

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0289
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Responsible Officer:	David Auster
Land to be developed (Address):	Lot 1 SP 94554, 2 / 374 - 378 Sydney Road BALGOWLAH NSW 2093
Proposed Development:	Use of premises as an indoor recreation facility and signage
Zoning:	Manly LEP2013 - Land zoned B2 Local Centre
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Wellton Property Group Pty Ltd
Applicant:	Turnbull Planning International Pty Ltd

Application Lodged:	01/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	13/04/2021 to 27/04/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 15,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The subject development application seeks consent for the first-time use of the subject tenancy as an indoor recreation facility (a Brazilian Ju jitsu training studio).

Physical works

Works associated with the fitout and use include the following:

- A reception area adjacent to the entrance including a desk and fridge,
- Two (2) changing rooms, and
- Other fitout works including epoxy floor coatings and soft fall rubber floors.

No toilets are proposed within the tenancy, as exclusive access is provided to existing facilities within

common areas.

Two (2) signs are also proposed, and are to be installed within the glass on the main access doorway and a window addressing the western boundary.

Operational elements

The use of the site will include Ju jitsu training on mats; students will be mostly 'horizontal' on the mats with grappling involving various holds, manoeuvres and techniques. The site does not propose to operate as a gym; weights, training machinery, and other equipment (e.g. medicine balls) are not proposed.

Proposed operating hours:

- Monday: 6:00am - 8:00pm
- Tuesday: 12:00pm - 8:00pm
- Wednesday: 6:00am - 8:00pm
- Thursday: 12:00pm - 8:00pm
- Friday: 6:00am - 8:00pm
- Saturday: 9:00am - 12:00pm
- Sunday: Closed

Maximum number of staff onsite: Two (2)

Maximum number of students onsite at one time: Twenty five (25)

Number of car parking spaces: One (1)

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

Manly Local Environmental Plan 2013 - 6.11 Active street frontages

Manly Development Control Plan - 4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Manly Development Control Plan - 4.4.3 Signage

SITE DESCRIPTION

Property Description:	Lot 1 SP 94554 , 2 / 374 - 378 Sydney Road BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site is identified as Shop 2, 374-378 Sydney Road, Balgowlah (Lot 1 SP 94554), and is a commercial tenancy located on the ground floor within a mix-used premises identified as 374-378 Sydney Road Balgowlah.</p> <p>The site has a three road frontages; the southern boundary adjoins Sydney Road, while the northern and western boundaries adjoin Totem Lane, which encompasses those two boundaries; the eastern boundary adjoins 366-372 Sydney Road, which also contains a mixed-use development. The overall site is regularly-shaped with a moderate south-to-north fall.</p> <p>The site is located within the B2 Local Centre zone under MLEP 2013. The site is mapped as being affected by a class 5 acid sulphate soils and within an area which forms part of Manly Active Street frontages. The site does not contain a heritage item and is not within a heritage conservation area; the site is also not in close proximity to a heritage item.</p> <p>Development on the site consists of mixed-use development, which includes two commercial tenancies (including the subject tenancy) and common facilities, with four residential levels above. The site also contains two basement carpark levels. The subject tenancy is located on the northern side of the ground levels, and addresses both Totem Lane frontages to the north and west. The subject tenancy has an internal area of 93m², in addition to a balcony addressing Totem Lane and a single allocated car space within basement level 1. The subject tenancy is also currently vacant (the other tenancy (Shop 1) contains a Women's health centre).</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Development on surrounding sites is highly diversified. Development on sites to the south, east and west along Sydney Road contain a variety of commercial and mixed-use developments. Development to the north on the opposite side of Totem Lane contains a high-density residential development consisting of residential flat buildings with commercial development beneath. Development within the broader area consists predominately of low-to-medium density residential development.</p>

Map:



SITE HISTORY

The land has been used for commercial and residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history (note: the following excludes site history prior to approvals for redevelopment of the site, as applications prior to this time are not deemed to be relevant):

- 21 June 2012: Development Application no. DA0277/2011/1 refused. The application proposed demolition of the existing building, construction of a Mixed Use Development consisting of a retail area on the ground floor, twenty-four (24) residential apartments and two (2) levels of basement car parking with twenty-five (25) car parking spaces.
- 15 November 2012: Section 8.2 (formerly Section 82A) review no. DA0277/2011/2 approved, for the demolition of a retail building and the construction of a mixed use development consisting of a retail area on the ground floor, twenty four (24) residential apartments, and two (2) levels of basement car parking with twenty-five car parking spaces.
- 10 April 2013: Section 4.55 Modification Application no. DA0277/2011/3 approved. Approved modifications included deletion of condition ANS01 (to delete residential apartments from ground floor and to use only for business purposes).
- 20 March 2014 : Section 4.55 Modification Application no. DA0277/2011/4 approved. Approved modifications included changes to lifts and fire escapes, enclose voids, increase the size of the units on all the floors, modification to ground floor balustrade, relocation of mechanical ventilation and modification to floor level on the ground floor.
- 7 January 2015: Section 4.55 Modification Application no. DA0277/2011/4 refused. Proposed modifications included conversion of the approved ground floor non-residential floor area into two (2) x one (1) bedroom apartments, internal modifications and relocation of commercial/ retail garbage bin storage area to make more accessible.
- 31 July 2015: Development Application no. DA0126/2015 approved for a two (2) lot Stratum Subdivision, with Stratum Lot 1 being Strata Subdivided into two (2) lots with associated car parking and Stratum Lot 2 being Strata Subdivided into nineteen (19) lots with associated car parking.
- 6 February 2019: Complying Development Application no. CDC2019/0077 approved for internal alterations to existing building for Square One Physiotherapy Balgowlah to Tenancy 1 at ground

floor level.

- 9 February 2021: Meeting held for Prelodgement Application no. PLM2021/0012, for a change of use within the subject tenancy.
- 1 April 2021: Subject Development Application lodged.

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 residential/commercial purposes for an extended period of time. The proposed development retains the existing uses of the site and will not result in any external disturbance nor any foreseeable contamination of the site, and as such is not considered to be a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly 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 exit distances.</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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</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 Manly 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 13/04/2021 to 27/04/2021 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The additional information submitted which now indicates that the Means of Egress can comply with the BCA and the unisex toilet facility is permitted for use of the staff and patrons has been reviewed. There are no objections to approval of the development.</p> <p><u>Previous Comment:</u> The plans submitted for approval indicate that the Means of Egress for the Class 9B Gymnasium do not comply with the provisions of Part D1, Vol. 1 of the Building Code of Australia (BCA) (i.e. the travel distance is more than 20m to the exit). In this regard a report is required from an appropriately registered Certifier to review this matter and determine a solution which could meet the requirements of the BCA prior to the determination of the Development Application.</p> <p>Note: The applicant is also required to provide evidence that the future patrons have unobstructed use of the Unisex toilet during the hours of operation for the gymnasium.</p>
Environmental Health (Industrial)	<p>General Comments</p> <p>Environmental Health have been requested to provide comment on the proposed Martial Arts studio at 2/374-378 Sydney Rd, Balgowlah, NSW. As part of this assessment acoustics and how the use of the site will affect the amenity of the surrounding area.</p> <p>The development proposal is accompanied by an Acoustic report by Acoustic dynamics referenced as 5146R001.NW.210225 and dated 8 March 2021.</p> <p>The development proposal advises that the business will operate from 6am to 8pm Mondays to Fridays & 8am to 12pm Saturdays to Sunday. The EPA noise policy for industry defines daytime as 7am-6pm Monday to Saturday and 8am-6pm on a Sunday. Meaning the proposed use of the site sits in the shoulder periods between night and evening. As background noise is increasing in the morning during this time and decreasing in the evenings the use of the site is expected to maintain acoustic amenity. Given an acoustic report has been submitted with recommendations, conditions have been imposed to protect surrounding residents during these time periods and during the use of the site.</p> <p>Environmental Health have no objections subject to conditions being imposed.</p> <p>Recommendation</p>

Internal Referral Body	Comments
	APPROVAL - subject to conditions
Traffic Engineer	<p>The development application is for a use of a unit 2 within the existing commercial and residential complex as a gymnasium and specifically as a Ju Jitsu Studio. The studio which has a gross floor area of 121 sqm will operate Monday to Saturday with classes commencing as early as 6:00am and finishing as late as 8:00pm. Classes will cater for up to 25 students with peak times anticipated to be between 3pm and 7pm.</p> <p>Parking</p> <p>The Manly DCP does not specify a rate for gymnasiums but refers applicants to the RMS Guide to Traffic Generating Development which specifies a rate of 4.5 spaces for every 100 sqm of floor in a sub regional area. Updated parking accumulation surveys were however conducted for RMS in 2014 which found an average peak vehicle accumulation of 2.8 spaces per 100sqm of GFA. This suggests that the gym would have a parking requirement of 3.39 spaces (rounded up to 4)</p> <p>There is one parking space on site allocated to unit 2 and no changes to the parking provision are proposed in conjunction with the development. The parking and traffic impact assessment report submitted with the application notes that the site is located within close proximity to frequent bus routes serving multiple destinations on Sydney Road, this has the potential to offset the demand for parking as many customers may arrive and depart by public transport. The site is also located within the Balgowlah shopping strip and adjacent to the Stocklands shopping centre, this means some customers will attend the gym in conjunction with visits to the shops or to Stocklands and some may chose to park within the Stocklands carpark or on street while doing so. This also offsets the need for parking at the gym.</p> <p>Given the above the 1 parking space available on site is considered adequate in this instance. The proposed parking space is sized such that it meets the requirements of AS2890.1</p> <p>Traffic Generation</p> <p>The traffic and parking impact assessment has estimated the peak hourly traffic generation of the development to be 4 trips. This level of traffic is unlikely to make a perceptible difference to traffic conditions on the surrounding road network</p> <p>Loading</p> <p>There is a Loading Zone in Totem lane sited within close proximity of the development which could be utilised for the small number of deliveries anticipated to be generated by the use.</p>

Internal Referral Body	Comments
	<p>Summary</p> <p>The proposed gym development at unit 2 374-378 Sydney Road is considered acceptable in terms of its traffic and parking impacts</p>

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 mixed (i.e. residential and commercial) purposes for a significant period of time, and was previously used for commercial purposes. Noting the above and that the proposal is for an internal change of use, it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

SEPP 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of	The proposal is compatible with the existing character of the area. Given the nature of surrounding development and applicable	YES

the area or locality in which it is proposed to be located?	development controls, the proposal is consistent with the likely future character of the area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposed signage is consistent with other existing and advertising in the area, notably signage associated with Shop 1 on the same site.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	There are no items of specific environmental nor environmental heritage within the visual catchment of the site. The proposal will not foreseeably detract from the visual quality of the area.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposal will not obstruct views.	YES
Does the proposal dominate the skyline and reduce the quality of vistas?	The location of the signs are on a recessed area of the ground floor. The proposal will not dominate the skyline.	YES
Does the proposal respect the viewing rights of other advertisers?	The proposal will not affect the viewing rights of other advertisers.	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale and form of the advertising is consistent with applicable development controls, and is appropriate for the streetscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will create additional visual interest in the Totem Lane streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal limits advertising to two specific areas and will limit visual clutter.	YES
Does the proposal screen unsightliness?	The signs will be flush-fitted and will no screen structures.	N/A
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signs will not protrude above any structures.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposal is compatible with the scale, proportion and visual appearance of signs both on the building and within the area more generally.	YES
Does the proposal respect important features of the site or building, or both?	The proposal will have no adverse impact on the appearance of the building nor any specific architectural structures,	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The signs show innovation by utilising areas that will not adversely affect the appearance of the building nor streetscape character.	YES
6. Associated devices and logos	Not applicable.	N/A

with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?		
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signs will not be illuminated.	N/A
Can the intensity of the illumination be adjusted, if necessary?	As above.	N/A
Is the illumination subject to a curfew?	As above.	N/A
8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The signs will not affect sightlines, and their placement/design will not create a distraction thereby creating foreseeable safety hazards.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signs will be flush-fitted and as such will not affect sightlines.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

Manly Local Environmental Plan 2013

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:	12.5m	No change		N/A
Floor Space Ratio	FSR:2:1	No change		N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	N/A

Clause	Compliance with Requirements
4.4 Floor space ratio	N/A
4.5 Calculation of floor space ratio and site area	N/A
4.6 Exceptions to development standards	N/A
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	N/A
6.11 Active street frontages	Yes
6.12 Essential services	Yes
6.13 Design excellence	N/A
6.15 Tourist and visitor accommodation	N/A
6.16 Gross floor area in Zone B2	N/A
6.21 Noise impacts—licensed premises	N/A

Detailed Assessment

6.11 Active street frontages

Under this clause, development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

Comment:

The proposed use will have an active street frontage. While the fitout of the tenancy will not alter the external design of the building, however the nature of the use is one that will promote activity within this section of Totem Lane during extended periods of each day and which will promote pedestrian activity during such times. As such, Council can be satisfied that the use will have an active street frontage once the proposed use commences.

Manly Development Control Plan

Built Form Controls

Built Form Controls	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: N/A			N/A
	Dwelling Size: N/A			N/A
4.1.2.1 Wall Height	N/A	No change		N/A
4.1.2.2 Number of Storeys	N/A			N/A
4.1.2.3 Roof Height	Height: N/A			N/A
	Parapet Height: N/A			N/A
	Pitch: N/A			N/A
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	No change		N/A
4.1.4.2 Side Setbacks and Secondary Street Frontages	Setback: N/A	No change		N/A
	Windows: 3m	No		N/A

		change		
	Secondary street frontage:N/A	No change		N/A
4.1.4.4 Rear Setbacks	8m	No change		N/A
4.1.4.5 Foreshore Building Lines and Foreshore Area	N/A			N/A
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	Common boundary: N/A			N/A
	Rear boundary: N/A			N/A
4.1.4.7 Setback for development of certain land at Boronia Lane and Rignold Street, Seaforth	Mapped building line			N/A
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: N/A	Open space: N/A			N/A
	Open space above ground: N/A	No change		N/A
4.1.5.2 Landscaped Area	Landscaped area: N/A	No change		N/A
	Native trees: N/A			N/A
4.1.5.3 Private Open Space	18sqm / 12sqm per dwelling	No change		N/A
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	No change		N/A
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground			N/A
	1m curtilage/1.5m water side/rear setback			N/A
Schedule 3 Parking and Access	3.39 (rounded to 4 spaces (RMS))	1 space	75%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.3 Townscape (Local and Neighbourhood Centres)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	N/A	N/A
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	N/A	N/A

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.1 Solar Access	N/A	N/A
3.5.3 Ventilation	N/A	N/A
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	N/A	N/A
3.5.5 Landscaping	N/A	N/A
3.5.6 Energy efficiency/conservation requirements for non-residential developments	N/A	N/A
3.5.7 Building Construction and Design	N/A	N/A
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	N/A	N/A
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	N/A	N/A
3.10 Safety and Security	N/A	N/A
4.2 Development in Business Centres (LEP Zones B1 Neighbourhood Centres and B2 Local Centres)	Yes	Yes
4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor	No	Yes
4.2.6 Balgowlah Local Centre	N/A	N/A
4.2.6.1 Wall Height on the Street Frontage	N/A	N/A
4.2.6.2 Exceptions to LEP Building Height	N/A	N/A
4.2.6.3 Setbacks	N/A	N/A
4.2.6.4 Design Excellence in the Design of Street Facades and Onsite Carparking	N/A	N/A
4.4 Other Development (all LEP Zones)	Yes	Yes
4.4.1 Demolition	N/A	N/A
4.4.3 Signage	Yes	Yes
4.4.4 Awnings	N/A	N/A
4.4.4.1 Awnings in LEP B1 and B2 Business Zones	N/A	N/A
4.4.4.2 Awning supported from the ground	N/A	N/A

Detailed Assessment

4.2.4 Car parking, Vehicular Access and Loading Controls for all LEP Business Zones including B6 Enterprise Corridor

Note: Sections 4.2.4.2 and 4.2.4.3 are not applicable to this assessment, and shall therefore not be discussed further.

The applicant has indicated that one (1) car parking space is available; this is a result of the original building design and subsequent allocation of car parking facilities. Given the GFA of the subject tenancy, the RMS Guide to Traffic Generating Development stipulates that 3.39 (rounded up to four (4)) car parking spaces be allocated to the tenancy/use.

The parking and traffic impact assessment report submitted with the application notes that the site is located within close proximity to bus stops that service high-frequency bus routes along Sydney Road that serve numerous destinations; this would subsequently have the potential to offset some parking demand (it is also noted that the studio will provide training for children; it is considered likely that some students would therefore take public transport and/or be picked up/dropped off, which would likely further reduce parking demand).

The site is also located within the Balgowlah shopping strip and in very close proximity to the Stockland Balgowlah (197-215 Condamine Street, Balgowlah); some students are therefore likely to visit the studio in conjunction with visits to shops and services contained within the shopping centre, and will therefore utilise the carpark within that centre. This will further offset the parking demand of the proposed Ju Jitsu studio. A traffic and parking report has been submitted with the application; both this and other information has been reviewed by Council's traffic engineer, who has raised no issue with the proposal, subject to conditions.

With regard to the above, the proposed parking variation is acceptable and supportable.

4.4.3 Signage

Signage is proposed within the doorway opening and the western elevation of the tenancy.

A maximum of two (2) signs are proposed in accordance with DCP requirements. The signs will be well integrated into the building facade and are not proposed to be illuminated.

An assessment of signage-specific development controls is as follows:

Flush wall and end wall advertising

The proposed signs are not on end walls or on boundaries. Regardless, advertising will not address residential dwellings.

Flush wall signs

- The signs are not illuminated, therefore controls relating to illumination are not applicable.
- The signs will not project above nor extend laterally beyond the walls to which they are attached.
- The areas of the signs are in accordance with the DCP requirements.

With regard to the above, the proposed signs are consistent with the DCP and are therefore considered to be satisfactory.

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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

S7.12 levies are not applicable to this application as they were subject to the original development application relating to the whole site.

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;
- Manly Local Environment Plan;
- Manly 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 DA2021/0289 for Use of premises as an indoor recreation facility and signage on land at Lot 1 SP 94554, 2 / 374 - 378 Sydney Road, BALGOWLAH, 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
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Drawing No.	Dated	Prepared By
Site Plan & Ground Floor Strata Plan (Drawing No. A-00)	-	JLW Fitout
Floor Plan - Proposed Fitout Set Out Plan (Drawing No. A-03)	-	JLW Fitout
Floor Plan - Proposed Fitout Reflective Ceiling Plan (Drawing No. A-04)	-	JLW Fitout
Floor Plan - Proposed Fitout Floor Finishes Plan (Drawing No. A-05)	-	JLW Fitout
Floor Plan - Proposed Fitout General Arrangement Plan (Drawing No. A-06)	-	JLW Fitout
Proposed Fitout - Signage (Drawing No. A-07)	-	JLW Fitout
2D Floor Plan 1000/50	-	Alliance

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Operational Noise Emission Assessment (Doc. Ref. 5146R001.NW.210225, Rev. 0)	08.03.2021	Acoustic Dynamics
Plan of Management	-	BJJ Northern Beaches

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	15.03.2021	Turnbull Planning International

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 tenancy as detailed on the approved plans for any land use of the site beyond the definition of a 'recreation facility (indoor)'.

A 'recreation facility (indoor)' is defined as:

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.

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. **Prescribed Conditions**

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

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

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

to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) 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.

FEES / CHARGES / CONTRIBUTIONS

5. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

6. Compliance with Standards

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

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

8. **Road Occupancy Licence**

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on Sydney Road.

Reason: Requirement of TMC for any works that impact on traffic flow.

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

9. **Acoustic certification**

Prior to any occupation certificate being issued, The principle certifying authority is to confirm compliance with the recommended management plan within the acoustic report by Acoustic dynamics referenced as 5146R001.NW.210225 and dated 8 March 2021.

Reason: To protect residential amenity

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

10. **Acoustic requirements**

All recommendations of the acoustic report by acoustic dynamics referenced as 5146R001.NW.210225 and dated 8 March 2021 are to be maintained for the life of the development.

Reason: To protect residential amenity (DACHPGOG5)

11. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday: 6:00am to 8:00pm
- Tuesday: 12:00pm to 8:00pm
- Wednesday: 6:00am-8:00pm
- Thursday: 12:00pm to 8:00pm
- Friday: 6:00am to 8:00pm
- Saturday: 9:00am to 12:00pm

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

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

12. **No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas.

Reason: To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

13. **Patronage**

The maximum number of people on the site at any given time are to be restricted as follows:

- Staff: Two (2)
- Students: Twenty-four (24)

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

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

Signed



David Auster, Planner

The application is determined on 04/05/2021, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager