

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0809
----------------------------	-------------

Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 1 SP 23069, 1 / 1 Moore Road FRESHWATER NSW 2096
Proposed Development:	Alterations and Additions to the existing building and use of part of the the premises as a shop and cafe
Zoning:	LEP - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Harrington Freshwater Pty Ltd
Applicant:	Tammie Phillips

Application lodged:	09/08/2016
Application Type:	Local
State Reporting Category:	Commercial/Retail/Office
Notified:	19/08/2016 to 06/09/2016
Advertised:	20/08/2016
Submissions:	2
Recommendation:	Approval

Estimated Cost of Works:	\$ 351,000.00
---------------------------------	---------------

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

NORTHERN BEACHES COUNCIL

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - C3(A) Bicycle Parking and End of Trip Facilities

Warringah Development Control Plan - Appendix 1 Car Parking Requirements

SITE DESCRIPTION

Property Description:	Lot 1 SP 23069 , 1 / 1 Moore Road FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject premises is known as the "IGA" supermarket and located within the northern portion of the Freshwater Village Plaza. Freshwater Village Plaza (Plaza) is a two storey building located on the corner allotment of Albert Street and Moore Road and occupied by several premises used for a variety of uses, comprising a supermarket, food and drink premises and other commercial and business premises. The Plaza includes basement and roof top parking for a total of 89 car parking spaces.</p> <p>Pedestrian access to the premise is provided from the mid portion of the Plaza facing Albert Street. Vehicle access to the site is provided from Moore Road. The loading dock is also located on the Moore Road frontage.</p> <p>Development with frontage to Albert Street comprises a mixture of commercial and retail development known as the Freshwater Village. Residential development adjoins the rear west of the site. There are no remnant trees or significant natural site features on the subject land.</p>

Map:



SITE HISTORY

Pre-lodgement Meeting PLM2016/0008

PLM2016/0008 for alterations and additions to an existing building and use of premises as a retail premises and food and drink premises was held 18 February 2016. Advice from the meeting concluded that the development could be supported with exception of the potential increase in off-street carparking demand from the new use (mezzanine level cafe) as on-street parking within the Freshwater Village is at a premium.

To address the parking demand matters raised, it was recommended that a comprehensive traffic and parking report should accompany the application to address the provision of additional parking required for the proposed development based on a parking comparison analysis.

Consistent with these comments, a comprehensive traffic and parking report accompanied the development application based on a parking comparison analysis.

As detailed under the Referral section of this report, Council's Traffic Engineer has reviewed the report and supports the application subject to a reduction in cafe seating by 15 seats, from 85 to 70, and the provision of bicycle rack parking for 10 bicycles.

PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for alterations and additions to the existing retail premises (IGA Supermarket) to provide a ground floor level retail premises ("About Life") and associated mezzanine level cafe with washrooms ("About Life" cafe).

Further details of the development are as follows:

- Internal platform lift from ground level to mezzanine level;
- Up to 20 persons employed at anyone time;
- 85 seat cafe (mezzanine level);
- Hours of operation 7am to 8pm, 7 days per week for both uses;
- Use of the existing loading dock and garbage facilities;
- No external changes to the existing building;
- No external signage proposed; and
- No change to the existing office.

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 C.

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)(iia) – Provisions of any planning agreement	None applicable.

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
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&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&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, 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> <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 clause is not relevant to this application.</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 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.

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
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 process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Kenneth David Callaghan	8 Ronald Avenue FRESHWATER NSW 2096
Christopher William Bull Harumi Bull	20 Undercliff Road FRESHWATER NSW 2096

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

- Insufficient on-site carparking from the cafe mezzanine

Comment:

As detailed under the Referral section of this report, Council's Traffic Engineer has reviewed the report and supports the application with respect to both on and off site carparking demand subject to a reduction in cafe seating by 15 seats, from 85 to 70, and the provision of bicycle rack parking for ten (10) bicycles.

Suitable conditions to this effect are included in the Recommendation.

On this basis, the concern raised in relation to parking does not carry determining weight.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	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

NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<p>inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><i><u>Note:</u> 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.</i></p>
Development Engineers	<p>The proposal is for an internal fit out only. No change to the existing stormwater disposal or vehicular access is proposed.</p> <p>No objection to approval, subject to conditions as recommended.</p>
Health and Protection (Food Premises, Skin Pen.)	<p>Proposed changes including Food Premises: No objections subject to conditions</p>
Traffic Engineer	<p>Traffic Engineer (Final referral comments) This information should be read in conjunction with the previous traffic referral comments for DA2016/0809.</p> <p>It is noted that the applicant has now reduced the number of seating in the mezzanine floor café from 85 to 70 seats and has proposed a bicycle rack parking for 7 bicycles.</p> <p>To encourage mode shift from vehicles to bicycles, ten (10) bicycles are to be provided wholly within the property of 1 Moore Road, Freshwater with appropriate parking directional signs for bicycle riders.</p> <p>The traffic report with the amendments regarding the comparative study are considered acceptable and there are no objections to the development on traffic and parking grounds.</p> <p>Traffic Engineer (1st referral comments) The proposed 'Aboutlife' store with café increases the GFA of the existing IGA supermarket from 681.5m² to 788.9m². This includes a proposed café with seating for 85 over a 114.5m² area on the Mezzanine floor.</p> <p>With the existing off-street 89 car parking spaces, it is noted that these spaces are to be used by the supermarket as well as 24 different tenants in the building, comprising of restaurants, takeaway, retail, professional dental and office use.</p> <p>For the existing IGA supermarket the DCP parking requirements is 40 parking spaces. The traffic report shows two approaches of determining the car parking requirements. The first uses the Council's DCP rates however the report has applied the lower retail rates (6.1spaces/100m²) for the café, resulting in a total requirement of 47 spaces. Using the rates for a restaurant (the higher of 1 space per 3 seats or 15 spaces/100m²) the total requirement is 68 spaces.</p> <p>The second compares a similar 'Aboutlife' supermarket and café in Cammeray with peak patronage, parking, and travel mode surveys</p>

NORTHERN BEACHES COUNCIL

Internal Referral Body	Comments
	<p>undertaken. The survey found that 50% of patrons were car drivers, and the comparison applied this rate to the Freshwater development to determine the peak car parking demand. As Freshwater and the surrounding areas have a higher dependence on the motor vehicle compared to Cammeray, the proportion of drivers would be higher. Applying a 60% or 70% driver mode could result in 48 spaces and 56 spaces respectively.</p> <p>The report's parking accumulation survey revealed 94% or higher occupancy rate during the peak patronage at 1pm Friday in both on-street and off-street locations. This would indicate that the parking is at capacity in Freshwater Village and the difficulty in finding parking during this time.</p> <p>A review of both approaches indicates that there is a deficiency of parking ranging between 8 to 28 spaces. Having regard to the parking conditions during the peak times and noting the parking deficiency the proposal cannot be supported on traffic grounds.</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.

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 (Infrastructure) 2007

NORTHERN BEACHES COUNCIL

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

No external building works or changes to any development standards are proposed and therefore, no further assessment is required.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes

Warringah Development Control Plan

Built Form Controls

No external building works or changes to any built form controls are proposed and therefore, no further assessment is required.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	Yes	Yes

NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements	Consistency Aims/Objectives
C5 Erosion and Sedimentation	Yes	Yes
Non-Residential Development	Yes	Yes
D3 Noise	Yes	Yes
D10 Building Colours and Materials	N/A	N/A
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes
G5 Freshwater Village	Yes	Yes
1. Built form in Freshwater	Yes	Yes
5. Access and loading	Yes	Yes
6. Lighting	Yes	Yes
8. Signage	N/A	N/A
Appendix 1 Car Parking Requirements	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Refer to comments provided under the WDCP Appendix 1 Car Parking Requirements section of the report, where in summary, the additional demand on both on and off site carparking is deemed acceptable subject to a reduction in the number of cafe seats by 15 seats, from 85 to 70, and the provision of an on-site bicycle rack parking for ten (10) bicycles.

C3(A) Bicycle Parking and End of Trip Facilities

The proposed development comprises the following land uses and associated demand for bicycle parking rack spaces;

- Office 1 per 200m² GFA & Visitors: 1 per 750m² GFA over 1000m²
- Retail 1 per 200m² GFA & Visitors: 1 per 600m² GFA

GFA for proposed uses:

Office: 19.3m² GFA

Retail Premises/cafe: 748.9m² (mezzanine level GFA 114.5m² & ground floor level GFA 634.4m²)

Total bicycle parking rack space required:

Office: 0.1 space (nil visitor)

Retail: 3.7 spaces & 1.2 visitor

Total: 5 required.

As detailed under the Referral section of this report, a condition is included in the Recommendation of the report for the provision of an on-site bicycle rack for 10 bicycles. On this basis, the development will comply with the requirements of the control.

Appendix 1 Car Parking Requirements

The Freshwater Village Plaza contains basement and roof top level carparking areas which provide for a total of 89 carparking spaces. These spaces are allocated for use for all respective tenants of the Plaza, including the subject premise.

On this basis, the demand for additional on-site carparking spaces is generated from the difference between the existing uses to the proposed uses.

The existing development provides the following demand for on-site car parking:

Use (existing)	
Retail premises (ground floor level)	64
Office	1
Storage	2
Total	

The proposed development provides the following demand for on-site car parking:

Use (existing)	Area	Appendix 1 Calculated
Retail premises (ground floor level)	633.8m ²	64
Cafe (mezzanine level)	114.5m ²	1 space
Office	19.3m ²	
Storage	21.8m ²	
Total		

Having regard to the above, the development will generate a demand for an additional 28 carparking spaces (i.e. 40 spaces to 68 spaces) than that of the existing situation. These spaces cannot be provided within the existing basement and roof top level carpark.

A comprehensive traffic and parking report accompanied the application to address the provision of any additional parking generated by the proposed development. The report was based on a parking comparison analysis of other operating "About Life" cafes and considered the availability of the existing street parking situation. The report concludes that the additional parking demand generated from the development can readily be absorbed into the existing on-site carparking areas and the street.

Also, the site is in close proximity to public transport, being local bus stops on both sides of Albert Street. Further, the customer base of the shop is expected to be within the immediate locality and therefore customers would ride or walk to the subject premises and other premises within the Freshwater Village (i.e. multi-trip).

As detailed under the Referral section of this report, Council's Traffic Engineer reviewed the report and supports the application subject to a reduction in cafe seating by 15 seats, from 85 to 70, and the provision of an on-site bicycle rack for 10 bicycles. This was discussed with the applicant and no concern was raised to reducing the seat numbers or the provision of an on-site bicycle rack. Accordingly, suitable conditions to this effect have been included in the Recommendation of the report.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011 / 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.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 351,000		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 3,335
Section 94A Planning and Administration	0.05%	\$ 176
Total	1%	\$ 3,510

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 DA2016/0809 for Alterations and Additions to the existing building and use of part of the the premises as a shop and cafe on land at Lot 1 SP 23069, 1 / 1 Moore Road, FRESHWATER, 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
CS Rev D	27.06.16	Leku Interiors
WD-00 Rev B	21.06.16	Leku Interiors
TP-03 Rev B	21.06.16	Leku Interiors
TP-04 Rev A	21.06.16	Leku Interiors
WD-01 Rev F	27.06.16	Leku Interiors
WD-02.1 Rev D	28.06.16	Leku Interiors
WD-02.2 Rev A	23.05.16	Leku Interiors

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.

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. **Maximum Number of Seating & Bicycle Parking Provision**

The following amendments are to be made to the approved plans:

- The maximum number of seating for the Mezzanine level cafe, as shown on the approved plans, is to be 70 seats.
- Bicycle Parking Racks for ten (10) bicycles are to be provided wholly within the subject property (No. 1 Moore Road, Freshwater).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts in accordance with WLEP2011 and WDCP. (DACPLB02)

3. **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)

4. 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 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.

(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

(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

NORTHERN BEACHES COUNCIL

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

5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 351,000.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 3,334.50
Section 94A Planning and Administration	0.05%	\$ 175.50
Total	1%	\$ 3,510.00

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

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 Northern Beaches Council's Development Contributions Plan.

6. Security Bond

A bond (determined from cost of works) of \$1,500 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.warringah.nsw.gov.au/your-council/forms).

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

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

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

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, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Principal 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 kitchen complies with the design requirements. (DACENCPCC2)

8. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards. (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

**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)

9. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

10. **Works Zone**

The applicant shall lodge an application for a works zone for the frontage of the site to Council for consideration and approval. The provision of a works zone will require approval from Warringah Traffic Committee. Application forms for works zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares. (DACTRCPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. **Maintenance of Road Reserve**

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

Reason: Public Safety. (DACENE09)

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

12. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupational Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority. (DACENFPO1)

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

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.
(DACHPFPOC2)

14. **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)

15. **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. (DACPLF07)

16. **Bicycle Parking Provisions**

Bicycle Parking Racks for ten (10) bicycles are to be provided wholly within the property of 1 Moore Road, Freshwater. The area is to be signposted and appropriate directional signs near the entrance. 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 bicycle spaces are provided with this development. (DACTRFPOC1)

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

17. **Hours of Operation**

The hours of operation are to be restricted to 7.00am to 8.00pm (inclusive), seven (7) days a week.

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)

18. **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)

19. **Commercial Waste and Recycling Storage**

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACPLG25)

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

Kevin Short, Planner

The application is determined under the delegated authority of:

Lashta Haidari , Acting Development Assessment Manager

ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

	Notification Document	Title	Date
	2016/274041	Notification Map	18/08/2016

NORTHERN BEACHES COUNCIL

ATTACHMENT C

Reference Number	Document	Date
 2016/266365	Report BCA	28/06/2016
 2016/266360	Report - Traffic	05/07/2016
 2016/266357	Report - Statement of Environmental Effects	06/07/2016
 2016/266364	Report Waste Managment	08/07/2016
 DA2016/0809	1/1 Moore Road FRESHWATER NSW 2096 - Development Application - Change of Use	09/08/2016
 2016/264100	DA Acknowledgement Letter - Tammie Phillips - Harrington Freshwater Pty Ltd	09/08/2016
 2016/266354	Applicant Details & Cost Summary Report	10/08/2016
 2016/266370	Plans - Master Set	10/08/2016
 2016/268858	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/0809 - 1 / 1 Moore Road FRESHWATER - PR	12/08/2016
 2016/268867	Health and Protection (Food Premises, Skin Pen.) - Assessment Referral - DA2016/0809 - 1 / 1 Moore Road FRESHWATER - EB	12/08/2016
 2016/269076	Development Application Advertising Document - Tammie Phillips	15/08/2016
 2016/271915	Environmental Health and Protection Referral Response - commercial use AF	17/08/2016
 2016/273869	Notification Letter - 111	18/08/2016
 2016/274041	Notification Map	18/08/2016
 2016/276423	Online Submission - Callaghan (no objection)	20/08/2016
 2016/277254	1 Moore Road Freshwater Site Signs	23/08/2016
 2016/282352	Development Engineering Referral Response	26/08/2016
 2016/282856	Building Assessment Referral Response	29/08/2016
 2016/300582	Submission - Bull	07/09/2016
 2016/310076	Submission Acknowledgement Letter - Christopher William Bull & Harumi Bull - SA2016/300582	16/09/2016
 2016/324283	Traffic Engineer Referral Response	29/09/2016
 2016/333692	Email from applicant traffic engineer	10/10/2016
 2016/335047	Email from applicant traffic engineer with a letter in response to traffic comments	11/10/2016
 2016/335049	Letter from applicant traffic engineer in response to Council traffic engineer	11/10/2016
 2016/342335	Email: bike rack location on premises	17/10/2016
 2016/340415	Traffic Engineer Referral Response 2	17/10/2016
 2016/344165	Email: location of bike racks	19/10/2016
 2016/349393	Stamped Plans	25/10/2016