

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1168
Responsible Officer:	Nick England
Land to be developed (Address):	Lot 7 SP 83180, 7 / 134 - 136 Old Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Use of Premises as a Recreation Facility Indoor (gym) and business identification signage
Zoning:	Warringah LEP2011 - Land zoned IN1 General Industrial
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Stewart Investments (NSW) Pty Ltd
Applicant:	The Cube Gym
Application lodged:	06/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	12/07/2018 to 30/07/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,000.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;

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

SUMMARY OF ASSESSMENT ISSUES

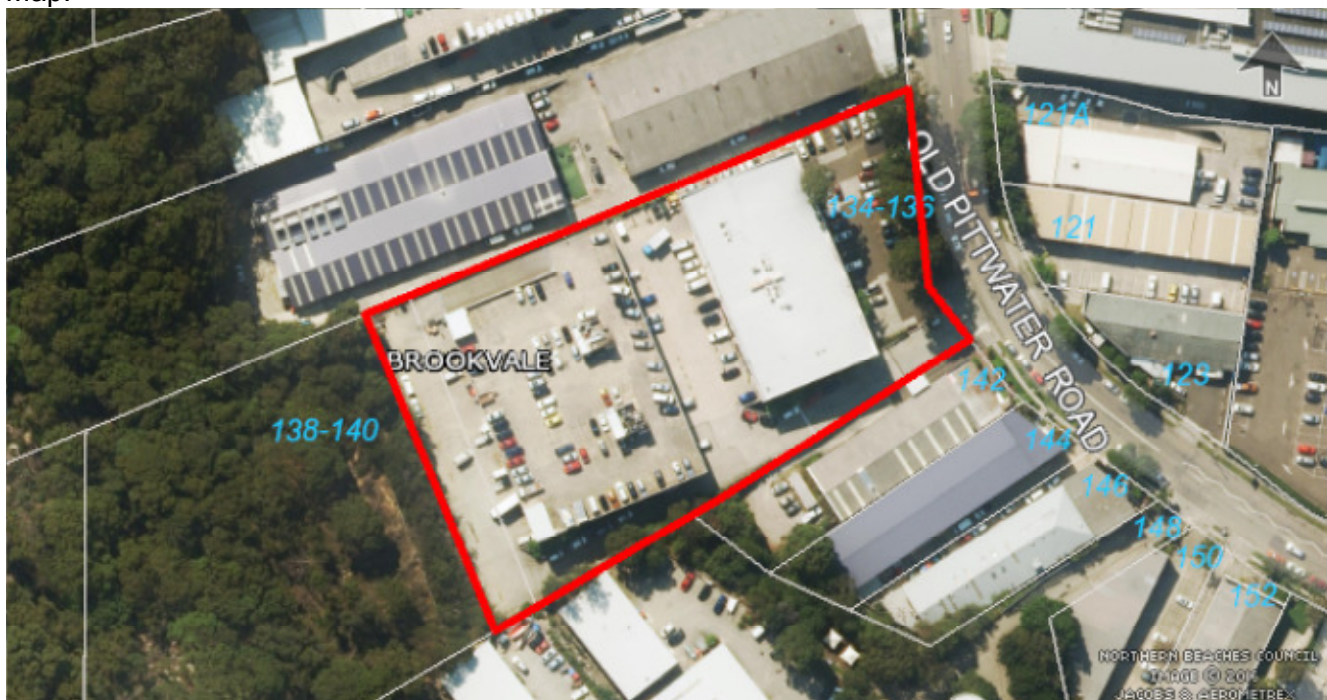
Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 7 SP 83180 , 7 / 134 - 136 Old Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) Strata allotment located on the western side of Old Pittwater Road.</p> <p>The site is irregular in shape with an approximate area of 10,330m².</p> <p>The site is located within the IN1 General Industrial zone and accommodates two buildings, occupied predominantly by warehouse / industrial units.</p> <p>The unit subject to the proposed use is No.7, which is located in the rear building (Building "B"), Level 3. This unit is currently being used for warehousing purposes.</p>

Map:



SITE HISTORY

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

1776/83: Consent granted for "warehouse and offices" in 1984.

PROPOSED DEVELOPMENT IN DETAIL

The application consists of the use of the existing premises (estimated at a total of 726m² of floor space) for the purposes of a *recreation facility (indoor)* ("Cube" gymnasium). In detail, this use consists of:

- group fitness classes, with a maximum of 30 people;
- maximum of two (2) employees; and
- hours of operation of:

Monday to Friday – 5.00am to 9.00pm

Saturday – 5.00am to 7.00pm

Sunday and Public Holidays – 6.00am to 7.00pm

Four (4) new car spaces are proposed, 2 within Unit 7 and another 2 adjoining the roller-door entry. Two (2) business identification signs are proposed, one sign of approximately 15m² on Building A (fronting Old Pittwater Road) and another of 0.5m² adjoining Unit 7.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan 2011 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This</p>

Section 4.15 Matters for Consideration'	Comments
	<p>clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, permits Council to request additional information. However, no additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). Council's Building Assessment Officers have advised that the application will comply with this clause of the Regulation.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter 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><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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 2011 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.

Section 4.15 Matters for Consideration'	Comments
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

A bushfire risk assessment report has been provided with the application. This report concludes that no specific risk will result from the proposed change of use in regard to bushfire.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the 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> <p>Change of Use/Fire Safety Upgrade The existing levels of fire safety within the premises 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. The fire safety upgrading works are to be included in the Construction Certificate and be implemented prior to occupation of the new building or part. Reason: To ensure adequate provision is made for fire safety in the premises for building occupant safety.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health have no objections subject to a standard noise</p>

Internal Referral Body	Comments
	<p>condition.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p>The application proposed the change of use in the existing building. Development Engineer has no objection to the application. No engineering condition is required.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development is outside any flood risk precinct and flood related development controls do not apply.</p>
Traffic Engineer	<p>The Traffic Engineer has provided the following comment:</p> <p><i>The proposal is for the change of use from a warehouse and distribution centre to a recreation facility (indoor) – gymnasium and business identification signs. The subject proposal comprises a GFA of approximately 719sqm. The existing amenities include an existing disabled WC and standard WC facilities within the premises.</i></p> <p><i>The proposal seeks to utilise fourteen (14) dedicated car spaces (as defined on the strata plan for Lot 7) in addition to four (4) new car spaces (two internally and two in front of the existing roller door). The premises also have access to thirty-two (32) visitor car spaces (shown as common property on the strata plan). In total the premises will have access to fifty (50) car spaces within the complex.</i></p> <p><i>In accordance with Part H Appendices – Appendix Part 1 (Car Parking Requirements) of the WDCP2011 a minimum of 4.5 parking spaces are required per 100sqm of gross floor area. Given the subject site has a GFA of 719sqm a minimum of 32 car spaces is required to service the proposed use as per Council's controls. The proposal has access to 18 dedicated car spaces for unit 7 and a further 32 visitor car spaces.</i></p> <p><i>The applicant has only assessed the parking demand on one day during a 30 minute period. This is deemed inadequate to properly assess the parking amenity requirements of the complex in light of the proposed Gym. Further, access to 18 dedicated spaces reflects a shortfall of 14 parking spaces. A deficit of approximately 45%. This is not acceptable as it does not comply with the DCP.</i></p> <p><u>Planners comment:</u> Whilst the Traffic Engineers comments with respect to the shortfall of parking are noted, they are not considered a valid reason to refuse the application. A further discussion of the objectives of Council's parking requirements are provided elsewhere in this report. In summary, there is sufficient on-site parking to service the proposed use and not have an adverse impact on the surrounding road network.</p>

Internal Referral Body	Comments
Traffic Engineer	

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.

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 residential 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 residential 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 proposed advertising signage is consistent in scale and design with the similar advertising on the subject site and adjoining land.	YES

the area or locality in which it is proposed to be located?		
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed advertising signage is consistent is thematic content with the similar advertising on the subject site and adjoining land.	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?	The site adjoins a naturally vegetated area of public open space to the west. The proposed signage will not be visible from these area. Hence the proposal is consistent with this requirement.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The signage is affixed to existing buildings and will not effect existing views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage is affixed to existing buildings and will not effect the quality of existing vistas.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure views to other signage.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proposed signage demonstrates adequate relationship with the surrounding landforms.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage demonstrates adequate relationship with the surrounding landforms and visual interest.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	Not applicable to the proposed signage.	YES
Does the proposal screen unsightliness?	Not applicable to the proposed signage.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage will not protrude above existing buildings.	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 proposed signage is consistent with the scale and proportion of the building and the surrounding site.	YES
Does the proposal respect important features of the site or building, or both?	Not applicable to the proposed signage.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Not applicable to the proposed signage.	YES
6. Associated devices and logos with advertisements and advertising	Not applicable to the proposed signage.	YES

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?		
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?	Not applicable to the proposed signage.	YES
Can the intensity of the illumination be adjusted, if necessary?	Not applicable to the proposed signage.	YES
Is the illumination subject to a curfew?	Not applicable to the proposed signage.	YES
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage will not result in any adverse risk to any road user.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage will not result in any adverse risk to any road user.	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.

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
5.3 Development near zone boundaries	Yes

Warringah Development Control Plan

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
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C8 Demolition and Construction	Yes	Yes
D3 Noise	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	Yes	Yes
E4 Wildlife Corridors	Yes	Yes
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	Yes	Yes
E11 Flood Prone Land	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of non-compliance

Based on the floor space of 726m², a total of 33 spaces are required.

A total of 18 spaces are provided, which represents a shortfall of 15 spaces.

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Gymnasium	4.5 spaces per 100m ² GFA	33	18	15

The application provides a total of 18 spaces for the specific use of the proposed land use. At a maximum of two (2) employees, this leaves 16 spaces free for the use of customers. The maximum expected class size is 30, hence at a realistic assumption of 1 space per customer, there will need to be another 14 spaces made available for the use at its peak period of operation.

The site provides a total of 32 common property visitor vehicle spaces for the use of all the 15 units on the premises. 6 of these spaces are located on Level 3, with a further 26 located on the roof above. This potentially provides a total of 50 spaces for the use of gym. It is reasonable that the proposed land use makes full utilisation of these spaces for the use of its customers, particularly as the peak period of operation for the classes are early morning, evenings and on the weekends. There is likely to be a greater proportion of these spaces that are vacant, as this does not coincide with the daytime peak of the other industrial / warehouse uses on the site.

Under these circumstances, there is adequate parking on the site to satisfy the demands of the proposed use. To ensure adequate parking functioning and no impact on the adjoining road network, conditions of consent are recommended to require: adequate signage on Unit 7 to alert customers to the roof parking; and a maximum of 30 customers on the site at any one time.

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

Comment:

The new car spaces adjoining the entry on Unit 7 are hardstand spaces that will not be visible from a street frontage or public space. The development is hence consistent with this objective.

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

Comment:

The new car spaces adjoining the entry on Unit 7 are hardstand spaces that will not be visible from a street frontage or public space. The development is hence consistent with this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in s1.3 of the Environmental

Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D23 Signs

Description of signage

The application proposes two (2) business identification signs consisting of the following:

Sign	Requirement	Width	Height	M ²	Complies
Under awning sign (attached to the underside of an awning) <u>On Building B</u>	Shall not exceed 2.5m in length or 0.3m in height; Shall be no less than 2.7 m above the ground and at right angles to the property boundary to which the awning is attached; Shall not project beyond the awning; and No more than one under-awning sign may be erected per business/shop.	1.2m	0.4m 3.5m (above ground)	N/A	No
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table) <u>On Building A</u>	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level ground; and Shall not project more than 300mm from the wall.	Width is consistent with other signage	Height is consistent with other signage	N/A	Yes

Merit consideration

The under awning sign has a height of 400mm, which exceeds the maximum 300mm permitted.

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment: The extent of the variation is minor. The signage is well designed and easily complies with the requirements of this objective.

- *To achieve well designed and coordinated signage that uses high quality materials.*

Comment: The signage is a contemporary branding that coordinates the theme of the business, consistent with this objective.

- *To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment: No visual impact is likely as the sign is not visible from the street frontage.

- *To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment: The signage is located in an industrial zone and will have no impact on adjoining residential properties.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment: The signage will not be visible from the adjoining area of public open space to the west. No heritage or conservation area adjoin the site. The development is therefore consistent with this objective.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

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

POLICY CONTROLS

Northern Beaches Council Contributions Plan 2018

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 DA2018/1168 for Use of Premises as a Recreation Facility Indoor (gym) and business identification signage on land at Lot 7 SP 83180, 7 / 134 - 136 Old Pittwater Road, BROOKVALE, 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
DA02	03/07/18	JMP
DA03	03/07/18	JMP

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
Bushfire Risk Assessment	5 July 2018	BPAD

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

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. (DACPLB10)

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. (DACPLC02)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

5. Removal of All Temporary Structures/Material and Construction Rubbish (crown land only)

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

Details demonstrating compliance are to be submitted to Council.

Reason: To ensure bushland management. (DACPLE01)

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

6. Fire Safety Matters

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

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

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

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

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

7. Noise Conditions General

(a) The use of the premise 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;

(b) The use of any amplified music or public address system 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; and

(c) Weight mats are to be of sufficient design to prevent noise or vibration to any adjoining premises.

Reason: To ensure that any noise generated does not cause a nuisance to adjoining premises. (DACHPGOG5)

8. **Clean and Sanitary Condition of Premises**

The premises shall be maintained in a clean and sanitary condition at all times.

Reason: To ensure the amenity of occupants. (DACHPGOG5)

9. **Allocation of Spaces**

18 car parking spaces provided shall be provided, made accessible and maintained at all times and shall be used solely in conjunction with the uses contained within the development.

Each car parking space allocated to a land use shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

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

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

10. **Visitors Sign**

A sign, legible from Unit 7, shall be permanently displayed to indicate that visitor parking is available on the site.

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

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

11. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 5.00am to 9.00pm
- Saturday – 5.00am to 7.00pm
- Sunday and Public Holidays – 6.00am to 7.00pm

Upon expiration of the permitted hours, all service shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

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

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

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

13. **Maximum class size**

The number of customers on the site shall not exceed 30 at any one time.

Reason: To ensure no adverse impact in respect to traffic generation on the surrounding road

network (DACPLGOG1)

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

Signed




Nick England, Planner

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




Steven Findlay, Manager Development Assessments
















ATTACHMENT A

Notification Plan	Title	Date
 2018/442248	Plan - Notification	04/07/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/443137	Notification Map	11/07/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/442279	Plans - Strata Plan - Car Parking	04/07/2018
 2018/442260	Report - Statement of Environmental Effects	04/07/2018
 2018/442248	Plan - Notification	04/07/2018
 2018/442278	Plans - Tenancy Floor Plan	04/07/2018
 2018/442281	Plan - Signage	04/07/2018
 2018/442262	Report - Geotechnical Assessment	04/07/2018
 2018/442264	Report - Fire Safety Statement	04/07/2018
 2018/442267	Report - Bushfire	05/07/2018
 DA2018/1168	7/134-136 Old Pittwater Road BROOKVALE NSW 2100 - Development Application - Change of Use	06/07/2018
 2018/442235	Development Application Form	10/07/2018
 2018/442237	Applicant Details	10/07/2018
 2018/442291	Plans - Master Set	11/07/2018
 2018/442288	Plans - External	11/07/2018
 2018/442294	DA Acknowledgement Letter - The Cube Gym	11/07/2018
 2018/444363	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/1168 - 7 / 134 - 136 Old Pittwater Road BROOKVALE NSW 2100	11/07/2018
 2018/448608	Environmental Health (Industrial) - Assessment Referral - DA2018/1168 - 7 / 134 - 136 Old Pittwater Road BROOKVALE NSW 2100	11/07/2018
 2018/443114	ARP Notification Map	11/07/2018
 2018/443126	DA Acknowledgement Letter (not integrated) - The Cube Gym	11/07/2018
 2018/443137	Notification Map	11/07/2018
 2018/443205	Notification Letter - 337	11/07/2018
 2018/443236	Natural Environment Referral Response - Flood	11/07/2018
 2018/445767	Building Assessment Referral Response	12/07/2018
 2018/458603	Traffic Engineer Referral Response - 19 July 2018	19/07/2018
 2018/465606	Traffic Engineer Referral Response - 24 July 2018	24/07/2018
 2018/475914	Engineering Referral Response	28/07/2018
 2018/483133	Environmental Health Referral Response - industrial use	01/08/2018
 2018/532217	Working Plans	21/08/2018

