

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0213
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Responsible Officer:	Renee Ezzy
Land to be developed (Address):	Lot 1 DP 1210327, 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Proposed Development:	Use of Premises as a recreation facility gymnasium
Zoning:	LEP - Land zoned B7 Business Park
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lif Pty Ltd
Applicant:	Australian Fitness Management

Application lodged:	13/03/2017
Application Type:	Local
State Reporting Category:	Commercial/Retail/Office
Notified:	27/03/2017 to 11/04/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 75,000.00
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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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 DP 1210327 , 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Warringah Road at the intersection with Allambie Road. The site is legally known as Lot 1 in DP 785104, No. 25 Frenchs Forest Road East, Frenchs Forest.</p> <p>The site contains three (3) large separate buildings each containing a number of small units with associated warehouse space, office area, car parking and amenities. The site is located within the B7 Business Park zone and is known as Allambie Grove Business Park.</p> <p>The site is an irregular wedge shape with a frontage of 289.1m along Warringah Road to the south, 85.11m along Allambie Road to the east and 253.57m along Frenchs Forest Road to the north. The site has a surveyed area of 4.221ha.</p> <p>Surrounding development consists of further business park development to the west, a commercial food premises to the east on the opposite side of Allambie Road, a neighbourhood, retail centre on the northern side of Frenchs Forest Road East on the eastern side of Patanga Road, and low density residential development along the northern side of Frenchs Forest Road East. The subject site is Unit 8 located within the eastern most building adjacent to Allambie Road.</p>

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for industrial purposes for an extended period of time.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the fitout and use of the premises as a fitness studio (indoor recreation facility) operating 24 hours a day, 7 days a week.

The premises will operate unstaffed except during the following periods where there will be one (1) staff member/ manager and one (1) personal fitness trainer:

Monday to Thursday

8.30am to 12.30pm and 3.30pm to 7.30pm

Friday to Saturday

7.30am to 11.30am

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	None applicable.

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Section 79C 'Matters for Consideration'	Comments
draft environmental planning instrument	
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiiia) – 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&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 matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control

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Section 79C 'Matters for Consideration'	Comments
and social and economic impacts in the locality	Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality as it provides a 24 hour, 7 day a week fitness centre available for use by shift workers and the general public. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mrs Deborah Nadilo	6 Neale Avenue FORESTVILLE NSW 2087

The matters raised within the submissions are addressed as follows:

- Change of use? To what?**
Comment: The only submission raised has questioned what the change of use is in relation to as the notification description just states "change of use". As the use relates to an indoor recreation facility on the southern side of the industrial park, no further concerns have been raised and the proposal is not considered likely to create any adverse impacts on the residential dwellings on the northern side of Frenchs Forest Road. This issue is not considered to hold determining weight.

MEDIATION

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

REFERRALS

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Internal Referral Body	Comments																
Building Assessment - Fire and Disability upgrades	The works/application propose fit-out and use of the existing premises at Unit 8/25 Frenchs Forest Road, Frenchs Forest as a fitness studio to operate 24 hours a day, 7 days a week. No objections subject to conditions to ensure compliance with the Building Code of Australia.																
Development Engineers	<p>The proposal is for the change of use of an existing building unit and some internal alterations.</p> <p>The proposal has no impact upon Council's infrastructure.</p> <p>No objection to approval, subject to conditions as recommended.</p>																
Environmental Investigations (Industrial)	<table border="1"> <tr> <td>Is the proposal for an industrial use?</td><td>YES</td></tr> <tr> <td>Was sufficient documentation provided appropriate for referral?</td><td>YES</td></tr> <tr> <td>Are the reports undertaken by a suitably qualified consultant?</td><td>N/A</td></tr> <tr> <td>Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as: - - Mechanical ventilation</td><td>YES</td></tr> <tr> <td>Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc.</td><td>YES</td></tr> <tr> <td>If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?</td><td>N/A</td></tr> <tr> <td colspan="2"> General Comments Main issue is noise as the operation 24/7. User noise Car park noise The industrial use of the land and road noise issues will minimize the risk of complaints The proposal is reasonable </td></tr> <tr> <td></td><td>APPROVAL - subject to conditions</td></tr> </table>	Is the proposal for an industrial use?	YES	Was sufficient documentation provided appropriate for referral?	YES	Are the reports undertaken by a suitably qualified consultant?	N/A	Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as: - - Mechanical ventilation	YES	Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc.	YES	If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?	N/A	General Comments Main issue is noise as the operation 24/7. User noise Car park noise The industrial use of the land and road noise issues will minimize the risk of complaints The proposal is reasonable			APPROVAL - subject to conditions
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Landscape Officer	No objections.																
Traffic Engineer	The provided parking demand study for Plus Fitness Studios compare existing gym operations and applying the formula would yield 12 spaces for patrons. Assuming a minimum 2 staff members at the venue, the total parking requirement would be 14 spaces. This result in																

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Internal Referral Body	Comments
	<p>a shortfall of four (4) spaces dedicated for the venue with additional parking generated to be potentially used by the 20 visitor spaces intended to be shared with the other business units in the business park.</p> <p>The traffic generation and access issues for this development are not considered significant.</p> <p>Significant changes are expected in the nearby road network is due to the Northern Beaches Hospital, including on-street parking demand along local roads, and interim delays expected during the road construction. These works are managed by Ferrovial York Joint Venture (FYJV) and further information on the road projects in this area can be found on www.rms.nsw.gov.au/projects/sydney-north/northern-beaches-hospital/index.html.</p> <p>There are no objections to the proposed development subject to Council's Development Assessment Officer considering the parking shortfall above.</p>
Waste Officer	No objections, subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	NSW Police have not provided any objections or concerns with the proposed development.

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 industrial 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 industrial land use.

SEPP 64 - Advertising and Signage

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

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

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

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is compatible with other business identification signage within the industrial estate.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed size and placement of the two signage elements (on the southern elevation) are consistent with the overall theme of outdoor signage within the Allambie Grove Business Park.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposed signage is located approximately 40m from the southern property boundary with Warringah Road and therefore provides a substantial buffer with the roadway.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage is located against the facade of the building and therefore does not obscure or impact on any views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage is flush against the building and will not reduce the quality of vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The signage is not considered to dominate the skyline or views of the building.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The size and location of the proposed signage is commensurate with the building size and industrial context.	YES
Does the proposal contribute to the visual interest of the streetscape,	The proposed signage will provide identification of the use within the building contributing to its visual	YES

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setting or landscape?	interest within the streetscape.	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	There is currently no advertising on this facade of the building.	YES
Does the proposal screen unsightliness?	There is no unsightliness to be screened in this location.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage is located within the existing facade of the building and does not protrude beyond.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is considered commensurate with the size of the building and advertising signage for other uses within this industrial park.	YES
Does the proposal respect important features of the site or building, or both?	The proposed signage follows the lines of the building and is considered acceptable.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signage is designed as an integral part of the proposed development. Individual signs are incorporated into architectural elements, such as windows, awnings and corner features.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No signage devices or logos are proposed.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The proposed signage is not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	N/A	N/A
Is the illumination subject to a curfew?	N/A	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not obscure sightliness from public areas or reduce the safety of the adjoining road network, pedestrians or bicyclists.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	There are no sightlines obscured by the proposed signage.	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

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	4000m ²	No change	N/A	N/A
Height of Buildings:	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
5.8 Conversion of fire alarms	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B4 Site Coverage	33.3%	No change to	N/A	Yes

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		existing		
B7 Front Boundary Setbacks	10m (Frenchs Forest Road East)	No change to existing	N/A	Yes
B14 Main Roads Setback	30m to Warringah Road	No change to existing	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B4 Site Coverage	Yes	Yes
Other land in B7 zone	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
Land in the vicinity of Warringah Road, Allambie Road and Wakehurst Parkway, Frenchs Forest with frontage to Warringah Road or Wakehurst Parkway	Yes	Yes
Land in the vicinity of Warringah Road, Allambie Road and Wakehurst Parkway, Frenchs Forest with frontage to roads other than Warringah Road or Wakehurst Parkway	Yes	Yes
B14 Main Roads Setback	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D23 Signs	Yes	Yes
E10 Landslip Risk	Yes	Yes

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 DA2017/0213 for Use of Premises as a recreation facility gymnasium on land at Lot 1 DP 1210327, 25 Frenchs Forest Road East, FRENCHS FOREST, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Patron Noise

Patron noise must be controlled so as not to disturb or intrude upon the surrounding residential community. Noise arising from patrons located within the grounds of the premises whether indoors, or outdoor must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.
(DACHPBOC5)

2. **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
4895 Sheet 2/8 Rev B - Floor Plan	27.02.2017	M.A.D.S
4895 Sheet 3/8 Rev B - Fitout Plan	27.02.2017	M.A.D.S
4895 Sheet 7/8 Rev B - Locality Plan	27.02.2017	M.A.D.S

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

e) 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)

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 unsewerred 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

5. **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

6. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety. (DACENC19)

7. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with Parts C8 and C9 of the WDCP 2011 and Council's Waste Management Guidelines (that apply to land covered by the WLEP 2011).

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

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)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. **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)

10. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

11. **Waste/Recycling Requirements (Waste Plan Submitted)**

During demolition and/or construction the proposal/works shall be generally consistent with the submitted Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided. (DACWTE01)

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

12. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

13. **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)

14. **Waste/Recycling Compliance Documentation**

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled. (DACWTF02)

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

15. **Noise -ongoing use of premises**

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.
(DACHPGOG6)

16. **Hours of Operation**

The hours of operation are to be restricted to 24 hours a day, 7 days a week (inclusive).

Reason: Information to ensure that amenity of the surrounding locality is maintained.
(DACPLG08)

NORTHERN BEACHES COUNCIL

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


Renee Ezzy, Planner

The application is determined under the delegated authority of:


Anna Williams, Development Assessment Manager

NORTHERN BEACHES COUNCIL
















ATTACHMENT A

Notification Plan	Title	Date
 2017/077176	Plan - Notification	09/03/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/083875	Notification Map	27/03/2017

ATTACHMENT C

Reference Number	Document	Date
 2017/077208	Report - Parking Demand and Usage Study	23/09/2013
 2017/077214	Report - Security Systems Information	06/12/2013
 2017/077165	Power of Attorney	28/02/2017
 2017/077197	Report - Statement of Environmental Effects	02/03/2017
 2017/077215	Report - Waste Management	02/03/2017
 2017/077202	Report - Annual Fire Safety Statement	04/03/2017
 2017/077220	Plans - Master Set	09/03/2017
 2017/077228	Signage	09/03/2017
 2017/077176	Plan - Notification	09/03/2017
 DA2017/0213	25 Frenchs Forest Road East FRENCHS FOREST NSW 2086 - Development Application - Change of Use	13/03/2017
 2017/070279	DA Acknowledgement Letter - Australian Fitness Management	14/03/2017
 2017/073859	Submission - Nadilo	15/03/2017
 2017/077159	Development Application Form	20/03/2017
 2017/077160	Applicant Details	20/03/2017
 2017/077162	Letter - Cover	20/03/2017
 2017/083484	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/0213 - 25 Frenchs Forest Road East FRENCHS FOREST NSW 2086 - PR	24/03/2017
 2017/083417	Waste Referral Response	27/03/2017
 2017/083875	Notification Map	27/03/2017
 2017/083888	Notification Letter - 53 (includes Council)	27/03/2017
 2017/091528	Building Assessment Referral Response	27/03/2017
 2017/087596	Environmental Investigations Referral Response - industrial use	29/03/2017
 2017/098119	Development Engineering Referral Response	07/04/2017
 2017/110345	Landscape Referral Response	19/04/2017
 2017/192385	Traffic Engineer Referral Response	16/06/2017
 2017/197637	Stamped Plans	21/06/2017