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| <b>Date of Determination</b>    | 7 April 2022   |
| <b>Panel Members</b>            | Marcia Doheny (Chair)<br>Graham Brown (Independent Expert)<br>Brett Newbold (Independent Expert)<br>Donna Gaskill (Community Representative) |
| <b>Apologies</b>                | NIL  |
| <b>Declarations of Interest</b> | NIL  |

Public meeting held remotely via teleconference on 7 April 2022, opened at 5:00pm and closed at 6:51pm.  
 Papers circulated electronically on 30 March 2022.

#### **MATTER DETERMINED**

APL2021/0004 (Review of LDA2020/0380)

1 Meriton Street Gladesville

**Proposal:** Use and internal fit out for a 24/7 Snap Fitness Gym.

The following people addressed the meeting:

1. Clr Roy Maggio
2. Mark Putnam (submitter) - registered but did not speak
3. Brad McNamara (submitter) - spoke in support
4. Greg Pobke (submitter)
5. Vivian Mystakas (submitter)
6. Diane Loudon (submitter)
7. Sona Derakhti (submitter) - did not attend
8. Fiona & Ron Hay (submitters) - did not attend
9. Paul Walker (on behalf of Owners Corp 8 Wharf Rd)
10. Lisa Wray (submitter) - was not registered
11. Gavin Wilson (submitter) - was not registered
12. William Tait & Valeria Lim (applicant) - attended only to answer questions (did not speak)

#### **PANEL CONSIDERATIONS AND DECISION**

The Panel considered the matters listed at item 6, the material listed at item 7, and the material presented at meetings and briefings listed at item 8 in Schedule 1.

#### **DEVELOPMENT APPLICATION**

The Panel determined to **approve** the development application as described in Schedule 1, pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

## REASONS FOR THE DECISION

The Panel determined to **approve** the application for the following reasons:

- 1) Further recommendations have been detailed in the Plan of Management, and imposed by conditions of consent, that will mitigate any unacceptable acoustic impact to adjoining properties.
- 2) The shortfall in parking spaces will not result in an adverse impact upon on-street parking demand in the vicinity of the site.
- 3) The proposal is consistent with the objectives of the B4 Mixed Use zone.
- 4) The proposal is suitable for the site.
- 5) The proposal is not contrary to the public interest.
- 6) The reasons the development was originally refused for have been resolved.
- 7) The submissions received have been addressed in the assessment report.
- 8) Condition 43 will mean that the use will no longer be authorised if testing identifies that the applicable noise and vibration levels are not being met during operation.

The Panel adopts the recommendation and reasons for approval as outlined in the Assessment Officer's report subject to the below amendments and the addition of the above reason 8.

## CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments to conditions:

**Condition 43: Council may require an acoustical consultant's report** - If required by Council, acoustic compliance testing and vibration testing is to be completed. The assessment is to be carried out by an appropriately qualified person, being a member of either the Australian Acoustical Society (AAS) or Association of Australasian Acoustic Consultants (AAAC), and an acoustic compliance report and vibration report submitted to Council within 14 days of testing. Council may undertake testing to verify the relevant acoustic & vibration criteria are being met once the use is operational.

- a) The acoustic testing shall be undertaken between the hours of 10pm and 7am where the gym is being used by at least two patrons at the same time.
- b) Following the acoustic testing, verification is to be provided from Snap Fitness that two patrons where using the gym during the testing. If this requirement is not satisfied, the acoustic testing shall be repeated.
- c) This report should include details verifying that the noise control measures recommended in the Acoustic Report referred to in conditions No. 12 and 13 are attenuating noise to an acceptable noise level in accordance with the relevant criterion.
- d) Noise monitoring shall be undertaken at the nearest sensitive receiver as identified in the Acoustic Report and any other location to determine compliance with the relevant criterion as identified in the Acoustic report referred to in condition No. 12.

Should the noise and vibration levels exceed the relevant criteria during compliance testing by either the Council or the applicant, additional noise mitigation or management measures may be required to be implemented. Details are to be submitted to Council for approval of any mitigation or management measures. The proponent is then to implement these measures within 14 days of Council confirming its acceptance of the additional measures. If Council receives confirmation that the noise and/or vibration levels exceed any applicable criteria, the use of the premises is to cease immediately until further action has been taken and Council has confirmed that it approves the use be recommenced.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

The issue of precedent was raised, but considered not determinative by the Panel, as each application is to be assessed and determined on its own merits.

| PANEL MEMBERS         |  |
|-----------------------|--|
| Marcia Doheny (Chair) |   |
| Graham Brown          |  |
| Brett Newbold         |  |
| Donna Gaskill         |  |

**SCHEDULE 1**

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|----------|--|---|
| <b>1</b> | <b>DA No.</b>                            | APL2021/0004 (LDA2020/0380)   |
| <b>2</b> | <b>Proposal</b>                          | Use and internal fit out for a 24/7 Snap Fitness Gym  |
| <b>3</b> | <b>Street Address</b>                    | 1 Meriton Street, Gladesville   |
| <b>4</b> | <b>Applicant / Owner</b>                 | Margaret Roberts / BridgeLane Property 12 Pty Ltd   |
| <b>5</b> | <b>Reason for referral to RLPP</b>       | Section 8.3(5) Environmental Planning and Assessment Act 1979. Development Application was originally determined by the Local Planning Panel.   |
| <b>6</b> | <b>Relevant mandatory considerations</b> | <ul style="list-style-type: none"> <li>• Section 8.2 Reviews</li> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>○ Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>○ Ryde Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft Remediation of Land State Environmental Planning Policy</li> <li>○ Draft Environment SEPP</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Ryde Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul> |
| <b>7</b> | <b>Material considered by the Panel</b>  | <ul style="list-style-type: none"> <li>• Council assessment report</li> <li>• Written submissions during public exhibition: 23</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support - Brad McNamara</li> <li>○ In objection - Clr Roy Maggio, Greg Pobke, Vivian Mystakas, Diane Loudon, Paul Walker, Lisa Wray, Gavin Wilson</li> <li>○ Council assessment officer – Daniel Pearse (Engineer)</li> <li>○ On behalf of the applicant - Nil</li> </ul> </li> </ul>   |

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|    |  | <ul style="list-style-type: none"> <li>• Letter from Maddison Marcus Law Firm, dated 7 April 2022, on behalf of the Owners Corporation at Billyard 1 Meriton St Gladesville</li> <li>• Email to the Panel from Greg Pobke, dated 7 April 2022</li> </ul>   |
| 8  | <b>Meetings, briefings and site inspections by the Panel</b> | <ul style="list-style-type: none"> <li>• Site inspection: At the discretion of Panel members due to COVID-19 restrictions</li> <li>• Briefing: 7 April 2022</li> </ul> <p>Attendees:</p> <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Marcia Doheny (Chair), Graham Brown, Brett Newbold, Donna Gaskill</li> <li>○ <u>Council assessment staff</u>: Sandra Bailey, Madeline Thomas, Daniel Pearse, Cameron Smith</li> </ul> <ul style="list-style-type: none"> <li>• Papers were circulated electronically on 30 March 2022</li> </ul> |
| 9  | <b>Council Recommendation</b>                                | <b>Approval</b>  |
| 10 | <b>Draft Conditions</b>                                      | Attachment 1 to the Council assessment report  |