

9 June 2021

The Chief Executive Officer
Northern Beaches Council

Dear Sir / Madam,

STATEMENT OF ENVIRONMENTAL EFFECTS

1/98 Old Pittwater Road, Brookvale

Request for modification under Section 4.55(2) to Condition 9 approved Hours of Operation to Consent DA2015/0786

1 Introduction & Overview

This modification seeks to change condition 9 relating to the Hours of Operation for the approved gym (recreation facility (indoor)).

DA2015/0786 approved fit out and change of use of the premises for a gym. The gym specialises in providing training options for clients before and after work. An early start time is proposed to enable classes to operate from 5:00 AM on weekdays. Also proposed are Sunday classes from 7.00 am to 11.00 am (inclusive).

The potential for acoustic impacts has been investigated and there are appropriate measures recommended by the acoustic assessment to achieve a satisfactory amenity outcome.

Overall, it is assessed that the proposal involves a modest change to the original development consent and the modified use (as proposed) can operate within acceptable (and established) environmental limits.

2 Premise and approved development details

2.1 Site description

The existing development for the approved recreation facility (indoor) is located at 1/98 Pittwater Road, Brookvale. The subject premise is legally described as Lot 1 in SP 19670.

2.2 Background - recent planning approval and operation

Development Application DA2015/0786 was approved by Council on 9 November 2015 for Fit out and change of use of the premises as a gym.

The site is located within the IN1 General Industrial zone from WLEP 2011 and accommodates two, two storeys factory buildings with carparking at ground level. The site has an approximate area of 1,175m² and is irregular in shape with a frontage of approximately 100m along Old Pittwater Road and 126.4m along Clearview Place.

Surrounding development consists of similar buildings. The site has trees in the frontage and the perimeter boundaries.



Figure 1 – Aerial view of 98 Old Pittwater Road, Brookvale (Northern Beaches Council)

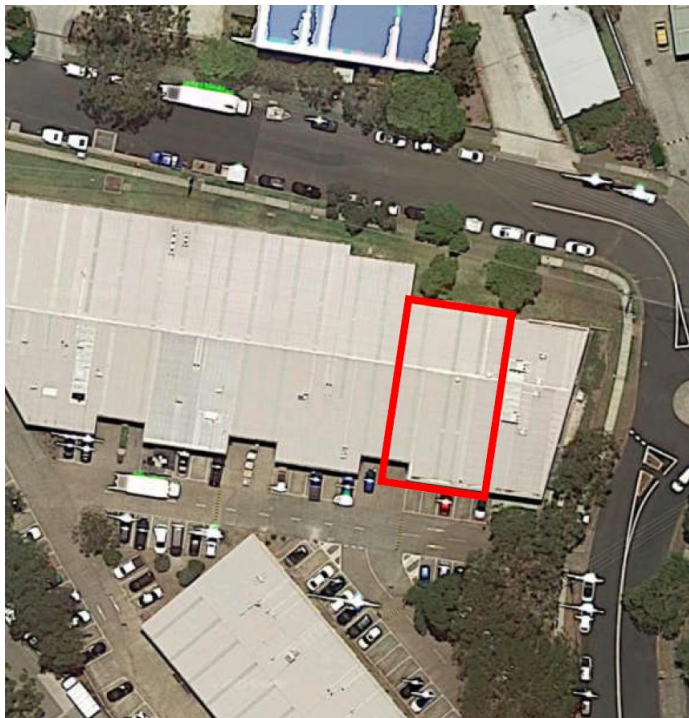


Figure 2 – Site location

3 Proposed Modifications

This proposal seeks to modify Condition 9 of the development consent. The conditions and its proposed modifications are outlined below:

Condition 9 states:

The hours of operation are to be restricted to:

Monday to Friday 6.00 am to 8.00 am

Monday to Friday 5.30 pm to 8.30 pm

Saturday 7.00 am to 11.00 am (inclusive).

Upon expiration of the permitted hours, all service (and entertainment) 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.

The condition is sought to be modified to read as follows (emphasis added to highlight the proposed changes):

The hours of operation are to be restricted to:

*Monday to Friday **5.00 am** to 8.00 am*

Monday to Friday 5.30 pm to 8.30 pm

Saturday 7.00 am to 11.00 am (inclusive).

Sunday 7.00 am to 11.00 am (inclusive).

Upon expiration of the permitted hours, all service (and entertainment) 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.

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4 Section 4.55(2) and environmental assessment considerations

The following is a Statement of Environmental Effects made under the provisions of Section 4.55(2). Having regard to Section 4.55(2) a consent authority may modify the consent if:

‘(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)’

In this regard, it is noted that the nature of the proposed modifications are modest and within the scope of Section 4.55 (2) being modifications involving substantially the same development for which consent was originally approved on the land.

5 Matters for consideration

The following Statement of Environmental Effects considers the nature of the proposed modification and the potential impact of the change on environmental planning grounds.

The following matters for consideration are relevant to the consideration of the proposal as set-out in 4.15 Evaluation (1) –general of the Environmental Planning and Assessment Act 1979.

6 Warringah LEP 2011

Planning considerations from the Warringah LEP relevant to the proposed modifications are noted and addressed as follows.

6.1 Zoning and key environmental affectations

The property is zoned IN1 General Industrial under the Warringah Local Environmental Plan 2011 as is most of the surrounding land. The site is affected by flooding risk which is addressed below.

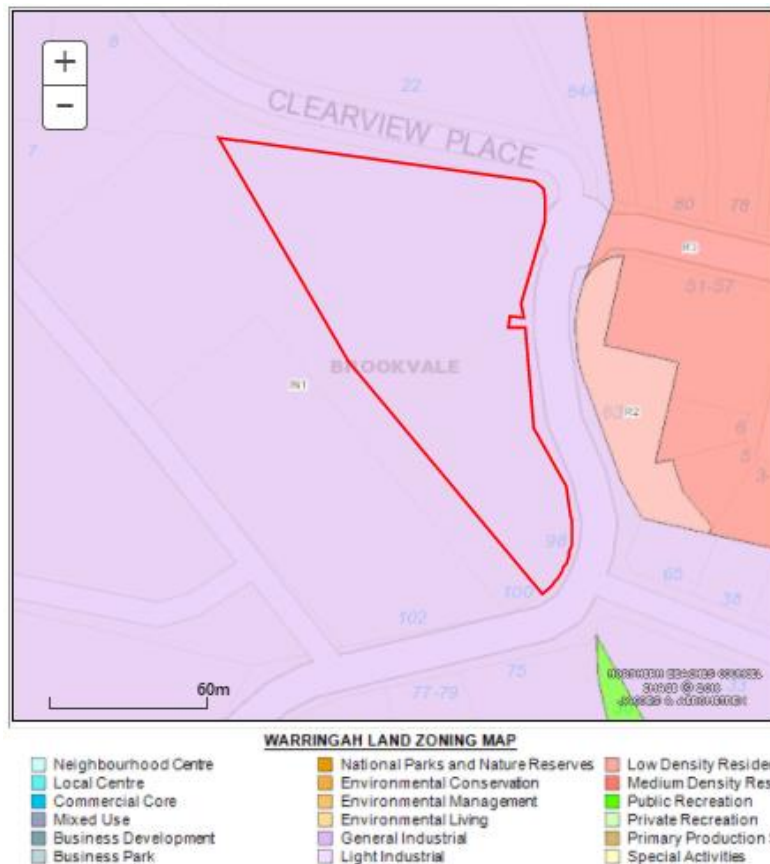
Clause 2.3(2) of the LEP requires the consent authority to ‘have regard to the objectives for development in a zone’ in relation to the proposal. The objectives of the zone are stated as follows:

- *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 response -

- The modest proposed extension to operating hours will assist in providing recreational services to the community including local businesses.
- As demonstrated by the acoustic assessment and its recommendations, the proposed modifications will not result in any unreasonable or inappropriate amenity impacts upon the adjoining and nearby properties.
- The proposal will provide employment opportunities and support the ongoing approved leisure use.

For these reasons, the proposal is assessed as being consistent with the IN1 zone objectives, Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.



6.2 Clause 6.3 - Flood planning

Pursuant to Clause 6.3 of the LEP, the site is identified as being affected by potential flooding.

The modification relates to an existing premises approved for use as recreational facility indoor. Flood matters relating to the site were considered by council in relation to the original DA and found to be satisfactory. The proposed modification would not result in any significant intensification of the land use. The proposed modification does not raise matters that would trigger reconsideration of flood planning issues, therefore, the proposal satisfies the clause 6.3 flooding considerations and the site is suitable for the development proposed.

6.3 Warringah DCP

Key planning controls from the Warringah DCP relevant to the proposed modification are noted and addressed as follows.

6.4 DCP Part C3 - Car parking facilities

Part C3 car parking facilities is applicable to the proposal. The proposal has been considered in relation to car parking considerations as provided below. In response:

1. The proposed modifications do not involve a significant intensification of the approved land use.
2. The proposed operation of the land use on a Sunday morning coincides with the majority of industrial related businesses within the local vicinity not operating at this time and there is appropriate car parking provision available at this time.

3. The proposed modifications do not involve an increase to GFA and therefore no additional parking requirement arises under the DCP.
4. The proposed change in operating hours does not impact on the existing car parking demand or approved onsite car parking provision.
5. The proposed operating times will not result in any significant or unreasonable additional traffic or parking impacts. The proposal will not result in any significant or inappropriate on-street car parking demand.

Based on the above, the proposal is assessed as satisfactory in addressing potential traffic and parking assessment considerations.

6.4.1 DCP Part D3 - Noise

The application is supported and accompanied by an acoustic assessment report by RWDI Australia. It recommends a suite of measures to achieve an appropriate acoustic amenity outcome. As noted on page 9 of the acoustic assessment report the following recommendations which may reasonably form conditions of development consent:

The roller shutter door is to remain closed prior to 7.00am with ingress and egress via the reception.

The fire exit door to the north is to remain closed.

The speaker near the roller door should be located mid-way along the western wall.

Gym members should be reminded to drive at low speeds on site, turn car stereos down, close car doors quietly and not use raised voices in the car park to talk to other members. Signage to this effect is recommended.

The report also found that internal music noise levels should be set to ensure that occupational health and safety requirements are met.

Further to the recommendations of the acoustic assessment, an Operational Plan of Management has been prepared to provide further assurance that the recommendations of the acoustic report will be implemented and that there is recourse for any neighbours that have concerns regarding the manner in which the use is operated in the future. This plan accompanies and supports the proposed modification and compliance with its provisions may reasonably form a condition of development consent.

Based on the above it is concluded that the proposed operating times will not result in any significant or unreasonable additional acoustic impacts. The proposal will not result in any inappropriate changes that adversely impact upon the surrounding land. The proposal is assessed as satisfactory in addressing potential acoustic impact considerations.

7 Section 4.15 Matters for Consideration and 4.55(2) Modifications

The proposal has been assessed having regard to the matters for consideration pursuant to S4.15(1) of the Act, and to that extent, Council can be satisfied that:

- The site is suitable and capable of accommodating the proposed modification based on its environmental affectations which have been appropriately investigated and assessed.
- There are appropriate measures in place, and recommended within the accompanying acoustic assessment report, to ensure that the use can operate within acceptable (and established) environmental limits. Furthermore, the Operational Plan of Management provides further assurance that the recommendations of the acoustic report will be

implemented and that there is recourse for any neighbours that may have concerns regarding the manner in which the use is operated in the future

- The proposal is compatible with the current and likely future land use character of development within the local context.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the relevant planning provisions relating to the site.
- The proposal will not result in any significant unacceptable impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposed modifications to consent DA2015/0786 are appropriate changes to the development consent. The development as modified is substantially the same development as the development for which consent was originally granted.

8 Conclusion

The proposed modifications to Development Consent DA2015/0786, 1/98 Pittwater Road, Brookvale, represent appropriate changes to the development consent.

The proposed development as modified is substantially the same development as the development for which consent was originally granted and within the scope of Section 4.55(2).

It is assessed that the proposed development, as modified, is satisfactory and the modification may be approved by Council.

Yours sincerely,



Michael Haynes
Director - BBF Town Planners