

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2017/0504
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Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 21 DP 1521, 6 Powells Road BROOKVALE NSW 2100
Proposed Development:	Use of Premises as a Recreation Facility (Gymnastics Centre)
Zoning:	LEP - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	CA Australia Pty Ltd
Applicant:	Beacon Hill Youth Club

Application lodged:	26/05/2017
Application Type:	Local
State Reporting Category:	Other
Notified:	02/06/2017 to 19/06/2017
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	2
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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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 Development Control Plan - C2 Traffic, Access and Safety

SITE DESCRIPTION

Property Description:	Lot 21 DP 1521 , 6 Powells Road BROOKVALE NSW 2100
Detailed Site Description:	The site is rectangular in shape, located at the north-eastern end of Powells Road within the Brookvale industrial and commercial area. Access to the site is provided from Powells Road. The site contains two (2) detached buildings including the following; • Building 1 (subject premise); 2 x industrial/warehouse/light industry units; • Building 2: 2 x warehouse/showroom (ground floor level) with associated office space (first floor level); and • On-site parking for eight (8) spaces. The site is not affected by key environmental considerations of bushfire, biodiversity, flood, geotechnical risk, heritage, or acid sulfate soils.

Map:



SITE HISTORY

Development Consent 2004/1000DA for Alterations and additions to the existing buildings and strata subdivision was granted 3 December 2004.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves the use of an existing warehouse as an indoor gymnasium with the following details;

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- Use for a gymnasium for gymnastic classes for toddlers, school kids of all ages and rehabilitation exercises for a range of disabilities (no structural building work);
- Classes comprise of groups of up to 14 students, 28 students and one on one classes.
- Wall mounted signage for business/community identification;
- Hours of operation being sessions for various school/children groups between Monday to Friday 9.30 to 7.00pm; Saturday 7.00am to 3.00pm; and Sunday 7.00am to 7.00pm;
- Typically one (1) or (2) staff per session during peak periods (week morning and afternoon) as well as "one on one" sessions outside of peak times (week mid days and week ends); and
- Allocation of five (5) of the existing eight (8) on-site car parking spaces for the gym use.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <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 clause is not relevant to this application. <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

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Section 79C 'Matters for Consideration'	Comments
	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. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Peter Lloyd Tait	18 Dowling St QUEENSCLIFF NSW 2096
Admiral Plastics Pty Ltd	4 Powells Road BROOKVALE NSW 2100

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

- Parking, traffic concerns
- Delinquent behavior

The matters raised within the submissions are addressed as follows:

- Parking, traffic concerns

Comment:

The concerns are that the proposed gym will exacerbate existing traffic congestion and on-street parking demand, particularly during peak time periods, and that this situation will generate traffic safety issues for children entering the gym. Also, the submission disputes the findings of the Traffic Report submitted with the application, particularly with respect to the pick up drop off rates.

The Traffic Report submitted with the application concludes that rate and travel mode data would indicate some 7 to 8 set down and pick up movements during the peak attendances. These 'movements' are concurred with. With exception of children catching public transport (bus) to the premises, all children are able to be dropped off within the existing on-site car parking spaces. Suitable conditions are included in the Recommendation to manage the process of dropping off and picking up of children during peak times and children entering the site after catching a bus, including clearly marked signage and line marking to provide directions and safe passage to the premises. Further details are provided under the WDCP 2011 - C3 Parking Facilities section of the report.

However, it is unclear how the on-site parking situation would be managed or regulated to minimise local parking and traffic conflicts during the peak afternoon time, being the 4pm class with 28 children. Therefore, consistent with the recommendation of Council's Traffic Officer, a condition is included in the Recommendation for this class to commence at or after 5pm during a weekday.

Having regard to the above, the concerns raised in relation to parking and traffic do not warrant further redesign or refusal of the application.

- Delinquent behavior

Comment:

The submission raises concern that children of the Drop In Youth Centre at 12 Powells Road loiter around local businesses harassing workers, trying to buy cigarettes from passers by and are vandalising local premises.

This is not a relevant matter of consideration in the assessment of this application.

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.

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Internal Referral Body	Comments
	There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below. <u>Notes:</u> <i>1. The proposal is for a change of Use. The existing building may not be suitable for the new use and may not comply with some requirements of the BCA and the Premises Standards. The plans provided lack sufficient detail to enable a full and proper assessment. The plans show toilets opening directly into a kitchen without a suitable airlock and a disabled toilet accessible only from the outside of the building which may be considered discriminatory. Issues such as this however may be determined at Construction Certificate stage.</i> <i>2. The existing levels of fire safety within the premises are not considered adequate and are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 93 of the Environmental Planning and Assessment Regulation 2000.</i> <i>3. A Building Code of Australia Compliance Assessment Report addressed by an A1, A2 (Unconditional) Accredited Certifier or C10 Fire Safety Engineer (Accredited with the Building Professionals Board) shall be included in the Construction Certificate and be implemented prior to the issue of the Interim / Final Occupation Certificate.</i>
Environmental Investigations (Industrial)	Based on the information supplied we do not have any objections . Noise condition to be added.
Traffic Engineer	<u>Traffic Engineer Comments</u> There are generally no objections to the proposed development and timetable of classes. It is assumed that during the business hours on a weekday classes are not operating back to back which may generate additional trips from parents. To minimise the peak demand it is advisable to introduce a 15 minute gap between back to back classes, Council's Development Assessment Officer is to consider implementing this as a condition of consent. Any further changes to the class timetable and student numbers will require a separate application to Council. There are no objections to this proposal on traffic and parking grounds subject to the following Draft Conditions: 1. Carpark's 6 angle parking spaces are to be offset by 0.5m south to allow extra turning space for parents dropping off and pickup. 2. Classes to operate after 5pm during a weekday. 3. Kindy Classes are to operate from school minibuses and are not to operate privately. 4. Back to back classes during 4-6pm to have a gap of 15 minutes to minimise conflicts during peak pickup/drop-off times. <u>Planner Comments</u> Two (2) detached buildings are located on-site, being a warehouse

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Internal Referral Body	Comments
	located at the rear of the site and an office located at the street frontage of the site. These buildings operate separately and not in conjunction with each other. Currently, a total of eight (8) car parking spaces are provided on-site, comprising the following; • one (1) space located adjacent the front elevation of the office; • six (6) spaces located adjacent the side elevation of the office; and • one (1) space located between the office and warehouse. Currently, two (2) spaces are allocated for use by the office. The proposal seeks to use the existing warehouse as an indoor gym. Therefore, a total of six (6) parking spaces are available for use by the gym. As detailed under the WDCP C3 Parking Facilities section of the report, the Traffic Report submitted with the Application provides that a total of four (4) car parking spaces are required to avoid any adverse parking implications on the surrounding road network. As a total of six (6) spaces are available for use, sufficient on-site parking is provided for the proposed use. This is discussed in further detail under the WDCP C3 Parking Facilities section of the report. However, it is unclear how the on-site parking situation would be managed or regulated to minimise local parking and traffic conflicts during the peak afternoon time, being the 4pm class with 28 children. Therefore, consistent with the recommendation of Council's Traffic Officer, a condition is included in the Recommendation for this class to commence at or after 5pm during a weekday. Subject to the above, adequate off street carparking is provided by the proposal.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for light industrial warehouse 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 land use.

SEPP 64 - Advertising and Signage

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

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

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

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Yes.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Yes.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	N/A	N/A
3. Views and vistas Does the proposal obscure or compromise important views?	No.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No.	YES
Does the proposal respect the viewing rights of other advertisers?	Yes.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the	Yes.	YES

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proposal appropriate for the streetscape, setting or landscape?		
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Yes.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A	N/A
Does the proposal screen unsightliness?	N/A	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No. Wall mounted.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Yes.	YES
Does the proposal respect important features of the site or building, or both?	Yes	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No. Identification signage only.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	N/A	N/A
Can the intensity of the illumination be adjusted, if necessary?	N/A	N/A
Is the illumination subject to a curfew?	N/A	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	No.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No.	YES

Accordingly, the proposed signage is of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environment Plan 2011

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

Principal Development Standards

Not applicable as the application relates to the use of an existing building only.

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes

Warringah Development Control Plan

Built Form Controls

Not applicable as the application relates to the use of an existing building only.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2 Traffic, Access and Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	No	Yes
C8 Demolition and Construction	N/A	N/A
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D10 Building Colours and Materials	N/A	N/A
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C2 Traffic, Access and Safety

A condition is included in the Recommendation requiring a sign, legible from the street, to be permanently displayed to indicate that a pedestrian visitor access pathway to the entry to the Gymnasium is available on the site and is clearly line marked as such. The line marked pedestrian pathway is required to traverse between the existing office/showroom building at the front of the site to the gym entry door. This condition will assist to provide safe pedestrian entry to the premises from the street and minimise on-site vehicle pedestrian conflict.

C3 Parking Facilities

Development Consent 2004/1000DA for Alterations and additions to the existing buildings and strata subdivision was granted 3 December 2004. A total of Eight (8) car parking spaces were approved as part of the approved development. The Traffic Report submitted with the application advises that two (2) of these spaces are currently shared with the existing office/showroom which is located at the front of the site. This building is not part of the proposed development.

The proposed development relates to the existing building located at the rear of the site. Based on the above, a total of six (6) car parking spaces are allocated solely for the gymnasium land use.

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

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
gymnasium (465m ²)	4.5 spaces per 100 m ² GFA	20.9	6	14.9
Total		21		15

Having regard to the above, the proposal has a shortfall of 15 spaces. However, in summary, the Traffic Report submitted with the application concludes that only a total of four spaces are required for

adequate and appropriate parking provision and for the traffic generation at peak demand times (i.e. 4pm and onward) of the proposed development not to present any adverse traffic implications. Also, the report provides that vehicle access, internal circulation and parking arrangements will also be satisfactory and in accordance with current design standards.

The rationale as to why only four (4) spaces are required to facilitate adequate on-site parking is as follows:

- The proposed parking provision and parking implications have been assessed on a first principles basis;
- The proposed gymnastics school will provide lessons and private sessions for children via a weekly timetable;
- The worst case scenario in terms of traffic and parking impacts is during weekday afternoons (i.e. 4pm) when the highest attendance group classes are held (i.e. up to 28 students);
- Extra-curricular school activities suggest that an average car occupancy is typically two (2) to three (3) students per car being a combination of 'sibling rates' and carpooling amongst fellow students and parents from the same schools;
- Using the extra-curricular school activities average, a total of 65% of children per class are likely to be carpooling;
- It is expected that a high percentage of the remaining 35% would use the Pittwater Road standard school and public bus services;
- Average drop off and pick up time is calculated at 3 minutes and as students typically arrive/depart within a 15 minutes window of the starting/finishing times, four (4) available spaces will have a derived capacity of 20 set down and pick up movements; and
- The peak demand of 7-8 set down/pick up movements will be adequately accommodated by the available car parking facilities during the worst case scenario (i.e, afternoon highest attendance group classes)

Therefore, as six (6) spaces are available during peak demand, it is concluded that sufficient on-site parking is provided for the proposed use and that the proposal will not result in any adverse parking implications on the surrounding road network.

However, the Traffic Report does not provide sufficient detail as to how the on-site parking situation would be managed or regulated to minimise local parking and traffic conflicts during the peak afternoon time. Therefore, consistent with Council's Traffic Engineer recommendation, a condition is included in the Recommendation for the "peak" class to commence after 5pm during a weekday so that on-site and local parking and traffic concerns are minimised.

Subject to the above, adequate off street carparking is provided by the proposal.

D23 Signs

Description of non-compliance and/or inconsistency

The application proposes two (1) pieces of signage consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
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	1m & 1.5m	3m & 1.4m	1.5m & 2.1m	Yes

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	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 Shall not project more than 300mm from the wall.				
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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.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2017/0504 for Use of Premises as a Recreation Facility (Gymnastics Centre) on land at Lot 21 DP 1521, 6 Powells Road, BROOKVALE, 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
DA01	May 2017	Jah Design and Services
DA02	May 2017	Jah Design and Services
DA03	May 2017	Jah Design and Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Compliance Assessment	19 April 2017	BCA Vision
Disability Access Compliance Statement	25 May 2017	Cheung Access
Assessment of Traffic and Parking Implications	May 2017	Transport and Traffic Planning Consultants

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. Amendments to the approved plans

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

- The approved Carparking Layout Plan DA03 dated May 2017 prepared by JAH Design Services, is to be amended to show eight (8) car parking spaces. The spaces shall include the following allocation:
 - Five (5) - Gymnasium Visitor

- One (1) - Gymnasium Visitor/Persons with a disability space
- The six (6) angled car parking spaces are to be offset by 0.5m southwards to allow extra turning space for parents dropping off and pickup.

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

Reason: To ensure on-site carparking is consistent with the existing and approved development. (DACPLB02)

3. **Occupancy**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a recreational facility (indoor);

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

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

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

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

4. **Prescribed Conditions**

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

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

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

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

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

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

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

5. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

(b) 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 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)

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

6. Fire Safety Upgrade

The existing levels of fire safety within the premises are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 93 of the Environmental Planning and Assessment Regulation 2000.

A Building Code of Australia Compliance Assessment Report addressed by an A1, A2 (Unconditional) Accredited Certifier or C10 Fire Safety Engineer (Accredited with the Building Professionals Board) shall be included in the Construction Certificate and be implemented prior to the issue of the Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.

7. **Compliance with Standards**

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'***
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (n) AS 4674 Design, construction and fit out of food premises
- (o) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

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

8. **Pedestrian Signage**

A sign, legible from the street, shall be permanently displayed to indicate that pedestrian visitor access pathway to the entry to the Gymnasium is available on the site and is clearly line marked as such.

The pedestrian pathway should traverse between the Existing Adjoining Building and adjoining carparking area and lead to the Entry, as marked on approved plans.

Reason: To provide safe pedestrian entry to the premises from the street and to minimise on-site vehicle pedestrian conflict. (DACBCFPOC1)

9. **Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The existing building is to be upgraded to ensure provision is made for fire safety and building occupant safety.

A Building Code of Australia Compliance Assessment Report shall be included in the Construction Certificate and any recommended upgrading works are to be implemented prior to occupation of the new building or part.

Reason: To ensure adequate provision is made for fire safety in the premises and for building occupant safety.

10. **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

11. **Allocation of Spaces**

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

Five (5) - Gymnasium Visitor

One (1) - Gymnasium Visitor/Persons with a disability space

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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 that adequate parking facilities to service the development are provided on site. (DACPLG01)

12. **Visitors Sign**

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

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 that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

13. **Hours of Operation and Maximum Number of Students**

The hours of operation are to be restricted to the following;

- Monday to Friday 9.30 to 7.00pm;
- Saturday 7.00am to 3.00pm;
- Sunday 7.00am to 7.00pm

The maximum number of students/children at any one time in a gymnasium class session after 5pm, Monday to Friday, is to be 28 children.

The maximum number of students/children at any one time in a gymnasium class session before 5pm, Monday to Friday, is to be 14 children.

There is to be a minimum 15 minute break between any gymnasium class from 4.45pm to 5.00pm, Monday to Friday.

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

Reason: Maintain the amenity of the surrounding locality is maintained. (DACPLG08)

14. **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)

15. **Loading Within Site**

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading areas, at all times.

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

16. **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)

17. **Noise**

No noise nuisance shall be caused through the operation of the business or any plant or equipment at the premises. Noise generated from the premises must not exceed the limits as specified in the NSW

NORTHERN BEACHES COUNCIL

Industrial Noise Policy. (DACPLG23)

18. **Commercial Waste and Recycling Storage**

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

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

19. **Kindergarten Classes**

Kindergarten Classes are to operate from school minibuses and are not to operate privately.

Reason: To minimise peak on and off site parking demand and traffic impacts. (DACTRGOG2)

I am aware of Warringah's Code of Conduct and, in signing this report, declare that I do not have a Conflict of Interest.

Signed

Kevin Short, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2017/165435	Plan - Notification	25/05/2017

ATTACHMENT B

Notification Document	Title	Date
 2017/176986	Notification Map	02/06/2017

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ATTACHMENT C

Reference Number	Document	Date
 2017/165450	Report - BCA Design Compliance	08/05/2017
 2017/165437	Plan - Survey	15/05/2017
 2017/165456	Report- Disability Access Statement	25/05/2017
 2017/165459	Report- Traffic Management	25/05/2017
 2017/165453	Report - Statement of Environmental Effects	25/05/2017
 2017/165447	Plans - Master Set	25/05/2017
 2017/165435	Plan - Notification	25/05/2017
 2017/165462	Report- Waste Management	26/05/2017
 DA2017/0504	6 Powells Road BROOKVALE NSW 2100 - Development Application - Change of Use	26/05/2017
 2017/153474	invoice for ram applications - Beacon Hill Youth Club	26/05/2017
 2017/153495	DA Acknowledgement Letter - Beacon Hill Youth Club	26/05/2017
 2017/165424	Development Application Form	29/05/2017
 2017/165428	Applicant Details & ASICS	29/05/2017
 2017/177614	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2017/0504 - 6 Powells Road BROOKVALE NSW 2100 - PR	01/06/2017
 2017/178239	Environmental Investigations (Industrial) - Assessment Referral - DA2017/0504 - 6 Powells Road BROOKVALE NSW 2100	01/06/2017
 2017/176986	Notification Map	02/06/2017
 2017/176988	Notification Letter - 97	02/06/2017
 2017/179816	Environmental Investigations Referral Response - industrial use	05/06/2017
 2017/181602	Environmental Investigations Referral Response - industrial use	06/06/2017
 2017/192289	Online Submission - Tait	16/06/2017
 2017/192338	Submission - Admiral Plastics Pty Ltd	16/06/2017
 2017/198421	Building Assessment Referral Response	22/06/2017
 2017/212647	Stamped Plans	05/07/2017
 2017/216648	Traffic Engineer Referral Response	07/07/2017