

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2023/0720
Responsible Officer:	Krystal Narbey (Consultant Planner - GAT & Associates)
Land to be developed (Address):	0 Vista Avenue, Balgowlah (Bareena Park Tennis Club)
Proposed Development:	Alterations and additions to commercial development - Alterations and additions to Recreation Facility Outdoors. Specifically: The installation of lighting to three (3) of the existing five (5) tennis courts, with a total of eight (8) lighting poles, and an extension of operational hours for the use of the premises, commonly referred to as the Bareena Park Tennis Club.
Zoning:	RE1 Public Recreation
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council (Local Planning Panel)
Land and Environment Court Action:	N/A
Owner:	Northern Beaches Council
Applicant:	Eugene Du Plessis on behalf of Bareena Park Tennis Club (lessee)
Application Lodged:	13/06/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	21/06/2023 to 19/07/2023 and; 26/09/2023 to 24/10/2023 and; 27/12/2023 to 25/01/2024.
Advertised:	27 December 2023
Submissions Received:	Total Submissions: 235 (197 unique) Supporting submissions: 192 (170 unique) Objecting submissions: 42 (27 unique)
Clause 4.6 Variation:	No
Recommendation:	Approval
Estimated Cost of Works:	\$ 216,794.05

EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of a development application which seeks the installation of eight (8) 7.0m high lighting structures consisting of twelve (12) lights, to three (3) tennis courts, and an extension of operational hours for the use of the premises, at the site known as 0 Vista Avenue, Balgowlah Heights (Lot 1431 and 1432 in DP 752038).

The site is Council owned land and as such the proposed development is subject to Council's Management of Council related DA's policy. In accordance with the management statement prepared for this application to manage perceived and known risks, the DA has been externally assessed by an independent planning consultant, and exhibited for 28 days, as well as being referred to the Northern Beaches Local Planning Panel (NBLPP) for determination.

The subject site is zoned RE1 (Public Recreation) under the Manly Local Environmental Plan 2013. Development for the purpose shown on the Land Zoning Map (Public Recreation), including any development that is ordinarily incidental or ancillary to development for that purpose is permitted with consent. The proposal relates to installation of lighting to existing recreational and community facilities (tennis courts and associated buildings) at the premises, commonly referred to as the Bareena Park Tennis Club. Other general site works include the planting of four (4) new street trees fronting Vista Avenue with additional privacy screening fixed to the existing court enclosure; power pole upgrades; sign for user conduct and; garden lighting along the southern access path. Minor excavation is required to facilitate the erection of the lighting structures.

The application was notified to surrounding properties in accordance with the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2021 and Council's Community Participation Plan between 21/06/2023 to 19/07/2023; Re-notified between 26/09/2023 to 24/10/2023 to enable exhibition of Council's Conflict of Interest Management Strategy and; between 27/12/2023 to 25/01/2024 in response to submitted amended documentation and additional information.

A total of 235 submissions were received, with 197 unique submissions identified.

Concerns raised in the submissions related to:

- Noise impact
- Light intrusion/spillage
- Loss of on-street car parking
- Availability of other courts that accommodate night-time play
- Validity of the submissions in support of the proposal
- 10:00pm (originally proposed closing time) is too late for a residential area
- The application has been refused twice for the installation of lighting
- Bandicoot population and impact to night-time wildlife

Submissions in support raised the following:

- Ensures long term viability of the club
- Promotes community health and engagement
- Promotes use of the facility in winter months that is complementary to the existing hours available during summer months

In response to the submissions and concerns raised during assessment, Council requested additional information to be submitted by the applicant. In response, the applicant submitted amended plans and supporting documentation including an acoustic assessment; parking study; updated plan of management; obtrusive light assessment; updated survey plan; and amended statement of environmental effects. The amended and supporting documentation resolved the key concerns raised by Council, with particular respect to amenity and parking impacts. Additionally, the specified LED Sports Lights (*being a newer technology compared to previous applications for lighting*) and operational policies, including hours of

operation, stipulated within the Plan of Management have satisfactorily addressed the management and reduction of impacts raised by submissions.

This assessment finds that the matters raised by Council and the community have been reasonably resolved. Having regard to the matters for consideration under Section 4.15 of the EP&A Act, it is recommended that Development Application DA/2023/0720 be approved, subject to conditions of consent. The proposed development is not considered to result in any unacceptable impacts to adjoining properties and is deemed suitable for the site.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development (as amended) relates to the erection of eight (8) lighting structures to an existing recreational and community facility, the 'Bareena Park Tennis Club', with extended operating hours. The proposed times of operation of the recreational and community facility (inclusive of court lighting to courts 1, 2 and 3) are as follows:

- **Monday – Sunday: 7:00am - 9:00pm**

Other general site works include the planting of four (4) new street trees fronting Vista Avenue with additional privacy screening fixed to the existing court enclosure; power pole upgrades; a sign regulating visitor/member conduct and; garden lighting along the southern access path. Minor excavation is required to facilitate the erection of the lighting structures (i.e. footings).

The submitted Plan of Management (titled: *The Bareena Tennis Club Revised Plan of Management*), delegates the use, care, control and management of the facilities to the Bareena Park Tennis Club, as the operational proponent (lessee) of the premises.

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

- Manly Development Control Plan 2013 – Part 3.3 Landscaping
- Manly Development Control Plan 2013 – Part 3.4 Amenity
- Manly Development Control Plan 2013 – Part 3.10 Safety and Security
- Manly Development Control Plan 2013 – Part 5.4 Environmentally Sensitive Lands
- Manly Development Control Plan 2013 – Schedule 3, Part A1 Requirements for Vehicles

The recreational and community facility is adjacent to low-density residential dwellings resulting in the potential for issues with acoustic amenity, light spillage and availability of parking. A Request for Additional

Information was issued to the applicant on the 18/10/23, seeking further assessment of acoustic, lighting and parking impacts. It is considered the information provided adequately addresses these concerns to ensure minimal environmental impact on nearby residences as a result of the proposal (as amended).

SITE DESCRIPTION

Property Description:	0 Vista Avenue, Balgowlah Heights (Lot 1431 and 1432 in DP 752038)
	Subject site as viewed from Vista Avenue Source: GAT & Associates site inspection 22nd September 2023 Subject site as viewed from Vista Avenue – Relationship between 33 Vista Avenue and Courts 1, 2 and 3 Source: GAT & Associates site inspection 22nd September 2023 Subject site as viewed from the western side (looking eastward) of Courts 1, 2, 3 Source: GAT & Associates site inspection 22nd September 2023



Relationship between Courts 1, 2, 3, the access pathway, and 33 Vista Avenue
(looking eastward)

Source: GAT & Associates site inspection 22nd September 2023

**Detailed Site
Description:**

The subject site (Bareena Park Tennis Club building and Courts 1, 2 and 3) consists of two (2) allotments located on the western side of Vista Avenue. To the north is Bareena Park, located on the corner of Curban Street and Vista Avenue. To the south are six (6) residential dwellings fronting Vista Avenue, and the Balgowlah Bowling Club fronting Bareena Drive.

The site is generally regular in shape with a frontage of 45.06m along Vista Avenue and a depth of 89.915m. The site has a total surveyed area of 4,051.40m².

The site and facilities are located within the RE1 Public Recreation zone and accommodate five (5) existing Tennis Courts, with community buildings (clubhouse). The development is only relevant to Courts 1, 2 and 3 on the eastern side, closest to Vista Avenue.

The site distinctly declines in slope from the south towards the north. Tennis Courts 1, 2 and 3 are level with one another, though notably stepped down from the southern side of the site. The community building (tennis clubhouse) is elevated above Courts 1, 2 and 3, and is accessed via tiered stairs and associated planter boxes and retaining walls.

The site is adjacent to Bareena Park. The lots relevant to the development are sparsely vegetated with low shrubs and lawn, however, the premises overall is densely vegetated in the north-western corner (adjacent to Courts 4 and 5).

Map:



Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by Bareena Park to the north, located on the corner of Curban Street and Vista Avenue. To the south are six (6) residential dwellings fronting Vista Avenue, and the Balgowlah Bowling Club (zoned RE2 Private Recreation) fronting Bareena Drive. Surrounding development, including the eastern side of Vista Avenue is otherwise characterised as low-density residential development consisting predominantly of single and two-storey detached dwelling houses, reflective of the R2 Low Density Residential zone.

SITE HISTORY

A search of Council's records has revealed the following relevant history (with respect to lighting):

DA 68/1999 - Refused

Development is described as the installation of lights on 3 tennis courts.

DA 60/2008 - Refused

Development is described as the installation of tennis court lighting on courts 4 and 5 (the western two courts elevated above the existing clubhouse building, to the west) with illumination until 10:30pm. The application was pursuant to the former Manly Local Environmental Plan 1988.

The application was refused on the 16 June 2008 on the following grounds:

- Inconsistent with Objective 4(d)(1) of the MLEP88.
- Inconsistent with Open Space Zone objectives 1(a) of Clause 10 of the MLEP88.
- Detrimental impact on the amenity of the area in relation to:
 - Additional noise resulting from the night use of the courts and clubhouse;
 - Noise from people/cars leaving the club;
 - Impact on the privacy of surrounding residential properties;
 - Possible increase in anti-social behaviour;

- Reduced security in surrounding residential properties;
- Reflected light spillage onto adjoining residential properties;
- Additional demand for street parking in the evenings.
- The site is considered unsuitable for the proposed use.
- The proposal is contrary to the public interest.

A Section 82A was lodged and subsequently withdrawn by the applicant.

Additional applications include:

DA 140/1999 – Approved

Described as enclosure of part of terrace to the club and refurbish.

DA 1010/1998 – Determination Unspecified.

Alterations and additions to toilets and shower.

The land has been used for recreational and community purposes for an extended period of time.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Northern Beaches Community Participation Plan 2019.

As a result of the public exhibition process council is in receipt of 235 submissions from:

Name(s):	Address:
Details Withheld	Details Withheld (x6)
Ms Linda Denise Paris Mr Thomas Martin Pope	34 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
Ms Samantha Jane Varano	121 Woodland Street BALGOWLAH NSW 2093
Mr Simon James	19 Cutler Road CLONTARF NSW 2093
Mr Stuart Trueman	34 Cutler Road CLONTARF NSW 2093
Dr James Kyung-Wook Choi	85 Cutler Road CLONTARF NSW 2093
Andrew Cloke	7 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
Fiona Houghton	20 Cutler Road CLONTARF NSW 2093
Andrew Thomas Healy	3 / 186 Woodland Street BALGOWLAH NSW 2093
Andrew Mcnee	43 West Street BALGOWLAH NSW 2093
Mr Richard Andrew Binch	5 / 57 A Ethel Street SEAFORTH NSW 2092
Mrs Paula Jean Marlow	1 / 5 Jackson Street BALGOWLAH NSW 2093
Mr Anthony Kutra	35 Edgecliffe Esplanade SEAFORTH NSW 2092
Ms Anne Elizabeth Howard	4 Tobruk Avenue ALLAMBIE HEIGHTS NSW 2100
Tony Reynolds	Address Unknown
Ms Lucy Vivien Tessa Elliott	97 Beatrice Street BALGOWLAH HEIGHTS NSW 2093
Ms Valerie Anne Allen and Mr Rodney Harold James Allen	6 Crowea Place FRENCHS FOREST NSW 2086
Mrs Ai Lin Clements	4 / 31 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
Mr Christopher Cecil Thorp	38 Bungalow Avenue BALGOWLAH NSW 2093
Samuel Moore	25 Barrabooka Street CLONTARF NSW 2093
Mr Bryan Geoffrey Dalton	23 Cutler Road CLONTARF NSW 2093

Name(s):	Address:
Mr Ross William McClean	67 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mr Brendon James Quinn	25 Curban Street BALGOWLAH HEIGHTS NSW 2093
Ms Lorraine Joy Spanton	7 / 38 The Crescent FAIRLIGHT NSW 2094
Carmella Farrenberg	Address Unknown
Mr Glen John Richardson	69 Birkley Road MANLY NSW 2095
Mr Craig Gregory Oliver	21 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mr Jindong Yang	55 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Mr Samuel Stephen James Ayliffe	Suite 10 37-38 East Esplanade MANLY NSW 2095
Mrs Sarah Jane Woodward	24 Fisher Street BALGOWLAH HEIGHTS NSW 2093
Mark Nissen	Address Unknown
Mrs Virginia Lizelle Stack	202 Whale Beach Road WHALE BEACH NSW 2107
Chris Gotham	10 Elfrida Street MOSMAN NSW 2088
Mr Derek Arthur Owen Jones	60 Curban Street BALGOWLAH HEIGHTS NSW 2093
Mr Luka Damic	4 Ethel Street BALGOWLAH NSW 2093
Mrs Tanya Middleton	41 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Ms Wendy Leigh Robertson	7 Willawa Street BALGOWLAH HEIGHTS NSW 2093
William Dekker	2 / 31 Clarke Street NARRABEEN NSW 2101
Mrs Tiffany Isobel Egan	50 Cutler Road CLONTARF NSW 2093
Jian Wang	90 Cutler Road CLONTARF NSW 2093
Tennis NSW	Sydney Olympic Park 1 Tennis Centre SYDNEY OLYMPIC PARKNSW 2127
Mr Jeffrey Bruce Carroll	56 / 8 Koorala Street MANLY VALE NSW 2093
Ms Joanne Marie Bushby	21 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Mr Nick Grant	26 Bareena Drive BALGOWLAH HEIGHTS NSW 2093
Paul Gavin White	100 A Seaforth Crescent SEAFORTH NSW 2092
Mr Mikael Peter Dahlgren	10 Dobroyd Road BALGOWLAH HEIGHTS NSW 2093
Mr Lindsay Michael Hamilton	7 A Adelaide Street BALGOWLAH HEIGHTS NSW 2093
Mr Peter Willis Fysh	4 / 1 - 3 Griffin Street MANLY NSW 2095
Ms Helen Lorraine Brasher	4 / 85 - 87 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Stephen Sears Baldwin	13 Valley Road BALGOWLAH HEIGHTS NSW 2093
Mr Francis Peter Bannon	2A/138 North Steyne MANLY NSW 2095
Miles Andrew Tissington	16 A Gladys Avenue FRENCHS FOREST NSW 2086
Mr William Hugh Griffith	21 Baranbali Avenue SEAFORTH NSW 2092
Mrs Gillian Eileen Mursell	45 Wood Street MANLY NSW 2095
Mrs Carol Townley	25 White Street BALGOWLAH NSW 2093
Mr Simon Geoffrey Townley	25 White Street BALGOWLAH NSW 2093
Kwok Cho Tang	Address Unknown
Mr Ashley Stuart McPhee	72 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Roy Maxwell Easton	64 / 1337 Pittwater Road NARRABEEN NSW 2101
Murray Raymond Hamer	1 Moore Street CLONTARF NSW 2093
Chin Teng	Address Unknown
Mrs Noni Elaine Lawrence	1 / 5 Cove Avenue MANLY NSW 2095
Mr David Brian Milton	49 Malvern Avenue MANLY NSW 2095

Name(s):	Address:
Mrs Kerrie Ann Patten	1 Cecil Street FAIRLIGHT NSW 2094
Ms Margaret Teresa Lang	8 Mulgowrie Crescent BALGOWLAH HEIGHTS NSW 2093
Mr Neil Lindsey Ewin	52 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mrs Leonie Anne Lake	1 Iluka Avenue MANLY NSW 2095
Mr Kanagasabapathy Ainkaran	2 / 28 Dalwood Avenue SEAFORTH NSW 2092
Peter Ashton	Address Unknown
Mr Mark Richard Ellis	469 Sydney Road BALGOWLAH NSW 2093
Mr David John Mortimer	3 / 85 - 87 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Matthew Holt	40 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093
Mr Mark James Leslie	2 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Ross William McLean	4 / 67 Wanganella Street BALGOWLAH NSW 2093
Mr Giles Anthony Swindley	26 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Ms Michele Mckenzie	26 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mr Colin Carmichael Henson	4 Farrar Street BALGOWLAH HEIGHTS NSW 2093
Mr Mark Gregory Forrest	9 Beaconview Street BALGOWLAH HEIGHTS NSW 2093
Karyn Chapman	6 Farrar Street BALGOWLAH HEIGHTS NSW 2093
Darren Melaniuk	2 / 2 West Street BALGOWLAH NSW 2093
Mr Brian Ronald Bignell	6 Stratford Drive BELROSE NSW 2085
Ms Sally Grace Treeby	22 Fisher Street BALGOWLAH HEIGHTS NSW 2093
Mrs Catriona Jan Corbett	16 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mr Graeme Douglas Clark	15 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Mr Robert Menzies	26 Tabalum Road BALGOWLAH HEIGHTS NSW 2093
Mrs Linda Muriel Pearce	3 Curban Street BALGOWLAH HEIGHTS NSW 2093
Mrs Sarah Reynolds	10 Acacia Road SEAFORTH NSW 2092
Mrs Angela Fong- Clark	15 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Tommy Logtenberg	7 Bareena Drive BALGOWLAH HEIGHTS NSW 2093
Mrs Leisa Anne Barry	32 / 29 The Crescent MANLY NSW 2095
Mr Damian Joseph Kernahan	51 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mrs Anne Hutchison	18 Nolan Place BALGOWLAH HEIGHTS NSW 2093
Rebecca Warren	7 Adelaide Street BALGOWLAH HEIGHTS NSW 2093
Mr John Collis Barry	153 Seaforth Crescent SEAFORTH NSW 2092
Mr Andrew James Creber	17 Scales Parade BALGOWLAH HEIGHTS NSW 2093
Mrs Gillian Christine Pearce	50 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Mr Brian Gregory Fitzgerald	440 / 25 Wentworth Street MANLY NSW 2095
Mr Nicholas James Robertson	7 Willawa Street BALGOWLAH HEIGHTS NSW 2093
Mrs Susan Maree Davison	5 Suffolk Avenue COLLAROY NSW 2097
Mr John Gerard Doyle	30 Heathcliff Crescent BALGOWLAH HEIGHTS NSW 2093
Mr Andrew David Cheong	17 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Ms Susanna Elizebeth Cronje	34 / 1 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Roshani Tara Ainkaran	2 / 28 Dalwood Avenue SEAFORTH NSW 2092
Mr Jeffery Grant Sturrock	1 Boyer Road BEACON HILL NSW 2100
Mrs Elizabeth Ann O'brien	32 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mrs Caroline Anne Becker	66 Ponsonby Parade SEAFORTH NSW 2092

Name(s):	Address:
Ms Claire Frances Newey	14 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mrs Sarah Jean Robertson	11 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mrs Heather Munro Rudkin	17 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mr Sherif Hassanein	53 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Wesley William Dening	5 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mrs Beverley Jill Prior	103 / 8 - 28 The Corso MANLY NSW 2095
Mr Graham John Younger Clements	18 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mr Shane James Mason	15 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mr Neil James Arckless	11 Willawa Street BALGOWLAH HEIGHTS NSW 2093
Toby Daniel	14 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mr Paul Jonathan Chasemore	21 Barrabooka Street CLONTARF NSW 2093
Ross Douglas	Address Unknown
Mr Benedict John Coutts Sarson	16 Brisbane Street FAIRLIGHT NSW 2094
Mrs Nicole Louise Larcombe	3 Lewis Street BALGOWLAH HEIGHTS NSW 2093
Mrs Pauline Lesley Gazzard	2 B Edgecliffe Esplanade SEAFORTH NSW 2092
Mr Alexander Michael Paul Beaumont	3 / 7 Reddall Street MANLY NSW 2095
Ms Claire Gabriel Darcy	69 Condamine Street BALGOWLAH HEIGHTS NSW 2093
Chris Coghlan	Address Unknown
Amanda McLean	6 Adrian Place BALGOWLAH HEIGHTS NSW 2093
Mrs Wendy Grabe	38 The Drive FRESHWATER NSW 2096
Mrs Jennifer Louise Springhall	43 Peronne Avenue CLONTARF NSW 2093
Mrs Elizabeth Forrest	9 Beaconview Street BALGOWLAH HEIGHTS NSW 2093
Mrs Lisa Caroline Leigh Young	24 Beatrice Street CLONTARF NSW 2093
Nancy Mclean	15 Hoover Place CROMER NSW 2099
Mr Matthew Edward Granville Lang	8 Mulgowrie Crescent BALGOWLAH HEIGHTS NSW 2093
Ms Carole Carter	38 Kempbridge Avenue SEAFORTH NSW 2092
Toby Carter	38 Kempbridge Avenue SEAFORTH NSW 2092
Paul Maurice Howard	4 Tobruk Avenue ALLAMBIE HEIGHTS NSW 2100
Ms Rosalind Joy Lock	5 / 15 White Street BALGOWLAH NSW 2093
Mr Mario Alfonso Contreras Roman	3 / 66 West Street BALGOWLAH NSW 2093
Mr Joseph Stewart Harvey	C/- Hobbs Jamieson Architecture 2/536 Sydney Road SEAFORTH NSW 2092
Mr Matthew Ian Crossley	6 Glen Street FRESHWATER NSW 2096
Aashild Nilsen Walker	54 Bungalow Avenue BALGOWLAH NSW 2093
Soeren Iversen	603 / 4 Sylvan Avenue BALGOWLAH NSW 2093
Ms Kelly Louise Hooper	38 Condamine Street BALGOWLAH HEIGHTS NSW 2093
Ms Belinda Ellen Sanderson	68 Condamine Street BALGOWLAH NSW 2093
Mr Stephen John Titus	2B Craig Avenue MANLY NSW 2095
Rebecca Demmery	23 Radio Avenue BALGOWLAH HEIGHTS NSW 2093
Jennifer Nissen	Address Unknown
Nevena Krups	18 Woodland Street BALGOWLAH HEIGHTS NSW 2093

Name(s):	Address:
Ms Lana Squires	1 / 8 Rickard Street BALGOWLAH NSW 2093
Miss Sheridan Bowes	98 Cutler Road CLONTARF NSW 2093
Rachael Olivia Balfour Scott	61 Harbord Road FRESHWATER NSW 2096
Yolanda Chang	5 Tabalum Road BALGOWLAH HEIGHTS NSW 2093
Mrs Michelle Alexandra Oliver	21 Ernest Street BALGOWLAH HEIGHTS NSW 2093
Mrs Anjelina Francesca Kirwan	13 Lone Pine Place NORTH BALGOWLAH NSW 2093
Mr Larry John Kirwan	13 Lone Pine Place NORTH BALGOWLAH NSW 2093
Mrs Carolyn Gai Gibbons	14 A Gordon Street CLONTARF NSW 2093
Ms Rachel May Keeling	11 Hogan Street BALGOWLAH HEIGHTS NSW 2093
Mr Russell Keeling	11 Hogan Street BALGOWLAH HEIGHTS NSW 2093
Mrs Mary Frances Celestine Deveza Singson	89 A Campbell Parade MANLY VALE NSW 2093
Mrs Monica Mae Leffler	83 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Tim Barry	Address Unknown
Mr Jason Peter Jungblut	8 Arabanoo Street SEAFORTH NSW 2092
Mr Luke Laurence Brennan	17 Fisher Street BALGOWLAH HEIGHTS NSW 2093
Dr Joanne Stow	32 Arthur Street FAIRLIGHT NSW 2094
Mrs Lyndall Jane Mcilvain	50 Robertson Road NORTH CURL CURL NSW 2099
Mr David Ian Marlborough	19 / 3 Corrie Road NORTH MANLY NSW 2100
Liam Barry	67 Wood Street LANE COVE NSW 2066
Mr Mark William Hayward	1 A Austin Street FAIRLIGHT NSW 2094
Mr Ross Stanley BirchMrs Karen Lisa Birch	119 Woodland Street BALGOWLAH NSW 2093
Mrs Emily Margaret Washbrook	51 Radio Avenue BALGOWLAH HEIGHTS NSW 2093
Mrs Susan Claire Cummins	58 Cutler Road CLONTARF NSW 2093
Mrs Jane Mcphee	72 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Ms Rachel Jane Swieconeck	C/- Robson Rebuild PO Box 321 FIVE DOCK NSW 2046
Mr Graham James Rattue Mrs Noreen Rattue	22 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mrs Julie Hutchings	36 A Oxford Falls Road BEACON HILL NSW 2100
Mrs Sarah Roberts	31 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mrs Sharmila Normington	28 Bareena Drive BALGOWLAH HEIGHTS NSW 2093
Mr Daniel Normington	28 Bareena Drive BALGOWLAH HEIGHTS NSW 2093
Mr Jeremy Nicholas Elliott	97 Beatrice Street BALGOWLAH HEIGHTS NSW 2093
Ms Sally Elizabeth Fisk	305 / 2 Sylvan Avenue BALGOWLAH NSW 2093
Mr David Peck	6 Curban Street BALGOWLAH HEIGHTS NSW 2093
Mr Anson Douglas Blackwood Sewell	80 Wood Street MANLY NSW 2095
Mr Alexander James Granville Lang	2 / 2 Dudley Street BALGOWLAH NSW 2093
Mr Simon Stephen Roberts	31 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mr Manish Jitendra Patel	23 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Ms Jennifer Ann Doherty	31 A Amiens Road CLONTARF NSW 2093

Name(s):	Address:
Mrs Greer Anne Couston	25 Beatty Street BALGOWLAH HEIGHTS NSW 2093
Ms Tina Frances Morrison	6 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mr Michael John Cummins	58 Cutler Road CLONTARF NSW 2093
Diana Rampton	26 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Mrs Rebecca Jane Hollis-Patel	23 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mrs Meg Clare Cherry	8 Tabalum Road BALGOWLAH HEIGHTS NSW 2093
Mr Warren Raymond Barry	1 Peronne Avenue CLONTARF NSW 2093
Nicole Wheat	Address Unknown
Mr Mark Anthony Simmonds	33 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Megan Holbeck	Address Unknown
Mr Shaun Daniel Austin Mrs Danielle Marie Austin	27 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mr David Paul Simmonds	33 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mr Richard Benjamin Heath	1 Kanangra Crescent CLONTARF NSW 2093
Mr James Philip Smealie	68 Westmoreland Avenue COLLAROY NSW 2097
Mr David Leslie Griffin	13 / 8 Koorala Street MANLY VALE NSW 2093
Mr Mark David Woolven	8 Curban Street BALGOWLAH HEIGHTS NSW 2093
Peter Edward Drummond Charlton	29 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Mrs Caroline Anne Charlton	29 Vista Avenue BALGOWLAH HEIGHTS NSW 2093
Peter Smith	Address Unknown
Mr Ian Thurlbeck Humphrey Mrs Susan Denise Humphrey	36 Woodland Street BALGOWLAH HEIGHTS NSW 2093
Ms Bronwyn Heather Harrison	11 Bungaloe Avenue BALGOWLAH HEIGHTS NSW 2093
Ms Barbara Podhorecka	11 / 2 Cove Avenue MANLY NSW 2095
Mr Stuart Robert Menogue	46 Bungaloe Avenue BALGOWLAH NSW 2093
Mr Haydn James Alfred Miller	1 / 7 Boyle Street BALGOWLAH NSW 2093
Mr Austin Thomas Whitehead	61 Bungaloe Avenue BALGOWLAH HEIGHTS NSW 2093
James Gerrish	36 Curban Street BALGOWLAH HEIGHTS NSW 2093
Brett Pettersen	Address Unknown
Mr Sean Ian Innes	18 Barrabooka Street CLONTARF NSW 2093
Mr Peter Leonard ScottSmith	28 Woodland Street BALGOWLAH HEIGHTS NSW 2093

Of the 235 submissions received, there were 192 in support and 42 in objection. Following re-notification, several submissions were duplicated with 197 unique submissions identified.

The following is a summary of the issues and comments received within the submissions:

Concerns raised in the submissions related to:

- Noise impact
- Light intrusion/spillage
- Loss of on-street car parking
- Availability of other courts that accommodate night-time play
- Validity of the submissions in support of the proposal
- 10:00pm (originally proposed closing time) is too late for a residential area
- The application has been refused twice for the installation of lighting
- Bandicoot population and impact to night-time wildlife

The above issues and comments raised are addressed as follows:

- **Noise impact**

Comment: The proposal (as amended) provided an acoustic assessment (*prepared by RWDI Australia Pty Ltd, dated 11 December 2023*) to assess the impact of extending the operating hours to 9:00pm all days of the year; an assessment against the relevant standards pertaining to sound transmission; recommendations to reduce noise and preventative measures and; certification that the noise impact complies with relevant acoustical standards. Currently, the premises operates until sunset during summer months (being around 8:10pm) without artificial lighting, with reduced use as a result of earlier sunset in winter months. Consequently, the proposed hours of operation seek less than an additional hour from the current operational hours in summer, though it is appreciated operating until 9:00pm is an increase of approximately 4 hours through winter months.

The recommendations of the acoustic assessment have been incorporated into the plan of management, being:

- No social events or coaching during evenings (after 7pm);
- Signs will be installed within and around the tennis courts reminding players and spectators to keep noise to a minimum.

Additionally, the plan of management incorporates the following policies and procedures:

- Automatic lights off at 9:00pm;
- No coaching after 7pm, nor on weekends;
- No squads after 6pm;
- No more than 12 players on Courts 1, 2 or 3 ('the three courts') after 8pm;
- No music or spectators permitted;
- Guidelines for acceptable member behaviour will be emailed following court hiring (booking);
- Complaints will be managed by the club secretary;
- Preservation of existing motion-activated security cameras and lighting to monitor behaviour.

The proposal (as amended) was referred to Council's Environmental Health Team, confirming that the extension of hours is unlikely to negatively impact the neighbouring residents to an unacceptable level with regard to the Industrial Noise Policy setting for the evening period, subject to conditions. As recommended in the acoustic report and incorporated into the updated plan of management, the lights will be automatically set to turn off at 9:00pm, which is acceptable.

Appropriate conditions of consent are provided as part of the recommendation that the subject application be approved.

- **Light intrusion/spillage**

Comment: The proposal (as amended) provided an obtrusive light assessment (*prepared by ShineOn, undated*) to assess the potential for obtrusive light as set out in Australian Standard 4282-2019, and included an Illuminance Report, Light Specification Sheet and Lighting Design Certificate. The lighting specification and design reduces light spillage by incorporating improved LED technology lights, with rear shields and 4,000k colour temperature. Similarly the new pathway lighting will be non-intrusive LED solar powered garden lighting.

In order to mitigate potential light impacts to native wildlife (including long-nosed bandicoots which have been recorded near the subject site), the lighting design is to be assessed by a suitably qualified ecologist and certified as complying with the principles of the National Light Pollution Guidelines for Wildlife (Department of Environment and Energy, May 2023).

Appropriate conditions of consent are provided as part of the recommendation that the subject application be approved.

- **Loss of on-street car parking**

Comment: The proposal (as amended) provided a parking and travel survey (*prepared by Du Plessi + Du Plessi Architects, November 2023*) to assess the parking implications of the premises operating until 9pm. Subject to appropriate conditions of consent, Council's Traffic Engineer is satisfied that parking concerns have been addressed.

- **Availability of other courts that accommodate night-time play**

Comment: The availability of other courts and recreational services does not render the property unsuitable for the proposed development.

- **Validity of the submissions in support of the proposal**

Comment: The validity of submissions received does not render the property unsuitable for the proposed development, nor derogate from the assessment of the development. Per Council's Community Participation Plan, all submissions received during notification are considered as part of the assessment.

- **10:00pm (originally proposed closing time) is too late for a residential area**

Comment: The proposal (as amended) has adequately mitigated amenity impacts to enable operations until 9:00pm throughout the year. 9:00pm is approximately 50 minutes more than the current hours facilitated by the club during the summer months.

Subject to appropriate conditions of consent, Council's Environmental Health officer is satisfied that operating to 9:00pm is reasonable.

- **The application has been refused twice for the installation of lighting**

Comment: Previous applications were pursuant to repealed environmental planning instruments. The proposal (as amended) has satisfactorily addressed the issues raised in relation to the key issues of amenity and traffic impacts. The submitted plan of management reasonably addresses amenity and safety concerns. Appropriate conditions of consent are provided as part of the recommendation that the subject application be approved.

- **Bandicoot population and impact to night-time wildlife**

Comment: Subject to appropriate conditions of consent, Council's Natural Environment (Biodiversity) officer is satisfied that impacts to wildlife are minimised.

REFERRALS

Internal Referral Body	Comments
Environmental Health	<i>Supported, with conditions</i> Comments concerning the application as originally submitted: Environmental Health is concerned with:

Internal Referral Body	Comments
	1. Light spill and glare 2. Noise from players and tennis balls. It appears no acoustic impact assessment has been carried out, while noise was addressed within the SEE, Environmental Health would like to review a report by an appropriate qualified and experienced person showing the noise impacts and mitigation measures proposed from this intensification of the use outside day time hours. We consider the proposals impact as "industrial" development within a "Residential" area. As such we consider any additional noise from 9pm to potentially adversely impact on residential amenity; and similarly with the impact of proposed elevated lighting. Updated comments relating to the additional information submitted: Environmental Health has reviewed the amended Plan of Management, Noise Impact Report dated 11 December 2023 and the amended master plans. The extension of hours is unlikely to negatively impact the neighbouring residents to an unacceptable level with the Industrial Noise Policy setting the evening period from 6:00pm - 10:00pm therefore Environmental recommends approval subject to conditions. The lights will be automatically set to turn off at 9:00pm which Council thinks is reasonable. The proposal is therefore supported.
Traffic Engineer	<i>Supported, with conditions</i> Comments concerning the application as originally submitted: Additional information is required regarding the parking availability within the area and Travel Mode surveys for both staff and customers of the Club. Updated comments relating to the additional information submitted: The Parking & Travel Survey report prepared by Bareena Park Tennis Club, dated November 2023 and the Amended Plans, Drawing No. A02 & A04, issue D, designed by DU PLESSIS ARCHITECTS, dated 11/12/2023 have been reviewed by the Traffic team. All the Council's comments [dated 13/10/2023] on the first version of the documents have been addressed in the Parking & Travel Survey report. It is noted that parking analysis has been undertaken, demonstrating that there is adequate parking availability within the area to cater for the club's parking demands. Travel Mode surveys have been included in the Parking & Travel Survey report, demonstrating that there is a lower parking demand

Internal Referral Body	Comments
	for the proposal. The survey shows that many members live close to the tennis courts, and more than half of the customers walk or cycle to the courts. All the Council's comments [dated 13/10/2023] on the first version of the documents have been addressed. Subject to conditions, the application can be supported from a traffic perspective.
Natural Environment Flood	<i>Supported, without conditions</i> The proposal seeks consent for the installation of lights on existing Bareena Park Tennis Club tennis courts 1- 3. The works are located outside of the identified Medium Flood Risk Precinct (Flood Planning Area). Therefore, the flood controls outlined in Section 5.4.3 Flood Prone Land from the Manly DCP 2013 are not applicable. The proposal is therefore supported.
Natural Environment Biodiversity	<i>Supported, with conditions</i> The comments in this referral relate to Manly LEP Clause 6.5 Terrestrial Biodiversity. A total of eight poles to accommodate 12 LED back shield lights are proposed in order to allow for the extended use of three tennis courts located in Bareena Park. The proposal has been submitted with a Biodiversity Statement (Du Plessis + Du Plessis, March 2023) in consideration of the National Light Pollution Guidelines for Wildlife (Department of the Environment and Energy, January 2020). In order to mitigate potential light impacts to native wildlife (including long-nosed bandicoots which have been recorded near the subject site), the lighting design is to be assessed by a suitably qualified ecologist and certified as complying with the principals <i>[sic]</i> of the National Light Pollution Guidelines for Wildlife (Department of Environment and Energy, May 2023). The proposal is therefore supported.
Development Engineering	<i>Supported, with conditions</i> Comments concerning the application as originally submitted: The proposal includes the construction of lighting poles for the existing tennis courts. The portion of the site where the proposed poles are to be located appears to be adjacent to an existing Council stormwater pipeline that traverses the site. In accordance with Council's Water Management for Development Policy, Section 6.7 Submission of Information, the applicant must accurately locate, confirm dimensions including depth, and plot to scale Council's stormwater pipelines and associated infrastructure on the development application site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor (evidence of methodology used for locating stormwater

Internal Referral Body	Comments
	system should be provided). It is recommended that a Closed Circuit Television Pre construction Dilapidation Survey be undertaken at the same time. Once the information is obtained, the proposal is to be designed to ensure compliance with Section 6.1 and in particular Section 6.1.1 and 6.1.1.1.2. Details demonstrating compliance must be submitted for assessment. Development Engineering cannot support the proposal due to insufficient information to address the impact on Council's stormwater system in accordance with clause 3.7 of the DCP. Updated comments relating to the additional information submitted: The Council stormwater pipe has been located on the DA plans and is acceptable. Development Engineering support the proposal, subject to conditions as recommended. The proposal is therefore supported.
Building Assessment	<i>Supported, without conditions</i> The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. The proposal is therefore supported.
Landscape Officer	<i>Supported, with conditions</i> The development proposal is as illustrated in plans and as described in reports. A Landscape Plan is submitted proposing the installation of four street trees within the Vista Avenue road verge and Landscape Referral raise no concerns subject to imposed conditions. The proposal is therefore supported.
Property and Commercial Development	<i>Supported, without conditions</i> Property has no comment to make regarding the proposal. The proposal is therefore supported.

External Referral Body	Comments
Ausgrid	Supported, with conditions Ausgrid's response under clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. - Ausgrid Underground Cables are in the vicinity of the development Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways. It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD). - Ausgrid Overhead Powerlines are in the vicinity of the development The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase. The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. Ausgrid does not object to the proposed development.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act)

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	Manly Development Control Plan applies to this proposal.

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the regulations	<u>Division 8A</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to residential amenity impacts (noise and light spillage); parking survey; updated technical plans and plan of management to confirm the proposed hours of operation. <u>Clause 92</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. <u>Clauses 93 and/or 94</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. <u>Clause 98</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. <u>Clause 98</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact

Section 4.15 'Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs) AND STATE REGIONAL ENVIRONMENTAL PLANS (SREPs)

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 of the State Environmental Planning Policy (Resilience and Hazards) 2021 relates to the remediation of land. Clause 4.6 states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and, if it is contaminated, the consent authority is satisfied that the land is suitable for the purpose. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

In this instance, the installation of lighting structures, new street trees, and related minor works do not require any further consideration in regard to site contamination. The land is considered to be suitable for the continuation of the existing land use.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 relates to the clearing of vegetation in non-rural areas. No trees are required to be removed to facilitate the proposed development. Council's Landscape Officer has reviewed the proposal and recommended conditions of consent to ensure the feasibility and longevity of the four (4) proposed street trees.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2, Division 5, Subdivision 2 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 relates to development that is likely to affect an electricity transmission or distribution

network. Ausgrid has reviewed the proposal and raises no objection provided the design submission complies with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets.

MANLY LOCAL ENVIRONMENTAL PLAN 2013

Is the development permissible?	Yes.
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes.
zone objectives of the LEP?	Yes.

Compliance Assessment

Clause	Compliance with Requirements
2.1 Land use zones (RE1 Public Recreation)	Yes.
4.3 Height of Buildings	N/A.
4.4 Floor Space Ratio	N/A.
5.10 Heritage Conservation	N/A.
5.21 Flood Planning	Yes.
5.23 Public Bushland	N/A.
6.1 Acid Sulfate	N/A.
6.2 Earthworks	Yes.
6.5 Terrestrial Biodiversity	Yes.

RE1 Public Recreation - Zone Objectives

The objectives of the zone are:

- To enable land to be used for public open space or recreational purposes.*

Comment: The proposed development continues to provide for land that is used for recreational purposes.

- To provide a range of recreational settings and activities and compatible land uses.*

Comment: The proposed development continues to provide for a recreational setting and activity, which is compatible with the surrounding land uses, with reasonable mitigation measures incorporated to ensure impacts to adjacent residential land uses are minimised.

- To protect and enhance the natural environment for recreational purposes.*

Comment: The proposed development continues to provide for land that is used for recreational purposes. The natural environment is enhanced with the inclusion of four (4) new street trees. There is no removal of any existing natural resource within the site.

- To protect, manage and restore areas visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek and the Pacific Ocean*

Comment: The proposed development is not visually exposed to the waters of Middle Harbour, North Harbour, Burnt Bridge Creek or Pacific Ocean.

- To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

Comment: The topography of the site and surrounding development positions the proposed court lighting at the lowest part of the site, thereby locating development appropriately within the landform and landscaping. The development will not adversely impact surrounding land uses.

MANLY DEVELOPMENT CONTROL PLAN 2013

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	N/A	N/A
3.2 Heritage Conservation	N/A	N/A
3.3 Landscaping	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	N/A	N/A
3.6 Accessibility	N/A	N/A
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	N/A	N/A
3.9 Mechanical Plant Equipment	N/A	N/A
3.10 Safety and Security	Yes	Yes
5.4 Environmentally Sensitive Land	Yes	Yes
Schedule 3 – Parking and Access	No	Yes

Detailed Assessment

Part 3.3 Landscaping

The provision of four (4) street trees is supported, subject to conditions of consent to modify the selected species to Callistemon 'Hannah Ray'. This will encourage more appropriate tree planting and improve upon the landscaped features and native vegetation within Vista Avenue, per the objectives of the DCP.

Part 3.4 Amenity

The provision of lighting structures will accommodate approximately one (1) additional hour of use in summer, and approximately four (4) hours in winter. Council's Environmental Health Officer reviewed the proposed development (as amended). The extension of hours is unlikely to negatively impact the neighbouring residents to an unacceptable level with the Industrial Noise Policy setting the evening period (from 6:00pm - 10:00pm). The proposed development (as amended) seeking lighting to operate until 9:00pm is acceptable, subject to conditions, which will ensure minimal impact to the amenity of neighbours.

The lights will be automatically set to turn off at 9:00pm (per the recommendations of the acoustic report and as implemented within the amended plan of management), which satisfactorily ensures a reasonable level of amenity to surrounding residences.

The submitted Obtrusive Light Assessment adequately identifies and assesses the lighting specifications required to ensure that the lighting meets the requirements of relevant standards to minimise glare. The “Caravel Mk2 LED Sports Lights with rear shields” have been modelled within the assessment, and were found to have appropriate light distribution:

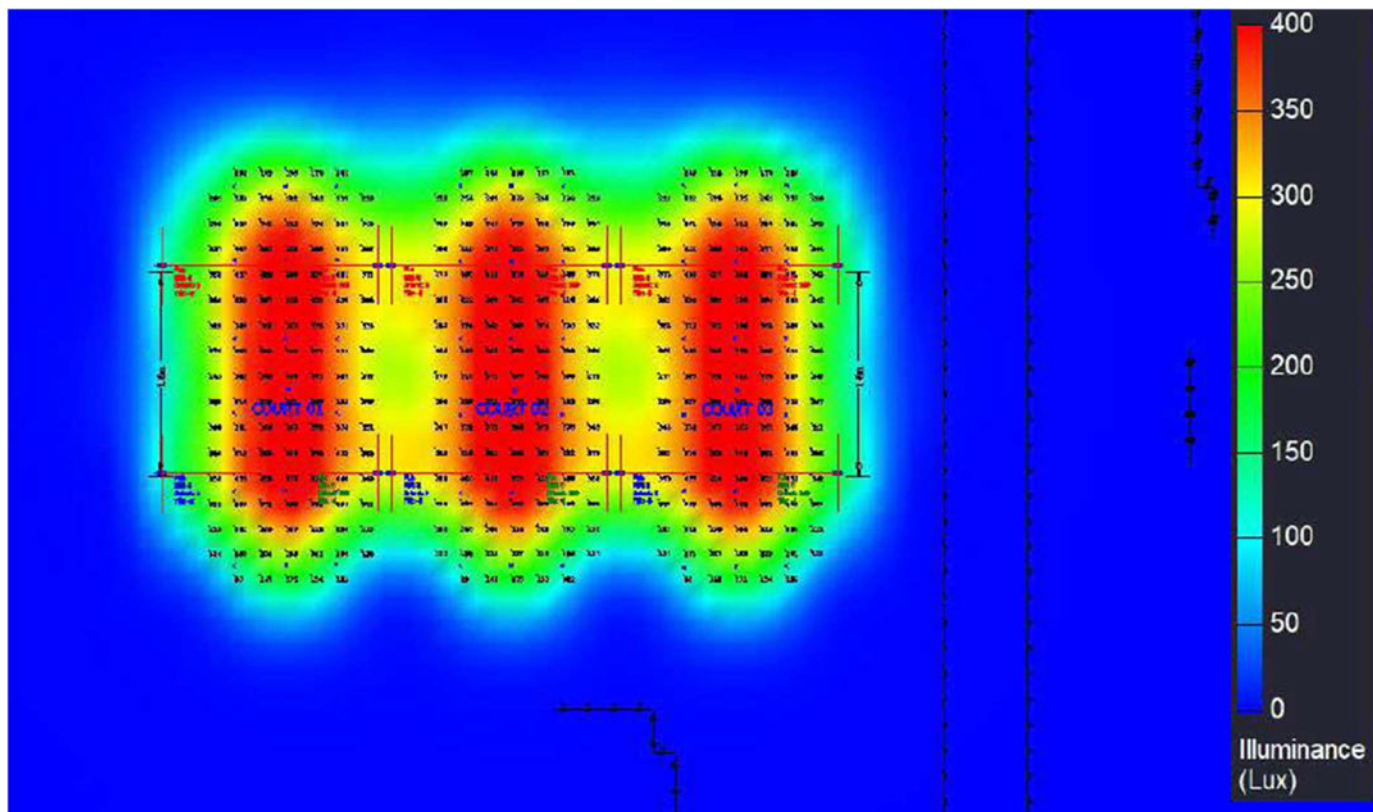


Figure 1 – modelled light distribution across the 3 courts

Similarly the new pathway lighting will be non-intrusive LED solar powered garden lighting.

In order to mitigate potential light impacts on native wildlife (including long-nosed bandicoots which have been recorded near the subject site), the lighting design is to be assessed by a suitably qualified ecologist and certified as complying with the principles of the National Light Pollution Guidelines for Wildlife (Department of Environment and Energy, May 2023). This will form a condition of consent to ensure the objectives of the DCP are met.

Additionally, the Plan of Management has satisfactorily addressed the management and reduction of amenity (noise, glare and security) impacts raised by submissions. The plan of management incorporates the following policies and procedures that are integrated into the conditions of consent:

- Automatic lights off at 9:00pm;
- No coaching after 7pm, nor on weekends;
- No squads after 6pm;
- No more than 12 players on Courts 1, 2 or 3 ('the three courts') after 8pm;
- No music or spectators permitted;
- Guidelines for acceptable member behaviour will be emailed following court hiring (booking);
- Complaints will be managed by the club secretary;
- Preservation of existing motion-activated security cameras and lighting to monitor behaviour.

Part 3.10 Safety and Security

As above, safety and security concerns have been addressed within the Plan of Management.

Part 5.4 Environmentally Sensitive Lands

The presence of the long-nosed bandicoot was recorded by one of the submissions received, and the installation of lighting will be subject to relevant conditions of consent to ensure minimal impact to wildlife.

Schedule 3, Part A1: Requirements for Vehicles

The proposal (as amended) provided a parking and travel survey (*prepared by Du Plessi + Du Plessi Architects, November 2023*) to assess the parking implications of the premises operating until 9pm. Subject to appropriate conditions of consent, Council's Traffic Engineer is satisfied that parking concerns have been addressed:

- It is noted that parking analysis has been undertaken, demonstrating that there is adequate parking availability within the area to cater for the club's parking demands.
- Travel Mode surveys have been included in the Parking & Travel Survey report, demonstrating that there is a lower parking demand for the proposal. The survey shows that many members live close to the tennis courts, and more than half of the customers walk or cycle to the courts.

7.12 CONTRIBUTIONS

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$2,167.94 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1.0% of the total development cost of \$216,794.00.

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;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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 objectives of the Environmental Planning and Assessment Act 1979

The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

PLANNING CONCLUSION

This proposal, for the installation of lighting to tennis courts 1, 2 and 3 and associated minor works has been referred to the Northern Beaches Local Planning Panel (NBLPP) due to the site being Council owned land. To manage the conflict of interest, the assessment has been undertaken by an external planner.

The concerns raised in the objections have been addressed under the relevant sections of this report and resolved by the submission of additional information in the form of an acoustic report, obstructive light report, parking study, and plan of management. Relevant conditions of consent have also been incorporated into the draft conditions (as attached) to ensure the amenity and management outcomes are achieved.

The critical assessment issues relating to acoustic amenity, light spillage and parking have been assessed in this report, and determined to have been resolved by reasonably mitigating amenity impacts.

This report concludes with a recommendation that the NBLPP approve the development application.

It is considered that the proposed development satisfies the appropriate controls, results in an acceptable amenity outcome, and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel as the consent authority, grants Development Consent to DA2023/0720 for the installation of lighting to three (3) of the existing five (5) tennis courts, with a total of eight (8) lighting poles, and an extension of operational hours for the use of the premises, commonly referred to as the Bareena Park Tennis Club, on land at Lot 1432 and Lot 1431 in DP752038.

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A.01 Title Page Site Analysis	Issue D 11.12.2023	Du Plessi + Du Plessi Architects
A.02 Site Plan	Issue D 11.12.2023	Du Plessi + Du Plessi Architects
A.03 Courts #1-3 Light Pole Plan	Issue D 11.12.2023	Du Plessi + Du Plessi Architects
A.04 Courts #1-3 Light Pole Elevation	Issue D 11.12.2023	Du Plessi + Du Plessi Architects
A.05 Landscape Plan	Issue D 11.12.2023	Du Plessi + Du Plessi Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Acoustic Assessment	11 December 2023	RWDI Australia Pty Ltd
Obtrusive Light Assessment including Specification Sheet and the Obtrusive Light Compliance Report	14/12/2023	ShineOn
Bareena Park Tennis Club: Plan of Management (6 pages)	Undated	President – Ross Mclean

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

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

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	June 2023	Du Plessi + Du Plessi Architects

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. 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	Response Ausgrid Referral	19/06/2023

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. Height of Lighting Structures

The proposed lighting structures from the existing ground level to the top of the lighting protection antennae are restricted to a height of 7.0m.

Reason: To ensure the height of the lighting structures is consistent with the submitted documentation.

4. Community Notice and Public Information Signs

Separate development consent is required for any new signage that exceeds a surface area of 3.5m², is greater than 5.0m in height above ground level, or results in more than one sign fronting a road frontage.

No consent is granted for signage that is illuminated or outside the boundaries of the site.

Reason: To ensure signage is consistent with the submitted documentation.

5. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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:
 - showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - 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
 - stating that unauthorised entry to the work site is prohibited.

- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

6. General Requirements

- (a) Unless authorised by Council:
- Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$2,167.94 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2022. The monetary contribution is based on a development cost of \$216,794.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2022 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

9. Street Tree Planting

Street tree planting shall be installed in accordance with the approved Landscape Plan, and the following conditions:

- (a) all street trees shall be a minimum pre-ordered planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees.
- (b) all street trees shall be planted into a prepared planting hole 1m x 1m x generally 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be generally located at least 2.0 metres from driveways/crossovers, and shall generally be centralised within the road verge.
- (c) the selected species shall be Callistemon 'Hannah Ray'.

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

Reason: To maintain environmental and streetscape amenity.

10. On-Street Work Zone

The applicant shall lodge an application for a work zone (if required) for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Application forms for work zones are available on Council's website. Applications shall be lodged at least 4 weeks prior to work commencing.

An application must be lodged with Council for consideration and approval for a work zone for the frontage of the site. The provision of a work zone will require approval from Northern Beaches Local Traffic Committee. Applications must be lodged at least four (4) weeks prior to work commencing.

Reason: To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.

11. Utilities Services

Prior to the issue of the Construction Certificate, the Applicant is to obtain the following:

- (a) A letter from the utility provider confirming that satisfactory arrangements have been made for the approved development have been made; and
- (b) Evidence that notification has been received from a utility authority that, requirements for the development can be provided.

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

Reason: To ensure that services have been provided as required by this Consent.

12. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer.

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

Reason: To provide public and private safety.

13. Compliance with Standards

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

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

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

14. 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 Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

- i "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- i 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.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

15. Works on Land Owned or Managed By Council

No encroachments are to be carried out on Land owned or managed by Council outside the leased area by the Tennis Club.

Note: Separate approval from Council is required for access driveways, paths, stairs, connections to underground utilities (stormwater, gas, sewer, electricity, telecommunications etc.), and landscaping works on Land owned or managed by Council outside the leased area.

Reason: To protect the land owned or managed by Council.

16. Installation and Maintenance of Sediment and Erosion Control

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period. Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods

of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

17. Public Liability Insurance – Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

18. Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management Policy; (in particular Section 6 - Building Over or Adjacent to Constructed Council Drainage Systems and Easements Technical Specification). Structural details prepared by a suitably qualified Structural Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) demonstrating compliance are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

19. Pre-Construction Stormwater Assets Dilapidation Report

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/generalinformation/engineeringspecifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition Dilapidation Report must be submitted to Council for acceptance and the acceptance submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

20. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit (if required) where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane and a Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

21. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety

22. Wildlife Protection

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

23. Installation and Maintenance of Sediment and Erosion Controls

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

24. No Access Through Land Owned or Managed by Council

Site access is not approved for delivery of materials for construction of the development through adjacent land owned or managed by Council outside the area leased by the Tennis Club, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

25. Protection of Council's Public Assets

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately contact Council's Tree Services Business Unit to resolve the matter to Council's satisfaction.

Reason: To protect and/or restore any damaged public asset.

26. Removing, Handling and Disposing of Asbestos

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

Work Health and Safety Act;

- i Work Health and Safety Regulation;
- i Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- i Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- i Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- i The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

27. **Geotechnical Requirements**

All recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent, that are required to occur during works must be done.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority during works.

Cabling is to be trenched on the outside of the court fences.

Reason: To ensure geotechnical risk is mitigated appropriately.

28. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- o Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.
- o At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.
- o At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

29. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety.

30. **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation not included in landscape plan and/or watercourses, are to remain undisturbed during the construction works.

All storage, stockpiling and parking of vehicles must be within the existing hard stand area or designated area outside Tree Protection Zones. Tree protection measures are to be in place should construction works impinge on canopy trees or their root plate zones.

Reason: To protect wildlife habitat.

31. **Tree and Vegetation Protection**

Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zones of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either of all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Principal Certifier must ensure that:

The arboricultural works listed above are undertaken and certified by an Arborist/Project Arborist as compliant to AS4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

32. **Condition of Trees**

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- a) a general decline in health and vigour,
- b) damaged, crushed or dying roots due to poor pruning techniques,

- c) more than 10% loss or dieback of roots, branches and foliage,
- d) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- e) yellowing of foliage or a thinning of the canopy untypical of its species,
- f) an increase in the amount of deadwood not associated with normal growth,
- g) an increase in kino or gum exudation,
- h) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- i) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist/Project Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

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

33. Post-Construction Stormwater Assets Dilapidation Report (Council Stormwater Assets)

The Applicant shall submit a post-construction Dilapidation Survey of Council's Stormwater Assets prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineeringspecifications/preparingdilapidationsurveyforcouncilstormwaterassets.pdf>

The post-construction / demolition dilapidation report must be submitted to Council for review and approval. Any damage to Council's stormwater infrastructure is to be rectified prior to the release of any Drainage security bonds. Council's acceptance of the Dilapidation Survey is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Protection of Council's infrastructure.

34. Certification of Structures Located Adjacent to Council Pipeline or Council Easement

The Applicant shall submit a suitably qualified Structural Engineer's certification that the completed footing works have been constructed in accordance with this consent, Northern Beaches Council's Water Management for Development Policy and the approved Construction Certificate plans. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Protection of Council's infrastructure.

35. 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 2560 Sports Lighting, and 4282:2019 Control of the obtrusive effects of outdoor lighting.

The following is to be submitted to Council and the Principal Certifier prior to the issue of an Occupation Certificate:

- A 10-year warranty for the lights is to be obtained and submitted to Council;
- The Certification that the design is compliant with Australian Standards AS2560 and AS4282;

In addition, the lights are to be automatically set to turn off at 9:00pm each day.

The Principal Certifier must be satisfied that all back shields, as per the approved Specification Sheet within the Obtrusive Light Assessment prepared by ShineOn, have been installed, and that the colour temperature is 4,000k.

Reason: To protect public health and amenity.

New lighting must be consistent with the principles of the National Light Pollution Guidelines for Wildlife (May 2023) and designed to ensure that light spillage into non-target areas is minimised. Plans are to be certified by a suitably qualified ecologist as complying with this condition and written evidence provided to the Principal Certifier prior to issue of any Construction Certificate.

Reason: To mitigate potential light pollution impacts on wildlife.

36. No Weeds Imported On To The Site

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

37. Lease Agreement

The lease agreement between Bareena Park Tennis Club and Northern Beaches Council is to be updated to reflect the approved hours of operation. A copy of this updated lease agreement shall be provided to the Principal Certifier prior to the issue of an Occupation Certificate and prior to the lighting being used in any capacity.

Reason: To ensure the development is consistent with the lease agreement.

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

38. Usage of Lighting

The proposed operation for the lighting structures to Courts 1, 2 and 3 are restricted to the following timeframe:

- 7:00am – 9:00pm.

The lights are to be automatically set to turn off at 9:00pm each day.

A maintenance regime must be implemented to ensure that the maintenance factors used in the lighting design calculations, as outlined within the Light Design Certificate provided in the Obtrusive Light Assessment prepared by ShineOn, are realised in practice.

Reason: To protect public health and amenity.

39. Plan of Management

Compliance with the recommendations within the amended Plan of Management prepared by Ross Mclean, Bareena Park Tennis Club, including management and use of the number of players per tennis court and operating hours.

Reason: To ensure noise and light impacts are managed

40. **Street Tree Maintenance**

A minimum 12 months maintenance period applies for the applicant to ensure establishment of the street trees. It is the responsibility of the applicant that should street trees planting under this consent fail, they are to be replaced. The street trees planted under this consent are to be mulched, watered and fertilised as required following planting.

Reason: Streetscape amenity.

FINAL DECLARATION

Consultant Name: GAT & Associates

In submitting this report to Council, I declare that I do not have a conflict of interest in making this recommendation.

