

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2016/1179
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Responsible Officer:	Isaac Toledano
Land to be developed (Address):	Lot 50 DP 36192, 43 Oceana Street NARRAWEENA NSW 2099
Proposed Development:	Fitout and use of part of an existing garage as an outbuilding (studio)
Zoning:	LEP - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	John Joseph Femia Xanthi Femia
Applicant:	John Joseph Femia

Application lodged:	11/11/2016
Application Type:	Local
State Reporting Category:	Residential - Other
Notified:	18/11/2016 to 05/12/2016
Advertised:	Not Advertised, in accordance with A.7 of WDCP
Submissions:	0
Recommendation:	Deferred Commencement Approval

Estimated Cost of Works:	\$ 5,000.00
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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

NORTHERN BEACHES COUNCIL

Warringah Development Control Plan - Side Setbacks - R2
Warringah Development Control Plan - Front Boundary Exceptions - R2
Warringah Development Control Plan - All other land under R2
Warringah Development Control Plan - Rear Boundary Exceptions - R2
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C9 Waste Management
Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 50 DP 36192 , 43 Oceana Street NARRAWEENA NSW 2099
Detailed Site Description:	The subject site is located on the southern side of Oceana Street in Narraweena and is legally identified as Lot 50 DP 36192. The subject site is also located on the northern side of Poplar Lane providing rear access and a secondary frontage. The site is regular in shape with an approximate surveyed area of 557.6sqm. The site currently accommodates a single detached dwelling with a garage located at the rear south east corner of the lot. Surrounding development consists of single detached dwellings. In regards to vegetation, the site is mostly grassed areas with sparsely distributed vegetation that borders the principal dwelling. There is also a hedge that extends for a small portion of the secondary frontage. The site does not have any threatened species.

Map:

NORTHERN BEACHES COUNCIL



SITE HISTORY

DA2008/1001

An application provided with delegated approval on 11-09-2008 for alterations and additions to the principal dwelling and garage. This application increased the building footprint of the detached garage from a single to double space with storage area, and provided a rear driveway and kerbside entry from Poplar Lane.

Mod2008/0297

A modification to delete condition 8. removing the requirement for the submission of a BASIX Certificate in regard to DA2008/1001, provided with delegated approval on 16-10-2008.

Mod2016/0209

This modification was withdrawn on 21-10-2016 because the application contained a Change of Use. The applicant was advised that this would require a development application.

BC2016/0120

The unauthorised works commenced on the existing garage to accommodate the changes from a storage space to studio are currently being addressed through this application.

DA2016/1179

The subject application which seeks approval for the Change of Use of part of the existing garage as a studio.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the Change of Use of part of the existing garage as a studio.

The unauthorised works commenced/completed on the garage are being addressed via BC2016/0120 (see site history for details).

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)(iiiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This 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.

NORTHERN BEACHES COUNCIL

Section 79C 'Matters for Consideration'	Comments
	(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 of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. <i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as this however may be determined at Building Certificate stage .</i>
Development Engineers	The proposed works are to accommodate a studio within an existing garage. There is no works proposed external to the site. No development engineering objection is raised to the proposed development.

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 residential 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 residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

The application is for a Change of Use from a storage area to a studio and is classified as a non-habitable space. Thus, the submission of a BASIX Certificate is not required. A condition has been included to ensure that this space shall not be used as a secondary dwelling without submission of a separate application.

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	% Variation	Complies
Height of Buildings:	8.500m	2.945m	Nil	Yes

The proposal does not alter the existing height of the garage.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.20m	2.45m	N/A	Yes (no change)
B3 Side Boundary Envelope	4.0m	No encroachment	N/A	Yes (no change)
	4.0m	No encroachment	N/A	Yes (no change)
B5 Side Boundary Setbacks	0.9m - West	8.78m	N/A	Yes (see side boundary setbacks)
	0.9m - East	0.55m	38.89%	No (no change)
B7 Front Boundary Setbacks	6.5m - North	21.23m	N/A	Yes (no change)
B9 Rear Boundary/Secondary Frontage Setbacks	3.5m - South	0.46m	86.86%	No (no change)
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	~36.29% ~ (201.4sqm)	3.71%	No (approximate and no change)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes

NORTHERN BEACHES COUNCIL

Clause	Compliance with Requirements	Consistency Aims/Objectives
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
Side Setbacks - R2	No	Yes
B7 Front Boundary Setbacks	Yes	Yes
R2 - All other land in R2 Zone	Yes	Yes
Front Boundary Exceptions - R2	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
All other land under R2	No	Yes
Rear Boundary Exceptions - R2	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	N/A	N/A
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	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
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
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

Side Setbacks - R2

The proposal is for a Change of Use of the western part of the garage from a storage area into a studio. The non-

compliance is existing, located on the eastern side boundary of the existing garage and is unchanged by the proposal. No further impacts will arise to affect the adjoining properties as a result of the Change of Use.

Front Boundary Exceptions - R2

The subject site has a primary and secondary frontage, facing Oceana Street and Polar Lane respectively. The existing rear garage is approximately 0.46 metres from the secondary frontage and therefore does not qualify for an exception. However, this is an existing structure and the existing non-compliance shall remain unchanged as a result of the Change of Use. Therefore, it can be assumed that there shall be no further impacts from the proposal.

All other land under R2

The rear boundary setback is considered a secondary frontage and the non-compliance is existing as a result of the existing garage. This has been addressed elsewhere in this report.

Rear Boundary Exceptions - R2

The rear boundary setback is considered a secondary frontage facing Poplar Lane and thus the minimum rear boundary setback does not apply. The non-compliance is existing and is a result of the existing garage which has been addressed elsewhere in this report, however, this report is exclusive to the Change of Use.

C3 Parking Facilities

Description of non-compliance

<insert> (**Officer Note:** Refer to compliance/non-compliance with car parking requirements under Appendix 1)

Merit consideration

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

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Single Enclosed Space	5.22 m x 7.07 m	2 Off-street spaces	1	1
Single Open Space	6.11 m x 7.55 m	2 Off-street spaces	1	1
Total		2 Off-street spaces	2	0

The proposal seeks approval for the change of use of part of the existing garage from a storage to studio space. In turn, this will reduce the number of compliant enclosed parking spaces from two to one. In order to meet the requirements, the space in front of the existing garage is compliant with the Australian standard dimensions for a single open parking space. Therefore, it is considered satisfactory in providing

two off-street car parking spaces via a single enclosed and single open car parking space.

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

Comment:

The garage is located in the rear setback, which in the context of the site is considered the secondary frontage thus reducing the visual impact within the primary frontage. It is therefore considered to provide no unreasonable impact upon the level of visual amenity of the streetscape.

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

Comment:

The garage is located within the secondary frontage and is well within the character of the streetscape. Furthermore, the structure is existing and the new off-street open car parking space is shielding by the structures on site including the existing fence line. Therefore, there will be no exacerbation to the existing sense of visual dominance and it is considered reasonable in this regard.

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.

C9 Waste Management

The application is exclusive to Change of Use, thus the submission of a Waste Management Plan is not required.

D1 Landscaped Open Space and Bushland Setting

The application is exclusive to the Change of Use from a storage space to a studio.

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

DEFERRED COMMENCEMENT APPROVAL

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2016/1179 for Fitout and use of part of an existing garage as an outbuilding (studio) on land at Lot 50 DP 36192,43 Oceana Street, NARRAWEENA, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

DEFERRED COMMENCEMENT CONDITIONS

1. Issue of Building Certificate

A Building Certificate must be issued for the structure on site labelled Garage/Studio indicated on Studio Plans - Drawing Number. 0810/DA03, dated July 2016 prepared by peterZavagliaDesignstudio.

Reason: To ensure that any unauthorised works are in accordance with the Australian standards.
(DACE0A01)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation

2000.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. **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
DA03 - 0810	July 2016	peterZavagliaDesignstudio
DA07 - 0810	July 2016	peterZavagliaDesignstudio

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)

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 single dwelling house with an ancillary garage and studio.

A dwelling house is defined as:

"dwelling house means a building containing only one dwelling."

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

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

Note - No consent is given or implied by this consent for a secondary dwelling.

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

FEES / CHARGES / CONTRIBUTIONS

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

6. **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**

**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)

7. **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)

8. **Building Certificate - Unauthorised Works on site**

An application for a Building Certificate is to be lodged and approved for all unauthorised works onsite.

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

Reason: To regularise unauthorised development. (DACPLC15)

Planner Note: The following recommendations have been taking into account during the assessment of this application. However, this condition can be considered obsolete as the issue has been adequately addressed via deferred commencement.

NORTHERN BEACHES COUNCIL

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

Isaac Toledano, Planner

The application is determined under the delegated authority of:

Anna Williams, Development Assessment Manager

NORTHERN BEACHES COUNCIL

ATTACHMENT A

Notification Plan	Title	Date
 2016/374517	Plan - Notification	15/11/2016

ATTACHMENT B

Notification Document	Title	Date
 2016/377394	Notification Map	17/11/2016

ATTACHMENT C

Reference Number	Document	Date
 2016/374509	Plans - Survey	22/07/2016
 2016/374510	Report - Statement of Environmental Effect	04/11/2016
 2016/374514	Plans - Master Set	06/11/2016
 DA2016/1179	43 Oceana Street NARRAWEENA NSW 2099 - Development Application - Change of Use	11/11/2016
 2016/368720	DA Acknowledgement Letter - John Joseph Femia	11/11/2016
 2016/374500	Development Application	15/11/2016
 2016/374501	Applicants Details	15/11/2016
 2016/374512	Plans - External	15/11/2016
 2016/374513	Plans - Internal	15/11/2016
 2016/374517	Plan - Notification	15/11/2016
 2016/377408	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/1179 - 43 Oceana Street NARRAWEENA - PR	17/11/2016
 2016/377394	Notification Map	17/11/2016
 2016/377402	Notification Letter - 14 posted 18/11/2016	17/11/2016
 2016/380291	Building Assessment Referral Response	21/11/2016
 2016/407901	Development Engineering Referral Response	13/12/2016
 2016/408812	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2016/1179 - 43 Oceana Street NARRAWEENA NSW 2099 - PH	14/12/2016
 2016/410271	Working Plans	16/12/2016
 2016/419156	Site Visit	28/12/2016
 2017/011594	Request for update on DA - 43 Oceana Narraweena	16/01/2017