

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2017/1007
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<b>Responsible Officer:</b>	Daniel Milliken
<b>Land to be developed (Address):</b>	Lot 1 DP 1210327, 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Use of Premises as a recreation facility (indoor) and ancillary commercial uses
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B7 Business Park
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Lif Pty Ltd
<b>Applicant:</b>	BBF Town Planners

<b>Application lodged:</b>	12/10/2017
<b>Integrated Development:</b>	No
<b>Concurrence Required:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	17/10/2017 to 02/11/2017
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 310,655.00
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### ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral

to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 1210327 , 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment with a primary frontage to the southern side of Frenchs Forest Road East. Secondary boundaries are located to Allambie Road on the east boundary and Warringah Road to the south.</p> <p>The site is irregular in shape with an area of 4.13 hectares.</p> <p>The site is located within the B7 Business Park zone and accommodates a series of warehouse / industrial / office units, within three separate buildings.</p> <p>Unit 10 is a warehouse / industrial unit located on the south-western corner of the land.</p> <p>Adjoining and surrounding development is characterised by business park type activities.</p>

Map:



## SITE HISTORY

History relevant to the proposal includes the following:

DA6000/7547: Consent for "Industrial Fitout Unit 10 & 11" issued on 24 May 1989.

## PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for a change of use to an existing warehouse unit (No.10) for the purposes of a *recreation facility (indoor)*, known as "Aussie Gems".

Specifically, the proposed use focuses on tuition for sporting activities for under 18's, encompassing cheer-leading, yoga and physical conditioning. Ancillary uses to support these activities include a beauty salon, uniform shop, physiotherapy room and massage room. Class sizes for each of these activities will not exceed 30.

A further ancillary activity is the use of the premises for children's birthday parties on weekends, with parties a maximum attendance of 30 guests.

The hours of operation range between:

- 6.30am to 7pm, Monday to Friday; and
- 8.00am to 7pm, Saturday.

Children's birthday parties are proposed on Sunday, however no time is specified.

A maximum of five (5) employees will be on the premises. 33 on-site car spaces are proposed for the exclusive use of the premises. Of the total spaces provided, 4 spaces will be created in the current location of the existing loading / delivery area adjoining the north elevation of Unit 10.

## Additional information

Amended information has been provided to clarify that the proposed will entail:

- a maximum of 40 students at the premises at any one time, comprising two separate classes containing 20 students each; and
- the provision of 40 parking spaces adjacent Unit 10.

The applicant has also agreed to a condition limiting the number of students at any one time to 40.

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

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;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>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, permits Council to request additional information and therefore consider the number of days taken in this assessment in light of this clause within the Regulations. However, no additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of</p>

Section 79C 'Matters for Consideration'	Comments
	<p>development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

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

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



## MEDIATION

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections subject to conditions to ensure compliance with the Building Code of Australia.
Traffic Engineer	<p>Council's Traffic Engineer comments on the original proposal is as follows:</p> <p><i>"This proposal is for an indoor recreational facility and ancillary commercial uses with a floor area 1,393sqm and provision of 33 parking spaces within the business unit at 25 Frenchs Forest Road East, Frenchs Forest.</i></p> <p><i>Applying the WDCP parking requirements for a gymnasium would require 63 spaces. This varies with the submitted traffic report, where first principles assessment could accommodate 60 children within the site. These have been calculated with an assumption of 1.5 children per vehicle, and with a 25% discount for patrons using public transport. This is also assuming children numbers are in accordance to the proposed operational plan, however no accurate details on class schedules and class sizes have been provided to determine the peak accumulated parking figure.</i></p> <p><i>Based on the 1,393sqm floor area, it appears that the site could easily accommodate in excess of 60 children and the site likely to facilitate multiple classes with increased staff as demand increases. As this would result in a greater parking requirement, there are concerns that parking demand could occupy greater than the proposed allocation of 33 spaces. Without any measures to limit children numbers in the premises, the current allocation is considered low for the size of the development. These figures are not taking into considering any school holiday events where the patronage is expected to be different.</i></p> <p><i>Patronage and parking requirements for the site would be different during business hours, and it is likely that parking would increase outside of school hours</i></p> <p><i>Without the traffic report examining these in detail it is difficult to justify the deviation from the WDCP parking requirements.</i></p> <p><i>It is noted that there are 20 additional visitor spaces within the business park however these are to be shared amongst 13 other business units during the daytime operating hours.</i></p> <p><i>In addition the Road Network Connectivity Works being undertaken by the State Government as part of the Northern Beaches Hospital works affect this particular site, including access in Frenchs Forest Road East. It is expected that road works will continue well throughout 2018, and there will be increased congestion throughout the surrounding road network. On-street parking in Frenchs Forest Road is proposed to be removed and parking in surrounding residential streets would be very limited.</i></p> <p><i>As this centre is an indoor sports and recreational centre encouraging active healthy lifestyles, bicycle parking and end of trip facilities should</i></p>

Internal Referral Body	Comments
	<p><i>be provided. Frenchs Forest Road East will feature an off-street bicycle route connecting to the existing bicycle network and this work will be carried out as part of the current road works. As Council's bicycle parking rates would not be a suitable application to this type of development a suitable level of bicycle parking should be provided within the site.</i></p> <p><i>The proposed traffic generation and impacts to the surrounding road network is not considered significant.</i></p> <p><i>As there are issues identified with the site vehicle and bicycle parking provisions, the proposal is not supported on parking grounds."</i></p> <p>The amended application was referred to the Traffic Engineer for revised comment, who responded on 13 December 2017:</p> <p><i>"I see that there has been a way to resolve the issue. Our preference was not to establish a condition to limit numbers for this type of development as it is obvious that the size of the development can comfortably accommodate a larger volume of patrons, including those not participating in the group sessions, and also we were uncertain how this could possibly be enforced. Is there a process through development compliance to ensure it is complied?</i></p> <p><i>I somewhat agree with the applicant's comments regarding using the WDCP gym parking rates as the proposed use deviates from the traditional indoor gym however the traffic report has not detailed further details on the proposed use and how it is different from other uses, accordingly we still compared with the WDCP parking rate for assessment.</i></p> <p><i>My comments:</i></p> <ol style="list-style-type: none"> <li><i>1. The amount of short term pickup and setdown spaces is to be determined by the applicant's traffic consultant. The revised SEE assumes about 15 spaces, but without details on group class length, age of participants, availability of other facilities etc. We still need information on how the remaining spaces will be allocated. (20 long term parking, 4 staff parking?)</i></li> <li><i>2. The GFA discussion in the consultants traffic report does not take into consideration toilets, hallways, staff rooms, consulting rooms etc.</i></li> <li><i>3. I suggest staff numbers also be limited to 4.</i></li> <li><i>4. Limiting the group sessions to 2x 20 students does not take into consideration non-group uses of the premises, including the other facilities. Would there be</i></li> <li><i>5. Any future modification of site or increase student/staff numbers at this location would require a comprehensive parking study including a parking accumulation survey to justify changes."</i></li> </ol> <p><u>Development Assessment comment:</u></p> <p>Amended information was received that increased the number of allocated parking spaces to 40, and confirmed that the maximum number of students proposed is to be 40. The applicant also agreed to a condition limiting the number of students to 40 at any one time.</p>

Internal Referral Body	Comments
	The proposed condition to restrict the numbers to a maximum of 40 students, along with the increased parking provision to 40 spaces, is sufficient to ensure the adequate provision of car parking.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	The application was referred to the NSW Police Force, who advised that they have no objection to the proposed development.

### 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 commercial 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 commercial 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 proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## Warringah Local Environment Plan 2011

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

## Warringah Development Control Plan

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	No	Yes
C3 Parking Facilities	No	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes

### Detailed Assessment

#### **C2 Traffic, Access and Safety**

Requirement No.6. of Part C2 states that:

*Facilities for the loading and unloading of service, delivery and emergency vehicles are to be:*

- appropriate to the size and nature of the development;*
- screened from public view; and*
- designed so that vehicles may enter and leave in a forward direction.*

Part of the proposal is to provide four (4) new car spaces in the area currently occupied by the existing

loading for Unit 10.

Given that the use of Unit 10 will be changed from a warehouse to a recreation facility, there is no necessity for a separate loading facility. Hence the conversion of the loading area to parking is consistent with this part of WDCP 2011.

### C3 Parking Facilities

#### Description of non-compliance

Based on the "gymnasium" standard within Appendix 1 and the 1,927m<sup>2</sup> of floor space proposed, the proposed use will require the provision of 87 car spaces.

The amended proposal will provide a total of 40 car spaces. This will result in a shortage of 47 car spaces.

#### Merit consideration

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

- *To provide adequate off street carparking.*

#### Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
"Gymnasium" (as relevant to the <i>recreation facility (indoor)</i> proposed under WLEP 2011)	4.5 spaces per 100m <sup>2</sup> @ 1,927m <sup>2</sup> of GLFA*	87	40	47

\* Gross Leasable Floor Area

The application has been amended to have a maximum operational intensity of 40 students, at any one time. 40 spaces are provided to service these class sizes. This provision is considered adequate to satisfy this objective and a condition is recommended to be included in the consent to ensure the maximum numbers of 40 are complied with.

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

Comment: This objective is not applicable to the proposed development.

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

Comment: This objective is not applicable to the proposed development.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 310,655		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 2,951
Section 94A Planning and Administration	0.05%	\$ 155
Total	1%	\$ 3,107

## 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

THAT Council as the consent authority grant Development Consent to DA2017/1007 for Use of Premises as a recreation facility (indoor) and ancillary commercial uses on land at Lot 1 DP 1210327, 25 Frenchs Forest Road East, FRENCHS FOREST, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No. / Title</b>	<b>Dated</b>	<b>Prepared By</b>
A102 Revision 5	25 September 2017	Morrison Design Partnership
A103 Revision 5	25 September 2017	Morrison Design Partnership
Aussie Gems Proposed Parking Plan Sheet 1 of 1	12 December 2017	Real Serve

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. (DACPLB01)

2. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

3. **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 (DACPLB09)



#### 4. 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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 2008
- (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 sewerred areas or managed on-site in unsewerred 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. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan	
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Contribution based on a total development cost of \$ 310,655.00		
<b>Contributions</b>	<b>Levy Rate</b>	<b>Payable</b>
Total Section 94A Levy	0.95%	\$ 2,951.22
Section 94A Planning and Administration	0.05%	\$ 155.33
Total	1%	\$ 3,106.55

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

## 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 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, 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.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

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

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

### 7. **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. (DACPLC02)

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

### 8. **Fire Safety Upgrade**

The fire upgrading measures and works to upgrade the building as detailed and recommended in the Building Code of Australia Audit Report prepared by Philip Chun Building Code Consulting, dated 9 October 2017 (referenced '17-209783\_Aussie Gems\_Unit10\_Frenchs Forest BCA Report R03'), are to be detailed to the degree necessary with the Construction Certificate application.

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

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCF01)

### 9. **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 Fire and Rescue NSW.

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 Fire and Rescue NSW, 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. (DACPLF07)

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

### 10. **Allocation of Spaces**

A total of forty (40) car parking spaces provided shall be provided, made accessible and maintained at all times.

The car parking spaces for the use of Unit 10 shall be line marked and numbered or signposted to indicate their exclusive use for the approved use only.

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 that adequate parking facilities to service the development are provided on site. (DACPLG01)

### 11. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 6.30 am to 7.00 pm
- Saturday – 8.00 am to 6.00 pm
- Sunday and Public Holidays – 9.00 am to 6.00 pm

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. (DACPLG08)

12. **Commercial Waste Collection (DACPLG18)**

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.(DACPLG18)

13. **Number of students**

No more than forty (40) students are to occupy the premises at any one time.

Reason: To ensure that adequate parking is provided on the site (DACPLGOG1)

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

**Signed**



**Daniel Milliken, Principal Planner**


The application is determined under the delegated authority of:



**Anna Williams, Manager Development Assessments**



**ATTACHMENT A**

<b>Notification Plan</b>	<b>Title</b>	<b>Date</b>
 2017/392667	Plan - Notification	13/10/2017

**ATTACHMENT B**

<b>Notification Document</b>	<b>Title</b>	<b>Date</b>
 2017/398014	Notification Map	17/10/2017

## ATTACHMENT C

Reference Number	Document	Date
 2017/392674	Report - Statement of Environmental Effects	10/10/2017
 2017/392685	Report - BCA	10/10/2017
 2017/392689	Report - Traffic	10/10/2017
 2017/392373	ASIC Company Extract	10/10/2017
 2017/392370	Owners Consent	10/10/2017
 2017/392374	Cost Summary Report	11/10/2017
 DA2017/1007	25 Frenchs Forest Road East FRENCHS FOREST NSW 2086 - Development Application - Alterations and Additions	12/10/2017
 2017/390472	invoice for ram applications - BBF Town Planners	12/10/2017
 2017/390476	DA Acknowledgement Letter - BBF Town Planners	12/10/2017
 2017/392359	Development Application Form	12/10/2017
 2017/392362	Applicant Details	12/10/2017
 2017/392667	Plan - Notification	13/10/2017
 2017/392699	Plans - Master Set	13/10/2017
 2017/396157	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/1007 - 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086 - PH	16/10/2017
 2017/397984	DA Acknowledgement Letter (not integrated) - BBF Town Planners	17/10/2017
 2017/398011	ARP Notification Map	17/10/2017
 2017/398014	Notification Map	17/10/2017
 2017/398020	Notification Letter - 17	17/10/2017
 2017/413573	Referral response - NSW Police Force	24/10/2017
 2017/417014	Building Assessment Referral Response	25/10/2017
 2017/438340	Working Plans	06/11/2017
 2017/489101	Request for update on DA - 25 Frenchs Forest Road East Frenchs Forest	29/11/2017
 2017/501284	Traffic Engineer Referral Response	07/12/2017