

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0761
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<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 10 DP 1233834, 22 - 26 Roseberry Street BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Use of premises as a Recreation Facility (gym)
<b>Zoning:</b>	Manly LEP2013 - Land zoned B6 Enterprise Corridor
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Aldi Foods Pty Ltd
<b>Applicant:</b>	NSW Planners Pty Ltd

<b>Application Lodged:</b>	18/07/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	05/08/2019 to 19/08/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 12,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the use of premises as a recreation facility (indoor). In particular the application includes:

- Use of the ground floor for a gym (recreation facility - indoor);
- The proposed hours of operation are: Monday - Friday 5am to 8pm and Saturday - Sunday 6am to 2pm;
- Classes to run for 45 minutes, with a 15 minute gap between; and
- Classes to have a maximum of 27 patrons, in addition to a maximum of 2 staff;
- Internal fit-out works involve the construction of 2 sanitary facilities/change rooms;
- External works are limited to the installation illuminated signage above the shopfront entry, on the existing business identification sign and on northern elevation of the existing building.

## 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

Manly Development Control Plan - 4.3.4 Access, Loading and Parking  
Manly Development Control Plan - 4.4.3 Signage

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 10 DP 1233834 , 22 - 26 Roseberry Street BALGOWLAH NSW 2093
<b>Detailed Site Description:</b>	<p>The subject property is commonly known as 22-26 Roseberry Street, Balgowlah and legally known as Lot 1 DP 80929 and Lots 9 and 10 DP 975160. The site is located on the eastern side of Roseberry Street. The property is rectangular in shape and has a frontage of 31.6m to Roseberry Street, an average depth of 55m and an overall site area of 3,547.1m<sup>2</sup>. The property currently contains three two-storey commercial developments. The property is relatively level.</p> <p>The adjacent property to the north, at 28-34 Roseberry Street, is developed with a two-storey commercial development. The property to the south, at 20 Roseberry Street, is developed with a two-storey commercial development. Development in this area of Roseberry Street consists of a mix of commercial uses, including offices, cafés, retail premises and a supermarket.</p>

Map:



## SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

Relevant recent applications on the site include:

- **DA100/2011:** Demolition of all existing structures and erection of a two-storey warehouse (Bulky goods) development including rooftop car parking. Approved by MIAP on 15 December 2011.
- **DA300/2016:** Demolition works, consolidation of three (3) lots into one (1), construction of two (2) shops including an Aldi store and signage. Approved by NBIAP on 18 May 2017.
- **DA300/2016 – Part 2:** Section 96 to modify approved Demolition works, consolidation of three (3) lots into one (1), construction of two (2) shops including an Aldi store and signage. Approved under delegation on 31 August 2017.
- **DA300/2016 – Part 3:** Section 96(1A) to add one (1) illuminated sign on the western elevation with dimensions of 3240mm height and 4860mm width. Approved under delegation on 19 February 2018.
- **DA300/2016- Part 4:** Section 96 (2) to modify approved DA300/2016 to extend the approved delivery hours was refused by NBLPP on 16 May 2018 for the following reasons:

*1. The acoustic report assessed the impacts of the proposal based on truck movements travelling from Balgowlah Road into Roseberry and exiting onto Condamine Street via Kenneth Road. The report did not address vehicles travelling in the alternate direction as set out in Council's assessment report. The Panel is therefore not satisfied that the acoustic impacts on the residential properties adjoining the roundabout at Kenneth Road and Roseberry Street have been adequately addressed, specifically the number of movements by 19 metre trucks occurring between 10pm and 6am.*

2. Any application to extend delivery hours should be supported by a Plan of Management which includes a mechanism for any noise complaints from nearby residences. It is also noted that the Northern Beaches Local Planning Panel provided a vote of 2 for refusal and 2 for deferral with the Chair exercising casting vote for refusal (DA300/2016- Part 4).

- **Mod2018/0470:** This was to modify approved DA300/2016 to extend the approved delivery hours. The application was approved on 21 November 2018.

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 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>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p>
Environmental Health (Industrial)	<p><b>General Comments</b></p> <p>The applicant advises:</p> <p>The estimated maximum occupation capacity associated with the proposed development is approximately twenty-seven (27) people. The gym is likely to employ two (2) trainers and hours of operation will be:</p> <ul style="list-style-type: none"> <li>Monday- Friday: 5:00am – 8:00pm; and</li> <li>Saturday &amp; Sunday: 6:00am – 2:00pm.</li> </ul>

Internal Referral Body	Comments
	<p>Due to the current zoning and lack of immediate residential premises, noise impacts should be minimal no assessment is required but conditions will be added.</p> <p><b>Recommendation</b></p> <p>APPROVAL - subject to conditions</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed change of use and hours of operation for the purposes of a gym is not considered to increase flood risk.</p> <p>The existing floor level is above the Flood Planning Level.</p>
Traffic Engineer	No objections raised. Approval - without conditions.

## 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 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
<p><b>1. Character of the area</b></p> <p>Is the proposal compatible with the existing or desired future character of</p>	<p>The subject site is zoned B6 Enterprise Corridor.</p> <p>The proposed use is permissible within this area.</p> <p>The subject site is located on a street</p>	YES



the area or locality in which it is proposed to be located?	characterised by commercial premises, including shop, cafés, bulky goods premises, offices and warehouses. As such, the signage associated with the proposed development is consistent and compatible with the existing and desired future character of the area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No specific theme for outdoor advertising exists in the locality. However, the proposed signage is complementary to the colours and finishes of existing development in the street.	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 subject site is not classified as, or within the vicinity of environmentally sensitive areas, heritage areas, conservation areas or rural landscapes. The proposed signage does not detract from the amenity or visual quality of nearby open space areas, waterways, or residential areas.	YES
<b>3. Views and vistas</b> Does the proposal obscure or compromise important views?	The proposal will not result in any view loss.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposed signage does not project beyond the proposed building (being two storeys in height, consistent with existing development in the locality) and therefore does not dominate the skyline or reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage does not unreasonably obscure any other advertisements.	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, proportion and form of the proposed signage is consistent with other existing comparable uses within the street, and within the zoning of the site, and is therefore appropriate in the streetscape and setting.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed development and associated signage have been designed in a clear and modern manner, and therefore create visual interest within the streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage is located only at key points on the proposed building (being the upper southwest corner, and between the car park and pedestrian entries) and therefore do not create visual clutter.	YES
Does the proposal screen unsightliness?	The proposed development does not give rise to unsightliness. The proposed signage is neat and limited to key points on the proposed building.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude beyond the proposed building.	YES
<b>5. Site and building</b> Is the proposal compatible with the	The proposed signage is of compatible scale and proportion to the proposed building and the	YES

scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	existing buildings in the street.	
Does the proposal respect important features of the site or building, or both?	The proposed signage does not detract from important features of the site or proposed building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is located logically to achieve an adequate level of exposure, while remaining visually compatible with the proposed building and the streetscape.	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?	The proposed signage will not require safety devices, platforms or lighting devices, as the signage is lit internally.	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?	Illumination of the proposed signage will not result in unreasonable or unacceptable glare.	YES
Can the intensity of the illumination be adjusted, if necessary?	Illumination of the proposed signage can be adjusted by technicians, as required.	YES
Is the illumination subject to a curfew?	The proposed signage will be illuminated for the hours of operation of the proposed gym.	YES
<b>8. Safety</b> Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not reduce the safety.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage does not obscure any sightlines, and will therefore not reduce pedestrian safety.	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.

### Manly Local Environmental Plan 2013

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

Standard	Requirement	Proposed	Complies
Height of Buildings:	11m	12.3m	No change
Floor Space Ratio	FSR: 1:1 3547.1sqm	FSR: 0.49:1 1750sqm	No change

#### Compliance Assessment

Clause	Compliance with Requirements
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.3 Flood planning	Yes

#### Mainly Development Control Plan

##### Built Form Controls

Built Form Controls - Site Area: 3,547.1sqm		Requirement	Proposed	% Variation*	Complies
4.4.3 Signage	Number of signs	Max. 2 signs per frontage	1 sign on northern elevation 2 signs on western elevation	N/A	Yes
	Size of signs	Flush wall signs: - 2.6m above the ground - must not extend beyond wall building - must not project above top of wall - must not have an area greater than 3 times the distance between the lowest part of the sign and the ground.	Sign on southern side of western elevation 4.7m above ground	80.77%	No

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.2 Streetscape Improvement in LEP Zone B6 Enterprise Corridor	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.2 Privacy and Security	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.6 Energy efficiency/conservation requirements for non-residential developments	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.3.2 FSR and Height	Yes	Yes
4.3.4 Access, Loading and Parking	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.3 Signage	No	Yes
5.4.3 Flood Prone Land	Yes	Yes
Schedule 3 - Parking and Access	Yes	Yes
Schedule 3 - Part A1 - Parking Rates and Requirements for Vehicles	Yes	Yes

#### Detailed Assessment

#### **4.3.4 Access, Loading and Parking**

The existing building has 76 car spaces and 14 spaces for bikes. The proposal seeks to change the ground floor from a specialist retail tenancy to a Recreational Facility (Indoor). Currently, the first floor commercial tenancy is occupied by ALDI. The proposed use is not expected to generate additional traffic beyond the approved capacity.

#### **4.4.3 Signage**

##### Description of non-compliance

Clause 4.4.3.3(h) provides that flush wall signs must be a minimum of 2.6m above the ground, must not extend beyond wall building, must not project beyond the top of the wall on which they are located, and must not have an area greater than 3 times the distance between the lowest part of the sign and the ground.

The Sign on southern side of western elevation 4.7m above ground.

#### Merit consideration:

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

- *Objective 1) To ensure that advertising does not detract from the scenic beauty and amenity of the Municipality; harmonises with its surroundings and the buildings to which they are attached.*
- *Objective 2) To minimise the visual impact by encouraging fewer more effective signs that may otherwise degrade the existing and likely future quality of residential environments or result in excessive, unnecessary signage, visual clutter and confusion caused by a proliferation of signs in local and neighbourhood centres.*
- *Objective 3) To permit building and business identification signs which communicate the facilities (including tourist facilities), amenities, goods and services in local and neighbourhood centres which do not interfere with the streetscape or amenity of residents.*
- *Objective 4) Signs should enhance the distinctive urban character and scenic amenity of the Municipality and contribute to the atmosphere of the streets in local and neighbourhood centres and should be designed in sympathy with both the building to which it is attached and any adjoining buildings, taking into account the architectural styles and finishes of buildings in local and neighbourhood centres.*
- *Objective 5) To prevent signage from impacting on the presentation of the heritage item or area to the general public on heritage items and conservation areas.*
- *Objective 6) To ensure all signage is of high standards of graphic and textural content.*
- *Objective 7) To encourage co-ordinated advertising in the Industrial Zone by the use of appropriately sized street numbers and complex names, and the use of directory boards to identify multiple unit complexes, so as to reduce adverse impact on the streetscape and confusion to traffic.*

#### Flush Wall Signs

The proposed signs do not detract from the amenity, character or atmosphere of the area. The signs are logically and effectively located on a prominent corner of the proposed development. The signs are not excessive, as they are compliant with the maximum number of signs per frontage, and act to identify the business within the building. The proposed signs take into account and are complementary to the localised streetscape. Further, the proposed signage is consistent with the relevant criteria within the State Environmental Planning Policy No. 64 – Advertising and Signage. As such, the proposed development is consistent with the relevant objectives and plans, and is acceptable.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

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

of this application.

## CONCLUSION

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

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

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

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

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

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0761 for Use of premises as a Recreation Facility (gym) on land at Lot 10 DP 1233834, 22 - 26 Roseberry Street, BALGOWLAH, 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
DA2202 - Site Plan	18/06/2019	Robert Harrison

DA2201 - Plan	18/06/2019	Robert Harrison
DA2202 - Site Plan	18/06/2019	Robert Harrison
DA2203 - Elevation	18/06/2019	Robert Harrison

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

## 2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the

- excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.



- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local

Government.

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's 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.northernbeaches.nsw.gov.au](http://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

### 5. **BCA Report (Class 2-9)**

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

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made 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 accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.*

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the 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

**6. 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.

**7. Sydney Water "Tap In"**

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

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

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

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

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

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

**8. 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.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 11/10/2019, under the delegated authority of:



**Steven Findlay, Manager Development Assessments**