

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE PROPOSED USE OF A PORTION OF THE SITE FOR OUTDOOR SEATING
AND A CHILDREN'S PLAYGROUND**

AT

**CLUB BELROSE
146 FOREST WAY, BELROSE**

FOR

BELROSE BOWLING CLUB



**Prepared
May 2022**

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1.0 Introduction

This Statement of Environmental Effects accompanies details prepared by Projects TT, Drawings CC-00.1, CC-01.2, MD-02.1 and MD-03.2, dated 21 April 2022, on behalf of Belrose Bowling Club to detail the proposed change of use at Club Belrose, **146 Forest Way, Belrose**.

This statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2021*
- *Warringah Local Environmental Plan 2011 (WLEP 2011)*
- *Warringah Development Control Plan (WDCP 2011)*

2.0 Property Description

The subject site is known as **146 Forest Way, Belrose**, being Lot 2 within DP 851739, and is zoned RE2 Private Recreation under the provisions of WLEP 2011.

The site is not listed as a heritage item, nor is it located within a conservation area.

The site is identified within Area A of the Landslide Risk Map of WLEP 2011.

3.0 Site Description

The site is a battle-axe allotment extending between Forest Way to the east and Andove Street to the west. The site has a 101.295m wide primary frontage to Forest Way, a 10m wide secondary frontage to Andove Street, a maximum depth of 223m and a total area of 17,950m².

Club Belrose, a registered club, occupies the site and comprises:

- Club house building (formal reception, administration, restaurant, kitchen, bar, lounge area, indoor/outdoor gaming area, stage, dance floor, amenities, loading area etc.)
- 3 bowling greens
- At-grade external carpark

Vehicles can enter the site from both Forest Way and Andove Street, with egress limited to Andove Street only.

The site predominantly adjoins land zoned R2 Low Density Residential containing single dwelling houses, with the exception of Belrose Hotel that is located to the north. A large, aged care facility is located to the north-east and a petrol station is located to the south-east, on the opposite side of Forest Way.

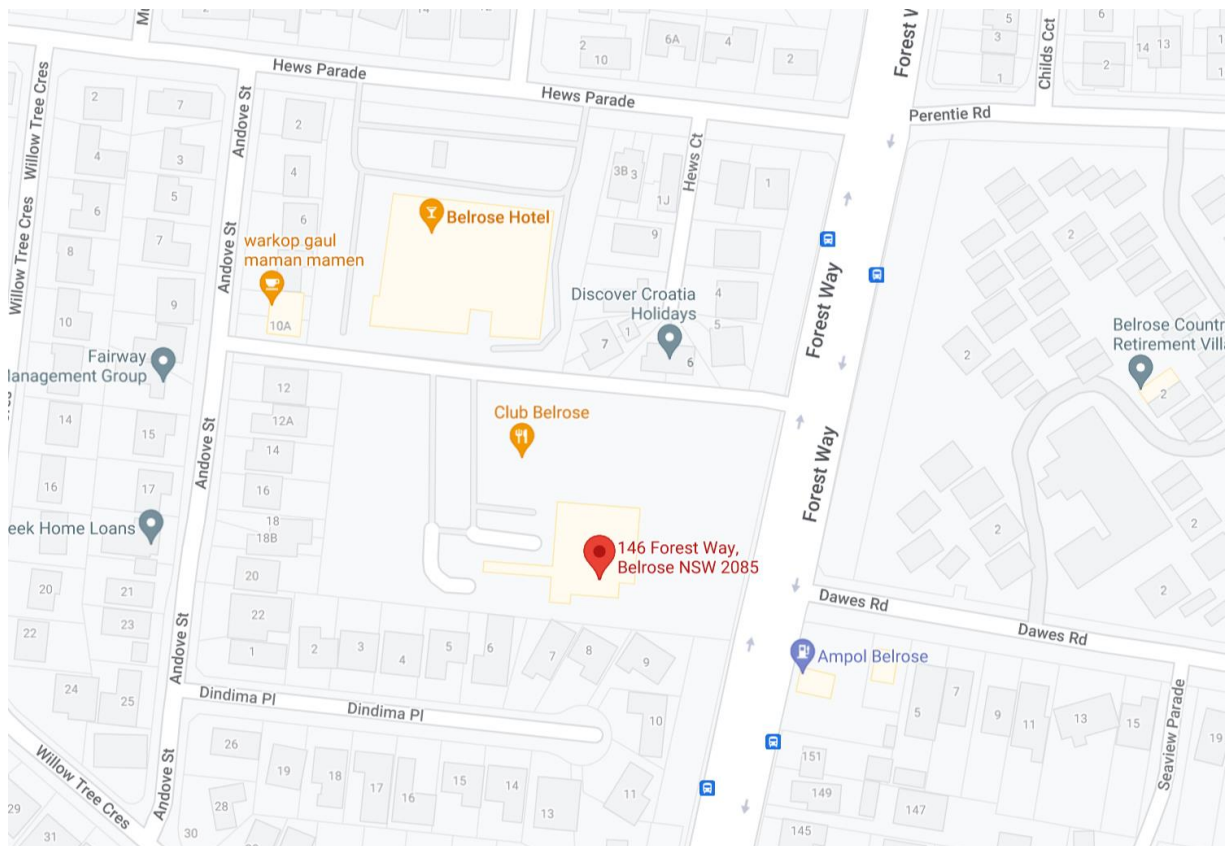


Fig 1: Location map
(Source: Google maps)

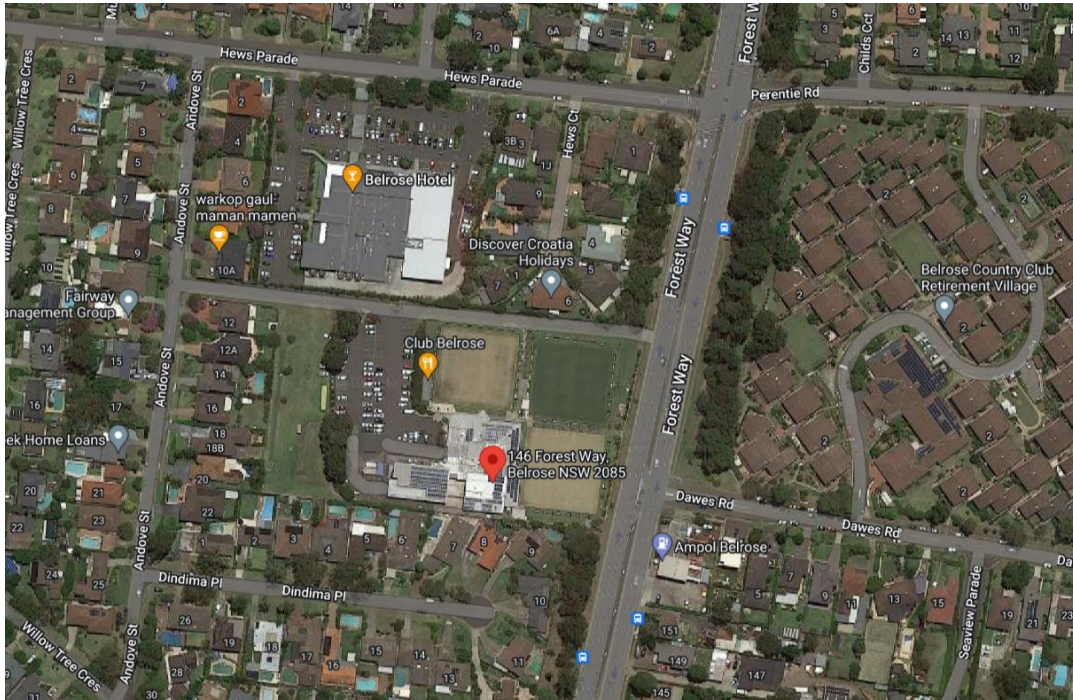


Fig 2: Aerial view of subject locality
(Source: Google maps)



Fig 3: View of subject site from Forest Way



Fig 4: View of outdoor area from adjacent to club house building



Fig 5: Outdoor area



Fig 6: View of outdoor area with nearby residences visible in background

4.0 Proposed Development

The proposal is for the use of a portion of an approved bowling green for purpose of an outdoor seating area and children’s playground associated with the existing recreation facility (outdoor) and registered club. The area in question is highlighted in yellow in Figure 7, below.

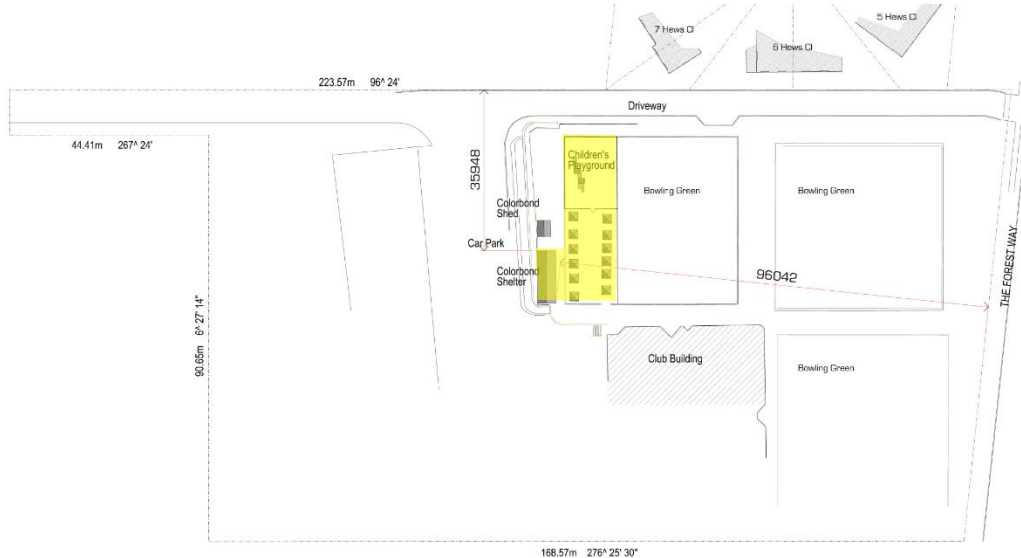


Fig 7: Location of proposed outdoor seating and children’s playground

The intent of the application is to provide more outdoor seating and an area for children to play in a supervised setting, with the intent to promote Belrose Club as a family friendly venue.

The application does not seek to increase patronage, but rather seeks to provide a larger space to accommodate the existing patronage in a response to Covid-19 and the associated need to provide greater spatial separation between tables and additional outdoor seating options.

There are no changes proposed to trading hours, however there is an intent to cease use of the outdoor area at 8:30pm (consistent with the recommendations of the supporting Acoustic Report).

It is noted that physical works to facilitate the use sought have been undertaken on site. The subject application has been lodged in response to a Notice of Intent issued by Northern Beaches Council with respect to the works and use occurring on the site. A separate Building Information Certificate application will be lodged with respect to the physical works.

5.0 Relevant Statutory Controls

5.1 Warringah Local Environmental Plan 2011

The land is zoned RE2 Private Recreation under the provisions of the WLEP 2011.

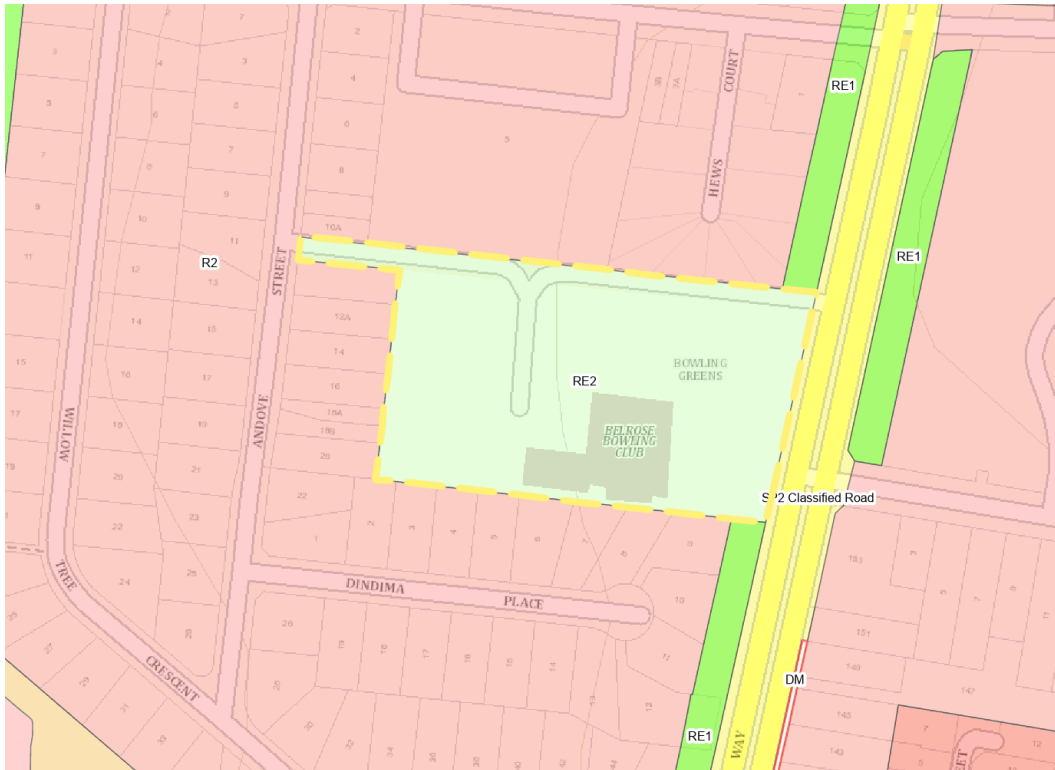


Fig 8: Extract of Warringah Local Environmental Plan 2011

Whilst recreation facilities (outdoor) are permissible with consent, registered clubs are prohibited within the zone.

In this respect, the application relies upon existing use rights which have been historically established in relation to the site, including with respect to DA2015/0815 in April 2016, at which time Council confirmed the following:

- 1. Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?**

Comment: Whilst the proposed works for the "bowlers block" is permissible in the subject zone as an addition to an existing "recreation facility (outdoor)", the existing "registered club" is a prohibited land use in the subject zone. Sufficient evidence on Council's records reveals that the use of the land has been associated with the Belrose bowling club since 1957. Specifically, Council application B212/57 mentions a "W Clubhouse" (weatherboard clubhouse) on the land, which in nature is consistent with the prohibited "registered club"

land use. A further ten (10) applications are listed on Council's records between 1958 and 1971, as associated additions to this land use. Based on this information it is reasonable to assume that the registered club commenced as a lawful purpose since 1957, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

- 2. Was the use of the building granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**

Comment: As stated previously, the use of the building / land for purposes similar to a registered club was lawfully approved by Council in 1957, prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

- 3. Has the use of the building / land been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?**

Comment: The registered club has been in continuous operation since 9 December 2011 (the date on which the provision having the effect of prohibiting the use commenced) and there is no evidence to suggest that the club has not been in operation for any period longer than 12 months since this date.

Note: It is confirmed that the use of the site for the purpose of a Bowling Club has continued to the present date and has not been abandoned.

- 4. What is "the land on which the existing use was carried out" for the purposes of cl 42 (2)(b) of the Environmental Planning and Assessment Regulation 2000 ("the Regulation")?**

Meagher JA in Steedman v Baulkham Hills Shire Council [No. 1] (1991) 87 LGERA 26 stated (at 27) the rule to be applied as follows: "that if the land is rightly regarded as a unit and it is found that part of its area was physically used for the purpose in question it follows that the land was used for that purpose".

Comment: Having regard to the above case law, it is noted that a part of the area of the land was physically used for the purpose in question (registered club) and therefore, it is considered that the land was used for that purpose and that existing use rights apply to the whole of the subject site.

Council can remain satisfied that the subject site benefits from existing use rights.

Whilst falling under two separate definitions, the two uses on the site are inextricably linked and equally apply to the site as a whole. The subject application is not necessarily a change in use, noting that the entire site has approval for both a registered club and an outdoor recreation facility, but rather confirmation that a part of the site formerly approved as a bowling green is intended to be used for outdoor seating and a children's playground.

5.2 Warringah Development Control Plan

The relevant controls under WDCP 2011 are discussed below:

Part C – Siting Factors			
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council’s Vehicle Crossing Policy	There are no changes proposed to the approved patronage or existing access and parking arrangements.	N/A
C3 – Parking Facilities	Parking to be in accordance with AS/NZS 2890.1. Comparisons for parking demand must be drawn with developments for a similar purpose.	The proposed development does not seek to alter the current approved maximum patronage of the premises, and in turn, there will be no increase in the demand for parking.	N/A
C9 – Waste Management	Waste storage area to be provided	Existing waste storage areas remain unchanged.	N/A
Part D – Design			
D3 - Noise	Compliance with NSW Industrial Noise Policy Requirements	The application is supported by an Acoustic Report by Pulse White Noise Acoustics Pty Ltd. Two acoustic surveys were undertaken on site during peak times, one of which was during sunny weather when the playground and outdoor area was in use. The Acoustic Report confirms that the noise levels associated with the use are acceptable with respect to NSW Liquor and Gaming acoustic requirements and/or NSW EPA	Yes

		Noise Policy for Industry (NPI) 2017 where relevant.	
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6.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

6.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Warringah Local Environmental Plan 2011. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

6.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

There are no draft environmental planning instruments applying to the site.

6.3 Any development control plan

The development has been designed to comply with the requirements/controls of the Warringah Development Control Plan.

In particular, the application is supported by sufficient information to demonstrate that the use of the space in question for outdoor seating and a children's playground will not result in any adverse impacts upon the amenity of nearby residences.

6.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No matters of relevance are raised in regard to the proposed development.

6.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

6.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

The application does not seek to alter the approved land uses, nor the trading hours or maximum patronage of the premises. However, it is appreciated that the proposed development will result in the accumulation of patrons in a specific area of the site that is not currently anticipated in existing development consents. As such, the impact of the accumulation of people, specifically noise levels, has been considered and appropriately addressed.

6.7 The suitability of the site for the development

The site is considered suitable for the proposed development.

The site has been used for the purpose of a bowling club since 1957.

6.8 Submissions made in accordance with this Act or the regulations

This is a matter for Council in the consideration of this proposal.

6.9 The public interest

The proposal will not result in any unreasonable impacts upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

7.0 Conclusion

The proposal is for the use of a portion of an approved bowling green for purpose of an outdoor seating area and children's playground associated with the existing recreation facility (outdoor) and registered club.

The proposed development seeks to diversify the demographic of people visiting the premises, with an intention to attract families to the club. Further, the application seeks to respond to the Covid-19 pandemic, which has identified the importance of outdoor dining.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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