

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1317
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 2 DP 1066239, 6 Palm Road NEWPORT NSW 2106
<b>Proposed Development:</b>	Change of use to a kiosk
<b>Zoning:</b>	RE1 Public Recreation
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	NBLPP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Newport Bowling Club Ltd Northern Beaches Council
<b>Applicant:</b>	Alanna Smit Structural Interiors

<b>Application Lodged:</b>	21/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Commercial/Retail/Office
<b>Notified:</b>	23/10/2020 to 06/11/2020
<b>Advertised:</b>	23/10/2020
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 40,439.00
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### Executive Summary

The proposal is referred to the Local Planning Panel as it is an application categorised as having a 'conflict of interest' as the land on which the proposed development is located is under the ownership of Northern Beaches Council.

The Newport Bowling Club is located upon the subject site and currently provides opportunity for outdoor recreation and social interaction for the residents of Newport. The application seeks to establish a 'kiosk' within the grounds of the Newport Bowling Club within an existing storage building on the site and erect a pergola providing a 35m<sup>2</sup> covered area adjacent to the kiosk building.

The land is zoned RE1 Public Recreation and sits to the south of the Newport Commercial Centre and directly to the west of the Newport Community Centre and tennis courts. The assessment of this

application has found that the proposed kiosk is in a suitable location within the site and will not result in any unreasonable amenity impacts for surrounding residential properties within the vicinity of the site and compliments the existing operation of the Newport Bowling Club.

The application was notified for a period of 14 days in accordance with the Northern Beaches Community Consultation Plan and no submissions were received.

The proposal is compliant with the provisions of the *Pittwater LEP 2014, Pittwater 21 DCP* and is supported by Council's internal referral bodies subject to recommended conditions of consent. There are no significant planning issues or submission issues identified through the assessment of the applicant and the proposal is recommended for approval subject to the conditions attached to this report.

## **PROPOSED DEVELOPMENT IN DETAIL**

The proposed development is for the establishment of a kiosk within the ground of the Newport Bowling Club.

Specifically, the development consists of:

- Establishment of a kiosk within an existing storage shed building;
- Internal kitchen fitout of the kiosk;
- Two new windows and a new door for the kiosk building;
- Construction of new pergola extending off kiosk building;
- Hours of operation at 6am to 6pm, Seven (7) days per week.
- Staffed by 2-3 persons;
- Outdoor seating capable of accommodating 18 people (no internal seating).

It is noted that the internal kiosk kitchen fit out has been substantially completed prior to submission of the development application. Council's Building Assessment Team have reviewed the proposal and recommended a condition of consent requiring that a building information certificate be obtained for the completed works prior to any issue of an occupation certificate.

## **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 Local Environmental Plan 2014 - Zone RE1 Public Recreation  
 Pittwater Local Environmental Plan 2014 - 5.4 Controls relating to miscellaneous permissible uses  
 Pittwater Local Environmental Plan 2014 - 5.10 Heritage conservation  
 Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - C2.9 Waste and Recycling Facilities

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 2 DP 1066239 , 6 Palm Road NEWPORT NSW 2106
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Palm Road and the south-western side of Barrenjoey Road. The site is known as 6 Palm Road, Newport and legally described as Lot 2 DP 1066239.</p> <p>The site is irregular in shape with a frontage of 110m along Palm Road and a depth of 83m. The site has a surveyed area of 6143m<sup>2</sup>.</p> <p>The site is located within the RE1 Public Recreation zone and accommodates the Newport Bowling Club which consists of three bowling greens, three maintenance buildings/sheds and the club house building upon the immediately adjoining site Lot 1 DP 1066239 (also known as 6 Palm Road). The site is a locally listed heritage item under the Pittwater LEP.</p> <p>The site contains large open areas of bowling green and low lying shrubs around the perimeter of the site. One canopy tree is located along the north-western boundary in proximity to the building proposed to be used as the kiosk. The site is relatively level throughout with no significant gradient.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by a variety of development. Immediately adjoining the site to the north-west is a Council car park. Across the road to the north is shop Newport Commercial centre and land zoned B2 consisting of shop top housing. To the west is the Newport Community Centre and Tennis Courts. Across the road to the south are detached residential dwellings.</p>

Map:



## SITE HISTORY

The land has been used for recreational and commercial purposes (bowling club) for an extended period of time. A search of Council's records has revealed the following relevant history:

Application **N0845/03** for Construction of a new deck and awning, associated alterations to the existing roof of the Lawn Bowls Clubhouse was approved on 29/04/2004 by Pittwater Council.

Application **N0710/04** for Pump grey water onto bowling green (waste water disposal system) was approved on 07/04/2005 by Pittwater Council.

Application **N0745/03** for Consolidation of 22 lots into 3 lots for leasing purposes was approved on 06/02/2004 by Pittwater Council.

## 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	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for commercial purposes for an extended period of time. The proposed development retains the commercial use of the site, and is not

Section 4.15 Matters for Consideration'	Comments
	considered a contamination risk.
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 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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	<p>(i) <b>Environmental Impact</b></p> <p>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>

Section 4.15 Matters for Consideration'	Comments
the locality	<p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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 not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/10/2020 to 06/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control 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	<p><b>Supported (Subject to conditions)</b> The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the proposed Pergola.</p> <p>In regards to the fit out of the kiosk - As these works have already been carried prior to approval being obtained a Building Information Certificate Application is required to be lodged with Council and such application will need to address the works and recommendations contained in the BCA Report prepared by GRS Building Reports Pty Ltd dated 12 October 2020.</p> <p>There are no objections to approval of the use of the development subject to inclusion of the attached conditions of approval and</p>

Internal Referral Body	Comments
	consideration of the notes below.
Environmental Health (Food Premises, Skin Pen.)	<p><b>Supported (Subject to conditions)</b> Environmental Health support the proposal, however food safety conditions are recommended to ensure that the pre-existing food premises fit-out complies with relevant food safety legislation.</p> <p>No noise-related issues were identified.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p><b>Supported</b> The proposed change of use to a kiosk with a new pergola is not considered to increase flood risk. The proposed development generally complies with the flood requirements of the LEP and DCP.</p>
Parks, reserves, beaches, foreshore	<p><b>Supported</b> The application is for the existing shed to be converted to a takeaway kiosk requiring a formal change of use to a Kiosk. Additionally, a new pergola is proposed over the outdoor seating area. Council's Parks Referral is assessed against the objectives of Pittwater Local Environment Plan for land zoned RE1 Public Recreation, the following Pittwater 21 DCP Controls:</p> <ul style="list-style-type: none"> <li>• B8 Site works and Management</li> </ul> <p>Under Pittwater LEP RE1 zoning permits restaurants and cafes.</p> <p>The proposed works are principally within existing built footprint and no environmental impacts are envisaged. The proposal is therefore supported.</p>
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject property is a heritage item</p> <ul style="list-style-type: none"> <li>• <b>Newport Bowling Club</b> - 6 Palm Road, Newport</li> </ul>
	Details of heritage items affected
	<p>Details of the item as contained within the Pittwater inventory is as follows: <u>Statement of significance:</u> Newport Bowling Club is historically and socially significant for the Newport community as a place of community gathering and sports activities. It has been in operation since 1943 and represents a leisure activity that is central to Australian culture. The significance of the bowling club lies on its historical and social values rather than the building fabric or architectural values of the building; however, the building is a representative of such club buildings of its period.</p> <p><u>Physical description:</u> Large suburban style bowling greens with a single-storey Inter-War clubhouse building featuring a skillion roof with a series of gables,</p>

Internal Referral Body	Comments																		
	<p>large glazing to the facade and a facade-long veranda with timber balustrade for spectators. Some later additions to the club building and the greens are evident. The boundaries of the greens are defined by the seat benches, hedges and stone walls, in particular along the water course.</p> <p><b>Other relevant heritage listings</b></p> <table border="1" data-bbox="520 566 951 1106"> <tr> <td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td>No</td> <td></td> </tr> <tr> <td>Australian Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>NSW State Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>National Trust of Aust (NSW) Register</td> <td>No</td> <td></td> </tr> <tr> <td>RAIA Register of 20th Century Buildings of Significance</td> <td>No</td> <td></td> </tr> <tr> <td>Other</td> <td>N/A</td> <td></td> </tr> </table> <p><b>Consideration of Application</b></p> <p>The proposal seeks consent to use an existing storage shed as a kiosk and to construct a new wooden pergola on the Newport Bowling Club site. The site is a heritage item, however the listing relates predominantly to its social and historical significance rather than physical attributes. As such, the physical changes proposed to the shed and the construction of the pergola are deemed to not have an impact upon the identified heritage significance of the site. In fact, the kiosk could be considered a complimentary use of the site that relates to its identified social and recreational values.</p> <p>Therefore Heritage raises no objections and requires no conditions</p> <p>Consider against the provisions of CL5.10 of PLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No          Has a CMP been provided? No          Is a Heritage Impact Statement required? Yes          Has a Heritage Impact Statement been provided? Yes</p>	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust (NSW) Register	No		RAIA Register of 20th Century Buildings of Significance	No		Other	N/A	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No																		
Australian Heritage Register	No																		
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National Trust of Aust (NSW) Register	No																		
RAIA Register of 20th Century Buildings of Significance	No																		
Other	N/A																		
Traffic Engineer	<p><b>Supported (Subject to conditions)</b></p> <p>The application has been reviewed and the proposed conversion of the shed in the kiosk use is supported from a transport perspective, subject to conditions related to parking conversion within the adjoining car park to address parking turn over concerns.</p> <p><i>*Planner Note: Subsequent discussions have been held with traffic team regarding the recommendation for a condition to be imposed for</i></p>																		



Internal Referral Body	Comments
	<p><i>the conversion of six (6) parking spaces into 2 hour parking spaces within the adjoining public carpark (car park is currently a 12 hour parking zone). Given the size of the kiosk and the fact it will be used in conjunction with the Bowling Club, the required change to public carparking is not warranted in this circumstance. It is not considered to be in the public interest to remove long term parking within the adjoining public carpark to assist parking turnover to service the kiosk. Therefore, the condition to require the conversion of six (6) 12 hours spaces into 2 hours spaces is not recommended in the conditions. Traffic team have confirmed they have no objection to removal of the condition based on the above reasoning.</i></p> <p><i>Similarly, a full construction traffic management plan is not considered necessary in the circumstance given the small scale of the construction which will consist of a pergola only (internal fitout already completed). The condition for a construction traffic management plan is not recommended in the conditions.</i></p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the commercial land use.

### SEPP (Infrastructure) 2007

## Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

## Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## **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

## Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.295m	N/A	Yes

## Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.2 Earthworks	Yes
7.3 Flood planning	Yes
7.10 Essential services	Yes
Schedule 5 Environmental heritage	Yes

## Detailed Assessment

### **Zone RE1 Public Recreation**

The application for the use of the shed as a 'kiosk' has been considered against the land use definitions within the Pittwater LEP 2014. A 'Kiosk' being defined as:

- *means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.*

By virtue of the limited floor area within the kiosk (8.47sqm) and given that no internal seating is provided, the use is considered to be a 'kiosk' rather than a 'food and drink premises' or 'takeaway food and drink premises'. The main purpose of the kiosk is to sell light refreshments (coffee, drinks) and food within the grounds of the bowling club to compliment the exiting bowling club use and recreational nature of the site and surrounds. The outdoor area is proposed to accommodate 18 people beneath the pergola. This will be included as a condition of consent to ensure the nature of the use is kept to a reasonable scale and consistent with the land use definition.

#### 5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(6) requires that kiosks do not have a gross floor area greater than 20sqm.

The gross floor area of the proposed kiosk is 8.47sqm and compliant with the control.

#### 5.10 Heritage conservation

The site is identified as a local heritage item under the Pittwater LEP 2014 containing 'Newport Bowling Club' which holds significance both socially and culturally, rather than its specific physical attributes.

A Heritage Assessment report has been submitted with the development application and reviewed in regards to the controls contained within Clause 5.10 PLEP. Council's heritage officer has undertaken a review of the proposal and is supportive of the development, raising no concerns that the development will have a detrimental impact upon the heritage significance of the site. See detailed comments elsewhere in this report.

Therefore the proposal meets the requirements of Clause 5.10 Heritage Conservation.

#### Pittwater 21 Development Control Plan

##### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.10 Newport Locality	Yes	Yes
B1.1 Heritage Conservation - Heritage items, heritage conservation areas and archaeological sites listed in Pittwater Local Environmental Plan 2014	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
B5.5 Rainwater Tanks - Business, Light Industrial and Other Development	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C2.1 Landscaping	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.5 View Sharing	Yes	Yes
C2.8 Energy and Water Conservation	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.11 Signage	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
C2.21 Food Premises Design Standards	Yes	Yes
D10.1 Character as viewed from a public place	Yes	Yes
D10.3 Scenic protection - General	Yes	Yes
D10.4 Building colours and materials	Yes	Yes
D10.7 Front building line (excluding Newport Commercial Centre)	Yes	Yes
D10.8 Side and rear building line (excluding Newport Commercial Centre)	Yes	Yes

### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

The DCP does not specify a parking rate for a 'kiosk' and there has historically been no on-site parking for the Newport Bowling Club, with the Club relying on the adjoining public Council car park on the corner of The Boulevard and Barrenjoey Road, parking in the Newport Commercial Centre and on-street parking along Palm Road. The kiosk is considered to be a relatively small scale, with no internal seating, which is considered ancillary to the bowling club use. There are surrounding land uses such as the community centre, bowling club and nearby commercial centre which the kiosk compliments and people are likely to use together. The kiosk not necessarily being a destination in its own right given the size and proximity to other land uses.

The application has been referred to Council's Traffic Engineers to assess the impact of the proposed kiosk on the surrounding road network and available parking. Council's Traffic Engineers are satisfied that the proposal will not result in an unreasonable impact for the parking and traffic (see referral comments earlier in this report).

## **C2.9 Waste and Recycling Facilities**

The applicant has provided a copy of the commercial waste agreement for the use of the kiosk which includes two 660L Waste Storage bins (1 x General Waste and 1x Cardboard Recycling). The bins are to be located in the waste storage area which is also utilised by the Newport Bowling Club which is accessible from the Palm Road Street Frontage at the south-western corner of the site, which enables collection from Palm Road. This is acceptable with regards to waste storage for the site.

## **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.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **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 2000;
- 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

In summary, a detailed assessment of the proposal has been undertaken along with an assessment by

Council's internal referral bodies. The proposed development does not result in any unreasonable impacts upon surrounding residents with regards to noise, traffic and parking, visual bulk and scale or impact upon the heritage listing of the site.

No submissions were received during the neighbour notification period and conditions of consent have been applied to ensure the operation of the kiosk is managed in such a way to limit environmental and amenity impacts upon the surrounding sites.

The proposal is therefore recommended for approval subject to the conditions contained within this report.

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council as the consent authority grant Development Consent to DA2020/1317 for Change of use to a kiosk on land at Lot 2 DP 1066239, 6 Palm Road, NEWPORT, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA 03	9 October 2020	Alanna Smit Structural Interiors
DA 04	9 October 2020	Alanna Smit Structural Interiors
DA 05	9 October 2020	Alanna Smit Structural Interiors
DA 06	9 October 2020	Alanna Smit Structural Interiors
DA 07	9 October 2020	Alanna Smit Structural Interiors
DA 08	9 October 2020	Alanna Smit Structural Interiors
DA 09	9 October 2020	Alanna Smit Structural Interiors
DA 10	9 October 2020	Alanna Smit Structural Interiors
DA 11	9 October 2020	Alanna Smit Structural Interiors
DA 12	9 October 2020	Alanna Smit Structural Interiors
DA 14	9 October 2020	Alanna Smit Structural Interiors

**Reports / Documentation – All recommendations and requirements contained within:**

<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BCA Report, P430/Rev 1a	12 October 2020	GRS Building Reports

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

c) The development is to be undertaken generally in accordance with the following:

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. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a Kiosk.

A Kiosk is defined as:

- *“means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.”*

(development is defined by the Pittwater Local Environment Plan 2014 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

## 3. **No Approval for any Signage**

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage.

## 4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.



- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

## 5. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges

paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;  
  
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2008
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 6. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying

Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 7. **Flooding**

In order to protect property and occupants from flood risk the following is required:

#### Building Components and Structural Soundness – C2

The pergola must be designed and constructed to ensure structural integrity up to the Flood Planning Level of 4.66m AHD, taking into account the forces of floodwater, wave action, flowing water with debris, buoyancy and immersion. Structural certification shall be provided confirming the above.

#### Building Components and Structural Soundness – C3

All new electrical equipment, power points, wiring, or any other service pipes and connections must be waterproofed and/or located above the Flood Planning Level of 4.66m AHD. All existing electrical equipment and power points located below the Flood Planning Level must have residual current devices installed cut electricity supply during flood events.

#### Storage of Goods – D1

Hazardous or potentially polluting materials shall not be stored below the Flood Planning Level of 4.66m AHD unless adequately protected from floodwaters in accordance with industry standards.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To reduce the impact of flooding and flood liability on owners and occupiers of flood-prone property and reduce public and private losses in accordance with Council and NSW Government policy.

### 8. **Building Certificate - Unauthorised Works on site**

An application for a Building Certificate is to be lodged for all unauthorised works onsite.

Details of the fit out of the Kiosk including demonstrating compliance with the report prepared by GRS Building Reports Pty Ltd dated 12 October 2020 are to be submitted to Council prior to the issue of the Construction Certificate for the proposed Pergola.

Reason: To regularise unauthorised development.

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

Reason: To ensure Work zones are monitored and installed correctly.

### CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Requirement to notify about new Acid Sulfate Soils evidence**

Any new information revealed during excavation works that has the potential to alter previous conclusions about Acid Sulfate Soils shall be immediately notified to the Council and the Principal Certifying Authority prior to further commencement.

Reason: protection of the environment

### CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

11. **Kitchen Design, construction and fit out of food premises**

The construction fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises'. Prior to any Occupation Certificate (OC) being issued certification is to be provided by a suitably qualified person that the fit-out complies with the above requirement.

Reason: To ensure that the kitchen complies with the design requirements.

12. **Registration of Food Business**

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

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

13. **Ongoing Operation and Fit Out of Food Premises**

The ongoing operation and fit out of the premises must be maintained in accordance with the following requirements:

- Food Act 2003
- Food Regulations 2004

- Australian Standard AS4674-2004: Construction and fit out of food premises
  - Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment
  - Australia and New Zealand Food Standards Code 3.2.2: Food Safety Practices and General Requirements
- Reason: To ensure compliance with legislation and to protect public health and safety.

14. **No cooking on the premises**

No cooking of food requiring the use of a stove, oven, hot plate, grill, fryers or the like is permitted on the premises.

Reason: The application has provided no provision for mechanical ventilation or a grease trap.

15. **Deliveries and waste service collections**

Deliveries and waste service collections shall only occur:

- After 6am and prior to 10pm Monday to Saturday.
- After 8am and prior to 8pm Sundays and Public Holidays.

Reason: To minimise the impacts of noise on neighbouring premises.

16. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 6am to 6pm
- Saturday – 6am to 6pm
- Sunday and Public Holidays – 6am to 6pm

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.

17. **Outdoor seating numbers**

The seating associated with the kiosk use is limited to a maximum capacity of 18 seated patrons.

Reason: To ensure the development is consistent with the land use definition and does expand beyond what is intended by this consent.