

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2021/0027 |
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| Responsible Officer: | Kent Bull |
| Land to be developed (Address): | Lot 101 DP 844534, 20 Grattan Crescent FRENCHS FOREST NSW 2086 |
| Proposed Development: | Alterations and additions to a community facility |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Austrian Club |
| Applicant: | Designed 2 You |

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| Application Lodged: | 04/02/2021 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Commercial/Retail/Office |
| Notified: | 11/02/2021 to 25/02/2021 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Deferred Commencement Approval |

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| Estimated Cost of Works: | \$ 91,000.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the alterations and additions to a community facility known as 'The Austrian Club Sydney'. In particular, the works include:

- Demolition of the existing kitchen, cool room and associated access stairs to the west;
- Removal of existing south-facing windows to the dining room;
- Construction of a new and larger kitchen, cool room and associated stairs;
- Installation of glazed bi-fold doors to the southern side of the dining room as well as the construction of a new covered patio area for outdoor dining;
- A car parking area for five (5) vehicles as well as provision for services access to the rear; and
- Vegetation removal.

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 Local Environmental Plan 2011 - Zone R2 Low Density Residential
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - C9 Waste Management
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

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| Property Description: | Lot 101 DP 844534 , 20 Grattan Crescent FRENCHS FOREST NSW 2086 |
| Detailed Site Description: | <p>The subject site is legally referred to as Lot 101 DP 844534 and is known as 20 Grattan Crescent, Frenchs Forest. The site contains the Austrian Club Sydney, which has been described as a community facility that contains club rooms, stage, a dining area, bars, kitchen and associated service areas.</p> <p>The site is irregular in shape with a combined frontage to Grattan Crescent measured at 71.4m and a depth of 47.38m. The site has a surveyed area of 1802m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey community facility.</p> |

The slope of the site is measured at 5.2%, falling approximately 3m from the northern side boundary to the southern boundary of the site.

The site contains a number of existing native canopy trees along the western boundary of the site, with a grassed area to the south of the site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by a number of other similar community facilities. Adjoining the rear and south of the site is Garigal National Park with Ararat Reserve located adjacent to the site.

Map:



SITE HISTORY

The land has been used for community facility purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

21 June 1984

Development Application No. 1983/707 (Consent No. 84/268) granted consent for the 'additions and extensions to the Austrian Community Hall'.

7 April 1987

Development Application No. 1986/500 (Consent No. 87/107) granted consent for the 'erection of a coolroom to the west of the existing building'.

17 January 1996

Development Application No. 1995/533 (Consent No. 96/19) granted consent for the 'alterations to the Austrian Club House'.

1 May 1997

Development Application No. 1997/32 (Consent No. 97/123) granted consent for the 'alterations and additions to the Austrian Club building involving provision of roof storage area, associated stairway, under stair storage and coffee area'.

APPLICATION HISTORY

15 February 2021

Photo evidence provided of the notification sign erected on site.

9 March 2021

Site inspection undertaken by the assessing officer.

14 April 2021

Letter issued by Council to the Applicant raising concerns regarding insufficient on-site parking, obstructions to the servicing of the site, landslip risk and a breach to the landscaped open space requirements.

6 May 2021

On-site meeting held with the assessing officer, representatives of the Austrian Club Sydney and the designer.

3 June 2021

The Applicant provides a sketch of a revised scheme and additional information under the letterhead of the Austrian Club Sydney to providing points of justification with regards to the on-site parking non-compliance.

14 July 2021

The Applicant submits a final set of amended architectural plans (Revision E). These plans include a provision of vehicular access for servicing to the rear of the site and provides five (5) off-street parking spaces. These plans were accepted and form the basis for the following assessment. In accordance with the Northern Beaches Community Participation Plan, re-notification is not required where the *"changes result in a lesser or reduction of environmental impacts"*.

23 July 2021

The Assessing Officer called the Assistant Secretary of the Austrian Club Sydney, Jennifer Wandl to confirm the operating hours.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (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 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter can be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> 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 can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> 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 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and | <p>(i) Environmental Impact</p> <p>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> |

| Section 4.15 Matters for Consideration' | Comments |
|--|---|
| economic impacts in the locality | <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | 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.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application (prepared by BushCon Australia Pty Ltd, dated 20.12.2020). The report stated that the bushfire attack level of the site is “Flame Zone”.

The application was referred to the NSW Rural Fire Service for further assessment. The NSW RFS raised no objections to approval, subject to conditions. The recommendations of the Bush Fire Report , along with the conditions from the NSW RFS have been included as part of the recommended conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/02/2021 to 25/02/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|--|---|
| Building Assessment - Fire and Disability upgrades | The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. |

| Internal Referral Body | Comments |
|---|---|
| | <p>There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate stage.</p> |
| Environmental Health (Food Premises, Skin Pen.) | <p>General Comments</p> <p>The development proposes to demolish the existing kitchen area and build another kitchen area. Standard food conditions suitable.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> |
| NECC (Bushland and Biodiversity) | <p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Warringah Local Environmental Plan (WLEP) Warringah Development Control Plan (WDGP)</p> <ul style="list-style-type: none"> • Clause E1 Preservation of Trees or Bushland Vegetation • Clause E2 Prescribed Vegetation • Clause E6 Retaining unique environmental features <p>The application does not require the removal of prescribed trees or vegetation, nor is it likely to impact on nearby biodiversity values. Subject to conditions the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p> |
| NECC (Coast and Catchments) | <p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018; Sydney Harbour Catchment Regional Environment Plan, 2005 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. The application has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p>The application has also been assessed using Northern Beaches SREP assessment template.</p> |

| Internal Referral Body | Comments |
|------------------------|--|
| | <p>Coastal Management Act 2016 The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development.</p> <p>The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Coastal Management) 2018 The subject land has been included on the 'Coastal Environment Area' under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Clause 13 (coastal environment area) does not apply as the site is also located within the SREP area. Hence, only Clause 15 of the CM SEPP apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under Clause 15 of the CM SEPP.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>Sydney Regional Environment Plan (Sydney Harbour Catchment), 2005</p> <p>Harbour Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.</p> <p>On internal assessment, it is determined that the Planning Principles and Matters for Consideration of the Area have been met.</p> <p>Warringah LEP 2011 and Warringah DCP 2011</p> <p>No other coastal related issues identified.</p> |

| Internal Referral Body | Comments |
|--------------------------------|---|
| | <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.</p> |
| NECC (Development Engineering) | <p>Development Engineering has no objection to the application subject to the following conditions of consent.</p> |
| Traffic Engineer | <p>The proposal regarding the provision of 5 on-site parking spaces is reviewed. Transport team has no objection to the proposal in principal subject to the Council's planning officer consideration and approval. The car parking area including the parking spaces and car parking aisle and driveway is to be designed and also sealed by appropriate surfacing material such as concrete or asphalt in compliance with Australian Standards AS2890.1:2004.</p> <p>Given the applicant's response letter indicating that a high portion of patrons ride their bicycle to the club/restaurant. Minimum of 5 bicycle spaces with high to medium level of security is to be provided within the site.</p> <p>Earlier Traffic Comments:</p> <p>The proposal is for the Demolition of part of the existing kitchen and external stairs, and internal modifications including the extension of the existing kitchen, addition of a deck, and external stairs.</p> <p>The proposed development application includes no information to address the provision of adequate on-site parking spaces for the proposed additional seating area. Also, there is no information provided on the provision on-site servicing/delivery area.</p> <p>It is noted that in 1996 Warringah Council approved the development subject to a condition of consent as follows: <i>"The provision of an additional 25 paved car parking spaces to be used solely for car parking purpose. Each car space is to be clearly delineated on-site."</i></p> <p>Despite the above condition of consent, there are currently no formal parking spaces available within the site. Besides, the proposed patio will obstruct access to the southern and western side of the building which is currently being used for servicing of the site and car parking.</p> <p>The google street view shows that on some Sundays the on-street parking spaces in front of Ararat Reserve, the subject site, and No.18 are fully occupied and there are some adhoc car parking occurred on the grass area within the site as well as Council's reserve area on the southern side of the site. The main parking conflict capacity issue would be on a Sunday when the club is open for lunch. Justification will need to be provided by the applicant as to how the parking matters are to be resolved.</p> <p>Given the above situation, the proposal cannot be supported in the current proposed form with respect to the lack of car parking and</p> |

| Internal Referral Body | Comments |
|------------------------|---------------------------------|
| | servicing area within the site. |

| External Referral Body | Comments |
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| NSW Rural Fire Service – local branch (s4.14 EPAA) | The application was referred to the NSW Rural Fire Service who provided a response in a letter (Ref. DA20210208000477-Original-1, dated 26 February 2021) raising no objections to the development, subject to recommended conditions. These conditions will be enforced as a condition of consent. |
| Aboriginal Heritage Office | <p>Development Application No. DA2021/0027 Description: Alterations and additions to a community facility Address: 20 Grattan Crescent Frenchs Forest</p> <p>Reference is made to the proposed development at the above area and Aboriginal heritage.</p> <p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p> |

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 used for a community facility purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no 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 community facility land use.

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:

The referral to Ausgrid was not considered necessary for the purposes of this particular application.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 2, Clause 14 and Part 3, Division 2 apply in assessing this DA.

An internal assessment undertaken by Council's NECC (Coast and Catchments) division has determined that the Planning Principles and Matters for Consideration of the Area have been met.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*

- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The proposed development is unlikely to cause adverse impact to the integrity and resilience of the biophysical, hydrological (surface and ground water) and ecological environment, coastal environmental values and natural coastal process, the water quality of the marine estate, or to marine vegetation, native vegetation and fauna and their habitats, underdeveloped lands and rock platforms. The proposed development does not restrict any existing public open space or safe access along the foreshore for members of the public, including persons with a disability. A recommended condition will be placed to ensure that if any Aboriginal engravings or relics are unearthed as part of the proposed development, works will cease immediately and the relevant authorities notified. The proposed development is not likely to cause an adverse impact to the use of the surf zone.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment:

As detailed above, the proposed development has been designed, sited and will be managed to avoid an adverse impact on the cultural and environmental aspects referred to in Subclause (1).

14 Development on land within the coastal use area

- (1)
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*

- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
- (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The proposed development is not likely to cause an impact on the existing access along the foreshore for members of the public, including persons with a disability and will not cause any overshadowing, wind tunneling or loss of views from public places to foreshores. The visual amenity and scenic qualities of the coast, including the coastal headlands will be preserved. The proposed development will also not have an adverse impact on the cultural and built environment heritage. It is considered that the proposed development has satisfied the requirement to be designed, sited and will be managed to avoid an adverse impact to the above mentioned cultural and environmental aspects. Furthermore, the proposed development is considered to be of an acceptable bulk, scale and size that is generally compatible with the surrounding coastal and built environment.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

It is considered that the proposed development is not likely to cause increased risk of coastal hazards on the subject site or other land.

As such, it is considered that the application does/does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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| 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: | 8.5m | 5.4m | - | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|-------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| | |

| Clause | Compliance with Requirements |
|---------------------------------|------------------------------|
| 5.8 Conversion of fire alarms | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Detailed Assessment

Zone R2 Low Density Residential

Council records indicate the presence of the 'Austrian Club Sydney' for an extended period of the time, with numerous development consents being issued throughout the 1980s and 1990s for alterations and additions to the clubhouse. It would appear that the 'Austrian Club Sydney' has continued to operate as a "community facility" with an associated bar and restaurant that serves traditional Austrian cuisine. The subject development application does not seek any change to the existing use as a "community facility", which is a permissible land use within the R2 Low Density Residential zone of the Warringah Local Environmental Plan 2011.

A "community facility means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation."

6.4 Development on sloping land

The proposed kitchen and patio additions are mapped within Area A of the Warringah Landslip Risk Map and the works associated with the car parking area are mapped within Area B. As a portion of the land is mapped as being in Area B, a preliminary assessment of site conditions should have been submitted with the Development Application. No exceptions can be applied to this requirement. A deferred commencement condition has therefore been recommended requiring the applicant to submit to Council for approval a preliminary assessment of site conditions, prepared by a suitably qualified geotechnical engineer / engineering geologist.

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation | Complies |
|----------------------------|-------------------|----------------------------------|-------------|----------|
| B1 Wall height | 7.2m | 5.1m - Patio | - | Yes |
| B3 Side Boundary Envelope | 4m | Within Envelope | - | Yes |
| | 4m | Within Envelope | - | Yes |
| B5 Side Boundary Setbacks | 0.9m (North) | 1.8m | - | Yes |
| | 0.9m (South-West) | 3.3m | - | Yes |
| B7 Front Boundary Setbacks | 6.5m | >6.5m 13.9m to proposed patio | - | Yes |
| B9 Rear Boundary Setbacks | 6m (West) | >6m 10.6m to kitchen | - | Yes |

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| | | extension | | |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% (720.8m ²) | 11.4% (205.4m ²) | 42.5% | No |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| B1 Wall Heights | Yes | Yes |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | Yes | Yes |
| B7 Front Boundary Setbacks | Yes | Yes |
| B9 Rear Boundary Setbacks | Yes | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | No | Yes |
| C4 Stormwater | Yes | Yes |
| C6 Building over or adjacent to Constructed Council Drainage Easements | Yes | Yes |
| 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 and Adaptability | 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 |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E2 Prescribed Vegetation | Yes | Yes |
| E6 Retaining unique environmental features | Yes | Yes |
| E7 Development on land adjoining public open space | Yes | Yes |
| E10 Landslip Risk | Yes | Yes |

Detailed Assessment

C2 Traffic, Access and Safety

Concerns were raised by Council that the proposed patio extension along the southern elevation of the clubhouse would obstruct vehicle access to the rear of the site for the purposes of loading/unloading of service and deliveries. Whilst it appeared that a gravel driveway is currently used to access the rear (western side) of the site, this arrangement relies upon the use of National Parks land. No evidence was provided to Council of any current license or permit being issued for this access to be relied upon for the site.

The Applicant submitted amended plans on 14 July 2021 demonstrating a provision for off-street parking and access to the rear of the site for servicing. Council's Traffic Engineer has reviewed this amendment and provided support, subject to conditions. Consideration has been given that such an arrangement is capable of achieving the requirements and objectives of this clause.

C3 Parking Facilities

The subject site currently does not accommodate for any provision of off-street vehicle parking. This is despite such a requirement being a condition for past development consents issued for the site.

The 'Austrian Club Sydney' largely operates as a "community facility" as defined under the Warringah Environmental Plan 2011. As such, Appendix 1 Car Parking Requirements of the Warringah Development Control Plan requires that "Comparisons must be drawn with developments for a similar purpose". An analysis of the similar neighbouring developments such as the Dutch Australian Society Neerlandia Club and Austral Armenian Association revealed a provision of 10-14 off-street vehicular spaces being provided.

Consideration was also given to the use of a portion of building being used as a restaurant. Appendix 1 of the Warringah Development Control Plan, requires the following car parking for restaurants:

*Whichever is the greater of:
15 spaces per 100 m² GFA, or
1 space per 3 seats*

On this basis, it would appear that the combined area of the restaurant dining area and proposed patio extension is 108m². No details were provided at the time of lodgement as to the number of seats within this area.

In response to a letter from Council highlighting the issue concerning in-sufficient off-street parking, the Applicant submitted amended plans demonstrating a provision for five (5) off-street parking spaces. Additional information in the form of a supporting letter from the Austrian Club Sydney also provided the following points to justify the breach to the vehicular parking requirements:

- "Community club with limited trading hours in an out of the way location in Frenchs Forest and cannot be compared to a commercial restaurant operating seven days per week in Manly or Dee Why."
- "Our club facilities are used mostly by members that encompass other activities which are not related to dining and most importantly our location has no flow through traffic and the reasons for anyone to actually be in the area are limited."
- "We are located in a quiet cul-de-sac opposite a park and Austrian Club car park is only used for overflow parking as there is ample on street parking for over 40 cars. This overflow rarely exceeds one or two cars."
- "The club is run by volunteers and trading hours is limited to only 16 hours per week."

- *“Local members often walk or ride bikes to the club rather than use cars.”*
- *“The average number of patrons in the club while it is open is around 45 to 50 unless we are running a special event”.*

In considering a variation to the parking requirements, a merit consideration has been undertaken against the Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

Consideration has been given that the extent of the non-compliance would be approximately 5-11 spaces dependent on the which parking requirement was applied to the site. Despite this breach, the quite nature of this cul-de-sac was acknowledged during the numerous site inspections that were carried out. Whilst the availability of on-street parking along Grattan Crescent cannot be relied upon, the perpendicular parking arrangement does allow for number of vehicles to be parked on the street than a typical parallel parking arrangement. Council's Traffic Engineer has also supported the amended parking arrangement, subject to conditions including the provision for at least five (5) bicycle spaces with high to medium level of security to be provided within the site. The recommendation of this condition is supported, given the Applicant's justification, the shift encouraging more active transport modes, as well as acknowledgement of popular hiking and mountain bike trails that boarder the site within the National Park.

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

Comment:

The proposed parking spaces are to be at-grade and do not involve structures such as garages or carports. It is therefore considered that the design of the parking arrangement will have a minimal impact on the Grattan Crescent frontage or when viewed from the National Park.

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

Comment:

The proposed parking spaces are to be at-grade and do not involve structures such as garages or carports. It is therefore considered that the design of the parking arrangement will not dominant the Grattan Crescent frontage or when viewed from the National Park.

Based on the above, the proposed development is considered to meet the objectives of this control and is recommended to be supported on merit, in this particular circumstance.

C9 Waste Management

As the development application was not accompanied by a Waste Management Plan, conditions have been recommended for one to be prepared prior to the issue of a Construction Certificate.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The proposed landscaped open space has been measured at 11.4% (205.4m²) which is in breach with the requirement for 40% (720.8m²) to be dedicated towards landscaping.

As discussed earlier in this report, the development does not seek the removal of any established native canopy trees. Further, the proposed parking area is located on a portion of the site that is currently largely gravel. It should also be recognised that the entire site must be managed as an inner protection area (IPA) in accordance with NSW RFS requirements. Opportunities therefore to enhance the site with the planting of large native canopy trees and shrubs are limited.

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 subject site seeks to maintain existing vegetation including native shrubs and small trees between the clubhouse and Grattan Crescent. It is considered that these garden beds will continue to provide opportunities to enhance the landscaped character of the site when viewed from this frontage.

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

Comment:

The proposed parking area is located on a portion of the site that is largely gravel. Whilst, the proposed services access will require the removal of one (1) native shrub, current Council exemptions allow for this to be removed without a permit. The development is considered to conserve indigenous vegetation to the front of the site and is not considered to detrimentally impact upon any topographical features or habitat for wildlife.

- *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:

Consideration has been given that the subject site will continue to accommodate for garden beds and landscaped open space areas between the clubhouse and the Grattan Crescent frontage. As the entire site must be managed as an inner protection area (IPA), any opportunities to replace existing hard surface areas with landscaping must be undertaken in accordance with the conditions of the NSW RFS.

- *To enhance privacy between buildings.*

Comment:

The subject site borders the National Park to the rear, vacant land to the north and Ararat Reserve to east. With the nearest building located over 30m away, it has been considered that there is no immediate need for landscaping to be used as a measure to further protect privacy.

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

Comment:

The site will continue to accommodate extensive areas outside the immediate building footprint for outdoor recreational opportunities. In particular, a grassed area is maintained to the south of the proposed parking area.

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

Comment:

Whilst areas for clothes drying is generally expected for residential developments, consideration should be given to the fact that the site is used as a “community facility” that has differing needs. As discussed earlier in this assessment, access to service area to the rear of the building are being maintained.

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

Comment:

The proposed patio is to be located over an area of the site that is current hard-surface and the proposed parking is located in an area that was largely gravel. Whilst it is accepted that the site will see a reduction in the infiltration of stormwater, Council's Development Engineer has reviewed the development application and provided support, subject to compliance with relevant stormwater conditions.

Based on the above, the proposed development is considered to satisfy the objectives of this control and is supported on merit.

E1 Preservation of Trees or Bushland Vegetation

The proposal seeks the removal of a Phoenix palm (aka Canary Island date palm) and a shrub. Council's Exempt Species Lists states that all *Palms other than Cabbage Tree Palms* can be removed without consent. The shrub for removal is less than 5 metres in height and therefore can also be removed without a permit. The removal of this vegetation is required in order to effectively provide service access to the rear.

E10 Landslip Risk

Refer to discussion in this report under Clause 6.4 Development on sloping land of the Warringah Local Environmental Plan 2011.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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

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

RECOMMENDATION

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a two (2) year time frame for Deferred Commencement Consents detailed within Section 95 of the EP&A Regulation 2000 to DA2021/0027 for Alterations and additions to a community facility on land at Lot 101 DP 844534, 20 Grattan Crescent, FRENCHS FOREST, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Deferred Commencement - Preliminary Assessment of Site Conditions

- The submission of a Preliminary Assessment of Site Conditions, prepared by a suitably qualified geotechnical engineer / engineering geologist. If the preliminary assessment determines that a geotechnical report is required a report must be prepared by a suitably qualified geotechnical engineer / engineering geologist and must be submitted.

Evidence required to satisfy these conditions must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Reason: To ensure potential geotechnical risk is mitigated appropriately.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within two (2) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|---|----------|------------------------------|
| Drawing No. | Dated | Prepared By |
| DA1.01, Rev. E (Site Plan) | 14/07/21 | designed2you building design |
| DA1.02, Rev. E (Existing/Demolition Plan) | 14/07/21 | designed2you building design |
| DA2.01, Rev. E (Proposed Ground Floor Plan) | 14/07/21 | designed2you building design |
| DA3.01, Rev. E (Elevations - North) | 14/07/21 | designed2you building design |
| DA3.02, Rev. E (Elevations - South) | 14/07/21 | designed2you building design |
| DA3.03, Rev. E (Elevations - East) | 14/07/21 | designed2you building design |
| DA3.04, Rev. E (Elevations - West) | 14/07/21 | designed2you building design |
| DA4.01, Rev. E (Section A-A) | 14/07/21 | designed2you building |

| | |
|--|--------|
| | design |
|--|--------|

| Reports / Documentation – All recommendations and requirements contained within: | | |
|--|------------|--|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Bush Fire Assessment Report, Ref. 20Gra-01 | 23/02/2020 | Matthew Toghill (BushCon Australia) |

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

3. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|--|---|------------------|
| NSW Rural Fire Service | Letter Response Ref. DA20210208000477-Original-1 | 26 February 2021 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges

paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying

Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY. Details demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

8. No Clearing of Vegetation

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

9. Car Parking Standards

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004. All car parking area and the driveway shall be surfaced and sealed.

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

10. Car Parking Finishes

All driveways, car parking areas and pedestrian paths are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

11. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven (7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

12. Fire Safety

The building is to be provided with the following fire safety measures, where required to comply with the Building Code of Australia (BCA):

- i) The provision of hose reels as required to comply with Part E4 of the BCA.
- II) Emergency Lighting being provided throughout the building as required by Part E4 of the BCA.
- III) Illuminated Exit signs being installed in the building as required for compliance with Part E4 of the BCA.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for fire safety and for building occupant safety.

13. Adequacy of Sanitary Facilities

Prior to issue of the Construction Certificate the Principal Certifier is to be provided with details of sanitary facilities based on the numbers of patrons and staff as required by the F2 of the Building Code of Australia for the Classification of the building under its approved use.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the provision of adequate sanitary and associated facilities for the premises.

14. Kitchen Design, construction and fit out of food premises

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 ‘Design, construction and fit out of food premises’. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

15. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

16. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

17. Provision of bicycle spaces

Minimum of 5 bicycle spaces/racks with high to medium level of security is to be provided within the site.

Reason: To provide secure and safe parking facilities for customers.

18. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

20. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

21. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in

accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

22. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

23. Waste Management During Development

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

24. Aboriginal Heritage

Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

Reason: Aboriginal Heritage Protection.

25. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

26. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian

Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

27. **No Weeds Imported On To The Site**

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

28. **Kitchen Design, construction and fit out of food premises certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from a suitably qualified person that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements.

29. **Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

30. **Mechanical ventilation**

Where Mechanical ventilation is required to be installed in the food premises it must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" Prior to any Occupation Certificate (OC) being issued, certification is to be provided by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

31. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

32. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

33. Hours of Operation

The hours of operation of the dining/restaurant are to be restricted to:

- Monday to Thursday – No Trading.
- Friday – 6:00pm - 10:00pm
- Saturday – 6:00pm - 10:00pm
- Sunday and Public Holidays – 12:00pm - 8:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

34. Commercial Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

35. Delivery of Products

Products must not be delivered to this premises between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Kent Bull, Planner

The application is determined on 23/07/2021, under the delegated authority of:



Rodney Piggott, Manager Development Assessments