

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/2480
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 1 DP 5749, 2 Wattle Road BROOKVALE NSW 2100
<b>Proposed Development:</b>	Use of Premises (Unit 2) as a recreation facility (indoor)
<b>Zoning:</b>	Warringah LEP2011 - Land zoned IN1 General Industrial
<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>	Terry John Pinson Richie Lou Bridgett
<b>Applicant:</b>	Michael James Battaglia

<b>Application Lodged:</b>	20/12/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	29/12/2021 to 25/01/2022
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 0.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the Use of Premises (Unit 2) as a Recreation Facility (indoor). Specifically, the proposed use is for kick boxing, personal and group training.

The operational details proposed are as follows:

- Employment of two (2) staff members;
- Space to accommodate nine (9) persons.

The recreation facility (indoor) is proposed to operate between:

- Monday to Friday 6:00AM to 8:00PM;

- Saturday & Sunday 7:00AM to 11:00AM.

The proposed class timetable is as follows:

Monday to Friday:

- 6:00AM to 8:00AM - Group Fitness Class
- 8:00AM to 6:00PM - One On One Personal Training/Semi Private Personal Training
- 6:00PM to 8:00PM - Group Fitness Class

Saturday & Sunday:

- 7:00AM to 11:00AM - Group Fitness Class

**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 - D3 Noise

**SITE DESCRIPTION**

<b>Property Description:</b>	Lot 1 DP 5749 , 2 Wattle Road BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	The subject site consists of one (1) corner allotment located on the northern side of Wattle Road and western side of Harbord Road.

The site is regular in shape with a primary frontage of 18.29m along Wattle Road and a depth of 47.735m. The site has a surveyed area of 835.5m<sup>2</sup>.

The site is located within the IN1 General Industrial zone from WLEP 2011 and accommodates a two storey industrial building, brick offices & residence, and detached garage.

The site slopes from the southern primary frontage downwards to the northern boundary over approximately 6 metres.

The subject site contains minimal vegetation. There are not details of any threatened species on the subject site.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by industrial/commercial premises and residential dwellings.

Map:



#### **SITE HISTORY**

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for industrial purposes for an extended period of time.

#### **Application History**

Following the preliminary assessment of the application, Council requested that the applicant submit a Master Plan to demonstrate the layout of the recreation facility (indoor). Council's Traffic Engineer Officer requested additional information surrounding parking and traffic generation. The applicant provided a Master Plan and an amended Traffic and Parking Report. The additional information

constituted a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches Community Participation Plan (CPP).

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

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – 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&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 allow Council to request additional information. Additional information was requested in relation to Traffic and Parking and a Master Plan to demonstrate the layout of the recreation facility (indoor).</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 development). 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 insurance requirements under the Home</p>

Section 4.15 Matters for Consideration	Comments
	<p>Building Act 1989. 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 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>
<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>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## 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 29/12/2021 to 25/01/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Miss Tracey Maree Chaffer	1 Wattle Road NORTH MANLY NSW 2100

The following issues were raised in the submissions:

- **Parking**

The above issues are addressed as follows:

- **Parking**  
The submissions raised concerns that there is insufficient parking available.

Comment: Council's Traffic Engineer Officer has reviewed the application and is supportive of the proposal and the number of car parking spaces provided. This is further detailed under the Traffic Engineer comments under Internal Referrals and under Clause C3 of Warringah Development Control Plan 2011. In summary, the proposal provides sufficient car parking spaces and the submission raised does not warrant refusal of the application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>The development proposes a change of use at Unit 2/2 Wattle Street into a recreation facility including the use of weights, group classes, kick boxing and personal training. An assessment of the Acoustic Report prepared by Koikas Acoustics dated 24 November 2021 has identified a number of recommendations to control noise impacts from the facilities operations. Some (not all) of these recommendations rely on human behaviour and management which has shown not to be a reliable or consistent way of controlling noise impacts.</p> <p>Given that residential receivers are located approximately 30m (160 Harbord Road, North Manly) and 35m (1 Wattle Road, North Manly) from the proposal, Council is of the opinion that a 5:00am start time for the use of the recreation facility would be unreasonable.</p>

Internal Referral Body	Comments
	<p>Environmental Health have experience with similar recreation facilities (gymnasiums) where noise from weight dropping and music interferes negatively with nearby residential receivers despite management controls in place. In addition, no final floor plan has been provided identifying the location of where the weights/weight classes are to be conducted and what controls are to be implemented to minimise noise impacts .</p> <p>Council's Environmental Health team suggest a 7:00am start time for the use of the recreation facility 7 days a week. Music should not be played before 7:00am any day of the week.</p> <p>Conditions will be applied regarding the above including a condition on floor coverings and complaints handling.</p> <p><b>Recommendation</b></p> <p><b>SUPPORTED - SUBJECT TO CONDITIONS</b></p>
NECC (Development Engineering)	<p>No objections to the proposal on development engineering grounds . No conditions are required as the development is a change of use.</p>
Traffic Engineer	<p><b>Revised comments on amended plans - 9/3/22</b></p> <p>The amended plans and amended traffic report have been reviewed. It is noted that the number of clients on site at any one time has been reduced down from 17 to 9 with staff numbers remaining stable at 2. The floor area of the gym has also been reduced from 275.5 m2 down to 200 m2. This means that the parking requirement for the gym has now dropped from 13 to 9 spaces. The reduced patron numbers would however tend to result in a parking demand so the 9 required spaces would be more than is likely to be generated by 9 patrons and 2 staff.</p> <p>The amended proposal now provides 2 stacked parking spaces that are dimensioned in compliance with AS2890.1. This is an improvement on the original proposal which provided no details of the off-street parking provisions but would have relied upon parking which could not be fully accommodated on site and would require drivers to park illegally over the footpath. the proposed parking spaces will provide for one client space and another (the buried space) for the manager. The amended proposal results in a parking shortfall of 7 spaces as per DCP requirements which could be absorbed within surrounding un-utilised on-street parking. The likely use of public transport by some staff and clients plus the provision of bicycle and motorcycle parking on-site will also reduce the incidence of on-street carparking activity and on this basis the 2 parking spaces provided are considered adequate.</p> <p>Given the changes to the development it can now be supported from a traffic perspective subject to conditions.</p> <p><b>Original referral comments - 23/12/21</b></p>

Internal Referral Body	Comments
	<p>The proposal is for change of use of an existing warehouse to a gymnasium. The proposal has a gross floor area of 275.5 sqm and is proposed to employ a maximum of two staff and 17 patrons for each session.</p> <p>Parking:</p> <p>Under the Warringah DCP a gymnasium is required to supply parking at a rate of 4.5 spaces per 100sqm of GFA. This would equate to 12.4 spaces (rounded up to 13). The Traffic and parking Assessment report advises that the development will provide 4 off-street parking spaces with the remaining parking demands to be absorbed on-street. No Plans have been provided which identify the location or dimensions of the off-street parking. Plans shall be provided which indicate the location and size of all parking spaces which will be available for the exclusive use of the development.</p> <p>There is also concern with regard to the limited availability of parking on-street within close proximity to the development. The traffic and parking report advises that parking availability has been surveyed within 100m of the site and advises that there is ample parking availability however the parking surveys undertaken have surveyed spaces up to 400m away which gives an inflated view of the numbers of parking spaces available on-street within close proximity. The data never-the-less still reveals that parking availability is limited during the morning peak operational hours with parking occupancy rates over 80% between 6am and 9am. At these levels cars will be circulating the streets looking for vacant spaces and the parking shortfall of at least 9 spaces will not be easily absorbed and will exacerbate existing high on-street parking demand issues in the location. A reduction in numbers attending morning class sizes and/or negotiation of agreements to utilise parking in other nearby sites to minimise reliance on on-street parking is recommended to offset the parking shortfall.</p> <p>Traffic Generation</p> <p>The development has been estimated to generate up to 11 cars per hour during peak operation periods. This level of traffic able to be absorbed within the surrounding road network and is acceptable.</p> <p>Given the issues outlined above the need for additional information, the development application cannot be supported in its current form</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response on 23 January 2022 stating that the proposal is acceptable as there are no impacts to Ausgrid assets with the proposed change of use.



**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 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**

The proposal was referred to Ausgrid who provided a response on 23 January 2022 stating that the proposal is acceptable as there are no impacts to Ausgrid assets with the proposed change of use.

**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

There are no relevant principal development standards under Part 4 of the Warringah Local Environment Plan 2011 to consider as part of this assessment.

**Warringah Development Control Plan**

Built Form Controls

There are no relevant built form controls under the Warringah Development Control Plan 2011 to consider as part of this assessment.

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
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
D23 Signs	N/A	N/A
E10 Landslip Risk	Yes	Yes

### Detailed Assessment

#### **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 proposal results in a numerical non-compliance in relation to the proposed car spaces. Notwithstanding, Council's Traffic Engineer has reviewed the proposal and the provided Traffic and Parking Report and is supportive of the application. Further details are noted under Internal Referrals section within this report.

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Gymnasium	4.5 spaces per 100m <sup>2</sup> GFA.	9 spaces (200m <sup>2</sup> GFA)	2 spaces	7 spaces

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

##### Comment:

The proposed parking facilities are located within the subject site and can be enclosed by an existing roller door. Therefore, the proposed car parking spaces will result in minimal visual impact on the street frontage.

- ***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 are located within the subject site and enclosed by the existing roller door. Therefore, the parking facilities will not dominate the street frontage and not be visible when the roller door is closed.

### D3 Noise

An Acoustic Report prepared by Koikas Acoustics Pty Ltd dated 24 November 2021 has been provided with the proposal. The Acoustic Report has assessed the proposed development that seeks approval for the change of use of the premises to a recreational facility (indoor), primarily focusing on kickboxing, personal and group training. The Acoustic Report concludes that with the inclusion of the recommendations outlined in the report, "offensive noise" from the proposed gymnasium is minimised and unlikely to occur within the adjoining commercial premises or neighbouring residences.

The Acoustic Report has been reviewed by Council's Environmental Health (Industrial) Officer who is supportive of the application (subject to conditions) and are satisfied the development will not have an unreasonable impact to noise. Council's Environmental Health (Industrial) Officer has recommended a 7:00am start time for the use of the recreation facility 7 days a week and recommended that music should not be played before 7:00am any day of the week. Further details surrounding the comments provided by Council's Environmental Health (Industrial) Officer are detailed under Internal Referrals within this report.

In this instance the proposal is consistent with the objectives of the control and therefore the proposal is supportable subject to conditions imposed.

#### Merit consideration

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

- ***To encourage innovative design solutions to improve the urban environment.***

#### Comment:

The Acoustic Report recommendation and conditions imposed by Council's Environmental Health (Industrial) Officer include design solutions to improve the urban environment.

- ***To ensure that noise emission does not unreasonably diminish the amenity of the area or result in noise intrusion which would be unreasonable for occupants, users or visitors.***

#### Comment:

The recommendations provided in the Acoustic Report and conditions imposed will ensure the noise emissions do not unreasonably diminish the amenity of the area or result in unreasonable noise intrusion to occupants, users or visitors.

### 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 2021**

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 DA2021/2480 for Use of Premises (Unit 2) as a recreation facility (indoor) on land at Lot 1 DP 5749, 2 Wattle 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Indoor Recreational Space Layout - A 01, Rev 1	7 February 2022	DARC

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Acoustic Report	24 November 2021	Koikas Acoustics Pty Ltd
BCA Compliance Report	9 December 2021	Design Confidence
Traffic and Parking Report - Amended	14 February 2022	Transport and Traffic Planning Associates

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 recreational facility (indoor).

A recreation facility (indoor) is defined as:

“means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.”

(development is defined by the Warringah 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. **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)

#### 4. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost

of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

## 5. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

waste/recycling centres.

(j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

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

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

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



- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

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

### 6. **Building Code of Australia Requirements**

The BCA Design and Assessment Report prepared by Design Confidence dated 9/12/2021, Ref P221-488-1.1 (BCA) NH, indicates that there are a number of requirements that need to be attended as a result of the proposed change of building use and these matters will require the submission of a Construction Certificate.

It is recommended that you discuss these requirements for achieving compliance with your Registered Certifier (Building) who will be able to advise of what action may be required.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and Occupation of this portion of the building.

Reason: Statutory requirement to ensure adequate provision is made for fire safety and amenity for the occupants.

### 7. **Noise Control Measures - Floor Coverings**

All weight lifting zones and light exercise class zones within the recreation facility where the use of weights is expected to be used, are to be constructed with one layer of 15mm impact tile (A1 rubber), over one layer of 30mm Olympact (A1 Rubber).

Reason: To protect the noise amenity of the area.

### 8. **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.

### 9. **Waste Management Plan**

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

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

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

10. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

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

11. **Waste Management Confirmation**

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

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

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

12. **Sight Lines Within Carparks**

The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by landscaping or signage.

Reason: To maintain unobstructed sight distance for motorists.

13. **Maximum Number of Customers/Patrons**

That the number of (customers/patrons) on the site at any one time be limited to 9.

Reason: To ensure that all parking generated by the site is contained on the site.

14. **Noise Management**

The recreation facility including group classes, personal training, the use of weights and the playing of music must not occur before 7:00am seven days a week.

Reason: To protect the noise amenity of the area (DACHPBOC6)

15. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 7:00AM to 8:00PM
- Saturday and Sunday – 7:00AM to 11:00AM

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.

16. **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)

17. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 7:00PM and 6:00AM on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

18. **Complaints Handling**

A complaints handling plan is to development and implemented into the life of the business which clearly identifies how complaints relating to the operation of the recreation facility will be managed. The plan is to also include what action is to be taken, timeframes for action, contact person and staff training protocols.

Reason: To protect the noise amenity of the area (DACHPBOC5)

19. **Stacked Parking Spaces**

Stacked parking spaces are to be assigned so that the blocked space is a staff space and the other space available for customer /client parking.

Reason: To minimize conflicts regarding parking areas.

20. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, without prior consent from Council.

Reason: To ensure accessibility is maintained.

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 10/03/2022, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**