

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/2264
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Responsible Officer:	Nick England
Land to be developed (Address):	LOT 5 S/P 80638, 1103 / 4 Daydream Street WARRIEWOOD NSW 2102
Proposed Development:	Use of premises as a recreational facility (indoors) (pilates studio).
Zoning:	B7 Business Park
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Kaelon Pty Ltd
Applicant:	Jen Smith

Application Lodged:	05/01/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	11/01/2023 to 25/01/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 0.00
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks the use of the existing premises for a *recreation facility (indoor)* (pilates studio).

No physical works are proposed.

The proposed hours of operation are:

Monday: 8.00am to 8.00pm
 Tuesday: 8.00am to 7.00pm
 Wednesday: 7.00am to 3.00pm
 Thursday: 8.00am to 8.00pm
 Friday: 7.00am to 2.00pm

Saturday: 8.00am to 1.00pm

Class sizes range between 1 and a maximum of 5 clients.

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

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements

SITE DESCRIPTION

Property Description:	LOT 5 S/P 80638 , 1103 / 4 Daydream Street WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site is a strata title allotment (Lot 5) in Strata Plan No.806638, located at No.4 Daydream Street, Warriewood. The unit is known commonly as Suite No.1103.</p> <p>The unit is located within building "Q1", on the ground floor. The unit has a total floor area of 113m², with a ground floor area and a mezzanine space. Basement parking for two (2) car spaces is provided in this building, for the exclusive use of Lot 5. A further 25 visitor car spaces is provided on this level.</p> <p>The site is located within the B7 Business Park zone of Pittwater Local Environmental Plan 2014 and accommodates a mixed use / business park development across four separate buildings.</p>

Adjoining and surrounding development is characterised by a wide range of commercial land uses.

Map:



SITE HISTORY

The land on which unit 1103 is situated has been used for commercial purposes for an extended period of time. A search of Council's records has revealed the following relevant history on Unit 1103:

DA2018/0974: Consent granted for "Fitout and change of use to a health services facility. Specifically to provide gymnasium/physiotherapy support services" on 12 July 2018. This consent related to an ancillary facility for the Arcadia private hospital which is located in building 3 of No.4 Daydream Street. Whilst at the time of writing this consent is still valid, no physical commencement of this consent has commenced.

The Statement of Environmental Effects states that in the interim period since this consent, Unit 1103 has been used as a pilates studio. However, at the time of writing and confirmed by site inspection by Council officers, the unit was not being used for this purpose.

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	<p>See discussion on "Environmental Planning Instruments" in this report.</p> <p>The NSW employment zones reforms have been made and will come into force on 26 April 2023. These reforms will result in this property changing from a B7 Business Park zone to a E3 Productivity Support zone. The proposed use</p>

Section 4.15 Matters for Consideration	Comments
	will remain permissible in the new zone.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 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 29</u> of the EP&A Regulation 2021 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 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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>
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 Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental</p>

Section 4.15 Matters for Consideration	Comments
	social impact in the locality considering the character of the proposal. (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.
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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

However, given that no physical works are proposed, then it is considered that the proposed land use will not be contrary to the specifications and requirements of the Planning for Bush Fire Protection guidelines.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 11/01/2023 to 25/01/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 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	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.
Environmental Health (Industrial)	General Comments Environmental Health has reviewed this application and recommended appropriate conditions

Internal Referral Body	Comments
	Recommendation APPROVAL - subject to conditions

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for commercial purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the commercial land use.

Pittwater Local Environmental Plan 2014

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

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A4.16 Warriewood Valley Locality	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	N/A	Yes
D16.1 Character as viewed from a public place	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

Requirements

There is no specific parking requirement for *recreation facility (indoor)* in Pittwater21 DCP. In these instances, the relevant requirement is:

The minimum number of vehicle parking requirements must be determined using the appropriate guidelines for parking generation and servicing facilities based on development type comparison based on the Roads and Maritime Services Guide to Traffic Generating Development or analysis drawn from surveyed data for similar development uses. Provision must be made within the development site for access and parking of all service vehicles servicing the site, visitor parking and parking for people with disabilities.

The RMS Guide likewise contains no requirements for *recreation facility (indoor)*.

Lot 5 is currently serviced by two (2) car spaces.

Consideration of Proposal

Based on the description of the development in the Statement of Environmental Effects, class sizes will be a maximum of five (5). Total number of employees is three (3). Hence, at its maximum operating capacity, the proposed development is likely to generate the requirement for eight (8) car spaces.

The existing site has 25 visitor car spaces, which is an adequate supply to cater for the maximum expected class size of 5 people.

With respect to employee parking, the existing 2 car spaces are considered inadequate to cater for a maximum of three (3) employees suggested with the submitted Statement of Environmental Effects. However, a condition of consent is recommended, to ensure that no more than 2 employees are located on the premises at any one time.

Therefore, subject to recommended conditions, it is considered that there will be adequate off-street car parking to accommodate the proposed land use.

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.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater 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 DA2022/2264 for Use of premises as a recreational facility (indoors) (pilates studio). on land at LOT 5 S/P 80638, 1103 / 4 Daydream Street, WARRIEWOOD, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-001 Revision 5	19 December 2022	Council Approval Group

DA-002 Revision 5	19 December 2022	Council Approval Group
DA-003 Revision 5	19 December 2022	Council Approval Group
DA-004 Revision 5	19 December 2022	Council Approval Group
DA-005 Revision 5	19 December 2022	Council Approval Group

Reports / Documentation – All recommendations and requirements contained within:		
Report Title / No.	Dated	Prepared By
BCA Report No.PC30022	3 January 2023	Urban Approvals

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

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. Maximum Number of Employees

No more than two (2) employees are permitted on the premises at any one time.

Reason: To ensure that the premises does not generate additional traffic beyond which existing off-street parking on the premises can accommodate.

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

3. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: To ensure the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.

4. Employee Parking

Two (2) car spaces are to be made available for the exclusive use of the employees of the premises.

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line

marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Reason: To ensure that adequate parking facilities to service the development are provided on site.

5. **Hours of Operation**

The hours of operation are to be restricted to:

Monday: 8.00am to 8.00pm

Tuesday: 8.00am to 7.00pm

Wednesday: 7.00am to 3.00pm

Thursday: 8.00am to 8.00pm

Friday: 7.00am to 2.00pm

Saturday: 8.00am to 1.00pm

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.

6. **Class Sizes**

The number of clients in a class is to not exceed five (5), at any one time.

Reason: To ensure that the premises does not generate additional traffic beyond which existing off-street parking on the premises can accommodate.

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

Signed



Nick England, Planner

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



Adam Richardson, Manager Development Assessments