

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0567
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 2 DP 531960, 39 Cabbage Tree Road BAYVIEW NSW 2104
Proposed Development:	Construction of a recreation facility (indoor) comprising a two (2) lane commercial swimming pool and gym with associated facilities, car parking and landscaping
Zoning:	RE2 Private Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Janine Elizabeth Crawford
Applicant:	Turnbull Planning International Pty Ltd

Application lodged:	11/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	23/04/2018 to 07/05/2018
Advertised:	Not Advertised
Submissions Received:	5
Recommendation:	Refusal

Estimated Cost of Works:	\$ 2,409,000.00
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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 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

Pittwater Local Environmental Plan 2014 - Zone RE2 Private Recreation

Pittwater Local Environmental Plan 2014 - 7.1 Acid sulfate soils

Pittwater Local Environmental Plan 2014 - 7.6 Biodiversity protection

Pittwater Local Environmental Plan 2014 - 7.10 Essential services

Pittwater 21 Development Control Plan - A4.9 Mona Vale Locality

Pittwater 21 Development Control Plan - B4.6 Wildlife Corridors

Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation

Pittwater 21 Development Control Plan - B5.12 Stormwater Drainage Systems and Natural Watercourses

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

Pittwater 21 Development Control Plan - C2.1 Landscaping

Pittwater 21 Development Control Plan - C2.11 Signage

Pittwater 21 Development Control Plan - C2.14 Commercial Swimming Pools

Pittwater 21 Development Control Plan - C2.20 Public Road Reserve - Landscaping and Infrastructure

Pittwater 21 Development Control Plan - D9.1 Character as viewed from a public place

Pittwater 21 Development Control Plan - D9.2 Scenic protection - General

Pittwater 21 Development Control Plan - D9.3 Building colours and materials

Pittwater 21 Development Control Plan - D9.6 Front building line

Pittwater 21 Development Control Plan - D9.9 Building envelope

SITE DESCRIPTION

Property Description:	Lot 2 DP 531960 , 39 Cabbage Tree Road BAYVIEW NSW 2104
Detailed Site Description:	<p>The site is a triangular shaped lot located on the southern side of Cabbage Tree Road. It has a frontage (northern boundary) of 77.23m, a south western boundary of 38.25m, a south eastern boundary 54.84m, and a surveyed area of 980.2sqm. The site is currently vacant. It falls within the RE2 Private Recreation zone, and within the Mona Vale locality under the Pittwater DCP.</p> <p>There is a gradual fall from north to south, and a waterway running nearly parallel with the south eastern boundary, mainly on the adjoining golf course, but also on the subject site in the southern corner. There is also a watercourse (or drainage channel) running roughly parallel with the front boundary, between the road and the subject site, which joins into the southern watercourse to the east of the site.</p> <p>The site is well vegetated, with a row of mature casuarina</p>

trees running along the front boundary, and other mature trees and ground cover located on site.

The site is surrounded entirely to the south by the adjacent golf course. The golf course maintenance depot is adjacent to the west. There are detached dwellings on R2 Low density residential zoned land directly across the road to the north.

Map:



SITE HISTORY

A search of Council's records has revealed the following:

A prelodgement meeting was held with Council on 8 August 2016 to discuss a 'possible recreation facility (indoor)'. The notes from this meeting give general advice relating to relevant planning controls, but do not go into any specifics regarding any preliminary designs.

Application N0045/12 for Construction of an Affordable Rental Housing development (attached dual occupancy) and strata subdivision was refused by Council on 27/06/2013.

Application N0085/14 for Construction of 2 serviced self-care housing dwellings under SEPP Housing for Seniors or People with a Disability 2004 and strata subdivision into two lots was refused by Council on 15/02/2016.

Application R0002/10 for rezoning of the site was refused by Council on 20/12/2010.

PROPOSED DEVELOPMENT IN DETAIL

The proposal involves construction of a two storey building, raised on piles due to flood controls, and use of the building as a recreation facility (indoor).

The building is proposed to have a Colorbond steel roof with painted fibre cement sheet clad walls.

The building will be comprised of the following:

Ground Floor Plan

- 2-lane commercial swimming pool (15m in length and between 2.5m and 3.7m in width)
- bathroom facilities
- outdoor patio area
- parking for 7 vehicles including 1 car space for people with disabilities.
- Pool pump
- Bin store

First Floor Plan

- Gym and deck
- Exercise room
- Change rooms
- Office
- Store Plant room

Operating hours

Proposed operating hours are 8.00am to 6.30pm Monday to Saturday (both inclusive).

Staff

The maximum number of staff to be employed or otherwise engaged in the recreation facility is 4. However, at any one point in time, only 2 staff members (namely, one coach and one other staff member [administration/management]) would be required to be present and active at the facility. Cleaners would work outside of opening hours.

Patrons

The Statement of Environmental Effects states that the facility would primarily operate as a recreation establishment for seniors (meaning those over 55), with details as follows:

- one session of 30 minutes duration per operating hour;
- maximum of 16 adults per hour; and

Insofar as the operations of the facility, it is envisaged that clients would come from nearby retirement villages or private homes for light recreation and rehabilitation purposes. The facility is not to be used as a children's learn to swim facility. The use of the gym on the first floor of the facility would generate a clientele of some 5-6 persons per day.

Shuttle bus

The Statement of Environmental Effects also states that a shuttle bus will be provided to collect clients from nearby, although the bus will be subject to demand.

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	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – 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 can be 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</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 matter can be addressed via a condition of consent.</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 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 insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This</p>

Section 4.15 Matters for Consideration'	Comments
	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 Pittwater 21 Development Control Plan section in this report. In summary, the proposal is considered to be inconsistent with a number of relevant clauses, and as such is recommended for refusal.</p> <p>(ii) Social Impact The proposed development will have a detrimental social impact in the locality considering the character of the proposal. The proposal is not considered to generally maintain the character of the area, nor achieve the desired future character of the area as set out in the locality statement.</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 potentially suitable for the proposed use, but is not suitable for the development as proposed, for the reasons discussed within this report.
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	This assessment has found the proposal to be contrary to the relevant requirement(s) of the Pittwater LEP 2014 and Pittwater DCP and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be 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 process council is in receipt of 5 submission/s from:

Name:	Address:
Bayview Golf Club Ltd	Po Box 312 MONA VALE NSW 1660
Mr Andrew Norman Tiede	50 A Cabbage Tree Road BAYVIEW NSW 2104

Name:	Address:
Mr James William Matthews	48 Cabbage Tree Road BAYVIEW NSW 2104
Mrs Marie Ann Matthews	48 Cabbage Tree Road BAYVIEW NSW 2104
M Van Den Bosch	44 Cabbage Tree Road BAYVIEW NSW 2104

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

- Non-compliance with planning controls
- Inconsistency with zone objectives
- Flooding and stormwater
- Trojan horse application for non-permissible uses
- Environmental impacts - water management
- Cabbage tree road issues
- Tree removal and lot maintenance
- Inconsistency with desired future character
- Inadequate parking and parking safety
- Distance from bus stop and pedestrian danger
- Negative net community benefit
- Vermin
- Visual impact
- Habitat for endangered species
- Erosion and sediment control
- Damage to property and infrastructure
- Insufficient lot size for proposed development
- Inadequate access for delivery vehicles and garbage trucks
- Local amenity
- Out of character with the residential area

The matters raised within the submissions are addressed as follows:

- Non-compliance with planning controls
Comment:
Concerns were raised with non-compliance with the relevant planning controls. These concerns are supported to the extent outlined within this report, and in the recommended reasons for refusal.
- Inconsistency with zone objectives
Comment:
Concerns were raised that the proposal is inconsistent with the zone objectives. These concerns are supported to the extent discussed within this report. The proposal is not considered to achieve the objectives of the RE2 zone.
- Flooding and stormwater
Comment:
Concerns were raised with flooding and stormwater. Council's Engineer has assessed the proposal and is not satisfied with respect to the information provided regarding overland flows - see Development Engineers Referral Response. The objections are supported in this regard. However, this issue is likely to be one that could be adequately addressed by additional information.

- Trojan horse application for non-permissible uses

Comment:

Concerns were raised that the current application was a 'Trojan horse' for future non-permissible uses. Notwithstanding that non-permissible uses would remain non-permissible in the future unless the LEP was amended, Council can only assess the proposed use and building works for which the current application has been lodged. The proposed use is a permissible use in the zone. However, there are other issues with the application, as discussed throughout this report, which means it is recommended for refusal. No further consideration is required in respect of this issue.

- Environmental impacts - water management

Comment:

Concerns were raised with the effects of the development on water management and impacts on the watercourses. These concerns are supported to the extent discussed within this report, particularly with regard to Council's Development Engineer comments.

- Cabbage tree road issues

Comment:

Concerns were raised with the impact of the development on Cabbage Tree Road. These concerns are supported to the extent discussed within this report, particularly with regard to the lack of on street parking available in close proximity to the site.

- Tree removal and lot maintenance

Comment:

Concerns were raised with regard to the proposed tree removal and lot maintenance in the future. The concerns with regard to tree removal are supported to the extent discussed within this report. The proposal will result in removal of the majority of vegetation on site. With regard to maintenance, it seems likely that if a building and business are approved on site, lot maintenance would be more regularly carried out than is currently the case with the vacant lot. The concerns are not supported in that respect.

- Inconsistency with desired future character

Comment:

Concerns were raised that the application is inconsistent with the desired future character of the area. These concerns are supported to the extent outlined within this report and in the reasons for refusal.

- Inadequate parking and parking safety

Comment:

Concerns were raised that the proposal provides insufficient parking and unsafe parking. These concerns are supported to the extent outlined in this report and in the reasons for refusal. The proposed parking is not considered to be unsafe. However, the number of parking spaces is considered to be insufficient, and Council's Development Engineers have stated that the information provided with the application is inadequate to assess the appropriateness of the design of the driveway access.

- Distance from bus stop and pedestrian danger

Comment:

Concerns were raised with the distance to the nearest bus stop, and potential for pedestrian danger. These concerns are supported to the extent outlined in this report and in the reasons for refusal, particularly in regard to insufficient parking provision on site.

- Negative net community benefit

Comment:

Concerns were raised that the proposal would result in negative impact on the community. The proposal intends to construct a recreational facility for use by the local community, and in this regard may be expected to provide some community benefit. However, the form proposed, and the environmental impacts, are not considered to be consistent with the desired future character of the locality and other relevant planning controls as discussed in this report. In that respect, the concerns are supported.

- Vermin

Comment:

Concerns were raised that the design of the building would lead to the site becoming a breeding ground for vermin. The proposed building is raised in response to flood requirements, and the open area beneath is not considered to be significantly more favourable to vermin than the present vacant lot. It is likely that if the building was approved the site would be better maintained than is currently the case, particularly with regard to any vermin problems and their likely negative impacts on any recreation business operating out of the site. The concerns raised in this respect are not supported, and are not a recommended reason for refusal.

- Visual impact

Comment:

Concerns were raised with the visual impact of the development. The southern side of Cabbage Tree Road is occupied by the golf course, and is largely free of structures, with the exception of the golf course maintenance sheds to the west of the subject site. These sheds are generally relatively low to the ground and do not have a significant visual impact on the area. The building proposed under this application will create a significant visual impact, given its size and location. The lack of room left on site for landscaping and vegetation to screen the built form and mitigate against visual impacts is considered inadequate, and in this regard the concerns are supported.

- Habitat for endangered species

Comment:

Concerns were raised with respect to endangered species. These concerns are supported to the extent discussed within the Natural Environment- Biodiversity Referral Response in this report.

- Erosion and sediment control

Comment:

Concerns were raised regarding erosion and sediment control, and potential impacts on the waterway. This is an issue that would need to be adequately managed during construction. If the application was approved, conditions of consent could be imposed to adequately satisfy this issue, and it is not a recommended reason for refusal.

- Damage to property and infrastructure

Comment:

Concerns were raised with respect to damage to property and infrastructure. Council's Development Engineers have requested an overland flow report with respect to the proposed driveways. This issue has not been adequately satisfied by the application, and in this regard the concerns are supported.

- Insufficient lot size for proposed development

Comment:

Concerns were raised that the proposal is too large for the lot it is proposed on. These concerns are generally supported, as discussed throughout this report. The proposed building will occupy the vast majority of the site, with little room left over for landscaping and vegetation to mitigate the visual impacts of the development, and will result in removal of the majority of existing on site mature vegetation. The application also falls well short of the required amount of on site parking, which is another sign that the proposal is an over-development of the site.

- Inadequate access for delivery vehicles and garbage trucks

Comment:

Concerns were raised with respect to access for delivery vehicles and garbage trucks. The application was referred to Council's Development Engineers and Traffic Engineers who raised no concerns in this regard, although an overland flow report is required to determine the suitability of the proposed driveway design. The ability of the site to be serviced in respect of deliveries and waste collection is not a recommended reason for refusal.

- Local amenity

Comment:

Concerns were raised with respect to impacts on local amenity. These concerns are supported in relation to visual impacts and lack of landscaping, and the shortfall in parking, which seems likely to result in some level of on-street parking in the neighbouring residential area.

- Out of character with the residential area

Comment:

Concerns were raised that the proposal is out of character with the residential area. The site falls within the RE2 Private Recreation zone, although it is adjacent to R2 Low Density Residential zone. As discussed in this report, the proposal is not considered to be consistent with the desired future character of the locality, and the concerns raised are supported in this regard.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments	
Building Assessment - Fire and Disability upgrades	No objections subject to conditions to ensure compliance with the Building Code of Australia.	
Environmental Health (Acid Sulphate)	Was sufficient documentation provided	Not Clear



Internal Referral Body	Comments	
	appropriate for referral?	
	Are the reports undertaken by a suitably qualified consultant?	NO
	What class is the site in on the PLEP 2014 Acid Sulfate Soils Map?	Class 2
	Is there risk of acid sulfate soil disturbance?	Not clear
	Will the excavations exceed the depth determined in the risk map?	Not clear
	Does the report adequately address acid sulfate risk mitigation?	NO
	Have you considered disposal of water during excavation, pump out etc.	YES
	Have you considered disposal of contaminated soil.	YES
	General Comments	
	Environmental Health requests test holes to be dug before work commences as there is potential for Acid Sulfate disturbance in accordance with the Acid Sulphate Soils guidelines. This can be managed with a condition	
	Recommendation	APPROVAL - subject to conditions
Comments completed by: Anthony Foy EHO Date:23.4.2018		
Environmental Health (Industrial)	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



Internal Referral Body	Comments	
	If the proposal is a scheduled premises have you recommended that the DAO refer the proposal to OEH?	N/A
	General Comments No Objections -including proposed operating hours which need documenting on DA. Issues considered include : Noise Public pool Coffee Shop All matters can be dealt with by way of conditions	
	Recommendation	APPROVAL - subject to conditions
	Comments completed by: Anthony Foy EHO Date: 23.4.2018	
Landscape Officer	<p>The landscape component of the proposal is unacceptable due to the loss of existing trees that will result in the built form becoming the dominant streetscape element. Pittwater DCP 21 requires that development is secondary to landscaping and vegetation.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <p>B4.22 Preservation of Trees and Bushland Vegetation</p> <p>C2.1 Landscaping</p> <p>It is considered that the built form viewed from Cabbage Tree Road, will dominant the streetscape character. The built form massing will result in a dominant built form that is not capable of integrating with the landscape. This is caused by the removal of 59 of the 85 existing trees. It is likely that upgrading existing utility services for this development may result in further removal of existing trees.</p> <p>The development dos not recognise the desirable elements of the existing character of the area that is dominated by tall canopy trees. The removal of a large number of existing trees will change the physical and visual nature of the existing streetscape character, changing the neighbourhood amenity from a scenic landscape to a built form character.</p>	



Internal Referral Body	Comments
	<p>C2.1 Landscaping, outcomes that are not achieved including: A built form softened and completed by landscaping. The extent of built form presented by the proposed development limits effective and substantial landscaping and tree canopy replacement to soften the built form. No replacement tree planting is proposed along the Cabbage Tree Road frontage. The proposed landscape gardens are limited in width and soil volume area that only shrub planting will be successfully supported.</p> <p>D9.1 Character as viewed from a Public Place, is not satisfied, with the development proposal failing to provide a built form that is secondary to landscaping and vegetation. The built form will dominate the streetscape due to the loss of the existing trees. The existing row of Casuarina cunninghamiana (River She-Oak), in association with the existing Eucalyptus robusta (Swamp Mahogany) provide the existing landscape amenity to the streetscape, and retention and protection of this streetscape element is warranted to allow for the integration of the development into the landscape character.</p> <p><u>Planner Comment:</u> The issues discussed above have been included as recommended reasons for refusal under the relevant clauses.</p>
NECC (Bushland and Biodiversity)	<p>Bushland and Biodiversity Comments 18 September 2018</p> <p>Following review of the relevant reports and plans (listed below), Bushland and Biodiversity provide the following updated comments on the proposed Development Application 2018/0567 at 39 Cabbage Tree Road, Bayview (DA).</p> <p>In relation to these comments, Council has reviewed the following documents:</p> <ul style="list-style-type: none"> • Biodiversity Impact Assessment prepared for the site in August 2018, prepared by Narla Environmental Pty Ltd, August 2018 • Landscape Concept Plan prepared by Jocelyn Ramsay and Associates Pty Ltd, August 2018 • Arboricultural Impact Assessment prepared by Urban Forestry Australia, March 2018 <p>Pittwater 21 Development Control Plan 2014 B4.6 Wildlife Corridors Outcomes Retention and enhancement of wildlife corridors ensuring/providing the connection of flora and fauna habitats. (En)</p> <p>Controls Development shall not directly impact on / or significantly reduce / degrade habitat for locally native species, threatened species, endangered populations or endangered ecological communities.</p> <p>Does not comply Development shall retain, and provide an adequate buffer to, wildlife</p>



Internal Referral Body	Comments
	<p>corridors. Does not comply Development shall provide wildlife corridors via creation, restoration, and / or regeneration of habitat. Partial compliance Development shall not result in a significant loss of canopy cover or a net loss in native canopy trees. Does not comply Development shall ensure that at least 60% of any new planting incorporates native vegetation (as per species listed in Native Plants for Your Garden available on the Pittwater Council website). Landscaping is to be outside areas of existing bushland and not include environmental weeds. Compliant Planting is to maximise linkage within the wildlife corridor. Partial compliance Caretakers of domestic animals shall prevent them from entering areas of wildlife habitat. N/A Fencing, where permitted, shall be passable by native wildlife. N/A</p> <p>General Comments The DA is located wholly within a High Priority wildlife corridor under the Pittwater 21 Development Control Plan 2014 (DCP). High Priority wildlife corridors are considered as areas essential for fauna movement under the DCP.</p> <p>The DA results in the direct removal of 980 sq.m of the endangered ecological community Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Coast Bioregions (EEC). Although it is recognised that the patch of EEC is disturbed in the understorey, the proposal will result in the removal of 21 trees from the EEC. Five of these are mature <i>Eucalyptus robusta</i> (Swamp Mahogany) trees between 10 and 18 metres high and 45-60cm DBH (Urban Forestry Australia and Narla 2018). A number of observed hollows, providing evidence of the trees longevity and potential utilisation by local and threatened fauna, were reported in Narla 2018.</p> <p>The proposal will also result in the direct removal of 38 early mature <i>Casuarina cunninghamiana</i> (River Oak) trees (Urban Forestry Australia and Narla 2018). Although these trees are not native to the EEC, they are native to NSW and provide considerable foraging habitat for locally native species.</p> <p>The Test of Significance in Narla 2018 states the following: <i>No area of habitat is likely to become fragmented or isolated as a result of the proposed development. SSF (sic) representative vegetation within the site is already relatively fragmented from other patches of SSF (sic) in the local area as a result of the Bayview Golf course on the adjoining property, and Cabbage Tree Road and the adjacent urban environment.</i> Whilst Council concurs with Narla's assessment that the DA will not result in a significant impact on the EEC such that the local occurrence will be placed at risk of extinction, it is considered the impact of the tree removal on the High Priority wildlife corridor is inconsistent with the objectives of DCP Control 4.6. The DA is</p>



Internal Referral Body	Comments
	<p>centrally located within an approximate 800 x 40 m (3.2 Ha) patch of uninterrupted tree canopy, providing continuous corridor linkage along this particular length of Cabbage Tree Road to its junction with Pittwater Road. The removal of vegetation for the DA (890 sq.m) comprises approximately 3% of the total area of this patch of corridor vegetation. The removal of vegetation within the centre of this patch will result in a considerable gap in the canopy and therefore fragmentation of the wildlife corridor.</p> <p>Although landscaping is proposed as a mitigation measure for the removal of 59 trees, landscaping in this case will not adequately compensate for the tree canopy removal for the following reasons:</p> <ul style="list-style-type: none"> • seven canopy trees (of which includes six <i>Livistona australis</i>) have been proposed to replace the 59 trees to be removed • only one <i>Eucalyptus robusta</i> is proposed to be replaced • no <i>Casuarina</i> canopy species have been proposed for replanting • the bulk of the revegetation comprises mid-storey and ground cover plantings, thereby improving ground and mid cover conditions, however not compensating for the loss of <i>Eucalypt</i> and <i>Casuarina</i> canopy • it is considered the bulk scale of the development will not allow adequate space for the proposed landscaping. <p>Council acknowledges that 16 <i>Homolanthus populifolius</i> (Bleeding Heart) and eight <i>Pittosporum undulatum</i> (Native Daphne) are proposed for planting in the Landscape Plan. This is considered appropriate considering the position in the landscape and the ability of these species, once relatively mature, to provide potential foraging and roosting habitat for forest owls and bats.</p> <p>Variations Council may consider variation to this control: For those activities listed in adopted Plans of Management for public reserves. N/A Where development is proposed on parts of the site identified as not containing a wildlife corridor providing the development does not impact on bushland on the site or adjoining properties. N/A Where a development is proposed in the area of least impact on a wildlife corridor and where there will be no significant net loss of native vegetation. N/A Where fencing is required to contain a domestic animals and is located on a part of the site that does not impede native fauna from traversing the site. N/A In Bushfire Asset Protection Zones - vegetation species need not be native to the site but are to be native to Pittwater. N/A</p> <p>Initial Referral Response</p> <p>The subject property includes a planted and remnant native canopy with a highly disturbed ground layer represented by invasive weeds</p>



Internal Referral Body	Comments
	<p>only. Some remnant trees on the site are considered likely to form part of the Endangered Ecological Community, Swamp Sclerophyll Forest on Coastal Floodplains as mapped for the site (OEH 2013) and listed under the <i>NSW Biodiversity Conservation Act 2016</i> (BC Act). No reference or impact assessment in relation to matters listed under the NSW BC Act has been provided with the application.</p> <p>The proposal unavoidably requires the removal of a substantial number of trees (59 trees) on the site and may have indirect impacts on trees proposed to be retained in the adjoining areas. No tree replacement plantings are proposed and are likely to be unfeasible given the dimensions of the site in relation to the proposed development. Tree canopy on the site represents one of the main linkages between large areas of bushland to the north west and the nearby Pittwater estuary. The Pittwater 21 DCP Wildlife Corridor Map identifies the subject property as a high priority area essential to fauna movement.</p> <p>Other relevant controls in the Pittwater 21 DCP include; <i>B4.14 Development in the Vicinity of Wetlands</i>, and, <i>B4.22 Preservation of Trees and Bushland Vegetation</i>.</p> <p>Despite the disturbed nature and conditions of the site, the subject proposal is considered to be inconsistent with the outcomes and controls of the Pittwater 21 DCP due to the number of canopy trees requiring removal.</p> <p><u>Planner Comment:</u> The issues discussed above have been included as recommended reasons for refusal under the relevant clauses.</p>
NECC (Coast and Catchments)	<p>The property at 39 Cabbage Tree Road, Bayview has been identified as being affected by estuarine tidal inundation on Council's Estuarine Hazard Mapping. The Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.9 Estuarine Hazard Controls will apply to any proposed development of the site.</p> <p>In accordance with the Pittwater Estuary Mapping of Sea Level Rise Impacts Study (2015), an estuarine planning level (EPL) based upon the local (still) water level (2050 sea level rise scenario) + 0.3m freeboard i.e. 2.24m AHD has been adopted by Council for this property. As the ground floor level of the recreation facility is proposed to be RL 3.3m AHD, the proposal is compliant with the relevant requirements of the Policy and B3.9 Estuarine Hazard controls.</p> <p>Given that the facility is intended to cater for seniors (over 55) as its main clientele, however, there is some justification (as a potentially vulnerable use) for considering an EPL based upon the higher 2100 sea level rise benchmark i.e. 2.74m AHD. The higher EPL is almost the same as the applicable FPL for the site (2.70m AHD) and as such any estuarine inundation issues will already have been</p>

Internal Referral Body	Comments
	addressed by the relevant flood risk management conditions should the development be approved.
NECC (Development Engineering)	<p>The proposal is not acceptable because the applicant has not provided an overland flow study to determine the water surface levels in the watercourse that runs across the front of the site. These water surface levels are critical in designing the vehicular access and driveway from cabbage tree road as the vehicular access will need to be designed to address vehicle stability as referenced in the Appendix L of the Flood Plain Development manual.</p> <p><u>Planner Comment:</u> The issues discussed above have been included as recommended reasons for refusal under the relevant clauses.</p>
NECC (Riparian Lands and Creeks)	<p>There are no objections to the proposal as long as the following issues are addressed.</p> <p>Some information on stormwater management has been provided, however information is required to satisfy the following Pittwater 21 DCP controls:</p> <p>B5.9 - the applicant is required to incorporate stormwater quality improvement measures including primary treatment (ie. screening of organic matter/leaf litter and coarse sediments) prior to stormwater discharging from the land. The applicant is encouraged to apply secondary treatment to allow infiltration of stormwater and capture fine sediments.</p> <p>B8.2 - A sediment and erosion control plan must be provided to demonstrate how the watercourses to both sides of the site will be protected from sediment impacts related to construction.</p> <p>Treatment of the drainage channel that takes drainage from the road and under the driveway to the creek is not discussed. No sections of the driveway have been provided that show how drainage will be maintained. The Development Engineer will address this point.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed two-storey indoor recreation facility with swimming pool, gym, facilities, car parking and landscaping is to be located in an area within the 1% AEP flood extent, and affected by Flood Life Hazard Category H3-H5.</p> <p>It is to be constructed with an elevated subfloor on concrete piers, and compensatory works detailed in the Flood Management Report by Waddington Consulting Pty Ltd satisfactorily offset the small loss of flood storage.</p> <p>The proposed development generally complies with the flood requirements of the DCP and LEP.</p>
Traffic Engineer	<p>Traffic:</p> <p>Generation assumptions are acceptable. Traffic raise no objection. No objections.</p>



Internal Referral Body	Comments
	<p>Parking: Use of the shuttle bus is deemed adequate to compensate for any parking shortfall. This will need to be an operational condition and shall be an ongoing requirement for the longevity of the facility. Location of pick-up/drop-off area to be clearly marked.</p> <p>Car Parking: Design in accordance with AS2890.1:2004. Disabled space to be appropriately marked with shared zone and bollard. No objections.</p> <p>Pedestrian: Pedestrian desire line to be addressed crossing Cabbage Tree Road. Consultation with site opposite at 52 Cabbage Tree Road shall be undertaken to ensure any proposed infrastructure is adequate to accommodate pedestrian access between sites.</p> <p>Servicing: All servicing shall occur within the site. As this is a commercial development, a waste contractor is to be engaged for waste servicing.</p> <p>Item to be confirmed with Waste Team. All necessary provisions onsite will be required to accommodate the anticipated service vehicle.</p> <p>Based on the above, Traffic Team raise no objection subject to conditions.</p> <p><u>Planner Comment:</u> Despite the recommendation of the Traffic Engineer, the proposed parking is considered to be inadequate given the shortfall to the minimum requirements for parking under clauses B6.3 Off-Street Vehicle Parking Requirements, and C2.14 Commercial Swimming Pools. There is no close, easily accessible on-street parking, and the site is located adjacent to a residential area. The application states there are likely to be up to 16 patrons per hour of the swimming pool, plus 5 gym patrons per day, plus 2 staff during operating hours. A condition requiring that a bus service operate for the life of the development, servicing possibly up to 32 stops per hour (16 pick ups and 16 drop offs) at unknown locations, is likely to be difficult to enforce. The seven car spaces proposed on site are to be allocated for use by staff and patrons with a disability. See discussion under clauses B6.3 and C2.14 for more detailed assessment against the requirements and objectives of those clauses. The proposed number of parking spaces is considered to be inadequate, and this forms part of the recommended reasons for refusal.</p>

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

External Referral Body	Comments
	recommended.
NSW Police - Local Command (CPTED)	The proposal was referred to the NSW Police. 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 vacant for a significant period of time with no record of contamination. 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 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.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8m above Flood Planning Level (8.5m above ground level)	7.42m above Flood Planning level (8.73m above ground level)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.6 Biodiversity protection	No
7.10 Essential services	No

Detailed Assessment

Zone RE2 Private Recreation

The application is for a recreational facility (indoor), which is a permissible use in the zone. However, the application also makes reference to 'coffee facilities', but does not provide any details on the plans or within the documentation as to what these facilities entail. Such facilities may well be a permissible use if they are ancillary to the main proposed use, or if provided as a 'kiosk' in their own right, which is also a permissible use in the zone. However, the application has not made this aspect clear and as such is insufficient to determine permissibility.

The objectives of the zone are as follows:

- To enable land to be used for private open space or recreational purposes.
Comment: The proposal is to use the land for recreational purposes and as such is considered to achieve this objective.
- To provide a range of recreational settings and activities and compatible land uses.
Comment: The proposed recreational use of the site would add to the range of recreational settings and uses available in the area, and the use itself is considered to be a compatible land use given it is a nominated permissible land use in the zone.

- To protect and enhance the natural environment for recreational purposes.
Comment: The proposal is not considered to adequately protect and enhance the natural environment for recreational purposes, as discussed within this report. The proposal is not considered to achieve this objective.
- To allow development of a scale and character that is appropriate to the nature of its recreational use, and is integrated with the landform and landscape.
Comment: The proposed development may be appropriate in scale and character to the nature of its proposed use. However, as discussed within this report, it is not considered to be adequately integrated with the landform and landscape given the impacts on existing mature vegetation on site, and lack of left over space on site to establish adequate planting if the proposed development was constructed. The proposal is not considered to achieve this objective.

Given the above assessment, the proposal is recommended for refusal due to lack of information to adequately determine permissibility with regard to the coffee facilities, and failing to achieve all objectives of the zone.

7.1 Acid sulfate soils

The proposal is acceptable subject to conditions provided by Council's Environmental Health team to dig test holes and deal with any acid sulfate soils as required.

7.6 Biodiversity protection

Given the comments from Council's Natural Environment - Biodiversity department (see Referral Responses section in this report), the proposal has not demonstrated consistency with the objectives and requirements of this clause.

7.10 Essential services

The clause requires that adequate arrangements be made for suitable vehicular access. Council's Development Engineers have assessed the application (see Referral Responses section of this report) and are not satisfied that the applicant has provided adequate information to determine water surface levels that are critical in designing the vehicular access from Cabbage Tree Road. Given these comments, the application has not demonstrated consistency with the requirements of this clause.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	Merit Assessment	1.2m	N/A	No - see assessment
Side and Rear building line	Nil	900mm	N/A	Yes
Building envelope	3.5m	Unable to assess	N/A	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	No	No
A4.9 Mona Vale Locality	No	No
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.9 Estuarine Hazard - Business, Light Industrial and Other Development	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.12 Climate Change (Sea Level Rise and Increased Rainfall Volume)	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B4.6 Wildlife Corridors	No	No
B4.13 Freshwater Wetlands (non Endangered Ecological Communities)	Yes	Yes
B4.14 Development in the Vicinity of Wetlands	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	No	No
B5.1 Water Management Plan	Yes	Yes
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	No	No
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	No
B6.7 Transport and Traffic Management	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C2.1 Landscaping	No	No
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.6 Adaptable Housing and Accessibility	Yes	Yes
C2.7 Building Facades	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	N/A	N/A
C2.12 Protection of Residential Amenity	Yes	Yes
C2.14 Commercial Swimming Pools	No	No
C2.16 Undergrounding of Utility Services	Yes	Yes
C2.20 Public Road Reserve - Landscaping and Infrastructure	No	No
C2.22 Plant, Equipment Boxes and Lift Over-Run	Yes	Yes
D9.1 Character as viewed from a public place	No	No
D9.2 Scenic protection - General	No	No
D9.3 Building colours and materials	No	No
D9.6 Front building line	No	No
D9.9 Building envelope	No	No

Detailed Assessment

A4.9 Mona Vale Locality

The Desired Character statement requires that *“A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, and to enhance wildlife corridors.”*

The proposed building will occupy almost the entire site, and result in removal of the the majority of existing mature vegetation and canopy trees on site. The proposed replacement planting shown on the landscape plan is considered to be inadequate to replace what will be lost. Given the comments provided by Council’s Natural Environment Unit and Landscape Officer, the application has failed to show consistency with this aspect of the desired character of the Mona Vale locality. (see Landscape Referral Response and Natural Environment Referral Response – Biodiversity in this report).

B4.6 Wildlife Corridors

The application has not demonstrated consistency with the outcomes and requirements of this clause. (Refer to Natural Environment - Biodiversity Referral Response).

B4.22 Preservation of Trees and Bushland Vegetation

The application has not demonstrated consistency with the outcomes and requirements of this clause. (Refer to Landscape Referral Response).

B5.12 Stormwater Drainage Systems and Natural Watercourses

The application has not demonstrated consistency with the outcomes and requirements of this clause. Refer to Engineering Referral Response.

B6.3 Off-Street Vehicle Parking Requirements

The traffic and parking report provided with the application is based on there being no specified requirement for parking under the DCP. A Recreation Facility (indoor) is defined under clause A1.9 Definitions of the Pittwater DCP as a Business Development.

As such, Table 1 in Clause B6.3 requires 13.1 car spaces to be provided on site. The application has proposed 7 (or a possible 8) spaces to be provided for exclusive use of staff and patrons with a disability, and so falls well short of the minimum requirement. There is no on street parking in close proximity along Cabbage Tree Road, with the nearest available on street parking being across the road and around the corner on Annam Road, adjacent to residential area. There is no footpath on the southern side of Cabbage Tree Road, and no pedestrian crossing facilities in a direct route to the facility from Annam Road.

The application proposes to make up for this shortfall by providing a bus service for the majority of patrons to and from the facility on demand. This is not considered to sufficiently mitigate the lack of parking provided on site, as there is no satisfactory way to ensure that this service would be continued for the life of the development, or that patrons would necessarily choose to use this service rather than their own vehicles. Further, even if this could be guaranteed, given that there will be up to 16 people per hour using the pool (not including the gym patrons), it seems unlikely that a single bus would be able to collect up to 16 people, and drop off up to 16 people at up to 32 different locations, all within 1 hour. A development of this sort, away from a commercial centre, with no easily accessible on-street parking available, must provide sufficient on-site parking in accordance with the requirements.

The proposal does not therefore achieve the numerical requirements of the clause. It is also considered to fail the outcomes of the clause:

- An adequate number of parking and service spaces that meets the demands generated by the development.
Comment: As discussed above, the proposed parking does not meet the expected demand generated by the proposal.
- Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.
Comment: Given the comments of Council's Development Engineer, the application has failed to demonstrate that the driveway access minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety. (Refer to Engineering Referral Response).
- Safe and convenient parking.
Comment: The proposed on-site parking may be safe and convenient (although this has not yet been demonstrated - see Development Engineer Referral Response). However, the amount of proposed on-site parking is inadequate to meet demand, and the nearest on street parking in Annam Street is not considered to be convenient. There is no footpath in front of the site, and no direct or safe pedestrian access to Annam Street from the site. Pedestrians would potentially need to exit the site, turn to the west and walk approximately 40m along the road reserve area before getting to a footpath and a traffic island to safely cross Cabbage Tree Road, before turning back to the east and walking approximately 125m to the corner of Annam Road, and then turn up Annam Road (and uphill) to wherever their car was parked. The proposal is not considered to achieve this outcome.

The application has not demonstrated consistency with the outcomes and requirements of this clause. See Landscape Referral Response.

C2.11 Signage

No signage has been proposed.

C2.14 Commercial Swimming Pools

This clause requires that adequate car parking be provided in accordance with the DCP. Further, the clause requires more parking than is required by Clause B6.3 (see discussion above), requiring one car space per patron of a swimming pool in a residential area. The application proposes a maximum of 16 swimming pool patrons per hour (The application states these patrons will all be adults, no children's classes), 5 gym patrons per day, and two staff at any one time. The clause states that:

Adequate car parking is to be provided in accordance with this DCP. In the residential area one car space must be provided for each person attending a tuition period (note: where more than one pupil are members of the same family group, only one car parking space is required for the family group) plus two spaces for residents.

In this regard, particularly in residential areas, due regard must be had to the provision of carparking on site for all patrons, taking into account the overlap of the sessions of use of the commercial swimming pool, which must be a minimum of 15 minutes between classes.

Class numbers must be limited to ensure adequate parking is available for the vehicles of all people in attendance.

The proposal has not demonstrated consistency with this clause, particularly given the site is adjacent to a residential area and there is no on street parking available in close proximity. The only on street parking anywhere close is in the residential area, around the corner on Annam Road, with no direct or easy pedestrian access. The provision of an on-demand bus service is not considered to be a realistic or sufficient way to mitigate the parking shortfall.

Outcomes

- Improvement in the quality and operation of commercial recreational/educational swimming pool operations, both in commercial areas and residential areas, giving due regard to the sensitivity of Pittwater's natural and built context.
Comment: The proposal will add to commercial swimming pool operations in the area. However, given the comments provided by Councils Natural Environment and Landscape officers, and the shortfall in parking, is not considered to have due regard to the sensitivity of Pittwater's natural and built context.
- Encouragement of a high standard of educational and recreational pool development of a design that fits into the context of, and is sensitive to the existing surrounding locality and protects Pittwater's environmental integrity.
Comment: The proposal is not considered to adequately fit into the context of the site and surrounding area. It will be on the only significant building on this side of Cabbage Tree Road, and will be significantly larger than the detached dwellings across the road to the north. It will also result in the removal of the majority of existing mature vegetation and canopy trees on site. Council's Natural Environment unit is not satisfied that the development protects Pittwater's environmental integrity. The proposal is not considered to have achieved this objective.

- Encouragement of the adequate provision for all matters associated with commercial swimming pools, providing for appropriate car parking, health regulations and acoustic controls and design. Comment: As discussed above, the proposed on site car parking is inadequate, and there is no easily accessible on street parking available in close proximity.

C2.20 Public Road Reserve - Landscaping and Infrastructure

The application has not addressed the requirements of this clause. *The control requires that Development with frontage to a public road reserve requires the design and construction of a footpath 1.5m wide (2.1m wide where a multi-use pathway is required to be installed), kerb and gutter and landscaping for the full width of the development site on the public road reserve frontage to the development.*

This issue could be conditioned if approval was granted to the proposal.

D9.1 Character as viewed from a public place

The proposed building will occupy the majority of the block, with only minor setbacks for landscaping. It will also result in the removal of a significant amount of existing mature landscaping. The development is not considered to be “secondary to landscaping and vegetation”, as required by the outcomes of the clause. (Refer also to Landscape Referral Response and Natural Environment Referral Response – Biodiversity). The proposal is considered to fail the following outcomes:

- To achieve the desired future character of the Locality.
Comment: See discussion under clause A4.9 Mona Vale Locality in this report. The proposal is not considered to achieve the desired future character of the locality.
- To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment.
Comment: The proposal will present as a large building on the southern side of Cabbage Tree Road, where there are currently no large buildings. This side of the road is characterised by the open, vegetated view of the golf course. The existing row of mature Casuarina trees along the front boundary of the site (proposed for removal), also forms a strong part of the existing characteristic of the southern side of Cabbage Tree Road.
- To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment.
Comment: The proposed height of the development is acceptable, and the design of the building is well articulated and broken up. However, the building will occupy the vast majority of the site, leaving little room for landscaping to remain in keeping with the existing character of the site and surrounds.
- The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation.
Comment: The site is not in a commercial area. It is surrounded by the open golf course to the south, and is across the road from residential area to the north. The amount of landscaping provided as part of this proposal may be appropriate in a commercial area. However, in the context of this site, the building occupies too much of the site, and does not allow for adequate vegetation for the built form to be secondary to landscaping and vegetation.

- High quality buildings designed and built for the natural context and any natural hazards.
Comment: The building is considered to be generally well designed. However, as discussed throughout this report, it is not considered to be appropriate for the natural context of the site, which sits on the southern side of Cabbage Tree Road, where there is very little built form, and directly across the road from low density residential area.
- Buildings do not dominate the streetscape and are at 'human scale'. Within residential areas, buildings give the appearance of being two-storey maximum.
Comment: Given that there is almost no built form along the southern side of Cabbage Tree Road (with the minor exception of some golf course maintenance sheds to the west which are generally low to the ground and not large in scale), the proposed building is likely to dominate the streetscape in this area. Insufficient room has been left in the front setback area in particular to provide for landscaping that would adequately screen the development, to reduce its visual dominance.
- To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component.
Comment: As discussed above, the proposal does not maintain adequate landscaped area on site to allow the built form to become a secondary component to the vegetation on site.
- To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land.
Comment: As discussed above, the proposal is not considered to compliment the existing character of the area, due to the removal of existing mature vegetation on site, and the lack of space on site post construction to provide for landscaping to maintain the character of the area, and achieve the desired future character.

D9.2 Scenic protection - General

The clause requires that *Development shall minimise any visual impact on the natural environment when viewed from any waterway, road or public reserve*. As discussed throughout this report, the proposal is not considered to minimise any visual impact in the area, particularly given the lack of built form generally along the southern side of Cabbage Tree Road.

Outcomes

- Achieve the desired future character of the Locality.
Comment: The proposal is not considered to achieve the desired future character. See discussion under clause A4.9 in this report.
- Bushland landscape is the predominant feature of Pittwater with the built form being the secondary component of the visual catchment.
Comment: The proposed building occupies almost the entire site, and does not leave adequate open space to allow for planting to remain the predominant feature of the site.

D9.3 Building colours and materials

The proposed walls are to be white, which does not comply with the colour pallet shown in the clause.

This issue could be conditioned if approval was granted.

D9.6 Front building line

The proposal is subject to a merit assessment of the front building setback. As presented, the proposal is not considered to achieve the following outcomes of the clause:

- Achieve the desired future character of the Locality.
Comment: See discussion under clause A4.9 in this report.
- Vegetation is retained and enhanced to visually reduce the built form.
Comment: Refer to the Landscape Referral Response and Natural Environment Referral Response – Biodiversity. Given these comments, and that the development will occupy the majority of the site with minimal room left over for vegetation, the proposed front setback is not considered to be acceptable on a merit assessment.

D9.9 Building envelope

The Statement of Environmental Effects states that the proposal complies with the building envelope. However, the plans provided do not make assessment of compliance possible (due to the angles of the boundaries and the elevations provided). As such, the application has not adequately demonstrated compliance with this clause.

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.

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;
- Pittwater Local Environment Plan;
- Pittwater 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is

considered to be:

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

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/0567 for the Construction of a recreation facility (indoor) comprising a two (2) lane commercial swimming pool and gym with associated facilities, car parking and landscaping on land at Lot 2 DP 531960,39 Cabbage Tree Road, BAYVIEW, for the reasons outlined as follows:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone RE2 Private Recreation of the Pittwater Local Environmental Plan 2014.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.6 Biodiversity protection of the Pittwater Local Environmental Plan 2014.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.10 Essential services of the Pittwater Local Environmental Plan 2014.
6. The application is inconsistent with the desired character of the Mona Vale locality.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B4.6 Wildlife Corridors of the Pittwater 21 Development Control Plan.
8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B4.22 Preservation of Trees and Bushland Vegetation of the Pittwater 21 Development Control Plan.
9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B5.12 Stormwater Drainage Systems and Natural Watercourses of the Pittwater 21 Development Control Plan.

10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.
11. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2.1 Landscaping of the Pittwater 21 Development Control Plan.
12. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2.14 Commercial Swimming Pools of the Pittwater 21 Development Control Plan.
13. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.
14. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.2 Scenic protection - General of the Pittwater 21 Development Control Plan.
15. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.6 Front building line of the Pittwater 21 Development Control Plan.
16. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D9.9 Building envelope of the Pittwater 21 Development Control Plan.