

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

**PROPOSED RECREATION
FACILITY (INDOOR)**

**5/3 VUKO PLACE
WARRIEWOOD**

APRIL 2019

statement of environmental effects

Submission to

NORTHERN BEACHES COUNCIL
PROPOSED RECREATION FACILITY (INDOOR)
5/3 VUKO PLACE WARRIEWOOD

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This statement has been prepared in consideration of the Expert Witness Code of Conduct in the Uniform Civil Procedure Rules and the provisions relating to expert evidence. The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts and circumstances as have been cited in the document.



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1.0 INTRODUCTION

This document has been prepared in order to provide a planning assessment and information in respect of a development application (the 'development application') which seeks consent to a proposed change of use of certain premises (the 'site' or 'unit [5]') in an existing commercial/industrial development situated at No 3 Vuko Place, Warriewood (the 'property').

Development consent is sought to a change of use from the existing use as a showroom and warehouse for the distribution and sale of organic skin care products and makeup, to a use for the purpose of a 'recreation facility (indoor)', as relevantly defined, together with the carrying out of certain minor internal alterations to the premises (jointly and severally, the 'proposed development' or 'proposal').

Consideration has been given to the environmental merit of the proposal as well as in relation to the following legislation, statutory planning instruments and subordinate policies:

- *Environmental Planning and Assessment Act 1979 (EPAA);*
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP);*
- *Pittwater Local Environmental Plan 2014 (PLEP); and*
- *Pittwater 21 Development Control Plan 2014 (PDCP).*

In our opinion, the development application succeeds on the merits and pursuant to the relevant legislation and, is suitable for a grant of development consent by Council.

2.0 SITE LOCATION AND DESCRIPTION

The site is located at Unit 5, No 3 Vuko Place, Warriewood.

The property itself is known as No 3 Vuko Place and is situated on the eastern side of the Vuko Place.

The immediate surrounding area consists for the most part of business park/industrial type development, with outlying residential development to the north, south, east and west.

A location plan is provided at **Annexure 1**.



An aerial photograph is provided at **Annexure 2**.

2.1 The Property

The property is legally described as Strata Plan 36915 and has an area of 9268.00 sqm. The property is irregular in shape and has a fall from west to east or to Pittwater Road.

The property presently comprises a number of commercial detached buildings and is located in a precinct containing a mixture of commercial/industrial type buildings comprising various uses.

The property adjoins commercial allotments to the north—a McDonalds restaurant adjoins the property to the north—and the United Cinemas complex adjoins immediately to the south (at No 4 Vuko Place), although land further to the north and east (the latter on the eastern side of Pittwater Road) is used for residential purposes. Northern Beaches Council maintains offices at No 5 Vuko Place, on the opposite side of Vuko Place.

The property is able to drain by gravity to the roadway.

Vehicular and pedestrian access to the property is provided via Vuko Place which is a cul-de-sac.

2.2 The Site

The site is legally described as Lot 4 in Strata Plan 36915. The site comprises a building unit having an area of 166 sqm together with 4 car parking spaces which legally form part of the strata lot.

As mentioned above, the site is currently occupied by a showroom and warehouse for the distribution and sale of organic skin care products and makeup.

Photographs of the property, including the site, and the surrounding streetscape are provided at **Annexure 3**.

3.0 DEVELOPMENT PROPOSAL

3.1 General and Definitional

The proposal involves a change of use of the site to a 'recreation facility (indoor)', in the nature of a



gymnasium, for the conduct of martial arts (specifically, Krav Maga), together with the carrying out of some minor, and purely internal, alterations to the premises.

Krav Maga is a form of martial arts. More particularly, Krav Maga is a self-defence and fighting system that was developed for the Israel Defence Forces and Israeli security forces. Krav Maga is derived from a combination of techniques sourced from boxing, wrestling, Aikido, judo and karate, along with realistic fight training. The practice of Krav Maga instils self-confidence and helps people to function effectively under stress. It also provides an excellent cardio workout.

The gymnasium itself will be equipped with all things ordinarily associated with the conduct of martial arts, such as mats, punching bags, weights, mirrors and focus pads.

The proposal, involving a use of the site essentially as a gymnasium, falls within the four corners of the definition of a 'recreation facility (indoor)', as relevantly defined in the Dictionary to *Pittwater Local Environmental Plan 2014* (PLEP) as follows:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The proposal involves use of the entire area of the industrial unit.

For additional detail relating to the proposed change of use and the proposed internal alterations, please refer to the plans accompanying the development application.

3.2 Hours of Operation

The proposed hours of operation of the recreation facility (indoor) are as follows:



Day	Opening Time	Closing Time
Monday	6:00 am	9:30 pm
Tuesday	6:00 am	9:30 pm
Wednesday	6:00 am	9:30 pm
Thursday	6:00 am	9:30 pm
Friday	6:00 am	6:00 pm
Saturday	6:00 am	5:00 pm
Sunday	6:00 am	12:00 pm

Table: Proposed hours of operation

3.3 Staffing

At any given time during the hours in which the proposed recreation facility (indoor) is in operation, there will be a maximum of 2 to 3 staff working in the facility.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 Exempt and Complying Development Codes SEPP

This Policy aims to provide a streamlined assessment process for development that complies with specified development standards.

'Exempt development', within the meaning of the EPAA, may be carried out under the Exempt Development Codes and, relevantly, under clause 2.20A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* for any of the purposes referred to in the table in the clause.

The purpose of a 'recreation facility (indoor)' **is not** a purpose referred to in clause 2.20A of the SEPP, notwithstanding that the use involves a *change of use of premises* under the General Exempt Development Code.

'Complying development', within the meaning of the EPAA, may be carried out by virtue of the Commercial and Industrial (Alterations) Code on certain land in



certain circumstances in accordance with the provisions of clauses 1.17A (1)(c)-(e), (2), (3) and (4) and 1.19 of the SEPP.

Notwithstanding that the use is a *change of use* under Part 5 of the Codes SEPP (relevantly, the Commercial and Industrial (Alterations) Code), in our opinion the proposal does not comprise complying development because it *may* involve a contravention of some of the matters referred to in clause 5.4 of the Codes SEPP relating to the hours of operation or the number of car parking spaces required. In addition, a recreation facility (indoor) is not a purpose referred to in clause 5.3 of the SEPP, notwithstanding that the use involves a *change of use of premises* under the Commercial and Industrial Alterations Code.

Perhaps more significantly, the land comprising the site is an 'environmentally sensitive area' (being the proximity area for coastal wetlands under *State Environmental Planning Policy (Coastal Management) 2018*) which prevents the application of the SEPP to the extent to which at least some of its provisions might otherwise have been applicable. For the same reason, the provisions of both the General Development Code and the Commercial and Industrial New Buildings and Additions) Code contained in the Codes SEPP are inapplicable.

In all the circumstances, development consent is sought in respect of the proposed development.

4.2 Pittwater Local Environmental Plan 2014

4.2.1 Zoning

The property is zoned B7 Business Park under the recently made PLEP.

The objectives of the B7 zone are as follows:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.



- To provide healthy, attractive, functional and safe business areas.

An extract from the PLEP zoning map is provided at **Annexure 4**.

In our opinion, the development is consistent with such of the zone objectives as are relevant (in particular, the objective set out in the third dot point). The proposed development will help to meet the day to day needs of workers in the area.

4.2.2 Permissibility

The purpose of the proposed development—a 'recreation facility (indoor)'—is nominately permissible with the consent of the consent authority: refer item 3, land use table, B7 zone.

The proposed minor and purely internal alterations to the premises are ancillary and incidental in nature. Importantly, by reason of the fact that the proposed works are minor and purely internal, many of the clauses of the PLEP, are simply inapplicable.

4.3 Pittwater 21 Development Control Plan 2014

4.3.1 Key Aims and Objectives

Pittwater 21 Development Control Plan 2014 (PDCP) applies to the carrying out of development on the site.

The key aims of PDCP include aims relating to ecologically sustainable development as well as environmental, social and economic objectives.

In our opinion, the proposed use will contribute positively to the attainment of the social and economic objectives by providing an increased opportunity for employment, strengthening of the local economic base on the Northern Beaches, and catering in a positive way to the health, wellbeing and fitness of those who live and work in the area.



It must be stressed, however, that development control plans contain guideline controls at best: see *Zhang v Canterbury City Council (1999)* 105 LGERA 18. This is enshrined in sections 3.42 and 4.15(3A) of the EPAA.

As the development application is for a change of use of premises for use as a recreation facility (indoor) together with the carrying out of some minor interior alterations, the proposed development is unlikely to have a detrimental effect on the local natural environment. The complex in which the unit is situated has been constructed for some time now as have the built premises to the north and south. In addition, the proposal does not involve erection of new built structures other than partitions that are purely internal to the existing building. As such, the majority of the controls in PDCP are of limited relevance to the subject-matter of the development application.

4.3.2 Locality

The property is located in the Warriewood Locality.

In our opinion, the proposed development is generally consistent with the outcomes in Part D14.1 of PDCP.

In our opinion, the proposed development responds in all respects to the context in which the property is located.

4.3.3 Bushfire Hazard

The property is classified in PLEP as a 'Buffer Zone'.

Although the proposed development does not involve external alterations or additions to the existing building, nor the development of a new building, but merely internal design changes and change of use, a bushfire report accompanies the development application.



The bushfire report concludes that the proposed development is acceptable from a bushfire hazard point of view, subject to the carrying out of some minor works which will be carried out in the event that consent is granted to the development. The minor works in question involve the installation of flyscreens on the windows, a protective seal on the top of the roller door, and draught excluders on the doors.

Please refer to the bushfire report for further details.

4.3.4 Setbacks and Built Upon Area

The setbacks of all buildings on the property, including the site, will remain unchanged.

The built upon area will not change.

4.3.5 Impervious Area

The total impervious area will remain unchanged. The proposed change of use, and the carrying out of the proposed minor internal alterations to the building on the site, will have no impact on the impervious area nor the landscaping or on-site parking.

4.3.6 Visual Character

The visual character of the property comprising the site will remain unchanged.

4.3.7 Views

There are no evident views to speak of, and the proposal will not cause any negative impact on views.

4.3.8 Solar Access

Solar access remains unchanged as a result of the proposed development.



4.3.9 Landscaping

The property the subject of the development application does not involve any change to existing landscaping nor result in there being any impact on existing trees on the property.

There will be an identical area landscaping as currently enjoys. There will be no impact on existing trees on the property.

4.3.10 Silt and Sediment Control

There will be no silt and sediment control issues arising from the carrying out of the proposed development on the site.

5.0 KEY ISSUES

5.1 Car Parking

Under clause B6.5 of PDCP, the most suitable description of the proposed use as respects the range of uses listed in the car parking table is 'business premises'.

The on-site parking requirements is a minimum of 1.0 car space per 60 square metres gross floor area (GFA).

The total GFA of the unit is around 166 sqm. The number of existing car parking spaces allocated to the industrial unit, and presently forming part of the strata plan lot, is 4. The required number of car parking spaces, based on GFA, is 2.77, that is rounded up, a total of 3. The number of spaces provided complies with the requirement in PDCP.

In our opinion, given the local draw of the facility, the proposed change of use is unlikely to generate additional traffic and parking demand outside of the present provision.

In short, the allocated car parking spaces satisfy the PDCP provisions with respect to car parking.



5.2 Public Transport

The property is close to Pittwater Road and has excellent access to bus services as well as being easily accessible for private transport use.

5.3 Environmental Impact

The proposal is for a change of use and minor internal alterations involving no exterior physical works. In our opinion, the proposal would have a negligible environmental impact.

5.4 Compliant Use

The proposed use is permissible in the B7 zone under the PLEP 2014 (with consent), is compliant with the regime of planning controls and meets the objectives of PLEP and PDCP.

5.5 Building Alterations

The proposed interior alterations to the unit on the site will not affect the gross floor area, floor space ratio or the external appearance of the building itself. The plans accompanying the development application show the extent of the proposed interior works.

6.0 CONCLUSION

This document addresses the statutory regime applicable to the application and demonstrates that the proposed change of use and carrying out of minor internal alterations is appropriate and will complement the site and its surrounds, in particular, the precinct in which the property is located.

The heads of consideration pursuant to section 4.15 of the EPAA have been considered and there are no matters which would prevent Council from granting consent to the proposal in this instance.

In our opinion, the proposal merits support by the consent authority and the grant of conditional development consent.



ANNEXURE 1

LOCATION PLAN



LOCATION PLAN

Courtesy Six Maps





ANNEXURE 2

AERIAL PHOTOGRAPH



AERIAL PHOTOGRAPH

Courtesy Six Maps



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Annexure 2

DRAWN: ap

5/3 Vuko Place
 Warriewood



ANNEXURE 3

PHOTOGRAPHIC PALETTE



Photograph 1 View of the built form



Photograph 2 View of the warehouse type unit and adjoining units



Photograph 3 View of the existing property looking south



Photograph 4 View of the rear of the site showing the common area behind the unit

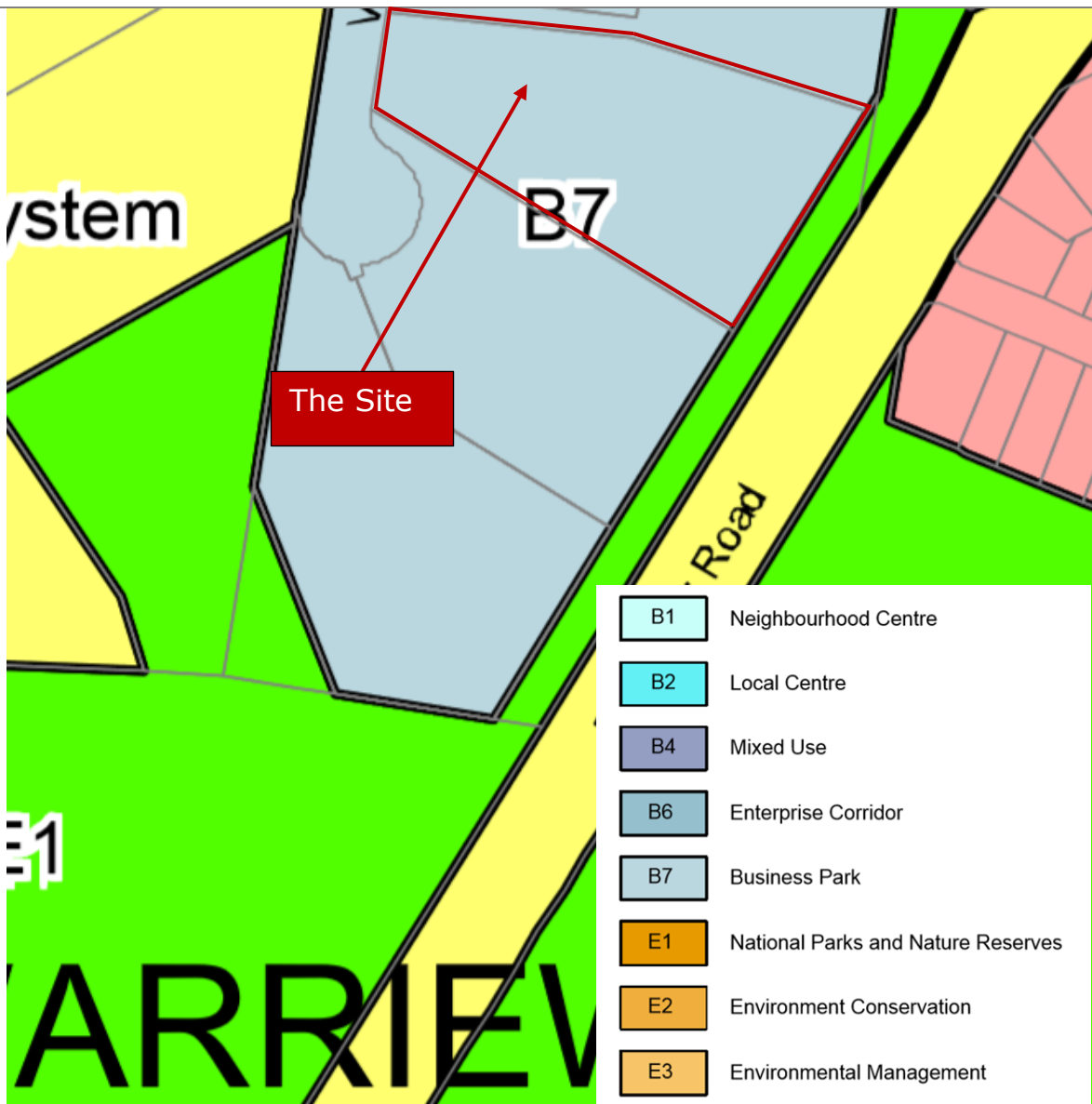


Photograph 5 View of the adjoining cinema complex to the south



ANNEXURE 4

ZONING MAP (EXTRACT FROM PLEP)



ZONING MAP

Extract from PLEP

