

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/0675
Responsible Officer:	Anne-Marie Young
Land to be developed (Address):	Lot 52 DP 1237461, 80 - 82 Mona Vale Road MONA VALE NSW 2103
Proposed Development:	Alterations and additions to existing building and use as a recreational facility (outdoor)
Zoning:	R2 Low Density Residential SP2 Infrastructure
Development Permissible:	Yes, under Yes, under Schedule 1 Additional Permitted Uses
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Applicant:	Pittwater RSL Club Ltd

Application Lodged:	29/05/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	27/09/2024 to 11/10/2024
Advertised:	Not Advertised
Submissions Received:	103
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 165,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for the use of the upper level of the carpark (34 car parking spaces) located to the north-east of the Pittwater RSL Club for recreation purposes in the form of six (6) pickleball courts. In addition, the proposal seeks consent for a 2.5 metre high acoustic wall along the northern boundary of the courts and the relocation of existing light poles and the installation of three (3) new light poles.

The application is referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application receiving more than ten (10) unique submissions. A total of 102 unique submissions were

received by Council during the notification period required by the Northern Beaches Community Participation Plan, 86 submissions are in support of the proposal and 17 unique submissions objected to the development.

Concerns raised in the objections predominantly relate to the potential unreasonable acoustic and lighting impacts on neighbouring residential properties associated with the pickleball use. In particular, concern is expressed about the cumulative acoustic impacts of the pickleball courts will have in the evening on adjoining residential properties and the management and operational issues with the use considering the historical issues with competing uses at the RSL Club. The submissions assert that the submitted technical reports are insufficient, inaccurate and inconsistent. Concern is also raised in respect to the visual impact of the acoustic barrier along Mona Vale Road.

The application has been amended to reduce the hours of operation by one hour, with pickleball to cease at 8:00pm, with a 30 minute period allowed for packing up. The operational plan of management includes measures to address complaints and has been updated to reference the amended hours of operation. Additional acoustic information has also been submitted to address the concerns raised by Council's Environmental Health Officer in response to the submissions, with the use considered acceptable in this regard subject to recommended conditions. Operational conditions are recommended and include a requirement for external lights to be switched off by 8:30pm and conditions relating to noise attenuation include the certification of acoustic design and an acoustic review.

An amended traffic report / survey confirms that there are more than one hundred spaces available during peak periods. As such, Council's Transport Engineer, despite the objections confirms that there is no shortfall of on site parking, subject to recommended conditions..

This report concludes with a recommendation that the NBLPP grant approval to the development application, subject to recommended conditions.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to existing RSL club building and use as a recreational facility (outdoor). Specifically consent is sought for the use of the upper level of the north eastern car park as six (6) pickleball courts.

In detail, the amended proposal includes:

- Removal of 34 existing car parking space - the car parking line marking will be removed and replaced with line marking for six (6) pickleball courts with a standard dimension of 6.1 metres x 13.4 metres.
- Construction of a 2.5 metres high solid acoustic wall above the upper ground level car park, extending the full length of the northern boundary.
- Installation of a 3 metres high black chain wire fence around the perimeter of the area.
- Relocation of seven (7) existing light poles and installation an additional three (3) x six (6) metres high light poles.

Court Operations

- 08:00am to 08:00pm, Monday to Sunday (plus 30 minute clean up time so that the courts are vacated by players and Club staff by 08:30pm)
- Lights to be dimmed at 08:00pm and turned at 08:30pm nightly (as conditioned)

- Four (4) players per court and a maximum of an extra three (3) players on the sidelines of each court (total 54 people using the courts)

The application is supported with the following:

- An Operational Plan of Management (POM)
- An acoustic report
- A traffic Impact Assessment
- An obtrusive lighting report

It is important to note that there is an active consent for outdoor dining, Friday to Sunday till 11pm for 250 patrons on the adjoining carpark level, see site History section of this report

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 - 2.5 Additional permitted uses for particular land
 Pittwater Local Environmental Plan 2014 - Zone SP2 Infrastructure
 Pittwater 21 Development Control Plan - D14.1 Character as viewed from a public place
 Pittwater 21 Development Control Plan - D14.15 Fences - General

SITE DESCRIPTION

Property Description:	Lot 52 DP 1237461 , 80 - 82 Mona Vale Road MONA VALE NSW 2103
Detailed Site Description:	The subject site consists of one (1) allotment located on the corner of Mona Vale Road and Foley Street. The subject site is legally identified as Lot 52 in DP 1237461 and is

know as 80-82 Mona Vale Road, Mona Vale, commonly known as Pittwater RSL.

The site is generally triangular in shape with a frontage of approximately 215 metres along Foley Street and 181 metres along Mona Vale Road. The site has an area of 15,354.0 m². The site accommodates an existing multi level club building, which is located on the central and southern portions of the site, and has a total public area of approximately 4,155m².

Car parking areas comprises a total 422 spaces, including open at grade and multi-storey car parking with vehicular access on the Foley Street frontages. The subject application specifically relates to the upper level car park on the north eastern side of the Club building with a frontage to Mona Vale Road which adjoins the outdoor area dining area of the RSL Club.

The site is located within the R2 Low Density Residential zone from the Pittwater LEP but benefits from an Additional Permitted Use as described later in this report. A portion of the site along the Mona Vale Road northern frontage is zoned SP2 Infrastructure trees, a number of trees are located along this frontage.

Detailed Description of Adjoining/Surrounding Development

Bowling greens and futsal courts, associated with the RSL club, are located to the immediate north of the site. Adjoining and surrounding development is characterised by commercial developments to the west, and residential developments to the south, east and north.

Map:



SITE HISTORY

The land has been used as a registered club for an extended period of time and has been the subject of numerous previous development applications pertaining to various elements of the RSL Club. A search of Council's records has revealed the following relevant history:

Application **N0384/08** for construction of a two-storey carpark (the area to which the application related) and new outdoor seating terrace at Pittwater RSL Club was approved on 04/05/2009.

Application **N0123/09** for Construction of six futsal courts, associated amenities building and landscaping was approved on 01/02/2010. Note this part of the RSL club is located to the immediate north-west of the subject site.

Application **DA2019/0123** for use of part of the carparking area (located to the south-west of the subject site) for the purposes of an organic food market trading hours are between 8:30am to 1:00pm on Sundays with a maximum of 100 market stalls and a maximum of events of 42 days per 12 months was approved on 19/06/2019. The application has been modified on four (4) occasions to extend the operation of the market and the consent is due to expire on 2 September 2029.

Application **DA2022/1542** for Alterations and additions to a Registered Club to enable the permanent use of an outdoor dining area (on the adjoining car park level located to the south-east of the subject area) was approved on 22/03/2023. This permits a max 250 patrons to 11pm Friday to Sunday nights. The consent does not allow for outdoor dining from Monday to Thursday.

Application History

On 20 August 2024, a Request for Further Information (RFI) was sent to the applicant which raised issues with the following:

- Acoustic impacts - Further information in relation to noise logging data.
- Operation - An amended operational plan of management to include management measures in respect of noise.

- Parking - An amended traffic report to adequately reflect current peak carpark occupancy.
- Traffic management - Details on how traffic will be managed during peak times on Sundays when the markets are in operation and traffic generation.

On 20 September 2024, the applicant provided the following in response to the RFI

- An amendment to the application to reduce the hours of operation from 08:00am to 09:00pm, to 08:00am to 08:00pm Monday to Sunday.
- An amended operational plan of management.
- An amended traffic and parking assessment.
- Additional details of noise logging.

The application was referred back to Council's Health Officer and Transport Engineer and re-notified for an additional 14 days in accordance with the Community Participation Plan.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a recommended condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to noise and traffic.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a recommended condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental 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 application has been publicly exhibited from 27/09/2024 to 11/10/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 103 submission/s from:

Name:	Address:
Ms Amber Robyn Fawn Jones	63 Emma Street MONA VALE NSW 2103
Tammy Lim	71 Griffin Road NORTH CURL CURL NSW 2099
Katherine Gillian	7 Fairy Bower Road MANLY NSW 2095
Mr Gary Drage Littlejohns	1a/1 Cook Terrace MONA VALE NSW 2103
Mr Tony John Adams	79 Lorikeet Grove WARRIEWOOD NSW 2102
Bluestone Homes Pty Ltd	3 / 14 Polo Avenue MONA VALE NSW 2103
Mr Richard Guy Nelmes	5 / 45 - 53 Ocean Avenue NEWPORT NSW 2106
Mr Steven Ronald Wannell	38 Wallumatta Road NEWPORT NSW 2106
Liane Chase	4 A Daisy Street NORTH BALGOWLAH NSW 2093
Mrs Bernadette Mary Strang	2 Orlando Road CROMER NSW 2099
Mr Christopher Moorman	12 / 19 - 23 Delmar Parade DEE WHY NSW 2099
Mark Johnston	2 Neridah Avenue BELROSE NSW 2085
Mrs Anne Kathleen Carolan	59 Waratah Street MONA VALE NSW 2103
James Wilkin	Address Unknown
Mr Ian Richard Hutchinson	69 Hillside Road NEWPORT NSW 2106
Ms Helen Mary Ware	11 Foxall Street ELANORA HEIGHTS NSW 2101
Ms Rosalene Dorothy Collison Clements	42 Plateau Road BILGOLA PLATEAU NSW 2107
Mrs Robyn Gay Day	7 Jeanette Avenue MONA VALE NSW 2103
Chris Taylor	Address Unknown
Mel Vista	Address Unknown
Elaine Gillespie	91 Mona Vale Road MONA VALE NSW 2103
Mr John Harold Roxburgh Mrs Janice Anne Roxburgh	9 Jeanette Avenue MONA VALE NSW 2103
Mr Guy Raymond Bryant	53 Emma Street MONA VALE NSW 2103
Mr Kevin John Lee	89 Mona Vale Road MONA VALE NSW 2103
Mr Van Hung Nguyen	87 Mona Vale Road MONA VALE NSW 2103
Mr Frederick Willem Mesker	33 Emma Street MONA VALE NSW 2103
Ms Eila Kyllikki Ruuska	53 Emma Street MONA VALE NSW 2103
Mr Peter Robert Johnson	96/10 Minkara Road BAYVIEW NSW 2104
Paul Soo	2 Victoria Street BURWOOD NSW 2134
Mr Damon John Williams	32 Woorarra Avenue NORTH NARRABEEN NSW 2101
Mr Ian Robert Stephenson	47 Towradgi Street NARRAWEENA NSW 2099

Name:	Address:
Mr Peter John Ashcroft	71/80 Evans Street FRESHWATER NSW 2096
Mrs Carole Yvonne Macdonald	9 Noolinga Road BAYVIEW NSW 2104
Mrs Rae-Maree Hutton	5 Biralee Crescent BEACON HILL NSW 2100
Mr Elemer Csaba Hunfalvay	3 / 147 - 149 Darley Street West MONA VALE NSW 2103
Mr Ian Robert Yeates	13 Jendi Avenue BAYVIEW NSW 2104
Ms Gaye Belbin	Address Unknown
Ms Hazel Joan Williams	79 Prince Alfred Parade NEWPORT NSW 2106
Mrs Alison Margaret Roberts	38 Surfers Parade FRESHWATER NSW 2096
Mr Ian Nicholas Lanser	3 / 29 Hawkesbury Avenue DEE WHY NSW 2099
Lee Miles	2 / 41 Bower Street MANLY NSW 2095
James Alfred Gatenby	317 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Mrs Monique Darcy	18 Woolrych Crescent DAVIDSON NSW 2085
Ms Kaye Wynn Swanson	7 / 52 Fairlight Street FAIRLIGHT NSW 2094
Mr Douglas Conrad Hilton	1 / 1634 Pittwater Road MONA VALE NSW 2103
Douglas Imrie Smyth	16 Normandy Road ALLAMBIE HEIGHTS NSW 2100
Mr Andrew Russell Wiltshire	17 Myola Road NEWPORT NSW 2106
Pamela Sizeland	24 Claudare Street COLLAROY PLATEAU NSW 2097
Ms Julie Anne Williams	17 Kuttabul Place ELANORA HEIGHTS NSW 2101
Ms Linda Jane Mallett	9 / 299 Sydney Road BALGOWLAH NSW 2093
Merrilyn Clancy	Address Unknown
Dianne Glenister	Address Unknown
Jane Angela Ward	6 / 11 Niven Place BELROSE NSW 2085
Mr Paul Michael Else Ockenden	3 Little Willandra Road CROMER NSW 2099
Mr Klaus Drewnianska	8 Gladys Avenue FRENCHS FOREST NSW 2086
Ms Dianne Wendy Brown	203/47 Lewis Street DEE WHY NSW 2099
Mrs Elizabeth Jocelyn Anstee Franklin	72 Rednal Street MONA VALE NSW 2103
Mrs Susan Anne Smiles	7 Rayner Avenue NARRAWEENA NSW 2099
Mr Graham Leigh Pickles	2 Kara Crescent BAYVIEW NSW 2104
Corrina Grace	151 Prince Alfred Parade NEWPORT NSW 2106
Mr Karl Edgar Sice	2 Heron Place MONA VALE NSW 2103
Ms Ruth Adele Dickson	12 / 40 Ocean Street NARRABEEN NSW 2101
Mr Craig Anthony Hood	24/37-39 Ashburner Street MANLY NSW 2095
Ms Sheridan Hudson	1 / 32 Seaview Avenue NEWPORT NSW 2106
Ms Christine Smyth	32 Wollombi Road BILGOLA PLATEAU NSW 2107
Mrs Yvette Louise Goldberg	2 Oxley Place FRENCHS FOREST NSW 2086
Mrs Megan Jane Dennison	14 / 19 - 23 Richmond Avenue DEE WHY NSW 2099
Mr Michael Anthony Hawes	101 Prince Alfred Parade NEWPORT NSW 2106

Name:	Address:
Mrs Michelle Buhler	14 Bungoona Avenue ELANORA HEIGHTS NSW 2101
Barry Thompson	Address Unknown
Ann Hoy	1/359a Barrenjoey Road AVALON BEACH NSW 2107
John Reid	Address Unknown
Mrs Christine Julie Brunsdon	6 Amourin Street NORTH MANLY NSW 2100
Mrs Katherine Parry	3 / 30 Darley Road MANLY NSW 2095
Ms Patricia Frances Miller	2 / 40 Lauderdale Avenue FAIRLIGHT NSW 2094
Ms Catherine Ann Burton	1 / 16 Clearview Place BROOKVALE NSW 2100
Mr Garry William Adams	106 Addison Road MANLY NSW 2095
Ms Sandra Mary Muscat	146 Parkes Road COLLAROY PLATEAU NSW 2097
Mrs Sara Roe	93 Quirk Street DEE WHY NSW 2099
Ms Michelle Gibson	22 C Ryrie Avenue CROMER NSW 2099
Mr Anthony James Harmer	1005 Pittwater Road COLLAROY NSW 2097
Mrs Amanda Clare Blades	18 D Macpherson Street WARRIEWOOD NSW 2102
Ms Debbie Williams	27 Austin Avenue NORTH CURL CURL NSW 2099
Helen Najar	113 Darley Road MANLY NSW 2095
Diana Aitken	19 Richmond Avenue ST IVES NSW 2075
Mrs Allison Therese Williams	18 B Macpherson Street WARRIEWOOD NSW 2102
Mr Michael John Marosa	13 Worroobil Street NORTH BALGOWLAH NSW 2093
Mrs Katrina Maree Jenkins	2 Tingira Place FORESTVILLE NSW 2087
Mr Peter Damien Massey	18 Woolrych Crescent DAVIDSON NSW 2085
Elizabeth Martinuzzo	138 Fuller Street NARRABEEN NSW 2101
Craig Michael Lush	84 Bantry Bay Road FRENCHS FOREST NSW 2086
Ms Sandy Ann Cruise	4 Hibiscus Parade NORTH NARRABEEN NSW 2101
Mrs Anne Margaret Moorcroft	51 Epping Drive FRENCHS FOREST NSW 2086
Mrs Annette Alison Ryan	34 Woodward Street CROMER NSW 2099
Mr Benjamin Watson Grozier	1 Keswick Street DEE WHY NSW 2099
Charles Dominic Colin Whitehand	27 Lady Davidson Circuit FORESTVILLE NSW 2087
Mr Stephen James Matthews	15 A Carlton Street FRESHWATER NSW 2096
Mr Matthew Keith Haack	2 / 6 Foley Street MONA VALE NSW 2103
Mr Kai Hedley Cooper	6 / 6 Foley Street MONA VALE NSW 2103
Mr Christopher David Stead	20 Whitney Street MONA VALE NSW 2103
Ms Christine Margaret Wadsworth	17 / 6 Foley Street MONA VALE NSW 2103
Dr Peter William McDonald	10 / 6 Foley Street MONA VALE NSW 2103
Mrs Janne Mae McDonald	10 / 6 Foley Street MONA VALE NSW 2103

A total of 102 unique submissions have been received, 86 in support and 17 in objections. In accordance with the Community Participation Plan (CPP), *all submissions received by or on behalf of*

the same dwelling will be considered as a single (unique) submission.

- **Acoustic impacts**

The submissions raise concerns about potential noise impacts associated with the use of six (6) pickleball courts with a minimum of 35 players using the courts until 09:30pm, seven (7) days a week. Noise will be generated by players as pickleball is louder than tennis due to the use of the plastic balls and plastic bat which creates a popping sound. Noise will also be generated from participants yelling and cheering. The noise impacts will be heightened and increased as it bounces off the surrounding hills.

Further, the Submissions raise concerns about the cumulative impact of noise from the proposed pickleball courts and existing uses. Neighbouring residents express concern that they currently experience noise impacts from the current operation of the RSL club, including noise from the outdoor bar and dining area, roof top parking areas and the external gaming area with complaints to the club being ignored. Noise impacts are also generated from the futsal courts and bowling greens, which are located further away than the pickleball courts.

Comment:

The application has been amended to reduce the hours of operation from 08:00am - 9:00pm to 08:00am - 8:00pm, Monday to Sunday and the acoustic report, amended Plan of Management and additional acoustic information, have been reviewed by Council's Environmental Health Officer who supports the proposal, subject to recommended conditions to assist in noise mitigation measures.

The acoustic report has been prepared by an acoustic engineer. The report has been assessed by Council Environmental Health Officer who raises no issues with the content or methodology of assessment within the report. The report includes a recommendation for an acoustic barrier extending 2.5 metre in height above the upper car park ground level for the full length of the northern perimeter of the pickleball courts to attenuate noise transmission from the development to the nearest residential receiver, namely, 87-91 Mona Vale Road which is located on the opposite side of Mona Vale Road. The effectiveness of the acoustic barrier is determined by its height, construction materials and density and the acoustic report provided specification for the barrier. The design of the barrier has been reviewed by Council's Environmental Health Officer who has confirmed that it is acceptable, subject to recommended conditions, including a requirement for the certification of the acoustic design. The acoustic report includes a number of other noise management measures, such as, a restriction on the number of players, hours of operation, a requirement for signage to ask players to leave quietly, and provision for compliant resolution as detailed in the amended operational plan of management. Additional conditions are included in the recommendation including a restriction on the use of amplified sound, no alcohol permitted on the courts and a requirement for all technical reports to be amended to ensure consistency.

Council's Environmental Health Officer has confirmed that the majority of Foley Street will be less impacted as there is significant attenuation from the built form of the existing RSL building. The acoustic report concludes that by achieving compliance at the nearest sensitive receiver locations, including the provision of an acoustic barrier, compliance will also be achieved at all other sensitive receiver locations further away.

The acoustic report has taken into consideration the cumulative impact of noise from existing

operations at the Club and noise from Mona Vale Road.

Issues with the operation and management of the proposed pickleball courts and the current operation of the RSL are discussed below.

- ***Lighting impacts***

The submissions raised concerns that obtrusive light spill from the courts, which are proposed to be switched off at 09:30pm, will unreasonably impact neighbouring residential amenity including light spill to outdoor areas of private open space.

Comment:

The proposal includes the relocation of seven (7) existing light poles and the addition of three (3) new poles. The location of the new / relocated light poles are further away from the northern boundary than the existing light poles which will help minimise light impacts to residents located on the opposite side of Mona Vale Road.

An obtrusive lighting report certifies that the lighting design complies with the Australian Standard AS 4282:2019 “*Control of the Obtrusive Effects of Outdoor Lighting*”, and Australian Standard AS 2560.2.1-2003 “*Lighting For Outdoor Tennis*”. It is noted that the report refers to non-curfew hours for lighting between sunset to 11:00pm. The report has been assessed by Council Environmental Health Officer as acceptable, subject to conditions. As discussed above, the hours of operation of the pickleball courts have been reduced by one hour with matches ending at 08:00pm as opposed to 09:00pm. A 30 minute clean up period is also proposed with all staff and players to vacate the courts by 08:30pm. To ensure consistency with the amended hours of operation it is recommended that the a condition be imposed requiring external lights to the pickleball courts to be dimmed at 08:00pm and switched off at 08:00pm Monday to Sunday. A condition also requires the the obtrusive lighting report to be amended to reflect these hours which will ensure consistency across all reports. Subject to these conditions, the lighting associated with the courts is unlikely to result in unreasonable impacts on neighbouring amenity.

- ***Management, operation and complaints procedure***

The submissions raised concerns that in the past complaints to the RSL club in respect of noise impacts have been ignored and concerns is raised about the cumulative impact of the proposed pickleball courts in addition to current management issues.

Comment:

The issues with the current operation of the RSL Club are noted. A search of Council records confirms that compliance action has been undertaken in respect to noise complaints in relation to the use of some areas of the Club. This will include a review of the conditions to establish if there is a breach of consent. It is also noted that some complaints will require review by the Police as the some complaints relate to Liquor and Gaming controls.

While these operational / acoustic issues relate to different consents, it is noted that noise from the current operation of the Club has been considered in the acoustic report in determining the recommendations for acoustic attenuation. Subject to compliance with the recommendations of the acoustic report and the operational plan of management it is not therefore expected that there will be a cumulative impact from the pickleball courts and the current use of the Club,

especially noting the reduced hours of operation. Should there be a breach of any of the recommended conditions Council Compliance Department can investigate and take any appropriate action.

Finally, it is recommended that consent be limited to 24 months which will allow Council to monitor the use, including consideration of any complaints that may have been received during the trial period.

- ***Impacts on health / wellbeing***

The submissions raise concerns that noise and lighting impacts will unreasonably impact on the quality of life for nearby residents. Impacts on sleep and general disturbance have the potential to lead to health issues, for example, headaches, stress, increased blood pressure which in turn can lead to mental health issues.

Comment:

As above, the proposed hours of operation have been reduced by one hour and conditions are recommended to require compliance with the recommendations of the technical reports and plan of management. Subject to compliance with conditions it is not anticipated that there will be unreasonable impacts on the quality of life / general wellbeing of nearby residents, due to noise impacts or light spill.

- ***Visual impact***

The submissions raised concerns that the 2.5 metre high acoustic wall will result in unreasonable visual impacts on the locality and landscape is required along the northern boundary to help screen the structure which in turn may also help reduce noise impacts.

Comment:

It is noted that there is limited vegetation along the northern boundary, as such, it is reasonable to require additional landscape planting along the boundary which will help reduce the visual impact of the acoustic barrier on the streetscape and general locality, refer to the detailed discussion under Clause D14.1 and D14.15 of the PDCP below.

- ***Contrary to Planning controls***

The submissions raise concerns that recreational facilities (outdoor), are not permitted in the R2 Low Density Residential zone and the proposal is inconsistent with controls that aim to protect health and wellbeing of residents and controls relating to acoustics.

Comment:

Schedule 1 Additional Permitted Uses (11) of the Pittwater LEP allows the land to be used for the purpose of a *registered club*. A registered club holds a license under the *Liquor Act 2007* which allows registered clubs to be used for sporting and athletic purposes. The proposed outdoor recreational use is therefore permissible and subject to conditions relating to noise and lighting will not unreasonably impact on the health and wellbeing of neighbouring residents, refer to detailed discussion below.

- ***Devalue property***

Comment:

This is not a matter for consideration under the EPA Regulations.

Additional information was received on 20 September 2024 in response to the request for further acoustic and traffic information as detailed in the RFI letter. In accordance with the Community Participation Plan (CCP), the application was re-notified on 23 September 2024 for a further fourteen (14) days. A total of eight (8) additional submissions have been received, four (4) from persons that made a submission to the original application and four (4) new submissions. The submissions reiterated issues and concerns detailed above and raised the following new issues:

- ***Acoustic report***

The submissions question the accuracy of the acoustic report noting that it is dated November 2018 and is therefore six (6) years old. The submission notes that the noise testing was carried out at a non-residential (industrial) location further away from the proposed court. As such, it is questioned whether the report represents the true current noise emission impact of the affected neighbouring residential area. A further independent noise assessment is required which includes an assessment of Foley Street residents.

Response:

The acoustic report is dated 11 April 2024 and identifies 87-91 Mona Vale Road as the nearest sensitive receiver where attended monitoring was undertaken. The majority of residential properties along Foley Street are less effected as there is significant attenuation from the built form of the existing RSL Club building. Subject to the compliance with the recommendations of the acoustic report there will be no unreasonable acoustic impact on neighbouring residential properties, including dwelling on Foley Street.

In response to concerns about the noise logging data Council's Environmental Health Officer notes that it is likely that the acoustic consultant used the 2018 monitoring data from Jubilee Avenue as it would be data representative of the area already available as the result of other projects. This is a relatively common practice for acoustic consultants if similar data can be used or if the consultant has a board base of similar data as a result of other projects. Though it may have been prudent to state the age the monitoring data, it would be considered unlikely to result in a major change in sound pressure to bring the unattended monitoring component of the assessment closer to the subject site. Other noise monitoring, is noted to have also been carried out during Covid in August 2021, (identified by the acoustic report as atypical) and after this, July 2022 (where significant higher measurements were obtained). This was done to correlate to monitoring data gathered in 2018 in Jubilee Avenue to ensure typical background for area as referenced by the report. It is also noted that acoustic consultant used attended monitoring data gathered via a noise assessment of pickleball activity obtained from an already established center on the North Shore of Sydney during what appeared to be a moderate intensity of use. The data was also included in the acoustic report as part of the modelling assumption. In summary, Council's Environmental Health Officer raises no issues with the noise monitoring data. In order to ensure that the acoustic recommended are adequate a condition is included requiring an acoustic review post the commencement of operation.

- **Submissions in support**

The submissions in objection note that all the people in favour of the application do not live in the area and will not be affected by the constant loud offensive noise.

Response:

It is noted that the majority of submission in support of the application are from people who live out of the area. Critically, the issues in respect to noise impacts to neighbouring residents have been thoroughly considered as part of the assessment of the application.

- **Operating hours**

The submission note that the hours of operation have been reduced with games ending at 08:00pm. Despite this, it is requested that further restrictions on operating hours are considered to mitigate evening impacts.

Response:

Subject to compliance with the recommended conditions it is not considered necessary or reasonable to further restrict the operating hours of the pickleball courts which are consistent with the trading of other similar recreational uses residential zones. The trial consent will allow Council to monitor the use and should it be determined after the trial that impacts in the evening are unreasonable a reduction in the hours of operation can be consider as part of a future application.

- **Insufficient notification**

The submission from a resident from Whitney Street notes that there has been insufficient notification of the application.

Response:

The application has been notified twice in accordance with the Community Participation Plan. Whitney Street is located more than 500 metres from the site there was no requirement for notification to extend to this street.

- **Court size**

The submissions note that the dimensions of the court do not comply with minimum recommended size which may result in safety issues with player and others on the courts colliding into each other.

Response:

The submissions refers to American pickleball court standard dimension of 18.3 metres x 9.1 metres whereas the dimensions of the proposed courts comply with the relevant Australian standards.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported - without conditions</p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no concerns with the application.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i></p>
Environmental Health (Industrial)	<p>Supported - subject to conditions</p> <p><u>Update 24/09/2024</u></p> <p>A response has been provided in relation to concerns raised previously by Environmental Health.</p> <p>As part of the response, monitoring data and locations for unattended monitoring have been provided.</p> <p>As part of the response the amended Statement of Environmental Effects now describes the hour of use up to 8pm as opposed to 9pm previously.</p> <p>An updated Plan of Management has also been provided.</p> <p>Accordingly, the proposal is now supported with a recommendation for several conditions of consent to be included assist with noise mitigation measures.</p> <p>Recommendation</p> <p>Approval - subject to conditions</p> <p><u>General Comments</u></p> <p>This application is seeking consent for use of the rooftop carpark as 6 pickleball courts, lighting, acoustic measures and chain wire fencing at 80-82 Mona Vale Road, Mona Vale.</p> <p>The proposed hours of operation are Monday to Sunday 8:00am to 9:00pm (excluding Christmas). Lights are proposed to be turned off by 9:30pm nightly - lights to be dimmed at 9:00pm. Courts are to be vacated by players and club staff by 9:30pm.</p> <p>There will be 4 players per court and up to an extra 3 players on the sidelines of each court (a potential total of 54 people if all courts are in use and including 3 persons on the sideline of each court).</p> <p>The Statement of Environmental Effects dated May 2024 has stated:</p>

Internal Referral Body	Comments
	<p>No alcohol is permitted on the courts. Consumption of alcohol within the pickleball court area is not proposed as part of the DA. No mechanical equipment e.g. speakers or other mechanical plant to be used in conjunction with the pickleball courts.</p> <p>An acoustic report has been prepared by Acoustic Dynamics dated 11 April 2024 reference number 5360R004.LM.240325.</p> <p>The acoustic report states:</p> <p><i>To ensure the noise emission objective is based on typical background noise levels for the area, Acoustic Dynamics has correlated the results of the attended measures with noise logging data conducted at a site within close proximity (i.e a residential site located 220 meters to the south west of the RSL. Can the consultant please provide further information in relation to this noise logging data. For how long did the noise logging occur? What time of the day/night did it occur? Precisely at what property was the noise logging conducted?</i></p> <p>On page 10 of the Acoustic Report, the following is stated: <i>Based on the background noise measurements conducted on site and previous long-term and short-term measurements conducted in similar types of areas - where are these similar types of areas?</i></p> <p>The Plan of Management will need to be updated to include further details on the effective management of noise on the pickleball courts. This can be conditioned as part of the DA.</p> <p>The pickleball board, when hit by the ball, vibrates back and forth creating a louder sound than if it were a tennis ball and racket. The closest residential receiver is within 60 meters of the proposed courts. Environmental Health caution the use of the courts to 9:00pm especially in relation to noise and lighting with residential receivers within 60m across the Mona Vale Road. Operation of the courts Monday to Sunday provides no respite in the evening time period.</p> <p>Environmental Health recommends refusal at this time.</p>
NECC (Development Engineering)	<p>Supported - without conditions</p> <p>The proposed development involves the conversion of existing roof top parking to a Pickleball court. Development engineering raises no objections to the proposed development.</p>
Traffic Engineer	<p>Supported - subject to conditions</p> <p><u>Further comments - dated September 2024</u> The applicant has now provided additional surveys undertaken on a Friday from 5pm to 9pm and a Sunday from 10am to 2pm as requested by Council in the original referral response. The Friday survey shows a maximum carpark occupancy of 31% at 7pm with 293 vacant spaces and the Sunday survey shows a maximum</p>

Internal Referral Body	Comments
	<p>occupancy of 64% at 10am with 120 vacant spaces. The survey shows a total of 422 car parking spaces within the RSL property which differs from the 400 and 412 spaces referenced in the previous documentation. Although, there has been no clarification provided regarding the inconsistent numbers of car parking spaces, it is understood from the surveys that there are more than hundred spaces available even during peak operating hours and the proposed change in use of existing carpark to the pickleball courts is not anticipated to create any shortfall in on-site parking.</p> <p>It is however noted that there have been a large number of submissions received supporting the proposal and it is not known at this stage how popular the courts will be. It is therefore recommended that an approval be granted initially for a trial period with further parking data provided to confirm that the operation of the courts together with markets and other activities on the land has not led to unintended parking congestion or other issues on the site.</p> <p>Therefore, the DA is approved subject to conditions.</p> <p><u>Original comments - dated August 2024</u> Proposal Description: Proposed Use of Rooftop Car Park (34 spaces) as Pickleball Courts (6 Courts) within Pittwater RSL Club The Traffic Team has reviewed the following documents:</p> <ul style="list-style-type: none"> • Plans (Master Set) - Issue A, designed by Curtin Architects, dated 15.04.2024. • Traffic and Parking Assessment, prepared by Transport and Traffic Planning Associates, reference 248/2021, Issue A, dated March 2024. • The <i>Statement of Environmental Effects</i> prepared by Andrew Martin Planning, dated May 2024. • Operational Plan of Management, prepared by JSF Consulting <p><u>Comments</u></p> <ul style="list-style-type: none"> • It is noted that the proposed development is for removing 34 existing car parking spaces from the Pittwater RSL and converting these to 6 x pickle ball courts. • Existing vehicle access to the club is retained and no changes to the existing vehicle access has been proposed. • It is noted that a parking occupancy survey has been provided which was undertaken on Friday 20.01.2023 between 4pm and 1am. The survey indicates a maximum occupancy of 32% i.e. only 126 of the 400 total parking spaces on the site were occupied in a Friday evening at 7pm. Traffic report also mentions that, "Recent observations at the peak club trading times reveal that the parking demand is about the same with only some 35% of spaces ever occupied". However, no details have been provided about

Internal Referral Body	Comments
	<p>those recent observations. Given the provided survey was undertaken during school holidays over 12 months ago, there is concern that the survey does not adequately reflect current peak carpark occupancy of the Club. Moreover, it should be noted that with Sunday Markets operating within the carpark of the Club and 32 car parking spaces already removed to provide an outdoor dining area, the further reduction of 34 spaces may affect the on-site parking availability of the club. Hence, Council requests a recent parking occupancy survey to be conducted both on a typical Friday between 5:00pm to 9:00pm at no less than hourly intervals and also on a typical Sunday with markets operating at no less than hourly intervals between 10:00am to 2pm.</p> <ul style="list-style-type: none"> • The proposed hours of operation for the proposed Pickleball Court is 8am to 9pm daily. With Sunday markets opening on Sunday from 8:30am to 1pm which reduces some parking and has high use of the existing car park, the applicant is requested to provide information on how traffic will be managed during the peak times on Sundays if the pickleball courts and markets are to be operational on Sundays at the same time. • It is noted that the traffic report mentions there is a total of 400 car parking spaces within the Club. However, according to the DA condition 11 of DA2021/1724, a minimum of 418 off-street parking spaces were to be maintained during the temporary approval of the outdoor dining area. Council understands that this outdoor dining area has been approved to operate permanently, but there were no other approvals for the removal of 18 spaces from the balance of 418 spaces. The information regarding missing 18 parking spaces must be provided. <p><u>Traffic Generation Impact</u></p> <ul style="list-style-type: none"> • The Traffic report only mentions that "the traffic generation of the Club has not caused any adverse traffic issues in the past and it is not expected that these generated movements will return to the former level for some significant time. It is apparent therefore that the proposal will not result in any adverse traffic implications." While the above statement may be true, it must be supported by facts that the proposal will not result in any adverse traffic impacts. Given the proposal will attract more traffic movements, traffic generation from the proposed change of use particularly at game changeover times must be calculated and provided. <p><u>Conclusion</u> The application is not supported at this stage with further information as outlined above required prior to further consideration of the proposal.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	<p>Supported - subject to conditions</p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30 metres of a structure supporting an overhead electricity transmission line and/or within 5.0 metres of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

Pittwater Local Environmental Plan 2014

Is the development permissible?	Zone R2 : No Zone SP2:
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Zone R2 : Yes Zone SP2:

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.0m 2.5m high acoustic wall and 3.0m fence along the eastern perimeter of the car park structure	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	Yes
5.1A Development on land intended to be acquired for public purpose	Yes
7.10 Essential services	Yes

Detailed Assessment

2.5 Additional permitted uses for particular land

Schedule 1 Additional Permitted Uses

Schedule 1 Additional Permitted Uses (11) permits the use of land identified as "Area 9" being 80-82 and 84 Mona Vale Road, Mona Vale and 22 Jubilee Avenue, Warriewood for the purpose of a registered club, subject to development consent.

A **registered club** means a club that holds a license under the *Liquor Act 2007*, the following provisions of the *Liquor Act and the Registered Club Act 1976* are of relevance:

Division 3 Club licenses

Clause 19 (1) A club license may only be granted to a club that-

- (a) meets the requirements specified in section 10(1) of the Registered Clubs Act 1976, and
- (b) otherwise complies with the requirements of that Act.

Registered Clubs Act 1976

Division 1 General requirements, Clause 10 Requirements to be met by clubs:

- (e) *The clubs shall be established*
 - (i) for social, literary, political, **sporting or athletic purposes** or for any other lawful purposes (**emphasis added**), and
 - (ii) for the purpose of providing accommodation for its members and their guests.

Pittwater RSL holds a license under the Liquor Act 2007 and the proposed outdoor recreational use is therefore permissible under Clause 10(e) (i) of the Registered Clubs Act 1976.

Zone SP2 Infrastructure

A section of the site fronting Mona Vale Road is zoned as SP2 Infrastructure, there are no works proposed on this portion of the site.

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Secondary building line Mona Vale Road	3.25m	13.3m - 17.17m	N/A	Yes

The only physical work proposed is the construction of an acoustic barrier along the northern boundary which complies with the setback to the secondary frontage and a chain wire fence along the perimeter. There are no change to the built form of the Club building, therefore, a detailed assessment of the proposal against the built form controls is not required.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.14 Warriewood Locality	Yes	Yes
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B6.7 Transport and Traffic Management	Yes	Yes
C2.2 Safety and Security	Yes	Yes
C2.9 Waste and Recycling Facilities	Yes	Yes
C2.10 Pollution Control	Yes	Yes
C2.12 Protection of Residential Amenity	Yes	Yes
D14.1 Character as viewed from a public place	Yes	Yes
D14.2 Scenic protection - General	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D14.3 Building colours and materials	Yes	Yes
D14.7 Front building line	Yes	Yes
D14.15 Fences - General	No	Yes

Detailed Assessment

D14.1 Character as viewed from a public place

The control requires:

Landscaping is to be integrated with the building design to screen the visual impact of the built form.

Comment:

Concern is raised in the submissions regarding the visual impact of the 2.5 metre high acoustic wall proposed along the northern edge of the existing upper level car park which extends 41 metres in length. The proposed barrier is set back between 13.6 metres and 17.2 metres from the northern boundary of the site and is located approximately 50 metres to the nearest residential properties to the north which are separated from the subject site by Mona Vale Road. Despite the separation distance to the nearest residents there is limited landscaping along the northern boundary. As such, it is reasonable to require additional screen planting (by way of recommended Condition) along the northern boundary to help soften the visual impact of the barrier along the streetscape and ensure compliance with the control.

D14.15 Fences - General

The control requires:

a. Front fences and side fences (within the front building setback)

Front fences and side fences (within the front building setback) shall:

not exceed a maximum height of 1 metre above existing ground level, be compatible with the streetscape character, and not obstruct views available from the road.

Fences are to be constructed of open, see-through, dark-coloured materials.

Landscaping is to screen the fence on the roadside. Such landscaping is to be trimmed to ensure clear view of pedestrians and vehicles travelling along the roadway, for vehicles and pedestrians exiting the site.

Comment:

The proposed 2.5 metre high acoustic screen and 3.0 metre high mesh fence will have a height of between 6.0m and 7.0 metre above ground level. The screens have the effect of form part of appearing in the streetscape as a fence. As such, the proposal exceeds the maximum 1.0 metre height for fences located along the front and side setback and a merit assessment against the

outcomes of the control is provided below:

To achieve the desired future character of the Locality.

Comment:

Although the Pittwater RSL Club site is located within an R2 Low Density Zone the site benefits from additional permitted uses as a registered club. The scale and mass of the RSL club building is not typical of the Mona Vale residential locality or the desired future character of the locality, however is an important part of the community and its setting. The facade to existing club building to Mona Vale Road presents an unarticulated frontage consisting of a wall and fence that is designed to enable the club use to function. By comparison the proposed acoustic barrier and mesh fence sits below the height of the existing Club building and the height of the canopy trees. A recommended condition requires screen planting along the frontage to help soft the structure and reduce any visual impact on the streetscape. Given the context of the site and subject to the required condition requiring landscape screening the proposal is assessed as acceptable in the Mona Vale Locality.

To ensure fences compliment and conserve the visual character of the street and neighbourhood.

Comment:

As above, given the context of the site and subject to a condition requiring screen planting, the proposed acoustic barrier and fence will not unreasonably impact on the visual character of the street and neighbourhood.

To define the boundaries and edges between public and private land and between areas of different function.

Comment:

The acoustic barrier is required to ensure noise attenuation.

To contribute positively to the public domain.

Comment:

Subject to screen planting the proposal has the potential to enhance the public domain.

An open streetscape that allows casual surveillance of the street.

Comment:

Not relevant as the acoustic barrier is required to protect neighbouring amenity.

Fences, where provided, are suitably screened from view from a public place.

Comment:

As above, a condition requires suitable landscape screening.

Safe sight distances and clear view of the street (including to and from driveways) for motorists and pedestrians.

Comment:

Not relevant, the barrier is not located near any driveways.

To ensure heritage significance is protected and enhanced.

Comment:

Not relevant, there are no heritage sites within the vicinity of the subject site.

To ensure an open view to and from the waterway is maintained.

Comment:

Not relevant the site is not near a waterway.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP

- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

This proposal, for the use of the upper level of the north-eastern car park (34 car park spaces) as six (6) pickleball courts, a 2.5 metres high acoustic barrier and external lighting, has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the application generating more than ten (10) unique submissions by way of objections.

The application has been amended to reduce the hours of operation by one hour with pickleball matches to end at 08:00pm as opposed to 09:00pm, as referenced in the amended operational plan of management. The proposed hours of operation are considered to be reasonable and typical of other similar uses, subject to compliance with conditions.

The concerns raised in the objections in respect of acoustic impacts have been resolved by noise attenuation conditions requiring compliance and certification with the recommendations of the acoustic report, including the acoustic barrier. It is noted that the acoustic report considered noise for the current operation of the Club as part of its assessment, therefore, subject to compliance with the recommendations of the report it is not anticipated that there will be cumulative acoustic impacts with the new pickleball use on neighbouring properties. An additional condition requires an acoustic review, post commencement, with a requirement for additional noise attenuation measures, if required.

In order to address concerns regarding the visual impact of the acoustic barrier, a condition requires screen planting along the northern boundary.

The concerns raised in the objections in respect of lighting impacts have been addressed with a condition requiring external lights to be dimmed at 08:00pm and switched off at 08:30pm. Conditions require all technical reports to be updated to ensure consistency and a separate condition requires the certification of the obtrusive lighting report.

Operational conditions include a restriction on the number of participants, the hours of use and a restriction on amplified sound. The operational plan of management provides details on complaint resolution.

An amended traffic report / survey confirms that there are one hundred car parking spaces available during peak times, as such Council Transport Engineer confirms that the use of the carpark for pickleball is unlikely to create a shortfall in on-site car parking and conditions are recommended to ensure that there is no unreasonable impact on traffic management within the site and its surrounds. Finally, a 24 month trial consent is recommended which will allow Council to monitor the use and any potential impacts.

Overall, subject to recommended conditions, the proposal is supported by all referral officers as it is unlikely to result in unreasonable impacts on nearby properties by virtue of acoustic, lighting impact, or traffic, parking or road safety impacts. The proposal has therefore been recommended for approval for a trial period.

REASON FOR DETERMINATION

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 DA2024/0675 for Alterations and additions to existing building and use as a recreational facility (outdoor) on land at Lot 52 DP 1237461, 80 - 82 Mona Vale Road, MONA VALE, subject to the conditions printed below:

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-101	A	Lower Ground Level Plan	Curtin Architects	February 2024
DA-102	A	Elevation Barrier Details	Curtin Architects	February 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
*Operational Plan of Management	1	JSF Consulting	10/09/2024
*Operations Noise Emissions Assessment Ref 5360R004.LM.240325	-	Acoustic Dynamics	11/04/2024
Traffic and Parking Assessment Ref 248/2021	A	Transport and Traffic Planning Associates	March 2024
*Obtrusive Lighting Report	-	Haron Robson	01/04/2024
Waste Management Plan	-	Robert Clarke	22/05/2024

***Note:** The Operational Plan of Management, acoustic report and obtrusive lighting report shall be amended to ensure consistency.

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent,

the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	04/06/2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. **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 Certifier 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 Certifier 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 Certifier 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.

4. **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) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
- (c) 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.
- (d) At all times after the submission of 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (e) 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.

- (f) 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.
- (g) Prior to the release of the Construction Certificate, payment of the following is required:
 - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% 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.
 - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
 - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
- (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (i) 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.
- (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) 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.

- (m) 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.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Should any construction cranes be utilised on site, they are to be fitted with bird deterrents along the counterweight to discourage raptor (bird) nesting activity. Deterrents are to remain in place until cranes are dismantled. Selection of deterrent methods is to be undertaken in accordance with the recommendations of a suitably qualified ecologist.
- (p) 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 2018
 - (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

5. Security Bond

A bond (determined from cost of works) of \$2,000 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 Certifier 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).

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

BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

6. Amendments to the acoustic report

The submitted acoustic report is to be amended to reference the following:

(a) The cessation of matches at 08:00pm Monday to Sunday, plus 30 minutes clean up with all staff and players to vacate the courts by 8:30pm.

(b) No sound amplification equipment or loud speakers to be used for the announcement, broadcast, playing of music or similar purpose.

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

Reason: To ensure consistency between the management reports.

7. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

8. Sydney Water "Tap In"

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

9. **Amendment to Operational Plan of Management**

The submitted Operational Plan of Management report is to be amended to reference the following:

(a) Hours of operation - matches shall cease at 08:00pm Monday to Sunday, with 30 minutes clean up allowed and all staff and players to vacate the courts by 8:30pm.

(b) The number of players shall not exceed four (4) participating players, and up to three (3) players on each sideline at any moment.

(c) External lighting to the pickleball courts shall be dimmed at 08:00pm and switched off at 8:30pm Monday to Sunday.

(d) No sound amplification equipment or loud speakers to be used for the announcement, broadcast, playing of music or similar purpose.

(e) No alcohol shall be taken onto or consumed in the pickle court designated area.

(f) Bookings to be made through the RSL Club and details of booking system to be provided in the Plan.

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

Reason: To ensure consistency between the management reports.

10. **Amenment to Obtrusive Lighting report**

The Obtrusive Lighting report is to be amended to reference that the external lighting to the Pickleball courts will be dimmed at 08:00pm and turned off nightly at 8:30pm.

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

Reason: To ensure consistency between the management reports.

11. **Acoustic Design Recommendations**

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that design recommendations within the acoustic report titles Operational Noise Emission Assessment by Acoustic Dynamics dated 11 April 2024 document number 5360R004.LM.240325 have been implemented / incorporated into the design of the premises.

Reason: To prevent noise nuisance by using mitigation measures in design.

DURING BUILDING WORK

12. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating that the acoustic wall and the fence are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

BEFORE ISSUE OF THE OCCUPATION CERTIFICATE

13. **Acoustic Design Recommendations**

Prior to the issuing of an Occupation Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that recommendations within the acoustic report have been implemented.

Reason: To prevent noise nuisance by using mitigation measures in design.

14. **Lighting compliance**

Prior to the issue of Occupation Certificate, the Principal Certifier must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard 1158.3:2020 Pedestrian area (Category P) lighting – Performance and design requirements and Australian Standard 4282:2019 Control of the obtrusive effects of outdoor lighting.

Reason: To protect public health and amenity

15. **Screen planting**

Screen planting, along the northern boundary, shall be planted in accordance with the following:

- a) the selected planting is to comprise of native species capable of attaining a minimum height of six (6) metres at maturity,
- b) plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm at planting in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,

Reason: To maintain environmental amenity.

16. **Environmental Reports Certification**

Written certification from a suitably qualified person(s) shall submit to the Principal Certifier and Northern Beaches Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the following final reports have been completed:

- (a) The Final Operational Plan of Management
- (b) The Final Operations Noise Emissions Assessment
- (c) Traffic and Parking Assessment Ref 248/2021, Revision A, prepared by Transport and

Traffic Planning Associates, dated March 2024

(d) The Final Obtrusive Lighting Report

(e) Waste Management Plan, prepared by Robert Clarke, dated 22/05/2024

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure compliance with standards.

17. **Acoustic Review**

Within 30 days from the operations commencing under the terms of this consent, an acoustic review of the findings and recommendations of the Operational Noise Emission Assessment, prepared by Acoustic Dynamics dated 11 April 2024 and any additional requirements at OC acoustic review stage; shall be carried out on site (during a busy period of trading) and any necessary action to obtain acoustic compliance, shall be completed within a further 30 days of the assessment. The report associated with the compliance testing is to be furnished to Council for its records.

Reason: To ensure acoustic compliance in an operational situation.

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

18. **Ongoing compliance with Plan Of Management and Acoustic Report**

Compliance with the final Operational Plan of Management prepared by JSF Consulting and the final acoustic report prepared by Acoustic Dynamics shall be complied with on an ongoing basis.

Reason: To prevent a noise nuisance to any neighbouring residential receiver.

19. **Operational**

The pickleball use shall be operated in compliance with the following restrictions at all times:

(a) Matches shall cease at 08:00pm Monday to Sunday, with 30 minutes clean up allowed and all staff and players to vacate the courts by 8:30pm.

(b) The number of players shall not exceed four (4) participating players, and up to three (3) players on each sideline at any moment.

(c) External lighting to the pickleball courts shall be dimmed at 08:00pm and switched off at 8:30pm Monday to Sunday.

(d) No sound amplification equipment or loud speakers to be used for the announcement, broadcast, playing of music or similar purpose.

(e) No alcohol shall be taken onto or consumed in the pickleball court designated area.

Reason: To protect residential amenity.

20. **Traffic Management**

Traffic management procedures and systems must be in place and practised during the course of the project to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009

Manual of Uniform Traffic Control Devices and Council's Development Control Plans.

Note: A plan of traffic management is to be submitted to and approved by the Principal Certifier.

Reason: To ensure pedestrian safety and continued efficient network operation.

21. **Trial Period**

This consent expires in 24 months from the date of commencement of operation of the pickle ball courts on site unless, by no later than 12 months after the date of commencement, the applicant lodges a modification application accompanied by supporting parking occupancy data to extend the expiry date to 5 years and Council thereafter approves the modification.

Reason: To monitor the operation of the consent to ensure no unforeseen parking congestion issues or adverse impact on any adjoining land, or the amenity of the neighbourhood and the temporary use of the land in accordance with the consent.

22. **Parking provision on site**

The RSL shall have special measures such as signage and traffic marshalls in place during peak operating times to direct cars to the available parking spaces.

Reason: To ensure that parking provided on site is fully utilised