

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2116
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 103 DP 1247294, 145 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Use of premises as a recreation facility (indoor), alterations and additions and signage
Zoning:	Warringah LEP2011 - Land zoned B3 Commercial Core Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes - Zone B3 Commercial Core Yes - Zone IN1 General Industrial
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	AMP Warringah Mall Pty Ltd Scentre Management Ltd
Applicant:	Sean William Davis

Application Lodged:	11/11/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	22/11/2021 to 06/12/2021
Advertised:	Not Advertised
Submissions Received:	12
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,940,769.00
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PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the change of use from a existing child care centre to a recreation facility (indoor), demolition works and alterations and additions to the existing building pursuant to Warringah Local Environmental Plan 2011 (WLEP 2011).

Specifically, the development involves:

- Change of use of existing building from child care centre to a recreation facility (indoor);
- Alterations and additions to existing building; including

- Ground and upper floor extension for new internal access.
- Internal alterations and fit out.
- Signage;
- Demolition works.

The proposed recreation facility will comprise the following:

- 1 x 25m swimming pool
- 1 x 15m swimming pool
- 1 x wellness centre
- Reception and admiration area
- Café
- Amenity including toilets and changerooms.

The proposed operational details are as follows:

- Staff:
 - 3 - 13
- Hours of Operation:
 - Monday to Friday: 5:00am - 12:00am
 - Saturday: 5:00am - 10:00pm
 - Sunday: 6:00am - 10:00pm
- Parking:
 - Existing 53 parking space to the front of the proposed building; including the provision of 2 accessible spaces.

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.

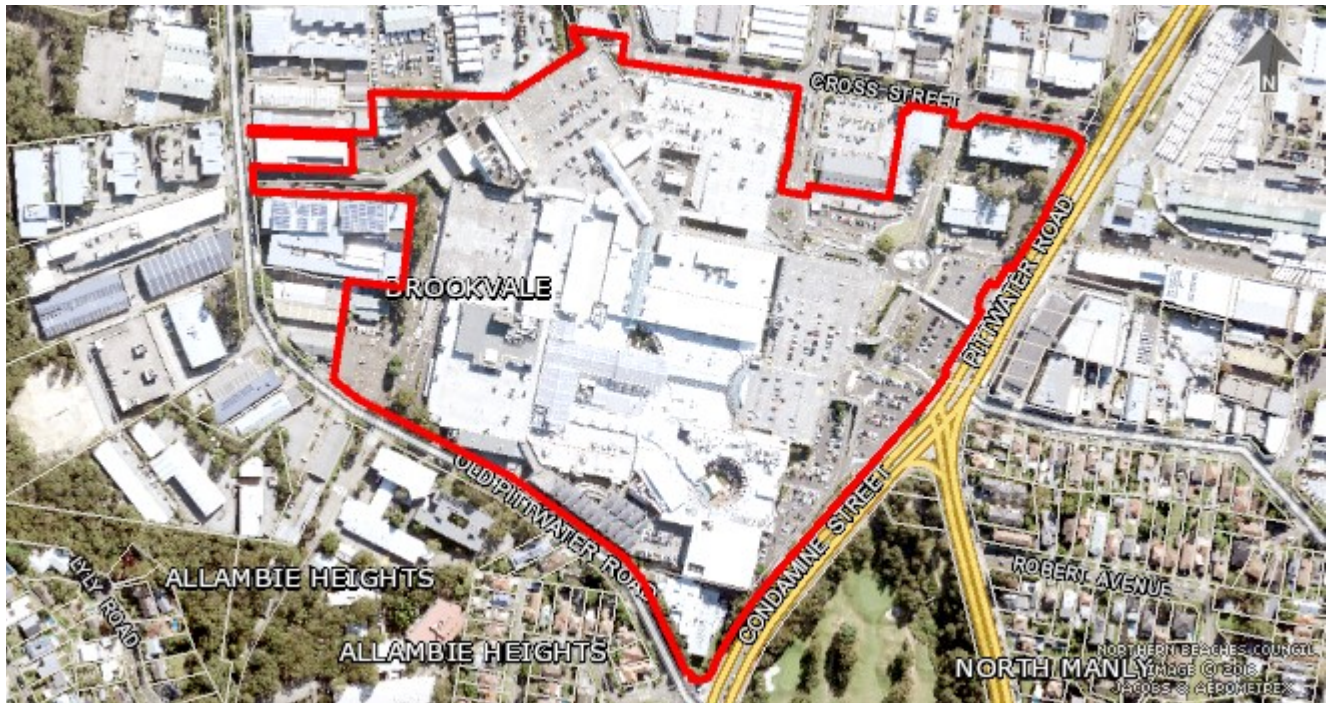
SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - D23 Signs
 Warringah Development Control Plan - G4 Warringah Mall

SITE DESCRIPTION

Property Description:	Lot 103 DP 1247294 , 145 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The site is described as Lot 100, DP 1015283, No. 145 Old Pittwater Road, Brookvale. The site is occupied by the Westfield Warringah Mall Shopping Centre which is commonly known as ‘Warringah Mall’.</p> <p>The site has an area of 170,600m². It is bounded to the north by Cross Street, to the south by Old Pittwater Road and to the East by Condamine Street / Pittwater Road. The principal street frontage is to Condamine/Pittwater Road and secondary street frontages are to Old Pittwater Road and Cross Street.</p> <p>Warringah Mall now has a total floor area of approximately 133,500m² with 4,652 car parking spaces and includes an entertainment precinct incorporating a Hoyts Cinema Complex as well as fitness facilities and some other non-retail facilities.</p> <p>The site is extensively built upon with bituminised and concrete hard surface areas located around the perimeter of the buildings to facilitate car parking and traffic flow.</p> <p>Topographically, the site has a gradual natural slope that falls from the north-west to the south-east of the site.</p> <p>Vehicular access to the site is currently available at various locations along Pittwater Road, Old Pittwater Road, Green Street, Dale Street and Cross Streets.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Surrounding land uses comprise a diverse mix of commercial, industrial, residential, recreational and education uses.</p>

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 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	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 commercial purposes for an extended period of time. The proposed development retains the commercial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	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

Section 4.15 Matters for Consideration	Comments
Regulation 2000 (EP&A Regulation 2000)	<p>consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in 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 site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration	Comments
with the EPA Act or EPA Regs	
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 22/11/2021 to 06/12/2021 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 12 submission/s from:

Name:	Address:
Mr Christopher David Smith	86 Soldiers Avenue FRESHWATER NSW 2096
Mr Mitchell James Falvey	26 Ethie Road BEACON HILL NSW 2100
Mr Samuel William Alexander White	106 Warriewood Road WARRIEWOOD NSW 2102
Kendrick Louis	1 / 1 Murray Road FRESHWATER NSW 2096
Bradley Joseph Higgs	2 / 105 Pitt Road NORTH CURL CURL NSW 2099
John De Mestre	35 Beatrice Street CLONTARF NSW 2093
Mrs Erin Alexandra Beattie-Masters	21 Wakehurst Parkway SEAFORTH NSW 2092
Mr Sigi Benjamin Hill	108 Anzac Avenue COLLAROY NSW 2097
Mrs Patrice Frances Clues	31 Ross Street NORTH CURL CURL NSW 2099
Mr Neil Edward Cooke	C/- BBF Planners 1/9 Narabang Way BELROSE NSW 2085
Mr Richard Edward Head	76 Brighton Street FRESHWATER NSW 2096
Mr Hugh Russell Willoughby Miss Lauren Patricia Willoughby	15 Fairport Street NORTH CURL CURL NSW 2099

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

- **Support of Development Application**

The matters raised within the submissions are addressed as follows:

- **Support of Development Application**

Comment:

A number of submissions were received in support of the development application noting the positive social impact. The letters of support have been noted.

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>General Comments</p> <p>The proposal for a wellness/hydrotherapy centre has been assessed against provisions of Protection of Environment Operations Act 1997, Noise Policy for Industry 2017, and Contaminated Land Management Act 1997.</p> <p><u>Noise</u> We concur with the acoustic report, that operations will comply with the relevant operational noise criteria, and do not trigger the need for specific controls or restrictions in the form of conditions.</p> <p><u>Lead paint</u> As stated in the demolition documentation, lead paint will need to be removed from external wall/s. Council is not the regulatory authority in this instance, the applicant or demolition crew may be required to notify or contact SafeWork NSW regarding lead paint removal works. Noting that the relevant guideline is AS4361.2: 2017 - Guide to Hazardous Paint Management.</p> <p><u>Register as per Public Health Act</u> See below the standard condition for public pools with regard to operations under the Public Health Act 2010.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>Swim academy includes a cafe, to be 'fit-out' to Australian Standards. Please see conditions below.</p>
Landscape Officer	<p>The development application is for the demolition of existing structures, alterations and additions to the existing building for the purpose of an Indoor Recreation Facility including a Swim School, Wellness Centre, Swimming Pools including associated Business Identification Signage.</p>

Internal Referral Body	Comments
	<p>A Landscape Plan is provided including planting to on slab planters and no concerns are raised subject to removal of nominated species as imposed by conditions.</p> <p>A Tree Permit (TA2021/0690) has been issued by Council's Tree Services business unit for removal of nearby trees.</p>
NECC (Development Engineering)	<p>The application proposed to relocate a private easement within the property.</p> <p>A condition is recommended in the suggested conditions.</p> <p>As such, Development Engineering has no objection to the application subject to the following condition of consent.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposal involves the change of use of the existing former child care centre and maintenance building to an indoor recreation facility for the purposes of a swim school and hydrotherapy pool as well as a wellness centre. Extension of the existing building is also proposed. Council's flood information, based on the Manly Lagoon Flood Study (2013) indicates that the subject site is identified as flood affected, with the vicinity of the building being partially affected by the 1% AEP flood event. However Warringah Mall has undertaken major stormwater augmentation works in the last few years that significantly reduce the flood exposure of the site.</p> <p>For the Pre-lodgement Meeting, the applicant provided flood modelling results prepared by Cardno for Scentre Group that demonstrate that the subject site is not flood affected in a 1% AEP event and so would not be subject to flood related development controls.</p>
Strategic and Place Planning	<p>The proposal is located within the north-western area of the Warringah Mall site and proposes demolition, alterations and additions to the existing building for an indoor recreation facility including a swim school, wellness centre, swimming pools and associated business identification signage. The proposal also includes an ancillary cafe area on the ground level associated with the swim school and wellness centre.</p> <p>There are no issues with loss of employment land and there is negligible impact with the strategic objectives of the draft Brookvale Structure Plan.</p> <p>The proposal is considered acceptable in terms of Council's Strategic Planning.</p>
Traffic Engineer	<p>The proposed development is for alterations and additions to an existing building to convert it from a childcare centre (which previously catered for 98 children) to an indoor swim centre and wellness centre. The development will comprise a 25m lap pool, a 15m pool for learn to swim, a wellness centre, reception and admin areas, a cafe for patrons and amenities/changerooms. The centre is proposed to operate seven days a week from 5am to midnight on weekdays, 5am to 10pm on Saturdays and 6am to 10pm on Sundays.</p>

Internal Referral Body	Comments
	<p>The 15m pool will cater for up to 6 children, the 25m pool will have a maximum capacity of 25 swimmers in classes or junior water polo, with a maximum of 2 staff on site at any time.</p> <p>The wellness centre will and cafe will cater for up to 10 customers and a maximum of 2 staff at any time.</p> <p><u>Traffic Generation:</u></p> <p>The RMS Guide to Traffic Generating development does not nominate a rate for indoor swim centres but suggests that comparisons should be drawn with similar sites and traffic generation estimated based upon the predicted 85th percentile usage of the centre. The traffic and parking impact report has however adopted a first principles approach based upon both the pools and teh wellness centre operating at capacity. Using such an approach, it has been estimated that the centre may generate up to 70 vehicle per hour during the am peak and 94 vph in the pm peak.</p> <p>The 98 place childcare centre which previously operated from the site would however have generated approximately 78 vph (based on RMS Guide to Traffic Generating Development rates for Childcare centres) and the proposed development would therefore yield a nett nett decrease in traffic in the am peak and a small increase (16vph) in the pm peak.</p> <p>This level of traffic will not have an appreciable impact on traffic conditions in the surrounding road network and is acceptable</p> <p><u>Parking:</u></p> <p>The Warringah DCOp does not nominate a parking rate for indoor swim centres and the applicants traffic consultant has estimated the parking requirements for the development based upon both the pools and wellness centre operating at capacity. Using this analysis and assuming all clients drive to the site the development has been estimated to generate a demand for 51 parking spaces. In practice some customers will use public transport or may undertake combined trips and do some shopping while their children attend swim classes.</p> <p>The developer does however propose to provide 53 parking spaces including 2 accessible spaces, which is considered adequate to support the use and exceeds the estimated parking demand generated by the development. Given that the site is located within Warringah Mall precinct, extensive parking (4500 spaces) is also available to support that retail use and many parents may utilise that parking if they do some shopping while their parents attend swim classes.</p> <p>the parking layout is acceptable and other than designating two spaces as disabled parking, the parking configuration is unchanged</p>

Internal Referral Body	Comments
	<p><u>Access:</u></p> <p>Access to the site will be obtained via the existing driveway to Old Pittwater Road and is acceptable</p> <p><u>Loading/Servicing:</u></p> <p>Servicing of the development will be undertaken from a service vehicle area at the south western corner of the building. This area can be accessed by a B99 vehicle. As some deliveries eg of pool chemicals will be undertaken by larger vehicles and are of a more hazardous nature, the centres plan of management details that such deliveries will be accommodated from a separate access point on the south western side of the building separated from customers and staff</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Roads and Maritime Services - (SEPP 64 signage cl 17(3)(c))	The application which was referred to Transport for NSW (TfNSW) for comment in accordance with clause 18 of the State Environmental Planning Policy No 64 - Advertising and Signage. TfNSW has reviewed the submitted application and raises no objection to the application as it is unlikely to have a significant impact onto the classified road network.

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
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is compatible with the existing and desired future character of this particular areas of Brookvale	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The overall design, colours and size of the signage is consistent with other outdoor advertising in the area.	YES
2. Special areas 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?	The subject site is not located within an environmentally sensitive area, heritage area or the like. The signage is to not be illuminated and therefore not considered to detract on the amenity or visual quality of the area.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage will not obscure or compromise views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The subject site only adjoins commercial properties and as such will not impede on the rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Given the context of this site and its overall frontage to Warringah Road, the proposed scale, proportion and form of the proposed signage is considered appropriate.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage is not overbearing and assists with wayfinding.	YES
Does the proposal reduce clutter by rationalising and simplifying existing	The signage will not create visual clutter and will improve the overall appearance of the store's	YES

advertising?	signage as a result of the modern design features.	
Does the proposal screen unsightliness?	There is no unsightliness to be screened.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signs are appropriate in height and scale, remaining comfortably below the maximum allowable height for the site.	YES
5. Site and building 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?	The proposed signs are to replace the existing site signs, and are considered compatible with the streetscape and surrounding development in regard to scale and proportion.	YES
Does the proposal respect important features of the site or building, or both?	The proposal is not considered likely to affect any important features within the site.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signs are a contemporary advancement to the existing site signage.	YES
6. Associated devices and logos with advertisements and advertising structures 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?	No safety devices or platform proposed	YES
7. Illumination 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?	No illumination proposed	YES
Can the intensity of the illumination be adjusted, if necessary?	N/A	YES
Is the illumination subject to a curfew?	N/A	YES
8. Safety 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.

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
2.7 Demolition requires consent	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D20 Safety and Security	Yes	Yes
D23 Signs	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	Yes	Yes
G4 Warringah Mall	Yes	Yes

Detailed Assessment

D23 Signs

Description of non-compliance and/or inconsistency

The application proposes five (5) non-illuminated pieces of signage consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.	3.890 x 1.945m	6.268m	7.56sqm	Yes
			1.18m	3.85sqm	Yes
		3.600m x 1.070m	4.195m	5.12sqm	Yes
		3.200m x 1.600m	6.19m	7.56sqm	Yes
		3.890m x 1.945m	1.24m	2.064sqm	Yes
		2.630m x 0.785m			

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment:

The proposed signage is well designed and suitably located to allow for property identification and the use for which it relates.

- *To achieve well designed and coordinated signage that uses high quality materials.*

Comment:

The sign appears to be of an appropriate design and construction to ensure it can be exposed to the elements for a prolonged period of time.

- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment:

As highlighted previously in this report, the signage is not seen to result in an adverse visual impact on the streetscape or the surrounding locality.

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment:

The proposed signage will not be illuminated and is not considered to adversely impact on the amenity of residential properties.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment:

The subject site is not a heritage item or located within any conservation areas.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

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.

G4 Warringah Mall

Part G4 of the WDCP 2011 applies to Lot 100, DP 1015283, 145 Old Pittwater Road, Brookvale which is commonly referred to as 'Warringah Mall Shopping Centre'.

Detailed Assessment

Building Setbacks

Part G4 “Warringah Mall” of the Warringah DCP 2011 contains controls relating to building setbacks and street frontages. The controls allow a nil (0m) setback. The proposed development at ground floor level proposes a nil setback and as such consistent with the numeric control. The proposed works include various finishes and materials to provide visual and streetscape interest and allows for appropriate landscape works to be undertaken both within the site and within the road reserve. The proposed setbacks will have a negligible impact on adjoining properties in respect to shadow impact, amenity or privacy and are appropriate to the scale of the development. Accordingly, the proposed setbacks are considered to be satisfactory when taking into consideration the scale and design of the building and are considered to be appropriate in this instance.

Building Height

Part G4 Warringah Mall of Warringah DCP 2011 contains controls relating to building height. The controls stipulate maximum building heights across the site by way of a building envelope plan. The building envelope plan shows a maximum of RL25 for development in the north-western side of the site. The proposed development proposes a maximum height of RL21.400, compliant with the numeric requirement.

Car parking

Part G4 Warringah Mall control sets out the following parking control relevant to the site:

- Car parking is to be provided at a rate of 4.1 spaces per 100m² GFLA.

The proposal is reliant upon the existing 53 outdoor car spaces (including 4 accessible spaces) to the front of the building. The traffic report lodged with the application (prepared by Varga Traffic Planning, dated 28 October 2021) states that the proposed development will result in a overall decrease in traffic generation then compared to the existing child care centre during the morning and a net increase during the PM peak hours. Council's traffic engineer has reviewed the application and is supportive of the proposed parking provisions.

Landscaping

No landscaping is required for this part of the site. However, to offset the visual bulk and scale of the proposed development plantar boxes are proposed to the front and side of the building.

Hours of Operation

The recommendation of this report includes a condition requiring the indoor recreation facility to open no earlier than 5:00am Monday to Saturday and no earlier than 6:00 am Saturday and Sunday. It is considered that given the surrounding commercial developments, proximity to a public carpark and that the site is adjacent to a relatively busy road, the hours conditioned are appropriate for the site. The additional operation of the swimming pool to midnight will not present any unreasonable or detrimental acoustic impacts to surrounding sites given the general surrounding noise and that zero submissions or queries arose from the public consequent of the notification period of this application.

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

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$19,408 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,940,769.

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 DA2021/2116 for Use of premises as a recreation facility (indoor), alterations and additions and signage on land at Lot 103 DP 1247294, 145 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
DA-A-050/ Revision H	6 October 2021	Quattro Architecture
DA-A-100/ Revision H	6 October 2021	Quattro Architecture
DA-A-101/ Revision H	6 October 2021	Quattro Architecture
DA-A-102/ Revision H	6 October 2021	Quattro Architecture
DA-A-150/ Revision H	6 October 2021	Quattro Architecture
DA-A-151/ Revision H	6 October 2021	Quattro Architecture
DA-A-153/ Revision C	6 October 2021	Quattro Architecture
DA-A-200/ Revision H	6 October 2021	Quattro Architecture
DA-A-250/ Revision H	6 October 2021	Quattro Architecture
DA-A-800/ Revision D	6 October 2021	Quattro Architecture
DA-A-801/ Revision D	6 October 2021	Quattro Architecture
DA-A-850/ Revision H	6 October 2021	Quattro Architecture

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
WRM aqua Swim Academy Defit Scope	9 September	Scentre Group
Traffic and Parking Assessment Report	28 October 2021	Varga Traffic Planning
Preliminary Geotechnical Investigation	23 September 2021	JK Geotechnics
Access Report	14 October 2021	Accessed
Operational Plan of Management	October 2021	Milestone
BCA Review	13 October 2021	McCarthy Consulting Group

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01	7 October 2021	Space Landscape Designs

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By

Waste Management Plan	28 October 2021	Sean Davis
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In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Response Ausgrid Referral	N/A

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **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:

“***recreation facility (indoor)*** 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.

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.

6. **Swimming Pool Registration**

The occupier of a Public Swimming Pool must notify the Council prior to commencement of trading.

The Swimming pool must be disinfected as prescribed by the Public Health Regulation 2012 and appropriate records maintained.

Reason: To ensure compliance with the Public Health Regulation 2012.

FEES / CHARGES / CONTRIBUTIONS

7. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$19,407.69 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$1,940,769.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

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

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

9. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's WATER MANAGEMENT FOR DEVELOPMENT POLICY.

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development.

10. **Stormwater Drainage Easement**

A private drainage easement within the subjected land shall be relocated in accordance with the drainage plan submitted by Mitchell Howes Civil & Structural Engineer. The easement is to be relocated and re-created under Sections 88B of the Conveyancing Act 1919. The applicant must provide Certifying Authority with evidence of the created easement on title prior to issue any construction certification.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties.

11. **Car Parking Standards**

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Certifying Authority prior to the issue of a construction certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

12. **Construction Traffic Management Plan**

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted during the major commuter peak times being 8.00-9.30am and 4.30-6.00pm. Truck movements must be agreed with Council's Traffic and Development Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase

- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent
- Proposed protection for Council and adjoining properties
- The location and operation of any on site crane

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

13. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL's and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

14. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

15. **Building Code of Australia Report (Class 2-9)**

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Registered 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 by the proposed development 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 appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*To be regarded as an "appropriately qualified registered 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 Certifying Authority 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.

16. **Plans of Kitchen Design, construction and fit out**

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

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

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

17. **Plans of Mechanical ventilation**

Where Mechanical ventilation is required to be installed in the food premises detailed plans that demonstrate compliance with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

Any external exhaust discharge must also be above the roof line and discharged in a manner that is not likely to cause an amenity impact.

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

18. **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.

19. **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 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.

20. Access Report Certification

A suitably qualified access consultant is to provide confirmation that the plans forming part of the construction certificate application are consistent with the recommendations of the Approved Access Report referenced in Condition 2 of this consent.

Written certification is to be provided to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure the development is appropriately accessible.

21. Geotechnical Report Certification - Prior to Construction

The Geotechnical Engineer is to provide confirmation that the detail forming part of the construction certificate application is consistent with the recommendations of the Approved Geotechnical Report referenced in Condition 1 of this consent, including any additional measures arising from the subsurface investigations.

Written certification is to be provided to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure the development is undertaken safely and to minimise risks.

22. Traffic Report Certification

A suitably qualified traffic engineer is to provide confirmation that the plans forming part of the construction certificate application are consistent with the recommendations of the Approved Access Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Certifying Authority prior to the issue of the construction certificate.

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

23. BCA Certification

The recommendations made in the Building Code of Australia Assessment Report prepared by McCarthy Consulting Group, dated 13 October 2021 are to be carried out in full to the building.

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

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

24. **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 and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

26. **Implementation of Construction Traffic Management Plan**

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

27. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To demonstrate the proposal complies with the approved plans.

28. **Geotechnical Requirements During Construction**

The development is to be undertaken in accordance with the recommendations of the Approved Geotechnical Report referenced in Condition 1 of this consent.

Reason: To minimise risk and nuisance to neighbours.

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

29. **Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive

of the following conditions:

i) the nominated Rhipiolepis species shall not be planted and shall be replaced with a non self-seeding species of similar form and size.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

30. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. 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 appropriate provision for the disposal of stormwater arising from the development.

31. **Allocated Parking Spaces (retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

32. **Disabled Parking Spaces**

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

33. **Shared Zone Bollard**

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

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

Reason: To ensure compliance with Australian Standards.

34. **Access Report Certification - Prior to Occupation**

A suitably qualified consultant is to provide confirmation that the as-built development is consistent with the recommendations of the Approved Access Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the development is consistent with the relevant provisions of the acoustic

report.

35. **Geotechnical Report Certification - Prior to Occupation**

A suitably qualified Geotechnical Engineer to provide confirmation that the as-built development was constructed in accordance with the recommendations of the Approved Geotechnical Report referenced in Condition 1 of this consent, as amended in accordance with the Detailed Investigation required by this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure the development has been constructed safely and in accordance with relevant requirements.

36. **BCA Report Certification - Prior to Occupation**

A suitably qualified consultant is to provide confirmation that the as-built development is consistent with the recommendations of the Approved BCA Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure compliance with the terms of this consent

37. **Kitchen Design, Construction and Fit-out of Food Premises Certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided to the Principal Certifying Authority by a suitably qualified person demonstrating that that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

38. **Mechanical Ventilation certification**

Where Mechanical ventilation is required to be installed in the food premises it must comply with Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings" prior to any Occupation Certificate (OC) being issued.

Certification is to be provided to the Principal Certifying Authority by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2.

39. **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 the NSW Fire Brigade.

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 the NSW Fire Brigade 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.

40. **Traffic Report Certification - Prior to Occupation**

A suitably qualified consultant is to provide confirmation that the as-built development is consistent with the recommendations of the Approved Traffic Report referenced in Condition 1 of this consent.

Written certification is to be provided to the Principal Certifying Authority prior to the issue of the occupation certificate.

Reason: To ensure compliance with the terms of this consent

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

41. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

42. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

43. **Staff**

The maximum number of children shall not exceed thirteen (13) at any time.

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

44. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 5:00am - 12:00am

- Saturday – 5:00am - 10:00pm
- Sunday and Public Holidays – 6:00am - 10:00pm

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.

45. **Compliance with the Operational Plan of Management**

The premises are to be managed/maintained in accordance with the requirements of the Operational Plan of Management referenced in Condition 1 of this consent.

Reason: To ensure the premises are maintained in an appropriate manner in perpetuity.

46. **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.

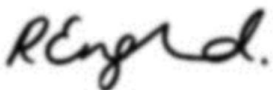
In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Maxwell Duncan, Planner

The application is determined on 31/01/2022, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager