

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1072
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Responsible Officer:	Gareth David
Land to be developed (Address):	Lot 1 DP 1245996, 14 Inman Road CROMER NSW 2099
Proposed Development:	Use of premises as a recreational facility (indoor)
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:	Pipri Pty Ltd Thom Foolery Pty Ltd
Applicant:	Jack Eric Cox

Application Lodged:	12/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	21/07/2021 to 04/08/2021
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent to for the use of the premises as a Recreation Facility – Indoor (Gymnasium), specifically for the use as a Jiu Jitsu Matial Arts Studio. The application is for the change of use only and does not propose any physical works, change in floor area or new signage.

The operational details proposed are as follows:

- Employment of Two (2) staff;
- Space to accommodate up to 20 patrons; - The maximum number of students for classes is 20.

The following hours of operation are proposed:

- Monday – Thursday: 4:00pm to 7:30pm
- Friday: 4:00pm to 8:00pm
- Saturday: 8:30am to 12:00pm
- Sunday: Closed

The proposed class timetable is as follows:

Monday, Wednesday & Friday: 400pm to 800pm

- 400pm -430pm Kids (4 to 6 years old)
- 430pm-515pm Kids (7 to 10 years old)
- 515pm-600pm (11 to 15 years old)
- 615pm -730pm (Adults)

Tuesday & Thursday 500pm to 800pm

- 530pm -730pm (Adults)

Saturday: 830am to 1200pm

- 830am -900am Kids (4 to 6 years old)
- 900am-945am Kids (7 to 10 years old)
- 945am-1030am (11 to 15 years old)
- 1030am-1200pm (Adults)

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 Local Environmental Plan 2011 - Zone IN1 General Industrial
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - C2 Traffic, Access and Safety
 Warringah Development Control Plan - C3 Parking Facilities
 Warringah Development Control Plan - D3 Noise
 Warringah Development Control Plan - D18 Accessibility and Adaptability
 Warringah Development Control Plan - D20 Safety and Security
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

Property Description:	Lot 1 DP 1245996 , 14 Inman Road CROMER NSW 2099
Detailed Site Description:	<p>The subject property address relates to 14 Inman Road CROMER, a property located on the north-eastern corner of Inman Road and Orlando Road</p> <p>The site is irregular in shape with a frontage of 81.29m along Inman Road and 30.46m along Orlando Road. The site has a surveyed area of 2956m²</p> <p>The site is located within the IN1 General Industrial zone and accommodates an existing multi level industrial building.</p> <p>The subject building comprises of a total of 12 tenancies over 2 levels, with parking on both the ground and first floor levels. Ground level parking is accessed via Inman Road and first floor level parking is accessed via Orlando Road.</p> <p>Unit 9 (subject of this change of use application) is located on the first floor of the building, and accessible via a ramp located off Orlando Road providing shared access for vehicles and pedestrians. The gross floor area of Unit 9 is 237sqm (inclusive of a 46sqm mezzanine level) and has 2 car spaces allocated. A stairwell and lift runs from the ground to upper level parking areas.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u> Adjoining and surrounding development is characterised by similar industrial development.</p>

Map:



SITE HISTORY

A search of Council's records has revealed the following relevant history:

Development Application - DA2020/1575

Subdivision of existing industrial/warehouse building into twelve strata lots. Determined 03/03/2021

Subdivision Certificate - SC2018/0067

Consolidation of 2 lots (14 Inman Road and 21 Orlando Road) into one and creation of drainage easement. Determined 01/08/2018.

- **History of former 21 Orlando Road**

Modification Application - MOD2017/0152

Modification of Development Consent DA2013/0708 granted for demolition works and construction of an industrial building. Determined 07/08/2017.

Modification Application - MOD2014/0106

Modification of Development Consent DA2013/0708 granted for demolition works and construction of an industrial building. Determined 29/10/2014

Development Application - DA2013/0708

Demolition of the Existing Industrial Building and Construction of a New Industrial Building. Determined 15/10/2013

- **History of former 14 Inman Road**

Modification Application - MOD2017/0153

Modification of Development Consent DA2014/0577 granted for demolition works and construction of an industrial building. Determined 07/08/2017.

Development Application - DA2014/0577

Demolition of the Existing Industrial Building and Construction of a New Industrial Building. Determined 29/10/2014.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for industrial purposes for an extended period of time. The proposed development retains the industrial use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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 clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to an operational Plan of Management</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). 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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 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 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 21/07/2021 to 04/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

Name:	Address:
Mr Joseph Julian Hauser	31 Hay Street COLLAROY NSW 2097
Executive Strata	Unit 29b/5-7 Inglewood Place BAULKHAM HILLS NSW 2153

The matters raised within the submissions are addressed as follows:

- **Insufficient parking and impacts to on-street parking**

Comment:

This matter has been addressed within *C3 Parking Facilities* of this report. In summary Council's Traffic Engineers have reviewed the proposal and is satisfied that the proposed use would not result in unreasonable parking impacts. Council is satisfied that reliance on the available on-street parking coupled with the existing 2 off-street spaces will be acceptable, subject to a condition restricting the operational hours and the number of patrons within the tenancy to a maximum of 20 people (and 16 patron capacity between 4:00pm and 4:30pm). Given the proposed operational hours, at the end of the peak parking demand period for the adjoining industrial businesses, it is anticipated that on-street parking will be available to accommodate the proposed use. It should be noted that any additional hours of operation will require a new application and the need for a detailed parking occupancy study to reconcile the deficiency in off street parking.

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>
Environmental Health (Industrial)	<p>General Comments</p> <p>The proposed operational hours are reasonable and not likely to cause a noise impact in the industrial zoned area. Operating hours Mon-Thurs 4:00pm to 7:30pm, Friday 4:00pm to 8:00pm, Saturday 8:30am to 12:00pm and closed Sunday. The nearest residential receiver is on Orlando St over 100m away. Music is proposed and will be conditioned. No gym equipment such as weights that can cause a noise impact are proposed.</p> <p>Recommendation</p>

Internal Referral Body	Comments
	APPROVAL - subject to conditions
Environmental Health (Food Premises, Skin Pen.)	<p>General Comments</p> <p>An assessment of this development under food premises, skin pen is not required as no food or skin pen proposed. This is a gymnasium holding Jiu Jitsu classes only.</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
NECC (Development Engineering)	<p>There are no proposed works with the application.</p> <p>No objection to approval with no conditions recommended.</p>
Traffic Engineer	<p>The change of use for the proposed recreational facility has been assessed and it is noted the applicant has access to 2 on site parking spaces and under the Warringah DCP (based on the GFA of 234m²) there is a need for 11 in total, there is a deficiency of 9 spaces. The proposed operation hours are at the end of the peak parking demand period for the adjoining businesses (Monday – Thursday: 4:00pm to 7:30pm-Friday: 4:00pm to 8:00pm-Saturday: 8:30am to 12:00pm-Sunday: Closed) when there is suitable availability to support the proposed usage.</p> <p>Safety improvements to the pedestrian access is required to provide suitable delineation of the pedestrian access desire line from the on-street parking area.</p> <p>Application support subject to conditions.</p>

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 industrial 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 industrial land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

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

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	11m	N/A - Change of use with no associated works	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements

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

Detailed Assessment

Zone IN1 General Industrial

The works are considered to be a “recreation facility (indoor)” as defined in Warringah LEP.

As the Land Use table of Zone IN1 General Industrial does not note the recreation facility (indoor) as being either permissible without consent under Item 2 or Prohibited under item 4, the use of the subject unit for a recreation facility (indoor) is permitted with the consent of Council.

It is considered that the proposed use would meet the objectives of this zone which seek to enable a range of compatible community and leisure uses, and provide a provide facility to meet the day to day needs of workers in the area.

6.4 Development on sloping land

The proposal is solely for the change of use of an existing building and does not involve any physical works or excavation. As such the proposed would continue to meet the objectives of this control. The Application has been reviewed by Council's Development Engineer who has raised no objection to the proposal.

Warringah Development Control Plan

Built Form Controls

As the proposal relates only to a change of use with no associated physical works, the overall built form of the approved development remains unchanged.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D9 Building Bulk	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	No	Yes
D20 Safety and Security	No	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	No	Yes

Detailed Assessment

C2 Traffic, Access and Safety

Council's Traffic Engineer has reviewed the proposed development and is satisfied that the proposed development will not have an unreasonable impact on the surrounding traffic and road network, subject to a conditions which requires the delineation of the pedestrian access path and internal safety signage and the restriction of the sites occupancy and hours of operations. Conditions are also recommended which require the Operational Plan of Management to be updated in order to detail pedestrian safety measures and details of how pedestrian access will be easily defined, signposted, appropriately lit, visible and give direct access to building from parking and other areas.

The proposal has been reviewed by Council's Building Control Officer in relation to BCA and Accessibility compliance. No objection has been raised subject to compliance with conditions to provide details of the implementation and compliance with Part D of the Building Code of Australia – 'Access & Egress'.

C3 Parking Facilities

Merit consideration

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 (+/-)
	4.5 car spaces per 100sqm	11	2	-9
Total		11	2	-9

The area of the unit is approx. 237sqm (inclusive of a 46sqm mezzanine level), and therefore, in accordance with C3 - Parking Facilities, the proposed development would require 11 off-street carparking spaces (4.5 spaces per 100m² for recreation "gymnasium" land uses) to satisfy the requirements of the Schedule.

A total of two (2) carparking spaces are available on-site. Vehicle access to these car parking areas is provided via an access ramp off Orlando Road.

Having regard to the above, the proposed development does not satisfy the requirements of the control. However, it is considered appropriate in this instance with the merit assessment being undertaken below.

Comment:

The proposed development is for an the use of the building as a Jiu Jitsu Matial Arts Studio.

As part of the proposal, two (2) car spaces will be provided.

The proposed use of the unit involves appointment based training involving one-on-one training, group sessions and individual training. The maximum staff onsite at any one time is 2 staff members, with 16 to 20 patrons at each group session.

It is noted that the peak usage hours of the Jiu Jitsu Studio is generally after the commercial trading peak hour periods.

The applicant has submitted an Operational Plan of Management which details that opening hours and Group sessions will be primarily after commercial trading peak hour periods. The Operational Plan of Management also specifies that classes before 4:30pm will have a reduced capacity (16 Patron Capacity)

The application has been referred to Council's Traffic Engineers, who have reviewed the proposal and provided the following comments:

"The change of use for the proposed recreational facility has been assessed and it is noted the applicant has access to 2 on site parking spaces and under the Warringah DCP (based on the GFA of 234m²) there is a need for 11 in total, there is a deficiency of 9 spaces. The proposed operation hours are at the end of the peak parking demand period for the adjoining businesses (Monday – Thursday: 4:00pm to 7:30pm-Friday: 4:00pm to 8:00pm-Saturday: 8:30am to 12:00pm-Sunday: Closed) when there is suitable availability to support the proposed usage. Safety improvements to the pedestrian access is required to provide suitable delineation of the pedestrian access desire line from the on-street parking area. Application support subject to conditions."

Planner Comment:

Based on the above comments, Council is satisfied that reliance on the available on-street parking coupled with the existing 2 off-street spaces will be acceptable, subject to a condition restricting the operational hours and the number of patrons within the tenancy to a maximum of 20 people (and 16 patron capacity between 4:00pm and 4:30pm). A site visit revealed that there is a large number of unrestricted public parking surrounding the development site, including parking bays along Middleton Road. Given the proposed operational hours, at the end of the peak parking demand period for the adjoining industrial businesses, it is anticipated that on-street parking will be available to accommodate the proposed use. It should be noted that any additional hours of operation will require a new application and the need for a detailed

parking occupancy study to reconcile the deficiency in off street parking. Subject to compliance with this condition, the off-street parking will be acceptable.

Accordingly, the noncompliance with the number of parking spaces are acceptable in this particular circumstance.

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

Comment:

The proposal does not involve additional parking structures on the site.

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

Comment:

As noted above, the proposal does not involve additional parking structures on the site.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development will be consistent with the objectives of this control, subject to compliance with the conditions of consent.

D3 Noise

An acoustic assessment which considers both internal and external noise sources including noise emissions associated generated by the proposed Jiu- Jitsu Academy use has been submitted to address the potential noise impacts of the development. The acoustic assessment report, prepared by Noise and Sound Services, has found that noise generated by the proposed use would comply with the criteria of the NSW EPA and Australian Standards and would not adversely impact the amenity or the operations of the adjoining commercial/industrial tenancies nor be audible at any residential premises.

Council's Environmental Health Team have assessed the proposed use in relation to the documentation submitted with the subject development application and are satisfied the development will not have an unreasonable impact with regard to noise (subject to conditions).

D18 Accessibility and Adaptability

The proposal has been reviewed by Council's Building Control Officer in relation to BCA and Accessibility compliance. No objection has been raised subject to compliance with conditions to provide details of the implementation and compliance with Part D of the Building Code of Australia – 'Access & Egress'.

The subject unit "unit 9" is located on the upper level of an existing industrial development. This unit is accessed from via an access ramp off Orlando Road. As no off street parking spaces are proposed for patrons, pedestrian access would be from this ramp, which is also used by vehicles to access parking areas and loading zones for surrounding industrial tenancies. In order to ensure pedestrian safety,

Council's Traffic Engineer has recommended a condition to facilitate safety improvements to provide suitable delineation of the pedestrian access desire line from the on-street parking area. This condition is to also ensure that signage is to be installed to warn both pedestrians and drivers of the potential hazards within the car park to address safety concerns through the increased use of the premises by the clients of the development.

D20 Safety and Security

The subject unit "unit 9" is located on the upper level of an existing industrial development. This unit is accessed from via an access ramp off Orlando Road. As no off street parking spaces are proposed for patrons of the Jiu- Jitsu studio, pedestrian access would be from this ramp, which is also used by vehicles to access parking areas and loading zones for surrounding industrial tenancies. In order to ensure pedestrian safety, Council's Traffic Engineer has recommended a condition to facilitate safety improvements to provide suitable delineation of the pedestrian access desire line from the on-street parking area. This condition is to also ensure that signage is to be installed to warn both pedestrians and drivers of the potential hazards within the car park to address safety concerns through the increased use of the premises by the clients of the development. Conditions are also recommended which require the Operational Plan of Management to be updated in order to detail pedestrian safety measures and details of how pedestrian access will be easily defined, signposted, appropriately lit, visible and give direct access to building from parking and other areas.

E10 Landslip Risk

Description of non-compliance

The site is located within 'Area D' on the Landslip Risk Map pursuant to the WLEP 2011. Clause E10 of the WDCP 2011 requires a Preliminary Geotechnical Assessment to be submitted with an application involving construction works. A Preliminary Geotechnical Assessment has not been submitted with this application, which fails to comply with this control.

This clause specifies that no preliminary assessment of site conditions will be required in Areas D if the proposed development does not involve any site, building or structural works. The proposal is solely for the change of use of an existing structure and does not involve any physical works or excavation.

Merit consideration:

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

- *To ensure development is geotechnically stable.*

Comment:

The proposal is for the change of use of an existing building and does not incorporate physical works. Given the nature of the proposal and site conditions, it is not anticipated that the proposal will increase the risk of landslip on the site.

- *To ensure good engineering practice.*

Comment:

Conditions have been included with this consent to ensure all works comply with relevant

Australian Standards and Codes.

- *To ensure there is no adverse impact on existing subsurface flow conditions.*

Comment:

The proposal does not result in ground disturbance and as such, the development will not impact on or affect the existing subsurface flow conditions.

- *To ensure there is no adverse impact resulting from stormwater discharge.*

Comment:

The proposal would not alter storm water discharged.

Concluding Remarks

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit in this particular circumstance

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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 DA2021/1072 for Use of premises as a recreational facility (indoor) on land at Lot 1 DP 1245996, 14 Inman Road, CROMER, 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
DA04 Rev.E - Change of use - Upper Ground & Mezzanine Floor Plan	May 2017	HUMEL Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Noise Impact Study (nss23435 – Final)	July 2020	NOISE AND SOUND SERVICES
Plan of Management	January 2019	Jack Eric Cox

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. **Approved Land Use**

Nothing in this consent shall authorise the use of Unit 9 as detailed on the approved plans for any land use of the site beyond the definition of a recreational facility (indoor).

A recreational facility (indoor) - is defined as:

“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”
(development is defined by the Warringah Local Environment Plan 2011 (as amended)
Dictionary)

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.

3. **No approval for works**

This consent authorises the change of use of Unit 9 only. No approval is granted under this Development Consent for any additional building works, internal fitout or modification to the site, other than those required to fulfil imposed conditions of this consent. This consent does not regularise any unapproved building works.

Reason: To ensure that this consent grants approval only the use of the site and is consistent with the proposal.

4. **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.

5. 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 skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or 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) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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.

6. **Signage**

This consent does not authorise any business identification signage.

Reason: To ensure the work is carried out in accordance with the determination of Council

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

7. **Allocated Parking Spaces (retail/commercial)**

Parking allocated to this development must be clearly signposted and linemarked as being for the exclusive use of this development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure parking availability.

8. **Access and Egress**

Prior to the issue of any interim or final Occupation Certificate details demonstrating implementation and compliance with Part D of the Building Code of Australia – 'Access & Egress' are to be provided to the Principal Certifier.

Reason: To ensure adequate provision is made for Access & Egress for building occupant health and Safety

9. **Revised Operational Management Plan**

The submitted Operational Management Plan (OMP) is required to be updated detailing how the operation of the development will implement procedures to ensure pedestrian safety.

The OMP shall include, but not be limited to the following:

- Details of pedestrian access and egress.
- Details of through-site circulation of pedestrian and vehicle movements and safety methods/measures of minimising conflict between them.
- Details of pedestrian safety measures and details of how pedestrian access will be easily defined, signposted, appropriately lit, visible and give direct access to building from parking and other areas
- Management of car parking areas and methods of restricting congregation within these areas .
- The location and content of directional signage.
- Complaints management.
- Noise management.

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

Reason: To ensure pedestrian safety and that the development operates with minimum disruption to the surrounding area.

10. **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.

11. **Delineation of the pedestrian access path and internal signage**

Prior to the issue of any occupation certificate the applicant is to install suitable delineation treatments between the external public footpath in Orlando Road and the entry to the facility. The pedestrian travel path on the access ramp is to be delineated using an approved system that includes a vertical element of a minimum height of 750 mm. Suitable line marking in accordance with *AS 2890.1 - 4.4.2 Pedestrian Crossing Markings*, is to be installed within the car parking area to delineate the pedestrian path. Signage is to be installed to warn both pedestrians and drivers of the potential hazards within the car park to address safety concerns through the increased use of the premises by the clients of the development. Appropriate lighting is to be installed to ensure that the pedestrian travel path is adequately lit

during operational hours.

Certification of the compliance with this condition provided by a suitably qualified traffic engineer is to be provided to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To address potential conflict and safety concerns with in the car park area.

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

12. Site Occupancy

The patrons in attendance at any one time is to be restricted to a maximum of 20.

The patrons in attendance at any one time, prior to 4.30pm Monday - Friday, is to be restricted to a maximum of 16.

Reason: To ensure that all parking generated by the site is contained on the site.

13. Commercial Waste Collection

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.

14. Pedestrian Access

Pedestrian Access from the street to the entry of the proposed use is to be clearly defined, signposted, appropriately lit, visible and give direct access to the unit from parking area. This pedestrian access is to be appropriately lit during operational hours.

Reason: To ensure pedestrian safety.

15. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape

16. Compliance with the Plan of Management

The requirements of the Operational Management Plan referenced as "Plan of Management" is to be fully implemented in perpetuity from the issue of any occupation certificate.

Reason: To ensure the premises a maintained in an appropriate manner in perpetuity.

17. Amplified Music

Amplified music is not to be played on the premises at any time.

Reason: To minimise noise impacts.

18. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely.

19. **No preparation of food**

There shall be no preparation of food or cooking for patrons on the premises.

Reason: To ensure compliance with legislation and to protect public health

20. **Noise**

All noise generated through the operation of the development must not cause offensive noise as defined under the *Protection of the Environment Operations Act 1997*. Music associated with the operation of the development must not cause a noise impact on surrounding units.

Reason: Protect the noise amenity of the area

21. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday – Thursday: 4:00pm to 7:30pm
- Friday: 4:00pm to 8:00pm
- Saturday: 8:30am to 12:00pm
- Sunday: Closed

Class size is limited to a maximum of 20 people.

Reason: Information to ensure that amenity of the surrounding locality is maintained and adequate parking is available.

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

Signed



Gareth David, Planner

The application is determined on 22/09/2021, under the delegated authority of:



Lashta Haidari, Acting Development Assessment Manager