

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

**PROPOSED RECREATION FACILITY  
(INDOOR)**

**2/130 OLD PITTWATER ROAD  
BROOKVALE**

**MARCH 2019**

# statement of environmental effects

Submission to

**NORTHERN BEACHES COUNCIL**

**PROPOSED RECREATIONAL FACILITY  
(DANCE STUDIO)**

**UNIT 2/130 OLD PITTWATER ROAD BROOKVALE**

Prepared on behalf of

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

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## 1.0 INTRODUCTION

This document has been prepared in order to provide information and an assessment in respect of a Development Application which proposes the use of an existing warehouse unit (Suite 2) within the Brookvale Industrial area as a Recreational Facility as defined under the *Warringah Local Environmental Plan 2011* (WLEP 2011). The use would be a dance studio (cheer leading) and will also involve gymnastics classes. The use already occupies the balance of this particular building for a similar purpose and consent to this application will permit an expansion into additional space.

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

- *Environmental Planning and Assessment Act 1979* ('EPAA');
- *Environmental Planning and Assessment Regulation 2000* ('EPAR');
- *Warringah Local Environmental Plan 2011* ('WLEP');
- *Warringah Development Control Plan 2011* ('WDCP').

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

## 2.0 SITE LOCATION AND DESCRIPTION

### 2.1 Location

The property, the subject of the development application, is located on the western side of Old Pittwater Road in Brookvale. This property comprises an existing industrial estate. The use would be conducted in a suite located towards the centre of the property, with pedestrian and vehicular access being both beside and between the two large industrial buildings located on the land.

The Locality is predominantly commercial/industrial in nature with a variety of industrial type uses interspersed with retail facilities including Warringah Mall, located to the east and within the immediate area.

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

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

## 2.2 The Site

The subject site includes two large single storey warehouse type buildings. The facility is proposed towards the rear of the building closest to the street frontage, with a roller door allowing vehicular and pedestrian access.

The building subject of the application is Unit 2 of 130 Old Pittwater Road Brookvale. The existing lawful facility operates from Unit 22.

The legal description of the property is Lot A in DP402556. Unit 2 has a gross floor area (GFA) of 378 sqm, although the useable floorspace is around 340 sqm.

There are fourteen (14) car parking spaces allocated to this Unit. In addition, there are visitor parking spaces available within the industrial complex.

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

## 3.0 DEVELOPMENT PROPOSAL

### 3.1 Hours

The proposal involves the fit-out and use of Unit 2 as a Dance Studio (cheer leading) which is proposed to operate between the hours of 10.00am to 9.00pm daily. The activity proposed involves a significant level of gymnastic skill. The two components of the use could be described as follows:

- Practise by the various cheerleading squads;
- Classes conducted to train cheerleaders.

Classes are proposed to take place at times as detailed below. Note also that administrative work may occur outside of these hours, on weekends.

Day	Start Time	Finish Time
Monday	4:00pm	9:00pm
Tuesday	4:00pm	9:00pm
Wednesday	4:30pm	9:00pm
Thursday	4:30pm	9:00pm
Friday	4:30pm	6:30pm
Saturday	11:00am	5:00pm
Sunday	9:00am	5:00pm

### 3.2 Staff and Students

There will be three (3) senior staff and four (4) junior assistant staff at the Facility on a rotational basis at most at any one time (the entire facility, including the proposed and approved facility).

The maximum anticipated number of students attending a class (existing facility and proposed facility as a whole) at any one time is thirty (30) (12 kids and 18 adults). This is subject to seasonal variation and impromptu requirements of students such as a dress rehearsal for a specific event.

The Recreational Facility operator currently works from Powell's Road Brookvale in adjacent Suite 22 (**with development consent**) and has operated the use successfully and largely without any complaint during the period of operation. The experience of the operator is that students are generally dropped at the facility by parents and then collected at the end of classes (class duration around 1.5 hours).

### 3.3 No Fit Out

The occupation involves **no physical works** to the structure and is **a use application** for a recreation facility (indoor) only.

The proposal does involve the installation of Trocellen-Polyethylene Flexifoam Gym Floor; however, this installation is not relevant to Councils consideration of the matter. We note that an office, secondary office for

junior staff, kitchenette and disabled toilet are already extant in the existing footprint of the Unit 2 premises.

Plans depicting the parking layout and existing floor layout accompany the application.

## **4.0 STATUTORY PLANNING FRAMEWORK**

### **4.1 Warringah Local Environmental Plan 2011**

#### **4.1.1 General**

*Warringah Local Environmental Plan 2011* (WLEP) is the relevantly applicable local environmental plan.

#### **4.1.2 Aims**

The aim of WLEP is, among other things, to promote economically, environmentally and socially sustainable development in the former Warringah local government area (now part of the Northern Beaches local government area) and to ensure that development is consistent with the desired character of Warringah's localities.

#### **4.1.3 Zoning and Permissibility**

The subject property is zoned General Industrial IN1 pursuant to the provisions of the Warringah Local Environmental Plan 2011 (WLEP 2011). A map extract from WLEP 2011, depicting the site is attached and marked Annexure 4.

Within the IN1 zone, a 'Recreational Facility (Indoor)', not being prohibited, is permitted with the development consent of the consent authority.

The definition of Recreation Facility (Indoor) is as follows:

*"recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming*



*pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.”*

The proposed land use is appropriately described as per the above definition.

A zoning map extract from WLEP depicting the site is provided at **Annexure 4**.

#### 4.1.4 Zone Objectives

The relevantly applicable IN1 zone objectives under WLEP (refer land use table, item 1, IN1 zone) are as follows:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To enable a range of compatible community and leisure uses.
- To maintain the industrial character of the land in landscaped settings.

In our opinion, the proposed development is consistent with the zone objectives referred to above, as are relevant. The proposed Recreation Facility (indoor) is unlikely to adversely affect other industrial land uses in the existing industrial complex and the site provides adequate off-street parking to satisfy the parking generation by the use, particularly given the students are not of driving age and therefore do not require parking spaces.

#### 4.1.5 Exempt and Complying Development

The proposal involves a change of use of premises.

The specific change involves a change of use from '**industrial**' (the previous lawful use likely to be warehousing or light industry) to '**commercial premises**' comprising 'business premises'.

In our opinion the proposal does not comprise Exempt Development because it is not a change of use of premises specified in Subdivision 10A, Clause 2.20A of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP ECDC).

In our further opinion the use would not comprise Complying Development because:

- The proposed use is not included in Part 1 of Schedule 3 of WLEP 2011.
- The proposal involves a change from one type of industrial use to a type of commercial premises (business premises) and this 'type' of change of use is not catered for in s5.4 of SEPP ECDC.
- The new use may cause the contravention of an existing condition of the most recent development consent (other than a complying development certificate) that may apply to the premises relating to hours of operation, car parking and or landscaping (SEPP ECDC s5.5(g)).

#### 4.1.6 Bushfire Hazard

The site is bushfire prone land: refer the Warringah Council's Bushfire Prone Land Map.

A bushfire hazard assessment report accompanies the development application.

The report concludes that the proposed development will be acceptable from a bushfire hazard point of view.

**Annexure 5** provides bushfire prone land map (extract from WLEP).

## 4.2 Warringah Development Control Plan 2011

### 4.2.1 Objectives

*Warringah Development Control Plan 2011* (WDCP) applies to the carrying out of development on the site.

The primary objective of WDCP is to create and maintain a high level of environmental quality in the former local government area of Warringah.

However, it must be stressed that development control plans contain **guideline** controls at best: see *Zhang v Canterbury City Council* (1999) 105 LGERA 18. This is enshrined in sections 3.42 and 4.15(3A) of the *Environmental Planning and Assessment Act 1979* (NSW), which are as follows:

#### **3.42 Purpose and status of development control plans**

(cf previous s 74BA)

(1) The principal purpose of a development control plan is **to provide guidance** on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,
- (b) facilitating development that is permissible under any such instrument,
- (c) achieving the objectives of land zones under any such instrument.

***The provisions of a development control plan made for that purpose are not statutory requirements.***

(2) The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43 (1) (b)–(e).



(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development. *[Our emphasis]*

#### 4.15 Evaluation

(cf previous s 79C)

... ..

(3A) **Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be ***flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development***, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, ***standards*** include performance criteria. *[Our emphasis]*

The principal controls in WDCP relating to the development proposal are referred to and discussed below, to the extent to which they are relevant to the proposed development.

#### 4.2.2 Warringah Development Control Plan

The Warringah Development Control Plan (WDCP) applies to development on the subject land. The development is consistent with the objectives referred to in Section A.5 of the WDCP. In respect of those objectives, the development will respond to the character of the site upon which it is proposed, it will provide an

acceptable level of access and will not result in any significant environmental impacts.

#### 4.2.3 Parking Facilities

Per the WDCP control, car parking is to be provided in accordance with Appendix 1 which details the rate of car parking for various land uses. According to Appendix 1, a recreational facility: gymnasium requires 4.5 spaces per 100 sqm GFA. Currently, there are 14 car spaces provided. In addition, there are visitor parking spaces available within the industrial complex. The required number of parking spaces is 17. The experience of the operator, who has been operating the business from unit 22, is that students are generally dropped at the facility by parents and then collected at the end of classes (class duration around 1.5 hours). Therefore, there is less demand for longer stay parking spaces at the site. Thus, 14 existing car spaces (excluding the visitor car spaces) is adequate for the proposed use of the building.

#### 4.2.4 Access Parking and Traffic

The existing parking layout and access to the site will remain as it is. Parking is designed so that vehicles can enter and exit the site in a forward direction.

## 5.0 KEY ISSUES

### 5.1 Car Parking

Off street parking provision is adequate to cater for the proposed recreational facility use.

Parents and/or other responsible adults will deliver the cheerleading students before the commencement of classes/training and leave them at the Facility and then collect those participants following the end of classes/training.

Longer stay parking will only be required for coaches and staff of the facility. The duration of classes is one



and a half (1.5) hours on average. The site provides adequate car parking and the clientele already car pool.

## 5.2 The Public Interest

The development will be consistent with the local planning regime and as such is of course consistent with the public interest.

## 5.3 Public Transport

The Recreational Facility will enjoy adequate access to local public transport facilities. The site is within walking distance of Pittwater Road which is the arterial transport corridor for the Northern Beaches locality. Public transport options are abundant.

## 5.4 Environmental Impact

The Dance Studio will have minimal environmental impact and is a sustainable form of development. The use will not generate excessive traffic nor will it introduce harmful emissions or chemicals into the natural environment.

## 5.5 Compliant Use

The use is a recreational facility (indoor) as defined in the WLEP 2011. The use is permissible in the IN1 Zone and will be wholly compliant with the relevant regime of planning controls.

# 6.0 CONCLUSION

This document addresses the statutory regime applicable to the application and demonstrates that the proposed Recreation Facility (Dance Studio for a cheer leading club) is appropriate and will complement the site, the existing cheerleading facility, and its surrounds.

The proposal is appropriate in the Brookvale industrial area and is consistent with the desired future character.

The head of consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979* have been considered and there are no matters which would prevent Council from granting consent to the proposal in this instance.

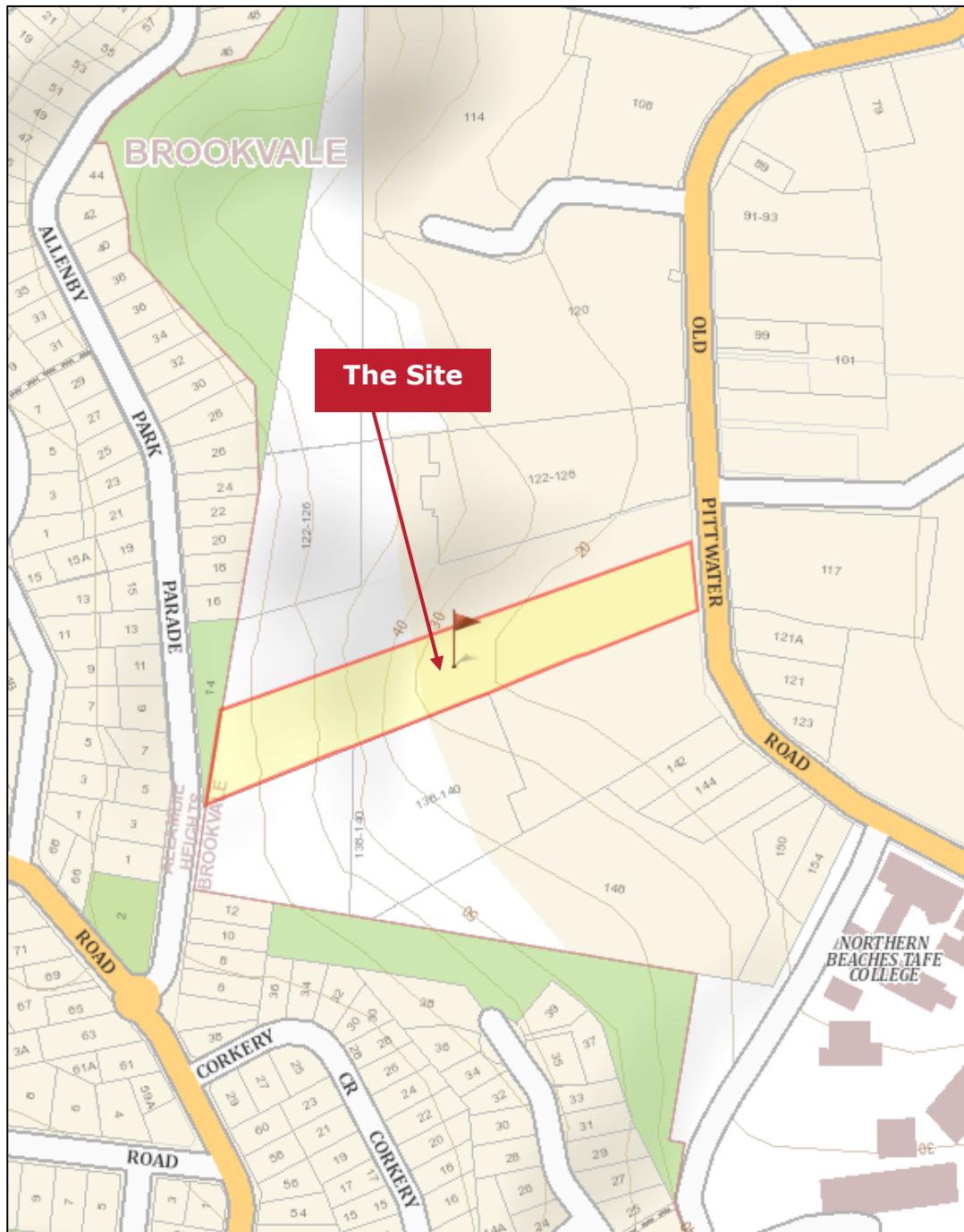


In our opinion the proposal merits support by the consent authority.

# ANNEXURE 1

LOCATION PLAN





## LOCALITY MAP

Courtesy Six Maps



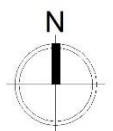
## ANNEXURE 2

AERIAL PHOTOGRAPH



## AERIAL PHOTOGRAPH

Courtesy Six Maps



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**Annexure 2**

DRAWN: IW

Unit 2/130 Old Pittwater  
 Road Brookvale

## ANNEXURE 3

PHOTOGRAPHIC PALETTE





**PHOTOGRAPH 1** - Existing tandem carparking spaces at the rear of the building



**PHOTOGRAPH 2** – Northern Facade of the Building

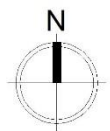
## ANNEXURE 4

ZONING MAP (EXTRACT FROM WLEP)



## ZONING MAP

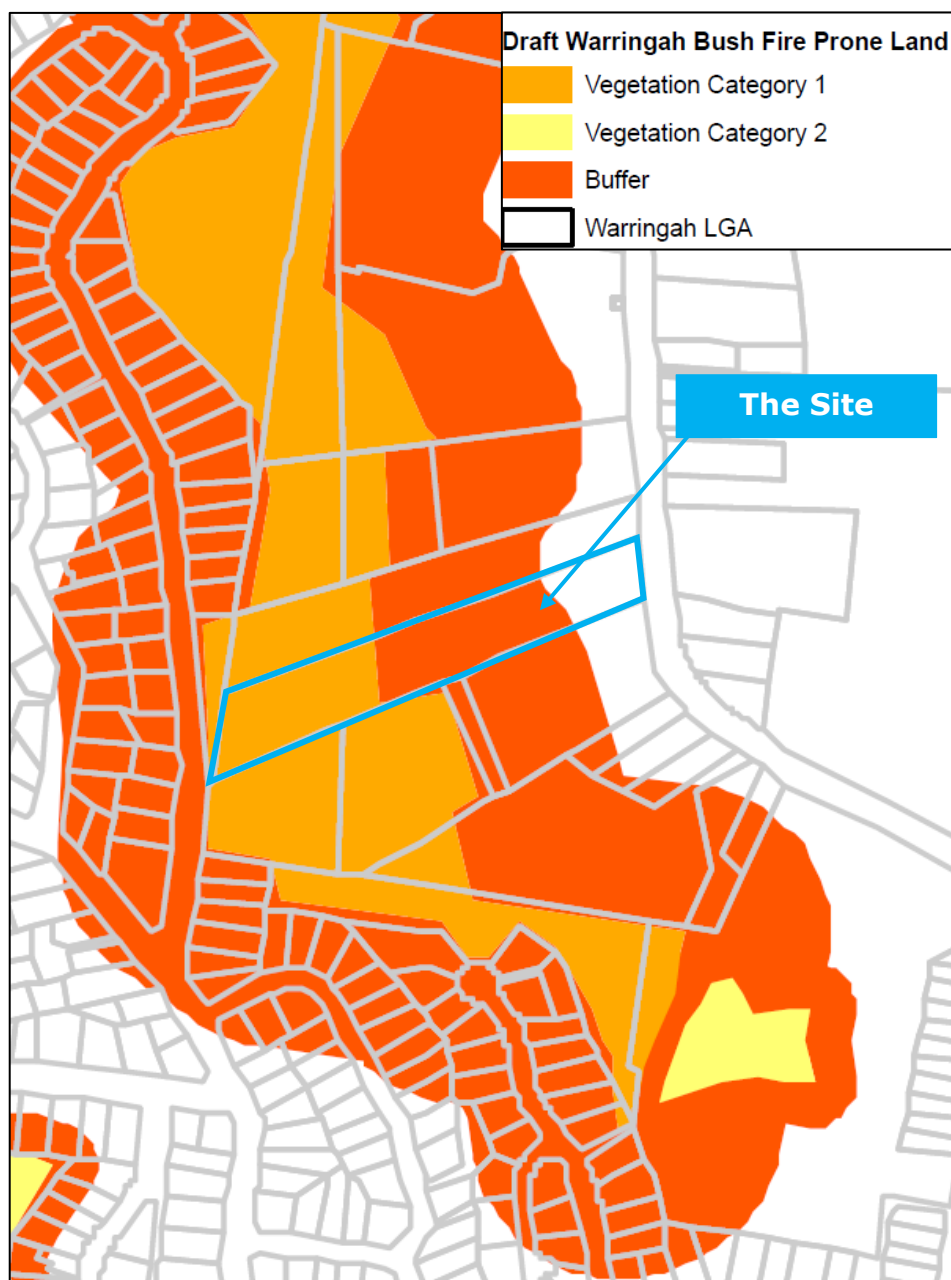
(Extract From WLEP)



## ANNEXURE 5

BUSHFIRE PRONE LAND MAP (EXTRACT FROM WDCP)





## BUSHFIRE PRONE LAND MAP

(Extract from WDCP)

