

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0338
Responsible Officer:	Julie Edwards
Land to be developed (Address):	Lot A DP 402556, 130 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Use of Premises as a Recreation Facility Indoor (Dance Studio)
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial Warringah LEP2011 - Land zoned RE1 Public Recreation
Development Permissible:	Yes - Zone IN1 General Industrial Yes - Zone RE1 Public Recreation
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Stewart Investments (NSW) Pty Ltd
Applicant:	Turnbull Planning International Pty Ltd
Application lodged:	08/04/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Industrial
Notified:	24/04/2019 to 08/05/2019
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

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

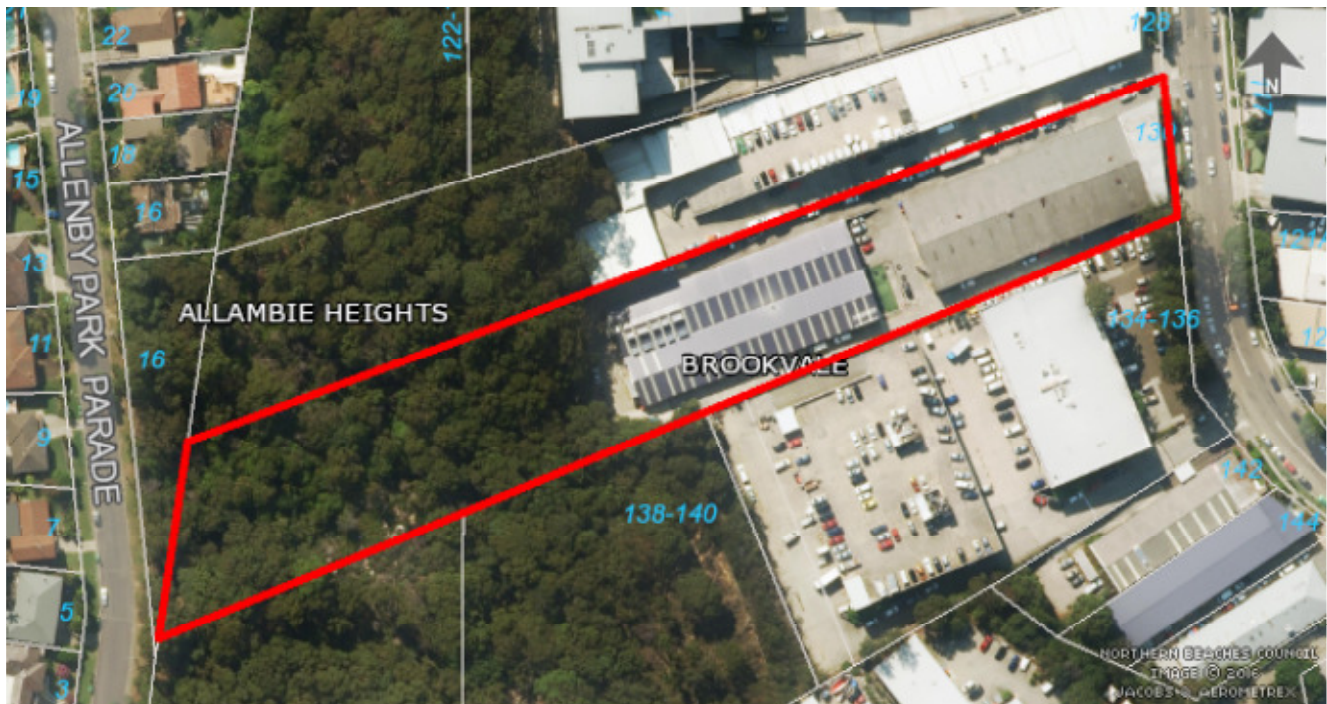
Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - E4 Wildlife Corridors

SITE DESCRIPTION

Property Description:	Lot A DP 402556 , 130 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one allotment located on the western side of Old Pittwater Road.</p> <p>The site is irregular in shape with a frontage of 39m along Old Pittwater Road. The site has a surveyed area of 1.35 hectares.</p> <p>The site is located within the RE1 Public Recreation and IN1 General Industrial zone and accommodates two (2) industrial / warehouse buildings. The proposal is located within unit 2, which is in the front building towards Old Pittwater Road.</p> <p>The substantial portion of the site to the rear contains remnant native vegetation. Vehicular access on the site is from two (2) driveways which form part of a vehicular access that surrounds the entire site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by similar industrial /warehouse buildings.</p>

Map:



SITE HISTORY

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

Application DA2012/0391

for Use of Unit 2 as a Recreation Facility (Indoor)

Determined - 20/06/2012

Unit 2 is adjacent to the proposal and is for a Dance Studio with a similar car parking arrangement to the proposal.

The site has been used for industrial uses for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is seeking approval for the use of Unit 2 as a Dance Studio (cheer leading). No fit out or works are proposed as part of the application.

Hours of operation:

Monday - Sunday - 10:00am - 9:00pm

Staff and Students:

Staff : Three (3) senior staff and four (4) junior assistant staff

Students: The maximum anticipated number of students attending a class (existing facility and proposed facility as a whole) at any one time is 30 (12 kids and 18 adults). This is subject to seasonal variation and impromptu requirements of students such as a dress rehearsal for a specific event.

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	None applicable.
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>Division 8A 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>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p>Clause 92 of the EP&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>Clauses 93 and/or 94 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>Clause 98 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 economic impacts in the locality	<p>(i) Environmental Impact 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) 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	The site is considered suitable for the proposed

Section 4.15 Matters for Consideration'	Comments
site for the development	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 that included a certificate (prepared by Australian Bushfire Consulting Services, dated 7 September 2018) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

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 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	<p>The application proposes a change of use only. However, whilst the occupation involves no physical works to the structure and is a use only application for a recreation facility (indoor) only, the proposal does involve the installation of 'Trocellen-Polyethylene Flexifoam Gym Floor', a different activity, and different occupant density from that which previously existed. Part D1.13 of the NCC must be considered by the Building Certification Team when assessing occupant density and not the applicants statements.</p> <p>The purpose of the National Construction Code (NCC) in respect of Fire Services and the Access and Egress provisions is to provide is to provide safe, equitable and dignified access to and within the building and safeguard occupants from illness and injury whilst evacuating in an emergency. Also to provide facilities for occupants and the Fire</p>

Internal Referral Body	Comments
	<p>Brigades to undertake Fire Fighting operations where required.</p> <p>The use change also involves a Change in Classification under the Part A of the NCC and requires review under clause 94 of the Environmental Planning and Assessment Regulation 2000. No NCC report was submitted with the application.</p> <p>The application has been assessed on this basis and no objections subject to conditions.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>The location of the proposed development is a considerable distance from residential receivers. No nuisance is expected. Toilet accommodation appears adequate.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>No objections to the proposal and no conditions recommended.</p>
Traffic Engineer	<p>The application is for the re-use of the existing site as a Dance/Recreational facility accommodating up to 7 staff, 12 students (youth) and 18 students (adult).</p> <p>Traffic: The site is not anticipated to produce volumes that will negatively impact the local road network as it operates mostly out of peak traffic periods. No objection is raised.</p> <p>Servicing: The commercial premises is serviced by a commercial contractor. No changes to these arrangements is anticipated.</p> <p>Parking: The site proposes 9 parking spaces. In accordance with Council's DCP, the site requires 15 spaces. With the allocations of patrons as above, it is anticipated that the a significant portion of attendees will arrive via car. The applicant has not demonstrated any attempt to promote public transport for either the staff or students.</p> <p>Planners Note: Parking for the proposed recreation facility (indoor) is to be provided at a rate of 4.5 car spaces per 100m² of gross floor area. Based on a gross floor area of 340m² within the existing unit to be occupied, this will require the provision of approximately 15 car spaces. A total of 9 car spaces are provided in the proposed development, which represents a deficiency of approximately 6 car space. The shortfall is unlikely to cause an adverse impact on the adjoining road network as the hours of operation for the proposed land use are within evening and weekend periods, which will not coincide with peak periods of the</p>

Internal Referral Body	Comments
	uses within other units on the site. A similar proposal with a shortfall in car parking was approved DA2012/0391 in the adjacent unit and there are similar examples of non-compliance with car parking requirements throughout the Brookvale Area for the proposed use as a Recreational Facility indoors. Furthermore, the proposal is within walking distance of Westfields Warringah Mall and the main Bus Stop on Pittwater Road. In this regard, there will be adequate parking on the site to cater for the proposed land use.

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.

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 19 - Bushland in Urban Areas

The provisions of the SEPP require that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent authority considering the aims and objectives of the SEPP.

In this regard, consideration is given as follows:

(1) The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:

- (a) its value to the community as part of the natural heritage,
- (b) its aesthetic value, and
- (c) its value as a recreational, educational and scientific resource.

(2) The specific aims of this policy are:

- (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and

animal communities to survive in the long term,

- (c) to protect rare and endangered flora and fauna species,
- (d) to protect habitats for native flora and fauna,
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,
- (f) to protect bushland as a natural stabiliser of the soil surface,
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
- (h) to protect significant geological features,
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
- (j) to protect archaeological relics,
- (k) to protect the recreational potential of bushland,
- (l) to protect the educational potential of bushland,
- (m) to maintain bushland in locations which are readily accessible to the community, and
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.”

Comment:

The proposal is for the use of unit 2 as a Dance Studio (recreational facility indoor). The proposal does not contain any works and will not disturb or encroach into the adjacent Bushland.

Based on the above, it is considered that the development would not result in consistency with the aims of the plan.

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 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/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 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

The proposal is for the use of unit 2 as a Dance Studio. There will be no change to the WLEP Development Standards.

Compliance Assessment

Clause	Compliance with Requirements
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

The proposal is for the use of unit 2 as a Dance Studio. There will be no change to the WDCP Built Form Controls.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of non-compliance

The proposed development provides a total of 9 parking spaces on the site. The WDCP requires a total of 15 parking spaces for the proposed use as an indoor recreation facility.

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	4.5 spaces per 100 m2 GFA.	15	9	- 6

Parking for the proposed recreation facility (indoor) is to be provided at a rate of 4.5 car spaces per 100m2 of gross floor area. Based on a gross floor area of 340m2 within the existing unit to be occupied, this will require the provision of approximately 15 car spaces. A total of 9 car spaces are provided in the proposed development, which represents a deficiency of approximately 6 car space. The shortfall is unlikely to cause an adverse impact on the adjoining road network as the hours of operation for the proposed land use are within evening and weekend periods, which will not coincide with peak periods of the uses within other units on the site. A similar proposal with a shortfall in car parking was approved in the adjacent unit and there are similar examples of non-compliance with car parking requirements throughout the Brookvale Area for the proposed use as a Recreational Facility indoors. In this regard, there will be adequate parking on the site to cater for the proposed land use. Furthermore, the proposal is within walking distance to Westfields Warringah Mall and the main Bus Stop on Pittwater Road. A condition of consent is recommended to ensure that car spaces provided as part of the proposal will be adequately line marked and signposted for the exclusive use of the dance studio, during its hours of operation.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The location of the car parking in the middle of the site will have minimal visual impact and will not be dominate as it will not be seen from the street frontage or other public space.

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.

E4 Wildlife Corridors

The proposal is for the use of an existing unit for a dance studio (recreational facility indoor). The proposal does not contain any works and will not disturb or encroach into the adjacent Wildlife Corridor.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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 Council Contributions Plan 2018

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

THAT Council as the consent authority grant Development Consent to DA2019/0338 for Use of Premises as a Recreation Facility Indoor (Dance Studio) on land at Lot A DP 402556, 130 Old Pittwater 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
Sheet: 2	20.08.2018	R.A. Carey
Sheet: 3	20.08.2018	R.A. Carey
Sheet: 4	20.08.2018	R.A. Carey

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bush fire Assessment Report Reference 18-216 R1	7th September 2018	Australian Bushfire Consulting Services

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.

2. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a recreation facility (indoor)

A recreation facility (indoor) is defined as:

“ a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation

(including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major)" (development is defined by the INSERT Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

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

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 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.

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

5. **Change of Use/ Fire Safety - Egress and Essential Services Upgrade**

In accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000 the subject tenancies existing 'Essential Fire Safety Measures, and Egress provisions are to be upgraded to achieve an adequate/compliant level of fire safety in accordance with the provisions of Parts D and E of Volume 1 of the National Construction Code.

Works are to be completed prior to use; And are to be certified upon completion as being capable of performing their intended function/s, (including correct Egress distances) by a suitably *Accredited Building Certifier/Surveyor** prior to any use or occupation of the premises/tenancy occurring, and prior to the issue of any interim or final occupation certificate.

**To be regarded as an "appropriately qualified accredited building certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a Construction Certificate for the subject building.*

Reason: To ensure adequate provision is made for Access, Fire safety and for building occupant safety

6. **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 to be appointed, and 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.

7. **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.

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

8. Noise

1. The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.
2. Sound amplification equipment or loud speakers must not be used for the announcement, broadcast, playing of music (including live music) or similar purposes where audible at any residential premises..

Reason: To ensure compliance with legislation and to protect public health and amenity.

9. Allocation of Spaces

A total of nine car parking spaces shall be provided, made accessible and maintained at all times.

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to the tenancy shall be line marked and numbered or signposted to indicate the tenancy to which it is allocated.

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)

10. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 10:00am - 9:00pm
- Saturday, Sunday and Public Holidays – 10:00am - 9:00pm

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.

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

Signed



Julie Edwards, Planner

The application is determined on 25/06/2019, under the delegated authority of:



Anna Williams, Manager Development Assessments