

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0278
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Responsible Officer:	Nick Keeler
Land to be developed (Address):	Lot 1 SP 23069, 1 / 1 Moore Road FRESHWATER NSW 2096
Proposed Development:	Use of Premises as an indoor recreation facility
Zoning:	Warringah LEP2011 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Harrington Freshwater Pty Ltd
Applicant:	Skywood Climbing Pty Ltd

Application lodged:	25/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	04/04/2019 to 18/04/2019
Advertised:	Not Advertised
Submissions Received:	30
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 628,100.00
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EXECUTIVE SUMMARY

The proposal relates to a change of use of the former IGA supermarket tenancy of the site to an indoor recreational facility (bouldering centre) and the installation of new climbing walls and back-of-house alterations within the tenancy associated with the bouldering centre use. An acoustic and traffic/parking assessment of the proposed use has been conducted by the applicant. Conditions of consent are included to require adherence to the acoustic and traffic assessment recommendations, including limiting the tenancy capacity to 50 persons.

During public notification of the application, 30 submissions were received, including 20 objections. Most submissions objected to the proposal on the grounds of noise, traffic and parking impacts of the proposal. Due to the number of submissions received, the application is referred to the NBLPP for determination.

The application has been assessed against the Environmental Planning and Assessment Act 1979 (EP&A Act 1979), Environmental Planning and Assessment Regulations 2000 (EP&A Regulations 2000), relevant Environmental Planning Instruments (EPIs) and Council policies.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

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

There are no assessment issues.

SITE DESCRIPTION

Property Description:	Lot 1 SP 23069 , 1 / 1 Moore Road FRESHWATER NSW 2096
Detailed Site Description:	<p>The subject site consists of one (1) strata allotment located on the southern side of Moore Road, the eastern side of Albert Street and northern side of Moore Lane in Freshwater.</p> <p>The site is generally regular in shape with a frontage of 31.5m along Moore Road and a depth of 52m. The site has a surveyed area of 1,897.6m². The subject tenancy is Lot 1 within the strata plan and is located on the northern side of the building fronting Moore Road. The tenancy has a total floor area of 805.4m².</p> <p>The site is located within the B2 Local Centre zone and accommodates three-storey commercial building with</p>

basement and rooftop car parking.

The site falls approx. 4m from the southern boundary towards the north.

The site is generally free of natural vegetation.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by commercial developments, mixed-use developments and low and medium density residential developments.

Map:



SITE HISTORY

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

Application **DA2016/0809** for Alterations and Additions to the existing building and use of part of the the premises (Unit 1) as a shop and cafe was approved on 27/10/2016 by Council staff under delegated authority.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for the change of use and fit-out of Unit 1 (former IGA tenancy) from a supermarket to a recreation facility (indoor). The new use is to be a 'bouldering centre', as described by the applicant, to distinguish it from a "climbing centre" that normally has much higher climbing walls. Also climbing centres are often used for children parties / youth activities whereas the 'bouldering centre' is more suited to persons practising climbing fitness by using a low wall.

Fit-out works include the installation of new climbing walls within the former supermarket sales area

whilst converting the former back-of-house area into a stretching/warm-up area with new amenities. The existing mezzanine floor area will include the refurbishment of the existing bathrooms and the removal of some internal partition walls.

The proposed operation hours of the tenancy include:

Monday to Friday: 6:00am to 10:00pm

Weekends & Public Holidays: 9:00am to 10:00pm

The expected patronage of the tenancy over the course of trade is between 100 and 150 customers daily. A maximum of between 40 and 50 people (customers and staff) are expected to utilise the tenancy at any one time. The intensity of use is limited by safety considerations in that persons require a safety space around them, therefore restricting the number of persons that can be actively "bouldering" at any one time. The facility will be staffed by up to 5 member, not all being required onsite at any one time.

No changes to the existing site parking provision is proposed. Existing pedestrian access points to the tenancy are unchanged. That is, separate entry and exit double doors, lift and stairs from basement level.

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.</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. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration'	Comments
	<p>Clauses 93 and/or 94 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>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. There are no significant external works to the building as the proposal is principally an internal conversion and fit-out of the former supermarket. Parking issues have been addressed by the parking and traffic assessment. Any advertising signs would be subject to separate approval or replacement of existing approved signage.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal and recommended conditions of consent to manage hours and intensity of use.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 30 submission/s from:

Name:	Address:
Miss Maree Portanger	22 Undercliff Road FRESHWATER NSW 2096
Mrs Sascha Adele Collins	2 / 32 Oliver Street FRESHWATER NSW 2096
Helen Christine Montoro Pereira Barnes	1 / 32 Undercliff Road FRESHWATER NSW 2096
Mrs Nicole Alyce Elaine Archer	4 / 36 Waine Street FRESHWATER NSW 2096
Ms Heather Kennedy	8 Waiwera Avenue NORTH MANLY NSW 2100
Mrs Lyndsay Mary Morrison Hendry	28 Thomas Street NORTH MANLY NSW 2100
Kathryn Anne McDonald	60 Kokoda Crescent BEACON HILL NSW 2100
Mrs Stephanie Blair Small Grey	C/- Vaughan Milligan Development Consulting Pty Ltd PO Box 49 NEWPORT BEACH NSW 2106
Jenni Goff Morgan	85 Wyuna Avenue FRESHWATER NSW 2096
Mrs Natalie Jayne Gray	14 Palomar Parade FRESHWATER NSW 2096
Alena Turley	4 / 29 - 33 Waine Street FRESHWATER NSW 2096
Mrs Karen Pearl Searle	21 Undercliff Road FRESHWATER NSW 2096
Mrs Carlie Anna Herbert	13 Palomar Parade FRESHWATER NSW 2096
Mrs Sarah Jane Symons	16 Johnson Street FRESHWATER NSW 2096
Ms Louise Michelle Macmillan	12 Moore Road FRESHWATER NSW 2096
Mrs Carrie Lynn Haire	7 Moore Road FRESHWATER NSW 2096
Ms Sheila Marie Binegas	14 / 74 - 76 Old Pittwater Road BROOKVALE NSW 2100
Mr Alexander Daniel Rast	1 / 95 Queenscliff Road QUEENSCLIFF NSW 2096
Matt Anglicas	4 / 16 Soldiers Avenue FRESHWATER NSW 2096
Nicholas David Barratt Dawe	46 Allenby Park Parade ALLAMBIE HEIGHTS NSW 2100
Mr Joseph Farrugia	32 Cutler Road CLONTARF NSW 2093
Simon Brandler	29 Heather Street WHEELER HEIGHTS NSW 2097
Greg Sing	82 Lawrence Street FRESHWATER NSW 2096
Darian Woods	9 / 38 Beach Street CURL CURL NSW 2096
Jason Lister	12 Fisher Street BALGOWLAH HEIGHTS NSW 2093
Mrs Amanda Louise Graham	3 Wyuna Avenue FRESHWATER NSW 2096
Shane Humphreys	5 / 15 Daintrey Street FAIRLIGHT NSW 2094
Jonathan Williams	4 / 39 Eurobin Avenue MANLY NSW 2095
Mrs Lauren Mary Richardson	29 Albert Street FRESHWATER NSW 2096
A Nixon	5 Moore Road FRESHWATER NSW 2096

Ten (10) submissions received were in support of the proposal and twenty (20) submissions object to the proposal.

The matters raised within the submissions are addressed as follows:

- **Proposed use is inconsistent with existing character of the locality**

Several submissions raise concern that the proposed 'bouldering centre' is not consistent with the existing character of the Freshwater Village locality and will impact upon the amenity of nearby residents. Many submissions note that the proposed development is more akin to an industrial use and should not be located in an area so close to residential areas.

Comment:

The proposed land use is classified as a *recreation facility (indoor)*, as described in WLEP 2011, and is permissible with development consent within the B2 Local Centre zoning of the site. Consideration has been given to potential impacts the proposed development may have on nearby residents. The proposed change of use of the existing supermarket tenancy to an indoor recreational facility is not expected to result in any fundamental changes to the local amenity that existed during the operation of the supermarket. Impacts regarding noise, traffic and parking are discussed below and have been considered in the assessment of the application.

This issue has been addressed by conditions and does not warrant refusal of the application.

- **Noise**

Several submissions raise concern regarding noise and acoustic impacts that the proposed development may cause on the nearby residences.

Comment:

At the request of Council, the applicant has provided an amended acoustic report to analyse a worst-case scenario of the acoustic impact of 50 persons utilising the site simultaneously (peak usage). The acoustic report has been assessed by Council's Environmental Health team who raise no objections to the report recommendations and has recommended conditions to be imposed. The use will require self closing doors and the exterior windows to remain shut during operation to minimise noise impacts. The 'bouldering centre' will also be air conditioned (A/C) to ensure a comfortable internal environment and A/C motors will be required to comply with applicable noise control standards.

This issue has been addressed by conditions and does not warrant refusal of the application.

- **Traffic and parking**

Several submissions raise concerns regarding the proposed development's impact on traffic and parking in the surrounding area.

Comment:

The proposal has been referred to Council's Traffic Engineer who has assessed the Traffic Report provided by the applicant. The Traffic Engineer is satisfied that the proposal will not have any unacceptable impacts in terms of road network capacity or off-street parking/loading requirements.

This issue has been addressed by conditions and does not warrant refusal of the application.

- **Antisocial behaviour**

Some submissions raise concern the proposed development may lure antisocial behaviour into the locality.

Comment:

The application was referred to NSW Police who found no issue with the proposal in terms of Crime Prevention Through Environmental Design (CPTED). It is further noted that the use closes at 10pm each night. The nature of the use a 'bouldering centre' (being for low height climbing practice and exercise) is not expected to cause any increased levels of antisocial behaviour in the vicinity of the site and surrounds.

- **Hours of operation**

Some submissions raise concern regarding the proposed hours of operation and the impact it may have on nearby residences.

Comment:

The proposed hours of operation, being 6:00am - 10:00pm Monday to Friday and 9:00am - 10:00pm weekends and public holidays, are not considered to unreasonably impact on the amenity of nearby residences, subject to the conditions of consent. The use is situated in a Local Centre of Freshwater, where there are other business uses such as restaurants, shops, Harbord Beach Hotel and the like that operate into the evening period. The hours of operation are considered to be reasonable for uses in a local centre.

This issue has been addressed by conditions and does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been reviewed by Council's Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health has reviewed this proposal in regards to noise. Implications to residential properties for noise are potentially considerable. However, the development has been designed and appropriate conditions included to ameliorate these impacts.</p> <p>It is noted that the use is proposed to cease at 10pm and an acoustic report has been submitted that recommends self-closing doors and windows to be kept closed.</p>

Internal Referral Body	Comments
	<p>Other measures recommended in the acoustic report include a new set of doors to be installed. The new glazed doors must have a minimum Rw 35 rating and must be able to close automatically after a patron enters or exits the facility. The windows on the northern façade must remain closed while music is being played within the facility.</p> <p>On this basis no objections are raised.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p> <p>UPDATE 30.4.2019 REQUESTED REVIEW Environmental Health have been asked to review an amended <i>Acoustic Report</i> R190031R1 23 April 2019. Our comments remain unchanged. On this basis no objections are raised.</p>
NECC (Development Engineering)	No objections are raised to the proposed change of use subject to conditions.
Traffic Engineer	<p><u>Traffic Comments:</u> The proposal is for reuse of Shop 1 (LGA Supermarket) to an indoor recreation facility with the capacity of 50 clients including staff at any one time. The existing pedestrian and vehicular access and off-street car parking areas will remain <i>unchanged</i>.</p> <p>The traffic report (Ref 19367, dated 15 July 2019 prepared by <i>Varga Traffic Planning</i>) indicates that assuming the average vehicle occupancy rate of 1.5 person per vehicle, the traffic generation of the proposed development will be the total of 34 vehicle trips in and out of the site during evening peak hour. This is whilst the traffic generation of supermarket use has been calculated as 81 vehicle trips per evening peak hour. Therefore, even with the assumption that all patrons will drive to the gym, the traffic generation will be lower than the supermarket use's.</p> <p>The traffic report also indicates that the site's existing on-site car park is expected to adequately cater for the proposed bouldering gym's peak operational periods whilst also eliminating truck deliveries altogether. In accordance with RMS Guide to Traffic Generating Developments, the parking requirements for the supermarket use is calculated as 35 off-street parking spaces (equal to the parking rate of one parking space per 1.5 patrons), which will be in excess of the parking requirements for a gym.</p>

Internal Referral Body	Comments
	Reviewing the traffic report provided by the applicant, the proposed gym will not have any unacceptable implications in terms of road network capacity or off-street parking/loading requirements, therefore no objection is raised on the proposal on traffic and parking grounds.

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)	<p>The proposal was referred to NSW Police Northern Beaches Police Area Command. The following response was received:</p> <ul style="list-style-type: none"> • <i>Given the nature of the development we do not believe a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) assessment is required.</i>

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 (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	11m	Internal works only - no change to existing building height	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.8 Conversion of fire alarms	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	Complies
G5-2. Number of storeys	3	Internal works only - No change to existing built form	N/A
G5-10. Front Setback	Ground/first floor - Nil	Internal works only - No change to	N/A

	to 3m Second floor - 5m	existing built form	
G5-11. Side and Rear Setbacks	2m	Internal works only - No change to existing built form	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
F1 Local and Neighbourhood Centres	Yes	Yes
1. Built form in Freshwater	Yes	Yes
2. Number of storeys	Yes	Yes
3. Street activation	Yes	Yes
4. Street facades and shopfront design	Yes	Yes
5. Access and loading	Yes	Yes
6. Lighting	Yes	Yes
7. Safety and security	Yes	Yes
10. Front setback	Yes	Yes
11. Side and rear setbacks	Yes	Yes
13. Roofs and building form	Yes	Yes
14. Building massing	Yes	Yes
15. Building sustainability	Yes	Yes
16. Materials and colours	Yes	Yes

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

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$6,281 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$628,100.

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

Submissions received following the public notification of the proposal have been considered and conditions recommended to address the relevant concerns. In addition to the broader environmental assessment issues, this assessment has also included detailed considerations relating to noise impacts and car parking.

In relation to noise impacts, conditions are recommended to require compliance with the applicant's *Acoustic Design Assessment*. Compliance requirements are included in the recommended conditions and will address concerns raised by several objectors.

In relation to the expected traffic and parking demands of the proposal have been assessed by Council's Traffic Engineer. It is considered the existing site parking conditions sufficiently cater for the

expected traffic demands of the proposed development.

No objection to approval has been raised by any internal or external referrals for the development application. Therefore appropriate conditions are included to ensure the operational use does not cause any unreasonable impacts on the surrounding amenity.

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

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2019/0278 for Use of Premises as an indoor recreation facility on land at Lot 1 SP 23069, 1 / 1 Moore Road, FRESHWATER, 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
SK01.2A	22 February 2019	Cullen Feng Architects
SK02A	22 February 2019	Cullen Feng Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Design Assessment - Revision 2	23 April 2019	Rodney Stevens Acoustics
BCA Report	1 March 2019	360 Certification
Traffic and Parking Assessment Report	15 July 2019	Varga Traffic Planning

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

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	1 March 2019	Yossi

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. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any additional signage (other than exempt and signs permitted

under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Any replacement of existing approved signs must be consistent with the existing consent for that sign. Therefore, advice may be sought from Council regarding existing signage consents.

Reason: Control of signage. (DACPLB06)

3. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.

- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and

machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) All sound producing air conditioning machinery or fittings and the like, to service the subject recreation centre (Shop 1 SP23069) must not exceed more than 5dB (A) above the background level when measured from any property boundary and/or habitable room(s) consistent with the *Environment Protection Authority's NSW Industrial Noise Policy* and/or *Protection of the Environment Operations Act 1997*.
- (k) 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

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$6,281.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$628,100.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

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

7. 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 TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

8. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

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

9. Fire Safety Upgrade

The fire upgrading measures and works to upgrade the building as detailed and recommended

in the Fire Safety and Building Code of Australia Audit Report C2019024-T1 prepared by 360 Certification dated 1 March 2019.

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

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

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

10. Noise and Noise Management

Prior to occupation the requirements of the Rodney Stevens Acoustics Report Number R190031R1 23 April 2019 to be complied with, in particular the recommendations:

- "In order to maintain a high level of noise isolation between the proposed rock-climbing facility and the neighbouring suites a new set of doors must be implemented, the new glazed doors must have a minimum Rw 35 rating and must be able to close automatically after a patron enters or exits the facility. The windows on the northern façade must remain closed while music is being played within the facility."

Additionally, a noise management plan shall be incorporated into the business operational plan and staff induction, to ensure noise reduction measure are always in place.

Reason: To ensure ongoing management of potential noise issues to commercial and residential receivers (DACHPGOG6)

11. Hours of Operation

The hours of operation are to be restricted to:

- Monday to Friday – 6:00am to 10:00pm
- Saturday – 9:00am to 10:00pm
- Sunday and Public Holidays – 9:00am to 10:00pm

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.

12. Maximum Tenancy Capacity

The tenancy is limited to a maximum capacity of 50 persons (patrons & staff) at any one time, without prior consent of Council.

Reason: To ensure operation is consistent with approved technical reports and amenity to nearby residential land uses is maintained.

