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Statement of Environmental Effects

PROPOSED UPGRADE OF EXISTING ALFRESCO DINING AND MINOR ALTERATIONS TO SOUTH FACADE

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Harbord Bowling Club Ltd.
4/0 Bennett Street
Curl Curl NSW 2096



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Contents

| | | |
|------------|--|-----------|
| 1.0 | Introduction | 3 |
| 1.1 | Consent | 3 |
| 1.2 | Assessment of Statutory Controls | 3 |
| 1.3 | Background | 3 |
| 1.4 | Pre-lodgement consultation | 3 |
| 1.5 | Supporting documentation | 3 |
| 2.0 | Site Analysis | 4 |
| 2.1 | Site location & access | 4 |
| 2.2 | Site description | 4 |
| 2.3 | Easements & right of ways | 4 |
| 2.4 | Relevant planning instruments | 5 |
| 2.5 | Zoning | 5 |
| 2.6 | Context | 5 |
| 2.7 | Present & previous uses | 5 |
| 2.8 | Landscaping | 5 |
| 2.9 | Heritage | 5 |
| 2.10 | Contamination and Acid & Sulphate Soils | 5 |
| 2.11 | Flood Planning | 5 |
| 2.12 | Landslip | 5 |
| 2.13 | Images | 5 |
| 3.0 | The Proposal | 7 |
| 3.1 | Background | 7 |
| 3.2 | Proposal | 7 |
| 3.3 | Project data | 7 |
| 3.4 | Operation & management | 7 |
| 4.0 | Assessment of Planning Issues | 8 |
| 4.1 | Land use and permissibility | 8 |
| 4.2 | Compliance with statutory controls | 8 |
| 4.3 | Compliance with Council controls | 9 |
| 4.4 | State Planning Framework | 9 |
| 4.5 | Existing Use Rights | 9 |
| 4.6 | Heritage Impact Assessment | 11 |
| 4.7 | Aesthetics/ Materials | 11 |
| 4.8 | Indicative External Colours and Materials Schedule | 11 |
| 4.9 | Sunlight / Overshadowing | 12 |
| 4.10 | Views & Visual Privacy | 12 |
| 4.11 | Noise & Acoustic Privacy | 12 |
| 4.12 | Landscaping | 12 |
| 4.13 | Access | 12 |
| 4.14 | Car Parking and Traffic | 12 |
| 4.15 | Public Interest | 12 |
| 4.16 | Energy efficiency | 12 |
| 4.17 | Threatened species | 12 |
| 4.18 | Stormwater & Flood Events | 12 |
| 4.19 | Erosion & sedimentation control | 13 |
| 4.20 | Waste management | 13 |
| 4.21 | Site construction & safety management | 13 |
| 5.0 | Conclusion | 13 |



1.0 Introduction

1.1 Consent

This Statement of Environmental Effects (SEE) accompanies a development application submitted to Norther Beaches Council and seeks Development Consent for a proposed Alfresco Upgrade and minor Building modifications to the existing Club Building.

1.2 Assessment of Statutory Controls

This SEE has been prepared to provide council with the necessary information to assess the environmental effects of the proposal pursuant to Section 79c (1) of the Environmental Planning & Assessment Act.

1.3 Background

Harbord Bowling Club seeks to continually improve the amenity of its Club members and users by providing upgraded facilities.

1.4 Pre-lodgement consultation

A preliminary consultation for the proposal was held with Council in conjunction with the Pe-DA Meeting for the development proposal for the Cambridge Markets, which are proposed to be held on this site.

This meeting was held on 15.08.19 with Council planner Phil Lane.

It is understood that Council will not require Traffic, Acoustic or Flood Reports for this proposal.

1.5 Supporting documentation

This Statement should be read in conjunction with the following drawings and supporting documentation:

- Development Application Drawings:
 - DA 00-01 Site Plan and Location plan
 - DA 00-02 Site Analysis plan
 - DA 01-01 Proposed Ground Floor Plan
 - DA 02-01 Proposed Elevations / Sections
 - DA 18-01 Notification Plans

2.0 Site Analysis

2.1 Site location & access

This SEE relates to Lot 4 DP 601758 known as 4/0 Bennett St, Curl Curl 2096.

Site & Context



Image by: eservices.northernbeaches.gov.au/eplanning

The site is located between Bennett St on the Southern Side, Stirgess Avenue on the Eastern Side, the Weldon Oval on the NW side and Frank Gray on the NW side.

Across the road on Stirgess Avenue and Bennett Street as well as along the W Boundary are residential houses.

Pedestrian and vehicular access to the site is off Bennett St and Stirgess Avenue, which is the closest street to the main entry of the club.

2.2 Site description

The site is rectangular in shape with an area of 1.75 ha. The Southern boundary of the site has a 96m frontage to Bennett St and the Eastern boundary a 186m frontage to Stirgess Ave.

The site slopes from South to North by appr. 2m.

The site is occupied by the existing Bowling Club Building and support buildings, associated car-parking, including 4 Bowling Greens on the Southern and Eastern side and 4 Futsal Courts on the Northern side.

2.3 Easements & right of ways

The existence of any easements or right of ways to the site has not been confirmed.



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2.4 Relevant planning instruments

Coastal Management SEPP
Warringah Local Environment Plan (LEP) 2011
Warringah Development Control Plan (DCP)

2.5 Zoning

The site is zoned 'RE2 Private Recreation' under the provisions of Warringah LEP 2011.

2.6 Context

Land use surrounding the site on the Southern half is zoned R2 – Low Density Residential and Land use surrounding the site on the Northern half is zoned RE1 – Public Recreation.

2.7 Present & previous uses

The site is presently used as a Registered Club providing outdoor recreation and Club services. The use consists of a Clubhouse, Support Buildings, 4 Bowling Greens and 4 Futsal Courts.

2.8 Landscaping

The existing landscaping consists of trees, small shrubs and ground cover around the perimeter of the site. The Eastern half and South are occupied by the Bowling Greens.

2.9 Heritage

There are no listed items of heritage significance on the site and the site is not included in a heritage conservative area.

2.10 Contamination and Acid & Sulphate Soils

The site has no known contamination.
The site has a classification 4 & 5 for Acid and Sulphate Soils.

2.11 Flood Planning

The site is located in a 'Low Risk Flood Planning Precinct. A flood planning level of 5.3mAHD is applicable.

2.12 Landslip

The site is classified as Landslip Risk Type A – slope of land less than 5 degree.

2.13 Images



Club Building from SE – ex. Alfresco Dining area



Club Building from SW



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Ex. Alfresco Dining area and Bowling Greens

Club Building from SE

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Ex. Club Building viewed from Stirgess Ave

Covered Social Terrace - East



Ex. Terrace on North side



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3.0 The Proposal

3.1 Background

The most recent alterations and additions have been the Construction of an outbuilding and fencing in 2012 (DA2012/0900), the enclosure of an existing BBQ area in 2009 (DA2009/0204).

3.2 Proposal

The proposal entails the upgrade of an existing Alfresco Area on the Southern Side of the Club, which includes the demolition of a BBQ structure and small awning and the provision of a new awning over the existing paved seating area. Minor modifications to the South Façade of the existing Building are proposed by providing a new direct Entry from the existing seating area to the Club House and a new Servery Window from the existing Kitchen.

3.3 Project data

| Gross Floor Area (m ²) (including terraces) | Existing | Proposed | Total |
|---|----------------------|----------|-------------|
| Ground Floor | 1230 | 0 | 1230 |
| Alfresco Dining (South) Terrace | 97 | 0 | 97 |
| Social Courtyard – Covered (East) | 73 | 0 | 73 |
| Outdoor Terrace (North) | 59 | 0 | 59 |
| Total | 1459 | 0 | 1459 |
| Site Area | 17,360m ² | | |

Note: There is no change proposed to the extent of the existing public floor areas. There is also no change proposed to the extent of other floor areas such as circulation, Administrative areas, amenities BOH etc. There is also no change proposed to the extent of the existing carpark.

3.4 Operation & management

There is no change proposed to the hours of operation and current management system measures of the premises.

| | <i>Existing</i> | <i>Proposed</i> |
|------------------|--|------------------------|
| Type of Business | Registered Club | Registered Club |
| Employees | Full time, Part time & Casual staff No.s can be confirmed by the Club, if required. | No additional proposed |



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| | | |
|--------------------|--|---|
| Hours of operation | <p>Club Opening Hours: Monday – 12am – 9pm Tuesday – 11am – 9pm Wednesday – 12pm – 10pm Thursday – 11am – 10pm Friday – 12pm – 11pm Saturday – 9am – 11pm Sunday – 11am – 9pm</p> <p>Office Hours: Monday to Friday – 9.00am – 4.30pm</p> <p>JC's Pizza Café: Monday – Closed Tuesday – 4pm – 9pm Wednesday – 4pm – 9pm Thursday – 4pm – 9pm Friday – 4pm – 9pm Saturday – 4pm – 9pm Sunday – 4pm – 9pm</p> | <p>Club Opening Hours: unchanged</p> <p>Office Hours: unchanged</p> |
|--------------------|--|---|

| | | |
|------------|---|--------------------|
| Deliveries | Deliveries are received via the Loading Dock area to the Western side of the Building | No change proposed |
|------------|---|--------------------|

4.0 Assessment of Planning Issues

The following is an assessment of the environmental effects of the development described in the preceding sections. The assessment is issues-based and addresses the relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (EP& A Act) notably:

- S.79C(1)(a) – Statutory considerations;
- S.79C(1)(b) – Environmental impacts;
- S.79C(1)(c) – Site suitability; and
- S.79C(1)(e) – Public interest.

4.1 Land use and permissibility

The site is zoned 'RE2 Private Recreation' under the provisions of Warringah LEP 2011. The proposal is permissible within this zone for an Outdoor Recreation Facility, which the Harbord Bowling Club is. However, it is not permissible for a Registered Club.

Harbord Bowling Club has been lawfully operating as a Registered Club on this site for a significant amount of time.

The provisions of Clause 108 of the Environmental Planning & Assessment (EP&A) Act, 1979 allow for the enlargement or expansion of an existing use. Accordingly, the proposal is permissible with development consent. For a further detailed discussion on Existing Land Use and Use Rights refer to 4.5. below.

4.2 Compliance with statutory controls

The proposal has been addressed having regard for relevant statutory planning objectives and controls. It is considered that the provisions of 'Warringah LEP 2011'. have been attended to satisfactorily and that the proposal respects the intent and requirements of these plans, achieves compliance with its provisions.



4.3 Compliance with Council controls

The proposal has been assessed having regard for relevant Council planning objectives and controls. It is considered that proposal respects the intent and requirements of the 'Warringah DCP'.

4.4 State Planning Framework

The 'Coastal Management SEPP' is of relevance for this proposal. It aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast. It is considered that the proposed works are unlikely to have an impact on any coastal activities within the immediate area.

4.5 Existing Use Rights

Establishing Existing Use Rights

Section 3.1 details the previous development applications that had been submitted and approved on the site. This establishes that Council acknowledges and accepts the Existing Use Rights on the site.

Existing Use Right Provisions

Sections 106 to 109B of the EP&A Act, 1979, outline the provisions relating to existing use rights.

Existing use is defined under section 106 of the EP&A Act which states:

- a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use; and
- b) the use of a building, work or land:
 - i. for which development consent was granted before the commencement of a provision of an environmental planning instrument having effect of prohibiting the use, and
 - ii. that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."

As indicated, the club has been on the subject site since 1947 and the current Club building was completed in 1975. The Club has been the subject of numerous applications for refurbishment in the past. Council has full knowledge that the site enjoys existing use rights, by virtue of those applications.

In addition, Section 107 states that consent to the continuance of an existing use may not be granted where that use has been abandoned. A use is presumed to be abandoned if it ceases to be actually so used for a continuous period of 12 months. The building has always been used for the purpose of a registered Club and has not been abandoned.

Section 108(1) of the EP&A Act states that:

- a) the regulations may make provision for or with respect to existing use and, in particular, for or with respect to the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use;
- b) the change of an existing use to another use; and
- c) the enlargement of expansion or intensification of an existing use."

Accordingly, the carrying out of the alterations and extensions are permissible with consent by virtue of existing use rights.

The regulations referred to include the Environmental Planning and Assessment Regulation (the Regulations) 2000. Part 5 of the Regulations relates to existing uses and Clause 41(1) of states:

41 Certain Development Allowed

1) An existing use may, in accordance with this Division, be:

- a) enlarged, expanded or intensified; or
- b) altered or extended; or
- c) rebuilt; or
- d) changed to another use, including a use that would otherwise be prohibited under the Act."
- e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or



f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).

The existing use on site is a Registered Club, which will be altered within the meaning of Clause 41(1)(b).

In summary, the proposal is for alterations and additions to an existing use which is permissible by virtue of existing use rights.

Furthermore, the existing use has continued within the meaning of Section 107(3) of the EPA Act. Accordingly, the proposal has the benefit of existing use rights in accordance with the EPA Act 1979 and is a permissible use.

Assessment of Proposal with Existing Use Rights

The Land and Environment Court in Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71 addressed the question of how development applications should be assessed in instances where the site has existing use rights.

Senior Commissioner Roseth stated: “A long line of legal authority has held that the provisions of planning instruments that derogate (ie detract) from Regulation 41(1) do not apply to the assessment of applications on sites with existing use rights....thus the consequences of preserving existing use rights is that zone objectives and planning controls that limit the size of a proposal (ie floor space, height and setback) have no application.”

Prior to its amendment, Regulation 41(1) of the EP & A Regulations enabled an existing use to be changed to another use, including a use that would otherwise be prohibited under the Act. As noted by Roseth SC in Fodor Investments v Hornsby Shire Council (2005) NSW LEC 71 that:

“The judgement confirms that s79C of the EP & A Act applies to determination if such development applications but that strict compliance with the development standards is not required. The principles in this case would still apply notwithstanding recent legislative changes.”

Planning Principles

The Fodor case establishes four (4) criteria that should inform the assessment of applications on land with existing use rights. These are each considered below.

1. How do bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

With respect to the first principle, Fodor establishes that:

“While planning controls, such as height, floor space ratio and setbacks do not apply to sites with existing use rights; they have relevance to the assessment of applications on such sites. This is because the controls apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessment.”

Planning comment: The proposed alterations do not affect the existing floor space ratio. No change is proposed. The proposed awning over the existing outdoor alfresco area is substantially set back from the boundaries (49m from E, 58m from S and 40m from W boundary). It has a light appearance and sits lower than the existing Main Roof of the Club – to be approx. 4m high. The proposed additional Bulk and scale is considered to be minor.

2. What is the relevance of the building in which the existing use takes place?

With respect to the second principle, Fodor establishes that:

“Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.”

Planning comment: As indicated above, the alterations and additions to the existing bulk and scale of the building are minor. There is no change in use proposed.

3. What are the impacts on adjoining land?

With respect to the third principle, Fodor establishes that:

“The impact on adjoining land should be assessed as it is assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be

maintained in adjoining rear yards, the numerical control does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.”

Planning comment: Given the minor increase in envelope, the proposal is unlikely to significantly alter the amenity of the surrounding properties with respect to overshadowing views and privacy.

4. What is the internal amenity?

With respect to the fourth principle, Fodor establishes that: “Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights may have lower amenity than development generally.”

Planning comment: The proposed alterations and additions will improve the amenity of the existing alfresco dining area of the Club. The proposal satisfies the relevant objectives of the Warringah LEP 2011 there are no non-compliances with any LEP standards.

4.6 Heritage Impact Assessment


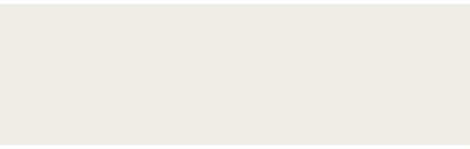
There are no items of heritage significance listed in Warringah LEP 2011 on the site; nor is the site located within a Heritage Streetscape Area.

4.7 Aesthetics/ Materials

The proposed works entail aesthetics that have been considered in conjunction with the style and materials of the existing Club Building, general setting and function as re recreational facility.

Proposed materials for the external awning are timber framing and translucent roof sheeting.

4.8 Indicative External Colours and Materials Schedule

| Location | Material/Finish | Colour | Swatch |
|---------------------------------------|-----------------------------|-------------------------------------|--|
| Awning Roof Sheeting | Polycarbonate or similar | Translucent, w. light solar tint |  |
| Awning Structure | Timber Framing, Paint | Off-white |  |
| Plumbing (Gutter/DP) | Powdercoat /Paint | To match structure | |
| Alterations to existing Club Building | Brickwork Facebrick /Render | To match existing Facebrick/ Render | |



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4.9 Sunlight / Overshadowing

Detail Shadow diagrams have not been provided as shadows are within the boundary and have no affect whatsoever on the neighbouring residences.

4.10 Views & Visual Privacy

The proposal will have no impact on the views and visual privacy of neighbouring properties.

4.11 Noise & Acoustic Privacy

The proposal will have no additional impact on the acoustic privacy of neighbouring properties. No change in use or size of existing areas has been proposed that would alter any existing behaviour of sources of sound.

4.12 Landscaping

No change to the existing Landscaping is proposed.

4.13 Access

The proposed works are to be accessible pursuant to the requirements of the BCA, 1428.1 & 1428.4.

To this purpose provision has been made for an access ramp at the proposed new entry from the alfresco dining area into the Club.

Additionally the existing Club provides accessible parking, amenities and ramps.

4.14 Car Parking and Traffic

No change to existing traffic and parking arrangements has been proposed and no change to existing patron numbers or usage times will affect parking and traffic requirements.

4.15 Public Interest

The proposal is in the interest of the public as the proposed works will improve the amenity of the Club to its users.

4.16 Energy efficiency

All proposed works will be in compliance with Section J of the BCA.

4.17 Threatened species

Given the extent of urban development in the locality it is concluded that the proposal is unlikely to have an effect on a threatened species, ecological community or habitat.

4.18 Stormwater & Flood Events

The site is located in a flood prone zone. From a previous DA the following Flood Levels are observed:

100yr Flood Level: 4.8m AHD

Flood Planning Level 5.3m AHD

Probable maximum Flood Level: 5.8m AHD

These flood events extents were derived from Dee Why and Curl Curl / Freshwater Lagoons Floodplain Risk Management Study by Lyall Assoc., 2006.



The proposal will not alter the location or level of any of the indoor or outdoor areas. The proposal will further not alter the existing stormwater drainage and flood control arrangements, nor will it have an additional impact. Stormwater run-off from the proposed awning will be connected to the existing stormwater drainage system as indicated on the architectural drawings DA 02-01.

4.19 Erosion & sedimentation control

Erosion and sedimentation control measures are indicated on the DA drawings. Refer to site plan drawing DA 00-01.

4.20 Waste management

There will be a site manager present on-site at all times during working hours to supervise and ensure that the following waste management procedures are followed by building staff and sub-contractors.

Demolition Waste

- Materials to be demolished include:
 - Brickwork
 - Glass panels
 - Concrete
- Demolished materials will be generally unsuitable for recycling due to the small scale of the works and the nature of the demolished material, and as such will be deposited daily into industrial waste bins located on the street in accordance with council guidelines. Bins will be provided by licensed waste contractors and disposed of at authorised tipping sites.

Construction Waste

- Materials to be used in construction include:
 - Polycarbonate roof sheeting
 - Timber framing
 - Glass Panels, Aluminium Framing
- Where possible, construction packaging will be made available for recycling.
- Construction waste that is not suitable for recycling will be deposited daily into industrial waste bins located on the street in accordance with council guidelines. Bins will be provided by licensed waste contractors and disposed of at authorized tipping sites.

4.21 Site construction & safety management

There will be a site manager present on-site at all times during working hours to supervise and ensure that the following construction and safety management procedures are followed by building staff and sub-contractors.

- Site access is to be controlled by the erection of temporary chain wire site fencing & appropriate signage.
- Site sheds, storage & waste containers are to be located on site.
- The works shall be dust isolated from neighbouring buildings with dust screens as necessary.
- Demolition is to be undertaken in a safe and orderly manner in accordance with the requirements of WorkCover.
- Proposed hours of construction are Monday to Friday, 7am to 5pm.

5.0 Conclusion

This SEE relates to the Development Application for the proposed new awning over the existing alfresco dining and minor modifications to the South Façade.

The proposal is permissible under the Warringah LEP 2011 and consistent with the planning intent and objectives of the locality having regard for the Warringah DCP.



Pursuant to the provisions of the Environmental Planning and Assessment Act & regulations, and specifically Section 79C(1) – Matters for consideration, we conclude the following:

- **S.79C(1)(a) – Statutory considerations;**

The proposal is consistent with the intent and objectives of the LEP, DCP and interim policies applying to the land to which the development application relates;

- **S.79C(1)(b) – Environmental impacts;**

The proposal does not detrimentally affect the existing natural or built environment but rather, as detailed in this statement, positively contributes to the amenity of the existing built environment and the quality of the existing natural environment. The proposal will have a positive social & economic effect on both the property to which the development applies.

- **S.79C(1)(c) – Site suitability;**

The site is considered appropriate for the development as the proposed use is compatible with the current use of the existing building. The site is of a sufficient size to accommodate the proposed works the proposal enhances the character of the existing building.

- **S.79C(1)(e) – Public interest;**

The proposed works have been designed to comply with all legislative and statutory requirements. The proposal is in the interest of the public because the proposed works will improve the financial viability of the Club which is a charitable community based organisation.

We trust this Statement provides the necessary rationale for Councils approval of this proposal.

For these reasons we recommend Councils favourable assessment of the application.

Kind Regards,
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