

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0287
Responsible Officer:	Phil Lane
Land to be developed (Address):	Lot 51 SP 58961, 51 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Proposed Development:	Use of Premises as a Recreation Facility Indoor and Signage
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Virak Sik Thary Um Phonrith Um
Applicant:	Evolve MMA
Application Lodged:	27/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	11/04/2019 to 25/04/2019
Advertised:	Not Advertised
Submissions Received:	3
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 3,000.00

PROPOSED DEVELOPMENT IN DETAIL

"The application seeks development consent for change of use to a mixed martial arts gym, a 'recreational facility (indoor)', involving minor internal building fit out.

Use of the premises as a small gym – involving:

- *Personal training on one-on-one basis on pre-booked basis and Group training session for up to 20 clients run by 1 trainer*

The extend of trading hours

"Monday open 3hrs 45mins

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Tuesday open 3hrs 45mins

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Wednesday open 3hrs

9.30am - 10.30am group training

5.30pm - 7.30pm group training

Thursday open 3hrs 45mins

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Friday open 3hrs 45mins

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Saturday open 1hr

9am - 10am group training"

Signage

Flash wall signage to the premise as per architectural drawings

Building alteration

No significant building alteration is proposed as part of DA. The proposal for internal fit-out is only involving the installation of wall & floor mats, installation of the mirror, boxing ring (free standing) and installation of the boxing / kickboxing bags and signage to the front facade."

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 51 SP 58961 , 51 / 1 - 5 Collaroy Street COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site consists of one commercial unit (Unit 51) within a multi storey mixed use development located on the northern side of Collaroy Street.</p> <p>The unit is located within the ground level adjacent to the carpark within the development and has an area of 149m².</p> <p>The site is located within the B2 Local Centre zone and accommodates a four storey shop top housing development with parking on the ground floor level adjacent to the shops.</p> <p>Surrounding development consists of other shop top</p>

developments, residential flat buildings, backpackers hostel and retail developments.

Map:



SITE HISTORY

DA2016/0933 - Use of Premises as a Recreation Facility (indoor) and signage was refused by Development Determination Panel on 26 April 2017 for the following reasons:-

Reasons for Refusal:

"1. Pursuant to Section 79C(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 Warringah Local Environmental Plan 2011.

2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of the B2 Local Centre Zone under of the Warringah Local Environmental Plan 2011.

3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety of the Warringah Development Control Plan 2011.

4. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D3 Noise of the Warringah Development Control Plan 2011.

5. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest."

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 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. On 26 July 2019 at the Annual General Meeting of</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to Strata Consent to lodge this development application. On 26 July 2019 at the Annual General Meeting resolved that consent (validation) for the application.</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 has been 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 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 the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</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</p>

Section 4.15 Matters for Consideration'	Comments
	proposed land use.
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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

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 3 submission/s from:

Name:	Address:
Withheld	COLLARROY NSW 2097
Mr Corey Wayne Bryson	41 / 1 - 5 Collaroy Street COLLARROY NSW 2097
Fresh Strata Pty Ltd	3 / 529 Pittwater Road BROOKVALE NSW 2100

Noise: Issues were raised about the noise and vibrations from the gym.

It is noted that issues were raised initially when the gym commenced operation in late March 2019. A site inspection by Council's Compliance and Planning Officers has been completed and noted the installation of sound proofing within the unit where the gym is operating. Additionally, recent contact was made with one of the residents in relation to the operations of the gym. It was stated that the noise levels had decreased to an acceptable level and the tenant/business owner of the gym had worked with the residents and the Strata Corporation to address these issue(s).

Given the above and subject to conditions (including the hours of operations) it is considered that the proposal can be supported.

Not a good location for a gym: The existing building is a shop top development with approved retail/commercial units on the ground floor level. The site is zoned B2 Local Centre under the Warringah Local Environmental Plan 2011. The proposed use is defined as Recreation Facilities

(indoor) and therefore is permissible with consent.

The proposed use meets the objectives of the zone and given the hours of operations and the applicant/business owner addressing the noise issues it is considered that the location of the gym is suitable in this instance (subject to conditions).

Parking: Issues were raised about parking for the proposed use of the gym.

Under the Warringah Development Control Plan 2011 (WDCP 2011) Clause C3 Parking Facilities requires a parking rate 4.5 spaces per 100sqm GFA. The premises has GFA of 149sqm and therefore the minimum parking required for the use is 7 spaces.

The proposal provides 6 spaces for the unit and 2 spaces shared with another unit (owned by the same owner as the gym). Additionally, there is 9 visitor parking spaces available (total available parking of 17 spaces).

A review was completed by Council's Traffic Engineer: -

"The applicant has addressed the original concerns raised regarding the ability to legally lodge the application.

As such the assessment has been completed and the proposal complies with the WDCP provisions for parking at this type of facility, with additional parking provided in the private parking area for visitors as well. Whilst parking is well used in the areas there is believed to be sufficient on site and locally with turnover to service the development."

Given the above it is considered that there is sufficient parking available.

No consent to operate the business or owners corporation consent: Issues were raised by the Strata Management (Fresh Strata) for the building (Strata Plan No. 58961) that consent for the use of the unit as a recreational facility (indoor) and was operate without consent from Northern Beaches Council. A development application was received by Council on 25 April 2019 for the "Use of Premises as a Recreation Facility Indoor and Signage", therefore the applicant is seeking approval for the retrospective works and the use of the premises for a gym.

The matter about owners corporation consent was raised with the owner of the unit, the applicant and Strata Management. At Annual General Meeting on 26 July 2019 it was resolved that the Owners Corporation of SP58961 granted consent for the development application and allow for the operation of the gym in accordance with consent of Northern Beaches Council and compliance with the by-laws.

Given the above it is considered that this issue has now been resolved. The finalisation of this development application will impose suitable conditions to ensure the reasonable amenity for residents and the reasonable operations of the gym within the building.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	Approval subject to conditions.
Environmental Health (Acid Sulphate)	General Comments Change of use will not effect Acid Sulphate Soils

Internal Referral Body	Comments
	Recommendation APPROVAL - no conditions
Environmental Health (Industrial)	General Comments ADDITIONAL INFORMATION TO HAND 1704.2019 Based on the current other occupancies/business hours and the nature of the current proposal sanitary facilities usage is considered manageable. The slight change in hours of the operation now proposed is acknowledged but our previous acceptance of extended hours are still satisfactory subject to acoustic treatments. Recommendation Approval subject to conditions
NECC (Development Engineering)	No objections are raised to the proposed development.
Traffic Engineer	The applicant has addressed the original concerns raised regarding the ability to legally lodge the application. As such the assessment has been completed and the proposal complies with the WDCP provisions for parking at this type of facility, with additional parking provided in the private parking area for visitors as well. Whilst parking is well used in the areas there is believed to be sufficient on site and locally with turnover to service the development.
Waste Officer	Commercial unit change of use. No issues with residential waste.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.
NSW Police - Local Command (CPTED)	The proposal was referred to 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 used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is considered to be consistent with signage adjoining and within the locality and therefore will have minimal impact on the desired future character of the area and presents no detrimental outcomes.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is consistent with the outdoor advertising in area.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	No	YES
3. Views and vistas Does the proposal obscure or compromise important views?	No	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	No - signage does not protrude existing parapet of building and is of a reasonable size.	YES

Does the proposal respect the viewing rights of other advertisers?	The signage respects the viewing rights of other advertisers and businesses.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Yes - sign is consistent with that of a standard signage and will have no significant impact on the streetscape setting given its location under the building (adjacent to the carpark).	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The content of the signage will attract interest. The physical signage will not add nor detract visual interest.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	N/A - no existing advertising	YES
Does the proposal screen unsightliness?	No	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	No	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The subject site does not presently have any signage. It is considered that the proposed signage is not unreasonable scaled to the unit.	YES
Does the proposal respect important features of the site or building, or both?	Yes the signage will respect the site and the building.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes the signage demonstrates sufficient innovation and imagination.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage demonstrates the company name and activity.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signage is not illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	The signage is not illuminated.	YES
Is the illumination subject to a curfew?	The signage is not illuminated.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	Given the location it is assumed that the signage will not directly result in a reduction of safety for any road, pedestrians or cyclists. Furthermore, the signage is not illuminated and will not cause	YES

	unreasonable glare or reflection.	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	No	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

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.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

10 Development on certain land within coastal wetlands and littoral rainforests area

"(1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:

- (a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
- (b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
- (c) the carrying out of any of the following:*
 - (i) earthworks (including the depositing of material on land),*
 - (ii) constructing a levee,*
 - (iii) draining the land,*
 - (iv) environmental protection works,*
 - (d) any other development."*

Comment: Not applicable to the site.

11 Development on land in proximity to coastal wetlands or littoral rainforest

"(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest."*

Comment: Not applicable to the site.

12 Development on land within the coastal vulnerability area

"Development consent must not be granted to development on land that is within the area identified as "coastal vulnerability area" on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:

- (a) if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*
- (b) the proposed development:*
 - (i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
 - (ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
 - (iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazard."*

Comment: At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified.

Not applicable.

13 Development on land within the coastal environment area

"(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*
- (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and*

rock platforms,

(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(f) Aboriginal cultural heritage, practices and places,

(g) the use of the surf zone."

Comment: The proposed works are unlikely to cause an adverse impact upon the matters identified in this clause. The proposal is located wholly within the subject site and does not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

"(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact."

Comment: The proposal has been designed in such a way that it satisfies the relevant matters identified in this clause.

14 Development on land within the coastal use area

"(1) (a) has considered whether the proposed development is likely to cause an adverse impact on the following:

(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,

(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,

(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,

(iv) Aboriginal cultural heritage, practices and places,

(v) cultural and built environment heritage, and

(b) is satisfied that:

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or

(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development."

Comment: The proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected and the surrounding area consists of examples of similar developments.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

"Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land."

Comment: Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land. As such, the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

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
Land Use Table	Yes
Part 4 Principal development standards	Yes
4.3 Height of buildings	Yes
Part 5 Miscellaneous provisions	Yes
5.8 Conversion of fire alarms	Yes
Part 6 Additional Local Provisions	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	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	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
Part D Design	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12 Glare and Reflection	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
Part E The Natural Environment	Yes	Yes
E10 Landslip Risk	Yes	Yes
Part F Zones and Sensitive Areas	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes

Detailed Assessment

C3 Parking Facilities

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Recreation facility (indoor) - Gym	4.5 spaces per 100sqm (GFA)	7	17	+10

D23 Signs

The application proposes two (2) pieces of signage consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
Awning fascia sign (attached to the fascia or return end of an awning)	Shall not project above, below or beyond the fascia or return end of the awning to which it is attached.	9.3m	1m	9.3sqm*	Yes

* Total length, width and area of the two (2) signs

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0287 for Use of Premises as a Recreation Facility Indoor and Signage on land at Lot 51 SP 58961, 51 / 1 - 5 Collaroy Street, COLLAROY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A101	21.03.19	Blue Sky Building Designs
A102	21.03.19	Blue Sky Building Designs
A103	21.03.19	Blue Sky Building Designs

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.

2. **Prescribed Conditions**

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

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must

not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative requirement.

3. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1

per 20 persons.

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

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

4. **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.

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

5. **Fire Safety Upgrade**

The existing levels of essential fire safety measures and egress provisions are to be upgraded to achieve an adequate level of fire safety in accordance with the provisions of clause 94 of the Environmental Planning and Assessment Regulation 2000 and Parts E of Volume 1 of the Building Code of Australia are to be certified upon completion as being capable of performing their intended function/s, by a suitably qualified person/s prior to any use or occupation of the premises/tenancy occurring, and prior to the issue of any interim or final occupation certificate.

Reason: To ensure adequate provision is made for Access, Fire safety and for building occupant safety.

6. **Noise reduction measures**

Prior to occupation acoustic measures shall be installed within the premises to reduce noise to adjoining residential and businesses so as to ensure a nuisance is not created.

Reason: To ensure the amenity of neighbouring residential and business occupiers is not adversely affected.

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

7. **Hours of Operation**

The hours of operation are to be restricted to:

Monday

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Tuesday

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Wednesday

9.30am - 10.30am group training

5.30pm - 7.30pm group training

Thursday open

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Friday open

9.30am - 10.30am group training

4.45pm - 5.30pm kids & teens

5.30pm - 7.30pm group training

Saturday open

9am - 10am group training

Sunday
Closed

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.

8. Noise Management

The following noise management requirements are to be complied with:

1. The use of the premise including any amplified music must be controlled so that any emitted noise is at a level so as not to create an "offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any affected receiver and compliance with The Noise Policy for Industry NSW EPA, 2017.
2. The applicant and/or operator is engage a suitably qualified person(s) to prepare a Noise Management Plan addressing the following:
 - a. Measures to minimise noise to nearby residential properties by general operations, equipment and patrons.
 - b. Provide details on the gyms website and at the front counter of the contact person who is responsible for addressing noise complaints.
 - c. Keep a log of any complaints received and what actions were taken to address the complaint.
 - d. An outline of the methods to manage any noise complaints received.
 - e. Compliance with The Noise Policy for Industry NSW EPA, 2017.

Reason: To ensure that any noise generated does not cause a nuisance to adjoining premises

9. Identification of dedicated parking

The applicant is to provide signage to identify the parking spaces assigned to the premises and maintain this signage for the duration of the business operation.

Reason: Provide adequate parking as required by the DCP. (DACTRGOG1)

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

Signed



Phil Lane, Principal Planner

The application is determined on //, under the delegated authority of:



Steven Findlay, Manager Development Assessments