

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/0829
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<b>Responsible Officer:</b>	Maxwell Duncan
<b>Land to be developed (Address):</b>	Lot 1 DP 588603, 33 Oaks Avenue DEE WHY NSW 2099 Lot A DP 326907, 33 Oaks Avenue DEE WHY NSW 2099 Lot B DP 326907, 33 Oaks Avenue DEE WHY NSW 2099
<b>Proposed Development:</b>	Use of premises as a recreation facility (indoor) & food and drink premises
<b>Zoning:</b>	Warringah LEP2011 - Land zoned B4 Mixed Use
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Jinyan Dee Why Pty Ltd
<b>Applicant:</b>	Nsw Town Planning Pty Ltd

<b>Application Lodged:</b>	27/07/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	05/08/2020 to 19/08/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 198,000.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the use of a licensed recreation facility (indoor) and food and drinks premise within existing retail premise (Drummond Golf) on level 1 carpark within the Dee Why Markets Building. Minor internal fit out works are proposed within the proposed recreation area.

The operational details are as follows:

- Hours of Operation
  - Monday to Sunday: 9am - 10pm
- Two staff at any one time (This excludes the existing 4 retail staff)

- Maximum 15 patrons.

## ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Assessment - Dee Why Town Centre Contributions Plan 2019  
Warringah Development Control Plan - D3 Noise

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 588603 , 33 Oaks Avenue DEE WHY NSW 2099 Lot A DP 326907 , 33 Oaks Avenue DEE WHY NSW 2099 Lot B DP 326907 , 33 Oaks Avenue DEE WHY NSW 2099
<b>Detailed Site Description:</b>	<p>The subject site consists of three (3) allotments located on the southern side of Oaks Avenue and the northern side of Pacific Parade.</p> <p>The site is irregular in shape with a frontage of approximately 86m along Oaks Avenue and a frontage of 31m along Pacific Parade. The site has a combined area of 5,913m<sup>2</sup>.</p> <p>The site is located within the B4 Mixed Use zone and accommodates a multi storey shopping centre and associated car park.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p>

Adjoining and surrounding development is characterised by a mix of commercial and low, medium and high density residential development.

Map:



## SITE HISTORY

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

DA1999/1424, Alterations to Woolworths Supermarket (Approved)

DA1999/2274, Tenancy Fitout for Liquor Shop (Approved)

DA2007/0051, Infill existing parapet, additional signage & associated works (Approved)

DA2007/1259, Installation of a lift & refurbishment of the external facade (Approved)

MOD2008/0184, Relocation of lift & external facade changed (Approved)

DA2008/1148, Fitout and use for a shop (Fruit and Vegetables Market) (Approved)

DA2008/1149, Fitout and use for a shop (Deli) (Approved)

DA2008/1146, Fitout and use for a shop (Butcher) (Approved)

CDC2009/0017, Fitout and use for a shop (Cafe) (Approved)

CDC2009/0041, Fitout and use for a shop (Pizza) (Approved)

CDC2009/0047, Fitout and use for a shop (Seafood) (Approved)

CDC2009/0049, Fitout and use for a shop (Bakery) (Approved)

DA2009/0308, Change of use of office premises to a gymnasium and associated signage (Approved)

DA2010/0489, Signage (Approved)

DA2010/1791, Signage (Approved)

DA2010/1977, Alterations and additions to an existing building and signage (Approved)

DA2011/1142, Fitout and use of premises as a shop and signage (Approved)

DA2011/1145, Demolition works and alterations and additions to a shop (Approved)

DA2011/1340, Signage (Withdrawn)

CDC2012/0342, Burger Fresh shop fit out (Approved)

CDC2013/0163, Installation of Sushi Bar into existing Woolworths Supermarket (Approved)

CDC2015/0216, Change of use to Hair Salon and ancillary fit out (Approved)

CDC2016/1050, Use and fit out as a Health and Beauty Salon (Approved)

CDC2017/0729, Change of use from Hair Salon to Grocery Store & associated Internal fit out (Approved)

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

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development

Section 4.15 Matters for Consideration'	Comments
Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.



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

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 05/08/2020 to 19/08/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Yvonne Leslie Holmes	40 Panorama Terrace GREEN POINT NSW 2251

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

- **Traffic/Loading**
- **Stormwater management public footpaths**

The matters raised within the submissions are addressed as follows:

- **Traffic/Loading**  
Comment:  
The application was referred off to Council's Environmental Health Officer and traffic engineer for comment due to being a food and drink premise. The referral has considered the relevant impact of the proposed use including noise, deliveries and garbage collection and construction noise. With particular regards to traffic movements, a suitable condition has been recommended to ensure delivery of goods to the premise including garbage and recyclable collection do not occur between 10:00pm and 7:00am Monday to Saturday and 10:00pm and 7:00am Sundays & Public Holidays.
- **Stormwater management public footpaths**  
Comment:  
A neighbouring property has requested that Council investigate "state of the gutter and pedestrian footpath outside 37 Oaks Ave". This is not a issues that can be dealt with under this the assessment of a development application nor does it relate to this proposal. This does not

warrant the refusal of this application.

This issue will be dealt with separately from this development application. The issue raised will be referred of to the correct Council department to investigate.

## REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p><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>
Environmental Health (Industrial)	<p><b>Comments:</b></p> <p>Patron noise entering and leaving the premises has been addressed in the Plan of Management (PoM). The Pom should be conditioned on an ongoing basis and complaints made directly to the operator regarding noise must be kept in the complaints register. Any actions to resolve complaints regarding food or noise should be notified to Council.</p> <p>Council is satisfied with the acoustic assessment in that the development is unlikely to adversely impact the acoustic amenity of nearby residential and commercial receivers.</p> <p>The recommendations for amplified music will be condition on an on-going basis.</p> <p><b>Recommendation:</b> Approval - subject to conditions</p>
Environmental Health (Food Premises, Skin Pen.)	<p><b>Comments:</b></p> <p>In addition to the sale of alcohol being considered 'food for sale' under the Food Act 2003, the sale of open alcohol will require the operator to provide food in the form of meals/snacks. The intensity of food preparation, handling, display, sale, etc. will be determined by the liquor license.</p> <p>Therefore, the bar from which food will be sold must comply with AS4674 and will be conditioned appropriately.</p> <p>Cooking will be limited with no provisions for mechanical ventilation. Future installation of ventilation will require development cosnent.</p> <p><b>Recommendation:</b></p>

Internal Referral Body	Comments
	Approval - subject to conditions.
Traffic Engineer	The application is for an additional use inside an existing development and has adequate parking and service provision. Conditions have been supplied to manage the fitout stage.

External Referral Body	Comments
NSW Police – Crime Prevention Office (Local Command matters)	<p>As the proposed development involves a new land use which would result in a new licenced premises, the application was referred to the NSW Police for comment in accordance with Council's referral procedure.</p> <p>The NSW police have provided a response which has raised concern regarding the potential for the new licenced premises to increase alcohol related crime. Overall, the NSW police were not supportive of the proposed development as the use increases availability of alcohol within the local area. The full details of the NSW police response is available as an attachment to this report.</p> <p>The applicant has engaged a liquor licencing consultant to provide a response to the NSW Police Concerns. The response noted that that a number of the concerns could be dealt with through the liquor licencing application to the Office of Liquor and Gaming where further consultation with NSW police will occur as part of this process.</p> <p>Council staff contacted NSW Police to discuss the concerns raised within the referral response. NSW Police also received a copy of the applicants response to their concerns prepared by the liquor licencing consultant. NSW police advised that they would not amend their position or provide response and there was no further documentation the applicant could provide to change application.</p> <p>Council have undertaken a full assessment of the development application and notes and from a land use perspective, will not have an unreasonable impact.</p>

## 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

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Warringah Local Environmental Plan 2011

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

#### Compliance Assessment

Clause	Compliance with Requirements
5.3 Development near zone boundaries	Yes
7.3 Objectives for development within Dee Why Town Centre	Yes
7.4 Development must be consistent with objectives for development and design excellence	Yes
7.5 Design excellence within Dee Why Town Centre	Yes

Clause	Compliance with Requirements
7.12 Provisions promoting retail activity	Yes
7.13 Mobility, traffic management and parking	Yes

## Warringah Development Control Plan

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes

### Detailed Assessment

#### D3 Noise

The facility is intended to operate during the hours 9am to 10pm Monday to Sunday. Such hours are considered mostly appropriate considering the context of the site and it being situated within the Dee Why Town Center. Such hours are considered mostly appropriate considering the context of the site and it being situated within the Dee Why Town Center. Council's Environmental Health Officer (Industrial Use) has reviewed the proposal having regard to provisions of environmental health and safety management, and has raised no objection to the proposal, subject to conditions of consent. In this regard, Council can be satisfied that the proposed development is reasonable, and will not inflict any unreasonable impacts upon adjoining and surrounding properties.

#### THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

#### CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

#### Dee Why Town Centre Contributions Plan 2019

No additional floor space is proposed under the development application, therefore no contribution is

applicable.

## 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 DA2020/0829 for Use of premises as a recreation facility (indoor) & food and drink premises on land at Lot 1 DP 588603, 33 Oaks Avenue, DEE WHY, Lot A DP 326907, 33 Oaks Avenue, DEE WHY, Lot B DP 326907, 33 Oaks Avenue, DEE WHY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>
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Drawing No.	Dated	Prepared By
Flooring Plan	March 2020	A. Pickles
Drawing Detail	March 2020	A. Pickles

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Plan of Management	1 July 2020	Big Swing Golf

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

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

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

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

The development must be carried out in compliance with all recommendations under clause 7.2, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Police Force	N/A	9 November 2020

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

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

## 3. Approved Land Use

As detailed on the approved Flooring Plan (dated 2 March 2020) this consent limits the use to a portion of the existing premise, serving as a component to the existing retail premise (Drummond Golf), for the purpose of a food and drink premises and recreation facility (indoor).

**food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

**recreation facility (indoor)** means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

#### 4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such



damage.

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

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

Reason: Legislative requirement.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

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

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa

area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

**6. Permitted delivery and service times**

Delivery of goods to the food and drink premise and services including garbage and recyclable collection are not permitted between 10:00pm and 7:00am Monday to Saturday and 10:00pm and 7:00am Sundays & Public Holidays.

Reason: To protect the amenity of neighbouring residents.

## **FEES / CHARGES / CONTRIBUTIONS**

**7. 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 are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

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

**8. Construction Traffic Management Plan**

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

Due to heavy traffic congestion throughout the town centre, truck movements will be restricted

during the major commuter peak times being 6.00-10.00am and 3.00-7.00pm.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken
- Make provision for all construction materials to be stored on site, at all times
- The proposed areas within the site to be used for the storage of construction materials and waste containers during the construction period
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed
- The proposed method of loading and unloading construction machinery, and building materials, and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior
- Include a Traffic Control Plan prepared by a person with suitable TfNSW accreditation for any activities involving the management of vehicle and pedestrian traffic
- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Seven(7) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure
- Include a site plan showing the location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding) and any tree protection zones around Council street trees
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and truck routes. These communications must be documented and submitted to Council prior to work commencing on site
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council
- Proposed protection for Council and adjoining properties

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

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

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

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

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

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to-satisfy provisions of Sections C, D, E and F of the Building Code of Australia. The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

*\*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.*

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

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

10. **Change of Use/ Fire Safety - Egress and Essential Services Upgrade**

The existing levels of essential fire safety measures and egress provisions are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000 and Parts C, D, E and F of Volume 1 of the Building Code of Australia.

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

Reason: To ensure adequate provision is made for Access, Fire safety and for building occupant safety

11. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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.



## **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 Occupation Certificate being issued.

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

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

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

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

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

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

**14. Food preparation equipment**

All individual apparatuses used for cooking or re-heating of food must not exceed 8kW electrical power input or 29MJ/h gas power input.

Collectively the total power input of all cooking or re-heating apparatuses within the food premises must not exceed:

- 0.5 kW electrical power; or
- 1.8 MJ gas, per m<sup>2</sup> of floor area of the room or enclosure.

Deep frying is not permitted without externally exhausted mechanical ventilation in accordance with AS1668.2.

Reason: To protect the health, safety and well-being of patrons and staff in addition to the odour amenity of neighbouring properties, prevent breaches of the Food Standards Code and comply with the National Construction Code.

**15. Amplified music**

Music within the premises is limited to background music only (sound pressure of no more than 70dB(A) L10 within the licensed area).

Reason: To protect the amenity of nearby residential and commercial receivers.

**16. Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Sunday – 9:00am - 10:00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

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

17. **Commercial Waste Collection**

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.

18. **Patronage**

The maximum number of patrons shall not exceed fifteen (15) at any time.

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

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

**Signed**



**Maxwell Duncan, Planner**

The application is determined on 26/11/2020, under the delegated authority of:



**Anna Williams, Manager Development Assessments**