

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Assessment Officer: External Consultant – Geoff Goodyer, Symons Goodyer Pty Ltd
Address: Part Lot 2743, DP 752038, Campbell Parade, Manly Vale – Nolan Reserve

Proposal: Demolition of two existing amenities buildings and construction of a new sports amenities building.

Development Application No: DA2017/0353

Plans Reference: DA-A-010, DA-A-011, DA-A-100, DA-A-101, DA-A-200, DA-A-201, DA-A-202, DA-LP-01, DA-LP-02.

Applicant: Bernard Koon

Owner: Northern Beaches Council

Application Lodged: 20 April 2017

Zone: RE1 Public Recreation

Permissible Development: Recreation facilities (outdoors)

Land and Environment Court Action: No

Referred to ADP: Yes

Referred to WDAP: No

SUMMARY

Submissions: Three

Submission Issues:

- Flooding
- Public safety
- Impact on native fauna
- Use of public money on land that is flood prone
- Potential sale for commercial or residential use

Assessment Issues:

- Requirements for consent;
- Flooding;
- Flora and fauna; and
- Traffic and parking.

Recommendation: **APPROVAL**

MAP:



SITE DESCRIPTION

Nolan Reserve is bounded by Pittwater Road to the east and Manly Creek to the west. It adjoins the North Manly Bowling Club to the north and residential development to the south.

Nolan Reserve is used for playing fields and contains a number of existing amenities buildings and a bicycle track. It is fringed by trees.

Nolan Reserve is owned by Northern Beaches Council and is classified as Community Land under the Local Government Act 1993.

i) RELEVANT BACKGROUND

The existing playing fields were created in the mid-1900's on the site of former farm lands, predominantly market gardens and dairies. The land has been extensively levelled, reclaimed and turfed.

ii) PROPOSED DEVELOPMENT IN DETAIL

The proposal is to demolish two existing amenities buildings and to construct a new sports amenities building.

One of the buildings to be demolished is in the approximate location of the proposed building and the other is located in the southern corner of Nolan Reserve.

The proposed building measures approximately 8m x 38m and is 8.05m in height. It is a single storey building containing:

- Male toilets;
- Female toilets;
- First aid / umpire's room;
- Accessible toilet;
- Foyer / wash basins;
- 2 changes rooms including toilets, showers and accessible toilets;
- Storeroom;

- Canteen.

The building is sited on a raised podium and, to the east of the building and facing the playing fields, it is proposed to have tiered seating.

The proposal retains the existing basketball half-court. The proposal includes landscaping and a raingarden.

STATUTORY CONTROLS

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Local Government Act 1993
- Threatened Species Conservation Act 1995
- Environment Protection and Biodiversity Conservation Act 1999
- SEPP (Infrastructure) 2007
- SEPP 55 - Remediation of Land
- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan

REFERRALS

External Referrals

Referral Body External	Comments	Consent Recommended
Aboriginal Heritage	The Aboriginal Heritage Office was notified of the development proposal. No response has been received and as such, it is assumed that no objections are raised. Notwithstanding this, a standard condition has been recommended requiring works to halt in the event that any Aboriginal Heritage item is found or thought to have been found.	Yes
Ausgrid	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.	Yes
Sydney Water	No objections subject to conditions as recommended.	Yes

Internal Referrals

Referral Body Internal	Comments	Consent Recommended
Building Assessment	No objections subject to conditions to ensure compliances with the Building Code of Australia.	Yes
Development Engineering	The proposed development is located with a floodplain and as such On Site Detention is not required. The disposal of stormwater from the site has been addressed in conditions by the Natural Environment Unit – Riparian Officer. No objection to approval, subject to conditions.	Yes
Environmental Investigations (Industrial)	No objections subject to conditions.	Yes
Environmental Investigations – Acid Sulfate Soils	An acid sulphate soil management plan has been prepared by ADE Consulting Group titled "Acid Sulfate Soil Management Plan, Nolan Reserve, Pittwater Road, North Manly, NSW, report no.	Yes

Referral Body Internal	Comments	Consent Recommended
	STC-42-10242 / ASSMP1 / v1 final" dated 13 April 2017. Compliance with this report is recommended.	
Landscape	The Arborist's Report and Landscape Plan submitted with the application are noted. No objections subject to conditions as recommended.	Yes
Natural Environment – Biodiversity	Council's natural environment, biodiversity section raises no objections to the proposal. Refer to the Riparian land referral response for recommended consent conditions.	Yes
Natural Environment - Coastal	No objections, no conditions.	Yes
Natural Environment - Flood	Comments 15/5/2017: The proposed development generally complies with Clause 6.3 of the LEP and Part E11 of the DCP, based on the Flood Risk Assessment Report (3 March 2017), its Addendum (2 June 2017), and the revised drawings (30 May 2017). There are no flood related objections subject to conditions as recommended.	Yes
Natural Environment - Riparian	Riparian assessment is complete. The following information explains why certain conditions have been placed on the development: The riparian zone is to be planted with species found in the Swamp Oak Floodplain Forest community as stated in the Flora and Fauna Assessment (including a Waterways Impact Statement and Coastal Assessment Report) by Cumberland Ecology dated April 2017. See Chapter 7, Mitigation Measures, 7.4 Re-vegetation. Weed control measures are to occur as per Flora and Fauna Assessment (including a Waterways Impact Statement and Coastal Assessment Report) by Cumberland Ecology dated April 2017. See Chapter 7, Mitigation Measures, 7.3 Weed Control Measures. <i>Landscape Details, Section and Planting Species Drawing No. DA-LP-02 dated 11 April 2017, contains some exotic plant species and native species that are not indigenous to the area. Brookvale Creek has an active volunteer bush regeneration group as well as Council Bush Regeneration contractors that work in the area. Planting species from the Swamp Oak Floodplain Forest will improve their work and riparian vegetation. See Landscape Condition.</i> No objection to approval, subject to conditions as recommended	Yes
Parks, reserves, beaches, foreshore	No objections to the proposal, subject to conditions as recommended.	Yes
Road reserve	No impact on existing road assets. Proposal discussed with Parks, reserves, beaches, foreshores regarding vehicle access along shared path and cyclist/plater conflicts at rear of clubhouse. These issues have been reviewed by Parks, reserves, beaches, foreshores.	Yes
Traffic Engineer	The proposal is for a demolition of existing sports amenities structure and construction of a new sports amenities building. As the proposal does not result in additional	

Referral Body Internal	Comments	Consent Recommended
	field operations or patronage numbers, no additional vehicle trips and additional parking generated from the building are expected. There are no objections to this proposal on traffic and parking grounds.	
Waste	No objections, no conditions.	Yes
Water Management	No objections, no conditions.	Yes

iii)

iv) NOTIFICATION & SUBMISSIONS

The subject application was notified in accordance with the EPA Regulation 2000 and Warringah Development Control Plan.

Three submissions were received. The issues raised are:

- The isolated siting of the building may attract undesirable behaviour and will also be a challenge for loading and transporting of equipment, etc.

Comment: The siting of the building is considered to be appropriate, being next to the playing fields. It is considered that it is not so isolated as to result in undesirable behaviour and there are many such facilities in similar locations in other parts of the Northern Beaches. Vehicles can access the site for loading and unloading through locked gates and then along the existing bicycle path.

- The proposal will have negative flooding impacts.

Comment: The proposal was amended following notification. The amended proposal provides for the building to be raised and a void provided under the building to allow for flood storage. The amended plans and storage calculations have been reviewed by Council's Natural Environment Officer – Flood and are considered to be satisfactory subject to conditions as recommended.

- Future development, including floodlighting, at Passmore Reserve.

Comment: Future development at Passmore Reserve is not relevant to this development application.

- Impact on protect species including bats, lizards, rare birds and possums.

Comment: The siting of the facility is on an existing grassed / paved area and has no impact on the habitat of any protected species.

- To spend over \$2 million of ratepayers money in a flood zone is pure loss.

Comment: The facility has been raised to be above the relevant flood level. The proposal has been assessed by Council's Natural Environment Officer – Flood and is considered to be satisfactory subject to conditions as recommended.

- The playing fields are regularly flooded making the ground unplayable.

Comment: The playing fields are important recreational assets and are managed in a way that recognises that they are flood prone land.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the EPAA are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	See discussion on “Warringah Development Control Plan” in this report.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>Division 8A 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>Clause 50(1A) 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>Clauses 54 and 109 of the EP&A Regulation 2000, relates to whether Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. Additional information relating to flooding was requested and was submitted.</p> <p>Clause 92 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>Clauses 93 and/or 94 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>Clause 98 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>Clause 98 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>Clause 143A 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 'Matters for Consideration'	Comments
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality. (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 has been used for playing fields for many years and the proposed amenities facility complements that use. The site is considered to be suitable for this 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.

LOCAL GOVERNMENT ACT 1993

The land is owned by Northern Beaches Council. As such, the provisions of the Local Government Act 1993 (“LGA 1993”) relating to the classification and management of public land apply. The land is classified as “community land” and under section 35 of the LGA 1993 any use of the land must be in accordance with the District Park Plan of Management (“DPPM”).

One of the actions identified in the DPPM is to “demolish the middle and south amenities buildings in Nolan Reserve and to design” and “construct new amenities at the southern end of Nolan Reserve to cater for the needs of users of Nolan Reserve”. The proposal is in accordance with this action and therefore complies with the requirements of section 35 of the Local Government Act 1993.

THREATENED SPECIES CONSERVATION ACT 1995 (TSCA)

The development application is accompanied by a biodiversity assessment prepared by Cumberland Ecology which concludes:

No significant impact is expected to occur to threatened species, populations or communities as a result of the proposed new development on the subject site. Therefore, the preparation of a Species Impact Statement (SIS) is not warranted. A referral to the Commonwealth Department of the Environment, under the EPBC Act is also not required.

ENVIRONMENTAL PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (EPBCA)

The EPBCA provides that actions likely to cause a significant impact on matters of national environmental significance (MNES) undergo an assessment and approval process.

As stated above, the development application is accompanied by a biodiversity assessment which concludes the proposal will have no impact on threatened species, populations or communities.

ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies (SEPP's)

SEPP 19 – Bushland in Urban Areas

Clause 9 of SEPP 19 provides that where land adjoins bushland zoned for public open space purposes Council must consider the effect of the proposed development on that bushland and any other matters relevant to the protection or preservation of that bushland.

Subject to recommended conditions, the proposed development will not result in any impacts on bushland adjoining the site and satisfies the requirements of SEPP 19.

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated.

The subject site has been used for playing fields for at least 75 years. Previous uses of the land are not listed in Table 1 of the Planning Guidelines – Managing Contaminated Land as being a use that would give rise to contamination and no further assessment is required.

SEPP (Infrastructure) 2007

Clause 104 and Schedule 3 of the SEPP provide that certain development must be referred to NSW Roads and Maritime Services (RMS) for consultation. The proposed development is not one that is listed as requiring referral to the RMS.

Clause 65(3)(f) of SEPP (Infrastructure) 2007 provides that development for amenity facilities may be carried out by a council without consent on a public reserve under the control of the council. Consequently, the proposal may be considered to be permissible without consent, although some elements of the proposal (eg: canteen) may be considered by some people as not being “amenity facilities”. For abundant caution a development application has been lodged. It is noted that in Butler Street Community Network Incorporated v Northern Region Joint Regional Planning Panel [2017] NSWLEC 51 the Land and Environment Court found that including development that is permissible without consent within a development application does not invalidate that application.

Local Environment Plans (LEP's)

Warringah Local Environmental Plan 2011 (WLEP 2011)

Consideration of proposal against Warringah Local Environment Plan 2011:

Definition of proposed development: (ref. WLEP 2011 Dictionary)	Recreation Facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).
Zone:	RE1 Public Recreation
Permitted with Consent or Prohibited:	Permissible with consent

Objectives of the Zone
<ul style="list-style-type: none"> To enable land to be used for public open space or recreational purposes.

Objectives of the Zone
<ul style="list-style-type: none"> To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes. To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value. To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
<p>The development is considered to be consistent with the objectives of the zone for the following reasons:</p> <ul style="list-style-type: none"> The proposal enhances the use of the land for recreational purposes. The proposal has no undesirable impacts on the natural environment. The proposal has no adverse effects on the ecological, scientific, cultural or aesthetic values of the land.

Principal Development Standards: None applicable.

Relevant Miscellaneous Provisions	
Provision	Comment
Preservation of trees or vegetation	One tree is proposed to be removed. The development application is accompanied by an arborist report by Naturally Trees that has appraised the tree and concluded that it should be removed irrespective of the development for safety reasons.

Relevant Additional Local Provisions	
Provision	Comment
Acid Sulfate Soils	The site is within a Class 2 Acid Sulfate Soil area. An Acid Sulfate Soil Management Plan was submitted with the development application and has been reviewed by Council's Environmental Investigations Officer who has raised no objections subject to recommended conditions, including the implementation of the Acid Sulfate Soil Management Plan.
Earthworks	Minor earthworks are proposed. Subject to recommended conditions these earthworks satisfy the matters for consideration in clause 6.2(3) of WLEP 2011.
Flood Planning	The proposal has been amended to address concerns regarding flooding. It has been reviewed by Council Natural Environment Officer – Flood who raises 0 objections subject to recommended conditions.

Relevant Schedules	
Schedule	Comment
Schedule 5 Environmental heritage	The site does not contain a heritage item, is not within a Conservation Area, and is not in the vicinity of a heritage item.

Warringah Development Control Plan (WDCP)

Following is consideration of proposal against the relevant provisions of the Warringah Development Control Plan:

Part B: Built Form Controls			
Control	Requirement	Proposed	Complies
B1. Wall heights	Not applicable		Yes
B7. Front setback	Not applicable		Yes
B6. Side setback	Not applicable		Yes
B10. Rear setback	Not applicable		Yes
B14. Main Roads setback	Not applicable		Yes

Part C: Siting Factors	
Control	Comment
C2. Traffic, Access and Safety	Vehicular access to the amenities facility is available through a locked gate. This enables deliveries to occur in a managed way and also prevents unauthorised vehicles from accessing and potentially damaging the playing surfaces.
C3. Parking Facilities	The proposal does not change the intensity of use of the playing fields and does not generate the need for any additional car parking.
C4. Stormwater	The site is in a flood plain so on-site detention is not required. Rainwater is stored in tanks for re-use on site and a raingarden is provided for filtration of water prior to it entering the neighbouring creek system. Council's Water Management Officer has raised no objections to the proposal.
C5. Erosion and Sedimentation	Details of erosion and sediment control are provided in the report by Harrison and Morris Consultancy Pty Ltd which forms part of the development application.
C7. Excavation and Landfill	Some excavation is proposed to provide a suitable building platform for the development. Details of management of the impacts of the excavation are provided in the report by Harrison and Morris Consultancy Pty Ltd which forms part of the development application.
C8. Demolition and Construction	This issue is managed by recommended conditions.
C9. Waste Management	A Waste Management plan has been submitted with the development application. Council's Waste Officer has raised no objections to the proposal.

Part D: Design	
Control	Comment
D1. Landscaped open space and bushland setting	The proposal includes landscaping around the proposed amenities facility.
D3. Noise	The proposal does not increase the intensity of use of the playing fields and will have no

	significant impacts with regards to noise.
D6. Access to sunlight	The proposed development will not result in any overshadowing of neighbouring development.
D7. Views	No views from residential properties will be affected.
D8. Privacy	There is no impact on privacy as the proposed development is separated from the nearest residential development by approximately 200m.
D9. Building Bulk	The proposal has a reasonable building bulk considering the nature of the use and the siting of the building.
D10. Building Colours and Materials	The proposed colours and materials are considered to be satisfactory.
D18. Accessibility	An Access Report by iAccess Consultants forms part of the development application. The report demonstrates that the proposal either satisfies, or is capable of satisfying, all applicable accessibility legislation and regulations.
D20. Safety and Security	The proposed amenities building will be able to be secured when not in use.
D21. Provision and Location of Utility Services	All necessary utility services are available to the site.
Part E: The Natural Environment	
Control	Comment
E1. Private Property Tree Management	An arborist report forms part of the development application. It states that one tree requires removal for safety reasons irrespective of the development. No other trees are impacted by the proposal.
E2. Prescribed Vegetation	A Flora and Fauna Assessment (including a Waterways Impact Assessment) by Cumberland Ecology forms part of the development application. The report concludes that subject to the recommended mitigation measures the proposal will have no significant impact to threatened species, populations or communities. Council's Natural Environment Officers have reviewed the proposal and raise no objections subject to recommended conditions.
E3. Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conversation Habitat	
E4. Wildlife Corridors	
E5. Native Vegetation	
E6. Retaining Unique Environmental Features	The proposal has been sited so as to have no impact on any unique environmental features.
E8. Waterways and Riparian Lands	A Flora and Fauna Assessment (including a Waterways Impact Assessment) by Cumberland Ecology forms part of the development application. The report concludes that subject to the recommended mitigation measures the proposal will have no significant impact to threatened species, populations or communities. Council's Natural Environment Officers have reviewed the proposal and raise no objections subject to recommended conditions.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan:

Under clause 6(3)(a) of Council's Section 94A Development Contributions Plan the proposal is exempt from the payment of any section 94A contributions.

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;
- Threatened Species Conservation Act 1995;
- Environment Protection and Biodiversity Conservation Act 1999;
- Local Government Act 1993;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 96(1A) and 79C of the EP&A Act 1979. 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 specified in S.5(a)(i) and (ii) 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 approval to Development Application No. 2017/0353 for Demolition of two existing amenities buildings and construction of a new sports amenities building on land at Part Lot 2743, DP 752038, Campbell Parade, MANLY VALE, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-A-010 – Site and roof plan	10/04/2017	Smith & Tzannes

DA-A-011 – Site and location plan	30/05/2017	Smith & Tzannes
DA-A-100 – Level C1	30/05/2017	Smith & Tzannes
DA-A-101 – Level 0 (Ground)	30/05/2017	Smith & Tzannes
DA-A-200 – North and south elevations	10/04/2017	Smith & Tzannes
DA-A-201 – East and west elevations	10/04/2017	Smith & Tzannes
DA-A-202 – Sections	10/04/2017	Smith & Tzannes
DA-LP-01 – Landscape concept plan	11/04/2017	Mansfield Urban
DA-LP-02 – Landscape details, section and planting species	11/04/2017	Mansfield Urban

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Access Report	17 January 2017	iAccess Consultants
Acid Sulfate Soil and Waste classification Assessment	7 April 2016	ADE Consulting Group
Acid Sulfate Soil Management Plan	13 April 2016	ADE Consulting Group
Arboricultural Impact Assessment	12 April 2017	Naturally Trees
Building Code of Australia Capability Assessment	6 December 2016	Group DLA
Building Code of Australia Compliance Statement	5 December 2016	Group DLA
Flora & Fauna Assessment including Waterway Impact Statement	10 April 2017	Cumberland Ecology
Flood Risk Assessment, Overland Flow Assessment, Sediment and Erosion Control Plan and Structural Design Intent	3 March 2017	Harrison & Morris Consultancy
Flood Storage Assessment Addendum Report	2 June 2017	Harrison & Morris Consultancy
Geotechnical Assessment	22 November 2013	JK Geotechnics
Statement of Environmental Effects	18 April 2017	Smith & Tzannes
Traffic Impact Statement	1 March 2017	Traffix
Waste Management Plan	19 April 2017	Bernard Koon

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

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

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

Other Department, Authority or Service	eServices Reference	Dated
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(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

3. Prescribed Conditions

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- A. the name and licence number of the principal contractor, and
- B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

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

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

Reason: Legislative Requirement (DACPLB09)

4. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

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

(h) No building, demolition, excavation or material of any nature 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 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.

(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 \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.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

5. 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)

6. Tree protection

(a) Existing trees which must be retained

- i) All trees not indicated for removal on the approved plans, unless exempt under relevant planning instruments or legislation
- ii) Trees located on adjoining land

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

7. Flood

In order to protect occupants from flood inundation the following is required:

a) Flood storage

The building is to be constructed with voids underneath so that flood storage on the flood plain is not reduced, in accordance with the revised drawings:

DA-A-100 Rev. C, 30/5/2017

DA-A-101 Rev. G, 30/5/2017

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

Reason: To protect the building from flooding in accordance with Council and NSW Government policy. (DACNEC09)

8. Landscaping

All plants used in the landscaping for this development must be grown from local provenance seed and cuttings as per the species list Swamp Oak Floodplain Forest as stated in the Flora and Fauna Assessment (including a Waterways Impact Statement and Coastal Assessment Report) by Cumberland Ecology dated April 2017. See Chapter 7, Mitigation Measures, 7.4 Re-vegetation.

Species lists are available at:

<http://www.environment.nsw.gov.au/determinations/SwampOakFloodplainEndSpListing.htm>

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

Reason: To ensure compliance with the requirements of the Threatened Species Conservation Act 1995 (DACNEC01)

9. 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)

10. Sewer / Water Quickcheck

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

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

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

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

11. Construction Management Plan

A Construction Management Program shall be prepared which includes the following:

- (a) The proposed method of access to and egress from the site for demolition, excavation and construction vehicles, including access routes through the Council owned or managed land 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 without Owners Consent being granted;
- (b) The proposed method of loading and unloading, demolition, excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (c) The location and operation of any on site crane; and details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Parks, Reserves and Foreshores business unit must be notified of start date of works as soon as possible and within a reasonable time prior to the start of works

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. CODE

12. Working on Reserves Permit

Works (undertaken by principal contractors working without Council supervision) on land under Council's care control and management require a "Working on Reserves" permit prior to commencement. Applications can be obtained from Council's website or the Parks, Reserves and Foreshores business unit.

Reason: Public Safety and the protection of Council infrastructure. CODE

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site (DACNED06)

12. Public Liability Insurance – Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or land under Council's care, control and management, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

12. 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)

13. Acid Sulphates

All associated works must be completed in accordance with the acid sulphate soil management plan prepared by ADE consulting Group titled Acid Sulfate Soil Management plan Nolan Reserve, Pittwater Road, North Manly NSW, report no.STC-42-10242 / ASSMP1 / v1 final dated 13 April 2017.

Reason: To ensure management of potential acid sulphate soils (DACHPEDW1)

14. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLAE03)

15. Aboriginal Heritage

If in undertaking excavations or works, any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the DECC.

Reason: Aboriginal Heritage Protection. (DACAHE01)

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

15. Fire safety Matters

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

16. Removal of all temporary structures/materials and construction rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure restoration of the reserve post construction.

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

17. Noise impact on surrounding areas

Any noise from the premise shall not exceed more than 5dB(A) above the background level when measured from within any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy and any appropriate legislation to prevent offensive noise.

Reason: To ensure that noise generated from the premise does not create offensive noise (DACHPGOG5)

16. Requirement to notify about new contamination evidence

Any new information revealed during any associated works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment. (DACHPGOG2)

17. Exotic Plant Species/Weeds

All exotic plant species, noxious and environmental weeds are to be managed continuously and are not to be imported to the site. Further information is available on Warringah Council's website.

Only certified weed free and contaminant free mulch is to be used on the site, as they may contain weed seeds and viable vegetative matter and other contaminants, which may impact adversely on the vegetation, soil, water quality or ecology of the site.

Reason: To ensure bushland and riparian management (DACNEG05)

18. General Watercourse and Riparian Areas Matters

Unless in accordance with the approved works the Consent holder must ensure that:

- a) No materials or cleared vegetation that may obstruct flow or cause damage to river banks are left within the riparian zone.
- b) All drainage works must not obstruct flow of water within the watercourse. Drain discharge points are stabilised to prevent erosion. Any excavation must not result in diversion of any watercourse, bank instability or damage to native vegetation.
- c) Any vegetation or other material removed from the area of operations shall be disposed of lawfully. Burning of the material is not permitted.
- d) The riparian zones are to function as ecological systems and as such, all works, access routes, roads, recreational areas, asset protection zones, service easements and any other non-ecologically functioning work or activity are to be located beyond the riparian zones other than provided by the consent.

Reason: Environmental Protection, Monitoring and Enhancement (DACNEG06)

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

Adam Mitchell, Planner

The application is determined under the delegated authority of:

Rodney Piggott, Development Assessment Manager