will employ approximately 110 persons including doctors, nurses, allied health care workers, educators, pharmacists, administration and cleaning/maintenance staff.
- The main facility will operate 24 hours a day and the ancillary services will generally operate between the hours of 7.00am to 10.00pm, Monday to Friday, and 7.00am to 7.00pm, Saturday and Sunday.
- The proposal complies with the provisions of SEPP (Infrastructure) 2007.
- The proposed development requires a variation to the provisions of SEPP (Major Development) 2005 in relation to the building height.
- The proposal requires a variation to the provisions of the Warnervale Town Centre (WTC) Development Control Plan (DCP) 2008 with regard to carparking and the requirement for a Public Domain Plan.
- The proposal is classified as Integrated Development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979, having regard for referral to the NSW Rural Fire Service and Mine Subsidence Board.
- The proposal was referred to the RTA for comment in accordance with the provisions of Schedule 3 of SEPP (Infrastructure) 2007. The RTA has no objection to the proposal subject to conditions of consent.
- The proposed development was advertised on two separate occasions in accordance with DCP 2005 Chapter 70-Notification of Development Proposals.
- The application is recommended for approval.

INTRODUCTION

The Site

The subject site is located on the northern side of Sparks Road and forms part of Lot 8 in Deposited Plan 7738, No 85 Sparks Road Woongarra (refer figure 1). The development is proposed in the south western corner of Lot 8 immediately north of the private access road to the school, known as Mackillop Close.

The area of the site is approximately 13,480m² and is rectangular in shape with a frontage of approximately 140 metres to the existing access road serving Mackillop Catholic College

School, Mackillop Close, and 120 metres to the partially constructed carriageway of Minnesota Road to the east. The topography of the site is relatively level with a cross fall of approximately five degrees from the north-east to the south-west.



Figure 1: Aerial photograph of subject site

The site on which the “*health services facility*” is proposed to be located is identified as being bushfire prone containing Category 1 Vegetation and buffer zone. The vegetation on this portion of Lot 8 has been substantially cleared with few remnant trees and an understorey dominated by Kikuyu. The demountable classrooms which were previously located in this area have been relocated to the vacant area on the south western side of Mackillop Close, which is the private access road to Mackillop Catholic College.

A separate development application (DA/226/2010) has been lodged by the land owner and is currently under assessment. This application is for the subdivision of the subject lot, Lot 8, and adjoining lots, Lot 7 in DP 7738 and Lot 16 in DP 573234, where the school is located, to provide five allotments, with the “*health services facility*” occupying proposed Lot 3. However, there is no certainty of the outcome of the subdivision application, and this current application for a “*health services facility*” does not rely upon the future determination of the subdivision application.

The subject site forms part of the Warnervale Town Centre which is subject to the provisions of SEPP (Major Development) 2005 and the Warnervale Town Centre Development Control Plan 2008.

The Proposed Development

The proposed development involves the establishment of a “*health services facility*” and the subsequent strata subdivision of the building.

An amendment to SEPP (Major Development) 2005 was gazetted on 23 April 2010, which allows development in the Warnervale Town Centre to utilise the provisions of SEPP (Infrastructure) 2007.

SEPP (Infrastructure) 2007 allows for the development of a “*health services facility*” in the R1 General Residential zone. A “*health services facility*” is defined as follows: “*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 services facility*”,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals”.

The amendment to SEPP (Major Development) 2005 permits a “*health services facility*” subject to development consent, in the R1 General Residential zone in the Warnervale Town Centre, which includes the proposed GP Super Clinic site. It is important to note that in spite of its definition as a “*health services facility*” under SEPP (Infrastructure) 2007, the development is also categorised as a ‘GP Super Clinic’ for the purposes of obtaining Commonwealth funding.

The proposed facility comprises a series of interconnected two and three storey buildings incorporating a broad range of medical related services including hospital accommodation, consulting rooms, surgical theatre, recovery rooms, endoscopy unit, consulting rooms, radiology, pathology, dietary counselling, physiotherapy, general counselling, and diabetic education. The proposal also includes a range of ancillary and related services such as a chemist, café, optometrist, hydrotherapy pool, gymnasium, a conference room and administration offices.

A total of 226 carparking spaces are proposed, 30 within a partially excavated basement level under the southern section of the building which will be used for employees only, and 196 spaces located within a two level above ground carpark located to the north-west of the proposed buildings.

Vehicular access to the site is proposed via a combined entry/exit driveway located along the proposed extension of Minnesota Road to the east, with an entry only driveway proposed via a fourth leg in the existing roundabout located on the access road serving Mackillop College (referred to as Mackillop Close), and an exit only driveway located approximately mid-way along Mackillop Close.

The proposal also involves the inclusion of one building sign proposed on the southern elevation of the building fronting Mackillop Close. The signage has been excluded from the assessment and determination of the application given the lack of detail in relation to dimensions, illumination, impact on amenity of adjoining residential land and pedestrians and motorist safety, and compliance with the provisions of Wyong DCP 2005 Chapter 50–Advertising Signs, Warnervale Town Centre (WTC) DCP 2008 (Section 4.3 *Advertisements and Signage*) and SEPP 64 –Advertising and Signage. A condition of consent will require the lodgement of a separate development application for any signage that is not classified as an ‘approved sign’ under DCP 2005, Chapter 50-Advertising Signs.

The application also seeks approval for strata subdivision of the proposed development. However, due to a number of concerns relating to the proposed strata subdivision and the potential delay that addressing these issues would create, the determination of that part of the proposal is not being made under this application.

There is a high demand for health services, general practitioners and specialist services on the Central Coast however there is currently a low supply of these much needed services. The Commonwealth Department of Health's guide for good doctor-to-patient ratios is 1:1100 to 1:1200 persons. This ratio is substantially exceeded in Wyong at 1:1574 and even higher in the northern parts of the Shire. As at June 2007 there were 294 GPs working on the Central Coast of which a higher proportion of General Practitioner's (GP's) worked in Gosford LGA (182 GPs or 62%), compared with Wyong LGA (112 GPs or 38%). The average age of GP's is 53 years.

The location of the proposed development, within the fast growing Warnervale-Wadalba Social Planning District (SPD) of Wyong Shire, is considered beneficial to the community, particularly in this location, given this SPD is expected to accommodate most of the growth in the Shire over the next 20 – 25 years and is expected to attract predominantly a young and mature family housing market and some retirees. These population groups place a high demand on health services.

Summary

During the assessment process issues relating to traffic generation, vehicular access into the site, the number of carparking spaces required, height, the nature of those uses deemed 'ancillary', drainage, and flora and fauna were raised. Amended plans were submitted and re-notified. The amended information is considered to address concerns raised by Council.

VARIATIONS TO POLICIES

| | |
|-----------------------------------|-------------------------------|
| Clause | 23 |
| Standard | Height of Buildings |
| Environmental Planning Instrument | SEPP (Major Development) 2005 |
| Required | Maximum 9m |
| Provided | Maximum 13.4m |
| Departure basis | Maximum 4.4m or 48.9% |

HISTORY

A preliminary meeting was held in September 2009 regarding the proposed facility. Since lodgement of the development application and the preliminary assessment of the proposal, meetings have been held with the Development Management Panel, Department of Planning, Department of Premier and Cabinet, Federal Member for Dobell, community representatives and Council staff to discuss issues raised during the assessment process.

PERMISSIBILITY

The subject site is zoned R1 Residential under Schedule 3, Part 16 (*Warnervale Town Centre*) of SEPP (Major Development) 2005. A *“health services facility”* is permissible with consent by virtue of the provision of Schedule 3, Part 16, Clause 21 which does not “restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under SEPP (Infrastructure) 2007”. As such, development within the Warnervale Town Centre is able to be carried out in accordance with Clause 57 of SEPP Infrastructure which permits the *“health services facility”* in the R1 General Residential zone.

Under Clause 9 of SEPP Major Development (2005), the consent authority must have regard for the objectives of a zone when determining a development application. The proposed *“health services facility”* is a land use that will provide a service that meets the day to day needs of residents by providing much-needed health services, general practitioners and specialist services in the northern part of the Central Coast.

Clause 20 specifies that land within the Warnervale Town Centre may be subdivided with development consent. The proposal involves the strata subdivision of the building which is considered satisfactory and is not contrary to the objectives of the zone.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has assessed the proposal against the relevant provisions of the following Environmental Planning Instruments, plans and policies:

- SEPP (Infrastructure) 2007
- SEPP (Major Development) 2005
- Warnervale Town Centre Development Control Plan 2008
- Development Control Plan 2005

Chapter 14-Tree Management

Chapter 67-Engineering Requirements

Chapter 70-Notification of Development Proposals

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed *“health services facility”* is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The assessment of significance carried out in accordance with Part 5A of the Environmental Planning and Assessment Act 1979 has demonstrated that the proposal will not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application. This assessment has included consideration of such matters as potential rise in sea level, potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may withstand these potential impacts.

The proposal is considered satisfactory having regard for the setback of the “*health services facility*” to bushfire risk with the appropriate Asset Protection zones to be implemented around the development. The development has also incorporated sustainable design principles and resource efficient measures within the building and rainwater reuse on site.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv): Height

Under Clause 23 of Schedule 3, Part 16-*Warnervale Town Centre*, SEPP (Major Development) 2005 the maximum height of a building shall be 9 metres. The maximum building height proposed extends to a maximum of 13.4 metres in the southern portion of the site. As such, the maximum variation proposed to the height requirements on the subject site is 4.4m or 48.9%. This is discussed further below.

Applicant's Submission

“In general terms, compliance with the 9 metre building height control is unreasonable and unnecessary in the particular circumstances on the basis that:

- *The proposed development has been designed to define the public domain, reinforce the alignment of the surrounding road network, and contribute to a landscaped setting commensurate with the function and character of the site;*
- *The facility has been designed to reflect the sloping topography of the site and minimise the extent of ground disturbance;*
- *The interconnected arrangement of buildings and the treatment of the external facades provide extensive articulation to minimise the apparent bulk and scale of the built form;*
- *The proposed development has been designed to complement the architectural style and form of the Mackillop Catholic College School to the west, which provides a series of interconnected buildings of a similar height and scale to the proposed development;*
- *Extensive landscaping is proposed around the perimeter of the site comprising a mix of canopy trees and lower level shrubs and groundcovers;*

- *Provision has been made for the continuous planting of canopy trees along the adjacent road reserves to supplement the on-site landscaping and define the public domain;*
- *The building height in part reflects the nature of the use to the extent that “health services facility” generally require more generous internal floor to ceiling heights than comparable residential buildings;*
- *A proportion of the non-compliance relates to the roof form which is specifically intended to provide good light penetration to improve the internal amenity of the facility;*
- *The site benefits from having a frontage to road carriageways along the eastern, southern and western boundaries, circumstances in which the potential impacts on the amenity of surrounding land is substantially diminished;*
- *The frontage to a road carriageway along the entirety of the southern boundary mitigates against any potential for overshadowing of surrounding land;*
- *The Warnervale Town Centre DCP provides for the development of the land on the opposite side of the adjacent road carriageways, circumstances in which the visual impact of the proposed development will be further diminished in the future; and*
- *The proposed development extends to a maximum vertical level of 39.93 AHD, and remains substantially below the obstacle limitation contour applying to the site of 90-100 AHD.*

In the circumstances, strict compliance with the height control is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify the partial contravention of the standard”.

Comment

Despite the fact that Clause 5 of Part 16 Schedule 3 SEPP (Major Development) 2005 states that SEPP No 1 Development Standards does not apply to Warnervale Town Centre, the objectives of Clause 25 ((2)(a) and (b)) of Part 16 allow for flexibility in applying certain development standards to particular development. This enables consent to be granted even though the development would contravene a development standard imposed by this SEPP or any other environmental planning instrument, unless that standard is expressly excluded from the operation of Clause 25. The development standard relating to height is not excluded from the operation of Clause 25.

In order for consent to be granted to a development that contravenes a development standard the consent authority must be satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated in Clause 25(4) and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the zone (cl 25(4)(a)(i)(ii)).

The applicant’s written request for the proposed variation to the development standard, and considered to be reasonable in the circumstances of the case. Whilst the objectives for the building height standard are not expressly stated, it can be considered that the controls are aimed at constraining the adverse impacts on adjoining properties and surrounding areas, such as the new release areas, and, in the circumstances of the development of a new town centre, achieving a particular urban character (*Veloshin v Randwick Council* [2007] NSWLEC 428)).

Having regard for the provisions of Clause 25(4), consideration has also been given to the planning principles established by Roseth SC on the assessment of height and bulk, as set

out in *Veloshin v Randwick Council* [2007] NSWLEC 428. The questions relating to the planning principles are set out below.

Are the impacts consistent with impacts that may be reasonably expected under the controls?

The proposed development encroaches on the maximum building height of 9m identified on the Warnervale Town Centre Height of Buildings Map, Sheet HOB 001. The extent of variation is outlined in the table below.

| | Area | Percentage |
|------------------------|-------------|-------------------|
| Total Building Area | 6470.84sqm | 100% |
| Building Area over 9m | 2447.85sqm | 37.8% |
| Building Area over 11m | 1186.25sqm | 18.3% |
| Building Area over 13m | 84.6sqm | 1.3% |

The subject site has a gradual fall towards the southern boundary adjoining the Mackillop Close and Minnesota Road intersection. As a result, the height of the development above the existing ground level varies from nine metres to 13.4m, with the variation extending over 57.4% of the building footprint.

The additional height proposed has been designed to cater for the use of the building as a "health services facility" and one which is more commercial in nature to that of a residential flat building, thus it will provide for more appropriate and adequate internal amenity for users. The additional height will not detrimentally increase overshadowing or create any other undue impact of adjoining properties, and it is considered that the proposed development will nonetheless meet the assumed objectives of the standard and objectives of the R1 General Residential zone and planning instrument in which they are contained.

The modulated façade proposed as a result of the interconnected two and three storey buildings, particularly along the extension to Minnesota Road, presents a variety of scales that appears well proportioned and balanced. The varied roof form which provides visual interest to the overall design of the building, responds to the orientation of the site and relates to the size and scale of the building, and the lift overruns and plant rooms, which are included in the calculation of height, contribute significantly to the encroachment of height of the proposed building above the 9m height limit. It is considered unreasonable for Council to request amendment to the roof design in an attempt to make the building compliant with the height requirement when it assists in breaking down the apparent mass/bulk of the building and minimises the visual intrusiveness of service elements by integrating them into the design of the roof.

How does the proposal's height and bulk relate to the height and bulk desired under the relevant controls?

When considering if the proposal is consistent with the bulk and character intended by the planning controls it is considered necessary to have regard for the layout of the height of buildings map and the way in which heights have been planned within the Warnervale Town Centre (WTC). The clear intent is for those buildings of greater height, that is, 18 and 21 metres, to be concentrated in the core of the town centre with buildings of a maximum height of 12 metres or less being located to the south and east of the town centre on its periphery and closer to the residential housing areas nominated for WTC.

It is considered that the proposed development will look appropriate in its context and will be of an appropriate bulk that was intended by the planning controls, with the scale of building proposed being appropriate for its setting, particularly having regard for the school that is already existing on the adjoining property and the location of the subject site to the WTC.

It is also important to note that the proposal is not contrary to the objectives of the R1 General Residential zone, one of which allows for other land uses "that provide facilities or services to meet the day to day needs of residents". The "*health services facility*" is consistent with this land use. Furthermore, it is reasonable to assume that a complying proposal would not result in a better design outcome than that which would be achieved under current planning controls, particularly having regard for the topography of the site, the site being bounded by road carriageways and the overall design of the building in its interconnected arrangement.

Additionally, the proposal is considered to be consistent with the aims of SEPP (Major Development) 2005 (Part 1 Clause 2), which requires the "facilitation of development of important regional sites that are of economic and social significance to the State whilst facilitating service delivery outcomes for a range of public services...for a public purpose". As discussed previously, the location of the proposed "*health services facility*" in the fast growing Warnervale-Wadalba Social Planning District of Wyong Shire is considered beneficial to the community, particularly in this location, given this District is expected to accommodate most of the growth in the Shire over the next 20 – 25 years.

Clause 25 (5) of SEPP (Major Development) 2005 requires the concurrence of the Director-General for a variation to the development standard prior to a consent being issued. Should the Hunter and Central Coast Joint Regional Planning Panel agree to the variation proposed to Clause 23, then concurrence is sought from the Director-General for the proposed variation to height.

Public Domain

Clause 4 of Warnervale Town Centre (WTC) DCP outlines the objectives of what is anticipated for the public domain for the WTC. The proposed development is considered to be of a good design and will contribute positively to the architectural quality and streetscape of the Town Centre. This will be achieved through the form, articulation and finish of the building exterior, the use of appropriate landscaping, the provision of active street frontages to Mackillop Close and Minnesota Road, the incorporation of safer by design elements in the design, and appropriate pedestrian linkages within and surrounding the development.

The building form of the proposed "*health services facility*" is appropriate in that it fits sensitively into the existing streetscape, having regard for the bulk and scale of the existing school adjoining the subject site, and will be of an appropriate scale for the desired future character of the immediate area and Town Centre.

Clause 4.1(a) of the WTC DCP 2008 requires the consent authority to prepare a Public Domain Plan that complies with the controls in this Clause, prior to any development of the WTC. A Public Domain Plan is currently being prepared by Council. Discussions with the Department of Planning have indicated that the consent authority has the ability to use their discretion when determining a development application in the WTC prior to completion of the Plan.

As there is no direct nexus between the establishment of a "*health services facility*" and the need for a Public Domain Plan, and the facility does not propose to create public open space, nor does it incorporate any residential development which would generate a greater

need for the provision of public open space areas, then it is considered that determination of the subject application would not contravene the objectives of this section of the WTC DCP and can therefore be undertaken prior to finalisation of the Public Domain Plan.

Carparking

Clause 7.4 of WTC DCP 2008 requires the provision of adequate on-site parking that complies with Table 4 which details the required parking rates for the Town Centre. The proposed development will provide a total of 226 carparking spaces, 196 located within a 2-level car structure located to the north west of the buildings and 30 in the basement. Table 4 requires a minimum of 265 spaces based on Gross Floor Area (GFA). This is a variation of 39 spaces or 15% if shared use of facilities is not taken into consideration. However, when carparking rates have regard for the shared usage of facilities within the development then the proposal complies with the minimum number of carparking spaces required under the WTC DCP 2008.

Comment

A Traffic and Parking Report prepared by URaP-TTW Consulting Services, reviewed staff attendance peaks and the number of persons per day expected to attend the "*health services facility*". Estimations were made on the arrival and departure times, the mode of transport and the vehicle occupancy for each of the employee categories and for visitors. Using this data, estimates were made of the accumulation of parked vehicles at the facility throughout a normal day.

The estimated peak parking demand generated was approximately 190 vehicles based on the number of persons on the site (staff and visitors) at its peak activity time on a weekday. Underpinning the calculation were the following assumptions:

- Total number of staff: 106
- Total number of visitors per peak hour on a normal day (i.e. 80% of total capacity and considering that more than 20% visitors will have a multipurpose use of the site e.g. seeing a GP and then going to radiology): 106
- Staff drive car: 85% x 106 =90
- Visitors drive car: 90% x 106 =95
- Consideration was also given for future public transport provision for the area.

Parking demand for the proposed facility has been based on the following:

Staff parking =90 spaces

Visitors =95 spaces

Couriers/delivery vehicles =5 spaces

Total =190 spaces

It is considered that the above estimation represents a conservative level of carparking demand for the site, particularly given that not all staff will be present on site at all times and the facility will not be operating at full capacity all the time. Therefore, the provision of 226 carparking spaces, an additional 36 spaces above estimated peak parking demand, is expected to meet the proposed "*health services facility's*" anticipated demand.

Under Clause 7.4 of WTC DCP 2008, table 4 outlines parking rates for specific land uses. Although there are no specific requirements for a "*health services facility*", individual components of the building have been calculated separately. The table below identifies the

following number of spaces required for the uses proposed within the development as calculated by the applicant.

| Use | Gross Floor Area | Rate | Parking Requirement |
|----------------|----------------------------|-----------------------|---------------------|
| Medical Centre | 5785m ² | 1/25m ² | 232 |
| Cafe | 110m ² | 15/100m ² | 17 |
| Optometry | 47m ² | 5.6/100m ² | 3 |
| Pharmacy | 233.5m ² | 5.6/100m ² | 13 |
| TOTAL | 6175.5m² | | 265 |

Table 1: Applicant's proposed carparking rates based on clause 7.4 Warnervale Town Centre DCP 2008

The subject site makes provision for 226 carparking spaces. As shown in table 1, the proposed development requires a total of 265 carparking spaces which is a shortfall of 39 spaces required under WTC DCP 2008, based on GFA. These calculations do not take into consideration the shared usage of facilities within the development. As discussed above, there is no deficiency in carparking if calculations are based on total peak parking demand as provided in the Traffic and Parking Report accompanying the application. In fact, the facility would be providing an additional 36 spaces to that which was required.

Furthermore, the proposed development complies with the parking requirements outlined in WTC DCP 2008, providing an additional five spaces to that which is required, if the parking calculations take into consideration the shared usage of facilities within the development. Council has undertaken its own carparking calculations incorporating a comparison between the carparking rates required under WTC DCP 2008 and Wyong DCP 2005 Chapter 61-Carparking Requirements for information purposes. Although the requirements set out in Wyong DCP 2005 Chapter 61-Carparking are not applicable to this development, it is interesting to note that the proposed development would also comply with the carparking requirements outlined in Chapter 61. Council's calculations have been based on the assumptions that there will be shared use of some of the facilities within the development and not all the GP's will be operating at the same time (refer Table 2). These are assumptions that were not made by the applicant nor considered in the calculations shown in Table 1.

| Medical Centre | WTC DCP 2008 | Wyong DCP 2005 Chapter 61-Carparking Requirements |
|----------------|--------------|---|
| Total | 221 | 223.5 |

Table 2: Wyong Council carparking calculations-comparison rates

It is reasonable to consider the aspect of shared usage of facilities, particularly given a visit to the pharmacy, café, rehabilitation gym or hydrotherapy pool are anticipated to be used in conjunction with a visit to a health professional, that is, separate visits will not be made to the facility to utilise these facilities in isolation. Therefore, separate carparking calculations for these individual uses are not necessary and therefore, the parking rates calculated in Table 2 are more realistic parking rates to that which are shown in Table 1 which indicate a variation to WTC DCP 2008, yet the rates are calculated based on each individual component of the building with no consideration of the shared nature of the uses within the development.

In relation to shared uses within the development, the gross floor areas for the rehabilitation gym and conference room have been included in the applicant's calculations for the medical centre with some of the carparking in the development being apportioned to these uses (approximately eight and 21 spaces respectively). It is considered reasonable for the carparking for the gym and pool to be subsumed in the carparking requirements for the medical centre as it is anticipated that these facilities will only be utilised in conjunction with visits to a health professional for rehabilitation purposes and will not be used for commercial purposes. This will be conditioned accordingly.

There is no specific carparking requirement outlined in Table 4 of WTC DCP 2008 or the RTA Guide for Traffic Generating Development for a conference room. In determining what type of carparking calculations a use of this nature would generate, it was considered appropriate to find a use that could be considered similar for the purposes of estimating a possible shortfall in the number of carparking spaces provided in relation to this component of the *"health services facility"*. The RTA Guide referred to a 'function room' which was based on 15 spaces/100m² (Gross Floor Area). On this basis, a conference room of this size (207m²) would generate approximately 31 additional carparking spaces.

The conference room is anticipated to be used predominantly for the purposes of internal education of staff that work in the building. That being the case, it is assumed that this would not occur until after the peak periods anticipated for the *"health services facility"*. Accordingly, it is considered that there would be adequate carparking available for use of the room; particularly given staff parking has been taken into consideration in the parking calculations. It is anticipated that any hiring of the conference room to external parties would occur on an infrequent basis, would be solely related to the medical profession and generally a percentage of those attending the conference room would be staff that currently work in the building.

In the event that external training or the like was proposed in the conference room during a peak period, there is the potential for a shortfall of 32 spaces on site. However, this can be managed if appropriate conditions of consent are imposed relating to the hours of operation and nature of the use of the conference room.

As an alternative to private car-based transport it is noted that the WTC, in the future, will include adequate access to bus, train and taxi modes of transport. Additionally, conditions have been included to ensure that adequate bicycle parking and related facilities are provided as part of the development.

Given the nature and use of the proposed development for a *"health services facility"*, a variation to parking rates in respect of those components discussed above is warranted and supported, particularly in light of the calculations undertaken by the qualified traffic consultant. It is considered reasonable to accept the findings of the Traffic and Parking report and rely upon those figures, in conjunction with Council's own carparking calculations relating to WTC DCP 2008, for the purposes of calculating the total number of carparking spaces required for the proposed development.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The relationship to the regional and local context and setting

The proposed *"health services facility"* will provide a service that is needed in the community. Although the facility is proposed within a residential area, it is considered that the amenity of

existing and future residents will be preserved by way of the design of the development and the nature of the uses proposed.

The access, transport and traffic management measures

Roads, Access and Traffic – External

The construction of the Minnesota Road extension north of Sparks Road was completed with the development of the MacKillop Catholic College. Minnesota Road will be as part of with the development application to facilitate access to the proposed “*health services facility*”. Conditions have been recommended which require road formation to be constructed in accordance with the WTC DCP 2008 and Wyong Council DCP2005 Chapter 67-Engineering Requirements.

The notable exceptions are the conditions requiring the design and construction of a roundabout at the existing MacKillop Close (school access road) and Minnesota Road intersection. The traffic report prepared by URaP-TTW Consulting Services states that a roundabout is required at this intersection once the future Mataram Road extension is completed. The scenarios examined by the consultant assume that the proposed second access road to the school will be in operation, however the road is outside the scope of the current application and there is no certainty this will occur.

Supplementary assessment by Council indicates that the provision of a roundabout at this intersection will provide a satisfactory level of service without completion of the second access road or the Mataram Road extension. Additionally, a condition has been recommended requiring the dedication of the Minnesota Road extension, from Sparks Road to the proposed Mataram Road extension. Relevant conditions have been recommended accordingly.

As part of the road formation required under the WTC DCP 2008, a 2.5 metre wide off road combined footpath/cycleway is required as well as a requirement for the missing links of the footpath to the existing bus stops at the Minnesota/Sparks Road intersection to be completed.

Roads, Access and Traffic – Internal

The proposed internal parking and access design has been designed generally in accordance with Australian Standard AS/NZS2890 – parts 1, 2 and 6 with regard to parking module layout, space geometry, pedestrian circulation and access to the site.

Conditions have been recommended requiring the detailed design to be completed in accordance with abovementioned standards, including a 2.5 metre wide concrete footpath and vehicle crossing design for Mackillop Close, mini bus parking facilities and the provision of a taxi rank. Additionally, a condition has been recommended requiring the provision of vehicle and pedestrian lighting to be designed and installed in accordance with Australian Standards for the protection of staff and customers, and the future residential lands adjoining the site. Further, the lighting of the existing roundabout must be redesigned to cater for the additional leg and the removal of a light pole.

The impact on utilities supply.

The site is serviced by reticulated water supply, and the proposed development makes provision for connection to the reticulated sewerage system extending along Sparks Road.

Any impact on the conservation of water.

The Water Sensitive Urban Design and Stormwater Management Report prepared by Ryan Consulting Group has been assessed and is considered generally in accordance with the intent of the Warnervale Town Centre (WTC) DCP and the WTC Integrated Water Cycle Management Strategy (IWCM) prepared by Ecological Engineering (November 2006). The performance measures identified in the IWCM relate to flooding, wetland hydrology, potable water and stormwater quality and the measures have satisfied or exceeded the identified performance measures and the proposed development is considered satisfactory. The consent has been conditioned accordingly.

Any effect on the flora and fauna.

The vegetation on the portion of Lot 8 whereby the “*health services facility*” is proposed, has been substantially cleared and the vegetation is now limited to a few remnant trees and an understorey dominated by Kikuyu. There is also one hollow bearing tree present on the subject site that is proposed to be removed.

The application was accompanied by a *Flora and Fauna Impact Assessment* and an Assessment of Significance, carried out under Section 5A of the Environmental Planning and Assessment Act 1979, was carried out for Squirrel Glider habitat. The impact assessment concluded that the ‘loss of a single hollow-bearing tree and a relatively small area of marginal potential habitat for the threatened species of interest will not result in a significant impact on any listed species or communities. Given the minor nature of the losses and the loss of the habitat features of the site will be part of the offset conservation actions within the Biocertification Application process no mitigative measures are recommended’. The Assessment of Significance concluded that the proposal is unlikely to have any significant impact on the Squirrel Glider or its habitat.

The *Flora and Fauna Impact Assessment* and Assessment of Significance were reviewed by Council’s Consulting Ecologist who concurs with the findings of both the impact assessment and Assessment of Significance. Appropriate conditions have been imposed on the consent in relation to tree retention and protection requirements.

The provision of waste facilities.

Adequate waste facilities and storage areas are provided within the basement in addition, a Waste Management Plan was submitted with the application which is considered satisfactory.

Whether the development will be energy efficient.

The applicant submitted a statement with the proposal outlining the energy and water efficient measures for the proposal. These include:

- Maximise solar access and natural lighting in the design by maximising the number of windows in the northern face of the building and minimising glazed areas on the eastern and western walls of the building. Where feasible skylights, clerestory windows and light wells have been included.
- Measures have been included to maximise natural heating, cooling and ventilation as well as incorporating external shading devices for all west facing windows. All windows are rated to at least 4 heating stars under the Australian Windows Council's Windows Energy Rating System (WERS). Openable windows, grills, etc provided into the building. Appropriate insulation has been included into walls, floors and ceilings (Section J BCA).
- The development incorporates water efficiency measures such as all taps, shower heads and toilet suites in the development are rated to at least 4 stars under the National Water Efficient Labelling and Standards (WELS) Scheme. A site water management plan is to be prepared which is proposed to reduce the reliance of mains water supply by the following:
 - Preparation of an integrated water collection and recycling system for the capture and recycling of rainwater. The system is to be integrated into the mains supply water system and used primarily for dust control, car washing, watering of gardens, flushing of toilets and similar uses.
 - Capturing and reusing grey water used primarily for dust control, water of gardens and flushing of toilets. Grey water will be required to be separated and treated before reuse.
- The development includes energy efficiency measures such as energy efficient hot water systems with an energy rating of at least 4 stars; efficient air conditioning; energy efficient lighting and lighting control systems including the use of compact fluorescent lamps; the use of triphosphor fluorescent instead of halophosphor fluorescent lights; the use of electronic ballast instead of magnetic ballast in fluorescent lights; the use of low voltage tungsten halogen lights instead of tungsten spotlights; the use of solar powered or metal halide or sodium discharge lamps for outside areas, for example, the carpark.
- Solar panel heating for the indoor pool.

A condition of consent relates to the implementation of those measures outlined in the *Water Conservation and Energy Minimisation Standards* statement within the development.

Whether the development will cause noise and vibration.

Clause 8.9 of WTC DCP 2008 discusses the minimisation of noise and vibration impacts from the railway corridor and Sparks Road. The clause requires the submission of a noise study for development applications that relate to properties fronting Sparks Road, identifying appropriate noise amelioration measures for dwelling design and acoustic buffer design.

It is considered that given the setback of the proposed facility to Sparks Road, and the nature of the use of the development for non-residential purposes, that an acoustic report is not required in this instance. However, having regard for the residential area proposed to the east of the subject site it is considered reasonable to impose conditions of consent relating to hours of operation and after-hours use of the facility that will mitigate any potential noise impacts the proposed development may have on the adjoining residential area.

Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc).

The portion of Lot 8 containing the proposed development is identified as primarily bushfire prone buffer zone with a small portion of Category 1 vegetation on the proposed northern boundary of the site. A bushfire threat assessment was submitted with the application and reviewed by the NSW Rural Fire Service (RFS) who have issued a Bushfire Safety Authority for the development. Details of RFS comments are provided further in the report.

Whether the development provides safety, security and crime prevention.

The proposed development provides adequate passive surveillance within and surrounding the facility, particularly with the presence of staff and visitors to the site seven days a week, which will facilitate territorial reinforcement and space management. The following measures will ensure safety and security is maximised and that crime is minimised:

- natural surveillance of the perimeter of the site by patients, visitors and staff;
- well located lighting and creation of clear sightlines around the building and the site in general;
- well defined access and entry into the development and building;
- employment of a caretaker to ensure general cleanliness and maintenance of the site and rapid repair of damage; and
- landscaping and pathways to clearly delineate the areas available to staff, visitors and patients along with distinguished carparks associated with the individual buildings;

In addition to the above, the future fit-out of the building will incorporate appropriate surveillance measures including the provision of a CCTV system to the interior and exterior of the facility as well as the incorporation of a vandal proof lighting system installed to all external areas. This requirement will be conditioned accordingly.

Any social/economic impact in the locality.

Wyong Shire's socio-economic status and demographic structure has significant implications for the provision of health services in the area. Population growth and the ageing population has placed considerable pressure upon the resources of Northern Sydney Central Coast Area Health to meet the changing needs of the area. The Shire has a higher proportion of people aged over 65 than NSW which is increasing yearly as the 'baby boomers' generation ages and as more people move into the Shire to retire. This age group has a high demand for all types of health services. The ageing of the population will continue to change the pattern of health problems. The Shire is also characterised by a higher proportion of children. This age group also places high demands on health services.

In addition to the above, the Central Coast Regional Strategy highlights health and community services as a key economic sector on the Central Coast and it is recognised that the health services sector is expected to experience strong growth over the next 25 years. The strategic direction for health, as outlined in the Wyong Shire Council Plan of Management, is to *facilitate the provision of health services in the Shire...and to improve access to general practitioners*. Part of the ongoing service for Council is to assist in the establishment of new GP practices in the Shire. The proposed development is providing for the addition of another GP practice in the Shire.

Any impact of site design and internal design.

The proposed development has been designed to define the public domain, reinforce the alignment of the surrounding road network, and contribute to a landscaped setting commensurate with the function and character of the precinct.

Disabled access and facilities

An accessible path of travel is to be maintained throughout the development. Accessible parking spaces are provided in close proximity to the entries for buildings and accessible toilets and other facilities are provided within the development. Under Table 4 of WTC DCP 2008, one disabled space is required for every one hundred carparking spaces. The proposed development provides 29 disabled carparking spaces which are significantly more than the minimum requirement (that being 2). A condition is to be included requiring the development to comply with the requirements of the Disability Discrimination Act (DDA).

Any impacts of construction activities (construction site management, protection measures).

The construction of the proposed development will create noise during the construction phase. However, the consent will be conditioned to comply with the interim construction noise guidelines and to ensure that environmental impacts during construction are appropriately managed and mitigated. These conditions include the adoption of sediment and erosion control measures and preparation of a site management plan that includes measures for traffic and pedestrian management, tree protection, noise control, waste storage, dust suppression, and impact monitoring.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):***Whether the proposal fits in the locality.***

The location of the proposed "health services facility" is considered satisfactory having regard for the zoning, future planning of the area and consideration of already approved development in the area. The subject site is located within close proximity to Warnervale Town Centre and is located in an area that has been identified as a regional growth centre to be developed over the next 25 years with facilities such as that which is proposed, providing opportunity for employment and a much community service now and in the future.

Whether the site attributes are conducive to development.

The proposed development will be located within the nominated buffer zone identified on site, however, adequate Asset Protection Zones (APZ) have been incorporated into the design of the site to appropriately manage and provide adequate setback to the risk.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):***Any submission from the public.***

The application was advertised on two separate occasions from 10 December 2009 to 5 January 2010 with this period being extended to 19 February 2010 to cater for the Christmas and school holiday period, and 25 May 2010 to 11 June 2010. Notification of the application was carried out in accordance with DCP 2005 Chapter 70-Notification of Development Proposals with 101 submissions and one petition with 97 signatures being received in the first notification period, and no submissions being received in the second notification period. The second notification of the development application involved the exhibition of the amended plans and additional information relating to a "health services facility".

The issues raised in the submissions received in the first notification period have either been addressed via amendments made to the design of the development or have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised in the first notification period related to the following matters:

- Access to the site
 - Increase in traffic accessing Mackillop Close will increase congestion around the school
 - Increased congestion at Sparks Road intersection
 - Safety for students, parents, buses and patients of the facility
 - Consideration should be given to access from Minnesota Road and not Mackillop Close
- Traffic
 - School peak periods will be exacerbated
 - Traffic flows through the main intersection (Minnesota and Sparks Roads) and associated queuing
- Parking in school grounds
- Safety during construction of the proposed development
- Noise pollution

- Relocate facility closer to railway lines
- Complete Mataram and Minnesota Roads before allowing the clinic to develop
- There is a need for additional GP's, particularly in the northern area of the Central Coast,
- Inadequate carparking spaces being made available on site
- It would be of greater benefit if the development was located closer to the Warnervale Town Centre
- No consideration of future growth of Mackillop Catholic College
- Appropriateness of this development to the site

The advertising of the amended plans resulted in no submissions being received. As such, it can be assumed that the amended design has alleviated the concerns of the community. However, the issues raised above were still considered during the assessment process and in some cases, have been addressed via conditions of consent.

Any submission from public authorities.

NSW Rural Fire Service

The proposed "health services facility" is classified as Special Fire Protection Purpose (SFPP) development and was referred to the NSW Rural Fire Service (RFS) for their concurrence under Section 91 of the EP&A Act 1979.

RFS issued their General Terms of Approval on 4 February 2010 subject to conditions of consent relating to asset protection zones, landscaping, the provision of water and location of utilities, access, and evacuation and emergency management.

RTA

The proposed development was referred to the RTA who raises no objection to the proposal subject to conditions of consent relating to the provision of appropriate road infrastructure.

Mine Subsidence Board

The "health services facility" is proposed in a mines subsidence district and was therefore referred to the Mines Subsidence Board in accordance with Section 91 of the EP&A Act 1979. The Mines Subsidence Board has issued their General Terms of Approval for the proposed development.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests.

The Wyong Shire Community Plan (2008 – 2013) identifies Council's main role in relation to health as being:

- To lobby for additional resources to improve health services for residents of Wyong Shire, and;
- To advocate for improved provision and access to health services including access to GPs for residents.

Council officers have invested significant time and resources in the provision of information to any party or individual applying for the Commonwealth Governments GP Super Clinic funds. Any application which will result in the establishment of new and innovative models of health service provision in the Shire, particularly in the north, is considered to warrant support.

The Central Coast Regional Strategy was released on 26 June 2008. The strategy allows population increase with associated increases in housing and employment provision. The subject site is located within one of the identified major corridors between Wyong and Wadalba and the nature of the proposed development is considered to provide the additional community and health care facilities envisaged under the strategy and will not prejudice the objectives of the strategy having regard for housing supply, centres development and Greenfield development.

OTHER MATTERS FOR CONSIDERATION

Voluntary Planning Agreement

Under Clause 271B of the Environmental Planning and Assessment Regulation 2000 a development application in relation to all or part of the Warnervale Town Centre State Significant Site (the subject site included) must not be determined by the consent authority unless a contributions plan under Section 94E of the Act has been approved for that State Significant Site. No Contributions Plan has been approved to date and no transitional arrangements have been included into the legislation. A draft plan is not anticipated to be adopted until late 2010.

However, Council may dispense of this requirement if the developer has entered into an agreement with the consent authority that makes adequate provision with respect to the matters that may be the subject of a contributions plan. As such, a Voluntary Planning Agreement (VPA) has been entered into with Council, in accordance with Council's Planning Agreements Policy. If agreed upon, it will enable the issue of a Notice of Determination prior to the adoption of a Section 94 Plan for the area subject to an appropriate condition of consent being imposed relating to execution of the agreement prior to the release of the first Construction Certificate.

Council had anticipated receiving the final signed VPA at the same time as the amended plans so that they could both be put on public exhibition concurrently, however this did not occur. Notwithstanding this, Clause 25D(1)(a)(ii) of the Environmental Planning and Assessment Regulation 2000 allows for the following:

- 1) *If a planning authority proposes to enter into a planning agreement, or an agreement to amend or revoke a planning agreement, in connection with a development application or a project application, the planning authority is to ensure that public notice of the proposed agreement, amendment or revocation is given:*

...in the case of an agreement in connection with a development application:

- (i) if practicable, as part of and contemporaneously with, and in the same manner as, any notice of the development application that is required to be given by a consent authority for a development application by or under the Act, or*
- (ii) if it is not practicable for notice to be given contemporaneously, as soon as possible after any notice of the development application that is required to be given by a consent authority for a development application by or under the Act*

and in the manner determined by the planning authorities that are parties to the agreement"

Previous legal advice has been obtained from Council's Solicitors in relation to the above who have advised that the terms of the VPA have to be agreed to and signed but the document does not have to be executed prior to the Notice of Determination being issued. As such, it is considered acceptable that should the HCCJRPP recommend approval of the application that a condition be imposed requiring the execution of the agreement in accordance with the agreed and publicly exhibited terms of agreement.

Once the signed document has been received and reviewed by Council's Solicitors, the VPA will be placed on public exhibition in accordance with Section 93G of the Environmental Planning and Assessment Act 1979, for a period of 28 days. It is anticipated that the VPA will be on exhibition prior to any Notice of Determination being issued.

The VPA requires the Developer to pay Council Monetary Contributions towards various categories of local community infrastructure which would otherwise be a requirement under a Section 94 Development Contributions Plan. The Monetary Contributions outlined in the VPA are consistent with those outlined in the Draft Warnervale Town Centre Development Contributions Plan. If the development does not proceed prior to adoption of the Warnervale Town Centre Contributions Plan, then contributions will be levied under the Contributions Plan if lower than those outlined in the VPA.

CONCLUSION

The proposed "*health services facility*" complies with the objectives of the R1 General Residential zone and the requirements of the relevant Environmental Planning Instruments. Although variation is sought to Building Height under SEPP (Major Development) 2005 it is considered reasonable as the development has been designed to relate well with the topography of the site, provide architectural interest and provide a development that maximises energy efficiency.

The variation proposed to the parking rates under Table 4 of Warnervale Town Centre DCP 2008 is considered reasonable and warranted in this particular circumstance having regard for the shared nature for some of the uses within the facility and the findings of the Traffic and Parking report. Furthermore, given the context of the site and the nature of the development it is anticipated that the proposed development will result in creating a positive community benefit by providing much-needed health facilities to the north of the Central Coast.

The application has been assessed in accordance with the relevant Environmental Planning Instruments and Section 79C of the Environmental Planning and Assessment Act 1979 with no significant issues being raised, as such, the proposed "*health services facility*", as defined under SEPP (Infrastructure) 2007 is recommended for approval.

ATTACHMENTS

1 Development Plans (A3 Black & White) Enclosure D02267155