

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

4.1	563 Pittwater Road, Brookvale – Construction and Use of a Gym and Children's Play Centre
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Panel Member

Mary-Lynne Taylor, Chair (Environmental Law)

Patrick O'Carrigan, Urban Design Expert

Marcus Sainsbury, Environmental Expert

Nick Lawther, Community Representative

DA2011/1254

Application Details

Construction and use of a gym and children's play centre and restaurant.

Site Description

Lot 563 DP 707422, 563 Pittwater Road BROOKVALE, (Manly Warringah Leagues Club building)

Independent Public Hearing

This report is of an independent public hearing that has been convened pursuant to clause 15 of WLEP 2000 because this application is for Category 3 development. The application was advertised as such and there were no objections.

The Chairperson informed the hearing that applications for Category 3 development entail additional requirements. In particular, the Panel can only recommend that consent be granted if it is satisfied that the proposed development is consistent with the desired future character of the locality as described in the F2 Brookvale Service Centre Locality Statement [WLEP2000 cl 12(3)(b)]. Further, the Panel must consider the Statement of Environmental Effects, prepared by the applicant, that addresses the items listed in Schedule 15 [WLEP2000 cl 15(1)].

Desired Future Character

For this application being a Category 3 item to be satisfactory, the application has to be consistent with the desired future character of the F2 Brookvale Service Centre Locality.

"The Brookvale Service Centre locality will be characterised by light industries, warehouses and bulky goods retailing. The land at Lot 11 DP1009998, 7–9 Federal Parade Brookvale may be occupied by an office building.

The locality will be characterised by generous setbacks and wide frontages to Pittwater Road.

The Brookvale Park frontage to Pittwater Road is characterised by mature, predominantly Poplar trees which are to be retained."

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the Public Hearing.

Proceedings in Brief

In this matter, the public hearing was held. There were no objections to this application. No objectors appeared at the hearing. The applicant was represented by its architect who advised the applicant was happy with the report and the conditions but wished to speak against the deferred nature of the Deferred Commencement Condition. In his opinion, sufficient evidence had been given to Council about a whole of building upgrade by the Fire Expert and a follow up letter addressing specific uses for the first floor had also be given. In his opinion, there needed to be no further evidence required. The Panel agrees that this need not necessarily be a Deferred Commencement Condition but could be incorporated in the General Conditions to be supplied (if not already supplied to the satisfaction of Council) prior to the issue of a Construction Certificate. Otherwise, the Panel agrees with the Council Assessment Report reasoning for approval and agrees with the other conditions of consent.

**RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL
(CATEGORY 3 ITEM)**

THAT the General Manager approve Development Application for No. DA2011/1254 for construction and use of a recreation facility (gym and children's play centre) and cafe on land at 563 Pittwater Road, Brookvale subject to the conditions printed below:

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

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:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Project No. 5403, Drawing No. 10	8/11	David Liddy & Associates
Project No. 5403, Drawing No. 11	8/11	David Liddy & Associates
Project No. 5403, Drawing No. 12A	11/11	David Liddy & Associates

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

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

2. Compliance with External Department, Authority or Service Requirements

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

External Department, Authority or Service	E-Services Reference	Dated
Ausgrid	Response Ausgrid Referral	12 October, 2011

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

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

3. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2000 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

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.
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- (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.
- (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) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) 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.

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 and Rescue NSW Approval

Fire and Rescue NSW is to provide endorsement, or conditional endorsement of the Alternative Solution report prepared by Defire (NSW) Pty Ltd dated 26/08/2011; Report number SY100125, the BCA Assessment Report prepared by Blackett Maguire + Goldsmith dated 6 September 2011; Project number 110417, and Architectural plans prepared by David Liddy & Associates dated 8/11; Drawing number 12A is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

7. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of \$		530,000.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	5,035
S94A Planning and Administration	0.05%	265
Total	1.0%	\$5,300

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

Reason: To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)

8. Fire and Rescue NSW Requirements

All building works are to be carried out in accordance with the Fire and Rescue NSW endorsed (or as amended by Fire and Rescue NSW) Alternative Solution report prepared by Defire (NSW) Pty Ltd dated 26/08/2011; Report number SY100125, the BCA Assessment Report prepared by Blackett Maguire + Goldsmith dated 6 September 2011; Project number 110417, and Architectural plans prepared by David Liddy & Associates dated 8/11; Drawing number 12A.

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

9. Compliance with Standards

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

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

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

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

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

***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.

10. Bonds

Security Bond

A bond (determined from cost of works) of \$2000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

Reason: To ensure adequate protection of Council infrastructure. (DACENC01)

11. Food Premises

The premises shall comply with the requirements of Australian Standards 4674 (Design, Construction and Fit Out of Food Premises).

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

Reason: To ensure compliance with the applicable food standards. (DACHPC06)

12. Mechanical ventilation

Mechanical ventilation must comply with AS 1668 Parts 1 and 2 and the exhaust hood and air conditioning system has been installed in accordance with AS 1668 and AS1055.

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

Reason: To ensure compliance with applicable standards. (DACHPC07)

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION
CERTIFICATE****13. 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)

14. Mechanical ventilation

Prior to issue of the Occupation Certificate provide certification from a suitably qualified mechanical engineer that the mechanical ventilation complies with AS 1668.

Reason: To ensure compliance with applicable standards.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**15. Hours of Operation**

The hours of operation of the recreation facility (gym) are to be restricted to:

- Monday to Wednesday 5.30am to 10pm
- Thursday to Friday 5.30am to 9pm
- Saturday to Sunday 7am to 7pm

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.

The hours of operation of the recreation facility (children's play centre) are to be restricted to:

- Saturday to Thursday 9am to 5.30pm
- Friday 9am to 9pm

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: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

16. Use of Restaurant

The restaurant is only to be used in conjunction with the children's play centre. Should the play centre cease operation, so to must the restaurant.

Reason: To ensure consistency with the provisions of the Warringah Local Environment Plan 2000.

Voting 4/0