



northern  
beaches  
council

## MEMORANDUM

**DATE:** 19 June 2023

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Adam Richardson, Acting Executive Manager Development Assessment

**FROM:** Stephanie Gelder

**SUBJECT:** Item No. 5.1 – DA2023/0082 – 1A Myoora Road TERREY HILLS NSW 2084

**TRIM REFERENCE:** 2023/386597

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The purpose of this memo is to advise the Panel that the Applicant has provided additional information on 19 June 2023 in response to the NBLPP deferral of Item 5.1 from the meeting of 7 June 2023. The additional information from the Applicant has addressed the following as identified the NBLPP deferral:

- a) *Information demonstrating consistency of the functions centre use with the area approved for use as a conference centre under DA1996/261. This should include details of any changes to the operation of the area, including hours of operation, to that which is approved under DA1996/261.*
- b) *Further information on the visual impact of the proposal (including the netting material, poles and the flags) when viewed from the residential areas located across the valleys north of the site and from within the adjoining national park.*

In response to the issues raised, the applicant has provided the following documents:

- Letter from Willowtree Planning (dated 19 June 2023)
- Certified Photomontage prepared by Deneb Design (dated June 2023).
- Letter from Deneb Design (dated 15 June 2023)
- Birdmark Afterglow Specifications (n.d.)
- Email from Narla Environmental (dated 14 June 2023)

### **Issue 1 – Functions Centre Use**

The applicant has provided additional information surrounding the function centre use with the area approved for as a conference rooms under DA1996/261 (Consent No.96/305). The Applicant states the following:

*Under Condition 9 of DA1996/261, the function centre is approved to be used for the purpose of holding events for users of the driving range. As stipulated within the SEE prepared by Willowtree*

*Planning dated 31 January 2023, the function centre will continue to be operated as approved previously, noting it will be used as function space only for users of the driving range facility and will not be used by other members of the public.*

Comment:

It is noted that the applicant acknowledges the proposed increase of hours of operation for the function area. It is considered that any changes to the proposed hours of the operation would require a separate application due to the proposed extension in hours of operation, that presents a permissibility issue as “conference rooms” that would be under the current definition of “function centre” are prohibited in Zone RU4 under the current Warringah Local Environmental Plan 2011. Such a proposal would be subject to existing use rights.

As such a Condition limiting the use of the conference rooms to the hours as approved under Condition 9 of DA1996/261 is recommended. Furthermore, amendment to the recommended Condition 58 – Hours of Operation has been undertaken to clearly distinguish the operating hours for the conference rooms to remain as those hours approved under DA1996/261. An additional Condition 6A is recommended to ensure the operation of the conference rooms is that as approved under DA1996/261. These amended and additional conditions are below.

## **Issue 2 – Visual Impact**

The applicant provided further detail surrounding the proposed flagging atop the netting that was proposed to avoid impact of the higher nets to birdlife and bats. Upon further investigation an alternate to flagging is proposed that is called Birdmark Afterglow. The Applicant provided a details specification surrounding the use of Birdmark Afterglow tags, noting the markers are 135mm round disks that are recommended to be installed every 5 metres. Such tags are able to be seen by wildlife at night, as they emit infrared rays at night. As a result of the proposed use of the Birdmark Afterglow tags, the applicant provided a letter from Deneb Design stating the ability to include the Birdmark Afterglow on the photomontages was not possible as detailed below:

*The proposed bird marks are 135mm diameter with approximately 50% of the area open (ie spoke of a wheel style). They are designed to afterglow in the night. The spacing is proposed at 5m across the top rail and down each pole. The render of this size detail will only present a FUZZY BLUR around the top rail and poles of the images we have worked up. The White colour will fuzzy blur in a negative (Reducing) way when against the whiter sky, and conversely will fuzzy blur in a positive (growth) way against the trees. The material thickness is akin to asking for a Pencil sized detail to be included on the poles. It is our opinion that this detail will not be relevant to the consideration of view impact on the image locations presented.*

The applicant has provided Certified Photomontages prepared by Deneb Design (dated June 2023) to demonstrate the visual impact of the proposal when viewed from residential areas located north of the subject site. The applicant has provided the following response:

*Four additional viewpoints have been included as follows:*

- De-0050 – this viewpoint shows there is no change between the existing and proposed scenario.*
- De-0051 – there will be a minor change with the netting and poles visible from the public road. The impact is considered acceptable noting the colour of the poles and material of the netting which integrates with the natural environment.*
- De-0052 – the nets as existing are visible from this viewpoint and will continue to be so under the proposed development. Whilst the nets will be higher when viewed from this point the impact is considered minor as they integrate with the natural environment in terms of the recessive colour.*
- De-0053 – the nets as existing are visible through a small portion of the vegetation which will continue under the current proposal. Overall, there is no change to the level of impact.*

Furthermore, the applicant has provided further detail surrounding the proposed Birdmark Afterglow tags, that has been endorsed by the applicant's Flora and Fauna consultant, Narla Environmental. Council's Biodiversity Officer has reviewed the proposed Birdmark Afterglow tags and provided the following comments:

*The Council Biodiversity Referral team note the additional information provided. On review, we are able to support an amendment of Condition 17 for the following reason:*

- Advice from a Senior Ecologist at Narla has been proposed in the form of Birdmark Afterglow tags to be used as an alternate mitigation measure to minimise indirect impacts to fauna, which should be run along the top of the netting and at equal intervals down to the ground on the sides of the fence that adjoin the National Park.*

*In summary, we consider that the fencing design be amended to comply with the following:*

- Be constructed using black netting as proposed by CCI – Safety Fencing, **AND***
- That Birdmark Afterglow tags should run along the top of the netting **AND** at equal intervals down to the side of the fence that adjoins the National Park with spacing of five metres in the horizontal and vertical planes, **AND***
- The Birdmark Afterglow tags are to be maintained for the life of the development.*

#### Comment:

It is considered the additional viewpoints demonstrate that the proposed netting is largely recessive to the natural environment, and the proposed netting will not result in an unacceptable visual impact. It is acknowledged that the photomontages do not include the Birdmark Afterglow tags, however it is agreed that the size of the Birdmark Afterglow tags will not be discernible on the Photomontages due to the size being 135mm.

It is therefore considered, that the applicant has demonstrated the proposed netting, and the proposed Birdmark Afterglow tags will not result in an unacceptable view impact. As such, it is recommended to amend Condition 17 – Ball Fencing Netting Colour, and Amend Condition 60 – Maintenance of Flagging on Ball Fence Netting as previously recommended in the Supplementary Memo dated 6 June 2023.

#### **Conclusion**

In summary, it is recommended that the Panel approve DA2023/0082 as per the original assessment and add Condition 6A, amend Condition 17, amend Condition 58, and amend Condition 60.

#### **Recommendation**

The following amendments are recommended as detailed below, in conjunction with the Conditions recommended in the original assessment report and memo of 6 June 2023:

- Add Condition 6A – Use of Conference Rooms**

No approval is granted or implied under this Development Consent for any changes to the use and operation of the Conference Rooms as approved under DA1996/201.

Any changes to the operation or hours of operation requires separate approval.

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

- Amend Condition 17 - Ball Fencing Design to read as follows:**

The ball fencing shall be constructed using black netting as proposed by CCI – Safety Fencing.

The white Birdmark Afterglow tags shall run along the top of the netting and at equal intervals down to the side of the fence that adjoins the National Park with spacing of 5 (five) metres in the horizontal and vertical planes.

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

Reason: To ensure protection of surrounding fauna.

- **Amend Condition 58 – Hours of Operation to read as follows:**

The hours of operation are to be restricted to Monday to Sunday including Public Holidays:

- Clubhouse Areas – 7:00AM to 12:30AM (excluding conference rooms);
- Driving Range Hitting Bays – 7:00AM to 11:00PM
- Entertainment Garden Areas – 7:00AM to 12:30AM
- Mini Golf – 7:00AM to 11:00PM
- Mini Golf Kiosk – 7:00AM to 11:00PM

The hours of operation for the conference rooms are to be restricted to:

- Monday to Friday – 9:00AM to 9:30PM;
- Saturday to Sunday – 9:00AM to 10:00PM;

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

- **Add Condition 60 – Maintenance of Tags on Ball Fence Netting to read as follows:**

The white Birdmark Afterglow tags are to be maintained for the life of the development.

Any Birdmark Afterglow tags that are damaged/faulty, shall be removed and replaced with new tags to match existing.

Reason: To ensure ongoing protection of surrounding fauna.