

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/0092
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Responsible Officer:	Daniel Milliken
Land to be developed (Address):	Lot 100 DP 630909, 2 Myoora Road TERREY HILLS NSW 2084
Proposed Development:	Demolition works, Alterations and additions to the existing building and carparking
Zoning:	LEP - Land Zoned RU4 Primary Production Small Lots LEP - Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Warringah Council
Land and Environment Court Action:	No
Owner:	Sarodom Investments Pty Ltd
Applicant:	Tomasy Pty Ltd

Application lodged:	04/02/2016
Application Type:	Local
State Reporting Category:	Commercial/Retail/Office
Notified:	17/02/2016 to 04/03/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	1
Recommendation:	Approval

Estimated Cost of Works:	\$ 86,360.00
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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 RU4 Primary Production Small Lots

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - B14 Main Roads Setback

Warringah Development Control Plan - C3 Parking Facilities

SITE DESCRIPTION

Property Description:	Lot 100 DP 630909 , 2 Myoora Road TERREY HILLS NSW 2084
Detailed Site Description:	The site is located on the corner of Myoora Road and Mona Vale Road near the Forest Way intersection. The site has an area of 2.054 Ha and slopes down towards the north. Existing on the site is a supermarket, a large carparking area and several other ancillary structures. The surrounding development consists of semi-rural properties, main arterial roads, a forest coach lines bus depot and a golf course. The land is zoned RU4 Primary Production Small Lots.

Map:



SITE HISTORY

The site has an extensive history of applications and uses.

The following applications are relevant to the current proposal:

NORTHERN BEACHES COUNCIL

- **DA2009/1433** for alterations and additions to an existing retail fruit shop and ancillary office was approved on 25/02/2010. This application was the approval for the current use of the site.
- **DA2014/0373** for an internal fit-out and use of part of premises as a restaurant / cafe was approved on 29/05/2014. This application granted approval for the use of a part of the shop as a cafe.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to the existing fruit shop and cafe. The works relate directly to the cafe portion of the development and will provide an outdoor seating area, a playground and associated amenities. These facilities will be located where the existing dwelling (which is proposed to be demolished) stands.

In detail the proposed works are as follows:

- The demolition of the existing residence which is located between the Myoora Road frontage and the main market building;
- The construction of decking level with the existing floor of the retail area capable of accommodating 32 removable seats;
- The construction of a children's playground with soft ground covering, construction and equipment to comply with AS 4685:2014;
- The construction of two additional toilet facilities at the northern end of the deck;
- Reconfiguration of car parking at grade;
- The construction of a new trolley bay;
- Replacing existing concrete paving with landscaping and other associated landscaping works.

No changes are proposed to the hours of operation.

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 A.

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

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
	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 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 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

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

NORTHERN BEACHES COUNCIL

Name:	Address:
Mrs Maria Pollifrone	44 Bay Vista Lane EWINGSDALE NSW NSW 2481

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

- **Noise**

The matters raised within the submissions are addressed as follows:

- **Noise**

The submissions raised concerns that the proposed outdoor seating and playground would result in unreasonable noise impacts and requested an acoustic report be prepared.

Comment:

The applicant, after reading the submission online, prepared an Acoustic Report (prepared by West & Associates Pty Ltd dated 1 April 2016). A copy of the report was forwarded to the objector's Planning Consultant who requested amendments to reference the existence of the dwelling next door and to assess the impact of the proposal on the dwelling. The acoustic engineer reassessed the situation, updated the report (to the date referenced above) and provided the following comments:

"The building at 399 Mona Vale Rd. was currently being used(as far as we could ascertain) as a Nursery Office.

The presence of the Child Care Centre would typically exclude the Office to be used as a residence for acoustic reasons so I excluded the use as a residence in my initial report.

As requested, I have replaced Nursery with Nursery/Residence throughout the report and Issue B dated 1/3/16 #16075.pdf is attached for distribution. The findings for residence are fully complying with the NG so the recommendations are the same, namely the development complies and no additional acoustic works are required."

The objector's Planning Consultant subsequently requested the following condition:

In order to protect the amenity of the adjoining properties, a 2.2m high acoustic barrier is to be installed adjacent to the proposed outdoor dining area and children's play area and the noise levels (from use and mechanical plant) when measured at the nearest sensitive receiver is not to exceed 51 dB(A) (LAEq15 min).

Given the proximity to Mona Vale Road and the findings of the acoustic report, it is not considered that a 2.2m high acoustic wall is necessary or that setting a certain dB(A) level is reasonable. Continuing compliance with the *Protection of the Environment Operations Act 1997* is required and should provide sufficient protection for the neighbouring property.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections to the proposal for the demolition of an existing brick structure and the construction of a decking area, playground and associated facilities to an approved café. No special conditions.
Development Engineers	The proposed development site has an existing on-site stormwater detention (OSD) which caters for the stormwater discharge from the proposal. There is no proposed amendments to the existing driveway access to the site. No objection to approval, subject to conditions as recommended.
Environmental Investigations (Industrial)	Referral assessed by Environmental Investigations. The Acoustic report prepared by West & Associates. Pty Ltd, Ref No. 16075 assess the noise using both INP and Noise Guide for Local Government, this will cover both industrial and residential sources and receivers. No objections subject to the following condition.
Landscape Officer	No objections to approval subject to conditions as recommended.
Natural Environment (Biodiversity)	The proposed development works are located in the south east corner of the site. Mapped Endangered Ecological Community (Duffys Forest) is located to the north west of the site and should not be affected by the proposed development. There may be an impact on trees location in the mapped Wildlife Corridor, but the impact is likely to be minimal and is more of a point of consideration for the Landscape Officer on this prominent location.
Parks, reserves, beaches, foreshore	No objections raised and no conditions recommended.
Traffic Engineer	The proposal is for alterations and additions to the existing retail shop and ancillary café/restaurant including the demolition of the existing house, construction of decking and a children's playground with associated amenities. The proposal will result in the reduction of onsite parking from 120 to 105 spaces. The traffic report provided by the applicant indicates that the proposed 105 parking spaces is in compliance with parking requirements of Warringah DCP, which is acceptable. The traffic generating by the proposal will not have significant impact on the surrounding road network and is acceptable. Therefore, no objection is raised on the proposal on traffic grounds.
Waste Officer	No objections raised and no conditions recommended.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received

NORTHERN BEACHES COUNCIL

External Referral Body	Comments
	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 commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environment Plan 2011

NORTHERN BEACHES COUNCIL

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	7.01m	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
2.7 Demolition requires consent	Yes
4.3 Height of buildings	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone RU4 Primary Production Small Lots

The proposal is permissible under the additional permitted use provisions in Schedule 1 of the WLEP 2011.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	7.01m	N/A	Yes
B4 Site Coverage	30%	26.48%	N/A	Yes
B5 Side Boundary Setbacks	East - 7.5m	7.53m	N/A	Yes
B7 Front Boundary Setbacks	South - 20m	Car park - 14.68m Playground - 12.66m	26.6% 36.7%	No
B7 Secondary Front Boundary Setback	West - 10m	Car park - 3.0m	70%	No
	North - 10m	Car park - Minimum of 28.43m	N/A	Yes
B14 Main Roads Setback	South - 30m	Car park - 29.638m Playground - 27.618m	1.2% 7.94%	No
D1 Landscaped Open Space (LOS) and Bushland Setting	70% (1.501 ha)	73.52% (1.51 ha)	N/A	Yes

NORTHERN BEACHES COUNCIL

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B4 Site Coverage	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Mona Vale Road	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
RU4 Land with frontage to Mona Vale Road	No	Yes
Front Boundary Exceptions - RU4	No	Yes
Front Boundary Exceptions - All Zones	No	Yes
B14 Main Roads Setback	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	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	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
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
D22 Conservation of Energy and Water	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
E7 Development on land adjoining public open space	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

B7 Front Boundary Setbacks

Description of non-compliance

The control requires all structures to be set back a minimum of 20m from the front (southern) boundary and 10m from the secondary front (western and northern) boundaries.

The car park is located 14.68m from the front boundary and 3.0m from the western secondary front boundary.

The playground is located 12.66m from the front boundary.

Merit consideration:

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

- *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.*

Comment:

The car park is at ground level and is existing on both the southern and western boundaries. The improvements to the car park will not change the existing sense of openness, pattern of buildings, visual quality of the streetscape or block any views.

The playground is a relatively minimal series of structures and will be no higher than 2.5m above ground level. In this regard, the large open area at the front of the site will retain a reasonable sense of openness within the streetscape and will not depart from the existing pattern of buildings and landscape elements.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, 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.

B14 Main Roads Setback

Description of non-compliance

The control requires all structures to be set back a minimum of 30m from Mona Vale Road.

The car park is located 29.638m from Mona Vale Road.

The playground is located 27.618m from Mona Vale Road.

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 a densely landscaped buffer between the development and the main road/s.*
- *To enhance the aesthetic quality of main roads.*

Comment:

The car park is at ground level and is existing. The playground is a relatively minimal series of structures and will be no higher than 2.5m above ground level.

There is an existing dense landscaped buffer between Mona Vale Road and the proposed works, that will remain unchanged.

In this regard, the aesthetic quality of Mona Vale Road will be reasonably maintained.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, 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

Merit consideration

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:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Shop (Fruit market) & Cafe				
Shop - 996sqm	Shop - 1 space per 16.4sqm	60.73 spaces	80 spaces	+ 19.27 spaces
Cafe - 123sqm	Cafe - 15 spaces per 100 m2 GFA	18.45 spaces	25 spaces	+ 6.55 spaces
Total		79.18 spaces	105 spaces	+ 25.82 spaces

The proposal provides adequate off street parking.

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

Comment:

N/A

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

Comment:

N/A

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WLEP 2011, 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.

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

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 DA2016/0092 for Demolition works, Alterations and additions to the existing building and carparking on land at Lot 100 DP 630909, 2 Myoora Road, TERREY HILLS, 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
D103 Revision A	03.05.2015	Villa and Villa Pty Ltd
D104 Revision A	03.05.2015	Villa and Villa Pty Ltd
D201 Revision A	03.05.2015	Villa and Villa Pty Ltd
D202 Revision A	03.05.2015	Villa and Villa Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
DA Acoustic Report	1 April 2016	West & Associates Pty Ltd
Preliminary Geotechnical Assessment	29 July 2015	Jack Hodgson Consultants Pty Ltd
Bushfire Risk Assessment	26 June 2015	Bush Fire Planning Services

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

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

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

Waste Management Plan		
Title.	Dated	Prepared By
Waste Management Plan	1 February 2016	Tomasy Pty Ltd

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. **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)

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

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

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

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

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

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

(g) The applicant shall bear the cost of all works associated with the development that occurs

on Council's property.

(h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

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

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

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

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

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

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

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

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

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

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety

NORTHERN BEACHES COUNCIL

- (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

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Councils 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 Councils infrastructure.

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

5. Stormwater Disposal

Drainage plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the proposed buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing on-site stormwater detention system within the site.

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

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

6. **Tree protection**

(a) Existing trees which must be retained

All trees not indicated for removal on the approved plans, unless exempt or noxious in Warringah

(b) Tree protection

i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.

ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.

iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause

E1 Private Property Tree Management and AS 4373 Pruning of amenity trees

v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

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

7. **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)

8. **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

9. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety. (DACENE09)

10. **Trees Condition**

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

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

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

implemented.

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

Reason: Protection of Trees. (DACLA03)

11. **Installation and Maintenance of Sediment Control**

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. (DACPLE02)

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

12. **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)

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

13. **Noise Impact on Surrounding Areas**

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

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

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

Daniel Milliken, Planner

The application is determined under the delegated authority of:

Steven Findlay, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2016/040062	Plans - Notification	08/02/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/051781	Notification Map	17/02/2016

NORTHERN BEACHES COUNCIL

ATTACHMENT C

Reference Number	Document	Date
 2016/040073	Report - Bushfire Risk Assessment	14/07/2015
 2016/040071	Report - Preliminary Geotechnical Assessment	04/08/2015
 2016/040076	Report - Traffic and Parking Assessment	08/09/2015
 2016/040065	Report - Statement of Environmental Effects	01/02/2016
 2016/040079	Report - Waste Management Plan	01/02/2016
 DA2016/0092	2 Myoora Road TERREY HILLS NSW 2084 - Development Application - Alterations and Additions	04/02/2016
 2016/035779	DA Acknowledgement Letter - Tomasy Pty Ltd	04/02/2016
 2016/037704	Quote - Deck with toilets and playground - 2 Myoora Road TERREY HILLS	05/02/2016
 2016/040062	Plans - Notification	08/02/2016
 2016/040066	Plans - Architectural	08/02/2016
 2016/040058	Plans - Survey	08/02/2016
 2016/040045	Development Application Form	08/02/2016
 2016/040047	Applicant Details	08/02/2016
 2016/048817	Waste Referral Response	16/02/2016
 2016/049306	File Cover	16/02/2016
 2016/049317	Referral to AUSGRID - SEPP - Infrastructure 2007	16/02/2016
 2016/049443	Building Assessment Referral Response	16/02/2016
 2016/051780	Notification Letters - 14	17/02/2016
 2016/051781	Notification Map	17/02/2016
 2016/052526	Traffic Engineer Referral Response	18/02/2016
 2016/053720	Natural Environment Referral Response - Biodiversity	19/02/2016
 2016/056867	Parks, Reserves and Foreshores Referral Response	23/02/2016
 2016/061214	Development Engineering Referral Response	25/02/2016
 2016/066792	Online Submission - Pollifrone	02/03/2016
 2016/118524	Landscape Referral Response	15/04/2016
 2016/168035	Environmental Investigations (Industrial) - Assessment Referral - DA2016/0092 - 2 Myoora Road TERREY HILLS NSW 2084	25/05/2016
 2016/172241	Environmental Investigations Referral Response - industrial use	02/06/2016