

**DEVELOPMENT ASSESSMENT REPORT – DA218/18 – PROPOSED CHANGE OF USE FROM OFFICE TO MEDICAL CENTRE (CHIROPRACTIC, CHINESE HERBAL MEDICINE & ACUPUNCTURE), LOT 5 DP 840077, 180-184 MORT STREET LITHGOW NSW 2790**

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**1. PROPOSAL**

Council is in receipt of a Development Application DA218/18 for the change of use of an office to a medical centre (chiropractic, chinese herbal medicine & acupuncture) on land known as Lot 5 DP 840077, 180-184 Mort Street LITHGOW NSW 2790.

Lot 5 DP 840077 (approximately 1505m<sup>2</sup>) currently contains a carpark and a large commercial building consisting of various business, office and retail premises. The proposed development will be located on the north-western end of the building and involves a change of use from an office premises to a medical centre.

The proposed medical centre (approximately 50m<sup>2</sup>) will provide chiropractic and acupuncture services and the provision of Chinese herbal medicine. The premises will be fit-out to include two health consulting rooms and a reception area and three signs are proposed to be erected on the western and northern external walls of the building. Two staff/medical practitioners will be practicing from the centre and the proposed hours of operation include:

Mondays to Fridays	8:30am to 6:30pm
Saturdays	9:00am to 12:00pm
Sundays and Public Holidays	Closed



Figure 1 – Existing Frontage of Proposed Medical Centre – View from Eskbank Street



**Key**

	Lot 5 DP 840077
	Location of Proposed Medical Centre

Figure 2 – Location of Proposed Medical Centre within Lot 5 DP 840077

**2. SUMMARY**

To assess and recommend determination of DA218/18. with recommendation for approval subject to conditions.

**3. LOCATION OF THE PROPOSAL**

Legal Description : Lot 5 DP 840077  
 Property Address : 180-184 Mort Street LITHGOW NSW 2790

**4. ZONING:** The land is zoned B2 Local Centre in accordance with Council's current planning instrument, being *Lithgow Local Environmental Plan (LEP) 2014*.

**5. PERMISSIBILITY:** The development being a medical centre, as defined below, is permitted with consent on land zoned B2 Local Centre under Clause 57(1) of *State Environmental Planning Policy (Infrastructure) 2007*.

**medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

**Note.** Medical centres are a type of **health services facility**—see the definition of that term in this Dictionary.

**health care professional** means any person registered under an Act for the purpose of providing health care.

**health services facility** means a building or place 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 any of the following:

- (a) a medical centre,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) patient transport facilities, including helipads and ambulance facilities,
- (e) hospital.

The applicant is currently registered only as a chiropractic health care professional and therefore, the development is permitted, subject to the following condition of consent:

1. The health care services provided by the medical centre, must only include the services for which the associated health care professional is registered under an Act for the purpose of providing health care. Appropriate qualifications and registrations must be continually maintained.

## **5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)**

### **Policy 7.5 Notification of Development Applications**

Council Policy 7.5 is applicable to all land within the Lithgow Local Government Area (LGA) and prescribes the following types of development as exempt from requiring notification:

#### **2. APPLICATIONS FOR WHICH NOTIFICATION WILL NOT BE GIVEN UNDER THIS POLICY**

Development applications for the following types of development will not be notified. (NB: Any structure must conform to applicable setback requirements):

- Development involving a change of use that does not involve the change to a Restricted Premises, Sex Services Premises, Food and Drink Premises, Funeral Chapel, Funeral Home or Retail Premises involving the sale of firearms within the meaning of the Firearms Act 1996

The proposed change of use is exempt from requiring notification to surrounding landowners. Accordingly, no submissions were sought or received.

### **Policy 7.6 Development Applications By Councillors And Staff Or On Council Owned Land**

Council Policy 7.6 is applicable to the proposed development as it is to be located on land owned by Lithgow City Council. In accordance with Clause 1 of Policy 7.6, the application is required to be referred to the Ordinary Meeting of Council for determination.

## **7.6 DEVELOPMENT APPLICATIONS BY COUNCILLORS AND STAFF OR ON COUNCIL OWNED LAND**

### **OBJECTIVE:**

To provide a transparent protocol for the determination of development applications lodged by councillors, staff and relatives thereof or development applications for development on Council owned land.

### **POLICY:**

1. That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application on Council owned land, that such an application be referred to Council for consideration and determination.

## **5.2 FINANCIAL IMPLICATIONS**

### **Section 94A (Section 7.12) Development Contributions Plan 2015**

Council's Section 94A (Section 7.12) Development Contributions Plan 2015 is applicable to all land within the Lithgow Local Government Area and prescribes the following types of development as exempt from requiring payment of the levy:

#### **C7 Are there any exemptions to the levy?**

##### **Other development exempted from the levy**

The following types of development or components of development will also be exempted from a levy under this Plan:

- a) Development by or on behalf of Lithgow City Council;
- g) An application for an industrial, retail or commercial development where there is no intensification of use or increase in floor space of an existing building.

The proposed development will not intensify the previous use of the site and will be located on land owned by Lithgow City Council. Accordingly, no Section 94A Development Contributions are required to be paid as part of this application.

## **5.3 LEGAL IMPLICATIONS**

### ***Environmental Protection and Biodiversity Conservation Act 1991***

No federally listed Threatened Species or Endangered Ecological Community is required to be cleared as a result of this application. Accordingly, there are no legal implications of this Act on the proposed development.

### ***Mine Subsidence Compensation Act 1961***

The development is integrated under this Act (via Section 4.46 of the EP & A Act 1979). A deemed approval for the change of use from an office premises to a medical centre is granted by Subsidence Advisory NSW. Therefore, the proposal will comply with the provisions of this Act.

### ***Local Government Act 1993***

The land on which the building situated is classified as Operational.

### ***Biodiversity Conservation Act 2016***

No vegetation is required to be cleared as part of this application and therefore, the development will not place any adverse impact on threatened species under Section 7.2 of the *Biodiversity Conservation Act 2016* (BC Act). There are no further implications of this Act on the proposed development.

### ***Environmental Planning and Assessment Act 1979***

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

#### 5.3.1 Any Environmental Planning Instruments

#### ***Lithgow Local Environmental Plan 2014***

<b>LEP 2014 – Compliance Check</b>		
<b>Clause</b>		<b>Compliance</b>
<b>Land Use table</b>	B2 Local Centre	Yes.
<b>5.10</b>	Heritage conservation	Yes, subject to conditions.
<b>7.10</b>	Essential Services	Yes.

**Comment:** The land is zoned B2 Local Centre under LEP 2014, in which the development of a medical centre is permitted with consent.

The land is located within the Lithgow Main Street Heritage Conservation Area. The proposed external signage will be in keeping with the existing signage of the surrounding commercial area, subject to conditions of consent. No additional external changes have been proposed and therefore, the proposal will not place any adverse impact on the heritage conservation of the area.

The existing building has connections to an electricity supply and Council's water supply, stormwater and sewage reticulation networks. Vehicular access to the site is existing off the northern boundary via Main Street Lane. Therefore, the development will be suitably serviced.

#### ***State Environmental Planning Policy No 64—Advertising and Signage***

<b>SEPP 64 – Compliance Check</b>		
<b>Clause</b>		<b>Compliance</b>
<b>3</b>	Aims and Objectives	Yes.
<b>8</b>	Granting of consent to signage	Yes.
<b>9</b>	Advertisements to which this Part applies	Yes.
<b>10</b>	Prohibited advertisements	Yes.
<b>11</b>	Requirement for consent	Yes.
<b>12</b>	Consent authority	Yes.
<b>13</b>	Matters for consideration	Yes, subject to conditions.
<b>14</b>	Duration of consents	Yes, subject to conditions.
<b>22</b>	Wall advertisements	Yes, subject to conditions.
<b>Schedule 1</b>	Assessment criteria	Yes, subject to conditions.

**Comment:** The proposed development includes the installation of three signs, as described below:

- An above window sign (3000mm x 40mm) on the western external wall of the medical centre, as indicated on the approved Western Elevation Plan.
- A wall sign (1200mm x 900mm) on the southern face of the north-western external wall of the medical centre, as indicated on the approved Southern Elevation Plan.
- A wall sign (1200mm x 900mm) on the northern face of the north-western external wall of the medical centre, as indicated on the approved Northern Elevation Plan.



Figure 3 – Proposed Above Window Sign and Wall Sign



Figure 4 – Proposed Wall Sign

Clause 14 of SEPP 64 states that a consent for signage ceases to be in force after 15 years of the date of consent or after a lesser time specified by the consent authority. As the timeframe that the business is to be located on the land has not been specified, and the future use of the land is unknown, the following condition of consent will be implemented:

1. Consent for the business identification signage ceases to be in force: on the expiration of 15 years after the date of operation of this consent, **or** on termination of the operation of the medical centre on Lot 5 DP 840077, **whichever is the sooner.**

To ensure the development complies with the requirements of Clause 22 of SEPP 64, the following conditions of consent will be implemented:

2. The approved signage must not extend over any window or door opening.
3. Only the following signage has been approved as part of this application:
  - a) One above-window sign (3000mm x 40mm) on the western external wall of the medical centre, as indicated on the approved Western Elevation Plan.
  - b) One wall sign (1200mm x 900mm) on the southern face of the north-western external wall of the medical centre, as indicated on the approved Southern Elevation Plan.
  - c) One wall sign (1200mm x 900mm) on the northern face of the north-western external wall of the medical centre, as indicated on the approved Northern Elevation Plan.

No additional signage is to be installed without prior Development Consent from Council.

**Schedule 1:** The proposed signage will be located within an established commercial and heritage conservation area and the character and scale of the proposed signage will be consistent with those of surrounding developments, subject to conditions of consent (see Figures 3 and 4). Accordingly, the proposal will not detract from the amenity or visual quality of the heritage conservation area. The proposed signage will be compatible with the scale, proportion and design of the building and streetscape and will not obscure or compromise important views, dominate the skyline, reduce the quality of vistas and respects the viewing rights of other advertisers. Only one sign has been proposed on each wall, to reduce clutter.

The signage is not proposed to be illuminated or flashing. The following conditions of consent will be implemented to ensure that no safety issues or light spillage on residential accommodation occurs:

1. The approved signage must not be illuminated or flashing.

Therefore, subject to conditions of consent the development will comply with the aims and objectives of SEP 64 as prescribed under Clause 3, as below:

### **3 Aims, objectives etc**

#### **(1) This Policy aims:**

- (a) to ensure that signage (including advertising):
    - (i) is compatible with the desired amenity and visual character of an area, and
    - (ii) provides effective communication in suitable locations, and
    - (iii) is of high quality design and finish, and
  - (b) to regulate signage (but not content) under Part 4 of the Act, and
  - (c) to provide time-limited consents for the display of certain advertisements, and
  - (d) to regulate the display of advertisements in transport corridors, and
  - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.
- (2) This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.

**State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011**

SEPP (Sydney Drinking Water Catchment) 2011 – Compliance Check		
Clause		Compliance
<b>10</b>	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes.
<b>11</b>	Development that needs concurrence of the Chief Executive	NA.

**Comment:** The application is required to be assessed using the Neutral or Beneficial Effect on Water Quality Assessment Tool as below. Given the development satisfies this assessment the development complies with the SEPP.

**NEUTRAL OR BENEFICIAL EFFECT ON WATER QUALITY ASSESSMENT TOOL**

**NorBE Assessment**

**General Information**

DA number **DA218/18**  
 Assessing officer **Fern-Alice Finn**  
 Council **Lithgow City**  
 Development class **Other development**  
 Date of assessment **28/09/2018**

Lot	Section	Plan
5		840077

**Assessment Summary**

NorBE status **Determined**  
 System outcome **Satisfied**      User outcome **Satisfied**  
 SCA concurrence outcome  
 Determination outcome **Granted**      Determination date **28/09/2018**

**Pre-Assessment**

Located within Sydney drinking water catchment? **Yes**  
 Is development consistent with any existing SCA S88 instruments on title? **N/A**  
 Crown perpetual leasehold land? **No**  
 Water quality impact ?  
     Concentration of flow of water? **No**  
     Flow of water impeded? **No**  
     Discharge of pollutants? **No**  
     Any other matter? **No**  
 Documentation is complete? **Yes**  
 Does Water Cycle Management Study meet SCA/Council requirements? **Yes**

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

Nil.

### 5.3.5 Any matters prescribed by the regulations that apply to the land

The development has been forwarded to Council's Building Officer for assessment under appropriate regulations. It is considered that as a result of this assessment the development will comply with the provisions of the regulations subject to conditions of consent.

### 5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

**Adjoining Landuse:** The surrounding area is generally for commercial pursuits with the proposal to be consistent with the surrounding land uses. The proposal will not cause any land use conflicts and the development is permissible within the zone.

**Services:** The development will have connections to electricity and telecommunications services and Council's water supply and sewerage reticulation networks. Therefore, it is considered that the proposal will be adequately serviced.

**Context and Setting:** The proposed development will be located within an established commercial area and will have no major impact on the context and setting of the area. The development has been designed to complement existing features of similar development in the area.

**Access/ traffic:** Access to the carpark located on Lot 5 DP 840077 is from the northern boundary via Main Street Lane. The development is also adjacent to a public carpark located to the west. Therefore, any traffic generated by the site will be suitably accommodated in existing off-street carparks.

**Heritage:** The land is located within the Lithgow Main Street Heritage Conservation Area. The proposed external signage will be in keeping with the existing signage of the surrounding commercial area, subject to conditions of consent. No additional external changes have been proposed and therefore, the proposal will not place any adverse impact on the heritage conservation of the area. There are no other items or areas of heritage significance located within the vicinity of the site which may be impacted by the proposal.

**Flora and Fauna:** No proposed clearing is required and the development will have no impact on flora or fauna.

**Social and Economic Impact:** As the proposed development will be generally in keeping with the provisions of the planning instrument and is reasonably compatible with other similar development in the locality, it is expected to have minimal social and economic impact.

**Soils:** No earthworks are required and the proposed development will have no significant impact on soils. There is no reason to believe the site would be affected by acid sulphate soil or contamination problems.

**Water:** The proposed development has been assessed using the NorBE tool as required by the *State Environmental Planning Policy (Sydney Catchment Drinking Water) 2011* with a result of satisfied.

**Air and Microclimate:** There will be no significant impact on air or microclimate.

**Waste:** Waste during construction will be to a licenced facility as per conditions of consent if approved. Given the development is for commercial use, once an Occupation Certificate has been provided a garbage service will be available for domestic use.

**Natural Hazards:** The land is not identified as bushfire or flood prone. There are no other known natural hazards which may impact the proposal.

**Noise and Vibration:** There are no nearby sources of noise or vibration that would impact detrimentally on the proposal. The proposal is not expected to cause any noise issues in the surrounding area, subject to the following conditions of consent:

1. The medical centre must only operate during the following approved hours:

Mondays to Fridays	8:30am to 6:30pm
Saturdays	9:00am to 12:00pm
Sundays and Public Holidays	Closed

### 5.3.7 The Suitability of the site for the development

The surrounding land uses are for commercial pursuits with the size and nature of the development to be consistent with those in the surrounding area. The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding amenity. Therefore, the site is considered to be suitable for the proposed development.

### 5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposal was sent to Council's Building Officer and Environmental Officer for commenting with recommendations detailed below. The proposal was not required to be notified to surrounding landowners or placed on public display under Council Policy 7.5.

## **COUNCIL'S BUILDING OFFICER**

Reference is made to the development application in regard to Council's Planner's referral dated 14 September 2018.

Please be advised that the proposal as detailed does not require the submission of a Construction Certificate.

The DA may be approved subject to the following conditions:

1. The development shall take place in accordance with the approved development plans containing Council's approved development stamp and all associated documentation submitted with the application, except as modified in red by Council and/or any conditions of this consent.
2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
3. The existing building is to be provided with portable fire extinguishers in accordance with Clause E1.6 of the Building Code of Australia and AS2444-2001.
4. A copy of the stamped and approved plans, and development consent are to be on the site at all times.
5. All work on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

**Planning comment:** The abovementioned conditions of consent have been adopted as advised. The further information was not requested.

**COUNCIL’S ENVIRONMENTAL OFFICER**

Environment has no objection to this application subject to the following conditions:

1. The floors in each room is to be a smooth impervious floor so that it can be cleaned and sanitised effectively.

**Planning comment:** The abovementioned Conditions of Consent have been adopted as advised.

5.3.9 The public interest

There have been no issues raised from the public regarding planning issues.

**6. DISCUSSION AND CONCLUSIONS**

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

**7. ATTACHMENTS**

Schedule A- Conditions of consent.

**8. RECOMMENDATION**

**THAT** development application DA218/18 is approved subject to conditions set out in Schedule A.

Report prepared by:..... Supervisor: .....

Signed:..... Signed:.....

Dated:..... Dated:.....

## **REASONS FOR CONDITIONS**

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure lots are adequately serviced.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

## Schedule A

### Conditions of Consent (Consent Authority)

**Please Note:** It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

#### ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

#### *Permissible Health Services*

2. The health care services provided by the medical centre, must only include the services for which the associated health care professional is registered under an Act for the purpose of providing health care. Appropriate qualifications and registrations must be continually maintained.

#### *Advertising Signage*

3. Consent for the business identification signage ceases to be in force: on the expiration of 15 years after the date of operation of this consent, **or** on termination of the operation of the medical centre on Lot 5 DP 840077, **whichever is the sooner.**
4. The approved signage must not extend over any window or door opening.
5. Only the following signage has been approved as part of this application:
  - a) One above-window sign (3000mm x 40mm) on the western external wall of the medical centre, as indicated on the approved Western Elevation Plan.
  - b) One wall sign (1200mm x 900mm) on the southern face of the north-western external wall of the medical centre, as indicated on the approved Southern Elevation Plan.
  - c) One wall sign (1200mm x 900mm) on the northern face of the north-western external wall of the medical centre, as indicated on the approved Northern Elevation Plan.

No additional signage is to be installed without prior Development Consent from Council.

6. The approved signage must not be illuminated or flashing.

#### *Hours of Operation*

7. The medical centre must only operate during the following approved hours:

Mondays to Fridays	8:30am to 6:30pm
Saturdays	9:00am to 12:00pm
Sundays and Public Holidays	Closed

#### BUILDING REQUIREMENTS

8. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
9. The existing building is to be provided with portable fire extinguishers in accordance with Clause E1.6 of the Building Code of Australia and AS2444-2001.

10. A copy of the stamped and approved plans, and development consent are to be on the site at all times.

11. All construction works on site shall only occur between the following hours:

Monday to Friday	7.00am to 6.00p
Saturday	8.00am to 1.00pm
Sunday and public holidays	No work

**ENVIRONMENTAL HEALTH REQUIREMENTS**

12. The floor in each room is to be a smooth impervious floor so that it can be cleaned and sanitised effectively.