

Meeting Date: Thursday 12 August 2021
Location: Meeting held remotely
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATION

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| 1 | 25-29 Nancarrow Avenue, Ryde Section 4.55(1A) to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people. MOD2021/0001 to modify LDA2015/0084 | 3 |
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There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS

1 25-29 Nancarrow Avenue, Ryde

Section 4.55(1A) to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people.

MOD2021/0001 to modify LDA2015/0084

Report prepared by: Consultant Planner; Senior Town Planner

Report approved by: Senior Coordinator - Development Assessment; Manager - Development Assessment; Director - City Planning and Environment

File Number: GRP/09/6/12/1/2 - BP21/749

City of Ryde Local Planning Panel Report

DA Number	MOD2021/0001 to Modify Development Consent No. LDA2015/0084
Site Address & Ward	25-29 Nancarrow Avenue, Ryde NSW 2112 Lot 1 Deposited Plan 120474 Central Ward
Zoning	B4 – Mixed Use
Proposal	Section 4.55(1A) to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people.
Property Owners	ELLS Trading P/L
Applicant	Josh Annesley

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Report Author	Brendon Clendenning, Consultant Planner
Lodgement Date	4 January 2021
Notification 1 No. of Submissions	Twenty (21) submissions received. Ten (10) submissions objected to the proposed development. Eleven (11) submissions received in support of the proposed development.
Cost of Works	\$20,000.00 (original DA cost)
Reason for Referral to LPP	Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>
Recommendation	Refusal
Attachments	Attachment 1 – Applicant acoustic report Attachment 2 – GHD acoustic report Attachment 3 – Plans approved by LDA2015/0084 Attachment 4 – Conditions of consent LDA2015/0084 Attachment 5 – Plan of Management

1. Executive Summary

The subject modification application (MOD2021/0001) was lodged on 4 January 2021 and seeks consent to modify class numbers and opening hours for an existing gym/fitness centre. The current hours of operation are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and are proposed to change to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people to 30 people.

The application was advertised in accordance with the provisions of the *Ryde Development Control Plan 2014* (RDCP2014), and twenty one (21) submissions were received, ten (10) of which objected to the proposed development and eleven (11) in support of the proposal. In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it is a contentious development, having received ten (10) unique submissions by way of objection.

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The original DA (LDA2015/0084) was approved on 31 March 2015 for the fit out and use for a fitness studio and business identification signage. The DA was approved subject to conditions, and the current applicant is understood to have replaced the original operator in April 2019. Council began receiving noise generated complaints from the public from May 2019 to date, with noise testing carried out to determine the potential for non-compliance with the original DA consent.

The original development consent was subject to a number of conditions relating to noise control and Council has previously issued notices to the applicant seeking compliance with these conditions of consent, which have yet to be complied with. The application seeks changes that would further exacerbate noise issues, in addition to putting further pressure on the onsite carparking.

The applicant is currently not meeting existing obligations in respect to the operation of the gym. This would be further exacerbated by extending the hours of operation for the gym. Combined with a lack of car parking on site or in the immediate area, this application cannot be supported and is recommended for refusal.

2. The Site and Locality

The subject site at 25-29 Nancarrow Avenue is legally described as Lot 1 in Deposited Plan 120474. The subject site is a rectangular shaped allotment located on the northern side of the intersection of Nancarrow Avenue and Hamilton Crescent West. The site has a frontage to Nancarrow Avenue of approximately 40m and a frontage of approximately 46m to Hamilton Crescent West. The total site area is 1,843.47m².

The site is a multi-unit industrial development, containing three attached buildings, each aligned to front Nancarrow Avenue. The subject premises is located within the central building within Unit 3. The local topography falls steeply towards the north-west, and as a consequence, despite being adjacent to one another, the two driveways to the subject premises are separated by a retaining wall. The higher driveway crossing, located in the centre of the subject building, is connected to a roller door which serves as the primary access to the subject premises, and noise emanating through this door is the subject of complaints. The lower driveway crossing is connected to an opening, which may have contained a door at some point in the past but has been inoperable for some time. A pedestrian door is located at the south-eastern end of the frontage, above a small elevated set of external stairs.

The only portion of the subject site that is not occupied by buildings is the parking area located forward of the north-western building, which is the smallest of the three buildings on site. This parking area accommodates up to approximately seven parking spaces.

The site is located within a locality which has recently experienced a rapid transition from industrial uses to high-density residential and mixed use development. High density residential dwellings surround the subject site to the east, west and south, as well as along Nancarrow Avenue and Hamilton Crescent West. The building is remnant

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of the former industrial zoning of the land. Other premises on the site comprise vehicle body repair workshops and vehicle repair stations, which are now prohibited development and operating under existing use rights. Land within the R2 Low Density Residential zone is located approximately 60m to the north-east.



Figure 1: Aerial photograph of the site in context.



Figure 2: The subject site as viewed from Nancarrow Avenue
Source: CPS Site Visit (09.07.2021).

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Adjoining to the west is No. 31 Nancarrow Avenue which comprises of an industrial warehouse for a car and truck rental business (**Figure 3**). To the south-west, on the opposite side of Nancarrow Avenue, is No. 12 Nancarrow Avenue which comprises of recent high density residential apartment development (**Figure 4**). Many of the complaints relating to the existing use of the gym have originated from this property, and this property is located directly opposite the building entries.

To the south-east, on the opposite side of Hamilton Crescent West, is No. 16 Constitution Road which also comprises of recent high density residential apartment development (**Figure 5**). Adjoining to the north-eastern rear of the subject site is Nos. 20-24 Constitution Road, which each comprise of a single storey brick dwelling with a tile roof (**Figures 6 & 7**), while No. 24 Constitution Road comprises of a two (2) storey industrial building (**Figure 8**).

Development within the surrounding area primarily consists of high-density residential accommodation in the form of residential flat buildings, with some remaining industrial uses. Refer to **Figure 9** and **Figure 10**.



Figure 3: The adjoining vehicle rental building at No. 31 Nancarrow Avenue.
Source: Site Visit (09.07.2021).

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Figure 4: The adjoining high-density apartments at No. 12 Nancarrow Avenue

Source: Site Visit (09.07.2021).



Figure 5: High-density apartments at No. 16 Constitution Road

Source: Site Visit (09.07.2021).

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Figure 6: The adjoining dwelling house to the north-east at No. 20 Constitution Road

Source: Site Visit (09.07.2021)



Figure 7: The adjoining dwelling house to the north-east at No. 22 Constitution Road

Source: Site Visit (09.07.2021)

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Figure 8: The adjoining allotment to the north at No. 24 Constitution Road
Source: Site Visit (09.07.2021)



Figure 9: Looking north-west along Nancarrow Avenue from the Subject Site
Source: Site Visit (09.07.2021)

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Figure 10: Looking south-east along Nancarrow Avenue from the Subject Site
Source: Site Visit (09.07.2021)

3. The Proposal

The proposed Section 4.55(1A) modification application seeks to modify class numbers and opening hours for an existing gym/fitness centre. The current approved hours of operations are 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday) and these hours are listed within Condition 33 of the development consent.

The proposal seeks to change these hours to 5am to 8:30pm (Monday to Friday) and 5:45am to 12:00pm (Saturday). The proposed modification also seeks to change the maximum class size from 12 people, as prescribed by Condition 37, to 30 people.

The development has a recent history of noise complaints that are relevant to this modification. Conditions of consent that are relevant to this assessment, including those sought for modification, and those relevant to the control of acoustic impacts, are reproduced below:

33. Hours of operation. *The hours of operation are to be restricted to:*

- 5am to 8am and 5pm to 10pm (Monday-Friday); and
- 5:45am to 10am (Saturday)

37. Maximum class size. *No class is to have more than 12 people.*

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42. Offensive noise. *The use of the premises must not cause the emission of 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.*

43. Noise and vibration from plant or equipment. *Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:*

(a) *The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).*

(b) *An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors.*

(c) *The transmission of vibration to any place of different occupancy.*

45. Noise Limits. *Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10pm and 7.00am.*

46. Council may require acoustical consultant's report. *Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.*

4. Background

A history of the current use is contained within the table below, with the majority of this information contained within the referral provided by Council's Environmental Health Officer.

25 February 2015	A development application (LDA2015/0084) was lodged to Council for the fit out and use for fitness studio and business identification signage.
1 April 2015	LDA2015/0084 was approved by Council.
April 2019	Vale Tudo (current applicant) began operation at the subject site.
May 2019	Council began receiving noise generated complaints from the public.
20 and 22 February 2020	Noise testing carried out by an Environmental Health Officer (EHO) from an adjacent residential unit in 12 Nancarrow Avenue.

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	The testing determined the potential for non-compliance with the original DA consent.
16 March 2020	A Prevention Notice, pursuant to section 96 of the <i>Protection of the Environment Operations Act 1997</i> , was issued by Council directing the owner of Vale Tudo Training to engage a suitably qualified acoustical consultant to describe and assess the noise impact of the activities from the operation of the Vale Tudo Training gym.
23 March 2020 - 13 June 2020	Due to Covid-19 restrictions the gym was closed, and Council received no noise complaints.
2 May 2020	An acoustic consultant engaged by Vale Tudo obtained measurements from Level 4 of 12 Nancarrow Avenue. This is the same location where Council obtained noise readings.
16 June 2020	A complaint was received from a resident at 12 Nancarrow Avenue, indicating that noise had recommenced.
17 June 2020	Council received Acoustic Report (Ref no. 2020-078), prepared by Acoustic, Vibration & Noise Pty Ltd dated 13 May 2020. A final warning letter was also sent to the owner of Vale Tudo, outlining the nature of the ongoing concerns and requesting an update on the status of the validation testing by 24 September 2020.
19 June 2020	A second Prevention Notice was issued that restricted the emission of noise pollution from activities undertaken at the gym. An extension was also provided on this day by email until 17 July 2020 to implement the recommendations of the acoustic report and perform a subsequent validation assessment once required noise attenuation works were complete.
Late June 2020	Works are understood to have commenced to build the airlock at the entrance as recommended by the acoustic report.
July 2020	Email correspondence received from multiple residents advising that noise is continuing prior to 7:00am and is audible from within the residential units. Council requested an update from the owners of the gym on the works completed and status of the validation.
August 2020	An email was sent to Vale Tudo on 3 August 2020 requesting an update on the status of noise validation and a reminder not to generate audible noise before 7:00am. A response was received from the owner of the gym questioning the legitimacy of the concerns received. In response, Council performed unattended noise monitoring for a period of one week from inside the unit of one of the affected residents at 12 Nancarrow Avenue.

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	The results of the monitoring revealed noise from the operation of the gym was audible and likely to be considered offensive during the “night time” period from 5:00am to 7:00am.
September 2020	The recommendation was made for the gym to cease playing amplified music until the validation report had been completed.
24 September 2020	Email received from resident of 12 Nancarrow Avenue indicating that the noise had not improved in the last week and had been the worst since the gym operation had resumed since Covid-19 restrictions were lifted.
28 September 2020	Following an inspection of the property, an infringement notice was issued for non-compliance with a Prevention Notice.
28 October 2020	Following a further inspection of the property, an additional infringement notice was issued for non-compliance with a Prevention Notice.
11 November 2020	<p>In response to multiple concerns received, Council issued a final warning letter giving the owners a final date for the completion of the validation testing.</p> <p>Council explained that the date for compliance was negotiable if the applicant could demonstrate that the matter was progressing. At the conclusion of the meeting an email was sent outlining the outcome of the meeting with directions to assist in completing the validation.</p>
1 December 2020	<p>A validation acoustic report prepared by Acoustic Logic, dated 26 November was submitted by the owner of the gym. However, the report failed to adequately address noise concerns and Council had concerns about the validity of the report, in particular:</p> <ul style="list-style-type: none"> <i>a. The assessment was performed on level 2 of 12 Nancarrow Avenue, despite knowledge that the noise is potentially being experienced at higher level in higher apartments.</i> <i>b. The background measurements were detailed to have been obtained between 5am and 6am, while the gym operates from 5am to 8am and 5pm to 10pm (Monday-Friday); and 5:45am to 10am (Saturday). No data was provided with the report to prove the results obtained are correct.</i> <i>c. City of Ryde has obtained background readings that indicate the background noise level is close to 30dB(A), which is significantly different to the 40 dB(A) determined in the validation report. This also contradicts the level used in the initial acoustic impact report.</i>

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	<p><i>d. There were several aspects of the noise concerns received that were not addressed in the validation report including dropping weights, hitting/kicking pads and noise from trainers yelling, which have all been raised as issues by complainants.</i></p> <p><i>e. Footnote no.6 on page 5 provides a definition of inaudibility “Inaudibility generally occurs when the measured operational noise levels is approximately 7-10dB(A) below the ambient noise level”. Despite this definition offered, at no point does the assessment demonstrate that noise levels achieve this definition.</i></p> <p><i>f. The assessment has identified that noise is audible from the balcony of the unit, when noise levels were measured at 70dBA from within the gym. Despite this, the assessment has determined that an acceptable level of noise from within the gym while operating is 77dBA. This contradicts the requirements for noise to be inaudible before 7:00am.</i></p> <p><i>g. The assessment concludes that “The measurements confirm that typical operational noise emissions between 5am and 7am are compliant with the NSW EPA Noise Policy for Industry (NPfI) 2017 guidelines provided the volume of music is kept below 75 dB(A) Leq, which corresponds to approx. 80% of the maximum volume setting on the system amplifier”. This does not address condition of consent no.45 and term no.1 of the prevention notice, requiring noise to be inaudible from 10pm to 7am.</i></p> <p><i>h. City of Ryde would seek to clarify the definition of term “inaudible” from an acoustic and/or noise level perspective. The current agreed definition is that “inaudible” means “cannot be heard”.</i></p> <p>The owner of the gym was advised that City of Ryde would have the acoustic assessment peer reviewed by an independent acoustic consultant.</p>
4 January 2021	Modification application (MOD2021/0001) was lodged to Council to modify class numbers and opening hours for an existing gym/fitness centre.
January 2021 (throughout)	Various further complaints were received.
Notification – 18 January 2021 to 8	The modification application was notified to surrounding properties. In response to this notification of the application 21 submissions were received.

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February 2021	
1 June 2021	An Independent Acoustic Report, commissioned by Council, was prepared by GHD, providing a number of recommended noise mitigation measures, which are outlined below.
17 June 2021	<p>A further Prevention Notice, providing a direction to take preventive action was issued to the owner, and the entirety of this direction is listed below:</p> <p><i>By 10:00pm Thursday 24 June 2021:</i></p> <ol style="list-style-type: none"> 1. <i>Implement the following noise mitigation recommendations outlined in Vale Tudo Training – Independent Acoustic Report prepared by GHD dated 1 June 2021 which includes:</i> <ol style="list-style-type: none"> a. <i>The roller door must be kept closed at any time while the premises is in operation, regardless of internal noise levels.</i> b. <i>The front door and internal air lock door must be kept closed at any time while the premises is in operation, other than when patrons are entering or exiting the premises.</i> c. <i>Install an automatic self-closing device to the external patron door to ensure that both doors remain closed during operation of the premises other than when entering or exiting.</i> d. <i>Class sizes prior to 7am are restricted to a maximum capacity of 12.</i> <p><i>By 10:00pm Thursday 15 July 2021:</i></p> <ol style="list-style-type: none"> 1. <i>Install a noise limiter for the amplified sound system:</i> <ol style="list-style-type: none"> a. <i>The installed sound system must always be under the control of the noise limiter.</i> b. <i>At all times, any amplified noise must be played through the installed sound system, with no temporary sound systems permitted.</i> c. <i>The noise limiter must be calibrated following installation to the following noise levels:</i>

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- *Between 5:00am and 7:00am – internal reverberant LAeq must not exceed **70dBA***
- *After 7:00am – internal reverberant LAeq must not exceed **80dBA***

d. The noise limiter must be contained within a locked and secured area and only accessible by the owner/manager and must not be adjusted at any time.

e. Following installation, a suitably qualified acoustic engineer must complete and submit a validation assessment including measurements within the premises and at the closest residential receiver to ensure the noise limiter is functioning to the specified noise levels. The report must be submitted to the City of Ryde.

By 10:00pm Thursday 12 August 2021:

- 1. Submit to the City of Ryde a validation report prepared by a suitably qualified acoustic engineer confirming that the installed noise limiter is functioning to the specified noise levels.*
- 2. Submit to the City of Ryde a Noise Management Plan, that includes the following:*
 - a. Details of internal dBA noise limits*
 - b. Details of site supervision, hours of operations, management procedures during early hours (prior to 7:00am).*
 - c. Details on restrictions to amplified music, operating time, general use and staff designated to access.*
 - d. Details about any signage to inform patrons of noise issues and reminding patrons to enter in a quiet manner and to not congregate outside.*
 - e. Details on training guidelines for staff, specifically related to noise issues.*
 - f. Details on the process for community consultation and dealing with noise complaints from residents.*

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	g. <i>Details on monitoring noise and vibration and actions to be taken to address complaints or non-compliances.</i>
18 June 2021	<p>An email from a representative of the owner was provided to Council in response to the Prevention Notice. The email informs Council that the directions requiring action by 10:00pm Thursday 24 June 2021 are “reasonable and achievable”; however, an alternative suggestion was put forward in relation to class sizes, as follows:</p> <p><i>“We would like to propose that the class size be increased from a limit of 12 to 20 people for a trial period (length to be agreed upon) following completion of the other four points. We would propose that the other noise attenuation measures may be sufficient to allow the increase; however, we would be willing to reduce the class size to an agreed limit following this trial period if deemed necessary. As you can understand, reduced class sizes can have a financial impact on the gym, and it would be appreciated if we can come to a mutually beneficial agreement that manages noise but enables viable class sizes”.</i></p> <p>A direct request to amend the modification application did not accompany this email.</p> <p>At the time of writing this report, the applicant has not complied with all of the requirements for 24 June and 15 July. The Prevention Notice is to ensure the development is conducted in accordance with the approved conditions of consent. This is a separate matter and does not stop the Panel from determining the current Section 4.55(1A) application.</p>

5. Planning Assessment

5.1 Section 4.55 – Modification of Consents

An assessment of the application in respect to Section 4.55 of the *Environmental Planning and Assessment Act 1979* is detailed below.

Section 4.55(1A)

In accordance with Section 4.55(1A), Council may consider a modification of development consent if the following applies:

(a) it is satisfied that the proposed modification is of minimal environmental impact

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A number of issues have been outlined within this assessment that are associated with impacts that are not properly described as “minimal”, and these impacts largely inform the recommended reasons for refusal. The existing operation of the gym results in noise to adjoining residential properties between 10pm and 7am (as detailed earlier in this report). As such, an increase in class numbers from 12 to 30 would likely increase the noise level during these hours, having an unacceptable impact on the adjoining residential properties. On this basis, the assessment has concluded that s4.55(1A), being the avenue pursued by the applicant, is not the appropriate mechanism by which this modification could be approved. A Section 4.55(2) would be the more appropriate avenue for pursuing the proposed modifications.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) proposed development is substantially the same as the approved development.

The approved development was described as “Fitout and use for fitness studio and business identification signage”. The proposed modification seeks to change operational conditions surrounding the approved use and the proposed development as modified would be substantially the same development as the approved development.

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

The application for modification has been notified in accordance with Council’s Community Participation Plan.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Council has considered any submissions regarding the proposed modification.

A total of 21 submissions were received, 11 in support of the proposal and 10 in objection, and the matters are discussed later in this report.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

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An assessment of the relevant matters for consideration are provided in the report below.

The original approval granted under LDA2015/0084 was approved because the original development was considered suitable for the site and in the public interest. For the reasons demonstrated in this report, the original reasons for approval are no longer valid as a result of the proposed modification.

5.2 State Environmental Planning Instruments

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 – Remediation of land (SEPP 55) requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

The proposal seeks to continue the fitness studio use of the land, and the proposed modifications to be undertaken are related to class numbers and opening hours and would not result in any excavation works or soil disturbance.

Further consideration of potential contamination is not warranted by this application.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.

5.3 Ryde Local Environmental Plan 2014 (RLEP 2014)

The following clauses are of particular relevance to the proposal.

Clause 2.3 - Zone Objectives and Land Use Table

The subject site is zoned 'B4 – Mixed Use' under the provisions of the *Ryde Local Environmental Plan 2014* (RLEP 2014). The existing use is defined as a 'recreation facility (indoor)', which is a permissible land use within the zone.

Aims and objectives for B4 Mixed Use zone:

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- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

It is noted that the approved use under LDA2015/0084 was considered to meet the objectives of the B4 Mixed Use zone, however, as outlined earlier in this report, the current operation is not operating in accordance with the consent conditions, and the existing use does not satisfy the first objective. Insufficient information has been provided to indicate that the existing operations of the site are “compatible” with other land uses in the locality, and the further expansion of this use is not able to be justified.

The proposed modification does not result in any physical works, and as such, no changes to the floor space or building height are proposed under this modification.

5.4 Draft Environmental Planning Instruments

Instrument	Proposal	Compliance
Draft Remediation of Land State Environmental Planning Policy		
<p>The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:</p> <p><i>As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment earlier in this report, the proposal seeks to continue the fitness studio use of the land, and the proposed modifications to be undertaken are related to class numbers and opening hours and would not result in any excavation works or soil disturbance.</p> <p>Further consideration of potential contamination is not warranted by this application.</p>	Yes
Draft Environment SEPP		
<p>The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the</p>	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	Yes

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<p>planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:</p> <ul style="list-style-type: none"> - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 		
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5.5 City of Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 4.2: Shepherd's Bay, Meadowbank;
- Part 7.2: Waste Minimisation and Management;
- Part 9.3: Parking Controls.

There are no specific provisions within RDCP 2014 relating to noise from recreation facilities in this location.

Part 4.2: Shepherd's Bay, Meadowbank

The site is within the area identified under Part 4.2 – Shepherd's Bay, Meadowbank of the RDCP 2014. There are no specific controls that relate to the proposed modification.

Part 7.2: Waste Minimisation and Management

The proposal does not result any change from the approved Waste Management Plan under LDA2015/0084. The proposed modification is acceptable when assessed against Part 7.2 of the RDCP 2014.

Part 9.3: Parking Controls

Part 9.3 (*Parking Controls*) of RDCP 2014 would require 1 to 1.5 spaces per 20m² and based on the GFA of 250m² this would warrant a minimum parking requirement of 13 spaces (12.5). The premises is provided with no formal parking, but a letter is provided with the Plan of Management, indicating that parking spaces within the premises adjoining to the north-west (up to approximately 7 parking spaces), may be used between 6:30pm and 7:45am Monday to Saturday.

Although RDCP 2014 provides that parking is calculated on the basis of floor area, the development seeks to increase the maximum class size from 12 people to 30 people, and this has the potential to create an additional parking impact.

It is noted that the original assessment report identified the shortfall in parking as an issue, with the high density residential development in proximity of the site under

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construction (now constructed) likely to impact the on-street parking availability. To mitigate this impact, Condition 37 was imposed to limit the class size to 12 people.

Given the parking is already non-compliant with the prescribed requirements, a further substantial increase in the capacity of the gym is not warranted, and insufficient parking is therefore included within the reasons for refusal. Refer to the Development Engineer's referral for further commentary on this matter.

5.6 Planning agreements or draft planning agreements

The application is not the subject of any planning agreements or draft planning agreements.

5.7 Section 7.11 Development Contributions Plan 2020

The Section 7.11 Development Contributions Plan 2020 commenced on 1 July 2020 and is applicable to the proposal. Change in land uses are excluded by Part 2.6 of the plan and no contributions were payable under the original DA consent (considered under the earlier contributions plan). On this basis no contributions would be payable for this modification.

5.8 Any matters prescribed by the regulations

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. As the proposal is recommended for refusal, there are no further matters for consideration.

6. The likely impacts of the development

The proposal to increase class numbers and opening hours for the gym will have an adverse social impact to the locality.

Acoustic Impact

Council has been informed of local residents' concern of the current operation of the gym as consistent noise generated complaints have been received dating back to May 2019, one month after the current operation began.

In addition to the noise complaints, multiple Prevention Notices and infringements have been issued to the applicant in order to have noise limiting measures implemented to control noise impacts associated with the existing operation. Despite the applicant being aware of these issues for well over a year, noise controlling measures have not

ITEM 1 (continued)

been carried out on site and the operation continues to emit offensive noise, in contravention of Condition 42 of the development consent. There is no evidence to suggest that expanding the use will not create further adverse impacts on the locality.

An independent Acoustic Report was prepared by GHD on 1 June 2021 and the recommendations of that report have informed the most recent Prevention Notice. To date, the applicant has failed to comply with the requirements of the Prevention Notice, and in this context, the application is unable to be supported. The applicant would need to demonstrate that the full compliance with the prevention notice before Council could consider supporting an application for the intensification of the use.

Parking Impact

In addition to the noise impacts associated with the proposal, the modification will create additional strain on the already limited parking available for the public in the nearby locality.

Given the above, the application is recommended for refusal.

7. Suitability of the site for the development

The Applicant has failed to demonstrate that the site, as currently developed, is suitable for the proposed increase in patrons. The directions within the prevention notice would need to be carried out and verified before any intensification of the use is considered.

Additionally, the Applicant has failed to demonstrate that the site could accommodate additional users with the current parking capacity of the site and surrounding area.

8. The Public Interest

Based on the assessment contained in this report, approval of the development is not in the public interest, and as such shall form a reason for refusal.

9. Submissions

In accordance with the Ryde Community Participation Plan, the owners of surrounding properties were given notice of the application on 18 January 2021, with the notification period for submissions closing on 8 February 2021. In response, 21 submissions were received. Ten (10) submissions objected to the proposed development, and eleven (11) submissions supported the proposed development.

The matters raised in this submission are addressed below followed by a comment from the assessing officer:

A. Acoustic impacts, specifically:

- Early morning starts
- Loud music and music of a low frequency sound

ITEM 1 (continued)

- Noise from cars
- Patrons talking/making noise before, during and when leaving sessions
- Dropping of weights and general noise throughout sessions.

Comment: The concern of the community regarding the existing and proposed acoustic impacts of the gym has been acknowledged by Council. As stated in the EHO referral, concern of the noise levels and its negative impacts has dated back since the current operation began. Council shares the concerns relating to the current acoustic impacts, as well as potential further acoustic impacts associated with the proposed modifications, and in this regard, the application is recommended for refusal.

B. Parking impacts, including:

- Lack of on-site parking
- Impacts neighbouring streets
- Illegal parking
- Traffic impacts also referred to, but without a reference to any specific impact.

Comment: Existing on-street parking is limited, and it is agreed that the proposal to expand the approved use will be to the further detriment of parking availability, and this contributes to the reasons for refusal.

The proposal would not be expected to generate an unreasonable degree of additional traffic, and Council's concern relates specifically to the unacceptable impact on the on-street parking capacity.

C. Issues with Acoustic Report, particularly in relation to the apartment chosen for noise measurements.

Comment: Submissions received have raised concerns regarding the acoustic reports' validity and the accuracy of the data. Council has commissioned an independent acoustic report for its assessment, which noted issues in relation to the acoustic report, including the location of noise measurements. This independent report recommended that further acoustic mitigation measures were required beyond those outlined within the report prepared on behalf of the applicant, and these further treatments are listed within the Prevention Notice.

D. Submissions supporting the proposal, with reasons relating to community and health and fitness benefits. Several submissions in support indicate that they are from nearby residents who are not disturbed by any noise from the premises.

Comment: Despite the noted positive benefits, the acoustic and parking impacts must also be properly managed, and the application is therefore recommended for

ITEM 1 (continued)

refusal. The acoustic impacts have been measured to be 'offensive noise' on more than one occasion.

10. Referrals

Environmental Health Officer

The application was referred to Council's Environmental Health Officer (EHO) to consider the acoustic impacts of the proposal. EHO has made the following comments:

"Vale Tudo is a functional fitness gym located 25-29 Nancarrow Avenue Ryde, that has been operating since April 2019.

Review of Independent Acoustic Report prepared by GHD dated 1 June 2021

GHD was commissioned by City of Ryde to complete an independent acoustic assessment of the current operation of Vale Tudo Gym.

The key findings for noise mitigation in the report include:

- Upgrading the roof and ceiling construction as a significant and permanent mitigation strategy*
- or*
- Implement source control strategies such as installing a noise limiter and keeping doors closed.*

GHD discussed the feasibility of upgrading the roof and installing mechanical ventilation with the gym proprietors. The gym owners indicated that construction was not feasible, and the preferred option was to install the noise limiter.

A significant recommendation from the report is that class numbers before 7am should remain restricted to 12 maximum capacity. This is not consistent with the proposed modification, which seeks to increase the maximum class size from 12 to 30 people.

The second significant recommendation is the installation of a noise limiter that restricts the noise limit to 70dBA before 7am and restricts the noise limit to 80dBA after 7am. This recommendation requires installation and operation of the noise limiter to be validated by a suitably qualified acoustic engineer.

Other recommended operational restrictions include:

- 1. The roller door must not be opened at any time while the premises is in operation*

ITEM 1 (continued)

2. *An automatic door closer should be installed on the front door to ensure both doors remain closed during operation*
3. *Class sizes prior to 7am should be restricted to the current capacity of 12.*
4. *A noise management plan should be prepared and submitted for review.*

Ongoing and verified noise concerns

During the last 6 months City of Ryde has received ongoing noise concerns from several residents living adjacent to the gym.

Concerns were also received around the timing of the acoustic assessment, and the residents were concerned that the gym were aware that noise monitoring was occurring and that they were modifying their operation in order to impact on the outcome of the assessment. The concerns noted that the noise level from the gym were at a higher level before and after the testing.

In response to the ongoing concerns City of Ryde undertook a number of inspections after 5:00pm which determined that the premises was operating with the roller door, front door and internal air lock door open for extended periods of time.

The below photograph was captured at approximately 5:00pm on Friday 21 May 2021. The gym has been warned on numerous occasions that they must follow the recommendations stipulated in their own acoustic reports to keep the roller door closed as all times.

This demonstrates that the proprietors are unable to currently adhere to recommendations provided to them by their own consultant, and further action is required by Council to enforce the recommendations from the report completed by GHD.



ITEM 1 (continued)

A total of 10 submissions were received from members of the public objecting to the development on the grounds of noise. Most of the submissions made is support of the development appear to be by patrons of the gym.

Recommendation:

As the Environmental Health team are currently investigating noise concerns separate to this Modification, a Prevention Notice will be issued requiring the recommendations of the report completed by GHD be implemented. As these recommendations relate to the current operations, the only term of the notice that will impact on this Modification is the requirement for a maximum of 12 patrons before 7am.

Therefore, City of Ryde cannot support the application in its current form until the terms of the Prevention Notice have been satisfied which includes submitting a validation report that the noise limiter has been installed and is working correctly. A copy of the Prevention Notice is attached to this memo.

The premises will be monitored over the next month to determine compliance with the requirements of the notice, including a determination for offensive noise and compliance with door closing and patron numbers”.

Council has received no indication that the Prevention Notice had been complied with. However, it is acknowledged that the COVID-19 restrictions may have impacted on the capacity of the operator to respond appropriately.

It is noted that the prevention notice relates to the existing operation of the gym and is not subject to the proposed modification. Irrespective of the recent COVID-19 restrictions, the appropriate action to mitigate the acoustic impact of the existing gym is for the directions issues in the prevention notice to be complied with in full before the intensification of the gym (i.e. increase in class numbers and hours of operation) can be considered. The directions in the prevention notice include the requirement for a validation report to be submitted to Council, outlining that all the measures have been implemented.

As such, refusal of this modification is recommended.

Development Engineer

The application was referred to Council’s Senior Development Engineer to consider parking and traffic impacts associated with the proposed expansion of the use. The engineer noted the applicant’s position on the parking shortfall, summarised in the referral as:

“The SEE has presented:

- The hours of operation are essentially extended a further 4 hours in the middle of the day. During this period, a majority of classes are anticipated*

ITEM 1 (continued)

to be comprised of surrounding residents and possibly workers in the remaining industrial units.

- *There is a considerable parking deficit associated with the operation of surrounding businesses which are all vehicle repair workshops. The applicant notes that the equivalent parking rate for this use is 6 vehicle spaces per workshop bay. As such, the report implies either the potential (previous?) use of the site would pose a parking demand considerably greater than the proposed parking rate. Noting that the development could potentially accommodate 3 workshop bays this would warrant 18 parking spaces, considerably higher than the proposed configuration by 5 parking spaces”.*

The referral comments indicate that there may be some merits associated with a parking non-compliance with a gym in this location, partly in line with the above rationale, and also noting that daytime hours are most likely to be attended by surrounding residents or local workers. Despite this, the referral concludes that:

“When held in regard to Council’s DCP parking controls, the proposed modification does not warrant further parking due to the DCP rate being based on floor area. When considered on first principles however the development will generate a greater parking demand due to the increased class size.

As noted in the comments above, there is scope the development may have limited impact to onstreet parking however this has not been demonstrated in the application”.

On this basis, the substantial increase capacity in the absence of any dedicated car parking, or suitable justification, forms part of the recommended reasons for refusal.

11. Conclusion

After consideration of the development against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, it is recommended that the application be refused for the following reasons:

- The proposal fails to meet the objectives of the B4 Mixed Use Zone.
- The proposal fails to comply with the Clause 4.55(1A) of the Environmental Planning and Assessment Act, as the proposed development is not of minimal environmental impact.
- The operators have not demonstrated that existing operation can be carried out without impacts to neighbouring residents, and the intensification of this use is therefore currently not appropriate.
- The proposal will exacerbate impacts on the availability of off-street parking.
- The proposal is not suitable for the site and is not in the public interest.

ITEM 1 (continued)

- A number of well-founded objections have been received following notification of the application.

12. Recommendation

It is recommended that:

- A. Pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, that the Ryde Local Planning Panel refuse MOD2021/0001 to modify class numbers and opening hours for an existing gym/fitness centre, for the following reasons:
1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
 - The proposal is contrary to the objectives of the B4 Mixed Use Zone as Council is not satisfied that the development as proposed would be compatible with other land uses in the locality.
 2. The development is inconsistent with provisions of the *Ryde Development Control Plan 2014*, specifically:
 - Part 9.3 Parking Controls, as the proposal does not provide sufficient parking for the proposed increased capacity of the development.
 3. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, insufficient information has been provided to determine whether the acoustic impacts of the expanded use are satisfactory.
 4. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the site is unsuitable for the proposed increase in the intensity of the approved use.
 5. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.
 6. Pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*, the proposal is not of minimal environmental impact.
- B. That the persons who made submissions be advised of this decision.

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ATTACHMENTS

- 1** Applicant acoustic report
- 2** GHD Acoustic Report
- 3** Conditions of Consent LDA2015/0084
- 4** Plan approved by LDA2015/0084
- 5** Plan of Management

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ITEM 1 (continued)

ATTACHMENT 1



MATTHEW PALAVIDIS
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20201215.1/2711A/R1/AZ

26/11/2020

Edge Performance

Attn: Josh Annesley

Vale Tudo Training, Ryde - Noise Emissions Assessment

1 INTRODUCTION

This letter has been prepared to summarise the results of the attended noise emission measurements conducted at Vale Tudo Training, Ryde.

Acoustic Logic attended the subject site on 25th November 2020 at 6am to conduct noise emission measurements during early morning operations at the residential receivers adjacent to the site, located at 12 Nancarrow Avenue, Ryde.

The measurements were conducted following rectification works carried out by the tenant to reduce noise emissions to the residential property opposite.

The gymnasium operates between the hours of 5:00am to 7:30pm, Monday to Friday and 6:00am to 8:00am, Saturday.

2 EXISTING ACOUSTIC ENVIRONMENT

2.1 BACKGROUND NOISE LEVELS

2.1.1 Measurement Equipment

Noise measurements were obtained using a Norsonic 131 Sound Level Analyser, set to fast response. The sound level meter was calibrated before and after the measurements using an Acu-Vib SV33B Type 1 Sound Level Calibrator. No significant drift was recorded.

2.1.2 Measurement Location & Period

An attended background noise measurement was conducted on the balcony of Unit 207 of the residential dwelling located at 12 Nancarrow Avenue, Ryde. Attended noise measurements were conducted between

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1

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5:00am to 6:00am on Wednesday, 25th November 2020. No adverse weather conditions or significant drift were noted to occur during the time of measurement.

2.1.3 Background Noise Levels

The representative A-weighted background noise level determined from the measurements is presented below.

Table 1 – Background Noise Level dB(A)L₉₀

Location	Period/Time	Noise Level dB(A)L ₉₀
12 Nancarrow Avenue	5-6 am	40

*Given the proximity to the façade of the building structure, a minus 2 dB(A) correction has been applied to account for façade reflection.

3 NOISE EMISSIONS ASSESSMENT

A noise emissions assessment has been conducted to determine the nature and characteristics of noise emanating from the subject site. The location of the noise source, its audibility at the residential receivers, the time and duration of the noise source and its characteristics with the subsequent effects it may have on people have all be considered when assessing noise sourcing from the subject site.

The following section outlines applicable noise criteria to be applied when analysing the attended noise measurements conducted during the site visit during the development's early morning operations.

3.1 APPLICABLE NOISE CRITERIA

Measurements have taken place in accordance with the following regulatory documents:

3.1.1 NSW Environment Protection Authority (EPA) document – '*Noise Guide for Local Government 2013*'

The NSW EPA document '*Noise Guide for Local Government (NGLG) 2013*' has been referenced to assist in interpreting the noise concern emanating from the subject site and to aid council's determination of this raised issue. This noise emissions assessment has been conducted in-line with Part 2 of the *NGLG* (Noise Assessment).

The guideline references the Protection of Environmental Operations Act 1997 along with Protection of Environmental Operations (Noise Control) regulation 2008 and the EPA *Noise Policy for Industry* document. All measurements have taken place in accordance with these policies.

Given that the POEA and its relevant regulation document do not provide specific noise control requirements for operational noise of the subject site, it is common to apply a 'background + 5' test when determining the impact or intrusiveness of a particular noise source and is often adopted by council for the assessment of operational noise sources. This noise test is referenced in the NSW EPA's *Noise Policy for Industry* and is summarised below.

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3.1.2 NSW Environment Protection Authority (EPA) document – ‘Noise Policy for Industry (NPfI) 2017’

The NPfI provides guidelines for assessing noise impacts from developments. The recommended assessment objectives vary depending on the potentially affected receivers, the time of day, and the type of noise source.

3.1.2.1 Intrusiveness Criterion

The guideline is intended to limit the audibility of noise emissions at **residential receivers** and requires that noise emissions measured using the L_{eq} descriptor not exceed the background noise level by more than 5 dB(A).

3.1.2.2 Maximum Noise Level Event Assessment (Sleep Disturbance)

The guideline states the potential for sleep disturbance from maximum noise level events during the night-time period (10pm – 7am) needs to be considered.

Where the subject development/premises night-time noise levels at a residential location exceed:

- $L_{Aeq, 15 \text{ min}}$ 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater, and/or
- L_{AFmax} 52 dB(A) or the prevailing RBL plus 15, whichever is the greater.

A maximum noise level event assessment should be undertaken.

The following sleep emergence noise objectives then apply.

Table 2 - Sleep Disturbance Criteria for Residential Receivers

Receiver	Rating Background Noise Level (Night) dB(A) L_{90}	Emergence Level
Residential Receivers (12 Nancarrow Avenue, Ryde)	40	45 dB(A) $L_{eq, 15 \text{ min}}$; 55 dB(A) L_{Fmax}

If there are noise events that could exceed the emergence levels detailed in the table above, then an assessment of sleep arousal impact is required to be carried out, taking into account the level and frequency of noise events during the night, existing noise sources, etc. This more detailed sleep disturbance test is conducted using the guidelines in the EPA Road Noise Policy. Most relevantly, the Road Noise Policy states:

For the research on sleep disturbance to date it can be concluded that:

- *Maximum internal noise levels below 50-55dB(A) are unlikely to awaken people from sleep.*
- *One to two noise events per night with maximum internal noise levels of 65-70dB(A) are not likely to affect health and wellbeing significantly.*

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3.1.3 Summarised Noise Objectives

The summarised noise emission objectives are listed in the table below.

Table 3 – Summarised Noise Emission Objectives

Receiver	Time of Day	Noise Emission Objective Level	Sleep Emergence Level
Residential Receivers (12 Nancarrow Avenue, Ryde)	5-7am	45 dB(A) _{Leq(15-min)}	45 dB(A) _{Leq, 15min} ; 55 dB(A) _{L_{Fmax}}

4 NOISE MEASUREMENTS

Noise measurements following the rectification works were conducted between 5:00am and 6:00am on Wednesday, 25th November 2020.

The measurements were conducted at two locations:

- Within the gymnasium to determine the noise levels generated from the various activities that normally occur.
- On the balcony of Unit 207 of 12 Nancarrow Avenue which faces the gymnasium and would be representative of the most affected receiver given that it is exposed to noise from the front of the building and the roof.

Measurements were conducted with the garage roller shutter door closed as per the recommendations of the previous acoustic report provided by Acoustic, Vibration & Noise Pty Ltd (ref: 2020-078) for the development. A summary of all measured noise levels is presented in the table below.

Table 4 – Measured Operational Noise Levels

Measured Internal Noise Level ⁽¹⁾	Measured External Noise Level ⁽²⁾
65 dB(A) _{Leq} ⁽³⁾	42 dB(A) _{Leq} (Inaudible) ⁽⁶⁾
70 dB(A) _{Leq} ⁽⁴⁾	43 dB(A) _{Leq} (Music barely audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)
80 dB(A) _{Leq} ⁽⁵⁾	45 dB(A) _{Leq} (Music slightly audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)

Table Notes:

1. Internal noise levels within the subject site were conducted in a typical operational environment. Measurements were taken during morning class sessions and measured levels have include multiple sources such as patron noise, music from the amplified sound system and noise from the interval timer.

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2. External noise levels were measured at the balcony of the nearby residential receiver. Given the proximity to the façade of the building structure, a minus 2 dB(A) correction has been applied for façade reflection.
3. This internal noise level is representative of the typical operational noise during morning class sessions. This office has been advised that music from the amplified sound system would typically be within this range, which is a level that would be typically described as "background music".
4. This internal noise level is representative of the amplified sound system level increased to approx. 75% (three-quarter volume level).
5. This internal noise level is representative of the amplified sound system level increased to 100% (maximum volume level). This office has been advised that music at this volume rarely occurs during the operation of the subject site.
6. Inaudibility generally occurs when the measured operational noise levels is approximately 7-10dB(A) below the ambient noise level.

4.1 DISCUSSION OF RESULTS

The measurements indicate that even at the highest level at which music can be played, noise from the gym is not clearly above the ambient noise level, and not sufficiently above the ambient to obtain an accurate noise level contribution from the gym.

Notwithstanding, the noise level can be estimated using the measurements obtained with music at 80 dB(A). This produced an increase in noise level of 3 dB(A) (compared to music at 65 dB(A) where the music was inaudible). This suggests the contribution of noise was 42-43 dB(A) L_{eq} when music was played at 80 dB(A).

It follows then that at 70 dB(A) the music noise level at the residence would be 32-33 dB(A), and at 65 dB(A), 27-28 dB(A).

It was noted that noise from the gym was low frequency in character. Hence, a 5 dB(A) penalty will be applied in accordance with NPfI guidelines.

After applying this penalty, the results of the measurements infer that provided music is kept below 77 dB(A) noise levels will comply between 5am and 7am provided the roller shutter door is closed.

In the event that the garage roller shutter door is opened between these hours, the volume of music inclusive of other sources from noise occurring from the general use of the facility is to be kept at a maximum of 75 dB(A) L_{eq} to avoid disruption to the amenity of the adjacent residences.

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5 CONCLUSION

An assessment of operational noise emissions emanating from Vale Tudo Training, located at 25-29 Nancarrow Avenue, Ryde has been conducted.

The measurements confirm that typical operational noise emissions between 5am and 7am are compliant with the NSW EPA *Noise Policy for Industry (NPfI) 2017* guidelines provided the volume of music is kept below 75 dB(A) L_{eq} , which corresponds to approx. 80% of the maximum volume setting on the system amplifier.

Please contact us should you have any further queries.

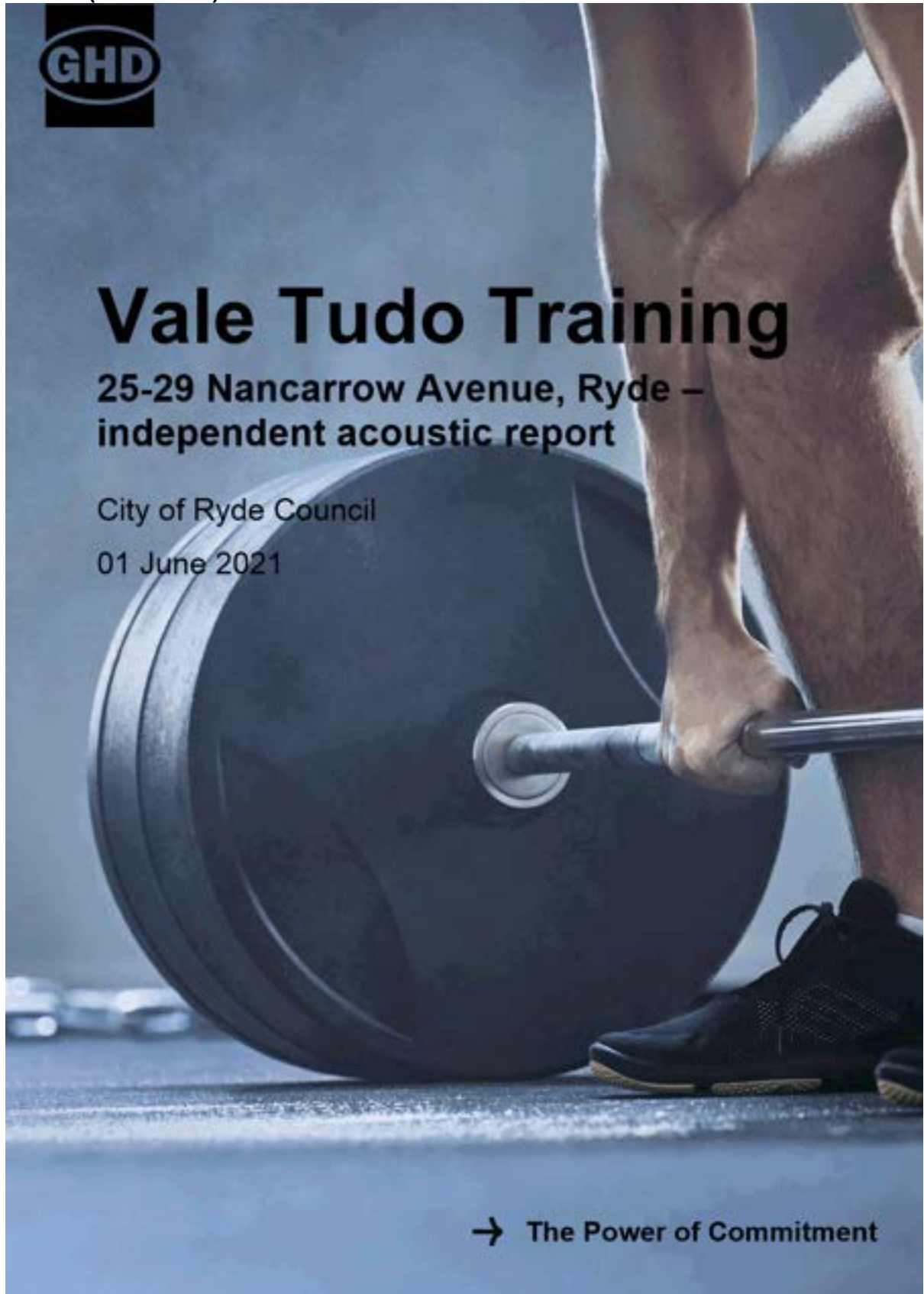

Yours faithfully,



Acoustic Logic Pty Ltd
Adrian Zappia

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ATTACHMENT 2



Vale Tudo Training

**25-29 Nancarrow Avenue, Ryde –
independent acoustic report**

City of Ryde Council
01 June 2021

→ **The Power of Commitment**

ITEM 1 (continued)



ATTACHMENT 2

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Printed date	1/06/2021 6:38:00 PM
Last saved date	01 June 2021
File name	12547286-REP_Vale Tudo Training - independant acoustic report.docx
Author	Christopher Gordon
Project manager	Chris Gordon
Client name	City of Ryde Council
Project name	Vale Tudo Gym - 3/25 Nancarrow Ave Ryde - noise review
Document title	Vale Tudo Training 25-29 Nancarrow Avenue, Ryde – independent acoustic report
Revision version	Rev 000
Project number	12547286

Document status

Revision	Author	Reviewer		Approved for issue		
		Name	Signature	Name	Signature	Date
0	C Gordon	E Milton		E Milton		01/06/2021

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 **The Power of Commitment**

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ATTACHMENT 2

1. Introduction

1.1 Purpose of this report

GHD Pty Ltd (GHD) has been engaged by City of Ryde Council to undertake an independent acoustic assessment for the Vale Tudo Fitness facility, located at 25-29 Nancarrow Road, Ryde

The objective of this acoustic assessment is to review previous acoustic assessments and City of Ryde Council documentation, assess noise emission from the Vale Tudo Fitness facility, and recommend acoustic measures to protect the amenity of the surrounding sensitive receivers.

1.2 Scope and limitations

The scope of this assessment includes:

- Desktop review of existing documentation, including the following:
 - Acoustic Impact Report prepared by Acoustic, Vibration & Noise Pty Ltd (AVN), dated 13 May 2020 (ref 2020-078)
 - Noise Emissions Assessment prepared by Acoustic Logic, dated 26 November 2020
 - Direction to Take Preventative Action issued by City of Ryde Council, dated 16 March 2020
 - Direction to Take Preventative Action issued by City of Ryde Council, dated 19 June 2020
 - City of Ryde evidence obtained, and action taken in response to the breaches of noise Conditions
- Site visits, inspections and noise monitoring, including:
 - Daytime site visit – Wednesday 10 March
 - Tasks include:
 - Determination of worst impacted location at 12 Nancarrow Road
 - Deployment of long-term noise monitors
 - Early morning site visit – Monday 15 March
 - Tasks include:
 - assessment to audibility within the residential apartments at
 - short term noise monitoring within internal and external areas of impacts apartments
 - Site visit and monitoring at Vale Tudo - Wednesday 14 April 2021
 - Tasks include:
 - Inspection of building and activities within the Vale Tudo premises
 - Measurements of internal noise levels within the premises, and resultant external noise levels
- Acoustic assessment and mitigation measures
 - provision of mitigation recommendations to reduce the noise impacts of the residents at 12 Nancarrow Road

This report has been prepared by GHD for City of Ryde Council and may only be used and relied on by City of Ryde Council for the purpose agreed between GHD and City of Ryde Council as set out in section 1.2 of this report.

GHD otherwise disclaims responsibility to any person other than City of Ryde Council arising in connection with this report. GHD also excludes implied warranties and conditions, to the extent legally permissible.

The services undertaken by GHD in connection with preparing this report were limited to those specifically detailed in the report and are subject to the scope limitations set out in the report.

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The opinions, conclusions and any recommendations in this report are based on conditions encountered and information reviewed at the date of preparation of the report. GHD has no responsibility or obligation to update this report to account for events or changes occurring subsequent to the date that the report was prepared.

The opinions, conclusions and any recommendations in this report are based on assumptions made by GHD described in this report. GHD disclaims liability arising from any of the assumptions being incorrect.

The opinions, conclusions and any recommendations in this report are based on information obtained from, and testing undertaken at or in connection with, specific sample points. Site conditions at other parts of the site may be different from the site conditions found at the specific sample points.

Investigations undertaken in respect of this report are constrained by the particular site conditions, such as the location of buildings, services and vegetation. As a result, not all relevant site features and conditions may have been identified in this report.

Site conditions may change after the date of this Report. GHD does not accept responsibility arising from, or in connection with, any change to the site conditions. GHD is also not responsible for updating this report if the site conditions change.

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2. Site description

2.1 Site location

The project site is located at 3/25-29 Nancarrow Avenue, Ryde, within the City of Ryde local government area (LGA). The location of the project site, the nearest residential receivers and the unattended and attended noise monitoring locations are shown in Figure 2.1. The site is located in a B4 Mixed Use area.

The receiver that has been assessed is listed in Table 2.1. This receiver has been identified based on the complains detailed in the document prepared by City of Ryde Council.

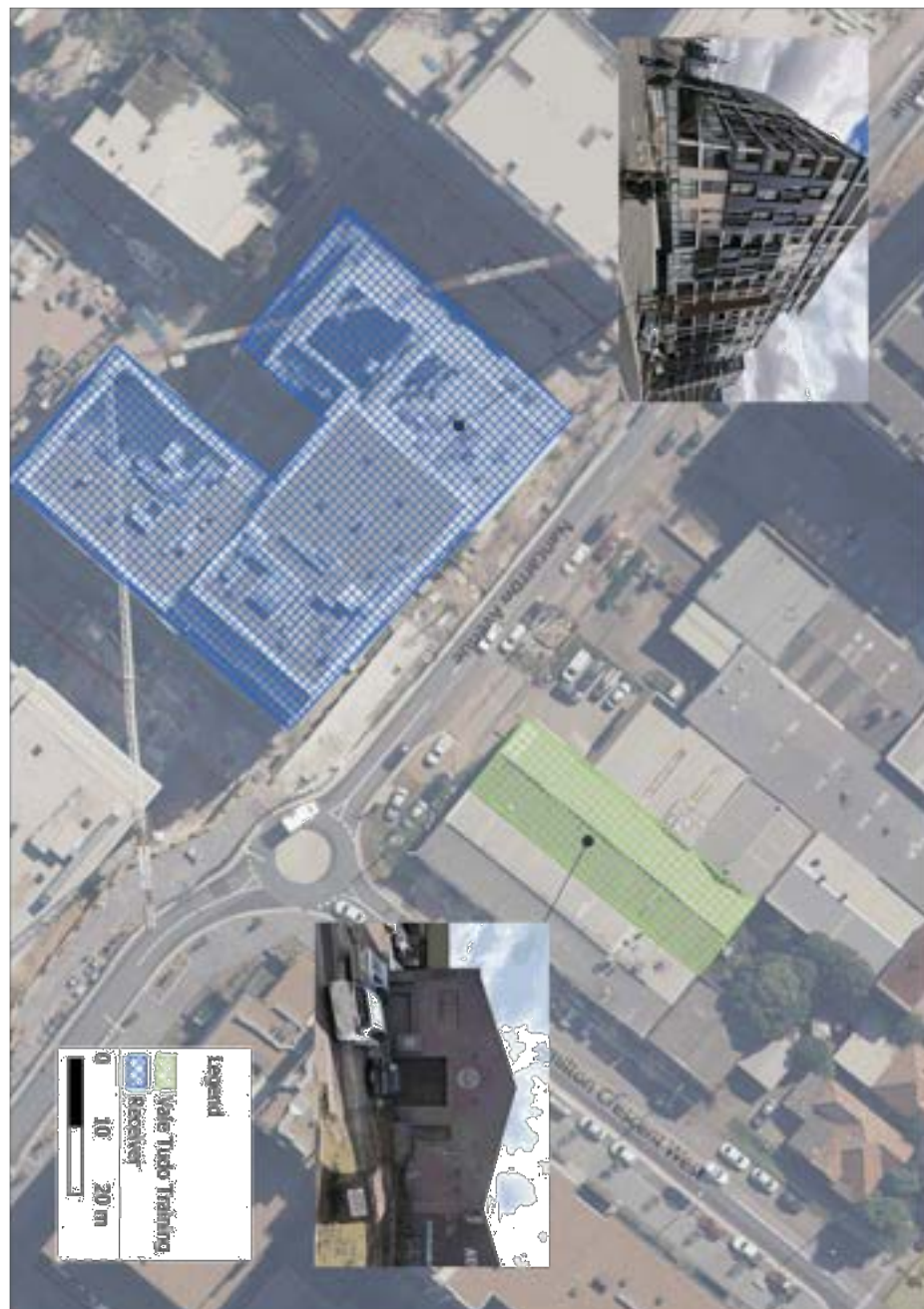
Table 2.1 Location of subject receiver

Receiver ID	Type of receivers	Location
R01	Residential	12 Nancarrow Avenue, Ryde

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Figure 2.4 Site location and nearest residential receivers



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3. Review of documentation

To gain an understanding of the history of the Vale Tudo Fitness premises, including noise complaints received since operations commenced, and the acoustic assessments prepared previously by the management of the premises, a review of a range of documents has been undertaken. This section provides a summary of these documents.

3.1 City of Ryde Council briefing notes

City of Ryde Council has compiled a document regarding the history of the Vale Tudo site including existing Development Application requirements related to noise, proposed modifications to the DA, and noise concerns from the operation of the site.

3.1.1 Existing Development Application

The DA conditions related to noise are as follows:

33. Hours of operation. The hours of operation are to be restricted to:

- *5 am to 8 am and 5 pm to 10 pm (Monday-Friday); and*
- *5:45 am to 10 am (Saturday).*

37. Maximum class size. No class is to have more than 12 people.

42. Offensive noise - The use of the premises must not cause the emission of 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

43. Noise and vibration from plant or equipment - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

(a) The emission of noise that exceeds the background noise level by more than 5 dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).

(b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors.

(c) The transmission of vibration to any place of different occupancy.

44. Other activities - Any activities undertaken outside the confines of the building must not cause any disturbance to the amenity of the surrounding residential premises.

45. Noise Limits - Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10 pm and 7.00 am.

46. Council may require acoustical consultant's report - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria

3.1.2 Proposed modification

A Section 4.55 has been submitted to modify the class numbers and hours of operation for the Vale Tudo Fitness premises. The details are as follows:

- Change of hours of operation:

GHD | City of Ryde Council | 12547286 | Vale Tudo Training 1

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- 5:00 am to 8:30 pm (Monday to Friday)
- 5:45 am to 12:00 pm (Saturday)
- Increase of class size from 12 to 30 people

3.1.3 Complaints

Based on the information provided by City of Ryde Council, there has been a significant history of noise complaints arising from the operation of the Vale Tudo Fitness premises, starting in May 2019 and is still ongoing. Two acoustic reports have been prepared for the Vale Tudo Fitness premises which have provided recommendations to achieve the requirements of the Conditions of Consent. Many of these complaints have been received following these acoustic assessments which indicates the recommendations are not suitable, or the site is operating outside these recommendations.

The complaints generally relate to the following:

- Noise from the premises being audible inside apartments prior to 7 am
- Noise impacting residents in higher levels of the adjacent apartment block due to noise breaking out through the roof structure
- Premises operating with roller door open and high levels of music
- Noise from music, as well as other activities from within the premises

3.2 Direction to Take Preventative Action – 16 March 2020

Vale Tudo Training Ryde was issued with a Prevention Notice (dated 16 March 2020) as council determined that offensive noise was being generated by the operations and the premises was not complying with its consent conditions. Details of these Prevention Notices are detailed below.

Direction to take preventive action

The City of Ryde directs JVT Group Pty Ltd to take the following action:

By 5:00 pm Monday 30 March 2020:

1. *Engage a suitably qualified acoustical consultant to describe and assess the noise impact of the activities that occur from the operation of the Vale Tudo Training gym.*

The investigation shall include:

- i. *The identification of operational noise producing facets of the business activities during the operating hours of 5 am – 10 pm, including but not limited to:*
 - a. *Noise generated from the different activities that occur as outlined in the business' training schedule.*
 - b. *Noise generated all of the equipment used as part of activities.*
- ii. *The identification of sensitive noise receivers potentially impacted.*
- iii. *Describe the current building design and assess structure borne noise and vibration.*
- iv. *Particular regard shall be given to the intrusiveness and sleep disturbance criteria described within the NSW EPA Noise Guide for local government;*
- v. *The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Environmental Noise Control Manual, Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.*

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vi. *Detail specific noise reduction recommendations and acoustic control measures or treatments that ensures that the business is capable of complying with the criteria, conditions of consent and that noise is inaudible between the hours of 10pm - 7am, including but not limited to:*

- a. *Any noise attenuating design and construction requirements to the premises*
- b. *Modification/s to or restrictions on the use of specific articles and equipment*
- c. *Modifications to or restrictions on specific activities*

2. *Provide Council with a copy of the acoustic report for review and approval.*

By 5:00 pm Monday 13 April 2020:

3. *Implement the noise attenuation recommendations outlined within the acoustic report.*
4. *Provide Council with a report from a qualified acoustical consultant that demonstrates that the noise generated from the premises complies with conditions 42, 43, 44, 45 and 46 of the development consent LDA2015/0084 and that noise is inaudible between 10pm - 7am.*

This notice is issued under Section 96 of the Protection of the Environment Operations Act 1997.

Background

1. *The City of Ryde is the 'appropriate regulatory authority' under the Protection of the Environment Operations Act (1997) in respect of the activity concerned.*
2. *Concerns have been received by Council about noise generated by activities currently being undertaken at the Vale Tudo Training gym between the hours of 5:00am and 7:00am.*
3. *City of Ryde understands that JVT Group Pty Ltd is the occupier of the premises.*
4. *City of Ryde requires JVT Group Pty Ltd to comply with the preventative action points stated above.*
5. *This notice is being issued to JVT Group Pty Ltd on the grounds that the noise from the gym activities is being managed in an environmentally unsatisfactory manner, and not carried out in accordance with good environmental practice.*
6. *Council's Environmental Health Officer carried out a noise assessment at a residential premises adjacent to the gym on Thursday 20 February and Saturday 22 February 2020. The noise assessment revealed that the subject premises is generating offensive noise and is not complying with its consent conditions.*
7. *The required acoustic assessment should consider maximum class numbers, types of activities, hours of operation and all potential noise attenuation measures.*

3.3 Acoustic Impact Report (Acoustic, Vibration & Noise Pty Ltd – 13 May 2020)

3.3.1 Summary

In response to the above Prevention Notice (dated 16 March 2020), an Acoustic Impact Report was prepared by Acoustic, Vibration & Noise Pty Ltd (AVN), dated 13 May 2020 (ref 2020-078)

3.3.2 Sensitive receivers

The report identifies the residential apartment block located at 12-14 Nancarrow Road as the nearest residential receiver. The report identifies levels 2 and 4 of the building are the most impacted.

Due to the construction of the roof, being lightweight steel with no ceiling, higher levels of the apartment block and this site should have been considered to determine noise breakout through the roof.

3.3.3 Assessment criteria

The noise impacts from the operation of the fitness studio were assessed against the following:

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- Department of Environment and Conservation's *Noise Guide for Local Government (NGLG)*
 - The report references the 2010 version of this document published by the Department of Environment and Conservation (NSW). There is a newer version of this document published in 2013 by the Environment Protection Authority (EPA). Regardless, the reference to noise being intrusive if it exceeds the *background noise by more than 5 dB(A)* is consistent
 - The assessment of sleep disturbance is assessed against the background + 15 dB guidance from the Noise Guide for Local Government. While similar, the NSW EPA's Noise Policy for Industry would be more appropriate
- NSW Environment Protection Authority's *Noise Policy for Industry (NPfI)*
 - Background noise monitoring was not undertaken to determine the Rating Background Level. Minimum background noise levels from the NPfI were assigned, which would be lower than the actual background noise level and is considered conservative
- *Protection of the Environment Operations Act 1997 (POEO Act)* and the *POEO (Noise Control) Regulation 2008*
 - The POEO Act defines *Offensive Noise* as a noise which is likely to be harmful to, or to interfere unreasonably with people outside the premises from which the noise is emitted
 - Based on this, they have assumed that the noise from the premises must not be audible between the following time periods:
 - Monday to Saturday – 10:00 pm to 7:00 am
 - Sunday and Public Holidays – 10:00 pm to 8:00 am
- Australian/New Zealand Standard *AS/NZS 2107:2016 Acoustics – Recommended Design Sound Levels and Reverberation times for Building Interiors*.
 - AVN have provided the internal noise levels from AS2021 required for the internal areas of the residential units across from the premises. It doesn't state what type of noise this would be, given the standard related to noise for steady and quasi-steady state noises. ANV have not provided an assessment against the requirements of AS2021 in the report.

3.3.4 Noise monitoring and assessment

AVN determined the noise levels presented in Table 3.1 and Table 3.2 from the operation of the fitness studio

Table 3.1 Summary of Attended Noise Survey (sound pressure level)- March 18th, 2020 (Acoustic, Vibration & Noise Pty Ltd)

Operational Activities	Sound Pressure Level in the middle of the gym dB(A)	Sound Pressure Level at 1m from gym façade dB(A)	Sound Pressure Level at 1m from receiver boundary dB(A)
Music playing from inside the fitness studio	76	49	41

Table 3.2 Summary of Attended Noise Survey (LAmx) – March 18th, 2020 (Acoustic, Vibration & Noise Pty Ltd)

Operational Activities	Sound Pressure Level in the middle of the gym dB(A)	Sound Pressure Level at 1m from gym façade dB(A)	Sound Pressure Level at 1m from receiver boundary dB(A)
Music playing from inside the fitness studio & 50 kg weight dropping from 670 mm	88	59	46

Further testing was undertaken by AVN on the balcony of Unit 802 at 3 pm on Saturday May 2 2020 to determine the noise level required to achieve inaudibility. The external noise level criteria adopted for inaudibility was 30 dBA. While it is possible that noise at this level would be inaudible, it should be assessed against existing noise levels during the early morning period between 5 am and 7 am, rather than assuming 30 dBA would lead to inaudibility.

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AVN estimated that a noise level of 85 dBA inside the gym would lead to a noise level of 30 dBA outside the residence. Based on GHD's assessment, a level of 85 dBA inside the gym is considered excessive and would likely lead to noise being audible inside the adjacent apartments.

3.3.5 Mitigation measures

The following mitigation measures were recommended by AVN:

- 'Closure of all windows and doors during operation
- Gym flooring to be installed
- Construction of airlock entry/corridor at gym entrance
- Noise volume control, limiting internal noise levels at 85 dBA between 5:00 am and 7:00 am
- Signage notifying patrons to minimise noise when entering and leaving the site, along with not dropping heavy weights on the floor
- Implementation of noise management plan with complaints handling procedure'

3.4 Direction to Take Preventative Action – 19 June 2020

Further to the initial Direction to Take Preventative Action, dated 16 March 2020 and the subsequent acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd (AVN), dated 13 May 2020, a subsequent Direction to Take Preventative Action was issued on 19 June 2020 as council determined that offensive noise was being generated by the operations and the premises was not complying with its consent conditions. Point 8 below states that the mitigation measures recommended by AVN were not incorporated into the development.

Direction to take preventive action

The City of Ryde directs JVT Group Pty Ltd to take the following action:

By 10:00pm Friday 19 June 2020:

1. Noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10:00 pm and 7:00 am.
2. The use of the premises must not cause the emission of offensive noise as defined in the Protection of the Environment Operations Act 1997.
3. Any activities undertaken outside the confines of the building must not cause any disturbance to the amenity of the surrounding residential premises.
4. The operations of any plant or equipment installed on the premises must not cause the emission of noise that exceeds the background noise level by more than 5 dBA when measured, or computed for, at the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the NSW Noise Policy for Industry (EPA, 2017)

This notice is issued under Section 96 of the Protection of the Environment Operations Act 1997

Background

1. The City of Ryde is the 'appropriate regulatory authority' under the Protection of the Environment Operations Act (1997) in respect of the activity concerned.
2. Concerns have been received by Council about noise generated by activities currently being undertaken at the Vale Tudo Training gym between the hours of 5:00 am and 7:00 am.
3. City of Ryde understands that JVT Group Pty Ltd is the occupier of the premises.
4. City of Ryde requires JVT Group Pty Ltd to comply with the preventative action points stated above.
5. This notice is being issued to JVT Group Pty Ltd on the grounds that the noise from the gym activities is being managed in an environmentally unsatisfactory manner, and not carried out in accordance with good environmental practice.

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6. Council's Environmental Health Officer carried out a noise assessment at a residential premises adjacent to the gym on Thursday 20 February and Saturday 22 February 2020. The noise assessment revealed that the subject premises is generating offensive noise and is not complying with its consent conditions.
7. Further noise concerns have been received from residents adjacent the gym following the recommencement of the gym due to the lifting of COVID-19 restrictions.
8. An acoustic report was submitted to Council on 17 June 2020 prepared by Acoustic, Vibration and Noise Pty Ltd that provided recommendations for noise attenuation that have not yet been implemented.
9. Unit 3/25-29 Nancarrow Avenue Ryde NSW 2112 has consent from Council for a fitness studio under the development application reference LDA2015/0084. Conditions 42, 43, 44, 45 and 46 of the development consent relate to noise and are as follows:
10. **Offensive noise** - The use of the premises must not cause the emission of 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.
11. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:
 - a. The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - b. An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 Acoustics - Recommended design sound levels and reverberation times for building interiors.
 - c. The transmission of vibration to any place of different occupancy.
12. **Other activities** - Any activities undertaken outside the confines of the building must not cause any disturbance to the amenity of the surrounding residential premises.
13. **Noise Limits** - Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10 pm and 7.00 am.
14. **Council may require acoustical consultant's report** - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.

3.5 Noise Emissions Assessment (Acoustic Logic – 26 November 2020)

3.5.1 Summary

In response to the above Prevention Notice (dated 26 November 2020), Acoustic Logic was commissioned by Vale Tudo Fitness to undertake further noise measurements to determine whether compliance with the requirements of the Prevention Notice are achieved.

3.5.2 Summary of noise measurements

Noise measurements were undertaken on the balcony of Apartment 207 between 5 am and 6 am, which GHD has been informed is situated on the other side of the building to the fitness studio. Therefore, these measurements would be representative of background noise levels in the absence of the operational noise from the site. The level of L_{A90} 40 dBA corresponds with Rating Background Levels (RBLs) measured by GHD.

The report also states that noise measurements were undertaken on the balcony of Apartment 207 between 5 am and 6 am, which according to Acoustic Logic, "faces the gymnasium and would be representative of the most affected receiver given it is exposed to noise from the front of the building and the roof". Based on this, it is assumed that the apartment number is an error.

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Noise measurements were undertaken simultaneously within the Vale Tudo premises and on the balcony of the apartment. The results of these measurements and notes undertaken by Acoustic Logic are provided below in Table 3.3 and include notes relating to the audibility of the gym and technical notes.

Table 3.3 Measured operational noise levels (Acoustic Logic)

Measured Internal Noise Level	Measured External Noise Level
65 dB(A) L_{eq} ⁽³⁾	42 dB(A) L_{eq} (Inaudible) ⁽⁶⁾
70 dB(A) L_{eq} ⁽⁴⁾	43 dB(A) L_{eq} (Music barely audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)
75 dB(A) L_{eq} ⁽⁵⁾	45 dB(A) L_{eq} (Music slightly audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)

Table Notes:

1. Internal noise levels within the subject site were conducted in a typical operational environment. Measurements were taken during morning class sessions and measured levels have include multiple sources such as patron noise, music from the amplified sound system and noise from the interval timer.
2. External noise levels were measured at the balcony of the nearby residential receiver. Given the proximity to the façade of the building structure, a minus 2 dB(A) correction has been applied for façade reflection.
3. This internal noise level is representative of the typical operational noise during morning class sessions. This office has been advised that music from the amplified sound system would typically be within this range, which is a level that would be typically described as "background music".
4. This internal noise level is representative of the amplified sound system level increased to approx. 75% (three-quarter volume level).
5. This internal noise level is representative of the amplified sound system level increased to 100% (maximum volume level). This office has been advised that music at this volume rarely occurs during the operation of the subject site.
6. Inaudibility generally occurs when the measured operational noise levels is approximately 7-10dB(A) below the ambient noise level.

3.5.3 Discussions and conclusion

Based on the results above, Acoustic Logic provided the following discussion and conclusions:

- External noise levels at the resident for each internal noise level at the Vale Tudo site was calculated to be:
 - Internal (Vale Tudo) 80 dBA – at resident 42-43 dBA
 - Internal (Vale Tudo) 70 dBA – at resident 32-33 dBA
 - Internal (Vale Tudo) 65 dBA – at resident 27-28 dBA
- The noise inside the premises was low frequency, and therefore a 5 dB penalty was applied in accordance with the Noise Policy for Industry (EPA, 2017)
- As a result, the internal noise level should be limited to 77 dBA during the period between 5 am and 7 am, with the roller door shut
- Should the roller door be open during the other period of the day, the internal noise level should be limited to 75 dBA

In GHD's opinion, the internal noise level of 77 dBA which results in a noise level of 39-40 dBA at the resident (according to the calculations in the Acoustic Logic report), is too high and may result in noise from the Vale Tudo premises being audible within the apartments at 12 Nancarrow Avenue.

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4. Site attendance and noise monitoring at adjacent residents

4.1 Daytime inspection – Wednesday 10 March 2021

GHD attended site on Wednesday 10 March 2021 to gain an understanding of the site layout, including the Vale Tudo Fitness premises and the adjacent sensitive receivers, particularly at 12-14 Nancarrow Avenue, Ryde.

The following observations were made during the site visit:

- The entry to the Vale Tudo Fitness premises faces directly towards the apartment block at 12-14 Nancarrow Avenue
- The entry contains two components, as shown below in Figure 4.1
 - Patron access through typical door (highlighted in red below)
 - Large roller door (highlighted in green below)



Figure 4.1 Entry doors

- The gym walls were masonry construction
- The gym roof was a lightweight metal structure as seen in Figure 4.2
- It was later determined when accessing the fitness studio that there was no internal ceiling and several circular roof vents had been installed for ventilation
- Within the apartments, typically the bedrooms either opened out to the balcony facing the fitness studio, or had windows directly facing the fitness studio

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Figure 4.2 Gym roof structure

4.2 Early morning inspection – Monday 15 March 2021

GHD attended site on Monday 15 March 2021 to gain an understanding of the noise generated from the site during the early morning. Noise monitoring was undertaken within the residential apartments at 12-14 Nancarrow Avenue. During this site visit access was only possible to Apartment 506B, as the Apartment 806B had been locked.

GHD was onsite prior to the commencement of the first class at 5 am and remained onsite until approximately 7 am.

The following observations were made during the site visit:

- There were approximately 10-15 patrons per class. Most patrons arrived and departed by foot as there are limited vacant parking spaces around the site at that time of the morning
- The patrons accessed the site without causing a noise disturbance. The door was occasionally left open, however internal noise was not heard when this occurred
- Noise from the fitness studio was inaudible within the bedroom of Apartment 506B, directly facing the fitness studio
- Music was slightly audible on the balcony, and within the bedroom with the sliding door to the balcony open
- A beep from a car being locked while parked outside the fitness studio was slightly audible within the bedroom
- Ambient noise in the area is dominated by traffic noise. Prior to 6 am, levels are generally quite low and influenced by noise from distant roads, most likely Church Street
- After 6 pm, distant traffic noise increases, as does the traffic numbers on the local streets surrounding the subject site
- Where recommendations from the previous acoustic report are implemented, it is possible for the fitness studio to comply with the noise requirements. This includes having all doors closed and internal noise levels limited to those outlined in the reports.

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4.3 Long term noise monitoring

4.3.1 Overview

During the site visit on Wednesday 10 March, GHD installed four (4) unattended noise loggers within various areas of the residential building at 12-14 Nancarrow Avenue to determine noise emissions from the fitness studio on the residential receivers. The locations of the noise loggers are provided in Table 4.1 below.

4.3.2 Unattended noise monitoring methodology

The methodology for the noise monitoring program included the following:

- Identification of suitable noise monitoring locations within 12 Nancarrow Avenue, which included two (2) internal and two (2) external locations, as detailed below. These were selected to determine internal and noise emission levels from the site, at locations at lower and higher levels of the apartment block. Note that the selected apartments were vacant for the duration of the noise monitoring period.
- Noise logging was conducted from Wednesday 10 March 2021 to Tuesday 23 March 2021 at the locations provided in Table 4.1 below. Due to the large amount of data being captured by the noise loggers, some loggers were unable to operate for the full logging period. The specific noise monitoring dates are provided in Table 4.1 below.
- A calibration check was performed on the noise monitoring equipment using a sound level calibrator with a sound pressure level of 94 dB) at 1 kHz. At completion of the measurements, the meter's calibration was re-checked to ensure the sensitivity of the noise monitoring equipment had not varied. The noise loggers were found to be within the acceptable tolerance of ± 1.0 dBA
- Noise monitoring was undertaken using Svantek 977 environmental noise loggers. The noise logger was programmed to accumulate L_{A90} , L_{A10} , L_{Amax} and L_{Aeq} noise descriptors continuously over the entire monitoring period. Details of the noise monitoring equipment are provided in Table 4.1.
- The data collected by the loggers was downloaded and analysed, and any invalid data removed. Invalid data generally refers to periods of time where average wind speeds were greater than 5 m/s, or when rainfall occurred. Meteorological data was sourced from the Bureau of Meteorology's Olympic Park AWS weather station (number 066212).
- Unattended noise monitoring was conducted by a competent Acoustic Engineer Chris Gordon, who:
 - is a member employee of GHD, a member firm of the Association of Australasian Acoustical Consultants (AAAC)
 - possesses the qualification Bachelor of Mechanical Engineering, attained at the University of Technology Sydney in 2012
 - has over 11 years of professional experience in the field of acoustics

All noise monitoring activities were undertaken and processed in accordance with the Noise Policy for Industry (EPA 2017) long-term monitoring method. All noise logger settings and descriptors used were based on this method.

Details of the noise monitoring equipment and location are provided in Table 4.1. Noise monitoring charts are presented in Appendix A. Locations of the noise loggers within the apartment block are shown in Figure 4.3.

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Table 4.1 Long term unattended noise monitoring locations

Location	Equipment details	Equipment settings	Logger photo
Loc M1 Apartment 506B – external balcony	Svantek 977 SN: 36873 IEC 61672-3:2013 Compliant Manufactured prior 2019 1.5 m above ground level Free-field conditions Logging period: Wed 10 March to Fri 19 March	A-weighted Fast time response 15-minute intervals Pre/post calibration variation: +0.2 dB Svantek SV30A Class 1 Sound level calibrator SN: 29030 AS 60942:2003 Compliant Manufactured prior 2017	
Loc M2 Apartment 506B – internal bedroom	Svantek 977 SN: 36874 IEC 61672-3:2013 Compliant Manufactured prior 2019 1.5 m above ground level Free-field conditions Logging period: Wed 10 March to Mon 15 March	A-weighted Fast time response 15-minute intervals Pre/post calibration variation: +0.1dB Svantek SV30A Class 1 Sound level calibrator SN: 29030 AS 60942:2003 Compliant Manufactured prior 2017	
Loc M3 Apartment 806B – external balcony	Svantek 977 SN: 45744 IEC 61672-3:2013 Compliant Manufactured prior 2019 1.5 m above ground level Free-field conditions Logging period: Wed 10 March to Fri 12 March (data after this time is impacted by the air conditioning unit adjacent to the external logger and have been excluded)	A-weighted Fast time response 15-minute intervals Pre/post calibration variation: -0.5 dB Svantek SV30A Class 1 Sound level calibrator SN: 29030 AS 60942:2003 Compliant Manufactured prior 2017	

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Location	Equipment details	Equipment settings	Logger photo
Loc M4 Apartment 806B – internal bedroom	Svantek 977 SN: 45733 IEC 61672-3:2013 Compliant Manufactured prior 2019 1.5 m above ground level Free-field conditions Logging period: Wed 10 March to Tue 23 March	A-weighted Fast time response 15-minute intervals Pre/post calibration variation: +0.3dB Svantek SV30A Class 1 Sound level calibrator SN: 29030 AS 60942:2003 Compliant Manufactured prior 2017	



Figure 4.3 Apartments where noise monitors were located

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4.4 Long term noise monitoring results

The noise levels presented in Table 0.1 below represent the background and ambient levels in the vicinity of the site, inclusive of operations from the Vale Tudo Fitness premises.

Further discussion of the data is provided below which discusses the noise levels at different times of the monitoring period.

Table 0.1 Summary of background noise monitoring results

Location	Background noise descriptors Leq(10 min), dBA		
	Day	Evening	Night
M1 (506B External)	48	47	39
M2 (506B Internal)	24	24	19
M3 (806B External)	50	48	40
M4 (806B Internal)	25	24	21

4.5 Discussion

Based on the above results, the noise monitoring charts in Appendix A, the site inspection detailed in Section 4.1 and 4.2 above, and a detailed investigation into the noise monitoring data and wave files, the following can be deduced from the long-term monitoring:

- Background noise levels have been provided above for the various period throughout the day, including the morning shoulder period. Noise from gym was likely inaudible during the monitoring period as the noise levels from the site were below background noise levels
- Throughout the monitoring period, the Vale Tudo Fitness studio demonstrated that they have the ability to operate within the noise requirements of the Development Application, as detailed above in Section 3.1.1.
- Noise from the premises was not audible during the early morning site visit, and review of the data shows that noise from the premises is generally inaudible within apartments (with doors and windows closed) prior to 7 am

5. Site attendance and monitoring at Vale Tudo – Wednesday 14 April 2021

5.1 Site inspection

Further to the site visits detailed above at the adjacent residential apartment building, GHD attended the Vale Tudo Fitness premises on 14 April 2021 to undertake noise measurements and inspect the subject site.

The following observations were made:

- The air lock at the patron access was built in accordance with the recommendations in the Acoustic, Vibration & Noise Pty Ltd report
- The front door did not have an automatic closing device and therefore the door needed to be closed manually by the patrons. This did not always occur
- The proponent was advised that an automatic door closing device should be fitted to the door

ITEM 1 (continued)

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- There was no internal ceiling within the premises and rooftop ventilation had been installed in the metal roof structure
- The sound system was linked to a mobile phone app and was controlled by the trainers running the class. This had been set up in line with the previous recommendations, however this was the responsibility of the trainers to ensure the correct level was adopted for each class
- A curtain had been installed on the internal side of the roller door. It is unlikely that this would be providing any noise reduction through the roller door

5.2 Noise monitoring

While on site, noise monitoring was undertaken to determine internal and external noise levels for different operating conditions. The main purpose of the noise monitoring was to determine appropriate levels which would lead to compliance with the relevant noise requirements.

The following procedure was undertaken:

- An unattended noise monitor was installed on the ground level boundary of the residential apartment building at 12 Nancarrow Avenue, directly opposite the fitness studio. This is shown below in Figure 5.1. This was operating for the duration of the site visit



Figure 5.1 Unattended noise monitor at boundary of 12 Nancarrow Avenue

- A second noise monitor was set up within the fitness studio to monitor internal reverberant noise levels
- During the operation of the fitness studio, a third noise monitor was used to determine noise levels at various locations inside and outside the fitness studio

ITEM 1 (continued)

ATTACHMENT 2

- Access to the apartments was not possible during this site visit, so internal noise assessment of audibility was not possible
- During the class, the noise level was set to a level considered typical by the manager on duty at the time. This corresponded to the low setting on the phone app which controlled the sound system
- The internal reverberant noise level at this setting was approximately L_{Aeq} 70 dBA. This resulted in noise at the boundary of the residential receiver being inaudible
- On request, the noise level was adjusted so the internal reverberant noise level was approximately L_{Aeq} 80 dBA. This resulted in noise being just audible at the boundary of the boundary of the residential
- The above noise levels correspond with the results of noise monitoring conducted by Acoustic Logic
- The above noise levels do not correspond with the results of noise monitoring conducted by Acoustic, Vibration & Noise Pty Ltd. This is due to noise measurements being undertaken during the afternoon, which has higher ambient noise levels than the period between 5 am and 7 am.

ITEM 1 (continued)

ATTACHMENT 2

6. Discussion and mitigation strategies

6.1 Discussion

Although noise measurements undertaken by GHD and Acoustic Logic indicate that the Vale Tudo Fitness premises can operate within the relevant DA noise requirements, GHD understands the following:

- Noise complaints continue to occur from residents of the surrounding residential receivers
- The complaints detailed in the City of Ryde briefing notes, along with further complaints detailed by Council, are related to the following:
 - Audible noise from the premises (primarily music noise) prior to 7 am from within apartments
 - Excessive noise from the premises during daytime and evening hours with the roller door open
 - Use of temporary sound systems which create excessive noise levels
 - Music noise emitting the site through the roof, resulting in higher noise levels within the apartments on the upper floors of the apartment block
- GHD are of the opinion that the noise complaints may arise from the following:
 - Incorrect internal noise limits, reported by Acoustic, Vibration & Noise Pty Ltd and Acoustic Logic
 - Incorrect operational procedures, such as operating with roller door open and internal noise levels being too high

As such, noise mitigation measures are provided below which will limit the noise impacts from the site on the surrounding residential receivers.

6.2 Mitigation strategy

6.2.1 Order of preference

Discussions have been held with the management of Vale Tudo Training to determine reasonable and feasible mitigation measures are appropriate for implementation.

Generally, there are three mitigation strategies that can be used to reduce noise emission to sensitive receivers, being (from most preferred to least preferred):

1. Control at the source (for e.g. selecting quieter equipment, enclosing the source, closing doors at sensitive times, active noise control, times of operation etc.)
2. Control in transmission (noise barriers, mound and bunds and site design to maximise distance or utilise intervening buildings as barriers etc.)
3. Receiver controls (insulation, upgraded glazing of windows and use of mechanical ventilation etc.)

6.2.2 Reasonable and feasible mitigation

The NPI recommends considering the noise impacts, the noise mitigation benefits, the cost effectiveness and community views when recommending feasible and reasonable mitigation measures. Feasible and reasonable are described by the NPI as:

'A feasible mitigation measure is a noise mitigation measure that can be engineered and is practical to build and/or implement, given project constraints such as safety, maintenance and reliability requirements. It may also include options such as amending operational practices (for example, changing a noisy operation to a less-sensitive period or location) to achieve noise reduction.'

'Selecting reasonable measures from those that are feasible involves judging whether the overall noise benefits outweigh the overall adverse social, economic and environmental effects, including the cost of the mitigation measure.'

ITEM 1 (continued)

ATTACHMENT 2

6.3 Mitigation selection

Mitigation at the source is the most effective method of mitigating noise. Where feasible, equipment and activities with high noise levels, such as use of loud music and dropping of heavy weights, should be avoided or eliminated during sensitive times.

Where mitigation at the source is not feasible, as discussed above, mitigation in the path between the source and receiver should be considered. In this situation, existing building elements such as the access door and roller door should be closed at all times to reduce the noise impacts on the adjacent receivers. Upgrading the walls and roof would also mitigate the noise however this may not be considered reasonable due to the associated costs and is discussed below.

6.3.1 Upgrade of roof / ceiling construction

While on site, it was determined that the roof/ceiling partition was acoustically weak. The construction consisted of steel roof sheeting, with no internal ceiling or insulation.

To upgrade this partition, a full ceiling (plasterboard, fibre cement or plywood) with insulation above would need to be installed on the underside of the roof structure. This would need to contain limited penetrations to ensure the acoustic integrity of the ceiling. The roof top ventilation would also need to be removed as this is likely to result in an acoustic weakening of the partition.

Based on the above construction, it is likely that mechanical ventilation would be required, as any penetration for outside air may result in a weakening of the partition. If this method was proceeded with, the mechanical plant would need to be designed to achieve the acoustic requirements of the Development Application.

A discussion was held with the owner on site in regard to the upgrade of the roof/ceiling. It was determined that the expense associated with such an upgrade would be excessive, and that other means would be explored. As such, noise within the site should be controlled via a noise limiter and operational restrictions, as discussed below.

6.3.2 Noise limiter

Internal noise levels, in particular music, should be subject to a noise limiter to reduce the impact on the surrounding residential receivers.

The following details the requirements for the noise limiter

- At all times, the music must be played through the installed sound system, with no external or temporary sound systems permitted
- The installed sound system must be under the control of a noise limiter
- The noise limiter must be calibrated following installation to the following noise levels:
 - Before 5 am and 7 am – internal reverberant L_{Aeq} must not exceed 70 dBA
 - After 7 am – internal reverberant L_{Aeq} must not exceed 80 dBA
- The noise limiter must be contained within a locked or secure area and only accessible by the owner/manager and must not be adjusted at any time
- Following installation, a suitably qualified acoustic engineer should be engaged to undertake noise measurements within the premises and at the residence to ensure the noise limiter is functioning correctly

6.3.3 Operational restrictions

The following measures should also be implemented:

- The roller door must not be opened at any time while the premises is in operation, regardless of internal noise levels
- An automatic door closer should be installed on the external patron access door to ensure both doors remain closed during operation of the premises
- Class sizes prior to 7 am should be restricted to the current capacity of 12. Any increase would likely result in an increase of noise from activities which are not subject to the noise limiter

ITEM 1 (continued)

ATTACHMENT 2

- A Noise Management Plan, as recommended in the Acoustic, Vibration & Noise Pty Ltd, should be prepared and submitted to City of Ryde Council for review. The Plan should include the following:
 - details of internal dBA noise limits
 - details of site supervision, hours of operation, management procedures during early hours (prior to 7 am)
 - details on restrictions to amplified music, operating time and general use
 - details about any signage to inform patrons of noise issues and reminding patrons to enter and exit in a quiet manner and to not congregate outside
 - details on training guidelines for staff, specifically related to noise issues
 - details on the process for community consultation and dealing with noise complaints from residents
 - details on monitoring noise and vibration and actions to be taken to address complaints or non-compliances

ITEM 1 (continued)

ATTACHMENT 2

7. Conclusion

GHD has undertaken an independent acoustic assessment for the Vale Tudo Fitness facility, located at 25-29 Nancarrow Road, Ryde, to determine the noise impacts on the surrounding residential receivers.

Long term unattended noise monitoring was undertaken at external and internal locations within the nearest residential receiver at 12 Nancarrow Road, Ryde. Results of this monitoring indicate that the fitness studio is capable of operating in accordance with the requirements of City of Ryde Council. A site inspection within Apartment 506B also determined that operations can result in noise being inaudible.

Regardless of the outcome of the noise monitoring and site inspection, noise complaints and council Prevention Notices indicate that noise from the training facility does not always operate in a manner that leads to compliance with the requirement of City of Ryde Council and results in unacceptable noise amenity for the surrounding receivers. As such, mitigation measures have been recommended to reduce the likelihood of ongoing noise complaints.

Additional attended noise monitoring was undertaken with the cooperation of the management of Vale Tudo Fitness. Based on this monitoring, additional noise mitigation measures have been provided to reduce the noise impact on the surrounding residential receivers. These include the installation of a noise limiter, along with other operational procedures which must be followed to reduce the likelihood of noise complaints.

In GHD's opinion, the site should be able to operate in accordance with the relevant conditions of the Development Application, with the recommendations within this report being implemented and adhered to. Should the site operate outside the recommendations of this report, there is no guarantee that the acoustic amenity of the surrounding area will not be impacted.

Should further complaints be received by receiver following installation of the noise limiter, council should review the internal noise levels, operation of the noise limiter and implementation of operational procedures.

ITEM 1 (continued)

ATTACHMENT 2

Appendices

ITEM 1 (continued)

ATTACHMENT 2

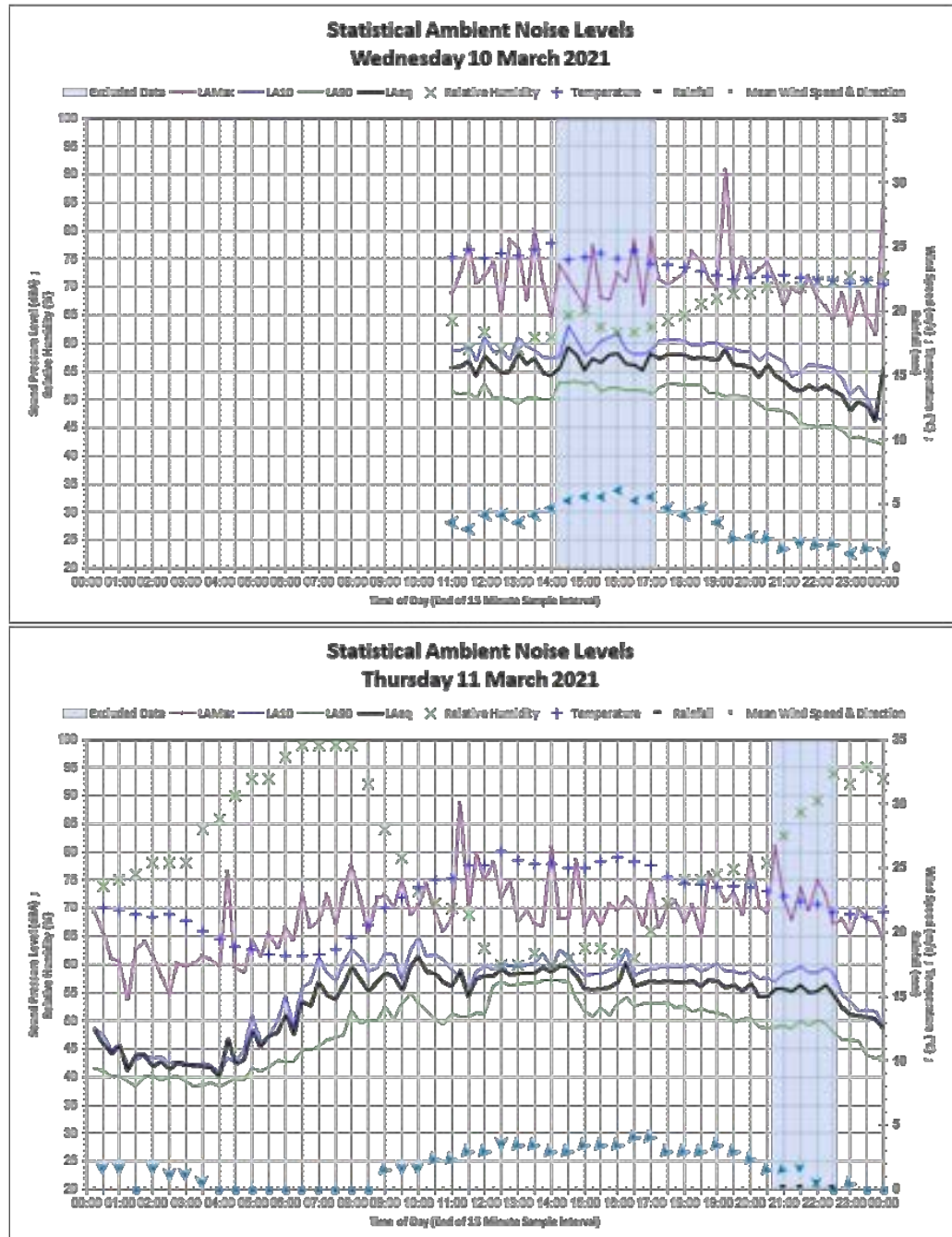
Appendix A

Noise monitoring charts

ITEM 1 (continued)

ATTACHMENT 2

Location M1

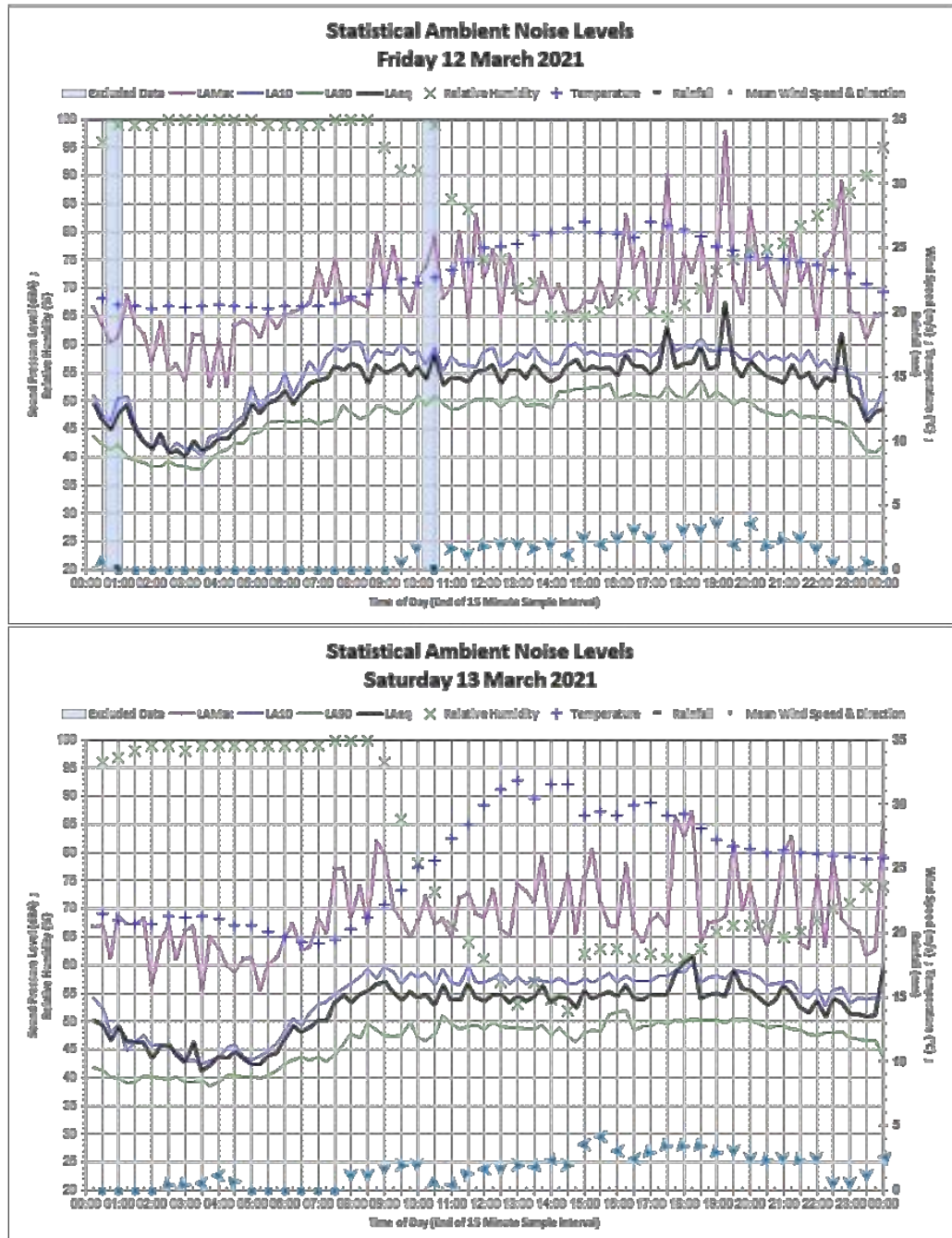


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ITEM 1 (continued)

ATTACHMENT 2

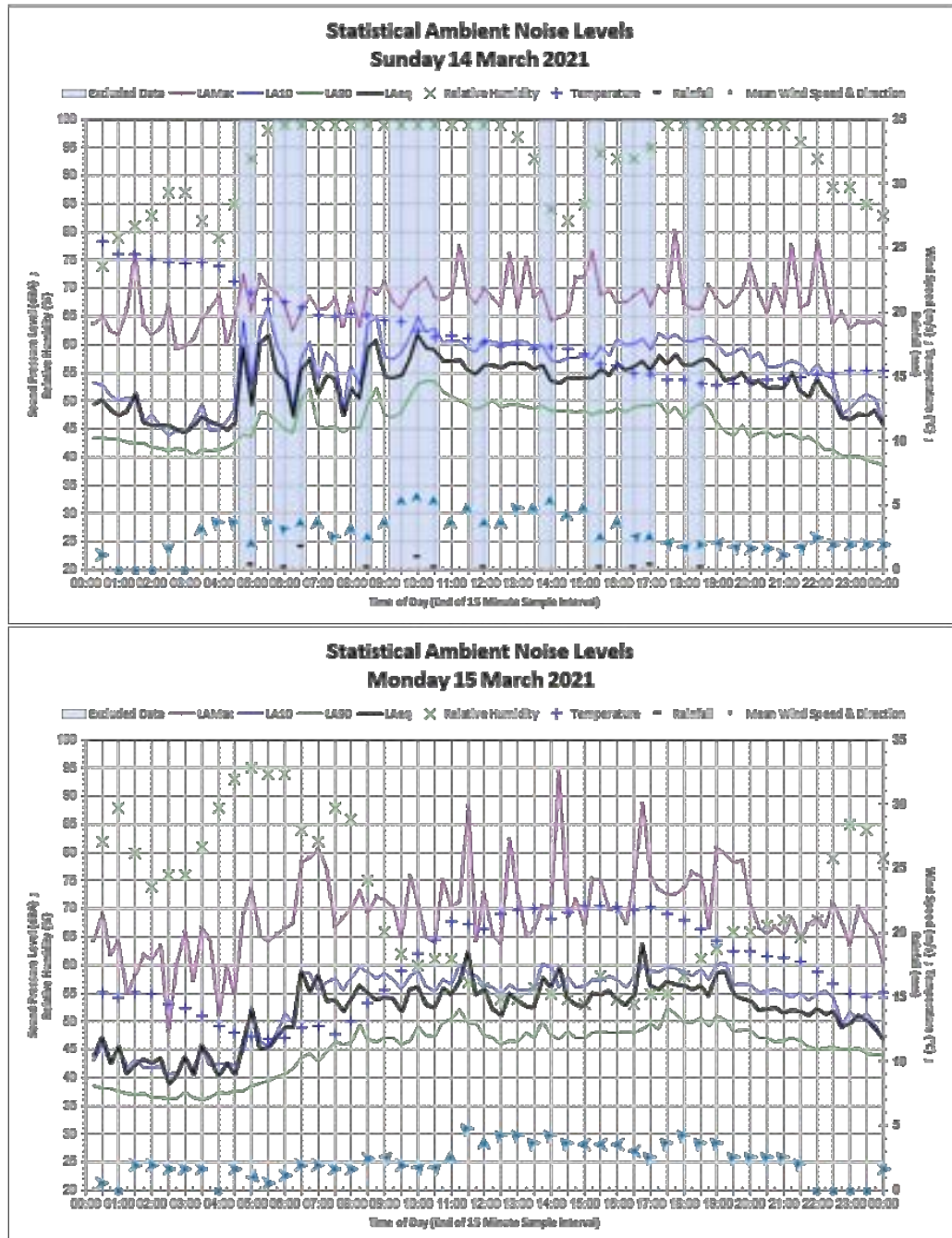


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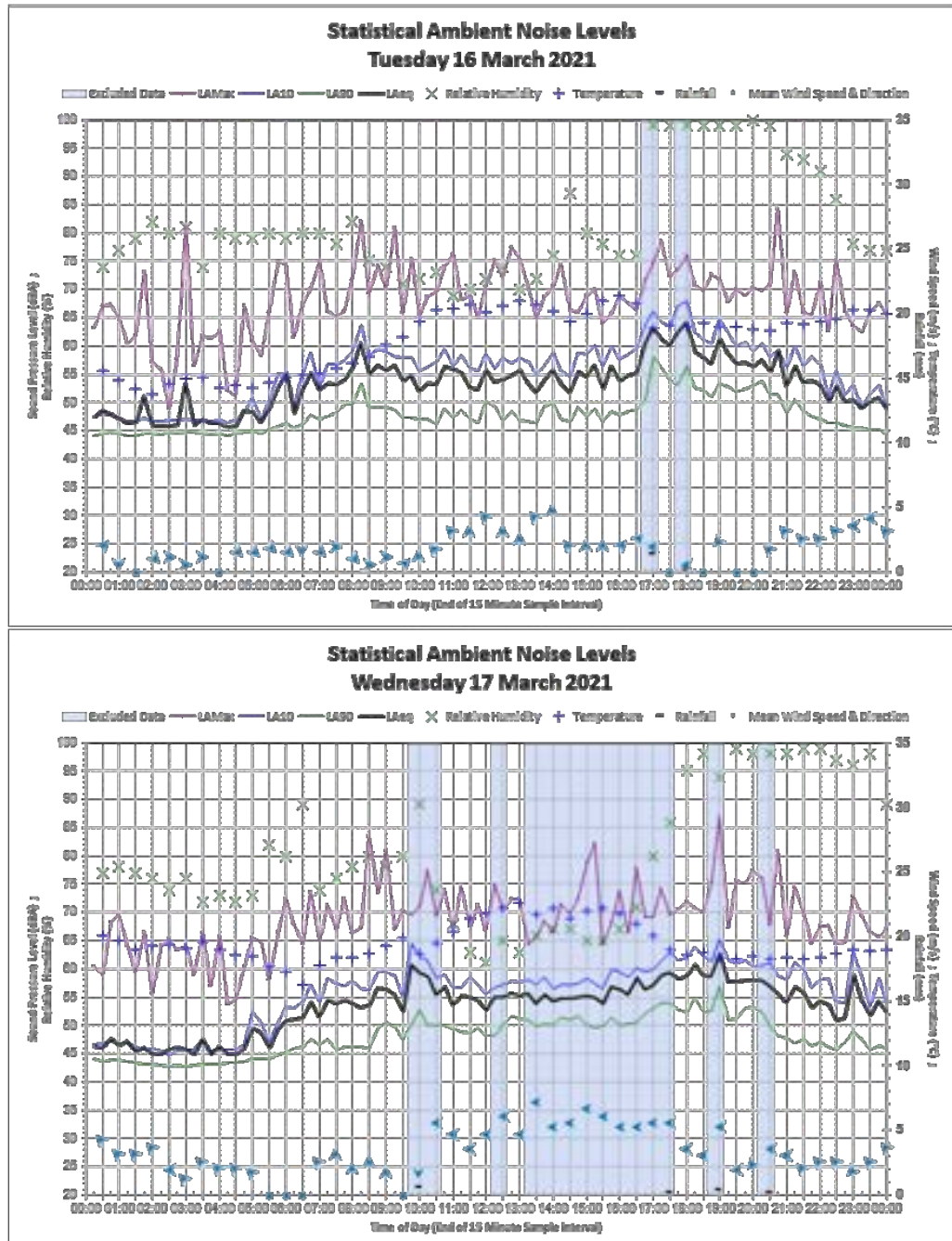


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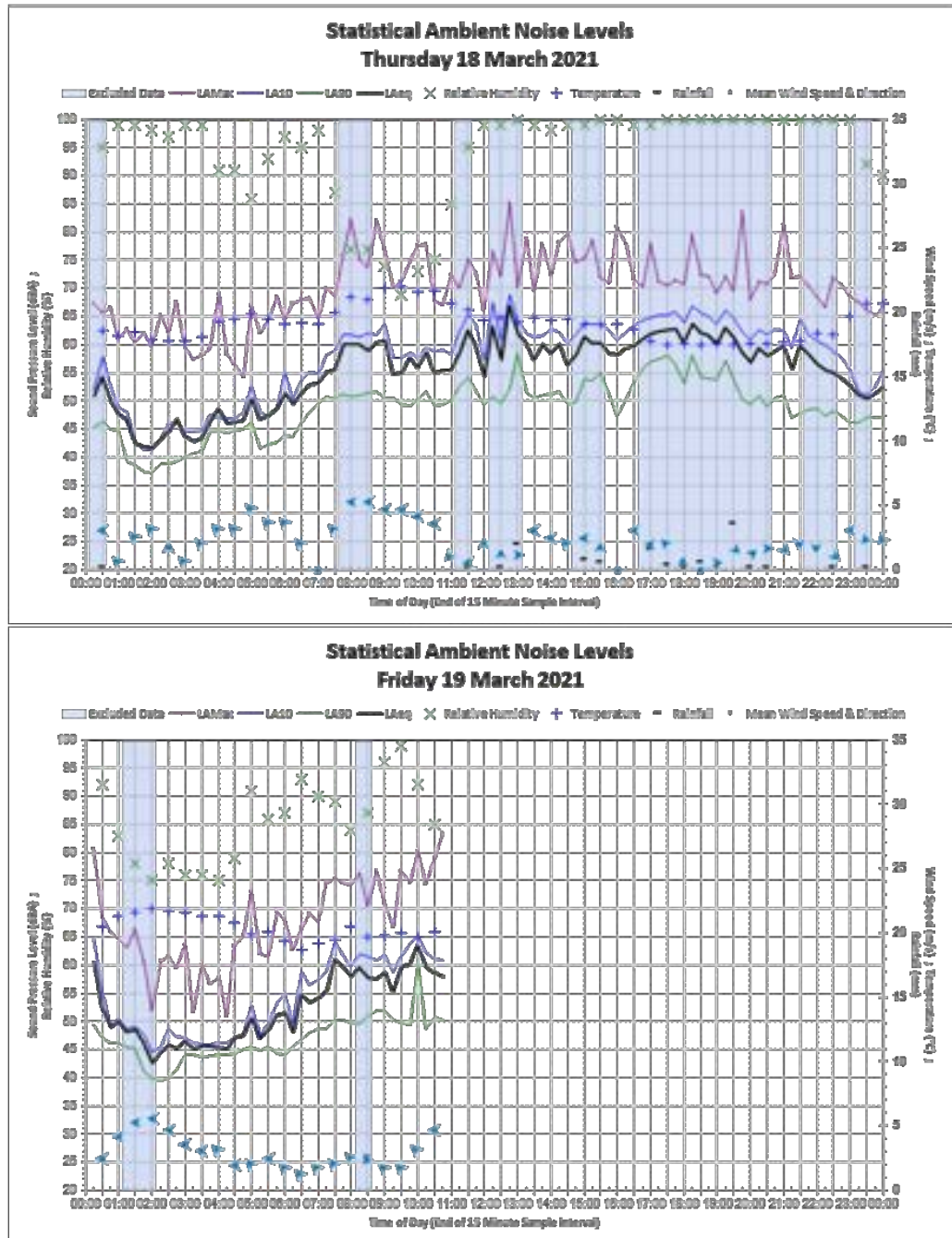
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ATTACHMENT 2



ITEM 1 (continued)

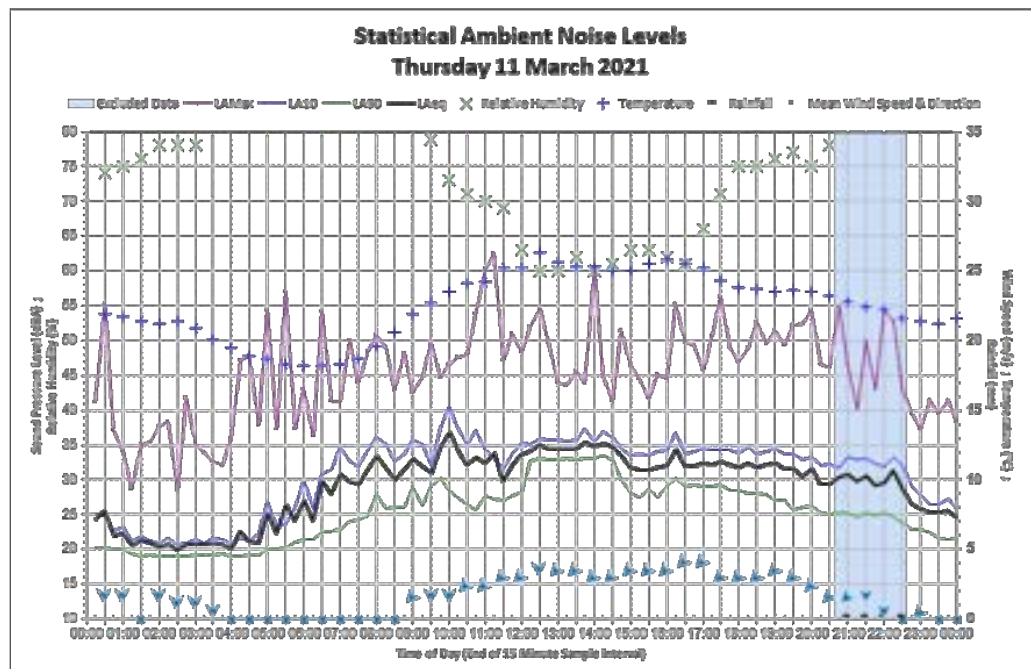
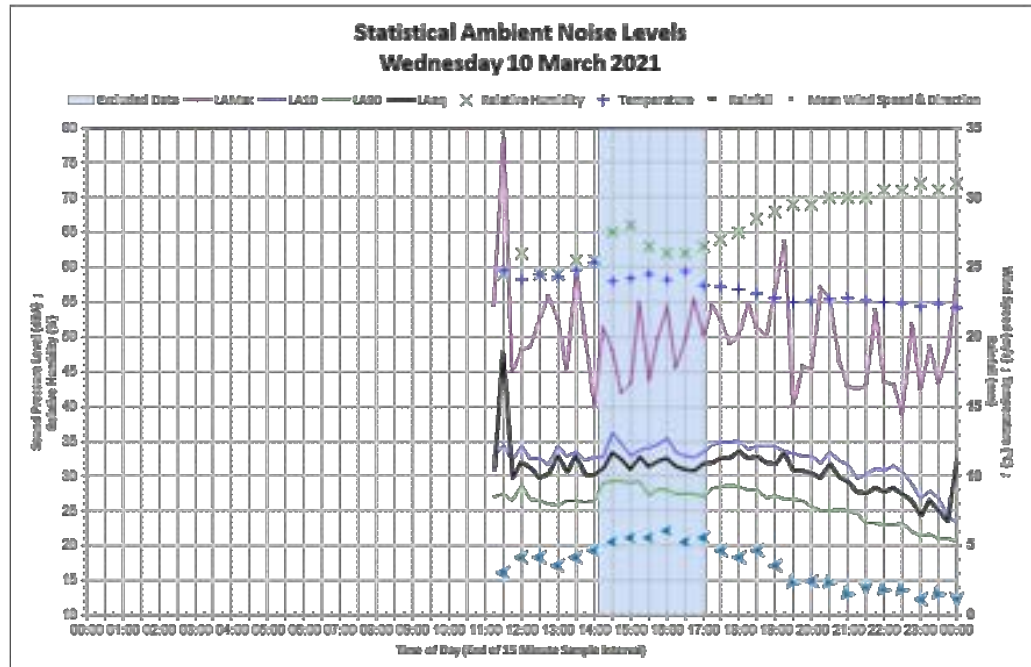
ATTACHMENT 2



ITEM 1 (continued)

ATTACHMENT 2

Location M1

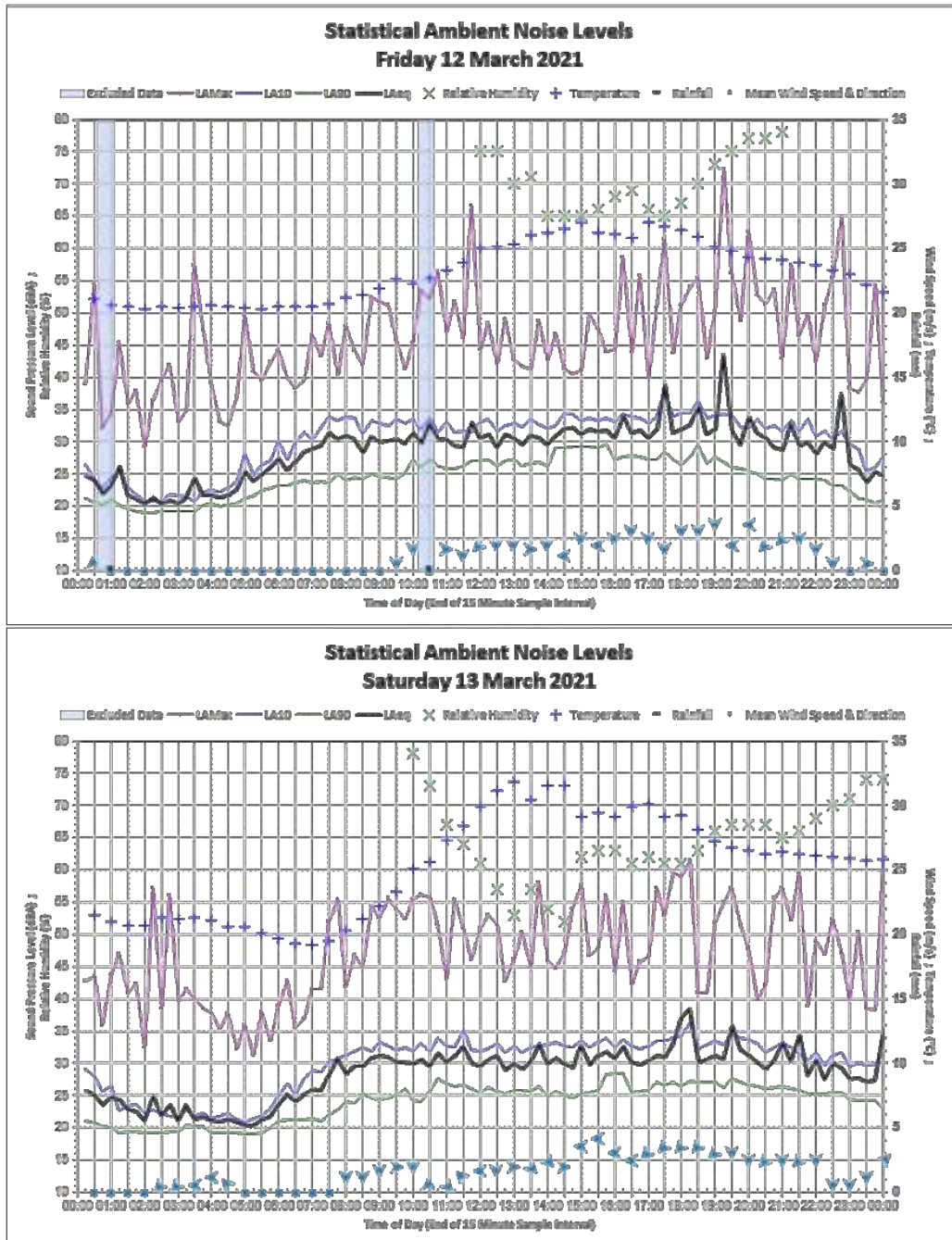


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ITEM 1 (continued)

ATTACHMENT 2

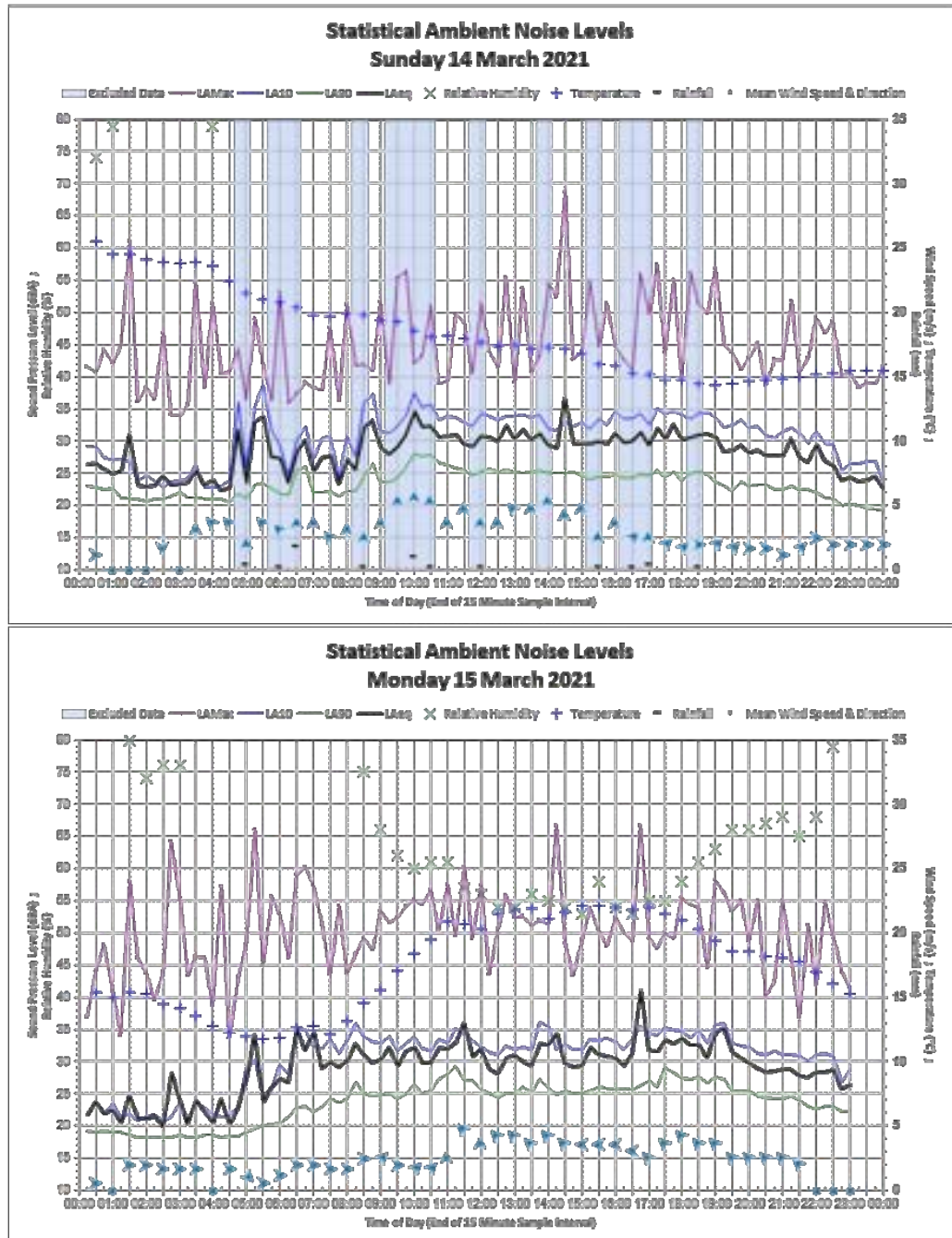


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ITEM 1 (continued)

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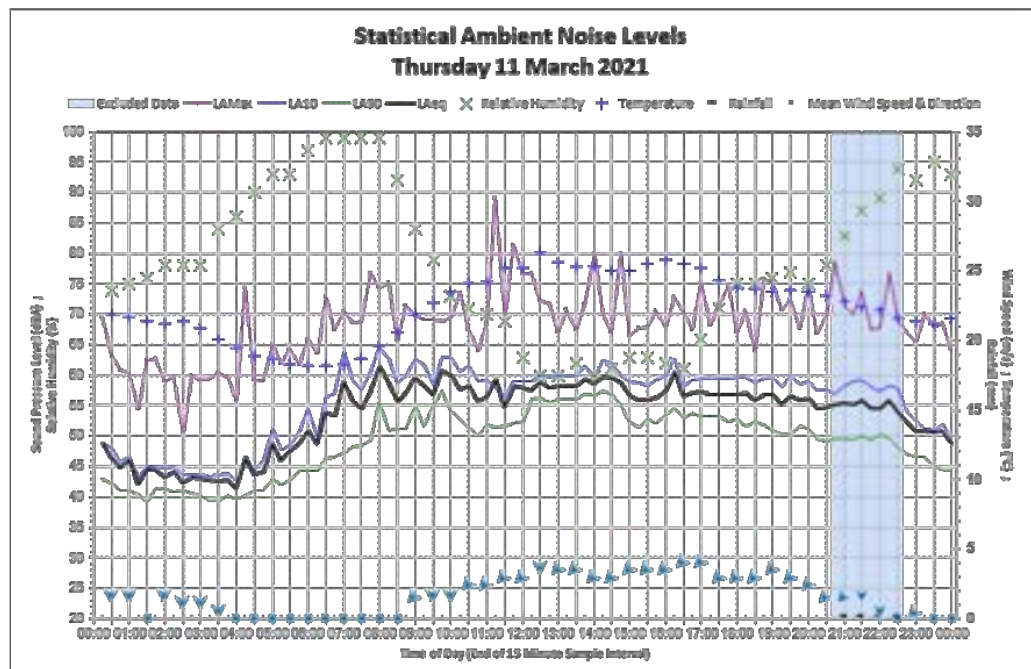
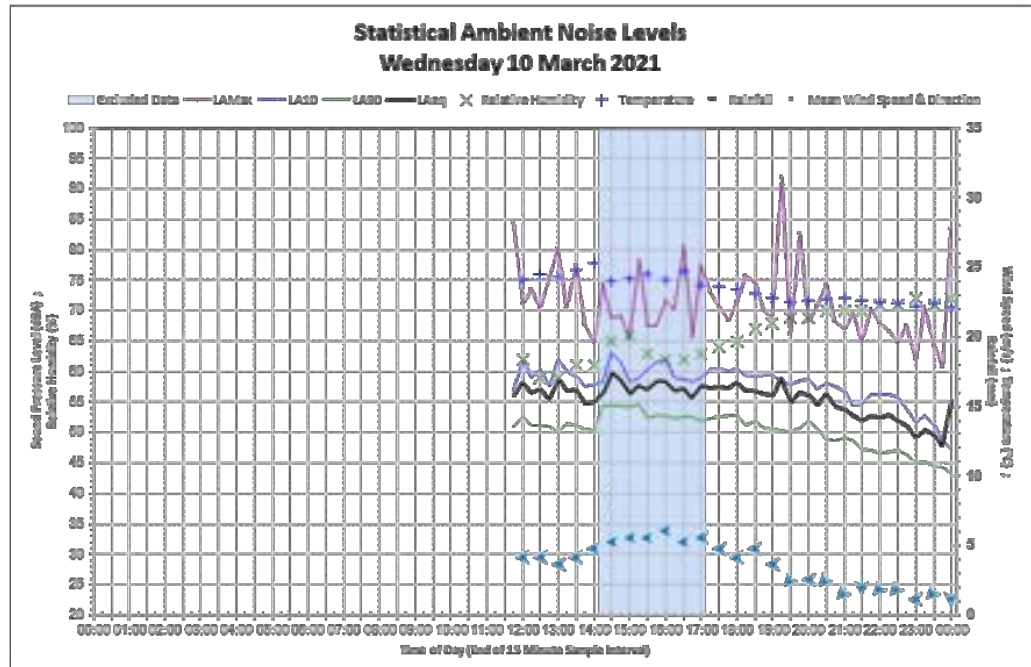
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ITEM 1 (continued)

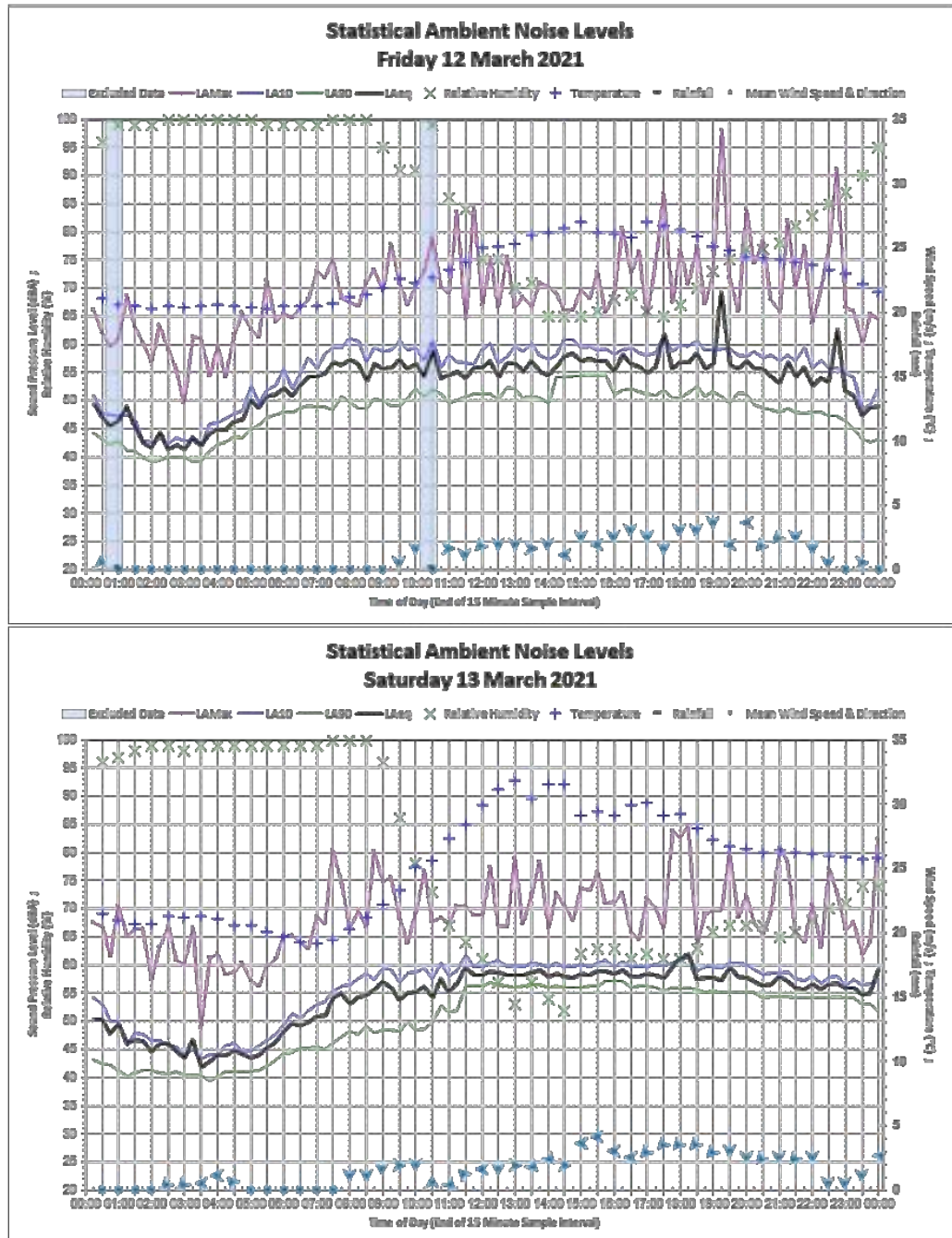
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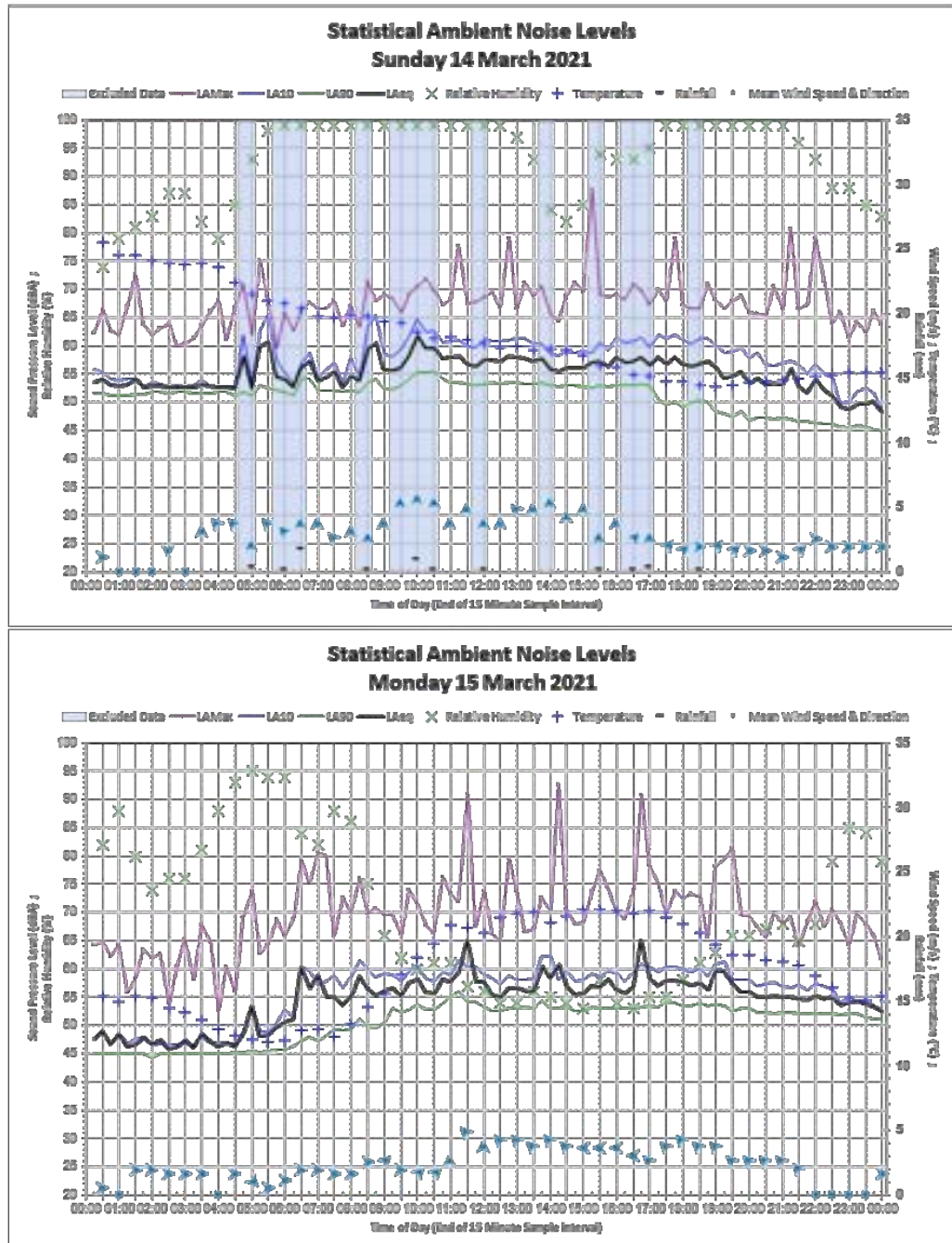
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ATTACHMENT 2



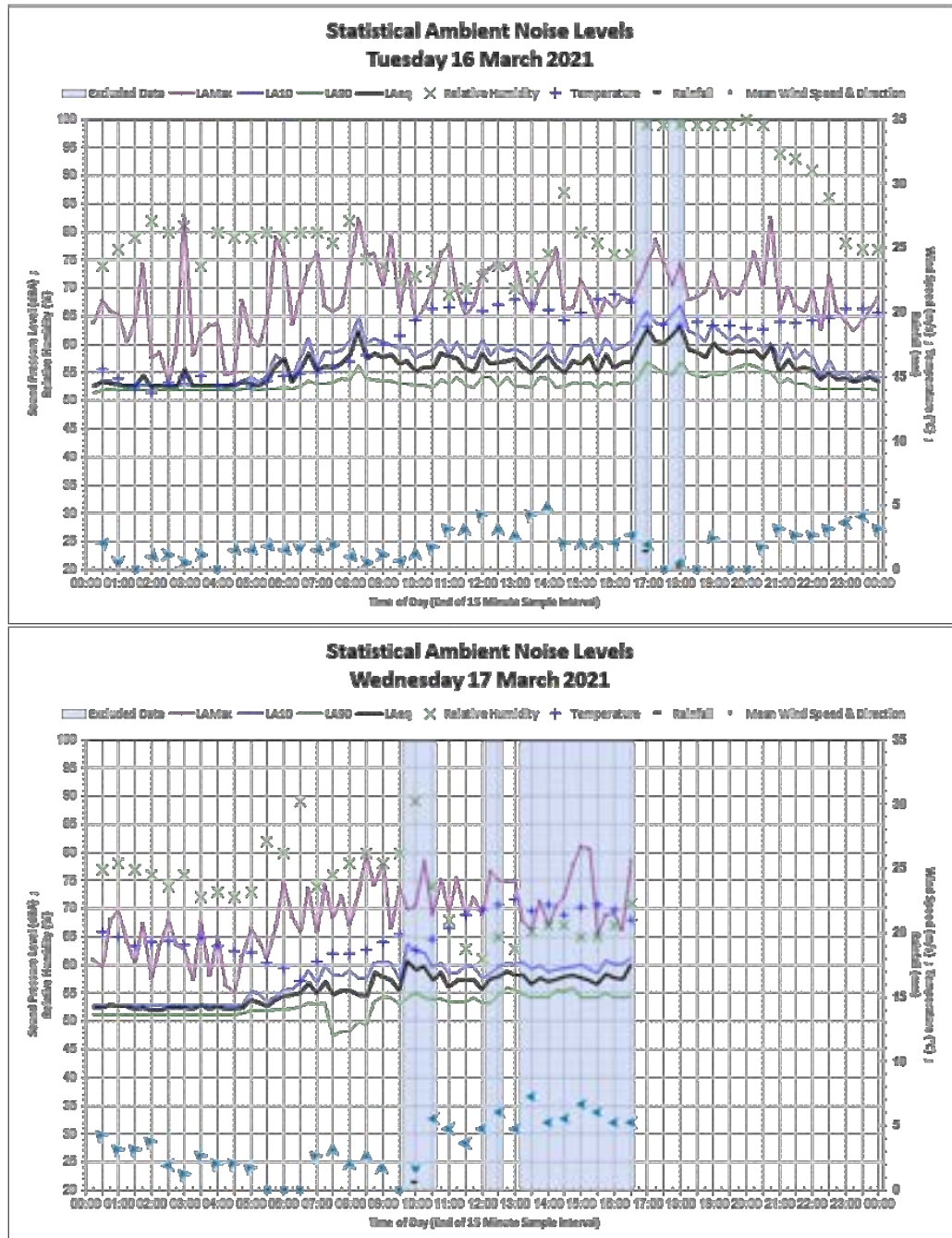
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ATTACHMENT 2



ITEM 1 (continued)

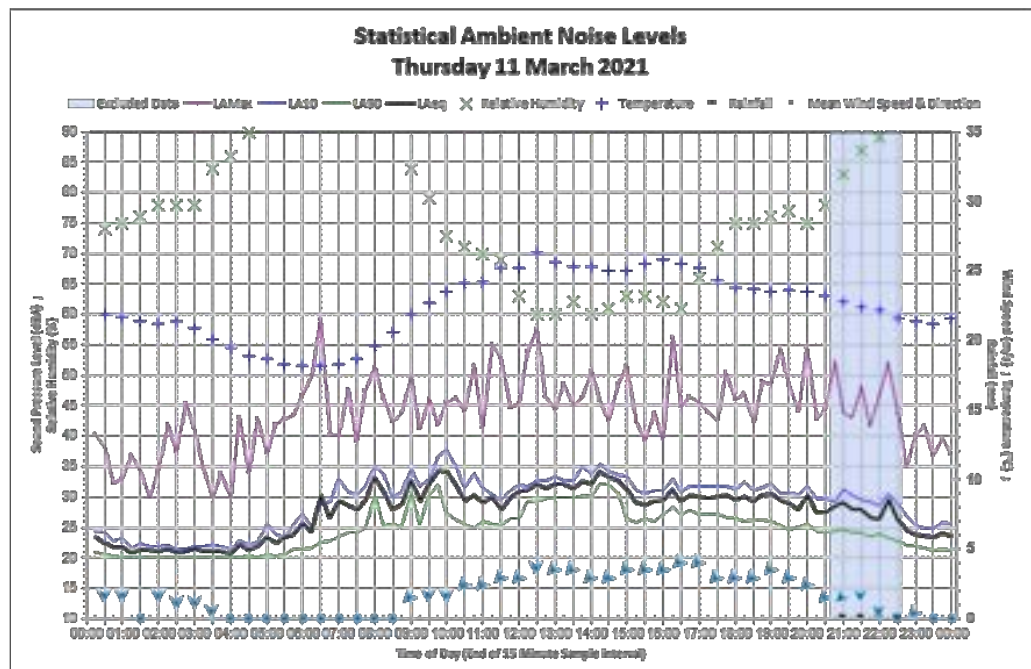
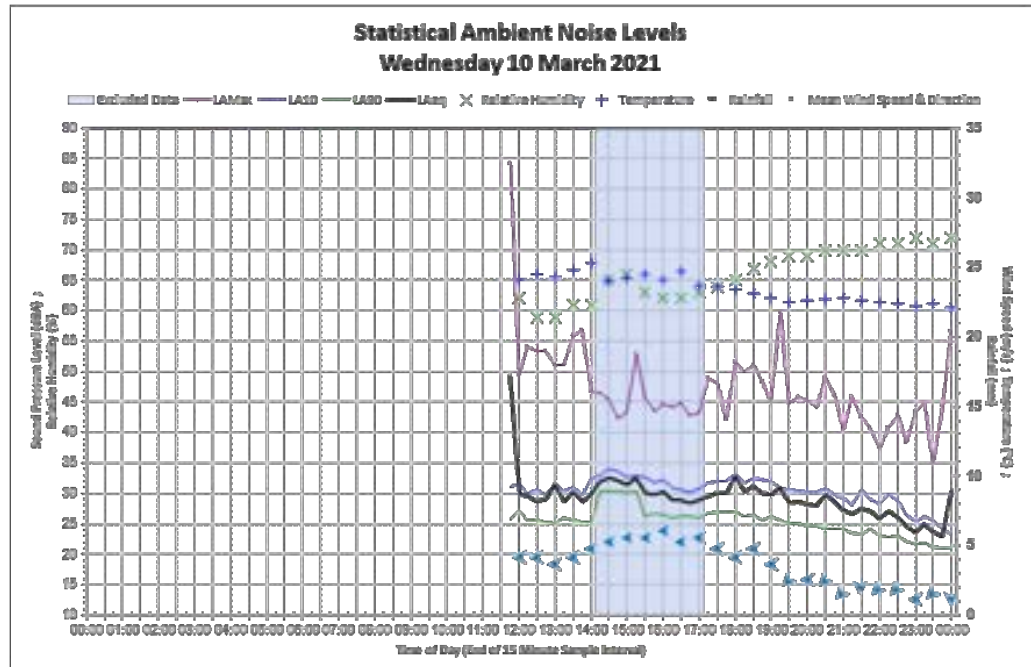
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ITEM 1 (continued)

ATTACHMENT 2

Location M4

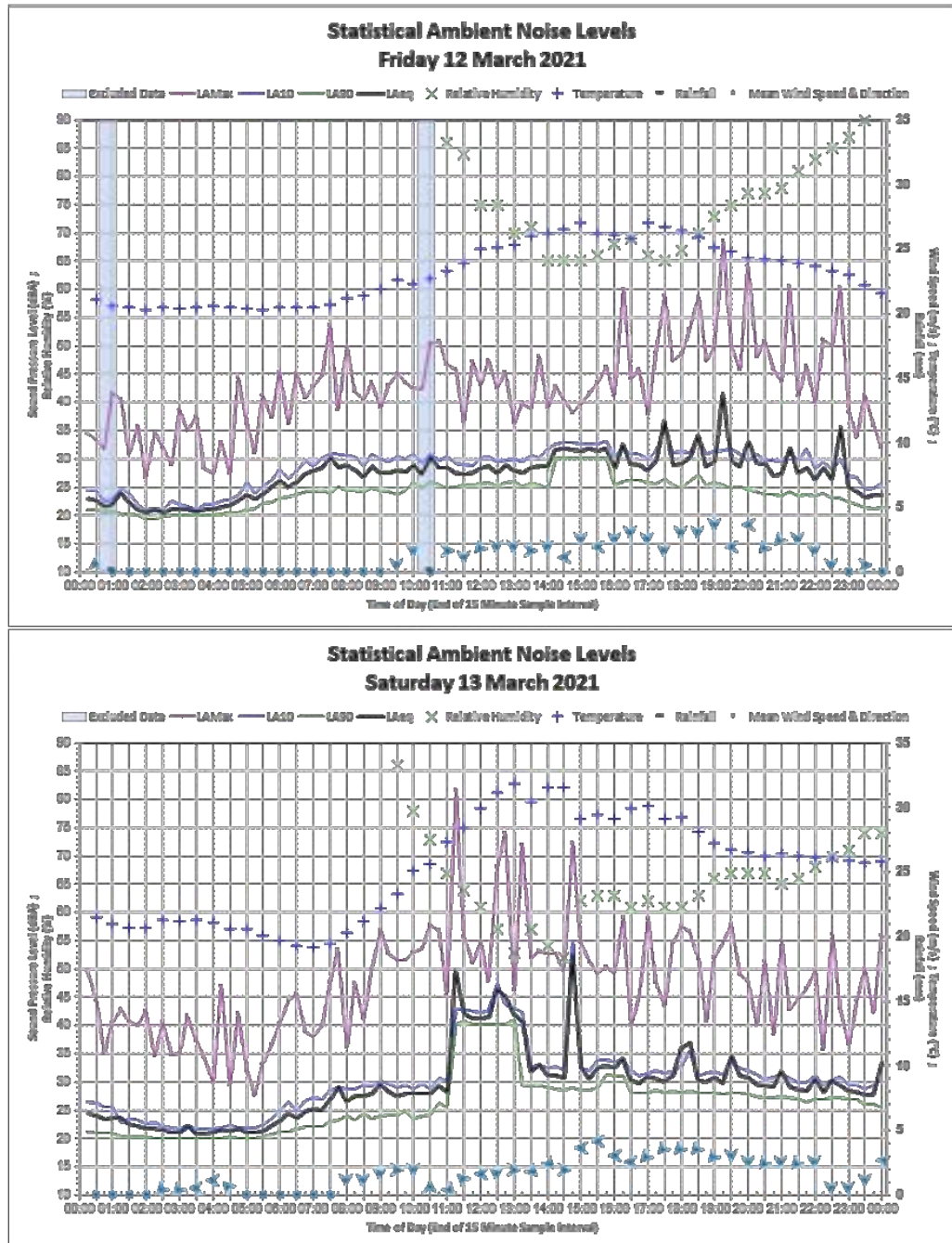


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ITEM 1 (continued)

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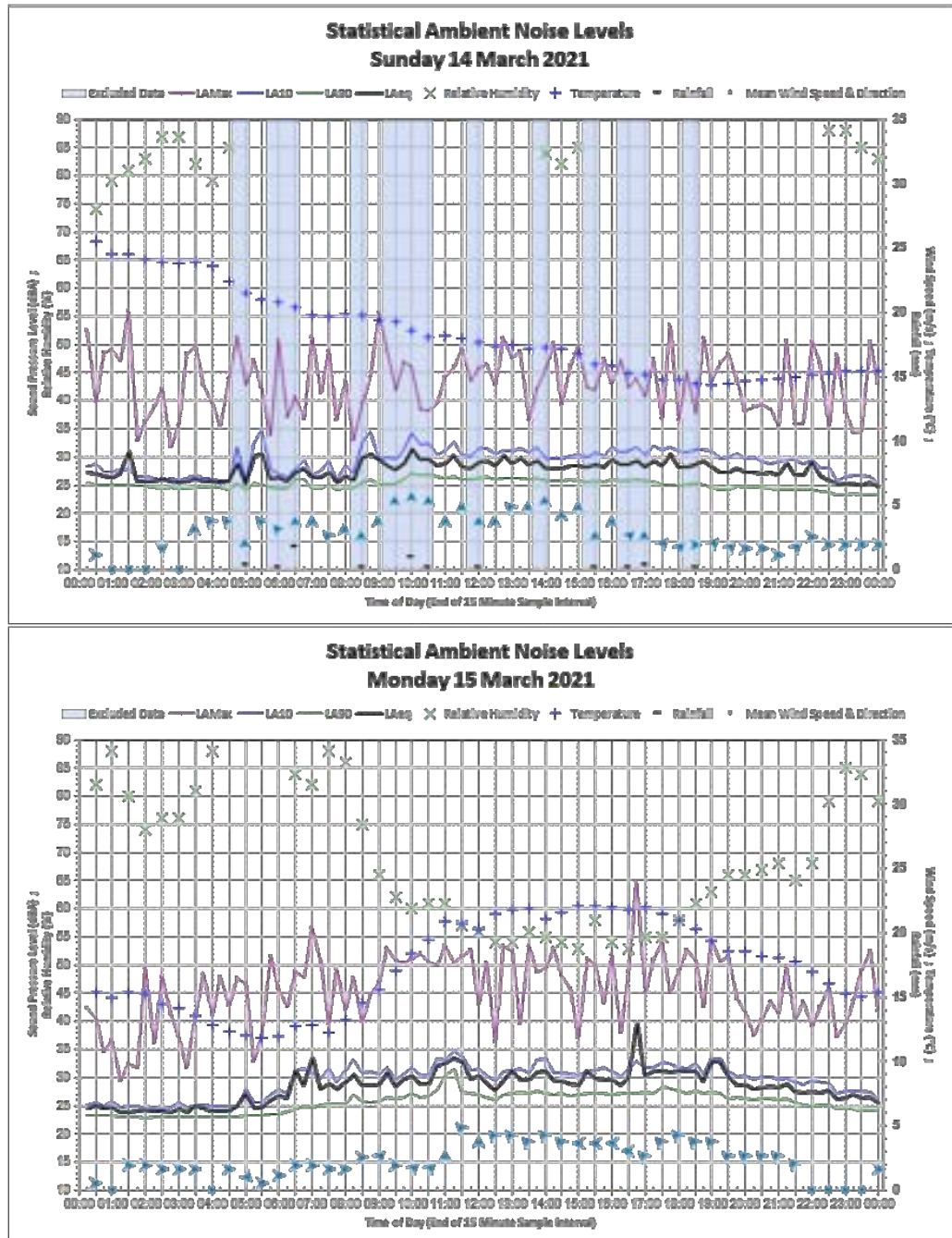


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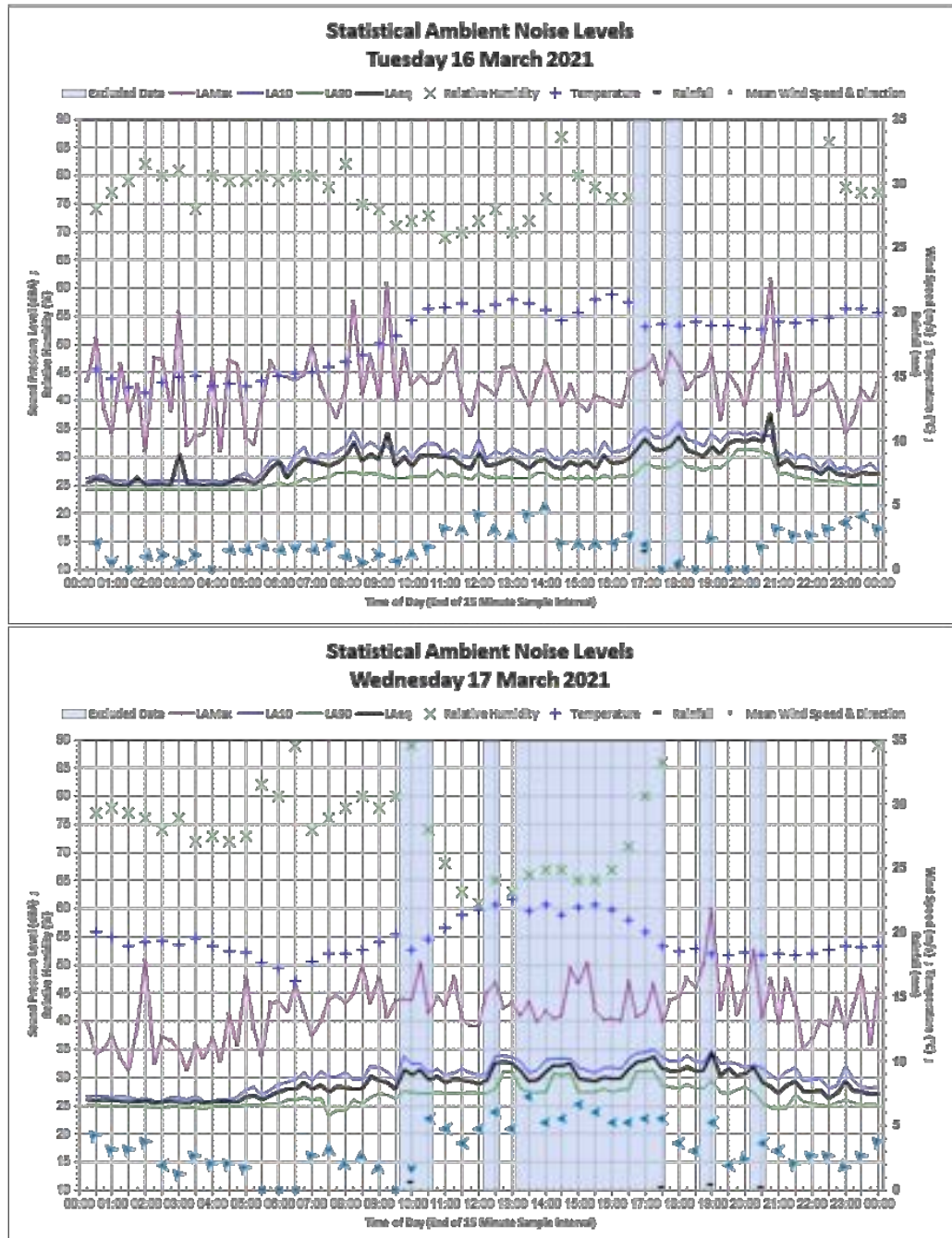
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ATTACHMENT 2



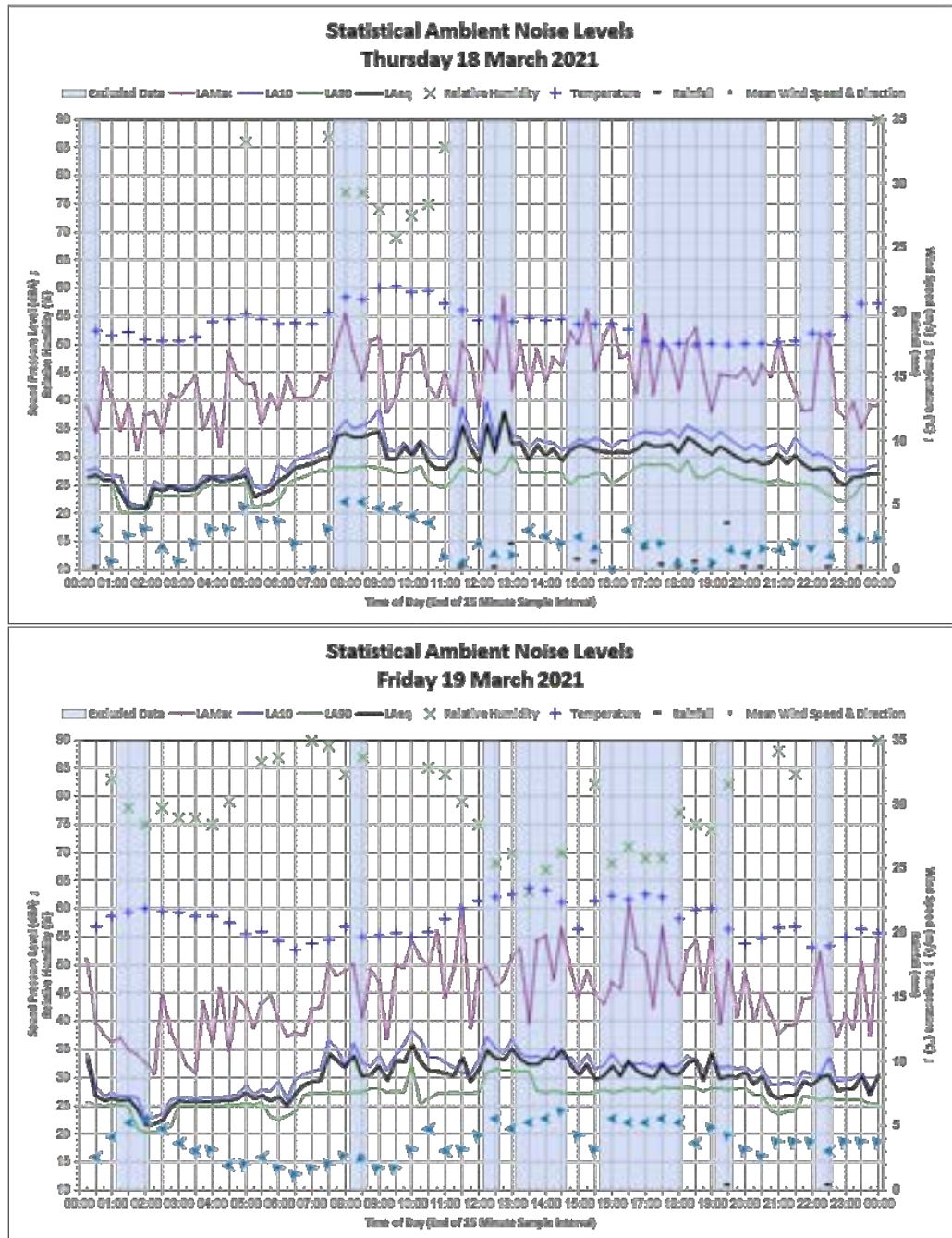
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ATTACHMENT 2



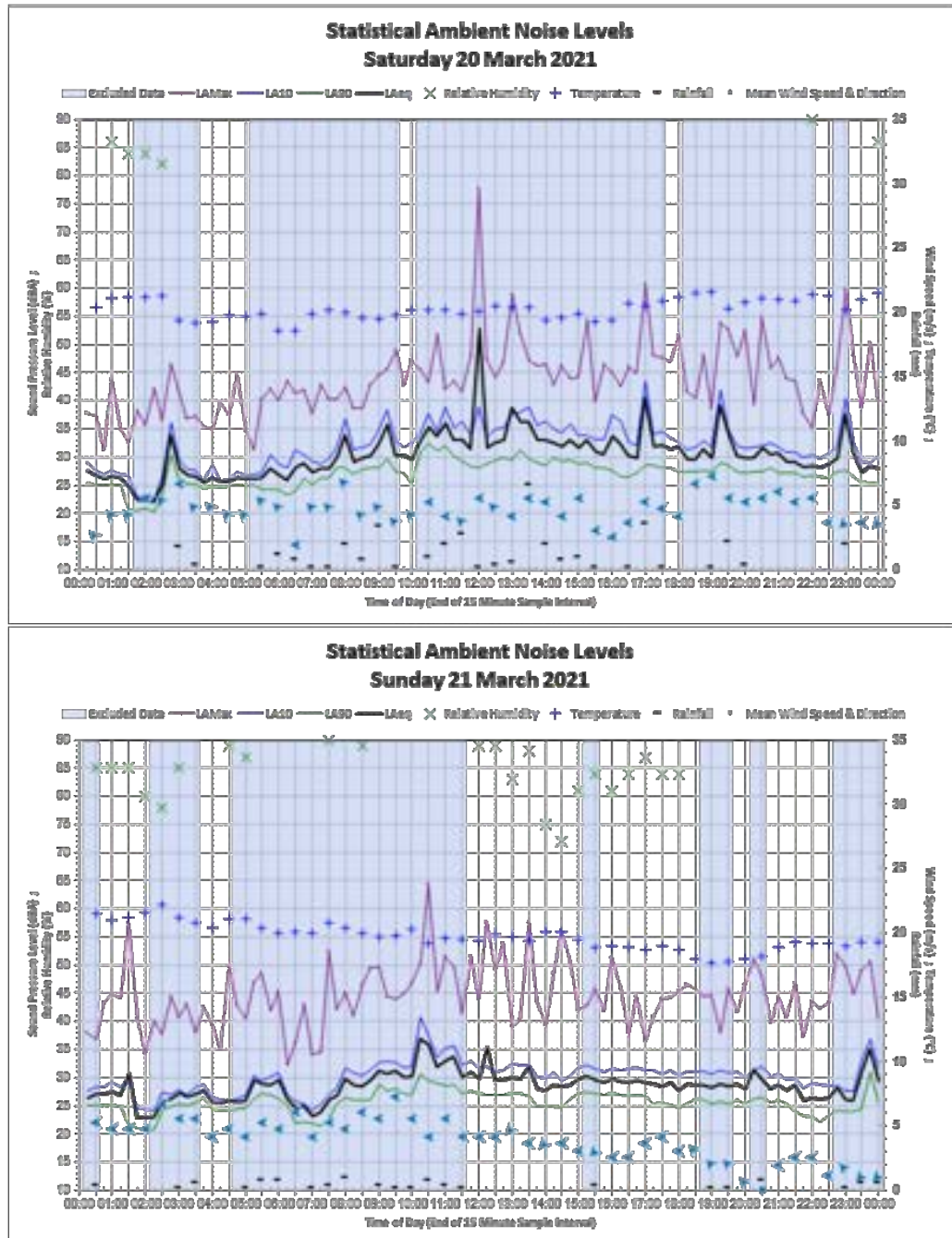
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ATTACHMENT 2



ITEM 1 (continued)

ATTACHMENT 2

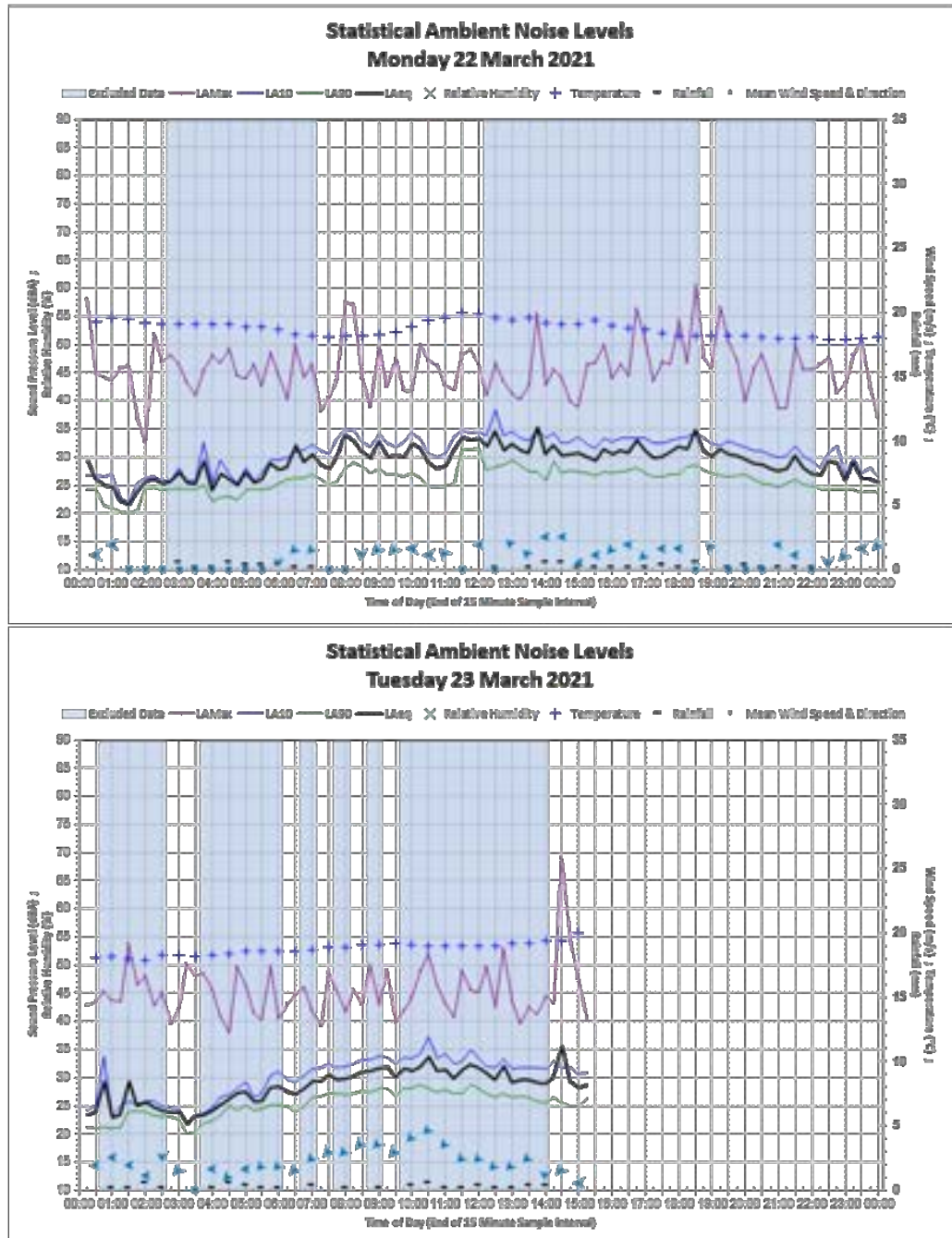


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ITEM 1 (continued)

ATTACHMENT 2



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→ The Power of Commitment

ITEM 1 (continued)

ATTACHMENT 3

City of Ryde
Civic Centre, Devlin Street, Ryde
Locked Bag 2069, North Ryde NSW 1670
Facsimile 9952 8070
Telephone 9952 8222



Development Consent

Applicant: Phong & Shane Fitness Pty Ltd
Attn: Phong Thach
3 Wolger Road
RYDE NSW 2112

COPY

Consent No: LDA2015/0084

Consent Date: 31 March 2015

Valid until: 31 March 2020

The City of Ryde, as the consent authority under the provisions of the Environmental Planning and Assessment Act, 1979 hereby consents to the development as follows:

Property: 25-29 Nancarrow Ave Ryde Lot 1 DP 120474

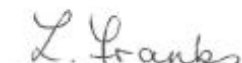
Development: Fitout and use for fitness studio and business identification signage.

subject to the conditions 1 to 46 specified in this consent.

You are advised that failure to observe any condition of approval set out in the consent is an offence and legal proceedings may be instituted by Council.

This Consent does not guarantee compliance with the Disability Discrimination Act and you should, therefore, investigate your liability under the Act.

You are advised of your right of appeal to the Land and Environment Court under Section 97 of the Environmental Planning & Assessment Act and your right to request a review of the determination to Council under Section 82A of the Environmental Planning & Assessment Act within 6 months after you have received the Consent.


Lauren Franks
Assessment Officer

The fees quoted at the time of issue of this Consent may be subject to variation. Council's annual fees and charges are published in the Management Plan. To confirm fees please contact Customer Service on 9952-8222.

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

GENERAL

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Site Plan – F45_GYM_DRAFT	21.02.2015	-
Exterior Signage	Undated	-
Elevation - Signage Location	Undated	-

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **Support for neighbouring buildings.** If the development involves excavation that extends below 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:
- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
4. **Fire Safety Matters/Changes in building use**
- (a) A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.
- NOTE: The obligation under this clause to comply with Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent.
- (b) This clause does not apply to the extent to which an exemption is in force under clause 187 and 188 in the Environmental Planning and Assessment Regulations 2000.
 - (c) In this case clause, "Category 1 fire safety provision" has the same meaning as it has in Clause 3 in the Environmental Planning and Assessment Regulations 2000 subject to any terms of any condition or requirement referred to in Clause 187(6) or 188(4).
5. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is "exempt development".

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

Protection of Adjoining and Public Land

6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

Works on Public Road

10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

Stormwater

11. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2010, Part 8.2 "Stormwater Management".

Conditions imposed by Environmental Health Officer:

Noise Pollution

12. **Construction** - Noise insulating materials or construction (such as acoustic rubber matting or paneling) should be installed where ever it is anticipated that activities or the use of plant and equipment may generate a noise disturbance to surrounding premises.

Plumbing and Drainage

13. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.

Connection to Sewer

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

14. **Evidence of connection by gravity flow** - Documentary evidence from a professional hydraulic engineer or other suitably qualified person demonstrating that all of the premises will be connected directly to the sewerage system by gravity flow must be submitted with the application for the Construction Certificate.

Mechanical Ventilation

15. **Mechanical ventilation details** - Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted for approval with the application for the Construction Certificate. Such details must include:
- (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems: and
 - (b) A design certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and the conditions of this Consent.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

16. **Compliance with Australian 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 Principal Certifying Authority prior to the issue of the **Construction Certificate**.
17. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other building with no delivery of bricks or concrete or machine excavation)
18. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
- (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

19. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

20. **Site Sign**
- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
 - (b) Any such sign must 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.
21. **Excavation adjacent to adjoining land**
- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
 - (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
 - (c) An 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 condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

22. **Construction noise.** The L_{10} noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

23. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
24. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
25. **Construction materials.** All materials associated with construction must be retained within the site.
26. **Site facilities**
The following facilities must be provided on the site:
 - (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
27. **Site maintenance**
The applicant must ensure that:
 - (a) approved sediment and erosion control measures are installed and maintained during the construction period;
 - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
 - (c) the site is clear of waste and debris at the completion of the works.
28. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

PRIOR TO OCCUPATION CERTIFICATE

Any Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

29. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

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

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

Conditions imposed by Environmental Health Officer:

Mechanical Ventilation

30. **Certification of mechanical ventilation work** - Where any mechanical ventilation systems have been installed or altered, an installation certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

Conditions imposed by Building Surveyor:

31. Prior to any Occupation Certificate being issued, the following is to be complied with:
- a. Remove the front metal security gate OR ensure that it is openable by single hand downward action on a single device.
 - b. Ensure that both exit doors are readily openable by single hand downward action on a single device.
 - c. The path of travel from the Divisional wall to the rear exit shall be clearly delineated by line marking the floor. The marking is to yellow, durable and non-slip.
 - d. A durable sign is to be provided adjacent to the path of travel to the rear exit to advise persons to keep the pathway clear. The signs must be in capital letters not less than 20mm high, of durable material and in a colour contrasting with the background and state: "FIRE EXIT PATH – DO NOT OBSTRUCT".
 - e. The front exit door is to be re-hung to swing in the direction of egress from the building OR fitted with an automatic hold-open device.
 - f. Install exit signs and directional exit signs (if required) in accordance with the requirements of the Building Code of Australia.
 - g. Provide Council with a fire safety certificate for any new exit/directional exit signs.
32. The applicant may apply to the Council or an accredited certifier for the issuing of an Occupation Certificate. If issued by an accredited certifier, a copy is to be furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000.

ITEM 1 (continued)

ATTACHMENT 3

Conditions of Consent for LDA2015/0084:-

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

33. **Hours of operation.** The hours of operation are to be restricted to:
- 5am to 8am and 5pm to 10pm (Monday-Friday); and
 - 5:45am to 10am (Saturday).
34. **Waste storage/disposal – hours of collection.** Waste and recyclable material generated by these premises must not be collected between the hours of 9pm and 8am on any day.
35. **Waste storage/disposal – recycling.** Wastes for recycling should be stored in separate bins or containers and transported to a facility where the wastes will be recycled or re-used.
36. **Signage – English language.** All advertising signs are to be displayed in the English language but may include a translation into another language using letters or characters that are no larger than the English language letters or characters.

Any translated message must be accurate and complete.

No amendment to the size of a sign will be permitted to allow for both the English and translated language to be displayed.

37. **Maximum class size.** No class is to have more than 12 people.

Conditions imposed by Environmental Health Officer:

Waste Storage and Handling Facilities

38. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
39. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
40. **Transfer of waste containers to emptying point** - Staff or contractors must be employed to take the waste containers from the waste storage area to the container emptying point for servicing and to return the containers to the waste storage area after servicing.
41. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.

Noise Pollution

42. **Offensive noise** - The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

ITEM 1 (continued)

ATTACHMENT 3

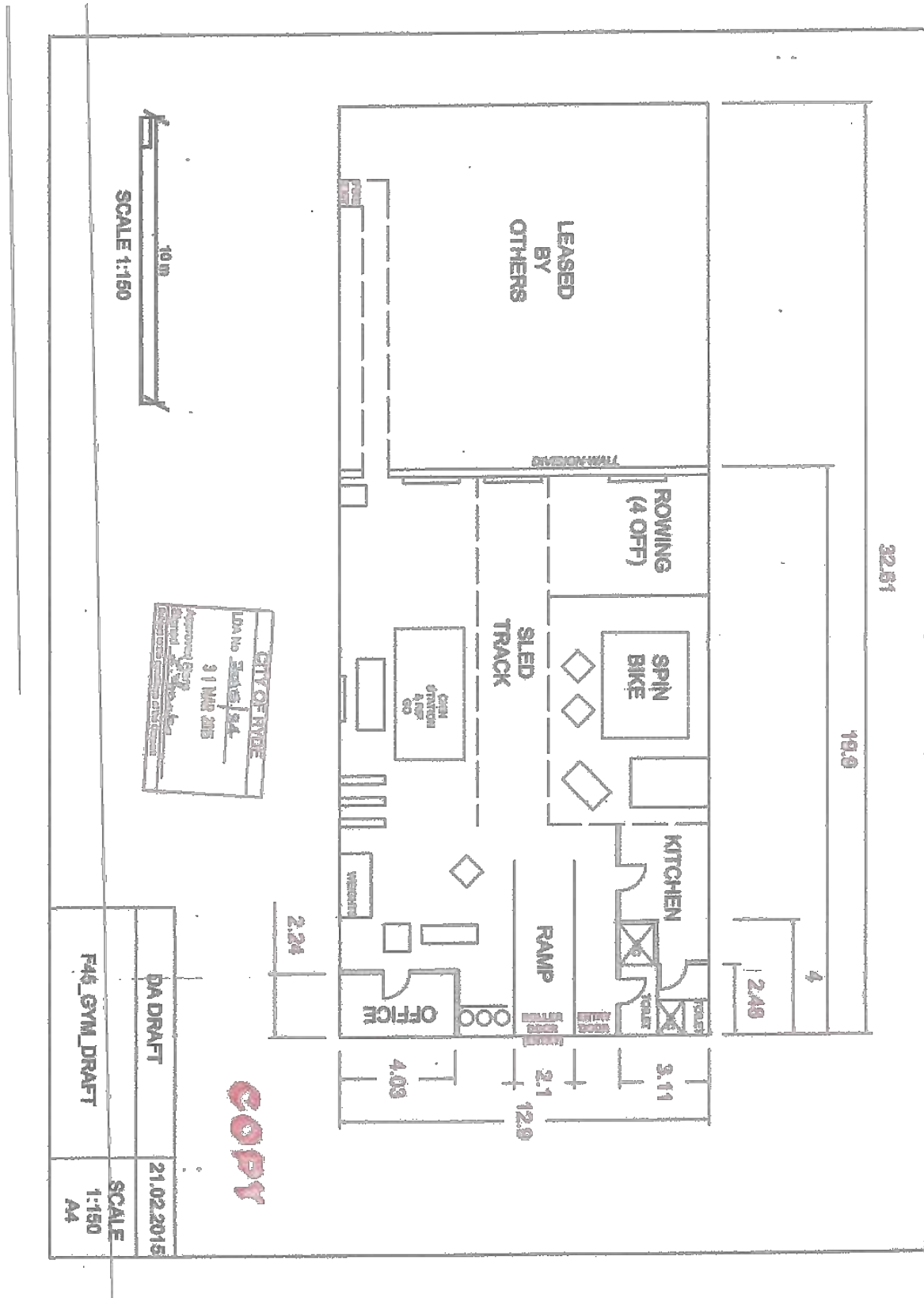
Conditions of Consent for LDA2015/0084:-

43. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.
44. **Other activities** - Any activities undertaken outside the confines of the building must not cause any disturbance to the amenity of the surrounding residential premises.
45. **Noise Limits** - Notwithstanding compliance with any other noise conditions of this consent, noise from the premises or related activities must not be audible in any habitable room in any residential premises between the hours of 10pm and 7.00am.
46. **Council may require acoustical consultant's report** - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.

End of consent

ITEM 1 (continued)

ATTACHMENT 4



ITEM 1 (continued)

ATTACHMENT 5



Plan of Management

Unit 3, 25-29 Nancarrow Avenue
Ryde NSW 2112

Vale Tudo Training Ryde

3 December 2020

Created By:	ES
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Approvals Pty Ltd as Trustee for The Council Approval Group Trust



ITEM 1 (continued)

ATTACHMENT 5

CouncilApproval.

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Appendix

Appendix A. Acoustic Validation Report

Appendix B. Parking agreement

ITEM 1 (continued)

ATTACHMENT 5

CouncilApproval.

1 Introduction

This Plan of Management has been prepared for Vale Tudo Training Ryde to manage the operation in a way to enhance the compatibility of the gym with the surrounding residential, business and industrial uses.

2 Site and Locality

The site is located at 25-29 Nancarrow Avenue, Ryde. Vale Tudo Training (VTT) is located in unit 3 of the brick and steel single storey building at the site with access off Nancarrow Avenue. The building also houses a range of vehicle repair shops.

2.1 Use of premises

VTT is a hybrid health and fitness training facility which runs 45 minute group exercise classes using a combination of strength training, conditioning, and boxing based activities.

2.2 Capacity of premises

Group classes will be capped at 30 people at any one time.

Class sizes will also be regulated by industry and government directives as required, for example COVID-19 health guidelines for gyms, dance, martial arts and training facilities limit sizes to 20 people attending a class at the date of preparing this management plan.

2.3 Waste

Waste is general commercial waste which is disposed in a commercial garbage bin on the gym property that is emptied once per fortnight or at an earlier request if needed.

2.4 Access and egress

Entry to the premises is via the pedestrian access door in the front façade.

3 Operational Details

3.1 Staffing (numbers and types)

The gym employs a total of five (5) staff.

There will be two (2) staff at any one time operating the gym. Occasionally there may be an additional staff member to undertake other duties in the gym while the two (2) are running classes, such as administration tasks or checking/cleaning equipment.

ITEM 1 (continued)

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CouncilApproval.

4 Hours of Operation

4.1 General hours of operation

Hours of operation are 5am to 8:30pm, Monday to Friday, and 5.45am to 12pm, Saturday.

4.2 Schedule of hours of operation (indoors and outdoors)

Key operating times are:

- 5:00am to 8:00am;
- 9:30am to 10:30am;
- 12:00pm to 1:00pm; and
- 4:00pm to 8.30pm.

These times cater for the patrons desired times of use, early morning, mid-morning, lunch, and afternoon/evening.

Occasionally one-on-one personal training sessions may occur outside these key times but within the general hours of operation.

5 Noise

5.1 Noise limit criteria

We have been told that our music must not be audible between the hours of 10pm and 7am. After these hours our music must not be any higher than 5dbL.

Vale Tudo has an acoustic validation report, included as **Appendix A**, to this plan of management, to verify that the gym meets all necessary noise regulations.

5.2 Noise mitigation

Noise mitigation measures have been implemented in accordance with the Acoustic Assessment Report undertaken for the property and use. In addition, an acoustic curtain has been added above the other report recommendations.

The gym will also implement headsets into the pre-7am sessions. These headsets have been made popular via the silent disco theme, our coach will be in control of the music and they will also wear a headset microphone to eliminate any noise coming from coach instruction and encouragement.

5.3 Noise compliant handling

A record of all complaints made to VTT are managed through a noise complaint spreadsheet and the matter dealt with promptly.

ITEM 1 (continued)

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CouncilApproval.

Moving forward we would be open to having a line of communication available between VTT and the local residents, where any concerns regarding noise are raised and dealt with via a process of communication, compromise and action taken to address these concerns.

6 Parking

Patrons of VTT walk to the site where they are residents of the area.

For those patrons outside the immediate area there is a bus stop approximately 50m from the site and 1km to the train station. Use of public transport is encouraged as it promotes movement and mobility in addition to the fitness training.

Patrons who must drive have access to six (6) onsite parking spaces for the tenancy. An agreement is also in place with the proprietor of A1 Autohaus, the adjoining tenant, for early morning and evening use of their parking spaces between 6:30pm -7:45am Monday – Saturday. The written acknowledgement of this is included as **Appendix B**.

While walking and public transport are still the promoted methods of attending the site, this additional parking assists with safety and security when it may be darker and less activity in the area during the early morning and later evening training sessions.

7 Security and Safety

Members access the premises through the front door. There are lighting access points on the inside and outside of the gym. The entrance to the gym also has lighting for early morning access.

Safety is enhanced for staff and members by ensuring that there are a minimum of two staff onsite.

The property has two fire door access points. One in the front of the gym and one at the back. There is also a back to base alarm.

Members have pigeonholes to securely store their personal belongings during classes.

The gym has two first aid kits on site and all trainers have their current first aid certificates.

8 General Amenity

Vale Tudo Training is a family orientated, community based business.

The operation and management of the premises, as outlined, ensures that the general amenity of the area is enjoyed by local residents, businesses, visitors and gym members.

ITEM 1 (continued)

ATTACHMENT 5

Appendix A. Acoustic Validation Report

ITEM 1 (continued)

ATTACHMENT 5



MATTHEW PALAVIDIS
VICTOR FATTORETTO
MATTHEW SHIELDS

20201215112711A/R1/AZ

26/11/2020

Edge Performance

Attn: Josh Amesley

Vale Tinto Training, Ryde - Noise Emissions Assessment

1 INTRODUCTION

This letter has been prepared to summarise the results of the attended noise emission measurements conducted at Vale Tudu Training, Ryde.

Acoustic Logic attended the subject site on 25th November 2020 at 6am to conduct noise emission measurements during early morning operations at the residential receivers adjacent to the site. Located at 12 Nancarrow Avenue, Ryde.

The measurements were conducted following rectification works carried out by the tenant to reduce noise emissions to the residential property opposite.

The gymnasium operates between the hours of 5:00am to 7:30pm, Monday to Friday and 6:00am to 8:00am, Saturday.

2 EXISTING ACOUSTIC ENVIRONMENT

2.1 BACKGROUND NOISE LEVELS

2.1.1 Measurement Equipment

Noise measurements were obtained using a Norsonic 131 Sound Level Analyser, set to fast response. The sound level meter was calibrated before and after the measurements using an Acoustic Vibro SV33B Type 1 Sound Level Calibrator. No significant drift was recorded.

2.1.2 Measurement Location & Period

An attended background noise measurement was conducted on the balcony of Unit 207 of the residential dwelling located at 12 Nancarrow Avenue, Ryde. Attended noise measurements were conducted between

SYDNEY
9 Sarah St
MASCOT NSW 2020
702 8339 8000

ABN 98 145 324 714
www.acousticlogic.com.au

The information in this document is the property of Acoustic Logic Pty Ltd 98 145 224 714 and shall be returned on demand. It is

ITEM 1 (continued)

ATTACHMENT 5

5:00am to 6:00am on Wednesday, 25th November 2020. No adverse weather conditions or significant drift were noted to occur during the time of measurement.

2.1.3 Background Noise Levels

The representative A-weighted background noise level determined from the measurements is presented below.

Table 11 – Background Noise Level dB(A)_{L₉₀}

Location	Period/Time	Noise Level dB(A) _{L₉₀}
12 Nancarrow Avenue	5-6 am	40

*Given the proximity to the facade of the building structure, a minus 2 dB(A) correction has been applied to account for facade reflection.

3 NOISE EMISSIONS ASSESSMENT

A noise emissions assessment has been conducted to determine the nature and characteristics of noise emanating from the subject site. The location of the noise source, its audibility at the residential receivers, the time and duration of the noise source and its characteristics with the subsequent effects it may have on people have all be considered when assessing noise sourcing from the subject site.

The following section outlines applicable noise criteria to be applied when analysing the attended noise measurements conducted during the site visit during the development's early morning operations.

3.1 APPLICABLE NOISE CRITERIA

Measurements have taken place in accordance with the following regulatory documents:

3.1.1 NSW Environment Protection Authority (EPA) document – 'Noise Guide for Local Government 2013'

The NSW EPA document 'Noise Guide for Local Government (NGLG) 2013' has been referenced to assist in interpreting the noise concern emanating from the subject site and to aid council's determination of this raised issue. This noise emissions assessment has been conducted in-line with Part 2 of the NGLG (Noise Assessment).

The guideline references the Protection of Environmental Operations Act 1997 along with Protection of Environmental Operations (Noise Control) regulation 2008 and the EPA Noise Policy for Industry document. All measurements have taken place in accordance with these policies.

Given that the POEA and its relevant regulation document do not provide specific noise control requirements for operational noise of the subject site, it is common to apply a 'background + 5' test when determining the impact or intrusiveness of a particular noise source and is often adopted by council for the assessment of operational noise sources. This noise test is referenced in the NSW EPA's Noise Policy for Industry and is summarised below.

ITEM 1 (continued)

ATTACHMENT 5

3.1.2 NSW Environment Protection Authority (EPA) document – Noise Policy for Industry (NPII) 2017

The NPII provides guidelines for assessing noise impacts from developments. The recommended assessment objectives vary depending on the potentially affected receivers, the time of day, and the type of noise source.

3.1.2.1 Intrusiveness Criterion

The guideline is intended to limit the audibility of noise emissions at residential receivers and requires that noise emissions measured using the L_{eq} descriptor not exceed the background noise level by more than 5 dB(A).

3.1.2.2 Maximum Noise Level Event Assessment (Sleep Disturbance)

The guideline states the potential for sleep disturbance from maximum noise level events during the night-time period (10pm – 7am) needs to be considered.

Where the subject development/premises night-time noise levels at a residential location exceed:

- a. $L_{Aeq, 15min}$ 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater; and/or
- b. L_{Amax} 52 dB(A) or the prevailing RBL plus 15, whichever is the greater.

A maximum noise level event assessment should be undertaken.

The following sleep emergence noise objectives then apply.

Table 2 – Sleep Disturbance Criteria for Residential Receivers

Receiver	Rating Background Noise Level (Night) dB(A) L_{eq}	Emergence Level
Residential Receivers (12 Nancarrow Avenue, Ryde)	40	45 dB(A) $L_{eq, 15min}$ 55 dB(A) L_{Amax}

If there are noise events that could exceed the emergence levels detailed in the table above, then an assessment of sleep arousal impact is required to be carried out, taking into account the level and frequency of noise events during the night, existing noise sources, etc. This more detailed sleep disturbance test is conducted using the guidelines in the EPA Road Noise Policy. Most relevantly, the Road Noise Policy states:

For the research on sleep disturbance to date it can be concluded that:

- a. Maximum internal noise levels below 50-55 dB(A) are unlikely to awaken people from sleep.
- b. One to two noise events per night with maximum internal noise levels of 65-70 dB(A) are not likely to affect health and wellbeing significantly.

ITEM 1 (continued)

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3.1.3 Summarised Noise Objectives

The summarised noise emission objectives are listed in the table below.

Table 3 – Summarised Noise Emission Objectives

Receiver	Time of Day	Noise Emission Objective Level	Sleep Emergence Level
Residential Receivers (12 Nancarrow Avenue, Ryde)	5-7am	45 dB(A) $L_{eq,5-7am}$	45 dB(A) $L_{eq,5-7am}$ 55 dB(A) L_{max}

4 NOISE MEASUREMENTS

Noise measurements following the rectification works were conducted between 5:00am and 6:00am on Wednesday, 25th November 2020.

The measurements were conducted at two locations:

- Within the gymnasium to determine the noise levels generated from the various activities that normally occur.
- On the balcony of Unit 207 of 12 Nancarrow Avenue which faces the gymnasium and would be representative of the most affected receiver given that it is exposed to noise from the front of the building and the roof.

Measurements were conducted with the garage roller shutter door closed as per the recommendations of the previous acoustic report provided by Acoustic Vibration & Noise Pty Ltd (ref 2020-076) for the development. A summary of all measured noise levels is presented in the table below.

Table 4 – Measured Operational Noise Levels

Measured Internal Noise Level ⁽¹⁾	Measured External Noise Level ⁽²⁾
65 dB(A) L_{eq} ⁽³⁾	42 dB(A) L_{eq} (Inaudible) ⁽⁴⁾
70 dB(A) L_{eq} ⁽³⁾	43 dB(A) L_{eq} (Music barely audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)
80 dB(A) L_{eq} ⁽³⁾	45 dB(A) L_{eq} (Music slightly audible (mainly low frequency hum), patron noise and interval timer inaudible, inclusive of ambient noise)

Table Notes:

1. Internal noise levels within the subject site were conducted in a typical operational environment. Measurements were taken during morning class sessions and measured levels have include multiple sources such as patron noise, music from the amplified sound system and noise from the interval timer.

ITEM 1 (continued)

ATTACHMENT 5

2. External noise levels were measured at the balcony of the nearby residential receiver. Given the proximity to the facade of the building structure, a minus 2 dB(A) correction has been applied for facade reflection.
3. This internal noise level is representative of the typical operational noise during morning class sessions. This office has been advised that music from the amplified sound system would typically be within this range, which is a level that would be typically described as "background music".
4. This internal noise level is representative of the amplified sound system level increased to approx 75% (three-quarter volume level).
5. This internal noise level is representative of the amplified sound system level increased to 100% (maximum volume level). This office has been advised that music at this volume rarely occurs during the operation of the subject site.
6. Inaudibility generally occurs when the measured operational noise levels is approximately 7-10dB(A) below the ambient noise level.

4.1 DISCUSSION OF RESULTS

The measurements indicate that even at the highest level at which music can be played, noise from the gym is not clearly above the ambient noise level, and not sufficiently above the ambient to obtain an accurate noise level contribution from the gym.

Notwithstanding, the noise level can be estimated using the measurements obtained with music at 80 dB(A). This produced an increase in noise level of 3 dB(A) compared to music at 65 dB(A) where the music was inaudible. This suggests the contribution of noise was 42-43 dB(A) L_{eq} when music was played at 80 dB(A).

It follows then that at 70 dB(A) the music noise level at the residence would be 32-33 dB(A), and at 65 dB(A) 27-28 dB(A).

It was noted that noise from the gym was low frequency in character. Hence, a 5 dB(A) penalty will be applied in accordance with NPII guidelines.

After applying this penalty, the results of the measurements infer that provided music is kept below 77 dB(A) noise levels will comply between 5am and 7am provided the roller shutter door is closed.

In the event that the garage roller shutter door is opened between these hours, the volume of music inclusive of other sources from noise occurring from the general use of the facility is to be kept at a maximum of 75 dB(A) L_{eq} to avoid disruption to the amenity of the adjacent residences.

ITEM 1 (continued)

ATTACHMENT 5

S: CONCLUSION

An assessment of operational noise emissions emanating from Vale Tudo Training, located at 25-29 Nancarrow Avenue, Ryde has been conducted.

The measurements confirm that typical operational noise emissions between 5am and 7am are compliant with the NSW EPA Noise Policy for Industry (NPII) 2017 guidelines provided the volume of music is kept below 75 dB(A) L_{eq} which corresponds to approx 80% of the maximum volume setting on the system amplifier.

Please contact us should you have any further queries.

Yours faithfully,



Acoustic Logic Pty Ltd
Adrian Zappia

ITEM 1 (continued)

ATTACHMENT 5

Appendix B. Parking agreement

ITEM 1 (continued)

ATTACHMENT 5



A1 Car Parking / letter from Vale Tudo Training Neighbour

1 message

Vale Tudo Ryde <ryde@valedutotraining.com.au>

Wed, Nov 4, 2020 at 3:20 PM

To: 'Elise Short, Council Approval Group' <elise@councilapproval.com.au>

Hi Josh and Troy,

I hope you are both doing well during this difficult year.

Please be advised that I am more than happy to assist you and all your members with the use of A1 Autohaus outdoor car parking areas:

This will be available to you from the hours of 6:30pm - 7:45am Monday - Saturday

If you require anything else please give me a call at the workshop.

Kind Regards,

Adam Hales | Director | A1 Autohaus Pty Ltd

Unit 4, 2522 Narellan Ave, Ryde NSW 2112

Ph: 02 8964 0088 | www.a1autohaus.com.au |

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