

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0083
Responsible Officer:	Nick England
Land to be developed (Address):	Lot 27 DP 752017, 335 Mona Vale Road TERREY HILLS NSW 2084
Proposed Development:	Use of Premises as a Recreation Facility
Zoning:	Warringah LEP2011 - Land Zoned RU4 Primary Production Small Lots WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Terrey Hills Depot Holdings Pty Limited
Applicant:	BBF Planners Pty Ltd
Application lodged:	23/01/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	05/02/2018 to 21/02/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

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 the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;

- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 27 DP 752017 , 335 Mona Vale Road TERREY HILLS NSW 2084
Detailed Site Description:	<p>The subject site comprises one allotment located on the north-western side of Mona Vale Road with secondary frontage to Myoora Road. The site is rectangular in shape and has an area of 17,039m².</p> <p>The site currently contains a bus depot for Forest Coach Lines (FCL) with ancillary maintenance and fuel facilities as well as a part two part 3 storey office building with basement parking. Bus access to the site is only available from Myoora Road with car access available from both Myoora Road and Mona Vale Road. However, no through access for vehicles is available within the site between these roads. Some other unrelated uses have consent to occupy floorspace within the main FCL headquarters building.</p> <p>The site slopes northward, toward Myoora Road, with a maximum fall of approximately 16m. The site has varying landscaped setbacks of between 1.0m to 23m along the front boundaries and side boundaries. The landscaped setbacks contain scattered trees, lawn and shrub plantings.</p> <p>Land to the west is used for a pine tree plantation in association with Forest Way Fresh fruit store at No.2 Myoora Road. Other land uses operating in the locality include function centres, golf practice facilities, nursery and landscape supplies, restaurant and childcare centre, intensive agriculture, and rural residential uses. Austlink Business Park is also located nearby, at the south-west corner of Forest Way and Mona Vale Road. Garigal National Park is situated opposite the site on the eastern side of Mona Vale Road.</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA2004/0017: Consent granted for "Construction of an office building containing 3,381m² of floor space comprised of two floors of office space, one basement level of car parking and one lower basement level of bus parking, site landscaping and vehicle access from Mona Vale Road." on 23 November 2004.

DA2008/0121: Consent granted for "Change of use to a recreation facility & signage" on 2 May 2008. Specifically the use was for a dance academy, consisting of 2 employees and classes of up to 20 people. Condition No.10 of this consent required the provision of at least 12 car spaces in the basement parking level of the building.

PROPOSED DEVELOPMENT IN DETAIL

The application consists of the use of the existing unit for a *recreation facility (indoor)* or personal training studio.

The proposed use will consist of:

- maximum of 2 employees;
- maximum of 6 customers;
- hours of operation of 6am to 7pm - Monday to Friday and 7am to 10am Saturday; and
- 4 parking spaces.

No physical works (including signage) are proposed.

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 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><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.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to requested additional information. However, no additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><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.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><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.</p>

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (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	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (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 the relevant 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 Development Application proposes the change of use of an existing area / tenancy / unit on the first floor of the building at 335 Mona Vale Road, Terrey Hills, to be used as a personal training studio. The size of this unit within this existing building is

Internal Referral Body	Comments
	<p>approximately 125.40m².</p> <p>This proposed personal training studio forms part of the office area of the building on the site. The application states that it does not propose any external modifications to the existing building and no fit out works are proposed with the personal training equipment being freestanding. However, plan No. 86417.02 issued by HSA Architects does indicate a new 'stud division wall'.</p> <p>Additionally, and notwithstanding this apparent straight forward proposal, it is noted that the building is subject to a Building Code of Australia (BCA), Performance (Alternate) Solution to satisfy a series of critical issues including Performance Criteria CP1, CP2, DP4 & EP1.</p> <p>This report was prepared for the base building and this report is known as 'Warrington Fire Research Fire Engineering Report, reference 75245, Version 2, dated 24-08-05, as modified by report reference 2149400-RPT02- Rev 2, dated 16/3/07' and applies to the whole building. This Report includes such matters as occupancy limits, fire resistance criteria, egress provisions, evacuation plans and procedures, staff responsibilities and training requirements, including staff induction training, etc.</p> <p>Further, Section 93 'Fire safety and other considerations', of the Environmental Planning and Assessment Regulation 2000 states that:</p> <p>S.93</p> <p><i><u>(1) This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.</u></i></p> <p><i><u>(2) In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.</u></i></p> <p><i><u>(3) Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.</u></i></p> <p><i><u>Note.</u> The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.</i></p> <p><i><u>(4) Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).</u></i></p> <p><i><u>(5) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.</u></i></p> <p>Accordingly, the application for the proposal to change use under the BCA from Office (class 5) to a Personal Training studio (class 9b) provides no evidence of the suitability or otherwise of the new use with</p>

Internal Referral Body	Comments												
	<p>the BCA Performance Solution applied to the building, and therefore under Section 93 of the EP and A Regulations 2000, consent cannot be granted until this issue is satisfied.</p> <p>UPDATED REVIEW - 21/04/2018</p> <p>A National Construction Code (NCC) 2016 Audit Report, addressing the above issues (prepared by Private Building Certifiers (NSW), dated 11 April 2018, and referenced 182415 Rev. A), has been provided and reviewed.</p> <p>No objections to the proposal subject to conditions that require works as recommended in the NCC Report be implemented to ensure adequate provision is made for fire safety in the premises for building occupant safety.</p>												
Environmental Health (Industrial)	<table border="1"> <tr> <td data-bbox="520 853 1155 898">Is the proposal for an industrial use?</td><td data-bbox="1155 853 1428 898">YES</td></tr> <tr> <td data-bbox="520 898 1155 976">Was sufficient documentation provided appropriate for referral?</td><td data-bbox="1155 898 1428 976">YES</td></tr> <tr> <td data-bbox="520 976 1155 1055">Are the reports undertaken by a suitably qualified consultant?</td><td data-bbox="1155 976 1428 1055">YES</td></tr> <tr> <td data-bbox="520 1055 1155 1346"> Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as: - Processes with emphasis on potential pollution (air, noise, water and land) - Hazardous Materials, liquids stored on site - Waste storage, disposal. - Mechanical ventilation </td><td data-bbox="1155 1055 1428 1346">YES</td></tr> <tr> <td data-bbox="520 1346 1155 1491">Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc.</td><td data-bbox="1155 1346 1428 1491">YES</td></tr> <tr> <td data-bbox="520 1491 1155 1603">If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?</td><td data-bbox="1155 1491 1428 1603">NA</td></tr> </table> <p>General Comments</p> <p>The application has been assessed. Internal works are proposed to create a personal training studio for one on one training with a maximum of 6 persons per group plus two employees.</p> <p>Approval is subject to the inclusion of conditions of consent relating to sanitary facilities for employees/patrons, noise amenity/amplified music, the provision of waste/recycling service collections and confirmation of wastewater management for the site.</p> <p>Hours of Operation:</p>	Is the proposal for an industrial use?	YES	Was sufficient documentation provided appropriate for referral?	YES	Are the reports undertaken by a suitably qualified consultant?	YES	Have you reviewed the Statement of Environmental Effects, and consider ongoing use, such as: - Processes with emphasis on potential pollution (air, noise, water and land) - Hazardous Materials, liquids stored on site - Waste storage, disposal. - Mechanical ventilation	YES	Have you Consider impact of noise, hours of operation, location to nearest residential, location of equipment, times of deliveries, noise management plans, acoustic reports etc.	YES	If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?	NA
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If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?	NA												

Internal Referral Body	Comments
	<p>The Statement of Environmental Effects <i>Change of Use to a Personal Training Studio</i> prepared by Boston Blyth Fleming Pty Ltd (dated January 2018) states that the proposed Hours of Operation are: Monday to Friday: 6am to 10am, Monday to Thursday: 4pm to 7pm and Saturday: 7am to 10am. The proposed hours are reasonable and no objection is raised.</p> <p>On-Site Sewage Management: The premises at 335 Mona Vale Road, Terrey Hills, is currently not connected to the sewer.</p> <p>Property & Rating records show that <i>WW00614</i> is registered as a commercial on-site sewage management system (AWTS - aerated wastewater treatment system with sub-surface disposal) managing wastewaters from the existing office building.</p> <p>Trim shows that the last record of Council inspection is dated 18/5/2015 where an Approval to Operate was issued by Council.</p> <p>Conditions of consent have been incorporated requiring detailed plans and specification documents be prepared by appropriately qualified persons in order to demonstrate that any wastewaters subject to this development application will be generated, processed, treated, managed and/or disposed to and within an appropriate sewage management system which:</p> <p>(i) has sufficient capacity to cater for the proposed additional hydraulic loading, and</p> <p>(ii) is operating without harm to public health and/or the environment in accordance with the <i>performance standards</i> of the Local Government Act, 1993 and Local Government (General) Regulation 2005.</p> <p>Additionally, the condition requires that the premises must be connected to the Sydney Water wastewater network when:</p> <p>(i) the premises are situated within 75 metres of a connectable main, and</p> <p>(ii) there is enough capacity within the wastewater mains for the connection.</p>

Internal Referral Body	Comments		
	<p>The documentation is to be submitted to the Certifying Authority for assessment prior to the issue of the Construction Certificate and prior to release of the Occupation Certificate.</p> <p>Mechanical Ventilation:</p> <p>The provision of mechanical ventilation was discussed with James Montgomery and it was agreed that these requirements will be addressed by town planners within the standard <i>Prior to Release of the Construction Certificate</i> conditions of consent relating to the <i>National Construction Code of Australia</i>.</p> <p>Sanitary Facilities:</p> <p>The Statement of Environmental Effects and Plans do not provide for <u>any</u> Sanitary Facilities. The number of sanitary facilities (closet pans, urinals and hand washbasins) to be provided for use by employees and patrons (male, female, accessible/ambulant) must comply with the requirements contained within the <i>National Construction Code of Australia</i>.</p> <p>Conditions of consent have been incorporated requiring detailed plans and specification documents to be prepared by appropriately qualified persons in order to demonstrate that adequate and compliant sanitary facilities will be provided in accordance with the requirements of the <i>National Construction Code (NCC) of Australia 2016, Volume 1, Part F2 – Sanitary and Other Facilities</i>.</p> <p>The plans and specification documents are to be submitted to the Certifying Authority for assessment prior to the issue of the Construction Certificate and prior to release of the Occupation Certificate</p> <table border="1" data-bbox="520 1529 1431 1715"> <tr> <td data-bbox="520 1529 1155 1715">Recommendation</td><td data-bbox="1155 1529 1431 1715">APPROVAL - subject to conditions</td></tr> </table> <p><u>Planners comment:</u> The recommended conditions for wastewater have not been applied, as the proposed land use is not considered to generate any significant amount of wastewater. Sufficient legislation already exists that gives Council the discretion to regulate any environmental impact in the event that it should occur.</p>	Recommendation	APPROVAL - subject to conditions
Recommendation	APPROVAL - subject to conditions		
Traffic Engineer	No objection is raised on the proposal on traffic grounds subject to the responsible assessment officer to consider the parking allocation in respect to all other existing uses at 335 Myoora Road.		

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 proposed 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 Environmental Plan 2011

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

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
Part 2 Permitted or prohibited development	Yes
2.5 Additional permitted uses for particular land	Yes
Land Use Table	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
Dictionary	Yes
R-Z	Yes

Warringah Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
Part A Introduction	Yes	Yes
A.5 Objectives	Yes	Yes
Part C Siting Factors	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	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
D23 Signs	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of non-compliance

Based on the 125m² of floor space in the existing unit, a minimum of 6 car spaces are required. 4 car spaces are proposed, which represents a deficit of 2 car spaces.

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 (+/-)
Recreation facility (indoor)	125m ² @ 4.5 car spaces per 100m ² of gross floor area.	5.6 or 6 car spaces	4	-2

An examination of Council's records indicates that there is already an existing consent for a similar land use in the unit (a dance academy), which by a condition of consent provided 12 car spaces. The proposed use will provide 4 spaces in the basement and will be directly adjacent 3 visitor car spaces on the south elevation of the building, bringing the total available spaces to the use to 7 spaces, in excess of the minimum 6 spaces required. Classes in the personal training studio will not exceed 6 and a maximum of 2 employees are proposed. Under the circumstances, an adequate provision of off-street parking is provided to demonstrate consistency with this objective.

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

Comment: This objective is not applicable to the proposed development, as no building works are proposed.

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

Comment: This objective is not applicable to the proposed development, as no building works are proposed.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D23 Signs

No signage is proposed as part of this application. A condition of consent is therefore recommended that any future signage not be erected without consent, if necessary given the nature of the signage.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

S94A levies are not applicable to this application as they were subject to the original development application relating to the whole site.

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 DA2018/0083 for Use of Premises as a Recreation Facility on land at Lot 27 DP 752017, 335 Mona Vale 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
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Drawing No.	Dated	Prepared By
86417.01 Issue A	6 October 2017	HSA Architects
86417.02 Issue A	6 October 2017	HSA Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
National Construction Code Report No.182415 Rev A	11 April 2018	Private Building Certifiers

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

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. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 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)

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the

Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) 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.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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.

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

5. **Sanitary Facilities**

The number of sanitary facilities (closet pans, urinals and washbasins) to be provided for use by employees and patrons (male, female, accessible/ambulant) must comply with the requirements contained within the National Construction Code of Australia.

Detailed plans and specification documents are to be prepared by appropriately qualified persons in order to demonstrate that adequate and compliant sanitary facilities are to be provided in accordance with the requirements of the National Construction Code (NCC) of Australia 2016, Volume 1, Part F2 – Sanitary and Other Facilities.

Hand washing facilities are to:

- i. be accessible
- ii. contain hot and cold water temperature mixers
- iii. be protected from the weather
- iv. be supplied with liquid soap dispensers
- v. contain hygienic hand drying facilities - automatic air dryers or disposable paper towels.

The plans and specification documents are to be submitted to the Certifying Authority for assessment prior to the issue of the Construction Certificate.

Reason: to ensure that potential impacts relating to public health and the receiving environment are considered and adequately addressed.(DACHPCPC5)

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)

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

7. **Fire Safety Upgrade**

The fire upgrading measures and works to upgrade the building, and in particular the required 'Fire Engineered NCC Alternate Solution Report' (as detailed and recommended in the National Construction Code 2016 Audit Report prepared by Private Building Certifiers (NSW), dated 11 April 2018, referenced 182415 Rev. A) are to be included in details provided with the Construction Certificate and fully implemented to the building.

Details demonstrating implementation are to be submitted to the Principal Certifying Authority prior to the issue of any Interim or Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety. (DACBCF01)

8. **Waste Area**

Prior to issue of the Occupation Certificate an appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. All internal walls of the garbage storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Reason: To prevent pollution of the environment and to protect the amenity of the area. (DACHPFPOC6)

9. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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

Reason: To ensure bushland management. (DACPLF01)

10. **Fire Safety Matters**

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

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 Fire and Rescue NSW, an annual Fire

Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard. .

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

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

11. **Amenity**

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG5)

12. **Delievery and Waste collection**

Deliveries and waste service collections shall only occur after 7am and prior to 9pm on any day.

Reason: To minimise the impacts of noise on neighbouring premises. (DACHPGOG5)

13. **Sound equipment**

The use of any amplified sound equipment and/or public address systems is only permitted when the related structures/equipment are located entirely within the premises and used in such a manner that offensive noise is not caused.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997. (DACHPGOG6)

14. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 6.00am to 7.00pm; and
- Saturday – 7.00am to 10.00am.

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)

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

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

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed




Nick England, Planner

The application is determined under the delegated authority of:




Steven Findlay, Manager Development Assessments





















ATTACHMENT A

Notification Plan	Title	Date
 2018/075604	Plan - Notification	23/01/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/093920	Notification Map	05/02/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/075253	Report - Annual Fire Safety Statement	12/09/2017
 2018/075255	Report - Traffic and Parking	22/01/2018
 2018/075250	Report - Statement of Environmental Effects	22/01/2018
 2018/075085	Owners Consent	22/01/2018
 DA2018/0083	335 Mona Vale Road TERREY HILLS NSW 2084 - Development Application - Change of Use	23/01/2018
 2018/075606	Plans - Master Set	23/01/2018
 2018/075075	Development Application Form	23/01/2018
 2018/075080	Applicants Details	23/01/2018
 2018/075604	Plan - Notification	23/01/2018
 2018/075607	DA Receipt	23/01/2018
 2018/075610	DA Acknowledgement Letter - BBF Planners Pty Ltd	23/01/2018
 2018/092369	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0083 - 335 Mona Vale Road TERREY HILLS NSW 2084 - PH	02/02/2018
 2018/092444	Environmental Health (Industrial) - Assessment Referral - DA2018/0083 - 335 Mona Vale Road TERREY HILLS NSW 2084	02/02/2018
 2018/093272	Building Assessment Referral Response	03/02/2018
 2018/093876	DA Acknowledgement Letter (not integrated) - BBF Planners Pty Ltd	05/02/2018
 2018/093920	Notification Map	05/02/2018
 2018/093956	Notification Letter - 12	05/02/2018
 2018/127992	Environmental Health Referral Response - industrial use	21/02/2018
 2018/230257	Traffic Engineer Referral Response	11/04/2018
 2018/230334	Traffic - Referral response for DA2018/0083	11/04/2018
 2018/232572	E-mail - BCA Report - William Fleming	12/04/2018
 2018/232577	BCA Report	12/04/2018
 2018/234032	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0083 - 335 Mona Vale Road TERREY HILLS NSW 2084-PH	12/04/2018
 2018/235956	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0083 - 335 Mona Vale Road TERREY HILLS NSW 2084-PH	12/04/2018
 2018/234069	Working Plans	13/04/2018



2018/250465

Building Assessment Referral Response

21/04/2018