

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1116
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<b>Responsible Officer:</b>	Planning Consultant (Natalie Nolan)
<b>Land to be developed (Address):</b>	Lot 1 DP 511908, 32 Old Barrenjoey Road AVALON BEACH NSW 2107
<b>Proposed Development:</b>	Use of lower level of existing building as a community facility
<b>Zoning:</b>	Pittwater LEP2014 - Land zoned RE1 Public Recreation
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Development Determination Panel
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Northern Beaches Council
<b>Applicant:</b>	Stephen March – Northern Beaches Council

<b>Application Lodged:</b>	10/10/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Public Recreation
<b>Notified:</b>	28/10/2019 to 11/11/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$0.00

### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks approval for the change use of the existing undercroft area of the building for use as a creative arts space. There will be two (2) studio spaces with a larger flexible teaching space that will be able to accommodate up to ten (10) students. A Heritage Exemption Application under Pittwater LEP dated 2 October 2019 has been granted for some building works. This application seeks some alteration to the teaching space windows and doors which were not part of the Heritage Exemption Application.

### EXECUTIVE SUMMARY

Based on a detailed assessment of the proposal against the applicable planning controls, it is assessed that the proposal is suitable and appropriate development for the subject site.

The proposed development demonstrates compliance with the objectives of the relevant controls of the PLEP 2014 and PDCP 21.

A heritage exemption for works on the ground floor of the building including internal reconfiguration and changes to windows and doors was previously issued. There are however some amendments to the physical works proposed under this application which differ from the heritage exemption. Conditions have been recommended by Council’s Heritage Officer in this regard.

One (1) submission was received which raised a number of concerns with the proposed change of use. These have been dealt with in detail in this report.

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), Local Government Act 1993 and Council policies. The outcome of this assessment is detailed within this report.

Given all considerations, submissions, variations and analysis of the proposal, it is recommended that the proposed development be approved subject to recommended 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

The assessment issues are summarised below:

Pittwater Local Environmental Plan – Clause 5.10 Heritage Conservation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 511908, 32 Old Barrenjoey Road AVALON BEACH NSW 2107
<b>Detailed Site Description:</b>	The subject site consists of one allotment of land located on the eastern side of Barrenjoey Road.  The site is an irregular shaped allotment with an area of approximately 1.3ha. The site comprises an 18 hole golf

course and associated buildings

The main clubhouse building is located towards the northern edge of the site adjacent to the Barrenjoey Road frontage. The clubhouse is identified in Schedule 5 of the Pittwater LEP 2014 as a local heritage item along with the former kiosk and greenkeepers cottage.

The works relating to this Development Application are within the envelope of the existing clubhouse building.

The site is serviced by a carpark immediately to the northwest of the club house. This carpark provides parking for 42 cars, plus 2 accessible spaces and a delivery/loading zone.

### **Detailed Description of Adjoining/Surrounding Development**

The character of the immediate locality is characterized by a mix of single detached housing, medium density housing and the Avalon Beach retail precinct.

Map:



## **SITE HISTORY**

The Golf Club House, Greenskeeper's Cottage and former kiosk form a group of historically significant items which represent the early development of leisure and tourism facilities in Avalon and is associated with the locally historic phase of Holiday and Recreation development between 1920 and 1950. A Heritage Exemption was previously issued (on 2 October 2019) for the following:

- Installation of new doors and windows to the existing buggy store.
- Relocation of air conditioning units.
- Internal reconfiguration and new fixtures and fittings throughout.
- Removal of cool room.
- Renovation of existing bathroom.

The Heritage Exemption did not authorise the change of use of the building for an artist studio and teaching space which has resulted in this development application. Additional minor window and door alterations were also not included in the Heritage Exemption.

In July 2017, Council resolved to allocate \$1 million from the Merger Savings Fund to establish a Creative Space in the northern part of the Local Government Area. Following extensive community consultation and investigation by Council's Community, Arts & Culture team, the undercroft area of Avalon Golf Course was selected as being an appropriate location for the location of a creative space. This was endorsed by Council at its meeting of 26 February 2019.

The following provides a timeline of applications related to the site:

- JH2/0019/95 – Development Consent for earthworks and landscaping was approved on 27 February 1995.
- JH2/0070/95 – Development Consent for upgrading between 8<sup>th</sup> Green and 9<sup>th</sup> Tee was approved on 22 May 1995.
- JH2/0249/95 – Development consent for earthworks including 3 mounds on existing fairway and landscaping works was approved by Council on 11 December 1995.
- JH2/0023/96 – Development consent for upgrading of existing fairways (No. 2 and 7) and greens (No. 9) was approved on 14 April 1996.
- N0254/98 – Development consent for alterations to the existing golf course was approved on 24 November 1998.
- N0219/03 – Development consent for alterations/additions to the existing clubhouse were approved on 16 November 2004.

## **Avalon Golf Course Plan of Management**

The Avalon Golf Course Plan of Management was prepared to satisfy the Local Government Act 1993, as amended 1998, and provide a framework for its long-term management adopted on 12 May 2003.

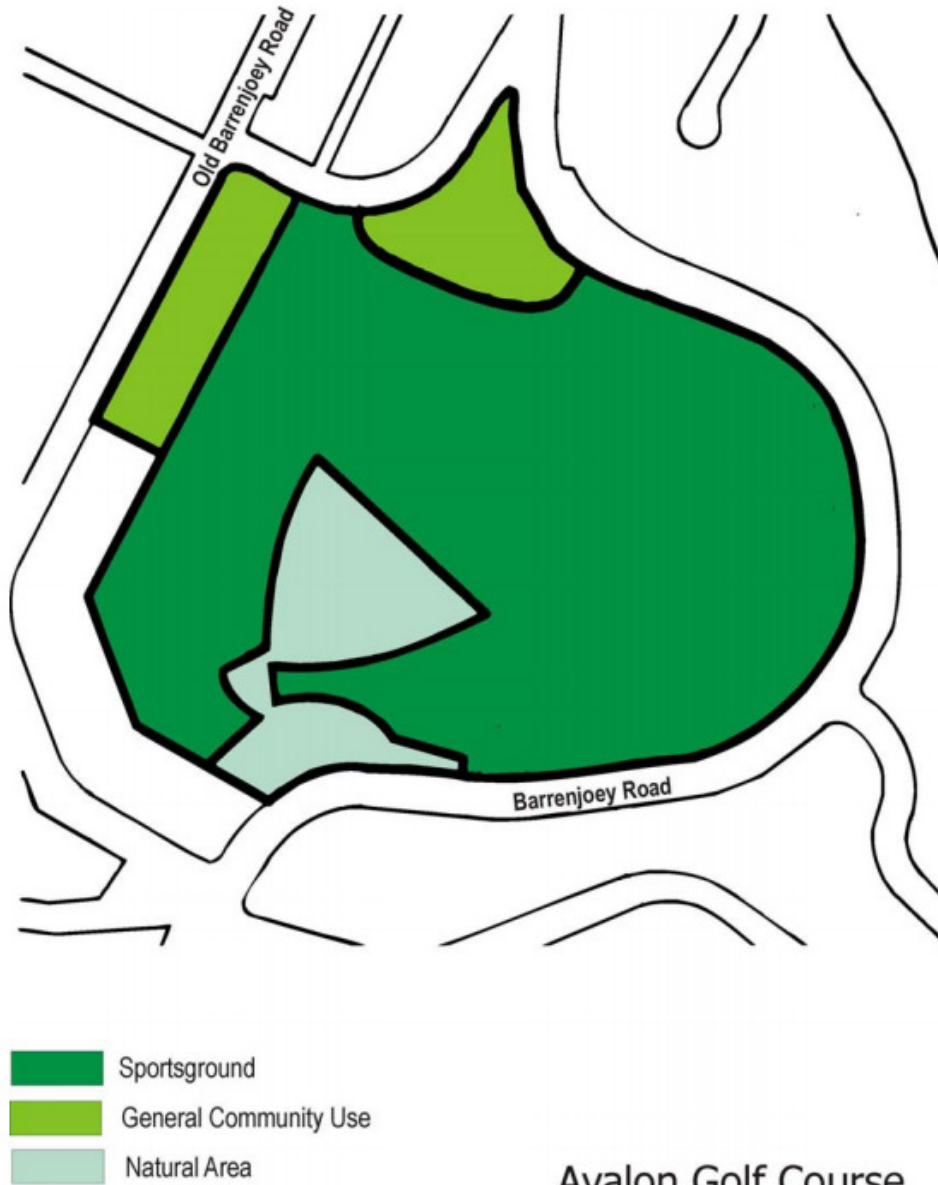
### **Local Government Act 1993**

Land that is the subject of a plan of management prepared under the Local Government Act must be categorised. As shown in Figure 1, categories are:

- 'Sportsground' for all playing areas, the car park and facilities, as the primary use is for "*active recreation involving organised sports or the playing of outdoor games*".
- 'Natural area bushland' for all other areas as these areas play an important role in the area's ecology and contain important stands of remnant vegetation. Future revegetation will increase these natural values.
- 'General Community Use' for the park on Old Barrenjoey Road, the buildings on the site and the carpark areas.

See Figure 1 below:-

AVALON GOLF COURSE PLAN OF MANAGEMENT



Avalon Golf Course  
Categorisation

*“Core objectives for General Community Use category*

*To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and the wider public:*

- a) in relation to public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public, and*
- b) in relation to purposes for which a lease, licence or other estate may be granted in respect of the land (other than the provision of public utilities and works associated with or ancillary to public utilities).”*

In addition to the above under the heading **3.2.3 Current and future use** within the Plan of Management it states: -

*“It is considered that the primary use of the site should not change, so that Avalon Golf Course, including all land and buildings within the site, shall continue to be used primarily as a public golf course, for the*

*playing of golf, whether social or competitive. This purpose shall also include activities normally associated with a public golf course, namely, course maintenance, parking, selling of food and beverages, provision of golf equipment and services, and basic amenities.*

*A secondary purpose shall be as a place for holding social and community gatherings, including weddings, ceremonies, small public meetings, provided these do not interfere with the primary purpose of the golf course, adversely affect the heritage significance of the clubhouse, or lead to adverse effects on nearby residents or patrons. (It is considered that this extended community use of the clubhouse could supplement revenue from the course and help fund course and building maintenance.)”*

Given the above it is considered that the proposed use of lower level of existing building as a community facility is consistent with the Avalon Golf Course Plan of Management.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 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)(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&amp;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&amp;A Regulation 2000. There was no request for additional information.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> 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.

## 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 initial public exhibition process Council is in receipt of 1 submission from:

Name:	Address:
Mr Paul Coonan – Royal Avalon Golf Course Preservation Association Inc	23 Central Road, Avalon Beach

The issues were raised are addressed below:

- *Change rooms in the undercroft area form an integral part of the Heritage nature and design of the Clubhouse.*

### Comment:

The proposal was assessed by Council’s Heritage Officer which in summary provided:

*“Heritage has considered this submission and notes that while the proposal will remove some existing golfing related facilities, they are not heritage significant fabric and Heritage does not consider their removal on balance to impact upon the item or its significance. These facilities could also be reinstated at a later date if required.*

*It is further noted that as an adaptive reuse project, the artist studios and teaching space will also allow for a greater range of people to visit the heritage item by providing additional spaces for people to use. This is an improvement over the current situation where they are not well utilized. Allowing more people to access and use the heritage item will lead to a greater appreciation of the item and its significance.*

*Therefore, on balance heritage can support the proposal subject to the conditions discussed above.”*

It is considered that the proposed change of use is appropriate in this regard.

- *Change room facilities should be made available to golfers*

Comment:

The change room facilities at the lower ground floor level have not been utilized as change rooms for some time. However, it is noted that there are toilet facilities on the upper floor level and the existing male facilities on the lower floor will be converted to unisex facilities.

- *Zoning permissibility*

Comment:

The proposed use as a community facility is permitted with consent in the RE1 Public Recreation zone and meets the zone objectives. The use of the part of the building as a creative art space is compatible with the primary use of the golf club for outdoor recreation and will allow for this space to be used for ancillary development to meet the needs of the community. The creative art space will be utilized by local artists for solo or group exhibitions, one of workshops etc.

The LEP defines community facility as follows:

**“community facility** means a building or place—

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for the physical, social, cultural or intellectual development or welfare of the community,*

*but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”*

The space will continue to be controlled by Northern Beaches Council as part of their ‘Creative Art Space’. This will allow local artists and curators to hold exhibitions and workshops for the cultural development of the community.

The proposed used is not defined as an ‘educational establishment’ as it will not provide for formal education, is not a school or tertiary institution.



## REFERRALS

Internal Referral Body	Comments
Heritage	<p><i>"The proposal seeks consent for a change of use of the lower ground floor of the golf course into artist's studios and a teaching space. Heritage notes that it previously issued a heritage exemption for works on the ground floor of the building including internal reconfiguration and changes to windows and doors. It did not authorise the change of use of the building for an artist studio and teaching space which has resulted in this development application. There are however some amendments to the physical works proposed under this application which differ from the heritage exemption which Heritage will comment on.</i></p> <p><i>Heritage notes that the proposed new internal doors through the western sandstone wall (converting existing sash window openings) are to allow for all weather internal access without resorting to an external awning/pergola. An external awning/pergola was previously considered by Heritage to be a negative component obscuring the building and it did not approve it as part of the heritage exemption. Heritage can on balance accept the creation of internal access to avoid an external awning which would have a greater visual impact. The sandstone wall as currently presented should also be photographically recorded before the works begin.</i></p> <p><i>There have also been changes to the proposed windows in the buggy store area between the heritage exemption and the development application plans. Heritage notes these changes are relatively minor, but there are a few matters that need to be considered.</i></p> <p><i>One concern is raised with proposed windows W1 and W2. The proposed infill windows include a 900mm base of rendered and painted masonry block work. This added heavy base to the building will emphasise this extension which was originally intended to be a much lighter structure that did not compete with the original club house element. Heritage will require that these window treatments be revised to minimise the impact upon the heritage item and will condition the application accordingly.</i></p> <p><i>Doors D1 and D2 are currently proposed as solid timber doors. Once again this buggy store was intended as a light weight structure that would not compete with the original clubhouse building</i></p> <p><i>Heritage will condition that these doors be amended to transparent glazed sash doors to preserve the lightweight character of the addition.</i></p> <p><b>Submissions</b>  <i>One submission has been received during the exhibition period which objects to the proposal on heritage grounds. Heritage has considered this submission and notes that while the proposal will remove some existing golfing related facilities, they are not heritage significant fabric and Heritage does not consider their removal on balance to impact</i></p>

	<p>upon the item or its significance. These facilities could also be reinstated at a later date if required.</p> <p>It is further noted that as an adaptive reuse project, the artist studios and teaching space will also allow for a greater range of people to visit the heritage item by providing additional spaces for people to use. This is an improvement over the current situation where they are not well utilized. Allowing more people to access and use the heritage item will lead to a greater appreciation of the item and its significance.</p> <p>Therefore, on balance heritage can support the proposal subject to the conditions discussed above.”</p>
Building Assessment	<p><b>Officer comments</b></p> <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>
Development Engineer	<p>“The proposed development is for change of use only. There is no Development Engineering objection to the proposal with no conditions.”</p>
Landscape	<p>“No objections are raised with regard to landscape issues, subject to conditions.”</p>
Natural Environment (Biodiversity)	<p>“Council's Natural Environment - Biodiversity section raises no objections to the proposed development.</p> <p>This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.2 Flora and fauna conservation category 1 and wildlife corridor and B4.4 Flora and fauna habitat enhancement category 2 and wildlife corridor.</p> <p>The proposal is for the alterations and additions to the club house including converting the undercroft area into an art studio. No native trees or vegetation are proposed to be impacted. The proposal is consistent with biodiversity controls.”</p>
Waste	<p>Recommendation</p> <p>“Approval subject to conditions”</p>
Transport Network	<p>“I just wanted to check that there is no proposed changes affecting the existing parking, as the plan doesn't seem to show the 2 existing accessible parking spaces which is shown by trees on Site Plan Drawing No. DD 001 D.</p> <p>Otherwise I don't have any objections to the Application.”</p> <p><u>Planner Comments:</u></p> <p>There are no changes to the existing parking arrangements.</p>

<b>External Referral Body</b>	<b>Comments</b>
<i>Ausgrid (SEPP Infra)</i>	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.
<i>NSW Police</i>	The proposal was referred to NSW Police. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans**

### **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 recreational and cultural land uses.

### **SEPP (Coastal Management) 2018**

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

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

Comment:  
Not applicable to the site.

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

Comment:  
Not applicable to the site.

#### ***12 Development on land within the coastal vulnerability area***

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

*(a) if the proposed development comprises the erection of a building or works—the building or*

*works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and*

*(b) the proposed development:*

*(i) is not likely to alter coastal processes to the detriment of the natural environment or other land, and*

*(ii) is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*

*(iii) incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*

*(c) measures are in place to ensure that there are appropriate responses to, and management of, Anticipated coastal processes and current and future coastal hazards.*

Comment:

At the commencement of this Policy, no Coastal Vulnerability Area Map was adopted and therefore no coastal vulnerability area has been identified. Not applicable.

### **13 Development on land within the coastal environment area**

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

*(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*

*(b) coastal environmental values and natural coastal processes,*

*(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*

*(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

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

Comment:

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

### **14 Development on land within the coastal use area**

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

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

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

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

(iv) Aboriginal cultural heritage, practices and places,

(v) cultural and built environment heritage, and

(b) is satisfied that:

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

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

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

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

Comment:

The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected. In addition, the surrounding area consists of examples of similar developments.

No aboriginal heritage sites have been identified within the vicinity of the proposed development. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

As such, it is considered that the application does not comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

### **15 Development in coastal zone generally—development not to increase risk of coastal Hazards**

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

Comment:

The proposal is unlikely to cause increased risk of coastal hazards on that land or other land, due to its design, location and relevant reports indicating no unreasonable impacts.

### **Coastal Management Act 2016**

The subject site identified as Coastal use area under the Coastal Management Act 2016. The management objectives for the coastal use area are as follows:

*"(a) to protect and enhance the scenic, social and cultural values of the coast by ensuring that:*  
*(i) the type, bulk, scale and size of development is appropriate for the location and natural scenic quality of the coast, and*  
*(ii) adverse impacts of development on cultural and built environment heritage are avoided or mitigated, and*  
*(iii) urban design, including water sensitive urban design, is supported and incorporated into development activities, and*  
*(iv) adequate public open space is provided, including for recreational activities and associated infrastructure, and*  
*(v) the use of the surf zone is considered,*  
*(b) to accommodate both urbanised and natural stretches of coastline."*

Comment: The proposal is setback from the foreshore and will not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected.

### **SEPP (Building Sustainability Index: BASIX) 2004**

BASIX does not apply to the proposed works.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

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

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

Comment:

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

**Pittwater Local Environmental Plan 2014**

Is the development permissible?	Yes			
After consideration of the merits of the proposal, is the development consistent with: aims of the LEP?	Yes			
zone objectives of the LEP?	Yes			
<u>Principal Development Standards</u>				
<b>Standard</b>	<b>Requirement</b>	<b>Proposed</b>	<b>% Variation</b>	<b>Complies</b>
Height of Buildings:	8.5m	No change	N/A	Yes

Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
5.10 Heritage Conservation	Yes
7.1 Acid Sulfate Soils	Yes
7.6 Biodiversity	Yes
7.7 Geotechnical Hazards	Yes

**Land Use Zone:** RE1 Public Recreation.

**Permissible or Prohibited:**

Community facilities – Permitted with consent.

**Pittwater 21 Development Control Plan**

Compliance Assessment

<b>Clause</b>	<b>Compliance with Requirements</b>	<b>Consistency Aims/Objectives</b>
A1.7 Considerations before consent is granted	Yes	Yes
A4.1 Avalon Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.1 Heritage Conservation – Heritage Items	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor	Yes	Yes
B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor	Yes	Yes

B5 Water Management	Yes	Yes
B6.2 Internal Driveways	N/A	N/A
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	No	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C5.1 Landscaping	Yes	Yes
C5.2 Safety and Security	Yes	Yes
C5.4 View Sharing	Yes	Yes
C5.5 Accessibility	Yes	Yes
C5.7 Energy and Water Conservation	Yes	Yes
C5.8 Waste & Recycling Facilities	Yes	Yes
C5.10 Protection of Residential Amenity	Yes	Yes
C5.22 Environmental Sustainability	Yes	Yes
C1.13 Pollution Control	Yes	Yes
D1.1 Character as viewed from a public place	Yes	Yes
D1.2 Character – Avalon Beach Village	Yes	Yes
D1.5 Building colours and materials	Yes	Yes
D1.8 Front building line	Yes	Yes
D1.9 Side and rear building line	N/A	N/A
D1.11 Building envelope	Yes	Yes
D1.13 Landscaped Area - General	Yes	Yes

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of PLEP 2014 and Pittwater 21 DCP 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.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

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

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

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

## **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Local Government Act 1993;

- Pittwater Local Environment Plan 2014;
- Pittwater 21 Development Control Plan; and
- Codes and Policies of Council.

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, other documentation supporting the application and the public submissions, and the conclusion is that the proposal does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties.

Suitable conditions will ensure that the heritage concerns are addressed.

Given all considerations, submissions, variations and analysis of the proposal, it is considered that subject to the recommended conditions, the proposed development should be approved.

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

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/1116 for use of existing lower level clubhouse as a creative arts space and minor alterations (community facility) on land at Lot 1 DP 511908, 32 Old Barrenjoey Road, Avalon Beach, 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

<b>Architectural Plans – Endorsed with Council’s stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
001 – Site Plan	03/10/19	Breakspear Architects
020 – Existing Ground	03/10/19	Breakspear Architects
030 – Demolition Plan - Ground	03/10/19	Breakspear Architects
100 – Proposed Plan – Ground	03/10/19	Breakspear Architects
110 – Proposed Plan – Ground	03/10/19	Breakspear Architects
500 – Proposed Bathroom and Joinery	03/10/19	Breakspear Architects
504 – Proposed Door and Window Schedule	03/10/19	Breakspear Architects
505 – Joinery	03/10/10	Breakspear Architects

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

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



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

## 2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

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

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

Reason: Legislative Requirement

## 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) 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.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (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

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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all

relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) 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 sewerred areas or managed on-site in unsewerred 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.

#### 4. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

(Note: At the time of determination the following (but not limited to) Australian Standards applied:

- (a) AS2601.2001 - Demolition of Structures\*\*
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings\*\*
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting\*\*
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) \*\*
- (e) AS 4970 - 2009 'Protection of trees on development sites'\*\*
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking\*\*
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities\*\*
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities\*\*
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking\*\*
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities\*\*
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set\*\*
- (l) AS 1428.1 – 2009\* Design for access and mobility - General requirements for access – New building work\*\*
- (m) AS 1428.2 – 1992\*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities\*\*

\*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website [www.hreoc.gov.au/disability rights /buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm).  
<[www.hreoc.gov.au/disability%20rights%20/buildings/good.htm](http://www.hreoc.gov.au/disability%20rights%20/buildings/good.htm).>

\*\*Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.)

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.

## 5. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a community facility is defined as:

*“community facility means a building or place—*

- (a) owned or controlled by a public authority or non-profit community organisation, and*
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”*

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent

## **FEES / CHARGES / CONTRIBUTIONS**

## 6. **Security Bond**

A bond (determined from cost of works) of \$1,500 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](http://www.northernbeaches.nsw.gov.au)).

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

## 7. **Tree protection**

- (a) Existing trees which must be retained
  - i) All trees unless exempt under relevant planning instruments or legislation
  - ii) Trees located on adjoining land
- (b) Tree protection
  - i) No tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
  - ii) All structures are to bridge tree roots greater than 25mm diameter unless directed otherwise by a qualified Arborist on site.

- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
- iv) All tree pruning within the subject site is to be in accordance with WDCP2011 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
- v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

## **CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **8. Photographic Archival Record**

A photographic archival recording of the property will need to be undertaken in accordance with the NSW Office of Environment and Heritage's 'Photographic Recording of Heritage Item Using Film or Digital Capture' (2006).

This recording will be provided to Council for archival purposes.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

### **9. Teaching Space Windows and Doors**

The windows and doors to the proposed teaching space area are to be revised to Council's Heritage Officer's satisfaction.

Details demonstrating compliance with this condition are to be provided to the Principal Certifying Authority.

Reason: To preserve the Heritage significance of the item

### **10. BCA Report**

A 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' from an appropriately qualified Accredited Certifier\* will need to be submitted with the Construction Certificate application addressing the following:

The report is to detail the extent to which the existing building (relevant affected parts) does or does not comply with the deemed-to satisfy provisions of Sections C, D, E and F of the Building Code of Australia.

The report is to also provide recommendations with respect to the existing building / works required to ensure that the specified measures and facilities contained in the existing building, including any modifications to be made by the proposed development are appropriate for its intended use to:

- i) restrict the spread of fire from the building to other buildings nearby, and
- ii) protect persons using the building, and to facilitate their egress from the building in the event of fire, and
- iii) where appropriate, provide access for persons with a disability, and
- iv) provide facilities and services appropriate for the development

\*To be regarded as an "appropriately qualified accredited certifier" the certifier must hold the relevant level of accreditation that would enable the certifier to issue a construction certificate for the subject building.

The 'Building Code of Australia (BCA) Assessment Report' / 'Fire Audit Report' is to be submitted to the Certifying Authority with the Construction Certificate application.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety

**11. Required Planting**

Planting indicated on the approved plans is to comprise local native species only.

Reason: Local amenity.

**12. Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**13. 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**

**14. Waste Management Plan**

A Waste Management Plan shall be submitted prior to the issue of an Occupation Certificate detailing the on-going waste management of the premises.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

**15. Garbage and Recycling Facilities**

Provide a bin enclosure that is suitable for 3 x 240L bins. Screening is necessary for the public amenity of the area.

Reason: To prevent pollution of the environment and to protect the amenity of the area.

**16. Landscape completion certification**

- a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.
- b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a

landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

## ON GOING CONDITIONS

### 17. Hours of Operation

The hours of operation are to be restricted to:

Monday to Sunday – 7am to 10pm

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.