

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2015/1116
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<b>Responsible Officer:</b>	Renee Ezzy
<b>Land to be developed (Address):</b>	Lot 2 DP 233083, 51 Arthur Street FORESTVILLE NSW 2087
<b>Proposed Development:</b>	Fitout and use of premises as a take away food and drink premises
<b>Zoning:</b>	LEP - Land zoned B1 Neighbourhood Centre
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Warringah Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Daniel Lee
<b>Applicant:</b>	Manuel Aladjajian

<b>Application lodged:</b>	12/11/2015
<b>Application Type:</b>	Local
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	24/11/2015 to 09/12/2015
<b>Advertised:</b>	Not Advertised, in accordance with A.7 of WDCP
<b>Submissions:</b>	0
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 80,000
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### 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 all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

### SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C3 Parking Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 233083 , 51 Arthur Street FORESTVILLE NSW 2087
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Arthur Street. The site is a corner site, and is irregular in shape with a frontage of 27.89m along the primary frontage of Arthur Street and 19.31m along the secondary frontage of Duke Street. The site has an area of 581.7m<sup>2</sup>.</p> <p>The site is located within the B1 Neighborhood Center zone and accommodates a single storey commercial building containing 6 tenancies. Access to the site is from Duke Street via a concrete driveway which provides for parking and loading and unloading of goods. There are 8 Council car parks along the site frontage of Arthur Street.</p> <p>Surrounding development consists of low density residential development ranging from one - two storey dwellings. The site is relatively flat with no topographical constraints. The site contains no onsite vegetation.</p>

Map:



## SITE HISTORY

Development Application No. DA2013/1278 for use of premises as a medical centre (physiotherapy clinic ) and associated signage was approved by Council on 18/12/2013.

Development Application No. DA1999/1578 for the fit out and use of the existing shop as Restaurant

was approved by Council on 25/05/1999.

Development Application No. DA2015/0255 for the strata subdivision of the existing shops at No. 51 Arthur Street, Forestville to create six (6) strata titles with shared access from Duke Street and inclusion of an ablution block at the rear of the site as common property was approved by Council on 5 June 2015.

Development Application No. DA2015/1116 for change of use and fit out of the premises as a take away food and drink premises (Pizzeria) was lodged with Council on 12 November 2015. This application is the subject of this assessment.

## PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for a change of use to a 'food and drink premises' as a takeaway woodfired pizza shop and associated fitout. The use will occupy an area of approximately 33m<sup>2</sup>. The proposal will have two (2) employees. Proposed hours of operation are 10am to 9.30pm Monday to Friday and 5pm to 9.30pm on Saturday and Sunday. Internal fitout works include installation of a kitchen with associated fridges, counter service area and wood fired oven with flue and separate exhaust fan.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

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

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p>

Section 79C 'Matters for Consideration'	Comments
	<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 79C (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) 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) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) 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 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (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 Warringah Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections to proposal subject to conditions.
Development Engineers	The development is proposing internal fit out. No Development Engineering objection is raised to the proposed development.
Health and Protection (Food Premises)	<p>I have reviewed this application for a take away pizza shop at 51 Arthur Street, Forestville. I have no objections to this development subject to a number of environment health conditions such as fit out to Australian Standard (AS) 4674, grease trap installation (if required by Sydney Water) and the mechanical ventilation is compliant under AS1668.</p> <p>I recommend that a referral is also sent to the Environment Investigation team as there may be noise and/or smoke pollution concerns as this development is in close proximity to residential properties.</p> <p>Comment: No referral to Environmental Investigations required as conditions will be imposed regarding noise and smoke/pollution.</p>
Traffic Engineer	No objection is raised on the proposal on traffic grounds subject to the Development Assessment Officer to consider the parking requirements.

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 continued commercial land use.

### **SEPP 64 - Advertising and Signage**

The proposed signage includes new fascia signs to the three sides of the existing building awning. While the proposed signage would meet the criteria as exempt development, an assessment under the provisions of SEPP 64 has been done to demonstrate consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and 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:

<b>Matters for Consideration</b>	<b>Comment</b>	<b>Complies</b>
<b>1. Character of the area</b> 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 proposal is for a change of use to a food shop in an existing Neighbourhood Centre and is considered compatible.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage will replace existing signage in the same location and the same size and is considered consistent.	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?	The proposed signage will not detract from the amenity or visual quality of the locale.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposed signage does not obscure any important views.	YES

Does the proposal dominate the skyline and reduce the quality of vistas?	The signage is located on the existing awning structure and is not considered dominant.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal respects the viewing rights of other advertisers.	YES
<b>4. Streetscape, setting or landscape</b> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale of the signage is consistent with the existing building and advertising.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage will provide business identification for the building.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The new signage will replace the existing signage and is considered acceptable.	YES
Does the proposal screen unsightliness?	The signage will be on the building awning and does not form any screening.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage will be flat against the building awning.	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?	The proposed signage is considered compatible with the scale of the building.	YES
Does the proposal respect important features of the site or building, or both?	The signage does not adversely impact the site or the building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is provided in an expected and appropriate location.	YES
<b>6. Associated devices and logos with advertisements and advertising 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?	There are no safety devices or platforms included as part of the structure.	YES
<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?	The signage is not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	N/A	YES
Is the illumination subject to a curfew?	N/A	YES
<b>8. Safety</b>	The signage is on the building awning and	YES

Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	therefore will not reduce safety for the road users or pedestrians.	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal will not obscure sight lines.	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 Environment Plan 2011**

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

#### Principal Development Standards

The Principal Development Standards are not applicable in this application as the proposal is for a change of use and internal fitout.

#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes



Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes

## Warringah Development Control Plan

### Built Form Controls

The Built Form Controls are not applicable in this application as the proposal is for a change of use and internal fitout.

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Other land in B1 zone	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D23 Signs	Yes	Yes
E10 Landslip Risk	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

### Detailed Assessment

## C3 Parking Facilities

### Merit consideration

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

- *To provide adequate off street carparking.*

#### Comment:

The site does not currently provide any off street car parking. The premises are part of an existing neighbourhood centre which historically rely on the eight (8) Council car park spaces immediately adjacent to the site on Arthur Street and secondary on-street parking available in Duke Street. These spaces are considered to sufficiently cater for car parking demand. In addition this this, the vehicle access at the rear of the site which is part of the common property will be available to be used for loading and unloading of goods. The development

provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Take away food and drink premises	12 spaces/100m <sup>2</sup>	4 spaces (33m <sup>2</sup> )	Nil on site	-4
<b>Total</b>				

While the proposed development does not meet the number of spaces specified by Appendix 1 Car Parking Requirements, the continued application of the existing arrangement for carparking with this neighbourhood centre is considered acceptable under the circumstances.

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

Comment:

No new parking facilities are proposed with this development.

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

Comment:

No new parking facilities are proposed with this development.

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 section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## D18 Accessibility

Section 11 of the Disability Discrimination Act 1992 states:

*(1) For the purposes of this Act, in determining whether a hardship that would be imposed on a person (the **first person**) would be an **unjustifiable hardship**, all relevant circumstances of the particular case must be taken into account, including the following:*

- (a) the nature of the benefit or detriment likely to accrue to, or to be suffered by, any person concerned;*
- (b) the effect of the disability of any person concerned;*
- (c) the financial circumstances, and the estimated amount of expenditure required to be made, by the first person;*
- (d) the availability of financial and other assistance to the first person;*
- (e) any relevant action plans given to the Commission under section 64.*

The total works proposed by this application have a financial value of approximately \$80 000 which essentially covers the cost of the fitout of the premises. The space has a very limited area measuring 33sqm making it impractical to retrofit a disabled access ramp.

The applicant has contacted an access consultant who have suggested the use of a 'Deemed to Satisfy

Solution' (DtS). As the size of the premises restricts the potential for a physical change to the premises, the proposal suggests the use of call button or door bell at the entrance for use by disabled persons to alert staff inside and enable them to take their orders and deliver the order to the entrance of the premises.

Subject to this DtS solution being certified, the proposal is considered acceptable in terms of AS1428.1 and Clause D18 of WDCP.

### **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**

#### **Warringah Section 94A Development Contribution Plan**

S94A levies are not applicable to this application as they were subject to the original development application relating to the whole site.

### **CONCLUSION**

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2015/1116 for Fitout and use of premises as a take away food and drink premises on land at Lot 2 DP 233083, 51 Arthur Street, FORESTVILLE, 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>
DA00 - Site Plan	26.10.15	Viva Drafting and Design
DA02 - Proposed Layout	26.10.15	Viva Drafting and Design
DA06 - Elevations	26.10.15	Viva Drafting and Design

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

c) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

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

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. (DACPLB01)

#### 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 (DACPLB09)

### 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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

(f) Where works are to be carried out to a Class 1a building, smoke alarms are to be installed throughout all new and existing portions of that Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

(g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

(h) No building, demolition, excavation or material of any nature 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) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) 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.

(l) 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.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred 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.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of

residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Councils Fees and Charges paid as security 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, 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.warringah.nsw.gov.au/your-council/forms](http://www.warringah.nsw.gov.au/your-council/forms)).

Reason: To ensure adequate protection of Councils infrastructure.

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

### 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. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 - 2009\* Design for access and mobility - General requirements for access - New building work\*\*
- (m) AS 1428.2 - 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*
- (n) AS 4674 Design, construction and fit out of food premises

(o) AS1668 The use of mechanical ventilation

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website

[http://www.humanrights.gov.au/disability\\_rights/buildings/good.htm](http://www.humanrights.gov.au/disability_rights/buildings/good.htm)

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

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

**6. Installation of grease traps**

Any grease traps (if required by Sydney Water) must not be located in any kitchen, food preparation, food storage or wet areas. The grease trap must have a piped connection to the boundary so that it can be emptied.

Note: Sydney water Authority also have requirements for grease arrestors that you need to comply with.

Reason: To prevent water pollution. (DACHPFPOC2)

**7. Kitchen Design, construction and fit out of food premises certification**

The design, construction, fit-out and finishes of the commercial food premises kitchens or any food preparation, food handling, food storage and wet areas must comply with standard 3.2.3 of the Australian and New Zealand Food Standards Code under the Food Act 2003 and Australian Standard AS 4674 - Design Construction and fit-out of Food Premises. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements. (DACHPFPOC3)

**8. Mechanical Ventilation certification**

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation.

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

Reason: To ensure that the mechanical ventilation system complies with the design requirements. (DACHPFPOC4)

**9. Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

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

10. **Hours of Operation**

The hours of operation are to be restricted to:

Monday	10am to 9.30pm
Tuesday	10am to 9.30pm
Wednesday	10am to 9.30pm
Thursday	10am to 9.30pm
Friday	10am to 9.30pm
Saturday	5pm to 9.30pm
Sunday	5pm to 9.30pm (inclusive).

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. (DACPLG08)

11. **No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

12. **Signs/Goods in the Public Way**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape. (DACPLG15)

13. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties. (DACPLG18)

14. **Delivery Hours**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

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

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

**Signed**



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**Renee Ezzy, Planner**

The application is determined under the delegated authority of:

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**Rodney Piggott, Development Assessment Manager**
















**ATTACHMENT A**

No notification plan recorded.

**ATTACHMENT B**

No notification map.

**ATTACHMENT C**

<b>Reference Number</b>	<b>Document</b>	<b>Date</b>
 2015/341655	Report Statement of Environmental Effects	12/11/2015
 DA2015/1116	51 Arthur Street FORESTVILLE NSW 2087 - Development Application - Change of Use	12/11/2015
 2015/337204	DA Acknowledgement Letter - Manuel Aladjadjian	12/11/2015
 2015/341659	Plans - Architectural	17/11/2015
 2015/341645	Development Application Form	17/11/2015
 2015/341648	Applicant Details	17/11/2015
 2015/341649	Builders Quotation	17/11/2015
 2015/341652	Plans - Notification	17/11/2015
 2015/343423	Health and Protection (Food Premises) - Assessment Referral - DA2015/1116 - 51 Arthur Street FORESTVILLE NSW 2087	18/11/2015
 2015/345023	Building Assessment Referral Response	19/11/2015
 2015/346712	File Cover	23/11/2015
 2015/346725	Referral to AUSGRID - SEPP - Infrastructure 2007	23/11/2015
 2015/349632	Traffic Engineer Referral Response	24/11/2015
 2015/355566	Environmental Health and Protection Referral Response - commercial use	30/11/2015
 2015/355736	Development Engineering Referral Response	01/12/2015