

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0995
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot 1 DP 575638, 164 Warringah Road BEACON HILL NSW 2100
Proposed Development:	Alterations and Additions to the restaurant (McDonalds) and signage
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	No
Existing Use Rights:	Yes
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Mona Allsop
Applicant:	McDonald's Australia Ltd

Application lodged:	27/09/2016
Application Type:	Local
State Reporting Category:	Commercial/Retail/Office
Notified:	28/10/2016 to 15/11/2016
Advertised:	29/10/2016
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,679,381.00
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

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Warringah Development Control Plan - B7 Front Boundary Setbacks
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
 Warringah Development Control Plan - D23 Signs
 Warringah Development Control Plan - E4 Wildlife Corridors
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 1 DP 575638 , 164 Warringah Road BEACON HILL NSW 2100
Detailed Site Description:	The subject allotment is located in a unique position with a frontage to three streets and sharing an 'island' between the roads with one other site. Surrounding the sites are the following streets with frontages of: North - Cornish Avenue - 45.765m South - Warringah Road - 44.835m East - Willandra Road - 39.0m West - Caltex Service Station - 41.795m Further to the east of the allotment is a large portion of land zoned RE1 Public Recreation and consists of bushland and playing fields. Surrounding the allotment in all other directions are detached residential dwellings on land zoned R2 Low Density Residential. The site has a surveyed area of 2562m² and is on land zoned R2 Low Density Residential. Given that the site currently operates as a McDonald's Restaurant, the site is reliant upon existing use rights, as discussed elsewhere in this report. Presently the site accommodates an open-air at-grade car park with a drive-thru facility, and a single storey restaurant with indoor and outdoor seating, cooking facilities, a cafe and a playground. The site is generally flat and has a landscaped perimeter along all boundaries, with a significant tree present on the north-eastern corner of the site at the Willandra Road and Cornish Avenue intersection.

Map:



SITE HISTORY

Development Application No. 1994/0437 for the construction of a McDonald's Restaurant, associated carparking and landscaping was refused by Council on 14 December 1994. The proposal was subsequently appealed to the the Land and Environment Court in proceeding No. 10758 of 1995 and was approved on 20 February 1996.

Development Application No. 2005/0592 for the construction of a play area. This development was approved by the Application Determination Panel on 24 January 2006.

Development Application No. 2007/0137 for a customer display order unit, menu boards and awning for the drive thru was approved under delegation on 21 May 2007.

Development Application No. 2008/0652 for alterations and additions to the restaurant including widening the drive thru access was lodged with Council. The application was subsequently rejected on 14 May 2012 pursuant to Clause 51 of the Environmental Planning and Assessment Regulation 2000 (the 'EPA Regs 2000') as the application failed to submit a Geotechnical Report, a Survey Plan or a Bushfire Report.

Development Application No. 2012/0978 for alterations and additions to the restaurant to widen the drive thru access was lodged with Council. The application was determined under delegation on 05 October 2012.

A review of the history of the site and previous application has revealed that the operating hours for the site had not been able to be located. In the assessment of this application, original development consent was located which included the following condition restricting operating hours on the site:

Condition 52

The development shall operate as follows -

(a) The opening and closing hours of the development for the supply or consumption of products being confined to 6.00am to 10.30pm Sunday, Monday, Tuesday, Wednesday and Thursday and 6.00am to 12.00 midnight Friday, Saturday and Public Holidays.

Whilst this current development application does not propose amendment to the operating hours, conditions have been imposed in the recommendations of this report requiring signage illumination to be consistent with that of the operating hours. As such, the above information is of importance to this application.

PROPOSED DEVELOPMENT IN DETAIL

This development application is for alterations and additions to the existing McDonald's restaurant at No. 164 Warringah Road, Beacon Hill.

The works proposed comprise of:

- Modification to the existing building footprint - primarily over the existing terrace dining area, BOH storage and the drive-thru servery booth;
- Internal alterations and additions comprising of reconfiguration of the space and general updating;
- External alterations and additions comprising of new facades, entry ways and play equipment;
- Increase in seating capacity from 85 to 105 patrons;
- General upgrade of existing signage throughout, including the introduction of new signage.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of

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Section 79C 'Matters for Consideration'	Comments
	consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.
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 considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

- **Does the existing use satisfy the definition of "existing use" under the Environmental planning and Assessment Act, 1979 (the 'Act')?**

Section 106 of the Act defines an existing use as meaning:

"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."

This necessarily requires the following questions to be answered.

1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?

Comment:

Council has obtained evidence in the form of a Land and Environment Court Consent (Appeal 10758 of 1995 for DA1994/0437) which reveals that the use of the building commenced as a lawful purpose prior to the coming into force of the Warringah Local Environment Plan 2011 on 9 December 2011.

2. Was the use of the building / work / land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?

Comment:

The use of the building was lawfully approved by the Land and Environment Court on 20 February 1996, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. Has the use of the building been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?

Comment:

Previous development applications for this site have addressed this matter, however upon review, referenced building consents could not be located. From historical imagery and reliance upon Council's previous assessments, it is considered that the use of the building has been carried out within one year after the date of consent.

- **What is "the land on which the existing use was carried out" for the purposes of cl 42(2)(b) of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")?**

Meagher JA in *Steedman v Baulkham Hills Shire Council* [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Comment:

Having regard to the above case law, it is noted that a part of the area of the land was physically used for the purpose in question and therefore, it is considered that the land was not used for that purpose and that existing use rights apply to the whole of the subject site.

- **What are the planning principles that should be adopted in dealing with an application to alter enlarge or rebuild and existing use?**

The judgement in *Fodor Investments v Hornsby Shire Council* (2005) NSWLEC 71, sets out the planning principles which should be applied in dealing with development applications seeking to carry out development on the basis of existing use rights.

The following four principles adopted by the court in this case will have general application in dealing with Development Applications that rely on existing use rights:

1. How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment:

The subject site is unique in that it benefits from having three street frontages to Warringah Road, Willandra Road and Cornish Avenue. West of the site is a Caltex Service Station. The service station and subject restaurant are on an island-type allotment surrounding by roads. Given the unique location of the site and that the development is only single storey, it is considered that the development existing and proposed relates positively to that of the surrounding R2 Low Density Residential area.

2. What is the relevance of the building in which the existing use takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment:

The proposed works are for alteration and addition and do not seek demolition of the existing building or any change of use.

3. What are the impacts on adjoining land?

The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment:

It is considered that the amendment to the existing McDonald's Restaurant will not cause any unreasonable or detrimental impacts to surrounding developments given the prolonged and continuation of the existing site use. The structure existing and proposed is single storey and, considering the location of the site, no unreasonable overshadowing will occur to any surrounding residential properties.

4. What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.

Comment:

Given the minor nature of the works proposed and the reasons listed above and elsewhere in this report, it is considered that the amenity impacts caused by this development are not unreasonably dissimilar to the other development generally.

Conclusion

The use has been approved under a previous EPI (Warringah LEP 1985) and therefore, is a lawful use. Subsequently, the use can be retained under the current EPI (WLEP 2011).

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

Name:	Address:
Ms Penelope Gae Cross	26 Willandra Road BEACON HILL NSW 2100

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

- Signage and illumination
- Retention of landscaping

The matters raised within the submissions are addressed as follows:

- Signage and illumination
"... (I) have objections to a new signage on the north side of the building on Cornish Avenue. This will impact visibly from my house which runs along Cornish Ave as I am the immediate neighbour. I object to the size of the sign. I definitely object to any sign which would be lit up as my house windows are along Cornish Ave and bedroom is to the front of the house."

Comment:

Council Planning Officer met with the Objector to discuss the proposed signage inter alia the application as a whole. Of primary concern was the proposed 'M' sign on the northern facade in the top left corner of the wall. This north facing sign and the impacts of illumination were discussed.

After consultation with the Applicant, it was made clear that this proposed sign was not north facing and is actually north-east facing on a diagonal wall which was mentioned but not confirmed upon Council's meeting with the Objector.

As per clarification received, the signage is not facing the Objector's house as initially thought, and is instead addressing the south-bound traffic of Willandra Road with any light spill from the signage likely to only fall over the intersection.

In further measures to prevent any unreasonable glare and reflection from the illumination of the signage to the Objector's house, conditions have been put on relating to the levels of illumination and the hours of

illumination.

- Retention of landscaping

I would object strongly to the removal of any of the landscaping along Cornish Ave, especially the removal or interference of any of the trees as they soften the look of the building and the impact is kept to a minimal.

Comment:

The development application does not propose any amendment to the existing vegetation along Cornish Avenue except for the minor reduction south of the drive-thru. The two trees along Cornish Avenue significantly enhance the streetscape and as such, a condition of consent has been included in the recommendations of this report requiring the retention and protection of these trees.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.
Development Engineers	The proposed increase in impervious area is considered minor and drainage from the proposed works are to connect to the existing detention system on the site which has been conditioned. No changes are proposed to the vehicular or pedestrian access to the site. No objection to approval, subject to conditions as recommended.
Health and Protection (Food Premises, Skin Pen.)	No objections. Conditions added to ensure : Compliance with Fit-out requirements for Food Premises and a condition to ensure food is protected during construction works
Natural Environment (Biodiversity)	No objections raised and no conditions recommended.
Traffic Engineer	The proposed alternations and additions is for increasing the seats number from 85 to 105 seats. No changes is proposed on parking arrangements onsite. The proposal is not considered to have significant adverse impact on road network. In accordance with the Council's requirements, the proposal will

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Internal Referral Body	Comments
	require 35 parking spaces which is currently provided onsite. All demolition and construction vehicles are to be contained wholly within the site and all construction vehicles are to enter and exit the site in a forward direction. Therefore, no objection is raised on the proposal on traffic grounds.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Dept of Transport (Roads and Maritime Services) (Dev. On Classified Roads)	The NSW Roads and Maritime Services has responded to the proposal and has raised no objection, subject to the enforcement of conditions which can be found in the recommendations of this report.

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 19 - Bushland in Urban Areas

The provisions of the SEPP require that a person shall not disturb bushland zoned or reserved for public open space purposes without the consent authority considering the aims and objectives of the SEPP.

In this regard, consideration is given as follows:

(1) The general aim of this Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1 because of:

- (a) its value to the community as part of the natural heritage,
- (b) its aesthetic value, and
- (c) its value as a recreational, educational and scientific resource.

(2) The specific aims of this policy are:

- (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,
- (c) to protect rare and endangered flora and fauna species,
- (d) to protect habitats for native flora and fauna,
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,
- (f) to protect bushland as a natural stabiliser of the soil surface,
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,
- (h) to protect significant geological features,
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,
- (j) to protect archaeological relics,
- (k) to protect the recreational potential of bushland,
- (l) to protect the educational potential of bushland,
- (m) to maintain bushland in locations which are readily accessible to the community, and
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.”

Comment:

To the east of the subject site there is a large parcel of land zoned RE1 Public Recreation, however this is located across a 4-lane road (Willandra Road) between the subject site and RE1 area. As such, it is considered that the development, that does not entail the removal of any vegetation, will not have any unreasonable impacts on the adjacent bushland in urban areas.

Based on the above, it is considered that the development would / would not result in consistency with the aims of the plan.

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

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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.

Roads and Maritime Service (RMS)

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Drive-in take away food outlets	200 or more motor vehicles	Any size of capacity

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

"(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3."

Comment:

The application was referred to the RMS who did not raise any objection to the proposal, subject to conditions which can be found in the recommendations of this report.

Warringah Local Environment Plan 2011

Is the development permissible?	No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.75	-	Yes

Compliance Assessment

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Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

The existing and proposed continuation of the site use is permitted as per Section 106 of the Environmental Planning and Assessment Act (1979) (EP&A Act) and is further detailed in *Existing Use Rights* elsewhere in this report.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	2.8m	-	Yes
B3 Side Boundary Envelope	4.0m	No encroachments	-	Yes
	4.0m	No encroachments	-	Yes
B5 Side Boundary Setbacks	West - 0.9m	Caltex - 21.5m	-	Yes
B7 Front Boundary Setbacks	6.5m	Warringah Road - 16.3m	-	Yes
B7 Secondary Front Boundary Setbacks	3.5m	Willandra Road - 6.85m	-	Yes
		Cornish Avenue - 7.6m	-	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (1,025.6m ²)	14.3% (367.5m ²)	35.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes
Front Boundary Exceptions - R2	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
Rear Boundary Exceptions on Corner Allotments - R2	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Non-Residential Development	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E1 Private Property Tree Management	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The subject site is located on a unique allotment that benefits from having three street frontages consisting of:

- Warringah Road to the south;

- Willandra Road to the east; and
- Cornish Avenue to the north.

East of the site is a Caltex Service Station. The service station and McDonald's Restaurant are on an island-like allotment that is bound by roads from all angles.

Given the unique circumstances of this particular site, it is considered that it has one primary frontage (Warringah Road), two secondary frontages (Willandra Road and Cornish Avenue) and one side boundary (east to the service station).

The proposed works within this development application retain the following setbacks from the boundaries:

- Warringah Road - 16.3m;
- Willandra Road - 6.85m;
- Cornish Avenue - 7.6m; and
- East - service station - 21.5m.

The development complies with all setback controls and meets the following objectives of the control:

- *To create a sense of openness.*
- *To maintain the visual continuity and pattern of buildings and landscape elements.*
- *To protect and enhance the visual quality of streetscapes and public spaces.*
- *To achieve reasonable view sharing.*

Given compliance with the numerical setback controls and the nature of the site (frontages), it is considered that the development proposed meets the objectives of the control.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

Description of non-compliance

The proposed development increases the maximum seating capacity of the existing restaurant from 85 patrons to 105 patrons by virtue of 70 internal seats and 35 external seats.

Presently the premise has 35 car parking spaces and this is not proposed to change subject to this development application.

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking: _____

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Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Take-away food and drink premises	Drive-in take-away food outlet with on-site seating and drive through facilities: greater of: · 1 space per 2 seats (internal), or · 1 space per 3 seats (internal and external) plus queuing area for 5 to 12 cars	70 internal seats - 35 spaces OR 105 internal and external seats - 35 spaces required. Queuing for 5 to 12 cars	35 car parking spaces Queuing for 14 cars	nil +2
Total		35 spaces	35 spaces	nil

The proposed provision of car parking allocated on-site to the McDonald's Restaurant use is compliant with the numerical requirements of Clause C3 Parking Facilities and Appendix 1 Car Parking Requirements.

Drawing No. D001 Rev B by Richmond+Ross Pty Ltd dated July 2016 show 14 cars queuing for the drive thru at the restaurant, however it is considered that a safer number of vehicles queuing (to avoid overflow and obstructing vehicular access to the car park) would be 12 cars. Nevertheless, the proposal provides for an adequate queuing of cars.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

No amendment is proposed to the existing provision of car parking on site - however it is noted that an existing landscaped buffer in the form of a hedge reduces the visual impact on the at-grade car park when viewed from Warringah Road, Willandra Road and Cornish Avenue.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The existing provision of car parking is not dissimilar to that of the surroundings and is not considered to dominate the street frontage by virtue of the at-grade nature.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of non-compliance

The site is required to have a landscaped open space (LOS) of 40%, equivalent to 1,025.6m² for this site. Existing is an LOS of 14.9%, equivalent to 384.0m².

The proposed development includes a minor reduction in the existing provision of LOS adjacent to the drive thru. Entailed within this application is an LOS of 14.3%, equivalent to 367.545m².

Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

No amendment is proposed to the landscaped verge surrounding the site and visible from the streetscape.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The application does not propose the removal of any vegetation and therefore there is no loss of indigenous vegetation, topographical features or habitat for wildlife.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

Comment:

The existing established hedge plantings and mature trees are not proposed to be removed or impacted upon in any way. As such, conditions have been included in this recommendations of this report reflecting the retention and preservation of the existing vegetation.

- *To enhance privacy between buildings.*

Comment:

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Given the unique situation of the allotment, it is considered that this development will not have any impact upon the existing amenity of privacy currently enjoyed by the dwellings to the north over Cornish Avenue.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

N/A

- *To provide space for service functions, including clothes drying.*

Comment:

N/A

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

The development will not impact upon the existing provision of water management.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D23 Signs

The development application includes the erection of 8 pieces of signage consisting of the following:

- 1. One 'M' wall sign of 1200mm (h) x 1370mm (w);
- 2. One 'M' wall sign of 1670mm (h) x 1910mm (w);
- 3. One 'McDonald's' entry sign of 232mm (h) x 1900mm (w);
- 4. One 'Place Place' hanging under awning sign of 465mm (h) x 1600mm (w);
- 5. One 'McCafe' wall sign of 1200mm (radius);
- 6. One 'McDonald's' parapet (awning fascia) sign of 700mm (h) x 5737mm (w); and
- 7 and 8. Two 'digital menuboards' freestanding sign of 1857mm (h) x 690mm (w)

Sign	Criteria	Comment
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall; Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and	Signs 1, 2, 3 and 5 are considered to be wall signs, as per the definition. Each piece of signage is compliant with the listed criteria.

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	Shall not project more than 300mm from the wall.	
Under awning sign (attached to the underside of an awning)	Shall not exceed 2.5m in length or 0.3m in height; Shall be no less than 2.7 m above the ground and at right angles to the property boundary to which the awning is attached; Shall not project beyond the awning; and No more than one under-awning sign may be erected per business/shop.	Sign 4 is a hanging sign and is therefore considered to be a under awning sign as per the definition. The piece of signage is compliant with the listed criteria.
Freestanding signs (not being a sign elsewhere listed in this table, and includes a bulletin board, tenancy board, and the like).	Shall not exceed 2 metres in height above the existing natural ground level; Shall not have an area greater than 4sqm; Shall not project beyond the boundary of the premises; and Shall not be illuminated.	Signs 7 and 8 are considered to be freestanding signs, as per the definition. These signs are illuminated, however this is considered acceptable given the height and that they are to replace existing signage in the same location.
Awning fascia sign (attached to the fascia or return end of an awning)	Shall not project above, below or beyond the fascia or return end of the awning to which it is attached.	Sign 6 is a parapet sign and is therefore considered to be an awning fascia sign. The piece of signage is compliant with the listed criteria.

The signage proposed is considered to be of a high standard by virtue of appearance and durability and will be complementary to the land use. Concerns raised during the submission period about the potential impacts of the signage illumination have been addressed in the Submissions part of this report and, conditions have been included in the recommendations of this report to ensure there are no unreasonable or detrimental amenity impacts resultant of the development.

E4 Wildlife Corridors

The proposed development is retained within the existing footprint of the building and waste storage area (adjacent to the drive-thru). No removal of vegetation is proposed and therefore it is considered that there is no loss of natural habitat for local wildlife.

For the above reasons, it is considered that the development is not of detriment to any existing or foreseeable wildlife corridors.

E10 Landslip Risk

No Geotechnical Report was provided with the Application, however given the scope of works and that is generally consists of the refurbishment of the existing structure, it is considered that no report is required in this circumstance. Noted is the minor extension of the back-of-house over an existing concreted and enclosed area adjacent to the drive-thru, however this minor extension will not be create any additional unreasonable loads.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 1,679,381		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 15,954
Section 94A Planning and Administration	0.05%	\$ 840
Total	1%	\$ 16,794

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2016/0995 for Alterations and Additions to the restaurant (McDonalds) and signage on land at Lot 1 DP 575638, 164 Warringah Road, BEACON HILL, 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
A001 Rev. B	9 September 2016	McDonald's Australia Limited
A100 Rev. B	9 September 2016	McDonald's Australia Limited
A200 Rev. B	14 September 2016	McDonald's Australia Limited
A201 Rev. B	14 September 2016	McDonald's Australia Limited
A202 Rev. B	14 September 2016	McDonald's Australia Limited
A203 Rev. B	14 September 2016	McDonald's Australia Limited
A020 Rev. B	14 September 2016	McDonald's Australia Limited

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.

d) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Report Title.	Dated	Prepared By
Waste Management Plan	Undated	KDC

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 all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	eServices Reference	Dated
NSW Roads & Maritime Services	Referral Response NSW RMS	04 November 2016

(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 and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(j) All sound producing plant, equipment, machinery or fittings and the use will not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the Environment Protection Authority's NSW Industrial Noise Policy and/or Protection of the Environment Operations Act 1997.

(k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(l) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(m) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

(n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by

building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

(2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

(3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.

(4) Swimming pools and spas must be registered with the Division of Local Government.

(o) New solid fuel burning heaters or existing solid fuel heaters affected by building works must comply with the following:

- (1) AS 2918:2001 Domestic Solid Fuel Burning Appliances – Installation.
- (2) AS 4013:2014 Domestic Solid Fuel Burning Appliances – Method of Determination of Flue Gas Emissions.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches Council Section 94A Development Contribution Plan

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

The following monetary contributions are applicable:

Northern Beaches Council Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$ 1,679,381.00		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 15,954.12

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Section 94A Planning and Administration	0.05%	\$ 839.69
Total	1%	\$ 16,793.81

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

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with Northern Beaches Council's Development Contributions Plan.

6. Security Bond

A bond (determined from cost of works) of \$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

7. Stormwater Disposal

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing on-site stormwater detention tank located within the car park.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development. (DACENC06)

8. 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)

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. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light

grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

11. **Sewer / Water Quickcheck**

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

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

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

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

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. **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)

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

OCCUPATION CERTIFICATE

14. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

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

Note: The following Standards and Codes applied at the time of determination:

(a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage

(b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage

(c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

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

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

Reason: To ensure that the kitchen complies with the design requirements (DACHPFPOC3)

16. **Removal of All Temporary Structures/Material 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 bushland management. (DACPLF01)

17. **Fire Safety Matters**

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

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

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

18. **Preparation of food during building works**

Provision being made during building works to ensure adequate separation of existing food/drink preparation areas from possible building related contaminants

Reason: To ensure food is protected from contamination at all times during construction works (DACHPGOG1)

19. **Hours of Illumination**

Illumination of signage at the subject premises shall cease between the hours of:

- 10.30pm and 6.00am Sunday to Thursday and;
- 12.00 midnight and 6.00am Friday, Saturday and Public Holidays

Signs must not flash, move or be constructed of neon materials.

Reason: To ensure residential premises are not affected by inappropriate or excessive illumination. (DACPLG11)

20. **Illumination Intensity and design**

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised and the design is to be such to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties. (DACPLG12)

21. **Commercial Waste Collection (DACPLG18)**

Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To protect the acoustic amenity of surrounding properties.(DACPLG18)

22. **Delivery Hours**

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

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

NORTHERN BEACHES COUNCIL

Adam Mitchell, Planner

The application is determined under the delegated authority of:



Rodney Piggott, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2016/326976	Plan - Notification	09/09/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/352223	Notification Map	27/10/2016

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ATTACHMENT C

Reference Number	Document	Date
 2016/326977	Cost Summary Report	08/09/2016
 2016/326974	Plans - Survey	09/09/2016
 2016/326976	Plan - Notification	09/09/2016
 2016/326982	Plans - Master Set	09/09/2016
 2016/326980	Report - Statement of Environmental Effects	26/09/2016
 2016/326971	Letter - Power of Attorney	26/09/2016
 DA2016/0995	164 Warringah Road BEACON HILL NSW 2100 - Development Application - Alterations and Additions	27/09/2016
 2016/321142	DA Acknowledgement Letter - McDonald's Australia Ltd	27/09/2016
 2016/326972	Letter - Cover	04/10/2016
 2016/326973	DA Quote	04/10/2016
 2016/326970	Owners Consent	04/10/2016
 2016/326981	Report - Waste Management	04/10/2016
 2016/326953	Development Application Form	04/10/2016
 2016/326963	Applicant Details	04/10/2016
 2016/342000	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/0995 - 164 Warringah Road BEACON HILL NSW 2100 - Drew B	18/10/2016
 2016/342006	Health and Protection (Food Premises, Skin Pen.) - Assessment Referral - DA2016/0995 - 164 Warringah Road BEACON HILL NSW 2100	18/10/2016
 2016/342045	Acknowledgement: RMS Referral	18/10/2016
 2016/346029	Development Application Advertising Document - McDonald's Australia Ltd	21/10/2016
 2016/352223	Notification Map	27/10/2016
 2016/352231	Notification Letter - DA	27/10/2016
 2016/353970	DA Advertising Photos	28/10/2016
 2016/354484	Environmental Health and Protection Referral Response - commercial use	31/10/2016
 2016/355824	Development Engineering Referral Response	31/10/2016
 2016/357839	Amended Elevations	01/11/2016
 2016/357840	Council response to Amended Elevations	01/11/2016
 2016/357849	Amended Master Set	02/11/2016
 2016/362487	Referral - Roads and Maritime - 164 Warringah Road Beacon Hill	04/11/2016
 2016/362568	Confirmation of amended plans	07/11/2016
 2016/363029	Signage confirmation	07/11/2016
 2016/363560	Submission - Cross	07/11/2016

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	2016/367275	Submission Acknowledgement Letter - Penelope Gae Cross - SA2016/363560	10/11/2016
	2016/367495	Referral Response NSW RMS	10/11/2016
	2016/383103	Building Assessment Referral Response	23/11/2016
	2016/397028	Traffic Engineer Referral Response	30/11/2016
	2016/403269	Notice of Determination	12/12/2016