

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0875
Responsible Officer:	Rhiannon McLardy
Land to be developed (Address):	Lot 10 DP 655639, 509 Pittwater Road BROOKVALE NSW 2100
Proposed Development:	Use of premises as a recreation facility (indoor) and signage
Zoning:	Warringah LEP2011 - Land zoned B5 Business Development WLEP Land identified in Schedule 1 Additional Permitted Uses. Refer to attached extract of WLEP2011
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Melani Bros Pty Ltd
Applicant:	Urbis Pty Ltd
Application Lodged:	15/08/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	10/09/2019 to 24/09/2019
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,000.00

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for to occupation of the first floor of 509 Pittwater Road as a recreation facility (indoor). The specifics of the proposal are as follows:

- Proposed hours of operation:
 - Monday to Friday: 5:00am to 8:30pm
 - Saturday to Sunday: 8:00am to 6:00pm,
- 9 allocated car parking spaces,
- Business Identification signage

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

Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - D23 Signs

SITE DESCRIPTION

Property Description:	Lot 10 DP 655639 , 509 Pittwater Road BROOKVALE NSW 2100
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the western side of Pittwater Road.</p> <p>The site is regular in shape with a frontage of 20.465m along Pittwater Road and a depth of 44.65m along the northern boundary. The site has an area of 1087m².</p> <p>The site is located within the B5 - Business Development zone from WLEP 2011 and accommodates a two-storey development, the ground floor of which is currently being used for retail purposes ('Total Tools') and vacant floor space at the first floor level (most recently used as a medical centre). The proposed development specifically relates to the first floor.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by</p>

Map:



SITE HISTORY

The land has been used for commercial purposes for an extended period of time. A search of Council's records has revealed a substantial site history with numerous applications relating to change of use (primarily of the ground floor unit). These applications are not relevant to the current proposed change of use and signage DA and are therefore not included within this report. The most relevant applications have been detailed:

Pre-lodgement meeting, **PLM2019/0123** for change of use from a medical centre to a gym was held on 2 July 2019.

Application **CDC2017/0243** for a Shop fitout to the ground floor was determined on 20 April 2017 by Private Certifier.

Building Approval **No. 693/94** for the internal fit out of an existing commercial building was granted 5 May 1994.

Development Consent **No. 89/108** for proposal to demolish the existing commercial building and erect a part single part two-storey retail/office building with onsite car-parking (13 spaces) and landscaping was approved on 17 March 1989.

Modification of Development Consent **No. 89/108** was granted on 6 November 1989 approving a retail use of the first floor of the approved building and an increase to 15 car parking spaces.

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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah 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&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&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&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 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 93 and/or 94</u> of the EP&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&A Regulation 2000 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 98</u> of the EP&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&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction</p>

Section 4.15 Matters for Consideration'	Comments
	Certificate. This clause is not relevant to this application.
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 Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(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.</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 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	No objections subject to required upgrade conditions as noted to ensure occupant safety and Health /Amenity requirements are achieved for users of the facility.
Environmental Health (Industrial)	<p>General Comments</p> <p>Proposal for a gym to operate in a business Lot at 509 Pittwater Road</p>

Internal Referral Body	Comments
	<p>Brookvale. Environmental Health has already completed a referral response for this use, however some new information has come to light regarding the residential building located to the west of the gym. With 5 am start times proposed, we recommend a noise condition in line with the <i>Noise Policy for Industry</i> guidelines.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
NECC (Development Engineering)	<p>Comments for Development Engineers:</p> <ol style="list-style-type: none"> 1. No change in the impervious area. Change of use only. 2. It is unlikely to be impacted by overland flow. Council's flood engineer proposes no objection to this application. <p>No objection to approval.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>The proposed development is for the change of use to a gymnasium. No new physical works are proposed to the building apart from signage.</p> <p>Flood risk is minor, and not considered to be increased.</p> <p>No flood related objections.</p>
Traffic Engineer	<p>The proposal is for change of use of the existing medical centre on the first floor tenancy with approximately 360m² floor space area to a gymnasium. Under the DA, no physical works are proposed to the building apart from signage.</p> <p>The proposal is for the maximum of 24 clients and 4 staff in attendance at one time.</p> <p>A car park to the rear provides 15 parking spaces (including 2 accessible parking spaces) of which 9 car spaces are allocated to the subject unit for the exclusive use, and access to the remainder of the spaces available outside core trading hours of the other tenancy. Vehicular access to the carpark is provided via a driveway from Roger Street.</p> <p>As indicated in the Traffic Report, in accordance with Warringah DCP, the parking requirement for a gymnasium at a rate of 4.5 spaces per 100sqm will be 16 (rounded up) car parking spaces. Therefore, there is a shortfall of 7 parking spaces in compliance with the DCP.</p> <p>The traffic report has provided the justifications that due to the location of the site in close proximity to public transport, 50% of the total of 28 people would use public transport and then applied the average car occupancy of 1.29 person per car to the 50% (14 people) driving to the site. As a result, the parking requirement has been estimated as 11 spaces, which means there would still be a shortfall of 2 parking spaces.</p> <p>Given the location of the proposed site within the commercial and retail area and in close proximity to public transport, a reduced parking rate of 3 spaces per 100sqm, recommended in the RMS</p>

Internal Referral Body	Comments
	<p>Guide to Traffic Generating Developments for metropolitan regional area, could be applied to the subject site. This will lead to provision of 11 parking spaces which is equal to the result of above assumptions.</p> <p>Given consideration to the above assumptions stated in the traffic report but considering the staff excluded from it (parking to be provided for all staff and 50% of patrons with the acceptance of car occupancy rate of 1.29 person per car), the proposal could be acceptable for the maximum capacity of the total of 20 people (including staff and patrons) in attendance at any one time."</p> <p>It should be noted that expected traffic generating by the proposal is not in excess of the existing approved use of medical centre and is therefore acceptable.</p> <p>Therefore, no objection is raised on the proposal subject to the following condition.</p> <p>--</p> <p><u>Planner Comment</u></p> <p>Additional information has been received from J. Hollis (Colston Budd Rogers & Kafes Pty Ltd) providing evidence against the comments raised by Council's Traffic Engineer as above. This additional information is considered to address the concerns raised. As such, no capacity condition apart from the that required by the BCA has been imposed.</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 64 - Advertising and Signage

Clauses 8 and 13 of SEPP 64 require Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the aforementioned SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives of the policy aim to ensure that the proposed signage is compatible with the desired amenity and visual character of the locality, provides effective communication and is of high quality having regards to both design and finishes.

In accordance with the provisions stipulated under Schedule 1 of SEPP 64, the following assessment is provided:

Matters for Consideration	Comment	Complies
1. Character of the area Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage is for identification of the proposed business and is compatible with the area in which it is proposed. The window signage at the first floor level on the Pittwater Road (east) elevation is consistent with other signage at first floor level along Pittwater Road. Generally this section of road is proliferated by signage by multiple businesses and therefore the proposal is consistent existing and desired future character of the area.	YES
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The signage is consistent with the surrounding outdoor advertising.	YES
2. Special areas Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The subject site is located within the B5 Business Development zone. The proposed signage is wholly attached to the windows and facades of the existing building. Given the scale of the signage proposed and the character of the surrounding area, it is considered that the impacts upon the natural environment and residential areas will be negligible.	YES
3. Views and vistas Does the proposal obscure or compromise important views?	The proposed signage is attached to the walls and windows of the existing building and will not impact upon views.	YES
Does the proposal dominate the skyline	The proposed signage will not dominate the	YES

and reduce the quality of vistas?	skyline or protrude higher than the roofline of the existing building.	
Does the proposal respect the viewing rights of other advertisers?	Yes	YES
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the signage is appropriate for its location within the streetscape of Pittwater Road, the commercial setting and landscape.	YES
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The signage contributes to the visual interest of the Pittwater Road streetscape.	YES
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal increases the amount of signage in the area. However the amount of signage is not considered excessive.	YES
Does the proposal screen unsightliness?	The proposed window signage is on the first floor as viewed from Pittwater Road. Window signage will help to limit views of the gym area as viewed from the outside.	YES
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposed signage does not protrude above the building to which it is attached.	YES
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is consistent with the scale and proportion of the existing building facades.	YES
Does the proposal respect important features of the site or building, or both?	There are no significant features of the site impacted by the signage.	YES
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed signage is attached to the existing building, minimising external works and interruption of the existing streetscape.	YES
6. Associated devices and logos with advertisements and advertising structures Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed signage includes a number of logos of the proposed gymnasium. There are no safety devices, platforms or lighting devices contained as an integral part of the signage or structure.	YES
7. Illumination Would illumination result in unacceptable glare, affect safety for pedestrians, vehicles or aircraft, detract from the amenity of any residence or other form of accommodation?	The signage is not proposed to be illuminated.	YES
Can the intensity of the illumination be adjusted, if necessary?	Not applicable. See Above.	YES
Is the illumination subject to a curfew?	Not applicable. See Above.	YES

8. Safety Would the proposal reduce the safety for any public road, pedestrians or bicyclists?	The proposed signage is affixed to the existing building and will not impact on the safety of pedestrians, bicyclists or anyone travelling on a public road.	YES
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed signage is affixed to the existing building and does not obscure sightlines from public areas, ensuring that it does not reduce the safety of pedestrians, particularly children.	YES

Accordingly, the proposed signage is considered to be of a scale and design suitable for the locality. The proposal is therefore deemed to be consistent with the provisions of the SEPP and its underlying objectives.

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.

Warringah Local Environmental Plan 2011

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:	11.0m	No change to existing which does not exceed 11.0m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B5 Side Boundary Setbacks	0.9m	1.5m (sign)	N/A	Yes
B7 Front Boundary Setbacks	6.5m	4.18m (sign)	48.77%	No
B9 Rear Boundary Setbacks	6m	14.69m (sign)	N/A	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B6 Merit Assessment of Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B10 Merit assessment of rear boundary setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	No	Yes
C4 Stormwater	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D20 Safety and Security	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
D23 Signs	No	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
E10 Landslip Risk	Yes	Yes

Detailed Assessment

C3 Parking Facilities

Description of Non-compliance

The proposed use fails to provide sufficient car parking as required under the WDCP 2011.

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The development provides the following on-site car parking:

Use	Appendix 1 Calculation	Required	Provided	Difference (+/-)
Gymnasium	4.5 spaces/100m ² GFA	16	9	-7
Total				

The application is supported by an accompanying Traffic Assessment Report which puts forward the explanation that the due to the public transport access to the site and the average car occupancy for Sydney and empirical assessment of car parking demand leads to 11 spaces.

Council's Traffic Engineer has assessed the proposal and using the RMS Guide to Traffic Generating Developments for metropolitan regions has agreed with the calculated rate of 11 spaces. Using this calculation the shortfall in parking is therefore only 2 spaces.

There are a total number of 15 car parking bays on the site. While only 9 are allocated to the proposed gym, it is expected that the remaining car spaces would be available for use outside of retail hours, providing parking well in excess of that recommended by the RMS Guide to Traffic Generating Developments

As detailed in the Traffic Assessment Report there is additional on-street carparking available (time dependant) and an off-street public carpark within walking distance. These additional accessible areas of carparking, with the carparking spaces available on-site will provide adequate car parking for the proposed gym.

To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.

- Comment:
There is no change proposed to the existing rear car park, the car park is not visible from Pittwater Road and the entrance is not visually prominent from Roger Street.
- *To ensure that parking facilities (including garages) are designed so as not to dominate the*

street frontage or other public spaces.

Comment:

There is no change proposed to the existing rear car park, the car park is not visible from Pittwater Road and the entrance is not visually prominent from Roger Street.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D23 Signs

Description of non-compliance and/or inconsistency

The application proposes 15 pieces of signage consisting of the following:

- 9 x Window signs (eastern elevation)
- 1 x Wall sign (eastern elevation)
- 1 x Wall sign (northern elevation)
- 1x Wall sign (western elevation)
- 2 x Window sign (western elevation)
- 1 x Awning Fascia sign (western elevation)

The Window Signs (eastern elevation) are proposed on the first floor of the development where the requirement is that window signs only be permitted on the ground floor. The proposed window signs on the western elevation of the building occupy more than 50% of the window area of their respective windows. Less than 50% of the total window area along the western elevation will be obstructed by signage.

Sign	Requirement	Width	Height	M ²	Complies
Awning fascia sign (attached to the fascia or return end of an awning)	Shall not project above, below or beyond the fascia or return end of the awning to which it is attached.	10.940m	0.775	8.48m ²	Yes
Wall sign (painted onto a wall of a building or attached to the wall of a building, not being a sign elsewhere listed in this table)	Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level	9.760m (east)	1.25	12.2m ²	Yes
		2.375m (north)	2.45	5.82m ²	
		2.165m (west)	1.445	3.13m ²	

	ground; and Shall not project more than 300mm from the wall.				
Window sign (painted or letters stuck onto the inside or outside of a display window)	Must occupy less than 50% of the window area so as to not obstruct natural light; and Shall only be permitted on ground floor windows, below awning level or equivalent.	Full width of window (0.95m) x9 (east) 2.1m (west) 2.25m (west)	0.15m 1.445m 1.445m	0.143m ² (1.283m ²) 3.03m ² 3.25m ²	No

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.*

Comment:

As viewed from Pittwater Road, the proposed gymnasium occupies the first floor only. The signage is of a scale, design and location that allows for the identification of the business to which the signs relate. The proposed windows signs clearly identify RE:UNION as the occupants of the first floor. The window signs on the western elevation of the site are at ground floor level and clearly identify the name and type of business proposed.

- To achieve well designed and coordinated signage that uses high quality materials.*

Comment:

The proposed signage is well designed and is considered to adequately achieve this objective.

- To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.*

Comment:

The signage proposed is consistent with that of the general character of the streetscape and surrounding locality. The proposed signage on the Pittwater Road (east) elevation is monochromatic and will not result in an adverse visual impact on the streetscape or surrounding locality. The proposed signage on the western elevation will not be visible from the street and will not have an unreasonable impact on the surrounding locality.

- To ensure the provision of signs does not adversely impact on the amenity of residential properties.*

Comment:

The window signage proposed on the Pittwater Road elevation will not be readily visible from residential properties. The proposed signage at the rear of the property, facing the residential flat building at 23 Roger Street is minimal and will not, where visible from the residential flat building have an unreasonable impact on the amenity of the site. The proposed signage is not proposed to be illuminated.

- *To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.*

Comment:

The subject site and signage is not considered to have an impact upon any provision of open space or heritage items.

An assessment of the application has also found the development to be consistent with the requirements of *State Environmental Planning Policy No. 64 - Advertising and Signage*.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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;
- Warringah Local Environment Plan;
- Warringah 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 DA2019/0875 for Use of premises as a recreation facility (indoor) and signage on land at Lot 10 DP 655639, 509 Pittwater Road, BROOKVALE, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan	12/06/2019	Studio Isgro
FloorPlan	12/06/2019	Studio Isgro
External Elevations - Proposed Signage	12/06/2019	Studio Isgro

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Capability Statement	7/08/2019	Modern Building Certifiers
Parking Demand Assessment	August 2019	Auswide Consulting

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	6/08/2019	Rosie Sutcliffe

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 the first floor of the building as detailed on the approved plans for any land use of the site beyond the definition of a Recreation Facility (Indoor).

A Recreation Facility (Indoor) is defined as:

“Recreation Facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or registered club.”

(development is defined by the Warringah Local Environment Plan 2011 (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. **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) 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.

(c) 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.

- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

- (k) 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.

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

4. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards.

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

5. **Fire Safety - Egress and Essential Services Upgrade**

Building Code of Australia compliant 'Essential Fire Safety services and equipment', and compliant 'Egress' provisions (BCA Volume 1- Part D and E), generally consisting of Emergency Lighting, Exit Signage, Portable Fire Extinguishers, Hose Reels, Fire Detection & Alarm System/s and the like, and required Egress Travel distances, Egress doors and Door Hardware are to be provided to the degree necessary to the tenancy.

All works being certified upon completion as being capable of performing their intended function/s by a suitably qualified person prior to any use or occupation of the premises/tenancy occurring, and prior to the issue of any interim or final occupation certificate.

Details demonstrating implementation and compliance are to be submitted to the Principal Certifying Authority prior to any use or occupation of the premises, and prior the issue of any Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for fire safety in the premises to ensure building occupant safety.

6. **Change of Use**

A person must not commence occupation or use (or change of use where an existing building) of the whole or any part of a building (within the meaning of section 109H (4) of the Act) unless

an Interim Occupation Certificate or Final Occupation Certificate has been issued in relation to the building or part.

The Principal Certifying Authority is required to be satisfied, amongst other things, that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

Reason: Statutory requirement under S109N of the Environmental Planning & Assessment Act 1979.

7. **Building Code of Australia 'Ventilation, Shower and Sanitary facilities'**

Building Code of Australia (BCA) compliant 'Ventilation, Shower and Sanitary facilities' (BCA Volume 1- Part F), are to be provided to the degree necessary to the tenancy.

All works being certified upon completion as being capable of performing their intended function/s by a suitably qualified person prior to any use or occupation of the premises/tenancy occurring, and prior to the issue of any interim or final occupation certificate.

Details demonstrating implementation and compliance are to be submitted to the Principal Certifying Authority prior to any use or occupation of the premises, and prior the issue of any Interim / Final Occupation Certificate.

Reason: To ensure adequate provision is made for Health and Amenity in the premises for occupants.

8. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

9. **Hours of Operation**

The hours of operation are to be restricted to:

- Monday to Friday – 5:00am to 8:30am
- Saturday – 8:00am to 6:00pm
- Sunday and Public Holidays – 8:00am to 6:00pm

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.

10. **Noise**

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the *Protection of the Environment Operations Act 1997*.

Noise from operations must not be audible in any habitable room between the hours of 10:00PM to 7:00AM Monday to Friday, and 10:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect public health and amenity. (DACHPBOC5)

11. **No outdoor activities**

No activities associated with the operation of the recreation facility (indoor) shall be conducted outside of the building.

Reason: To protect the amenity of surrounding residential property.

12. **Off-Street Parking Requirements**

A minimum of nine (9) of-street parking spaces must be maintained for the exclusive use of the recreation facility (indoor) at all times.

Reason: To ensure appropriate onsite car-parking is provided.

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

Signed



Rhiannon McLardy, Planner

The application is determined on 10/12/2019, under the delegated authority of:



Rodney Piggott, Manager Development Assessments