

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1396
<b>Responsible Officer:</b>	Kevin Short
<b>Land to be developed (Address):</b>	Lot B DP 369685, 16 William Street BROOKVALE NSW 2100
<b>Proposed Development:</b>	Use of premises as a recreation facility (indoor) and signage
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B5 Business Development
<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>	Wilkey Investments Pty Ltd
<b>Applicant:</b>	Rapid Plans Pty Ltd
<b>Application Lodged:</b>	06/12/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	20/12/2019 to 28/01/2020
<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

### PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought to change the use of an existing commercial building to a gymnasium (gym) and provision of one (1) wall mounted sign (Premium Lifestyle Club) on the street facing southern elevation.

A maximum of 30 persons are to use the gym at any one time. Membership for the gym is expected to be between 150 persons to 200 persons.

Seven spaces of the existing nine (9) space roof top carparking area will be allocated for use by the proposed gym. The other two (2) spaces will be retained for the existing office use.

Other works comprise minor demolition works within the ground floor level and an exterior sign.

Proposed hours of operation are as follows:

- Monday – Friday: 5am-8pm
- Saturday – Sunday: 7am-12:30pm

WLEP 2011 defines a gym as a recreation facility (indoor).

## 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 B DP 369685 , 16 William Street BROOKVALE NSW 2100
<b>Detailed Site Description:</b>	<p>The subject site is rectangular in shape, has an area of 560m<sup>2</sup> and is located on the northern side of the road. A two storey commercial building occupies the site. Vehicular access to the site is provided from William Street. Parking on site is located on the second storey of the existing building.</p> <p>The subject site is zoned B5 Business Development and is affected by flood. Adjoining development to the east and west comprises commercial style buildings. On the southern side of the road, the land is zoned R2 Low Density Residential and is characterised by a mixture of residential</p>

development within landscaped settings.

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 commercial purposes (i.e. provision of kitchens) for an extended period of time.

## 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><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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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. No additional information was requested in this case.</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 matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 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) <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 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>
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	See discussion on “Notification & Submissions Received”

Section 4.15 Matters for Consideration'	Comments
made in accordance with the EPA Act or EPA Regs	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.

## 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Rosa Mete	17 William Street NORTH MANLY NSW 2100

The following issues were raised in the submissions and each have been addressed below:

- Carparking on street
- Noise impacts from hours of operation, including use of gym and parking
- Brookvale is not a garden suburb

The matters raised within the submissions are addressed as follows:

- Carparking on street

Comment:

On-site parking comprises a total of nine (9) carparking spaces, including two (2) spaces allocated to the existing business office. The remaining parking spaces, being seven (7), are allocated for use by the gym.

However, as identified under cl. C3 Parking Facilities section of this report, a total of 11 spaces are required for the gym. Therefore, on-site gym parking is deficient by four (4) onsite parking spaces. It is expected that these cars would park on the street, similar to other adjoining businesses, commercial and light industrial premises as well as residential properties located on the other side of the street. As provided under the Referral section of this report, both Council's Traffic Officer and Planner conclude that vehicles parking on the street by gym users is not expected to generate adverse parking impacts, including noise (discussed below).

Based on the above, this concern raised in the submission is not concurred with.

- Noise impacts from hours of operation, including use of gym and parking

Comment:



Recommended conditions of consent have changed the commence time of hours of operation from Monday – Friday 5am to 6.30am. This recommendation was imposed by Council's Environmental Health (Industrial) Officer and Planner so that this commencement time was consistent with adjoining businesses and limited noise impacts from parking to times after 5am. Further, a general noise condition requiring the gym, including associated amplified music, must be controlled as not to generate "offensive noise" as defined in the Protection of the Environment Operations Act 1997 as well as compliance with the guidelines of the The Noise Policy for Industry NSW EPA 2017.

Subject to the above, noise impacts on nearby and surrounding residential properties will be acceptable and reasonable.

- Brookvale is not a garden suburb

Comment:

This is a general statement of no consequence to the assessment of this 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>Proposed number of customers is not stated in regard to parking and sanitary facilities.</p> <p>Proposed Hours of Operation Monday – Friday: 5am-8pm Saturday – Sunday: 7am-12:30pm</p> <p>The issue with this proposal is the 5am commencement of operations. This is out of step with the adjoining commercial and industrial developments with a 6:30am start i.e. concrete batching plant at number 18 William Street.</p> <p>The proposal is opposite residential premises being on the interface between commercial and residential use.</p> <p>Potential noise issues with music etc internally can be dealt with by way of closed windows etc however the parking of multiple vehicles on the property and surrounding Street at 5am in the morning may impact on residents who are sleeping.</p> <p>Environmental Health is satisfied with a 6.30am weekdays commencement, not 5 am due to the potential noise impact to</p>

Internal Referral Body	Comments
	<p>sleeping residential occupiers.</p> <p>And acoustic report has not been submitted however the issue is not one generally to be assessed for internal issues but more with the motor vehicles and participants arriving, closing car doors and boots (removing gear), as well as talking, both on the roof car parking area and especially the street.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p> <p><b>Planner Comments:</b>  Consistent with reasons given by Council's Environmental Investigations (Industrial) Officer, the proposed weekday commencement time of 5am cannot be supported. On this basis, and consistent with the weekday commencement time of adjoining and surrounding commercial, industrial and light industrial properties, it is recommended that the weekday commencement time start at 6.30am. Accordingly, a recommended condition of consent for the following hours of operation is provided for the gym:  Monday – Friday: 6.30am-8pm  Saturday – Sunday: 7am-12:30pm</p>
NECC (Development Engineering)	<p>The applicant proposed the change of use in the existing building. Also, some internal amendment on the existing ground floor. Development Engineering has no objection to the application. No engineering condition is required.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed works provide for a change of use from a factory to an indoor recreation facility gymnasium, with an internal wall to be removed.</p> <p>The Medium Flood Risk Precinct affects only a very small area, just inside the rear boundary. Approximately half of the site is affected by the Low Flood Risk Precinct.</p> <p>There are no flood related objections.</p>
Traffic Engineer	<p>The proposal is for change of use from a factory to a gym. There is an existing roof car parking containing 9 parking spaces. The proposal does not alter the access and parking area.</p> <p>Applying the Warringah DCP parking requirements (4.5 parking spaces per 100m<sup>2</sup>), the proposed gym will require 11 parking spaces and considering the existing business area on the first floor the total parking requirements will be of 13 spaces.</p> <p>There is a shortfall of 4 parking spaces in accordance with the DCP, however in accordance with the RMS Guide to Traffic Generating Developments, lower parking rate of 3 per 100m<sup>2</sup> can be applied for this premises due to its location in close proximity to frequent bus services (B-line), business area and Warringah Mall. Therefore, no concerns raised on the proposal on traffic grounds.</p>
Waste Officer	<p>This DA had no residential component, thus waste referral not</p>

Internal Referral Body	Comments
	required.
Waste Officer	

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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

#### SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
<b>1. Character of the area</b> Is the proposal compatible with the	Signage is compatible with immediate locality.	YES



existing or desired future character of the area or locality in which it is proposed to be located?		
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Signage is consistent with immediate locality.	YES
<b>2. Special areas</b> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Acceptable visual impact.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	No	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No	YES
Does the proposal respect the viewing rights of other advertisers?	No	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Appropriate scale.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Yes	YES
Does the proposal screen unsightliness?	No	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No	YES
<b>5. Site and building</b> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes	YES
Does the proposal respect important features of the site or building, or both?	Yes	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	YES
<b>6. Associated devices and logos with advertisements and advertising</b>	N/A	N/A

<b>structures</b> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?		
<b>7. Illumination</b> Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	N/A	N/A
Can the intensity of the illumination be adjusted, if necessary?	N/A	N/A
Is the illumination subject to a curfew?	N/A	N/A
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

## 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

#### Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
6.3 Flood planning	Yes

### Warringah Development Control Plan

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
D3 Noise	No	Yes
D10 Building Colours and Materials	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
D23 Signs	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 development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Gymnasium	4.5 spaces per	GFA:	9 spaces	- 4 spaces

Office (1st floor)	100m <sup>2</sup> GFA 1 space per 40m <sup>2</sup> GFA	232.2m <sup>2</sup> = 11 spaces required GFA: 76m <sup>2</sup> = 2 spaces Total required: 13 spaces		
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The gym proposal is deficient by four (4) onsite parking spaces. While not numerically compliant, the provision of the additional spaces is not considered to be feasible or required. The site's location in the local business district, including Westfield Warringah Mall means there are multiple options to access the site including public transport, active transport and private vehicle. The proposed use is not expected to significantly increase the demand for on-street parking.

Also, the above comments are consistent with Council's Traffic Engineer who provides that *"in accordance with the RMS Guide to Traffic Generating Developments, lower parking rate of 3 per 100m<sup>2</sup> can be applied for this premises due to its location in close proximity to frequent bus services (B-line), business area and Warringah Mall. Therefore, no concerns raised on the proposal on traffic grounds."*

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

Comment:

No change to the existing parking arrangement is proposed.

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

Comment:

No change to the existing parking arrangement is proposed.

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.

### D3 Noise

The subject site and adjoining properties on the eastern side of the road are zoned B5 Business Development under WLEP 2011. On the opposite and western side of the road, residential premises are present and zoned R2 Low Density Residential WLEP 2011.

As per comments contained within the Referral section - Council's Environmental Investigations (Industrial) Officer of this report, the proposed weekday commencement time of 5am cannot be supported for potential adverse noise impacts on nearby residential properties, namely from carparking related impacts.

On this basis, and consistent with the weekday commencement time of adjoining and surrounding commercial, industrial and light industrial properties, it is recommended that the weekday commencement time start at 6.30am. Accordingly, a recommended condition of consent for the following hours of operation is provided for the gym:

*Monday – Friday: 6.30am-8pm*

*Saturday – Sunday: 7am-12:30pm*

## **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 Section 7.12 Contributions Plan 2019**

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

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1396 for Use of premises as a recreation facility (indoor) and signage on land at Lot B DP 369685, 16 William Street, 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>
DA1001, DA1002, DA1003, DA2001, DA2002, DA2003, DA3000, DA4000 & DA4001	14/11/2019	Rapid Plans

##### 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. **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) 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 TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 4. **BCA Report**

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier\* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where required, provide access and facilities for persons with a disability, and
- iv) provide sanitary and other facilities and services appropriate for the use of the development

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

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifier with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

5. **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.

6. **Sydney Water "Tap In"**

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

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

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

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

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

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

7. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

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

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

8. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

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

9. **Existing Kitchen**

The existing Kitchen is not be used for food for sale as defined under Food Act 2003 without appropriate development consent.

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

10. **Occupant numbers**

A maximum of 30 persons shall use the gym at any one time.

Reason: To minimise impacts on adjoining residential properties.

11. **Allocation of Spaces**

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

7 spaces - Commercial

2 spaces - Office

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

12. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday – Friday: 6.30am-8.00pm
- Saturday – Sunday: 7.00am-12:30pm

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.

13. **Deliveries**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 9pm and 7am on any day.

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

14. **Noise General**

The use of the premise including any amplified music must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver and compliance with guidelines The Noise Policy for Industry NSW EPA, 2017.

Reason: To ensure that any noise generated does not cause a nuisance to neighbouring premises

15. **Commercial Waste Collection**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 9pm and 8am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACPLG24)

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

**Signed**



**Kevin Short, Planner**

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



**Rodney Piggott, Manager Development Assessments**