

## Environmental Health Referral Response - commercial use

<b>Application Number:</b>	DA2020/0761
<b>Date:</b>	14/08/2020
<b>To:</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 51 DP 860080 , 84 Barrenjoey Road MONA VALE NSW 2103

### Reasons for referral

This application seeks consent for one or more of the following:

- Food premises, or
- Backpackers/Boarding house, or
- Mortuary, or
- Skin penetration, acupuncture, tattoo, beauty salon, or
- Public pool

And as such, Council's Environmental Health and Protection officers are required to consider the likely impacts.

### Officer comments

The proposal seeks Council's consent for the construction of a new outbuilding to be used as a health consulting room, or more specifically – additional space for existing health consulting rooms.

Existing consent N0120/14 for the "use of existing residential building as professional consulting rooms for physiotherapy and related health care" was granted based-upon the 'Statement of Environmental Effects' (SEE) written by Andrew Sumner dated 2 May 2014. The SEE sought Council's consent for up to 3 health care professionals who practice medicine, dentistry or health care respectively.

Relevant definitions from Pittwater Local Environment Plan 2014 (Pittwater LEP) are as follows:

- Health care professional means any person registered under an Act for the purpose of providing health care.
- Health consulting rooms means premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time.

Health consulting rooms are a type of health services facility:

*Health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following—*

(a) a medical centre,

- (b) *community health service facilities,*
- (c) *health consulting rooms,*
- (d) *patient transport facilities, including helipads and ambulance facilities,*
- (e) *hospital.*

The definition of 'Health Services Facility' does not include a gymnasium or health studio. These facilities are incorporated into the definition of:

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

Environmental Health note that the applicant's business website and social media pages (Facebook + Instagram), collectively advertise the following services, which appear to have been in operation for some time:

- Fully-equipped on site gym (also referred to as 'Mona Vale Gym' on the business website)
- Personal training - *"Need a hand getting into shape?"*
- Weight loss
- Pilates
- Group Classes

Indication that the group classes are not solely for the consented purpose can be found on the business website, which states that only customers who chose to book a physiotherapy/exercise physiotherapy assessment in addition to the group classes, will be eligible to seek compensation from their private health care providers.

Exert from [holisticphysiofitness.com.au](http://holisticphysiofitness.com.au) (accessed 28 July 2020)):

*"Group classes cater for all ages and needs....."*

*Where: Group classes are run on site in our Mona Vale gym.*

*Cost effective: Our classes are very reasonable in price. We generally do a 10 week block that is paid up front. Health fund rebates are available upon receipt after each class.*

*Rebates from private Health: Generally, these classes are rebateable from your private health which brings the cost even further down. You have to have undertaken a Physiotherapy or Exercise Physiology assessment with our therapists first to be eligible for this".*

With group fitness classes and a fully-equipped gymnasium already on the premises, irrespective of whether the development is deemed to be 'Health Consulting Rooms' or a 'Recreational Facility', Environmental Health have significant concerns regarding noise. The SEE for the current proposal written by Jim Rannard dated 15 June 2020, fails to address hours of operation, noise due to amplified music etc., noise and vibration associated with the fully-equipped gym e.g. weights dropping on the floor etc. As such, Environmental Health recommends refusal at this time.

In addition, Environmental Health notes that the business has a bone density scanner on the premises (information obtained from the business website).

Whilst rooms used for bone densitometers are generally considered low risk and require no additional shielding, some densitometers operate at certain voltages and current that place them into the medium-risk category (see "NSW EPA Radiation Guideline 7 Radiation shielding design assessment and verification requirements"). These radiation apparatus require shielding plans. The SEE should address manufacturer's specifications of all radiation apparatus on the premises in relation to Radiation Control legislation the above EPA guidelines.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

**Recommended Environmental Health and Protection Conditions:**

Nil.