

10 December 2019

Chief Executive Officer
Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

BY EMAIL AND POST – URGENT & HIGH PRIORITY

Attention: David Auster

Dear Chief Executive Officer

**PROPERTY: 39 CABBAGE TREE ROAD BAYVIEW
DEVELOPMENT APPLICATION DA2019/1129**

We are consultant town planners and act on behalf of Jason Crawford and Janine Elizabeth Crawford (jointly and severally, 'our clients') in relation to the abovementioned development application (the 'development application' or 'DA') relating to the land known as No 39 Cabbage Tree Road, Bayview (the 'subject site' or 'site').

PURPOSE OF THIS DOCUMENT

This document is a response to four objections that were lodged with Council in relation to the development application. The objections were made by the following persons and bodies:

- Michael and Julie van den Bosch, of 44 Cabbage Tree Road, Bayview (letter dated 11 November 2019);
- Andrew Tiede, of 50A Cabbage Tree Road, Bayview (letter dated 13 November 2019);
- James and Marie Matthews, of 48 Bayview Road, Bayview (letter dated 14 November 2019);
- Cynthia Leabres, of 46 Bayview Road, Bayview (letter dated 16 November 2019); and

- Bayview Golf Club (per its General Manager, David Stone), of 1825 Pittwater Road, Mona Vale and also a resident residing in the immediate precinct (under cover of email dated 20 November 2019).

Now, we note that there no longer appears to be a copy of the objection, lodged by David Stone on behalf of the Bayview Golf Club, on Council's online DA Tracker system. As yet, we have not been formally advised that the objection is withdrawn. Accordingly, for more abundant caution we have proceeded on the basis that the objection has not been withdrawn and have therefore decided to address the various issues raised by the Club per its General Manager, along with the issues raised by the other persons who have made submissions.

RESPONSE TO THE OBJECTIONS

The following Table sets out the various issues raised by the five objectors and our responses to those issues.

Objector	Issue Raised	Our Response
Michael and Julie van den Bosch 44 Cabbage Tree Road, Bayview		
	Development is out of character for the residential area	<p>The subject site is zoned so as to nominately permit, with consent, development of the kind proposed in the current application before Council.</p> <p>The proposal is entirely consistent with the desired future character statement.</p> <p>The streetscape appearance will be maintained. Vegetation will remain a predominant component of the site character, and landforms and waterway features will be preserved.</p> <p>The proposal provides a built form that is secondary to landscaping and vegetation.</p> <p>The built form will not dominate the streetscape by reason of any loss of</p>

		<p>existing trees. The scale and bulk of the development is appropriate. This is demonstrated by virtue of compliance with the relevantly applicable height control and also with, for the most part, the BHP (which we note does not technically apply).</p> <p>There will be no appreciable view loss, privacy impact or visual bulk impacts to users of the Golf Course or the occupants of nearby residences. In no sense could the physical impacts be considered to be significant or so unacceptable as to warrant refusal of the development application.</p> <p>As regards the visual appearance of the development in its setting, the design of the development is such that, when viewed from all boundaries, it will be completely unobtrusive and non-dominating. The development manifests good design with a high quality of finishes and materials, meaning that it will sit in harmony with nearby residential development in the wider context. We note the development achieves a height consistent with that of a 2 storey dwelling house with a pitched roof.</p> <p>From Cabbage Tree Road, the built form will be significantly screened by much of the existing vegetation that will be retained in the road reserve and also by the screen planting proposed along the front boundary of the site, and also on the site itself.</p> <p>External finishes have been very carefully chosen in consultation with Council officers, to harmonise with the local natural environment.</p>
	Development will have a negative social impact.	Please see section 7.4 ('Social Impact') of the statement of environmental effects (SEE).

		<p>The proposed development will not have a detrimental social impact in the locality by reason of the character of the proposal in catering specifically to the local demographic including a large number of more senior residents.</p> <p>Physically, the proposed development has a much-reduced footprint than that of the development the subject of DA2018/0567, in order to allow for appropriate endemic planting, the retention of canopy, and the reintroduction of habitat and attractive planting onto the site. Residents will enjoy a high quality aesthetic that will in our view, have positive social impact.</p> <p>The proposal is consistent with the recreational character of the area (cf the adjoining Golf Course), with Cabbage Tree Road itself forming a zone boundary.</p>
	<p>DA not factual. There are 6 or more such like facilities in the immediate area offering these services which are larger and able to provide better service and care.</p>	<p>This statement is completely incorrect, mischievous and grossly misleading.</p> <p>There is only one (1) other gym ('Place of Chi') within a 1.0 km radius of the subject site, despite the objector's assertions.</p> <p>The 'Place of Chi', which is inside the 1.0 km radius, is a dwelling house with an ancillary gym and caters to a completely different demographic than that intended for the subject site. In that regard, please see Annexure 1 to this letter.</p>
	<p>Applicant/proposed staff have no experience and/or knowledge in the running of these kind of facilities.</p>	<p>The objector has absolutely no basis for making such an assertion and provides no evidence whatsoever, to support the assertion.</p> <p>If the objector has special knowledge of other facilities, we note that the</p>

	<p>All other facilities like this have either less customers at one time or more staff to give better care and assistance, if there were to be an emergency this staffing level would not cope.</p>	<p>letter does not provide any probative material to support this claim.</p>
	<p>The proposed car park is on ground level and as said will allow flood water to pass through but if there are cars parked there and skip bin.</p> <p>In the case of flooding or a fire, the evacuation of the building would be impossible.</p>	<p>The first floor of the development has an RL of 4.30m AHD, which satisfies the required minimum habitable floor level, by exceeding the FPL of RL 3.18.</p> <p>The first floor also lies 1.12m above the PMF level.</p> <p>This aspect of the proposal, based on evidence, has the support of the applicant's own expert as well as the relevant Council Officers (Flood engineers). The relevant Council officer has commented as follows:</p> <p style="padding-left: 40px;">'The proposed DA generally meets the flood requirements of the LEP, DCP and Flood Prone Land Design standards.'</p> <p>In terms of the issue of flood evacuation response and shelter in place, the proposed two-storey enclosed development, to be constructed above the unenclosed ground level, would be constructed above the PMF level, thus providing a suitable option for staff and users to 'shelter in place' during significant flood events. The 'flood life hazard category' affecting the site is H5.</p> <p>Occupants would be able to safely shelter in place on the ground level and first level of the facility for events up to and including the PMF. Over 600sqm of floor space would be available for flood refuge, which comfortably exceeds the</p>

		<p>one (1) sqm requirement per person for a short duration event.</p> <p>The Flood Risk Assessment accompanying the development application concludes that the works are not expected to have a significant impact on upstream or downstream flood levels, or on flow velocities or distribution, or on flood response or hazards, or upon the safe evacuation of the property or the neighbourhood.</p> <p>Council's own Natural Environment Referral Response – Flood response recommends approval, subject to the imposition of appropriate conditions of consent.</p> <p>For further information the objector should refer to the Flood Risk Assessment prepared by Ms Kate Waddington and the relevant referral comments.</p>
	<p>The area has a number of endangered Swamp Oaks and is part of a wildlife corridor.</p> <p>It is stated that only one tree will be removed but with the heavy earth moving work that will take place the root systems of the remaining tree will be damaged.</p> <p>This area is now undisturbed. Any tree planting and nesting boxes will not bring the back fauna due to the increased human activity.</p>	<p>With respect, these comments are ill-informed and inaccurate and do not comprise a probative basis for criticism of the scheme.</p> <p>Root systems of existing vegetation will be protected and there exist robust measures to ensure that this is the case. The objector is invited to review the report from well-known and respected arborist Ms Catriona Mackenzie. The report assesses all of the trees on the site and their health, condition and safe useful life expectancy, makes justified retention/removal recommendations, and outlines specified tree protection measures where applicable.</p> <p>The subject site is currently <i>not</i> undisturbed and presently contains an abundance of exotics as well as a variety of weed species. The site contains no habitat/shelter for wildlife.</p>

		<p>With respect, the author of this comment is not qualified to make any assertions about 'bringing back fauna' and provides no evidence in support of his misleading opinion.</p> <p>Please also see the landscape plan prepared by Ms Pamela Fletcher. The plan provides for existing site landscaping to be maintained and enhanced, so far as possible, and thus allows for the retention of native trees as recommended in the arborist report. The plan also includes provision for the planting and maintenance of a range of native shrubs and grasses which will aid screening from the road and also increase the visual amenity of the site in a biodiversity sensitive manner.</p> <p>The development will preserve and improve, so far as is possible, and will integrate into the proposed facility the existing natural landscape and vegetation. At the same time, the development will allow for the appropriate reintroduction of appropriate biodiversity measures for the site.</p>
	<p>If the DA is approved, it will be the catalyst to future variation applications which will seek to change the use of the land and/or building.</p>	<p>There is no evidence to support this completely baseless assertion. There is no 'variation' proposed now or in the future. With respect, how can the objector see into the mind of the applicant?</p> <p>The development proposed is entirely consistent with the relevant planning controls and objectives and will improve the existing situation as regards biodiversity. This scheme is a win-win for both the community and the local natural environment.</p> <p>If consent is granted to the DA, any future application to modify or 'vary' the consent must be assessed, considered and determined on its own</p>

		merits. The objector would have an opportunity to provide comments/submissions regarding any future application, if it were ever to be actively considered (which is not the case anyway, on our instructions).
Andrew Tiede 50 Cabbage Tree Road, Bayview		
	DA fails to meet the key outcomes of <i>Pittwater 21 Development Control Plan</i> (PDCP) and PLEP, in particular, as respects ESD and appropriate environmental, social and economic outcomes.	<p>Please refer to the SEE. The development meets all stated outcomes of the <i>Pittwater 21 Development Control Plan</i> (PDCP). This is evidenced by the PDCP. The comment is completely baseless and provides absolutely no detail as to the way the scheme fails to meet key outcomes. The objector's comment consists of weasel words, being a form of tergiversation used or intended to be used to mislead and/or disguise what is otherwise a highly biased view.</p> <p>The proposal will have a negligible environmental impact internal to the site and no adverse impact upon the public domain.</p> <p>The proposal will have a positive social impact by providing a useful community indoor recreation facility in this area, and by promoting a healthy active pastime for seniors and others (including disabled persons) in a location currently devoid of such facilities in a spatial context.</p> <p>The proposal will have no adverse economic impact and will have a small positive economic impact by providing opportunities for local employment.</p>
	The development will produce unacceptably adverse results.	<p>The objector provides no evidence to support this baseless assertion.</p> <p>Please see the SEE and the several other documents forming part of the</p>

		DA package (over 20 separate documents in all, addressing all known issues).
	The proposed development does not contribute to the community's social objectives.	Please see section 7.4 ('Social Impact') of the SEE and our comments above in relation to the submission of Michael and Julie van den Bosch.
	Application relies on anecdotal evidence.	We are not in a court of law. Anecdotal evidence (making searches and enquiries, carrying out investigations, obtaining and using local knowledge, etc) is a valid approach for an applicant in order to obtain background information. We note that the objector himself relies on anecdotal evidence (scant though it is).
	Proposed rehab gym would be poorly located.	<p>The site is conveniently positioned at the convergence of routes north to Palm Beach and west to Church Point, and enjoys road linkages with Mona Vale, Newport, Avalon Beach and Palm Beach to the north; Warriewood, North Narrabeen and on to Manly in the south; Ingleside, Terrey Hills and on to St Ives and Pymble in the west; and also to North Sydney and Sydney City to the south.</p> <p>The site is also well-located as respects its proximity to bus services and is within walking distance from a range of amenities, services and facilities located within the Mona Vale retail and commercial precinct.</p> <p>To the north-east of the site, on the opposite side of Cabbage Tree Road, is Aveo Bayview Gardens which provides assisted living apartments and independent living units for seniors. There are also other seniors living facilities in close proximity to the recreation zoned site, further along Cabbage Tree Road.</p>

		The site is located within walking distance of a variety of public open space areas.
	Flood-proneness.	<p>Council's own 'Natural Environment Referral Response – Flood response' recommends approval, subject to the imposition of appropriate conditions of consent.</p> <p>For further information please refer to the Flood Risk Assessment prepared by Ms Kate Waddington.</p>
	Understaffed.	The objector provides no evidence to support this absolutely baseless assertion.
	Risky facility.	The objector provides no evidence to support this baseless assertion.
	Applicant is wrong in asserting that there are no similar facilities available in close proximity. There are no less than 7 existing rehab gyms with a Mona Vale address.	<p>Please see Annexure 1 to this letter.</p> <p>The assertion made by the objector is factually incorrect and entirely devoid of fact-based evidence. Once again, these are merely weasel words and are a form of tergiversation, used to mislead or disguise a highly biased view.</p> <p>The fact is that the objector is wrong, and Annexure 1 shows that to be the case.</p> <p>The promulgation by the objector of incorrect facts derogates from the substance of many, if not all, of the assertions made in the objection. The objection provides evidence of self-interest and bias in this regard.</p>
	No interest or need for such a facility.	The objector provides no evidence to support this baseless assertion. The unsupported assertion is not compelling at all.

	<p>Application scantily researched and poorly conceived.</p>	<p>Hundreds of hours of work (including research, inquiries and engaging and procuring the services of a large number of well-known experts) have been committed to the proposal.</p> <p>The proposal deals comprehensively with all known issues, and deals with merit issues and the issue of compliance with all planning controls and objectives.</p> <p>We reject and deny the baseless assertion made by the objector.</p>
	<p>Proposed gym will be a danger to the public. No mention of any qualification requirements of the proposed coach.</p>	<p>A baseless assertion. It would not be in the applicant's interests (financial, legal, ethical, etc) to engage any staff who were not suitably qualified to perform their respective duties and responsibilities. This comment borders on being ridiculous.</p>
	<p>There may be as many as 50 persons in the building at any one time as</p>	<p>Incorrect. Please see the statement of environmental effects (SEE) and the plan of management (POM).</p> <p>The objector engages in idle speculation, misunderstands the comments made in the submission, makes unwarranted and incorrect assumptions, and then proceeds to draw inferences and conclusions from the probative material submitted to Council, that cannot reasonably be drawn from that material.</p>
	<p>No reference to a café or similar amenity. This is a 'major defect' in meeting the community's social objectives.</p>	<p>The application is for a rehab gym. For the objector to assert that the absence of a café or similar amenity in the facility is a major defect in meeting the community's social objectives completely strains credulity and borders on the absurd. The objector's criticism is based on absolutely no evidence whatsoever.</p>

	Health consulting rooms are prohibited in the zone.	<p>The objector is correct to some degree. 'Health consulting rooms' are indeed innominately prohibited in the zone. This notwithstanding, health consulting rooms don't form a part of the present development application. As such, the comment is not relevant to the present proposal.</p> <p>In any case, the law indicates that an <i>innominate</i> prohibited purpose does not prevent development being carried out for a <i>nominate</i> permissible purpose. Furthermore, the <i>innominate</i> prohibited purpose can be disregarded if it is subordinate or subservient to a <i>nominate</i> permissible dominant purpose.</p> <p>The conclusion drawn (viz that qualified physiotherapists will not be able to operate from the proposed facility) is simply wrong in both fact and law.</p>
	Unacceptable risk to public safety.	See comments above regarding the issue of flood-proneness. The objector's comments imply that he is suitably qualified to make the assertions that he has chosen to make. However, he provides no probative material that would show that he is so qualified. The objector engages in catastrophizing a scheme that the applicant has proved to be both safe and in accordance with current public safety standards.
	The proposal does not meet desirable environmental outcomes.	Once again, the objector engages in catastrophizing. Please see the Flood Risk Assessment prepared by Ms Kate Waddington.
	The proposal does not meet desirable economic outcomes.	Incorrect. Please see the SEE. The proposal will have no adverse economic impact and will have a small positive economic impact by providing opportunities for local employment.

	<p>A visual blot on the community landscape. Building out of place and out of character and devalues the natural green landscape. Does not meet the character requirements of the locality now or into the future and should be refused.</p>	<p>The scheme enjoys design excellence.</p> <p>The site itself is of an appropriate size and moderate grade for the proposed development and has no prohibitive physical or engineering constraints.</p> <p>Careful consideration has been given to all aspects pertaining to the site. In addition, the proposed recreation facility has been designed to best utilise the area available on the site and be compatible with the surrounding and nearby environment.</p> <p>The proposed structure will be relatively low-lying of low height, and of sympathetic scale to the surrounding built-form and environment (ie the dwelling houses on the north side of Cabbage Tree Road).</p> <p>The street facade of the proposed recreation facility has been designed with care. Levels of the facility have been stepped and modulated to provide a refined building, with an appropriately articulated street form.</p> <p>The development proposal achieves the desired character of the locality as listed in Section A4.9 ('Mona Vale Locality') of PDCCP through the integrity of its design. In that regard, the proposed development:</p> <ul style="list-style-type: none"> • responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment; • enhances the existing streetscape and promotes a scale and density that is in keeping with the height of the natural environment; • ensures that the visual impact of the built form is softened by landscaping and vegetation;
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		<ul style="list-style-type: none"> • will not dominate the streetscape and is at a 'human scale'; • preserves and enhances district and local views, thus reinforcing and protecting Pittwater's natural context; and • minimises any visual impact on the natural environment when viewed from Cabbage Tree Road as well as from the Golf Course which partially adjoins the site.
	If consent issues, there will be an 'amended DA with an enlarged scope and footprint'.	<p>Once again, the objector engages in idle speculation. The land area of the subject site, the local environment, as well as the relevantly applicable planning controls, effectively preclude a facility with an 'enlarged scope and footprint'. No such application has been made, nor is any such application proposed to be made in respect of the site.</p> <p>If consent is granted, any new DA or application to modify the consent must be assessed, considered and determined on its own merits.</p>
	Concerns raised re logistics of effectively transporting patrons of the facility, provision for disabled parking, etc.	The parking provided is sufficient to meet Council's requirements. Please refer to the traffic management report, the SEE, the architectural plans and other relevant documents that provide probative evidence to this effect.
	Experience teaches that business ventures that do not understand their customers fail and in failing are a troublesome drain on everyone's resources.	<p>That may or may not be the case.</p> <p>However, to engage in idle speculation as to the likely success or failure of the proposal is unwise and reckless and in this case is not supported by any fact-based evidence. What evidence does the objector have that the operator of the facility won't understand its customers? In any case, how is this a drain on 'everyone's' resources? What will this cost the objector in terms of his own resources? This last question</p>

		has been very conveniently ignored. With respect, the objector's comment is ridiculous and strains credulity.
	The proposal puts at unacceptable risk the well-being and even safety of our senior citizens with an offer that is neither needed nor wanted.	These assertions are unsubstantiated and are tantamount to an exercise in simple scaremongering.
	There is an oversupply of excellent well-established and well-proven local facilities that are have professional qualified staff that are seniors centric.	The objector provides no evidence to support this assertion. How does the objector know that staff will be unqualified and non-professional? On what basis is the objector stating that there is an oversupply of so-called local 'seniors centric' facilities? This is merely his own unsupported opinion.
	There is no way I would approach this proposed facility, even if it is just across the street.	<p>That is of course a choice for the objector. Perhaps the objector is a member of another gym and this provides a reason for not wishing to use a local gym. Perhaps the objector is not interested in exercise. This comment is certainly not a ground for rejecting a permissible development that enjoys design excellence and is located on an eminently suitable site that will likely be utilised by people interested in exercise.</p> <p>With the utmost respect to the objector, one cannot but feel that what motivates him the most is that he simply does not want the development to take place near to his own residence. The bias and self-interest are quite telling. We submit that this forms a basis for rejecting many of these unfounded, baseless and factually incorrect assertions.</p>
	Proposed development not fit for purpose and is	The proposed facility has been very carefully designed to best utilise the area available on the site and be

	devoid of appropriate duty of care.	<p>compatible with the surrounding and nearby environment. The facility will contain, within its confines, enough facilities to enable it to operate and be fit for purpose.</p> <p>To assert that the applicant is failing or will fail in its duty of care borders on the defamatory. As mentioned previously, it would not be in the applicant's interests (financial, legal, ethical, etc) to engage any staff who were not suitably qualified to perform their respective duties and responsibilities.</p>
James and Marie Matthews 48 Bayview Road, Bayview		
	The proposed industrial-style multi-story building is inappropriate in a residential area as it will look completely out of place amongst all the green trees, bushes and lush grasses.	The applicant rejects and denies the objectors' assertion that the proposed building will be 'industrial-style'. The building exhibits design excellence , will utilise the area available on the site in accordance with the character statement under the DCP, and will be compatible with the surrounding and nearby environment. The number of trees lost is low. Furthermore, the natural environment will be improved.
	No community benefit. Will be a business failure.	The applicant rejects and denies this assertion. One cannot but feel that the objectors have an interest-based opinion and simply does not want the development to take place at all. We wonder how the objector can be aware of whether the future business will be a failure.
	Proposed building will 'stick out like a sore thumb', will devalue local amenity and be an 'absolute nuisance' to neighbours.	The building has been carefully designed to best utilise the area available on the site and be compatible with the surrounding and nearby environment.

		<p>The proposed landscaping, insofar as the streetscape of Cabbage Tree Road is concerned, will address any otherwise untoward disruption to physical and visual streetscape amenity. In that regard, the physically and visually significant row of Casuarina trees along the Cabbage Tree Road frontage will be primarily retained, except where access to the site is to be provided. In addition, the proposed landscaping will soften and complete the built form of the development.</p> <p>The objectors provide no probative material to support their assertions that the proposed development will devalue local amenity and be an 'absolute nuisance' to neighbours.</p>
	Community safety.	Once again, the flood issue is raised as an exercise in scaremongering. The issue of flood-proneness has, in our opinion, been put to bed.
	Not fit for purpose.	The facility will contain within its confines enough facilities to enable it to operate.
	There will be irreversible environmental damage.	Further scaremongering. The proposed development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. In addition, the development enhances the existing streetscape and promotes a scale and density that is subservient to the height of the tree canopy. The development also ensures that the visual impact of the built form is softened by landscaping and vegetation, will not dominate the streetscape, and will minimise any visual impact on the natural environment. In short, the proposed development will be effectively integrated with the immediate and surrounding landscapes and is

		consistent with the visual expression of the Mona Vale locality.
	Parking and van service inadequate.	<p>The objectors engage in idle speculation.</p> <p>There is more than sufficient provision for off street parking. Off street parking is compliant with the local planning controls. The van service is supported by the applicant's traffic experts and forms a valuable component of the scheme. There is adequate disabled parking provided as well as bicycle parking.</p> <p>Insofar as the parking area being 10cm below the existing natural ground level, vehicle barriers (bollards) are to be provided to the perimeter of the carpark area to manage the risk of vehicle flotation, with the advantage of minimising disturbance to the remainder of the site, including remnant vegetation and riparian areas.</p>
	Effect on parking amenity.	Provision for onsite parking is considered more than adequate to cater to the expected number of patrons of the facility.
	Property damage.	Once again, the issue of flooding is raised as an exercise in scaremongering. See above.
	A sham application.	<p>The development application in no way comes within the 'four corners' of what, in law, is referred to as a 'sham application'.</p> <p>The purpose of the proposed development (a recreation facility (indoor) in the form of a rehabilitation gym) is clearly stated and is <i>demonstrably</i> the 'real' and permissible, and the encouraged, purpose of the proposed development as regards the planning controls, being</p>

		<p>a <i>nominately</i> permissible land use in the zone.</p> <p>We are interested to know the basis upon which the objectors consider the DA to be a sham application.</p>
	Will set a dangerous precedent.	<p>The proposed recreation facility has been designed to best utilise the area available on the site and be compatible with the surrounding and nearby environment.</p> <p>Furthermore, development such as this is actively encouraged by the planning controls (namely, via the zoning and other controls) as well as by the relevant zone objectives.</p> <p>Each proposal must be assessed, considered and determined on its own merits. To assert that the current proposal will set a dangerous precedent is, once again, scaremongering. There is absolutely no evidence advanced by the objectors to support such an assertion.</p> <p>We provide the following unsolicited advice to these objectors. For a Council officer to take a comment into account in their own assessment of merit of any scheme, and for an objection to enjoy credibility, there must be evidence to support the assertions made.</p> <p>We fail to see how this scheme can set any precedent, given that it is entirely consistent with the relevant zoning of the land. The proposed development is precisely that which is encouraged in the subject zone.</p>
<p>Cynthia Leabres 46 Bayview Road, Bayview</p>		

	The proposed industrial-style multi-story building is inappropriate in a residential area as it will look completely out of place amongst all the green trees, bushes and lush grasses.	This issue has already been addressed. See above.
	Visual impact of concrete driveway and the ground level parking.	The assertion conveniently ignores the landscaping proposed to be provided. The streetscape will be vastly improved. Driveways are an important component of the visual cone stretching across both sides of Cabbage Tree Road. Parking is to be largely screened by the proposed vegetation which will also soften the appearance of the building—a building which, in any case, enjoys design excellence. See the plans and report of Pamela Fletcher.
	Fear of damage trees.	In every development, care must be taken, and is ordinarily taken, to ensure that in the carrying out of the work, trees and vegetation that are to be preserved and maintained are not damaged. This case is no different.
	Flood-proneness.	<p>Once again, the issue of flooding is raised in a couple of parts of the objection, with some scaremongering thrown in for good measure (eg seniors being forced to wade through dirty water to get to their own transport or alternatively being stranded on the site).</p> <p>The fact that land is flood-prone does not mean in and of itself that the land is sterilized and incapable of being developed.</p> <p>We note that measures to deal with the flood constraint have been incorporated into the scheme and it</p>

		<p>may be that local residents will seek to shelter in place on the site in a flood event, given that the development has been designed to deal with all constraints known.</p> <p>For further information please refer to the Flood Risk Assessment prepared by Ms Kate Waddington.</p> <p>We also refer the reader to the comments from Council's referral response as regards the natural environment, where it is stated as follows:</p> <p>'Thankyou for the excellent response to the advice provided at the PLM regarding stormwater treatment measures. This application has been assessed under: Pittwater DCP B4.14 Development in the vicinity of wetlands Pittwater 21 DCP B5.9 Water quality Pittwater 21 DCP B5.11 Stormwater discharge into waterways and coastal areas Pittwater 21 DCP B5.13 Development on waterfront land The proposed stormwater management plan meets the requirements of the above controls. The proposed plantings in the riparian area of the watercourse and for the vegetated filter strip are satisfactory. The Landscape Plan and Biodiversity Management Plan must be applied according to the conditions provided by the Biodiversity Officer. Sediment and erosion controls must be installed prior to any disturbance of soil on the site and maintained under all work is complete and ground is 70% stabilised.'</p>
	Not a viable location for such a small gym and rehabilitation area.	The subject site is of sufficient size, and is so located, as to be able to provide a facility of the size and standard proposed.

		<p>The site is conveniently positioned at the convergence of major road routes [see above, as well as the SEE], is well-located with regard to its proximity to bus services, and is within a relatively short walking distance from a range of amenities, services and facilities located within the Mona Vale retail and commercial precinct. The site is close to residential areas where demand for such a facility is likely to occur.</p> <p>To the north-east of the site, on the opposite side of Cabbage Tree Road, is Aveo Bayview Gardens, which provides assisted living apartments and independent living units for seniors. There are other such facilities in Cabbage Tree Road.</p> <p>The site is also located within a relatively short walking distance of a variety of public open space areas.</p>
	A single van to transport seniors is insufficient. A fleet of vans would be needed.	<p>Incorrect. A fleet of vans would be excessive, would create traffic chaos, and would be disproportionate to the size of the overall development and the expected clientele. The objector also contradicts herself, given the comment above regarding the small size of the gym.</p>
	Parking provision inadequate.	<p>Incorrect. The traffic and parking impacts of the proposal have been assessed by McLaren Traffic Engineering and Road Safety Consultants. The proposed development includes a total of 10 car parking spaces on-site, where a minimum of 9 spaces are required in accordance with Council's requirements.</p> <p>This provision represents a numerical excess of one (1) space above Council's DCP requirements. The design of parking on site generally complies with the relevant Australian</p>

		<p>Standards, namely, AS 2890.1-2004 and AS 2890.6-2009.</p> <p>For more information, the objector should refer to the Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering and Road Safety Consultants.</p>
	<p>Uncompetitive proposal. The community is oversupplied with superior existing facilities to meet the exercise and rehabilitation needs of our whole community.</p>	<p>The objector's comments imply that she is suitably qualified to make the assertions that she has chosen to make. However, she provides no probative material that would demonstrate any such qualification. Any assertion must be based on probative evidence for it to be taken seriously and given weight.</p>
	<p>Proposal not in the public interest and is without merit.</p>	<p>With respect, the views expressed here are the result of an interest-based opinion.</p> <p>The expression 'public interest', in environmental planning law, does not empower a consent authority to invoke some general notion or concept of public interest, so as to add purported additional criteria or heads of consideration to those specified in the EPAA.</p> <p>The proposal is compatible with both the surrounding built and natural environment, will provide a much-needed indoor recreation facility in the locality, will have positive social and economic effects, is strategically and suitably located having regard to the proposed use, and can be carried out with little or no adverse environmental impact.</p> <p>The public interest is best served by providing opportunities for appropriate and responsible development that can be carried out with minimal adverse environmental impacts. Such is the</p>

		case with the current development application.
Bayview Golf Club (per David Stone) 1825 Pittwater Road, Mona Vale		
	<p>The development is a 'non-complying development' under the EPAA, PLEP, etc.</p>	<p>With respect, the objector is using the expression 'non-complying development' in a totally self-serving way.</p> <p>The proposed use is <i>nominately permissible</i> in the RE2 Private Recreation zone under PLEP and is totally compliant with the relevantly applicable regime of planning controls. Please refer to the various judicial authorities referred to and discussed in section 5.1.4 ('Permissibility') of the SEE. Those authorities relate primarily to the importance of giving weight to the zoning and, as is the case here, to what is a quite confined range of permissible purposes in the subject zone (viz RE2 Private Recreation), should it be necessary to resolve any dispute as to the appropriate development of the site.</p> <p>Put simply, the presumption [sic] is that a development proposal that is permissible in the zone will be permitted, provided the proposal results in acceptable environmental impacts with reference to the statutory matters for consideration. In our opinion, that is indeed the case here as respects the development proposal.</p> <p>We are not aware of any development standard or regulatory control that is breached by the proposed development.</p>
	High [sic] hazard floodplain lot.	The applicant's hydraulic engineering consultant identifies the site as being

		<p>in a 'low risk' flood precinct. The mapping in PDCP shows the site as a 'medium risk precinct'. The former information was provided by Council on 26 March 2018 and presumably updates the information in the PDCP. To refer to the site as a 'high' [sic] hazard floodplain lot is, with respect, simply incorrect.</p>
	Water management issues.	<p>This issue flows on from, and is essentially a recasting of, the assertions made above. The Flood Risk Assessment accompanying the development application concludes that the works are not expected to have a significant impact on upstream or downstream flood levels, or on flow velocities or distribution, or on flood response or hazards, or upon the safe evacuation of the property or the neighbourhood.</p>
	Cabbage Tree Road issues.	<p>According to the Traffic and Parking Impact Assessment prepared by McLaren Traffic Engineering and Road Safety Consultants, during the peak hour period the traffic generated by the site has been estimated at 34 vehicles trips (17 in, 17 out) during the peak periods of operation.</p> <p>This equates to one (1) vehicle entering or leaving Cabbage Tree Road approximately every one (1) minute 45 seconds. This is considered to be a low volume of extra traffic that will have no adverse effect on any nearby intersections and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency and road safety considerations. Indeed, the computer models that are available to assess these impacts are not sensitive to such small changes and it may be concluded that the road network will operate with no change in the existing levels of service.</p>

		<p>In this regard, the proposed development is supportable in terms of its traffic impacts. It is relevant to note that the traffic generation assessed above does not take into consideration any reduction in traffic generation that is likely to result from the use of the private shuttle bus.</p> <p>As such, it is considered that the traffic generation assessed above represents a worst-case scenario.</p>
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Any omission to address, or fully address, every issue raised by the objectors is not to be taken as an admission or acceptance of the correctness or accuracy of that or those issues.

We have endeavoured to address all of the planning and environmental issues raised.

We note that, in almost every case, the objectors have sought to amplify their reasons for opposing the proposed development by, in effect, restating or recasting those same reasons either more broadly or more narrowly.

CONCLUSION

We respectfully submit that there is sufficient probative material before Council, in terms of the several documents, reports and plans comprising the development application package, for Council to be reasonably satisfied that the grounds of objection raised by the various objectors are without substance and in some instances lack any credulity. We would go as far as to say that, in the main, the objections are not supported by any probative evidence and that some of the objections border on the defamatory.

We look forward to a timely determination of the development application.

Yours faithfully,

TURNBULL PLANNING INTERNATIONAL PTY LIMITED



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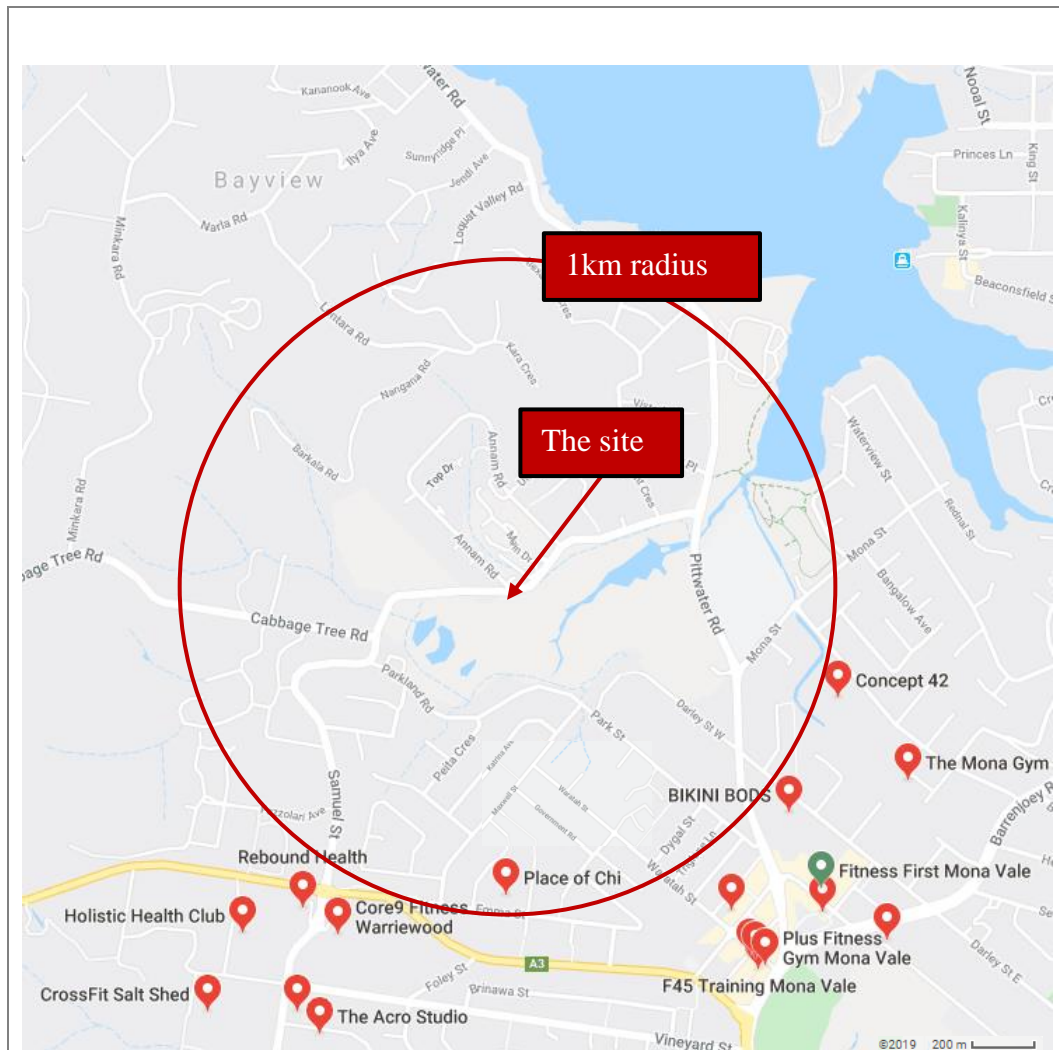
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ANNEXURE 1



SPATIAL LOCATION OF GYMNASIUMS RELATIVE TO THE SUBJECT SITE

EXTRACT FROM GOOGLE MAPS 2019



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