

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1309
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Responsible Officer:	Clare Costanzo
Land to be developed (Address):	Lot 32 DP 6033, 11 Mitchell Road BROOKVALE NSW 2100
Proposed Development:	Use of premises as a take away food and drink premises and warehouse and distribution centre
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Gabrielle Brock Mitchell
Applicant:	Norrsken Ko

Application Lodged:	22/10/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	30/10/2020 to 13/11/2020
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 50,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposed works include the change of use from a vehicle repair station to a mixed use development comprising of a takeaway food and drink premises and a warehouse or distribution centre. The takeaway food and drink premises is proposed to operate under the name "Okay Coffee Roasters" and the warehouse or distribution centre will operate under the name "Sticky Bottle".

The proposal also comprises of the fit out of the mixed use development. The works associated include the following:

- roastery and cafe storage
- cafe counter
- window bench seating
- bathrooms

- mezzanine office and dry store below
- minor change to the western and southern facade of the building

Patron Capacity

The Take Away Food and Drink Premises will be take away only, with no seating or dine in options.

Staff

The takeaway food and drink premises proposes 3 casual staff (or as required). The warehouse or distribution facility proposes 3 (or as required) full/part time staff. A total of 6 staff will be on site at any one time.

Hours of operation

The proposed hours of operation for the takeaway food and drink premises is 6:30am - 6:00pm Monday to Sunday (including public holidays). The proposed hours of operation for the warehouse or distribution centre is 10:00am - 6:00pm Monday to Sunday (including public holidays).

Car Parking

The site provides for a total of 3 on site car parking spaces. The site is within the vicinity of readily available public transport options.

Waste Management

A dedicated waste storage area will be on site as indicated on site plan. The dedicated bin storage enclosure will be in the north western corner of the site and will be designed to fit a 600L bulk bin. Waste collection is to occur up to four times weekly for general waste and twice weekly for cardboard waste through a commercial agreement with waste contractors.

Signage

Business Identification signage does not form part of this development application.

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 IN1 General Industrial
 Warringah Local Environmental Plan 2011 - 6.3 Flood planning
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - E11 Flood Prone Land

SITE DESCRIPTION

Property Description:	Lot 32 DP 6033 , 11 Mitchell Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Mitchell Road.</p> <p>The site is regular in shape with a frontage of 12.192m along Mitchell Road and a depth of 48.768m. The site has a surveyed area of 594.4m².</p> <p>The site is located within the IN1 General Industrial zone and accommodates a single storey warehouse with a metal roof. Vehicular access is provided to a concrete hardstand parking area at the front of the site via a vehicular crossing from Mitchell Road.</p> <p>The site is flat and contains no landscaped area or remnant natural features. Stormwater drainage is to the street frontage.</p> <p>The site is also located within close proximity to Warringah Road, and within walking distance to Warringah Mall. The site is serviced by regular public transport available along Warringah Road for access to and from Palm Beach, City and Chatswood.</p> <p>The site is located within an industrial setting with a varied mix of industrial, retail and takeaway food and drinks premises.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>The site is located within an industrial setting with a varied mix of industrial, retail and takeaway food and drinks premises. The immediate neighbours to the north comprise of single-storey industrial premises for motorcycles and to the south a two storey building used as a business/office premises and a sex services premises.</p>

Map:



SITE HISTORY

The land has been used for industrial purposes for an extended period of time. The site was originally developed in 1963 for a factory.

A search of Council's records has revealed the following relevant history:

- DA2020/0097 for change of use (use of premises as an Artisan Food and Drinks premises) was refused on the 11 May 2020
- DA2009/0262 for fit out and use of the premises as a Dance Studio and associated signage was refused on the 1 June 2009
- DA1996/156 for a Car Repair Station and Oil Separator was approved on the 7 June 1996

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 industrial purposes for an extended period of time. The proposed

Section 4.15 Matters for Consideration'	Comments
	development retains the industrial 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)(iiiia) – 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>Clause 50(1A)</u> of the EP&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&A Regulation 2000 allow Council to request additional information. Additional information and minor amendments were requested in relation to car parking, ingress and egress, unloading/loading and BCA compliance.</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 clause is not relevant to this application.</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 has been 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> <p><u>Clause 143A</u> of the EP&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 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in	<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
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 not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/10/2020 to 13/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control 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 proposes a change of use from a Vehicle Repair Station, to a mixed-use development comprising two uses being a take-away food and drink premises and a Warehouse / Distribution Centre with the take-away food and drink use located at the front of the building, and the Warehouse / Distribution Centre situated at the rear portion of the building. A BCA report has been submitted with the application which provides a suitable assessment of the proposal. No objections subject to conditions to ensure compliance with the Building Code of Australia
Environmental Health (Industrial)	<p>General Comments</p> <p>Combined cafe and food warehouse with 15 person seating capacity.</p>

Internal Referral Body	Comments
	<p>Amenities (one customer and one staff WC) are sufficient according with building codes -less than 20 patrons. However, we recommend the applicant consider an additional WC to cater for a larger customer capacities.</p> <p>Overall, the proposal is acceptable.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Standard conditions apply for food business construction and operation.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Traffic Engineer	<p><u>Comments on amended plans:</u></p> <p>The amended proposal provided by the applicant (TRIM Reference No.2020/757389) includes reduced size of Take-Away Food And Drink Premises and deletion of the seating area. The revised number of staff for the Take-Away Food And Drink Premises and Warehouse components is the maximum of 6 staff.</p> <p>Given the reduced size of the proposed café and no provision of seating area, the provision of 3 parking spaces is considered justified for the staff attending the site.</p> <p>Reviewing the swept path analysis, the amended car parking area containing a service bay along the southern boundary in front of the warehouse rolling gate and 3 parking spaces facing the northern boundary is considered acceptable. The parking spaces are to be accordingly linemarked.</p> <p>In review of the above, the proposal can be supported on traffic grounds.</p> <p><u>Original Comments:</u></p> <p>Proposed development description</p> <p>The proposal is for change of use from a Vehicle Repair Station to a mixed-use development comprising two uses, Take-Away Food And Drink Premises and a Warehouse / Distribution Centre.</p> <p>The Take-Away Food And Drink Premises is proposed to operate with the total seating capacity of 15 and the predominate reliance on take-away food and beverages.</p> <p>The Application proposes the maximum of 8 staff at any one time including 4 full time and up to 2 casual staff for take away food and drink premises and 3 full time staff for the warehouse component.</p>

Internal Referral Body	Comments
	<p>In accordance with the DCP, the total parking requirements is 22 parking spaces. This includes the provision of 19 spaces for the proposed take away food and drink with 156.31m² GFA and 3 parking spaces for Warehouse use with 234.6m² GFA.</p> <p>The plans demonstrate the provision of the total of 7 parking spaces within the site. However, the proposed 4 tandem spaces located in front of the roller door will block the access to the warehouse for any loading and unloading activities. This area is considered to be an appropriate area for a loading bay. Also, parking space no.1 cannot be accessed due to the proposed location of the dedicated bin storage structure.</p> <p>Given the above, the proposal car parking area cannot be accommodative of 7 spaces which would be the minimum requirements for the staff parking. Also, the car parking area as proposed will not accommodate the service vehicles access forward in and forward out of the site. Therefore, the proposed site is not considered an appropriate site for the proposed multi-uses with respect to parking and servicing provision.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</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

A preliminary investigation of contamination of the land and site history has found the site to be suitable for the proposed use as a takeaway food and drink premises and warehouse or distribution centre. Additionally, no excavation or disturbance of soil is proposed.

Materials on site to be demolished include tiles, concrete, timber, plasterboard and metals. These materials will be recycled on site and are not expected to pose any risk of contamination.

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 industrial 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 industrial 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. Ausgrid responded with no objection to this development application, however the design submission must comply with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. This will be included as a condition of consent.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	4000sqm	no changes	N/A	N/A
Height of Buildings:	11m	no changes	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.3 Flood planning	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone IN1 General Industrial

Proposed Use	Permitted or Prohibited
takeaway food and drink premises	Permitted with consent
warehouse or distribution centre	Permitted with consent

The underlying objectives of the IN1 General Industrial zone

- *To provide a wide range of industrial and warehouse land uses.*

Comment:

The proposal comprises of a mixed use development to facilitate a wide variety of land uses within an industrial zone.

- *To encourage employment opportunities.*

Comment:

The proposed takeaway food and drink premises and warehouse or distribution centre will provide employment for 7 full time staff.

- *To minimise any adverse effect of industry on other land uses.*

Comment:

The proposed land uses are not intensive and are not expected to have any unreasonable amenity impacts on other land uses.

- *To support and protect industrial land for industrial uses.*

Comment:

The proposed uses are permissible within the general industrial zone and will support existing industrial uses by providing additional takeaway food and drink options.

- *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*

Comment:

The takeaway food and drinks premises will service the day to day needs of the workers within the surrounding area.

- *To enable a range of compatible community and leisure uses.*

Comment:

The proposal will contribute to a diverse mix of uses within the area and additionally will service the needs of the community by providing takeaway food and drink.

- *To maintain the industrial character of the land in landscaped settings.*

Comment:

Industrial character of the land is maintained. The proposal provides for a vertical green wall along the front western facade of the building to soften the existing built form.

6.3 Flood planning

The subject site is identified as being within the 1 in 100 year Flood Hazard Map. It has been assessed as compliant with Council's LEP and DCP requirements in regard to flooding.

Warringah Development Control Plan

Built Form Controls

The proposal will not alter the sites compliance with any built form controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C2 Traffic, Access and Safety

The proposal provides for safe ingress and egress to the site from the car parking spaces and the loading/unloading bay. All vehicles are able to enter and exit the site in a forward direction to ensure vehicular, pedestrian and cyclist safety on Mitchell Road. A Condition has been included as part of the development consent to ensure the Applicant provides an operational management plan to outline and detail day to day operations, including access and safety.

C3 Parking Facilities

Merit consideration

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 (+/-)
Take Away Food and Drink	Drive in take-away	4 car parking spaces	0	4

Premises	food outlet with no on site seating: 12 spaces per 100m ² GFA			
Warehouse or Distribution Centre	1.3 spaces per 100m ² of GFA (including up to 20% of floor area as office premises space component. Office premises component above 20% determined at office premises rate)	4.5 car parking spaces	3	1.5
Total		8.5	3	5.5

The proposed uses present a variation to the minimum required car parking spaces by 5.5 car parking spaces. Given the location of the site within an industrial area, the take away food and drink premises will mostly rely on foot traffic. It is expected that patronage on site will be staggered across the day and therefore the proposed car parking is considered acceptable in these circumstances. The site is also within close proximity to readily accessible public transport along Pittwater Road to service patrons and staff. The existing site conditions limits the provision of car parking spaces in line with the controls and given the proposed uses are not intensive it is considered the variation is acceptable on merit.

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

Comment:

The car parking facilities will have minimal visual impact on the street frontage or other public spaces.

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

Comment:

The parking facilities will not dominate the street frontage or other public spaces.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

E11 Flood Prone Land

The subject site is identified as being within the 1 in 100 year Flood Hazard Map. The proposal has been assessed as compliant with the Council's LEP and DCP requirements in regard to flooding. The proposed works are not expected to result in an increased risk to human life or damage to property or infrastructure beyond acceptable limits as a result of the existing site conditions and proposed land use.

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

S7.12 levies are not applicable to this application as they were subject to the original development application relating to the whole site.

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 DA2020/1309 for Use of premises as a take away food and drink premises and warehouse and distribution centre on land at Lot 32 DP 6033, 11 Mitchell Road, BROOKVALE, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
General 000 - Rev1	21/12/2020	Norrsken Ko.
Site Plans 100 - Rev1	21/12/2020	Norrsken Ko.
Existing/Demolition Plans 110 - Rev1	21/12/2020	Norrsken Ko.
Plans 120 - Rev1	21/12/2020	Norrsken Ko.
Elevations 200 - Rev1	21/12/2020	Norrsken Ko.
Sections 300 - Rev1	21/12/2020	Norrsken Ko.
Finishes Schedule 600 - Rev1	21/12/2020	Norrsken Ko.
Calculations Diagrams 710 - Rev1	21/12/2020	Norrsken Ko.
Waste Management, Erosion and Sediment Control Plan 800 - Rev1	21/12/2020	Norrsken Ko.

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Report	15/12/2020	Building Control Group

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

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By

Waste Management Plan	8/10/2020	Norrskén Ko.
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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.

2. 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.

3. **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 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 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

4. Security Bond

A bond (determined from cost of works) of \$1,000 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

5. Plans of Kitchen Design, construction and fit out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance 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', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

6. Plans of Mechanical ventilation

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate

compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation complies with the Australian Standard 1668.2.

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. 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.

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

9. Signage and Linemarking – Implementation

The car parking spaces are to be line marked and signposted in accordance with AS25890.1:2004. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

10. Operational Management Plan

An Operational Management Plan (OMP) is required to be prepared and submitted to Council detailing the operation of the development. The OMP shall include, but not be limited to the following:

- Vehicle access and egress.
- Through-site circulation of vehicle movements.
- Management of car parking areas.
- The location and content of directional signage.
- Complaints management.
- Noise management.
- Truck delivery times and methods of control to manage the sequencing of the loading docks.
- Waste management.

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

Reason: To ensure that the development operates with minimum disruption to the surrounding area.

11. Fire Safety Upgrade

The fire upgrading / Fire Engineering measures and works to upgrade the building, as detailed and recommended in the Building Code of Australia Assessment Report prepared by 'Building Control Group', dated 15th December 2020 - Ref No. 200395, are to be incorporated into the design of the proposed works and detailed in the Construction Certificate application.

Details demonstrating implementation/ compliance where required, are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

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

12. Change of Use

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979.

13. Registration of Food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

14. 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 demonstrating 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.

15. 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.

16. 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 Occupation Certificate (or where applicable, relating to the part of the building, being the subject of this Consent).

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.

17. Accessing the site in forward direction

All vehicles are to enter and exit the driveway in forward direction.

Reason: Compliance with Warringah DCP(DACTRFPOC1)

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

18. Vehicle Parking

The car parking area shown on the approved drawings must be used for vehicle parking only. Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site.

Reason: To ensure the safety and amenity of the general public using public streets.

19. Hours of Operation

The hours of operation are to be restricted to:

Take Away Food and Drink Premises

- Monday to Friday – 6:30 am - 6 pm
- Saturday – 6:30 am - 6 pm
- Sunday and Public Holidays – 6:30 am - 6 pm

Warehouse and/or Distribution Centre

- Monday to Friday – 10 am - 6 pm
- Saturday – 10 am - 6 pm
- Sunday and Public Holidays – 10 am - 6 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.

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

Signed



Clare Costanzo, Principal Planner

The application is determined on 29/12/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments