

Item 1
**1 Meriton Street, Gladesville - APL2021/0004 (LDA2020/0380)
 Use and internal fit out for a 24/7 Snap Fitness Gym**
Report prepared by: Senior Coordinator - Development Assessment

Report approved by: Manager - Development Assessment

Director - City Planning and Environment

**City of Ryde
 Local Planning Panel Report**

DA Number	APL2021/0004
Site Address & Ward	1 Meriton Street, Gladesville East Ward
Zoning	B4 Mixed Use under RLEP 2014
Proposal	Use and internal fit out for a 24/7 Snap Fitness Gym.
Property Owner	BridgeLane Property 12 Pty Ltd
Applicant	Margaret Roberts
Report Author	Madeline Thomas – Senior Coordinator Development Assessment
Lodgement Date	6 August 2021
No. of Submissions	Twenty (20) submissions objecting to the development Three (3) submissions in support of the development
Cost of Works	\$475,200.00
Reason for Referral to LPP	Section 8.3(5) Environmental Planning and Assessment Act 1979. Development Application was originally determined by the Local Planning Panel.
Recommendation	Approval
Attachments	Attachment 1: Conditions of consent Attachment 2: Architectural Plans Attachment 3: Plan of Management

	Attachment 4 – Assessment Report for LDA2020/0380 Attachment 5 – LPP determination and Statement of Reasons for LDA2020/0380 Attachment 6– Peer review of Acoustic Report prepared by Acoustic Dynamics dated 9 December 2021
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1. Executive Summary

The subject development application, APL2021/0004, is a Section 8.3 review of determination of LDA2020/0380 which sought consent for the use and internal fit out for a 24/7 Snap Fitness Gym at 1 Meriton Street, Gladeville. The application was refused by the Ryde Local Planning Panel on 13 May 2021.

Development Application LDA2020/0380 was determined by the Ryde Local Planning Panel as it was a contentious development, receiving in excess of ten (10) submissions objecting to the development. The review of determination, in accordance with Section 8.3(5) of the Environmental Planning and Assessment Act 1979 is reported to the Ryde Local Planning Panel for determination.

The reasons the panel refused Development Application LDA2020/0380 included the proposal's unacceptable impact on surrounding properties with respect to noise and vibration, as well as the insufficient parking provided to address the parking demands generated by the change of use.

The applicant has provided additional information to facilitate this review of the determination of LDA2020/0380, including the following:

- A peer review of the original Acoustic report, including additional recommendations to mitigate noise and vibration for adjoining properties.
- An amended Plan of Management incorporating recommendations from the Acoustic report.
- An amended Traffic and Parking Assessment, including a parking survey.

The amended documentation provided, which includes detailed acoustic recommendations, has demonstrated that the impact of the proposed development to adjoining properties will not be unreasonable, and can be mitigated subject to the adoption of these recommendations and conditions of consent.

Furthermore, the amended Traffic and Parking Assessment provided by the applicant has demonstrated that the proposed use will likely have a lower parking demand such that the proposal is unlikely to have any ramifications relating to parking above that of the current approved use for retail or potentially a café / restaurant.

The review of the application has determined that the amended information has adequately addressed the original reasons for refusal and it is recommended that the Ryde Local Planning Panel change the decision and grant consent to the application.

2. The Site & Locality

The site is known as Shop G03-G05 at 1 Meriton Street, Gladesville, and is the ground floor tenancy (Lots 1, 2 and 3) in SP 100131.

1 Meriton Street contains a recently constructed Part 3/ Part 6 and Part 7 storey mixed use development, and is located on the corner of Meriton Street and Victoria Road. The existing building contains one other retail premises on the ground floor that is currently used as a kitchen showroom (located on the corner of Meriton Street and Victoria Road) and fifty-one (51) residential apartments on the floors above the ground floor retail tenancies. Two (2) ground floor apartments are also located adjacent to the subject tenancy.

The subject tenancy has an area 445m² and has a frontage to Victoria Road. The tenancy is currently vacant and was approved as a “retail tenancy” under LDA2015/0156.



Figure 1: Aerial Photograph of subject site

The site is within the Gladesville Town Centre, and is located on Victoria Road, which is a key transportation corridor. The site is within a well-established mixed use area, with mixed use buildings located to the south and west, and commercial development with shop top housing situated to the north along Victoria Road. Gladesville Public School is located to the north west of the subject site.



Figure 2: Extract of location plan showing location of tenancy within existing building



Figure 3: External photograph of the subject tenancy as viewed from Victoria Road



Figure 4: External photograph of subject site as viewed from the corner of Meriton Street and Victoria Road

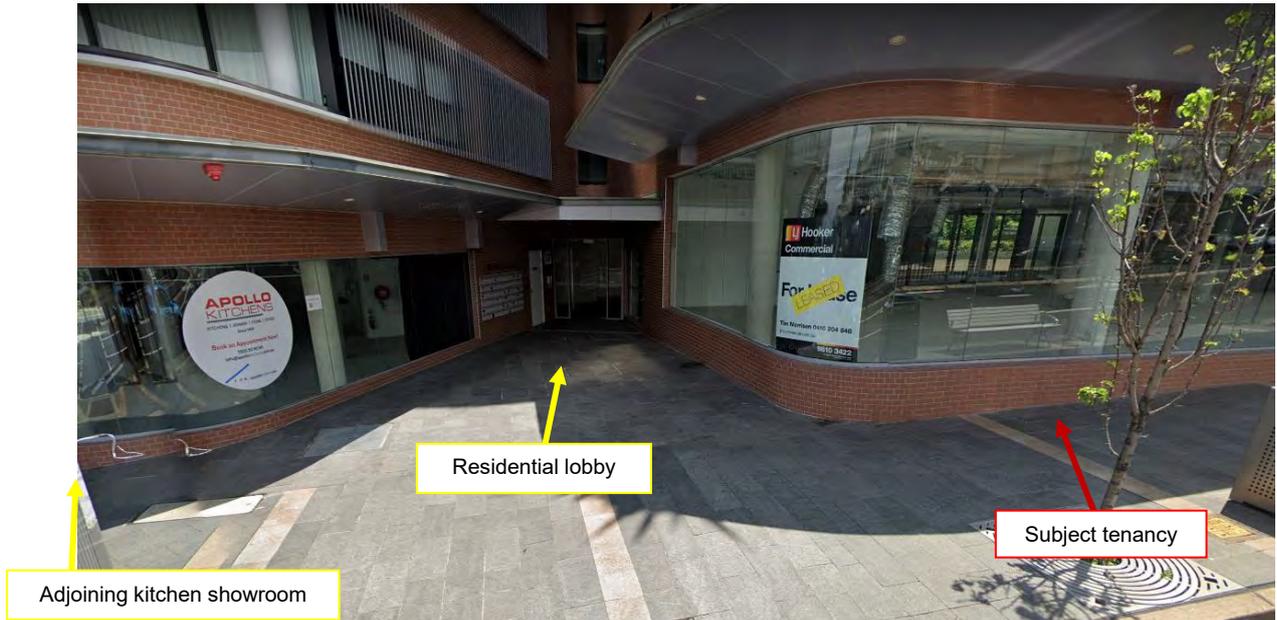


Figure 5: External photograph of subject tenancy and adjoining residential lobby

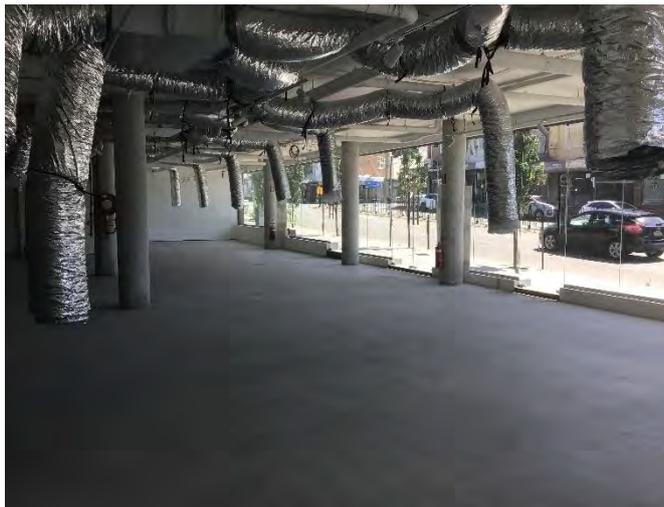


Figure 6: Photograph taken within subject tenancy near entrance (looking toward Victoria Road)



Figure 7: Photograph taken within subject tenancy near entrance (looking toward rear of tenancy)



Glass enclosure approved under CDP2020/0261

Figure 8: Photograph at the rear of subject tenancy



Figure 9: Photograph of lift at rear of tenancy providing access from basement



Figure 10: Photograph of outdoor area at the rear of tenancy

3. The Review

The subject application is a review of the RLPP’s decision to refuse LDA2020/0380. The proposal seeks consent for the use and internal fit out for a 24/7 Snap Fitness Gym. Details of the proposal are below:

Consolidation

The proposal involves consolidation of the three retail units (i.e. G03, G04 and G05) to facilitate the open layout of the proposed gym. Two of the existing entries to the subject tenancy are proposed to be closed off, and the central entry is proposed to be maintained as the main entrance. The existing tenancy plan is shown in **Figure 11** below.

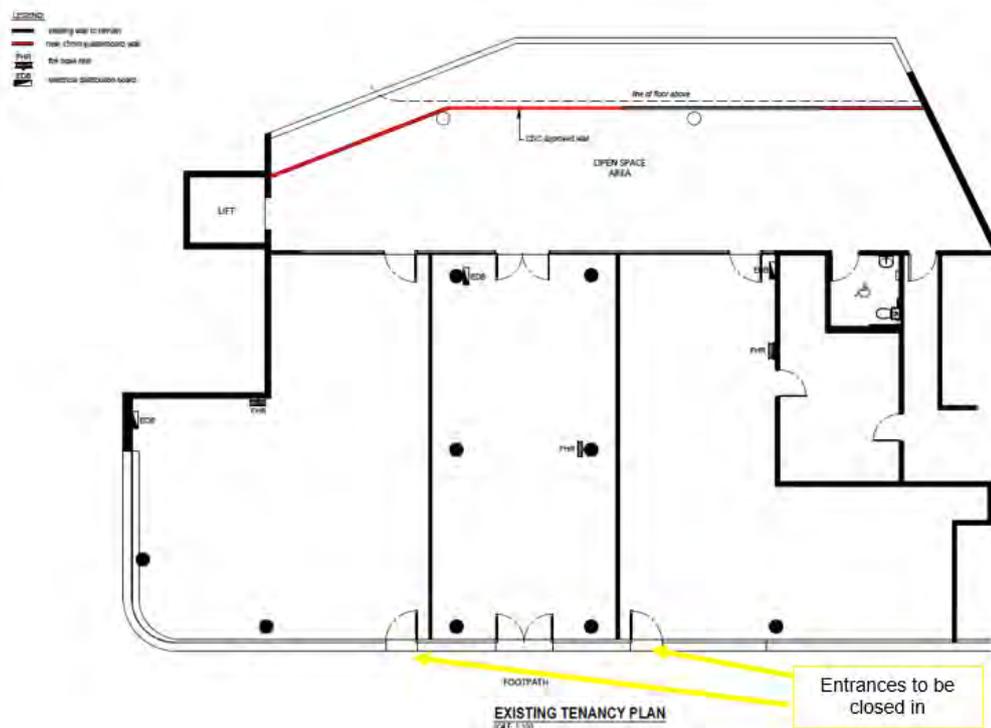


Figure 11: Existing tenancy plan (location of entrances to be removed shown in yellow)

Fit out of gymnasium

The proposal involves the fit out as follows:

- Provision of a reception area near the main entry from Victoria Road
- Cardio and stretch area located at the front of the tenancy
- Weights and strength training area
- Sled track
- 2 additional showers and toilets. The existing disabled toilet will remain unchanged
- Studio area at the rear of the tenancy which is to be used for classes. Under the revised Plan of Management submitted under this review, the applicant is restricting the use of the rear studio area so that no access is permitted between 4pm and 7am.

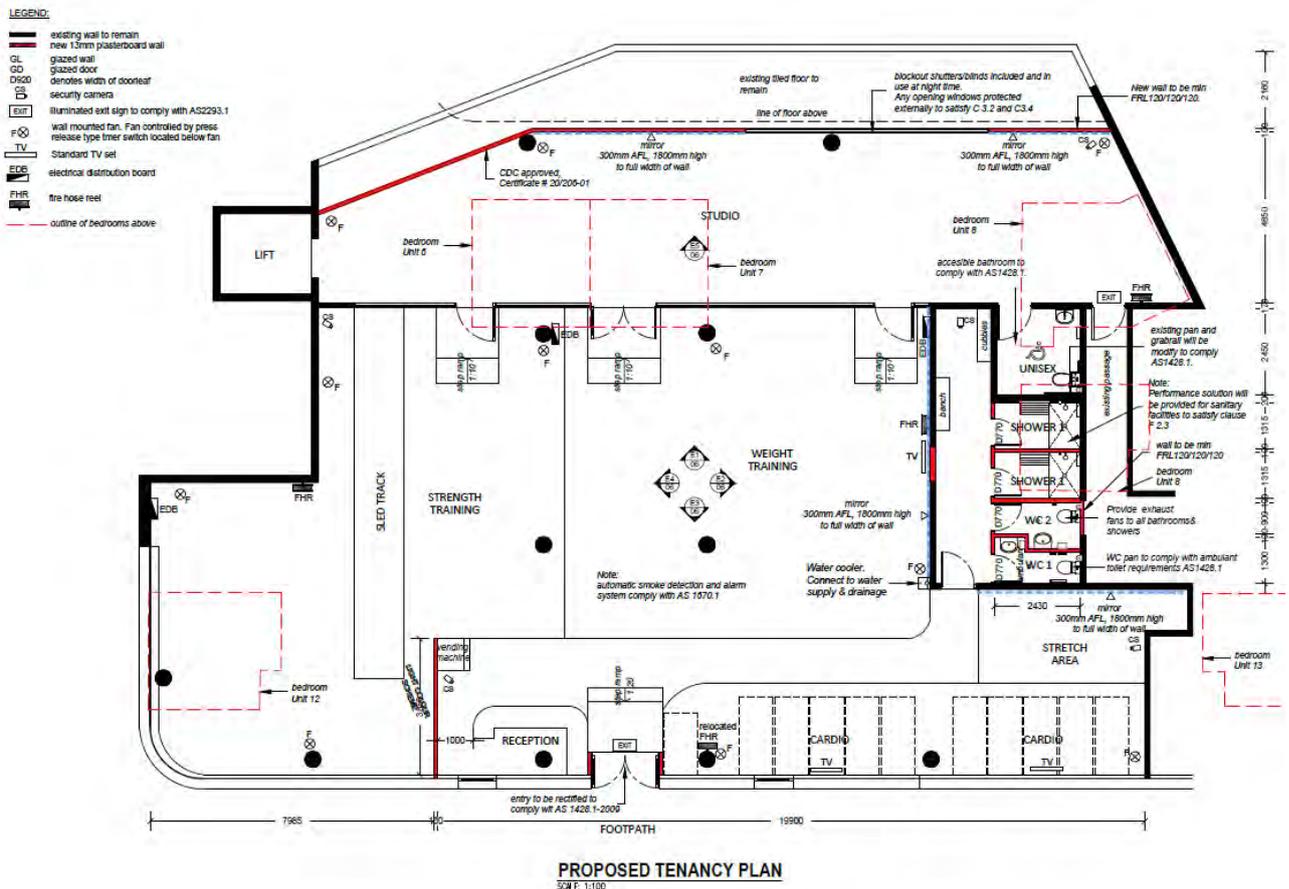


Figure 12: Proposed fit out plan

Proposed operation of gymnasium

Hours of operation

The gym is proposed to be operational 24 hours/ 7 days a week. Within the operational hours, the staffed hours are proposed to be:

- Monday to Thursday – 10am to 7pm

- Friday – 10am to 2pm
- Saturday – 9am to 1pm
- Sunday – unstaffed

No classes would be held outside of staffed hours.

It is also proposed to have a limit of 6 people at one time in a class. It is noted that the original DA proposed a limit of 15 people per class. This has been reduced to mitigate noise during classes.

Gym equipment/machinery

The gym equipment proposed includes the following:

- Cardio equipment such as bikes, rowing machines, treadmills and climbing machines
- Free weights, including dumbbells, barbells, medicine balls and bench press
- Pin weight machines
- Battle ropes

Parking

- The proposal seeks to utilise the four (4) parking spaces allocated to the two retail premises under the previous approvals. The Applicant has identified that these spaces will be used by staff only, and that street parking and surrounding car parks will be available for club members and staff to use.

Key changes from refused development under LDA2020/0380

In summary, the key changes proposed under the Section 8.3(3) review include:

- Further measures enforced by Plan of Management and Acoustic Report recommendations, including:
 - Restricting free weights (dumbbells, barbell, kettlebells, plates, medicine balls) and pin loaded machines to areas within the gym where appropriate isolating flooring has been installed.
 - Frames and equipment fasteners to be de-coupled from the building structure via the use of resilient pads or sleeves.
 - Restricting playback of music and any amplified instructors to an audible level where conversation can be conducted without effort.
 - Reducing maximum class sizes from 15 to 6 people.
 - Reducing the hours of when classes will be held to staffed hours listed above (i.e. Monday to Thursday – 10am to 7pm; Friday – 10am to 2pm; Saturday – 9am to 1pm)
 - Prohibiting the use of the studio area between the hours of 4pm and 7am.
- Details on isolated flooring for specific areas within the proposed gym (see **Figure 13** below within referrals section of report).

4. History

4.1 Site history

<p>28 October 2015</p>	<p><u>LDA2015/0156 – Approval of mixed use development</u></p> <p>On the 28 October 2015, the Sydney North Planning Panel approved a development application for the demolition of existing structures, site works and construction of a part 3/ part 6/ part 7 storey mixed use development containing retail and residential uses over 2 levels of basement. The approved development included three (3) retail tenancies, one of which is the occupied kitchen showroom, and two of which form the subject tenancy.</p> <p>Under LDA2015/0156, a shortfall of eleven (11) retail parking spaces was considered acceptable given additional Section 94 (now 7.11) contributions were charged to accommodate the shortfall of parking spaces.</p> <p>This development has been fully constructed, and the residential units are now occupied.</p>
<p>29 April 2016</p>	<p><u>MOD2016/0047 – modification to LDA2015/0156</u></p> <p>A Section 4.55 (formerly Section 96) application was approved by Council on 29 April 2016 to modify LDA2015/0156 to remove the substation, convert space into retail floor space and plant room, minor changes to the basement configuration, removal of retail service lifts, reconfiguration of entry door and the extension of the awning.</p> <p>This application approved a floor space ratio of 2.53:1(4,598m²), which exceeds the maximum floor space ratio of 2.5:1 applicable to the site. The overall retail floor space approved equates to 442.5m². This approved retail space incorporates all three retail premises across the site, including the current kitchen showroom.</p> <p>The increase in retail floor space approved under MOD2016/0047 resulted in a further shortfall of one parking space, with a total shortfall of twelve (12) parking spaces.</p>
<p>18 June 2020</p>	<p>A Complying Development Certificate was approved by a Private Certifier on 18 June 2020 for the erection of a glass enclosure at the rear of the terrace. This enclosure has been constructed and can be seen in Figure 8 above.</p>

	<p>It is noted that the enclosure of the terrace by the glass wall has contributed to an additional 150.4m² of floor space for the retail tenancy, additional to what was approved under LDA2015/0156 and MOD2016/0047. This CDC has not been declared invalid.</p>
<p>23 September 2020</p>	<p><u>CDP2020/0521 – Complying Development approval for Strata Subdivision</u></p> <p>A Complying Development Certificate was approved by a Private Certifier on 23 September 2020 for the strata subdivision of the building, including the strata subdivision of the two retail tenancies into three retail tenancies (i.e. G03, G04 and G05).</p>
<p>13 May 2021</p>	<p>Development Application LDA2020/0380 for the use and internal fit out for a 24/7 Snap Fitness Gym was refused by the Ryde Local Planning Panel. The application was refused for the following reasons:</p> <ol style="list-style-type: none"> 1. <i>In accordance with Section 4.15(1)(a), the development does not comply with the following planning provisions:</i> <ul style="list-style-type: none"> • <i>Ryde Local Environmental Plan 2014 in that the proposal is inconsistent with the B4 Mixed Use zone objectives, as the proposal is incompatible with the surrounding residential uses.</i> • <i>Part 9.3 of the Ryde Development Control Plan 2014 in that the proposal does not provide adequate parking to meet the parking demand generated for the proposed use.</i> 2. <i>In accordance with Section 4.15(1)(b), the likely impacts due to noise and vibration of the development are unreasonable. Inadequate information has been provided to demonstrate that the adverse noise and vibration impacts caused by the use and fit out of the premises can be satisfactorily mitigated.</i> 3. <i>In accordance with Section 4.15(1)(c) the site is unsuitable for the proposed development given the proposal's incompatibility with surrounding land uses.</i> 4. <i>The approval of the proposed development is not in the public interest in accordance with Section 4.15(1)(e).</i>

4.2 Application History

6 August 2021	Review of Determination Application APL2021/0004 to Development Application No. LDA2020/0380 was lodged proposing the use and internal fit out for a 24/7 Snap Fitness Gym.
9 August – 30 August 2021	The review of determination was notified to surrounding properties and objectors of the original DA. In response, twenty-three (23) submissions were received; twenty (20) objecting to the proposed development and three (3) in support of the proposed development.
19 November 2021	<p>A letter was sent to the applicant requesting additional information, as follows:</p> <p><u>Parking</u></p> <p><i>The proposed development is short of the required parking however the applicant has submitted information in the supplementary traffic report which has presented that the gym is likely to have a lower traffic demand than conventional gym operations. Further details are required with comparisons of other Snap Fitness gyms in similar environments to the proposed development to demonstrate this.</i></p> <p><i>In addition, it is noted that the increased parking shortfall is of concern in that the development may negatively impact on-street parking availability.</i></p> <p><i>Noting that the peak periods are claimed to be Monday and Tuesday between 4pm – 7pm, this period also coincides with the peak demand for resident on-street parking. As such, there is potential that the current level of on-street parking conditions in the area are already saturated. If the applicant could verify this by parking survey over these periods, then there is a case that the proposal will not have a discernible impact on parking availability as the on-street parking capacity is already fully occupied much of that time in any case.</i></p> <p><u>Acoustic</u></p> <p><i>The peer review report from Acoustic Dynamics clarifies some of the concerns that were raised by City of Ryde, however, not all of the points previously raised by the Environmental Health Officer have been addressed.</i></p> <ol style="list-style-type: none"> <i>1. Recommendations have been made restricting the use of weights to areas of the gym that will not impact the closest residential receivers. City of Ryde requires updated detailed plans of the layout of the gym and descriptions of how these areas that are going to obtain 'loud' gym equipment will not have an impact on adjacent residents.</i>

	<p>2. <i>There is no mention of team training in either report and how loud these activities will be. City of Ryde has experience in dealing with gyms that are producing offensive noise during training classes and this activity must be assessed. Noise in classes can consist of louder than normal music, yelling of instructors and frequent and repetitive weight dropping. These classes will also be held in the early hours of the morning at times where sleep disturbance is highly likely.</i></p> <p>3. <i>City of Ryde still has concerns that multiple residents in the building have raised concerns in relation to noise relating to the operation of the proposed gym. In response to this, the Plan of Management should include a section related to noise complaints and how they will be managed.</i></p> <p>4. <i>Acoustic Dynamics have provided contradicting information in relation to inaudibility that needs to be clarified. They have stated that the noise produced by weight dropping will be inaudible (this will be the only noise source from 10pm to 7am) however, the report also states that this is an unreasonable expectation that City of Ryde is enforcing. Before this application can proceed further, City of Ryde will require clarification that weight dropping will be inaudible and this is incorporated into the Plan of Management.</i></p> <p><i>As such, amended Acoustic and Parking reports are required to be submitted to address the above concerns.</i></p>
10 December 2021	<p>Additional information was submitted via the Planning Portal addressing the RFI letter dated 19 November 2021. This information included:</p> <ul style="list-style-type: none"> • A revised Acoustic Assessment. • A supplementary parking assessment statement. • A revised Plan of Management.

5. Planning Assessment

5.1 Section 8.2 Reviews

PROVISION	COMMENT
Section 8.2 determinations and decisions subject to review	
<p>Section 8.2 (1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:</p> <p>(a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),</p> <p>(b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),</p> <p>(c) the decision of a council to reject and not determine an application for development consent.</p>	<p>The subject application is prescribed as a type pursuant to Section 8.2(1)(a).</p>
<p>(2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division:</p> <p>a) a complying development certificate, (b) designated development, (c) Crown development</p>	<p>The review is of a development application which was not a designated or crown development.</p>
8.3 Application for and conduct of review	
<p>(2) A determination or decision cannot be reviewed under this Division—</p> <p>a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or</p> <p>b) after the Court has disposed of an appeal against the determination or decision.</p>	<p>The application was determined on 13 May 2021, which is within the prescribed period under the COVID amendments.</p> <p>The lapsing date for the period is therefore 13 May 2022 as per subclause 8.10(1)(b).</p> <p>The application has been lodged and this report has been prepared prior to this date.</p>

<p>Section 8.10 of the COVID-19 Legislation Amendment (Emergency Measures – Miscellaneous) Act 2020, states the following in relation to the time within which appeals may be made:</p> <p><i>(1) An appeal under this Division (except by an objector) may be made only within the following periods after the relevant date (being the date the decision appealed against is notified or registered on the NSW planning portal or the date of deemed refusal under section 8.11)—</i></p> <p><i>(a) 6 months after the relevant date, if the relevant date occurs after the prescribed period, or</i></p> <p><i>(b) 12 months after the relevant date, if the relevant date occurs—</i></p> <p><i>(i) during the prescribed period, or</i></p> <p><i>(ii) during the 6-month period immediately before the prescribed period.</i></p> <p><i>(2) An appeal under this Division by an objector may be made only within the following periods after the relevant date (being the date the objector is notified of the decision appealed against)—</i></p> <p><i>(a) 28 days after the relevant date, if the relevant date occurs after the prescribed period, or</i></p> <p><i>(b) 56 days after the relevant date, if the relevant date occurs—</i></p> <p><i>(i) during the prescribed period, or</i></p> <p><i>(ii) during the 28-day period immediately before the prescribed period.</i></p> <p><i>In this Section - The prescribed period means the period commencing 25 March 2020 and ending on 25 March 2022.</i></p>	
<p>(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.</p>	<p>In accordance with Section 8.3(3), The applicant has made amendments to the application. The amendments made by the applicant include:</p> <ul style="list-style-type: none"> • Amended Traffic and Parking report, including a parking survey and breakdown of preliminary members in relation to the distance to the site.

	<ul style="list-style-type: none"> • Peer review of Acoustic report with additional recommendations for mitigating acoustic impact on surrounding residents. • Further measures enforced by Plan of Management and Acoustic report recommendations, including: <ul style="list-style-type: none"> ○ Restricting free weights (dumbbells, barbell, kettlebells, plates, medicine balls) and pin loaded machines to areas within the gym where appropriate isolating flooring has been installed. ○ Frames and equipment fasteners to be de-coupled from the building structure via the use of resilient pads or sleeves. ○ Restricting playback of music and any amplified instructors to an audible level where conversation can be conducted without effort. ○ Reducing maximum class sizes from 15 to 6 people. ○ Reducing hours classes will be held to staffed hours listed above (i.e. Monday to Thursday – 10am to 7pm; Friday – 10am to 2pm; Saturday – 9am to 1pm) • Details on isolated flooring for specific areas within the proposed gym. <p>The application as amended is substantially the same development as the development described in the original application.</p>
(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	As the original determination was made by the LPP, this review must also be conducted by the LPP.
8.4 Outcome of review	
After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.	As a consequence of the review, it is recommended that the decision to refuse LDA2020/0380 be changed to approval.
8.5 Miscellaneous provisions relating to reviews	
(1) The regulations may make provision for or with respect to reviews under this Division, including— a) specifying the person or body with whom applications for reviews are to be lodged and by whom applications for reviews and the results of reviews are to be notified, and setting the period within which reviews must be finalised, and b) declaring that a failure to finalise a review within that time is taken to be a	The application has been notified in accordance with the Ryde Community Participation Plan. Twenty (20) submissions were received objecting to the development, and three (3) submissions were received in support of the development. The assessment of the application has been finalised within the allowable time frame of 12 months.

confirmation of the determination or decision subject to review.	
(2) The functions of a consent authority in relation to a matter subject to review under this Division are the same as the functions in connection with the original application or determination.	The development application was refused by the LPP. The subject review is being determined by the LPP, with alternate panel members to that of the original proposal.
(3) If a decision to reject an application for development consent is changed on review, the application is taken to have been lodged on the date the decision is made on the review.	Noted.
(4) If a determination is changed on review, the changed determination replaces the earlier determination on the date the decision made on the review is registered on the NSW planning portal.	The determination is recommended to be changed.
(5) Notice of a decision on a review to grant or vary development consent is to specify the date from which the consent (or the consent as varied) operates.	The notice of determination will include a specified date.
(6) A decision after the conduct of a review is taken for all purposes to be the decision of the consent authority.	Noted.
(7) If on a review of a determination the consent authority grants development consent or varies the conditions of a development consent, the consent authority is entitled (with the consent of the applicant and without prejudice to costs) to have an appeal against the determination made by the applicant to the Court under this Part withdrawn at any time prior to the determination of that appeal.	Noted.

5.2 Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy No. 55 – Remediation of Land		
The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.	During the assessment of the development application for the existing building, Council assessed that the site was suitable for both retail and residential use. As such, further investigation is not warranted, and the site is suitable for the proposed indoor recreation development in this regard.	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017		
The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to	The proposal does not involve the removal of, nor does it result in any impact on, any trees within the subject site or adjoining the subject site.	Yes

<p>the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>		
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
<p>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.</p>	<p>Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.</p>	<p>Yes</p>

Ryde Local Environmental Plan 2014 (RLEP 2014)

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

The objectives of this zone are:

- *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.*

The original application was not considered to meet the first objective in relation to compatibility of its location. The applicant has provided further measures to mitigate the acoustic impact of the proposed use. As such, the proposal is considered to be consistent with the objectives of the B4 Mixed Use zone.

The following table provides a summary of the key provisions that apply to the proposal:

RLEP 2014	Proposed	Compliance
4.4 Floor Space Ratio		
Maximum FSR – 2.5:1.	<p>The maximum floor space ratio applicable to the site is 2.5:1. It is noted that the approved development for the mixed use building was 2.53:1.</p> <p>The proposal does not result in any change to the existing gross floor area of the subject tenancy.</p>	N/A
5.10 Heritage Conservation		
<p>(5) Heritage assessment. The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located or</p> <p>(b) on land that is within a heritage conservation area or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b).</p>	<p>Subclause 4 of Clause 5.10 requires the consent authority to consider the effect of the proposed development on the heritage significance of the heritage item or conservation area. The site has not been identified as a heritage item or within a conservation area.</p> <p>The site is within proximity of a number of heritage items, including Gladesville Public School and the Clock Tower at the intersection of Victoria Road and Meriton Street.</p> <p>The subject application will not result in any significant changes to the external appearance or footprint of the building, as such there will be no undue impact to the heritage significance of the nearby items.</p>	Yes

5.3 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</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. Refer to conclusions made in relation to SEPP 55.</p>	Yes

<i>when development consent is required for remediation work.</i>		
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 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 	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	<p>Yes</p>

5.4 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

The following sections of Ryde DCP 2014 are of relevance, being:

- Part 4.6 – Gladesville Town Centre & Victoria Road Corridor
- Part 9.1 – Signage
- Part 9.3 – Car Parking

Part 4.6 - Gladesville Town Centre & Victoria Road Corridor

The site falls within the North Gladesville Precinct of this Part of DCP2014. The controls of this Part of Ryde DCP 2014 predominantly relate to the built form of structures, such as height, setbacks etc. Limited controls therefore apply, except those relating to Active Street Frontages.

The proposal complies with the active frontage controls, as it provides for an active use on the Victoria Road frontage.

Part 9.1 Signage

The Applicant has stated that signage does not form part of this application, and would be subject to a future development application.

Part 9.3 – Parking Controls

In the referrals section below, Council's Senior Development Engineer has identified that the shortfall in parking for the proposed change of use is four (4) spaces.

The applicant has provided additional information to support the shortfall in parking:

- The parking survey provided has demonstrated that parking occupancy during the peak period of the proposed operation (i.e. Monday-Tuesday from 4pm to

- 7pm) is at a high occupancy rate (of 85%) and would therefore be considered to be saturated. This would dissuade customers driving to the gym.
- Information provided of other Snap Fitness gyms in the Sydney region operating similarly to the proposed use has indicated these gyms generally accommodate local patrons only.
 - The above factors result in a lower parking demand than a conventional gym model.

The above reasons are supported by Council. As such, the proposal is unlikely to have any more ramifications relating to parking than if the tenancy was approved for retail or potentially a café/restaurant. The shortfall in car parking and refusal reason 1 (dot point 2) is resolved.

5.5 Planning agreements or draft planning agreements

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

5.6 Any matters prescribed by the regulations

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are able to be imposed relating to compliance with the BCA and Australian Standards.

6. The Likely Impacts of the Development

Acoustic Impact

The applicant has amended the operational details of the proposed gym, as well as further details in relation to the fit out of the gym, that have addressed the previous acoustic concerns raised by Council.

The revised Plan of Management will mitigate any unacceptable acoustic impact of the proposed use.

This issue has been discussed in detail in the referral section below.

Conditions 12, 13, 14, 37, 39-43 have been imposed to ensure compliance with the recommendations in the Acoustic Report.

Parking Impact

As discussed earlier in this report, the applicant has provided sufficient information to demonstrate that the proposed use will not result in an unacceptable impact upon on-street parking in the vicinity of the site.

Refusal reason number 2 has therefore been addressed.

7. Suitability of the Site for Development

The proposal has undergone significant refinement to demonstrate that the site is suitable for the proposed use. A number of measures have been recommended in the Acoustic Report and Plan of Management to ensure that surrounding properties will not be unreasonably impacted by the proposed use. The proposal has satisfactorily addressed reason 3 of the refusal.

8. The Public Interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal does not result in any significant adverse impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest. The proposal has addressed reason 4 of the refusal.

9. Submissions

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the proposal was notified between 9 August and 30 August 2021. In response, twenty (20) submissions were received objecting to the development, and three (3) submissions were received in support of the development.

The concerns raised in the submissions objecting to the development are summarised as follows:

- *Noise and vibration*

Concern is raised by a number of residents that the proposed use, including the proposed 24/7 operation, will result in unacceptable noise and vibration for residents. The majority of the submissions raising noise and vibration concern are from within the mixed use development the subject tenancy is within.

Assessing Officer comment:

The proposal, as amended, has implemented additional measures in an attempt to mitigate the acoustic impact of the proposed use. These measures include:

- Details of isolating flooring for the “free weight” area
- Details of flooring with acoustic treatments for the remaining flooring (see **Figure 13**)
- Reduced hours for group classes
- Reduced maximum numbers for group classes
- Restrictions on amplified music
- Frames and equipment fasteners to be de-coupled from building structures

It has been assessed that, subject to the recommendations of the revised Acoustic report and conditions of consent, the acoustic impact on adjoining residents would not be at an unacceptable level, and as such, would no longer warrant refusal of the application.

- *Parking*

Concern has been raised about the impact the proposed use would have upon on-street parking in the vicinity of the site.

Assessing Officer comment:

The applicant has provided an amended Traffic and Parking Assessment, which includes a breakdown of the preliminary membership numbers and their proximity to the site, as well as a parking survey during the peak gym operating times.

This report concludes that the proposed gym will likely have a lesser parking demand than conventional gyms, and as anticipated by Part 9.3 of the Ryde DCP 2014. Council's Senior Development Engineer has supported the reasons provided that the parking demand is unlikely to have an adverse impact on the on-street demand in the vicinity of the site. The shortfall of four (4) parking spaces is therefore supported on merit.

Therefore, this concern does not warrant refusal of the application.

- *Security. Patrons of gym having access to communal garden and foyer.*

Concern is raised that the gym members will be using the garden areas and will have access to the foyer of the building.

Assessing Officer comment:

The subject tenancy was approved as having a separate outdoor terrace area that overlooks the communal gardens of the mixed use development. This area has been partially enclosed under a Complying Development Certificate. It is noted the CDC did not result in any access from the enclosed terrace area being provided to the communal gardens. Furthermore, the proposed fitout of the gym does not provide any additional access points to the communal garden.

The gym will be accessed by patrons from the entry doors on Victoria Road, not through the residential building lobby/foyer. Parking will only be utilised by staff of the gym, and patrons will not be using the lift to the basement.

As such, patrons of the gym will not be occupying common areas of the mixed use development.

- *Management during unstaffed hours.*

Concern has been raised that insufficient management will be provided in unstaffed hours. It has been questioned in submissions how COVID safe practices will be

enforced and how background music will be managed when no staff are present to do so.

Assessing Officer comment:

The revised Plan of Management provided by the applicant details the following measures to ensure that conduct of gym patrons will not adversely impact on adjoining properties:

- Member education – during the member induction process the club staff inform members of the required behaviour both within and outside staffed hours.
- Internal signage at all studio entries and exits advising patrons they must not generate excessive noise when entering and leaving premises.
- Background music is not permitted in the gym after 10pm and before 7am. Automatic timers will ensure no background music occurs during this time.
- Imposition of penalties (membership warnings and suspensions on members not following policy on dropping weights.
- Restriction on the use of the rear enclosed terrace areas between the hours of 4pm and 7am.
- Noise complaint procedure.

The Plan of Management is assessed as addressing the operation of the gym during unstaffed hours.

- *There is a sufficient number of gyms in the Gladesville area already.*

A submission has stated that 17 gyms already occur in the Gladesville area, and as such, questions whether another gym is warranted.

Assessing Officer comment:

The proposed gym is permissible on the site. The number of gyms in the Gladesville area does not warrant refusal of the application.

10. Referrals

Senior Coordinator – Environmental Health

The original DA was referred to Council's Senior Coordinator of Environmental Health, who supported the refusal of LDA2020/0380 as the applicant had failed to demonstrate the proposed use would not have an adverse acoustic impact on adjoining properties.

A revised Acoustic Report, which included a peer review of the original DA's Acoustic Report, along with additional recommendations, was submitted with the 8.2 application. The following comments have been provided by Council's Senior Coordinator of Environmental Health with respect to the revised proposal:

In response to City of Ryde concerns and the ultimate refusal of the application under LDA2020/380, the applicant has commissioned a peer review of the acoustic report prepared by Blackett.

The peer review was performed by Acoustic Dynamics dated 9 December 2021, and the content and findings of the review are summarised as follows:

- 1. Suitable mitigation measures to control the sources of airborne and structure borne noise and vibration (such as weight drop activities, music and treadmills operating in sync) will be used, which will include restricting these activities to certain areas and the installation of a music limiter/decibel limiter.*
- 2. Additional control measures for noise associated with group training sessions would include:*
 - a. Setting appropriate music levels;*
 - b. Installing decibel meters and training staff in noise control;*
 - c. Restricting the use of weights (dumbbells, barbell, kettlebells, plates, slam balls and medicine balls and pin loaded machines) to specific areas of the gym where appropriate impact isolating flooring has been installed;*
 - d. Frames and equipment fasteners should be de-coupled from the building structures via the use of resilient pads or sleeves; and*
 - e. Restrict playback of music and any amplified instructors.*
- 3. The updated Plan of Management also includes limitations on the number of members per training group (maximum of 6) who must be under the supervision of a personal trainer, who will understand the expectations and compliance required to meet the noise criteria set out under the submitted Acoustic Report.*
- 4. The installation of suitable flooring and adherence to a strict weight drop policy would result in noise and vibration associated with weight drops being inaudible within the most affected receiver properties.*
- 5. The expectation of including an operating condition relating to inaudibility is considered unreasonable and overly prohibitive, with the following recommended operating conditions provided as alternatives:*
 - a. Continuous noise from the gym must not exceed an LAeq(15minute) greater than the measure LA90 background + 5dB during the day and evening time periods, when measured within the closest sensitive receiver location*
 - b. Continuous noise from the gym must not exceed an LAeq(15minute) greater than the measure LA90 background during the night time period when measured within the closest sensitive receiver location*
 - c. Impact noise from the gym must not exceed LAmax 30dB during the night time period when measured within the closest sensitive receiver location*
- 6. Acoustic Dynamics concludes that noise and vibration with the use of the gym can be managed using practical and feasible control measures.*

The proposal satisfies the requirements of Council’s controls and can be supported, subject to standard and/or special conditions of consent.

REASONS SUPPORTED

Additional information has been supplied addressing concerns raised.

1. Appendix 2 of the Acoustic Dynamics peer review report provides the proposed acoustic treatments for flooring and construction fitout to address the previous concerns raised in relation to the architectural floorplans not demonstrating the recommended flooring system proposed by Blackett Acoustic. Refer to “Table A2 Proposed Acoustic Treatment for Various Areas of Use” on Appendix page 2 (also see **Figure 13** below).
2. The Plan of Management has been amended to address specific concerns relating to noise inclusive of team training and restrictions on the use of specific weights.
3. Suitable conditions can be applied to address any future noise concerns raised by impacted residents.

A.1 EQUIPMENT LOCATION MARKUP

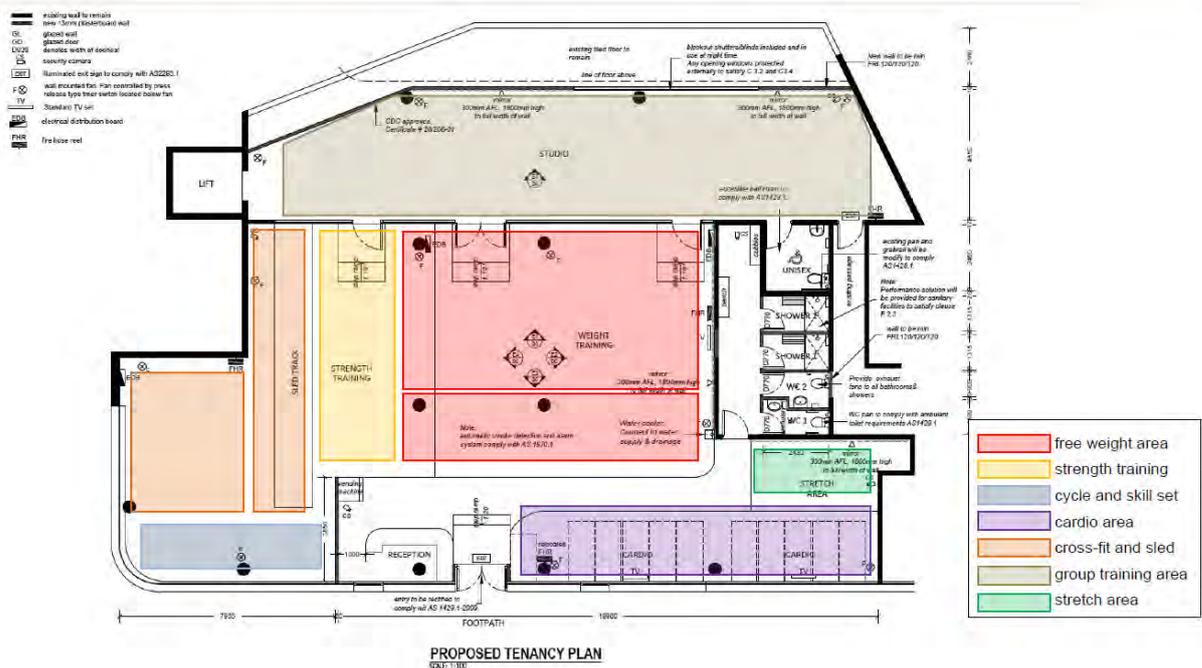


Table A2 Proposed Acoustic Treatment for Various Areas of Use¹

Area	Required Flooring	Alternate	Construction/Fitout
Free weight	A system which consists of 2 layers of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top.	A system which consists of Embelton NXS14 mounts, acoustics insulation, 2 layers of 19mm structure ply, 1 layer of 30mm A1 rubber and 1 layer of 15mm rubber tile as top finish.	<ul style="list-style-type: none"> All penetrations within the existing slab ceiling must be infilled and sealed airtight All gaps along the perimeter of ceilings/wall junctions must be sealed with mastic sealant All items of exercise equipment must not be mechanically coupled to the building structure;
Strength training	Installation of resilient pads, mounts or sprung platform to feet of high impact equipment; on 8mm Everroll® rubber flooring	-	
Cycle and skill set	Installation of resilient pads, mounts or sprung platform to feet of high impact equipment; on 8mm Everroll® rubber flooring	-	
Cardio area	Installation of resilient pads, mounts or sprung platform to feet of treadmills; on 8mm Everroll® rubber flooring	-	
Cross-fit and sled	A system which consists of 1 layer of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top	-	
Group training	A system which consists of 1 layer of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top	-	
Stretch area	8mm Everroll® rubber flooring	-	

Figure 13: Recommended construction methods for specific areas of gym, extract from Acoustic Dynamics Report

Assessment Officer comment:

The Applicant has provided additional recommendations with respect to noise and vibration that have been assessed as addressing the previous concerns by Council. Upon review of this information, it is assessed that the proposed use will not have any unacceptable acoustic impact on surrounding residents, subject to conditions of consent (see **Conditions 12, 13, 14, 37, 39-43**).

With respect to the definition of “inaudible”, the Applicant has submitted that a reasonable and industry accepted definition of “inaudibility” is less than 30dB. This is derived from multiple industry accepted guidelines, including the World Health Organisation’s Guidelines as well as the Association of Australasian Acoustical Consultants (AAAC), which prescribe a “five-star rating” as being one where transmission of noise between units as noise measured as less than 30dB.

Council’s Senior Coordinator of Environmental Health has concluded, upon review of this information and study of industry ‘best practice’, that it is appropriate to be prescriptive when determining “inaudibility”, and that the most reasonable noise reading for inaudibility is less than 30dB. It has been assessed that, with the mitigation measures proposed in the Plan of Management and conditions of consent, that inaudibility (as prescribed above) can be achieved.

As such, the applicant has addressed refusal reason 1 (dot point 1) and refusal reason 2.

Development Engineer

The application was referred to Council’s Senior Development Engineer who provided the following comments:

Background

The original development on the site (LDA2015/156) provided 3 retail/ commercial tenancies totalling 420m². Due to the constraints of the site (limited basement footprint and vehicle access issues associated with the adjoining intersection) a parking shortfall was accepted, providing only 6 of the required 17 spaces for the retail use. At this time, Council accepted a Section 94 (currently referred to as Section 7.11 under EPA legislation) contribution for the parking shortfall of 11 spaces and required allocation of 2 offstreet spaces to each of the tenancies.

A following modification (MOD2016/47) to the consent increased the net retail area to 442.5m², which warranted a further parking space by the DCP. This was also resolved by a Section 94 (now Section 7.11) contribution. As such, it eventuated the development was approved requiring 18 parking spaces yet provided only 6 onsite with 12 spaces considered in parking "credit".

A complying development certificate (CDP2020/261) was issued which enclosed the external terrace areas off the western retail units provided an additional 108m² of habitable floor area for retail use. No additional offstreet parking was provided.

A second complying development certificate (CDP2020/521) was then issued which strata subdivided the two approved tenancies on Victoria Road frontage to create an additional tenancy. The three tenancies are now the subject of this development application.

As the CDC works associating with the enclosed terrace area may be currently utilised for retail (without further planning approval) the arrangement therefore presents additional parking "credit" above the Section 7.11 contributions accepted with the original LDA.

Parking

The following table summarises the current state of parking allocation and parking "credit". Note whilst the retail lots are referred to as per strata plan, the floor areas are extracted from the original approval.

Tenancy	Area (m²)	Retail Parking Required (DCP retail rate of 1 space per 25m ²)	Parking Allocated[^]	Net Parking Credit
PT 4 (kitchen shop) (Meriton Street frontage)	152 (LDA)	6	2	4 (Sec 7.11 contribution)
PT 5, 6 & 7 (gym tenancy) (Victoria Road frontage) Subject Site	398.5 (290.5 LDA approved + 108 CDC)	16	4	12 (8 LDA S7.11 contribution + 4 resulting from CDC)
TOTAL	550.5			

[^] - The allocated parking is unchanged from the original LDA. The CDC did not alter this.

The proposed development warrants 20 to 30 parking spaces based on the DCP requirement of 1 to 1.5 spaces per 20m² applied to the 398.5m² area.

Given that the site is located on a major classified road and is well serviced by buses, it is accepted that the lower parking demand rate would be applicable in this case.

Taking into account the provided current parking allocation (4 spaces) and credit (12 spaces) the development is therefore short by 4 parking spaces.

This analysis slight varies from that presented in the applicants Traffic Report in that;

- The report has adopted the strata plan floor area which is some 35m² greater than presented in the table above. Accounting for the entire floor area is inappropriate as it includes ancillary areas which are not contributory to parking demand (ie stairs, bathrooms, etc).*
- The consultant has miscalculated the current retail parking requirement by an additional space.*

The above two points result in the applicant presenting a greater current parking “credit” and therefore the parking demand shortfall is underestimated. The value presented above (4 spaces) is considered more applicable and appropriate for the reasons outlined above.

The applicant has provided supplementary information to appeal that this shortfall will not be contrary to the DCP objectives and these are considered as follows;

- **Preliminary membership data** – The applicant has provided data clarifying that 77% of patrons intending to join the gym on operation live in Gladesville, with 94% residing within 2km of the site. With a significantly higher proportion of members in walking distance, car usage (and corresponding parking demand) is anticipated to be very low.*
- **Parking Survey Data** – The applicant has provided street parking occupancy survey data during the peak period of the proposed operation, being Mon – Tues 4pm – 7pm periods for parking within 250m of the site. Whilst it presents there is already a rate of high occupancy (77%) the data has included areas which are unlikely or cannot be utilised by customers (such as 1/2P and 1P parking areas). Stripping this data away reveals that the occupancy rate of viable parking increases to 85% and therefore would be considered to be saturated (occupied most of the time). This is exacerbated by Victoria Road dividing the parking catchment, making access to other areas difficult and inconvenient. It is agreed that, similar to inner city areas, the lack of parking would dissuade customers driving or potential customers who would arrive by vehicle.*
- **Hours of operation assist to disperse patronage** - It is presented that the current Snap Fitness business model and outlets in the Sydney region operate similarly with intent to accommodate local patrons only and the 24hour operating times assist to disperse patronage over the period, rather than have restrictive operating times. As such, many of the facilities lack any offstreet*

parking and have a lower parking demand than a conventional gym model. It is agreed that this is a valid point.

Recommendation

Taking into account the proposed development and current parking allocation, the development presents a parking shortfall of 4 spaces less than the 20 spaces required.

The supplementary traffic report and information presented demonstrate however that the proposed use will likely have a lower parking demand (see reasons above) such that the proposal is unlikely to have any ramifications relating to parking above that of the current approved use for retail or potentially a café / restaurant.

The following conditions are advised should the development be approved.

Assessment Officer comment:

The Applicant has provided additional data, in particular, a parking survey demonstrating the current parking saturation in the surrounding area during peak periods, as well as data from preliminary memberships of the proposed gym. Upon review of this information, it is assessed that the proposed use will not have an adverse impact in parking demand in the area. As such, the applicant has addressed refusal reason 1 (dot point 2).

11. Conclusion

Upon review of the revised proposal and review of this application, it is recommended the Ryde Local Planning Panel change the determination and grant consent to 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 were originally refused have been resolved.
7. The submissions received have been addressed in the assessment report.

12. Recommendation

- A. That the Ryde Local Planning Panel as the consent authority change the determination of LDA2020/0380 and grant consent to APL2021/004 for the use and internal fit out for a 24/7 Snap Fitness Gym on land at 1 Meriton Street, Gladesville, subject to the draft conditions contained in Attachment 1.
- B. Those that have made a submission be advised of the decision.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 Architectural Plans - subject to copyright provision
- 3 Plan of Management
- 4 Assessment Report for LDA2020/0380
- 5 RLPP determination and Statement of Reasons for LDA2020/0380
- 6 Peer review of Acoustic Report prepared by Acoustic Dynamics dated 9/12/2021

Report Prepared By:

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Senior Coordinator - Development Assessment

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ATTACHMENT 1 – Draft Conditions

1 Meriton Street, Gladesville

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
Location Plan	08.10.2020	CD01, Revision B
Proposed Tenancy Plan	24.02.2021	CD03, Revision C
Floor Finishes Plan	21.08.2020	CD04, Revision A
Wall Finishes Plan	21.08.2020	CD05, Revision A
Internal Elevations	21.08.2020	CD06, Revision A
Bathroom Details	21.08.2020	CD10, Revision A
Shopfront Elevation	08.10.2020	CD14, Revision B
Acoustic Report prepared by Blackett Acoustics	July 2020	BA20062, Version A
Supplementary Acoustic Report prepared by Acoustic Dynamics	09.12.2021	5276
Snap Fitness Plan of Management	09.12.2021	-
Fire Safety Report	05.02.2021	2017/190 R5.0
Site Waste Minimisation and Management Plan	21.08.2020	-

Prior to the issue of a **Construction Certificate**, the following amendments shall be made;

- (a) **Floor Finishes Plan.** The floor finishes plan must be amended to reflect the recommended finishes in the Acoustic Dynamics Advice dated 9 December 2021.

Details are to be submitted and approved by the Principal Certifier prior to the issue of a **Construction Certificate**.

The Development must be carried out in accordance with the amended plans approved under this condition.

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. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the Construction Certificate.
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. **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.
6. **Hoardings.**
 - (a) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
7. **Security Grilles.** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.
8. **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".
9. **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.

10. **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.
11. **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.
12. **Compliance with Acoustic Report.** All control measures nominated in the Acoustic Report No. (BA200622 Version A), dated (July 2020), prepared by (Blackett Acoustics) must be implemented.
13. **Compliance with Acoustic Report.** The acoustic treatments outlined in APPENDIX A.2 in the Acoustic Report No. (project 2576), dated (9 December 2021), prepared by (Acoustic Dynamics) must be implemented. Where there is any confusion between the recommendations in the Blackett Acoustics Report and this report, the recommendations in the report prepared by Acoustic Dynamics prevails.
14. **Compliance with Plan of Management.** All control measures and procedures nominated in the Snap Fitness Plan of Management Report dated 9.12.21 must be implemented.
15. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.
16. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.
17. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP Part 8.5 (*Public Civil Works*), to the satisfaction of Council.

18. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

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.

19. **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 Certifying Authority prior to the issue of the **Construction Certificate**.
20. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
21. **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 buildings with delivery of bricks or concrete or machine excavation)
22. **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
23. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry

Long Service Payments Act 1986 is to be submitted to the Certifying Authority prior to the issuing of the **Construction Certificate**.

24. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

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.

25. 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.
26. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

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.

27. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

28. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.
29. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
30. **Construction materials.** All materials associated with construction must be retained within the site.
31. **Waste data maintained.** A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.
32. **Site Facilities**
The following facilities must be provided on the site:
 - (a) toilet facilities in accordance with Safework 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.
33. **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.
34. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or identified as approved for removal on the stamped plans.

PRIOR TO OCCUPATION CERTIFICATE

An 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.

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

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

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

36. **All works/methods/procedures/control measures.** Prior to the issue of any occupation certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:
- (a) Acoustic Report No. (BA200622 Version A), dated (July 2020), prepared by (Blackett Acoustics)
 - (b) Acoustic Report No. (project 2576), dated (9 December 2021), prepared by (Acoustic Dynamics)

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.

37. **Hours of operation.** The hours of operation are to be 24 hours (Monday-Sunday and public holidays).
38. **Compliance with the approved Plan of Management.** The operation of the gym shall be in accordance with the approved Plan of Management dated 9 December 2021. Where there are any inconsistencies between the Plan of Management and conditions of consent, the conditions will prevail. No changes are to be incorporated in the Plan of Management without the written consent of Council.
39. **Operational noise.** Continuous noise from the gym must not exceed an LAeq(15minute) greater than the measure LA90 background + 5dB during

the day (between 7am to 6pm) and evening (between 6pm to 10pm) time periods, when measured within the closest sensitive receiver location.

40. **Operational noise.** Continuous noise from the gym must not exceed an LAeq(15minute) greater than the measure LA90 background during the night time period (between 10pm and 7am) when measured within the closest sensitive receiver location.
41. **Operational noise.** Impact noise from the gym must not exceed LAmax 30dB during the night time period (between 10pm and 7am) when measured within the closest sensitive receiver location.
42. **No 'offensive noise'.** Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to "offensive noise" as defined by the Protection of the Environment Operations Act 1997.
43. **Council may require acoustical consultant's report** - If required by Council, acoustic compliance testing is to be completed. The acoustic 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 submitted to Council within 14 days of testing.
 - 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 were 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 levels exceed the relevant criterion during compliance testing, 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.

44. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;
- 4 parking spaces for staff and personal trainers

End of conditions

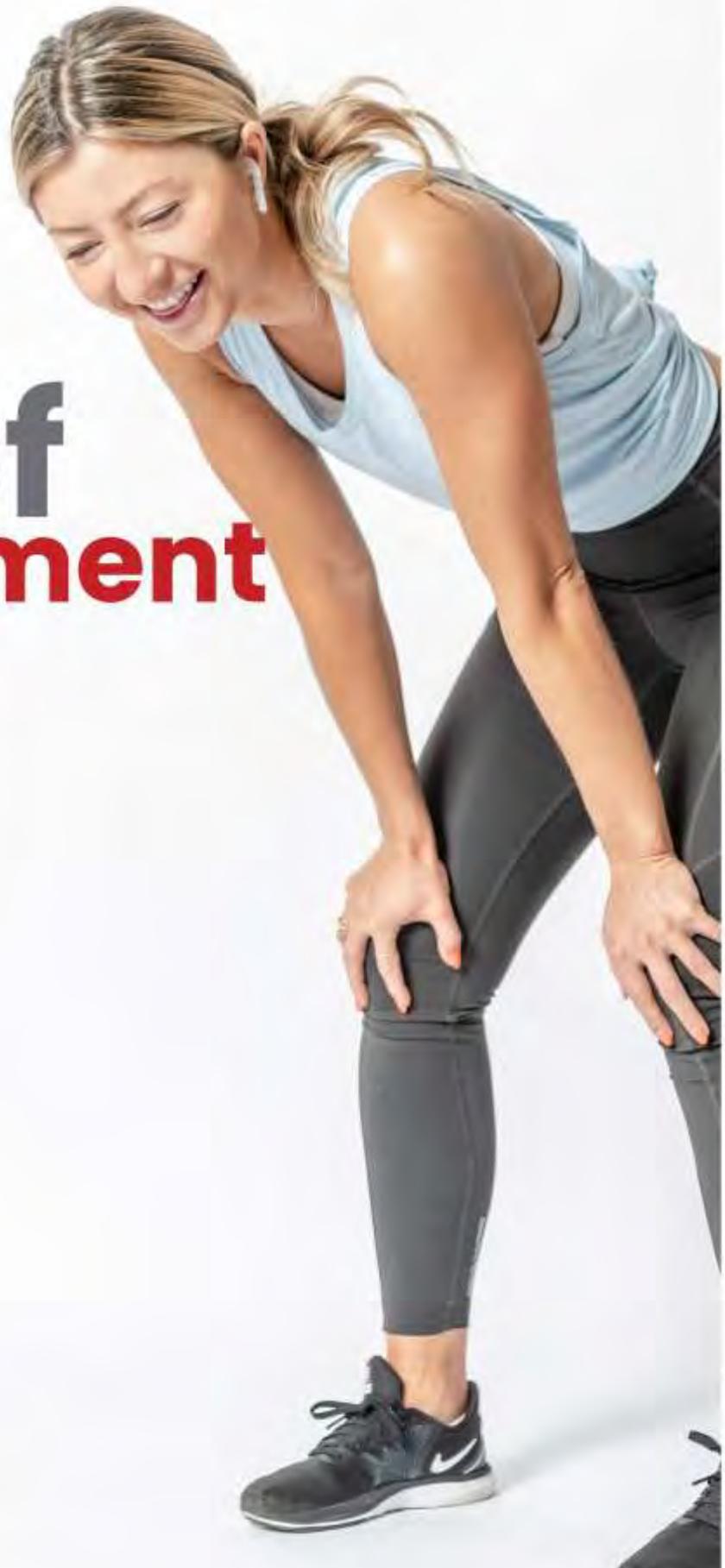
snap fitness 24/7

**plan of
management**

snap fitness **Gladesville**

1 Meriton St, Gladesville NSW 2111

Date: 9.12.21



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Overview

Snap Fitness Gladesville will be a privately owned and operated club. Providing fitness services exclusively to members only.

We provide a great alternative to the big box health club concepts available today positioning ourselves in Neighbourhood centres so we are 'close to home and work'.

Some of the benefits our members experience are;

- Customer friendly – flexible membership options
- 24 hour a day access, 365 days a year
- Affordable membership pricing
- High quality, state-of-the-art workout equipment
- Close to home and work
- Clean, safe environment
- Fast-Convenient-Affordable

Even though privately owned and operated the club is still part of the Snap Fitness Franchise which enables members to further benefit from the following;

- Reciprocity across all Snap clubs – worldwide
- Consistent modelling – Fitout and Equipment Standards
- Consistent Service – Club procedures, membership inductions etc replicated throughout all Snap Fitness Clubs
- Proven Systems for member safety, security and use
- Proven Procedures for member safety, security and use

Scope and Velocity of Member visitation

On average across Snap Fitness clubs, most members live within 2 kilometres of their club. Our members workout is shorter than that of competing concepts (big box clubs), being typically 40 minutes.

In the fitness club industry, roughly 40% of members use the club on a regular basis. For example a club with 600 members equals about 240 regular users. Most regular users go to the club 2 times per week. This would mean approximately 500 visits per week total.

Another 150 visits per week from the 60% who only go now and again will equal 650 visits per week. Weekly this equates to just fewer than 100 workouts per day. Factoring in peak hours (4pm to 7pm) and peak days (Monday, Tuesday), on average Snap Fitness Clubs rarely see more than 20 people in the club at one

time. On average less than 1% of our members' workout after 11 p.m. and before 5 a.m.

Fitness Australia

Snap Fitness Gladesville will be a registered member of Fitness Australia. Fitness Australia is the national fitness industry body and is responsible for administering The Fitness Industry Code of Practice.

The Code provides a guideline for the business conduct of fitness businesses and a guarantee to consumers of fair, safe and ethical service. Under the Code, fitness centres that are members of Fitness Australia must:

- Provide prospective members with sufficient information to make informed decisions about joining
- Not use false or misleading advertising or marketing practices
- Offer a range of membership plans with options of pre-payment or periodic billing
- Disclose the full price of all goods and services offered including various fees
- Maintain a high level of cleanliness
- Provide mechanically safe equipment and qualified staff to run fitness programs
- Provide a clear procedure for resolving complaints.

Insurance

Snap Fitness Sydney Gladesville will have a Comprehensive Insurance Program. This programme covers but is not limited to the following areas;

Fire & Perils

Building, stock and/or other business contents at the business premises caused by fire, lightning, explosion or implosion, impact by animal, vehicle or aircraft, cyclone, earthquake or volcanic eruption, malicious acts, storm or water damage, falling trees, masts or satellite dishes.

Business Interruption

Loss of gross profit, or loss of gross rentals following a claim for damage at the business premises. The damage must be insured under the Fire and Other Damage, Accidental Damage or Burglary policy sections.

Theft

Stock, electronic equipment and other business contents stolen from within the premises following forced and violent entry, threat of violence, or by a person concealed at the premises.

Glass

All fixed internal and external glass. Includes repairing damage to frames or tiled shopfronts around the glass, replacing any sign writing, ornamentation, burglar alarm tapes & connections attached to the glass, and temporary shuttering pending replacement of broken glass.

Public Liability

In respect of any one occurrence or series of occurrences arising out of the one event during the period of insurance.

\$20,000,000.00

Products Liability

In respect of any one occurrence or series of occurrences arising out of one event in the aggregate during the period of insurance.

\$20,000,000.00

Professional Indemnity

In respect of any one occurrence or series of occurrences arising out of one event in the aggregate during the period of insurance.

\$5,000,000.00

Complaints Procedures

Snap Fitness Sydney Gladesville will adopt and be governed by the Fitness Industry Code of Practice for complaints.

The complaints procedures are set out for members of the club and for the general public.

A sign will be displayed in the entrance door to the club clearly showing the clubs contact number for members and the general public.

Complaints Register

All complaints will be recorded and filed in the complaints register held on site.

This will allow management to track any trends and assist in implementing solutions on a need be basis.

The register will have a pro-forma document to ensure that all required details are being captured by all staff.

Verbal complaints

Where a verbal complaint is made, the person receiving the complaint (club manager or Personal Trainer) will;

- Identify himself/herself, listen, record details and determine what the complainant wants;
- Confirm the details received;
- Explain the Complaints resolution process and advise of alternative courses of action;
- Resolve the Complaint immediately if possible or make a commitment to resolve the Complaint within a given time frame;
- Follow up the Complaint as appropriate e.g. provide the Complainant with feedback regarding the result of action taken.

Written Complaints

Where a written complaint is made, the person receiving the complaint (club manager or Personal Trainer) will;

- Provide the Complainant with written feedback about action taken within ten days of receiving the Complaint or;
- If it is not possible to resolve the Complaint within ten days, provide written acknowledgment of receipt of the Complaint within seven days and specify the time frame within which the Complainant will receive feedback about action taken.

Unresolved complaints

Where a Complaint cannot be resolved, the Staff member must advise the Complainant of the following:

- Of his/her right to have the Complaint referred to the Code Administration Committee; and
- That either party may refer the Complaint to the Complaints Administration Officer.

Snap Fitness Gladesville will co-operate with the Code Administration Committee, the Complaints Resolution Committee or Fitness NSW in resolving any Consumer Complaint or Supplier Complaint.

Staffing Details

Full Time Club Manager

The Club Managers key focus will be on Sales & Marketing, Managing Personal Trainers ensuring best short and long term outcomes for members and ensuring a safe work and training environment.

The Club Manager will hold minimum qualifications of Certificate III in Fitness, a current Senior First Aid Certificate and a current CPR Certificate. The Club Manager also needs to hold and maintain a current Professional registration with Fitness Australia.

Personal Trainers

The Personal Trainers key focus will be on delivering training sessions and ensuring best short and long term outcomes for members and ensuring a safe environment. There will be approximately 1 trainer to 200 members.

All Personal Trainers will hold minimum qualifications of Certificate III in Fitness, Certificate IV in Fitness, a current Senior First Aid Certificate and a current CPR Certificate. Personal trainers will also need to hold and maintain a current Professional registration with Fitness Australia.

NOTE: Number of Personal Trainers will be governed by membership levels and demand.

Fitness Australia Professionals are required to keep current Senior First Aid Certification (every 3 years) and CPR certification (every 12 months). Further requirements include continuing educational credits (CECs) and insurance.

Guidelines for Staff

All staff as part of their contract with Snap Fitness Sydney Gladesville will be provided with a Team Handbook and an induction into the club.

Induction will include;

- Systems Training
- Emergency Procedures
Complaint Procedures
- Club Familiarisation i.e. location First Aid, Duress Alarm etc

The Team Handbook forms part of the Staff member's contract and needs to be signed, dated and accepted. The Team Handbook covers, but is not limited to the following;

- Confidentiality Agreement
- Code of Conduct
- Acceptable Use of IT
- Occupational Health and Safety

Rules of conduct for members

As part of every member's induction process they must agree to abide by Snap Fitness Rules of conduct. These are as follows;

- Snap Fitness members Only - access via swipe access on every visit

- Approved guests only allowed during staffed hours.
- All attendees must be 16 years of age or older, unless accompanied by a parent.
- It is your responsibility to pick up after yourself.
- Be respectful to others, please do not use profanity.
- Dress appropriately, shirts and shoes must be worn.
- No Towel, No workout.
- Use equipment for its intended purpose
- Do not drop weights
- No loitering or making noise outside of the club or in the car park afterhours

Breach of the Rules of conduct may result in financial penalties and/or termination of membership. The rules of conduct form part of the membership contract and is signed by all members.

Payment Facilities

We will provide two options for payment of memberships. Option one will be Direct Debit and option two will be payment in advance.

Direct Debit

Memberships are paid by direct debit only from a bank account or credit card based on a continuing contract. A third party is engaged to facilitate these payments.

Payment in Advance

Membership paid up front by Eftpos facility for 6 or 12 months. Current Bank Account or Credit card still held on file for security.

We will have an Eftpos facility in the club for memberships and merchandise sales, eliminating the need for cash. There will be no cash handling or cash kept on site.

Public Transport

Bus service Routes 500X, 501 & 785W from the subject site run at:

- Victoria Rd after Hepburn Av
- Victoria Rd at Westminster Rd

- Pittwater Rd opp GladesHill Presbyterian Church
- Jordan St opp Christ Church Gladesville

Car Parking

Only staff will utilise the on-site car parking spaces within the basement of the building. Club members will rely on public transport or nearby on street / public car park facilities as per the provided traffic report. During the members onboarding they will be advised that there is no carparking available in the building and what their available public transport options are in order to attend the club.

Noise

The clubs internal amplified background music is volume controlled by the club manager and set at a suitable level so not to disturb surrounding lot owners or a member's health. Self-closing doors to the club ensures that amplified music is always kept inside the club. Signage will be installed outside of the club in a prominent position advising members to be always considerate of our neighbours.

The Plan of Management is to be reviewed yearly and any amendment which impacts the protection of the residents from noise is to be referred to Council for acceptance. A copy of the Plan of Management is to be maintained at the club and be provided when required by Council Staff.

- 1) Ensuring the glass windows, doors of the proposed gym are kept closed at all times (other than when patrons enter and exit the premises);
- 2) The erection of clear signage at all studio entries and exits advising patrons that they must not generate excessive noise when entering and leaving the premises;
- 3) Staff monitoring the behaviour of patrons within the subject premises and as patrons egress to ensure noise emission of patrons is kept to a minimum when entering and leaving the premises;
- 4) Restricting the use of low frequency speakers (sub-woofers) and ensuring any lull range speakers are isolated from building services;
- 5) The use of free weights over 15kg are to be restricted to the free-weights area only. Free weights under 15kg are restricted to the Free Weights area and Function Training area;

- 6) Slam Balls not permitted to be used within the gym;
- 7) Reduction of the internal noise level from music to comply with acoustic report. Note is made that the maximum internal reverberant sound pressure level can be set to ensure the adjacent receivers are not adversely affected by the operation of the subject gym, following the fitout of the premises and the installation of the speaker system;
- 8) Background music will be turned off in the club after 10pm and before 7am on an automatic timer to reduce noise emissions after hours.
- 9) The noise level of background music within the gym should be kept to an appropriate level, to enable speech intelligibility within the gym and to ensure patrons are not required to raise their voices while in the gym; and
- 10) Installation of impact sound absorbing flooring (Floor System 4 as per the Acoustic Report by Blackett Acoustics) to reduce the regenerated noise and vibration in areas of the gym where high levels of impact are expected, i.e. the Free Weights area and Function Training area.

There will be implementation of an appropriate management policy regarding the dropping of weights, including:

- Education and training of all gym staff, personal trainers and members, instructing how to place weights without dropping;
- Erection of clearly visible signage throughout the gym advising members that they must not drop weights or allow weights to drop on the floor, or use weights outside the designated weight areas; and
- Imposition of penalties (membership warnings, suspensions or lockout restrictions) on members identified dropping weights.
- Frames and equipment fasteners should be de-coupled from the building structure via the use of a resilient pads or sleeves
- Restricting the use of weights (dumbbells, barbell, kettlebells, plates, slam balls and medicine balls) and pin loaded machines to areas within the gym where appropriate impact isolating flooring has been installed;
- Communicating to staff the strict requirement that members must not conduct activities likely to generate excessive vibration;
- Frames and equipment fasteners should be de-coupled from the building structure via the use of a resilient pads or sleeves; and
- Restricting the playback of music and any amplified instructors to an audible level where conversation can be conducted without effort.

- Restriction on the use of the rear enclosed terrace area, which is to be closed and no access provided to members between 4pm and 7am, seven (7) days a week.

Noise Complaints Procedures

Snap Fitness Sydney Gladesville will adopt a stringent and measured approach for all noise complaints for residents within the building.

Residents are able to contact Snap Fitness Gladesville club manager and the business owner at gladesville@snapfitness.com.au and/or memberservice@snapfitness.com.au (which is monitored by the Asia Pacific Snap Fitness Support Office) with a record of the time, nature of noise and duration of their noise complaint pursuant to their membership agreement terms and conditions.

All complaints will be recorded and filed in the complaints register held on site which will trigger CCTV footage to be reviewed and offending members identified/analysed and if deemed responsible for any noise complaint due to negligent or inconsiderate behaviour will be given a warning, where three warnings equals a suspension of membership.

This will allow management to track any trends and assist in implementing solutions on a need be basis. The register will have a pro-forma document to ensure that all required details are being captured by all staff.

Noise complaints can also be made in person to the club manager during staffed hours. Where a verbal complaint is made, the person receiving the complaint (club manager or Personal Trainer) will;

- Identify himself/herself, listen, record details and determine what the complainant wants;
- Confirm the details received;
- Explain the Complaints resolution process and advise of alternative courses of action;
- Resolve the Complaint immediately if possible or make a commitment to resolve the Complaint within a given time frame;
- Follow up the Complaint as appropriate e.g. provide the Complainant with feedback regarding the result of action taken.

Small Group Training

In order to control offensive noise during training classes, a maximum of 6 members are permitted to train together under the supervision of a personal trainer in any pre-arranged small group training class time. Under no circumstances can noise in classes consist of louder than normal music, yelling of instructors and frequent and repetitive weight dropping. Please refer noise complaint procedure for resolution to any small group training related noise.

Property Damage

Property Damage defined as any damage to property and includes Theft, Burglary and Malicious Damage. Any damage to property will be acted upon immediately to ensure that any negative impact on our business, street scape and surrounding business and residents is minimised.

Snap Fitness Gladesville comprehensive Insurance programme does provide for Property Damage as defined above.

Incident/Injury and Investigation Register

An Incident, Injury and Investigation Register will be kept on site. Any property damage will be recorded covering key details i.e. Type of damage, time & date of damage, action taken i.e. steps taken to secure property if necessary, and police notified etc.

Graffiti

If the property is damaged by way of graffiti the services of a professional Graffiti Removal company will be engaged within 24 hours of it being noted.

Cleaning

The club will engage a commercial cleaner to clean the club 2-3 times a week, floors, mirrors, bathrooms and equipment.

Daily cleaning will be undertaken primarily by the Club Manager with the assistance of Personal Trainers. The cleaning will be structured on a

roster/checklist basis which will need to be signed and initialled when the relevant duty is complete.

Waste Removal

General Waste will be stored in the loading dock area in bins allocated for Snap Fitness.

The bins will be emptied on a Fortnightly basis by a private contractor through this dedicated loading dock area. Any waste over and above the standard fortnightly collection will be arranged on a needs be basis through the same contractor.

Review Process

The Plan of Management is a living document and is set for review every quarter by the Snap Fitness Franchisee in consultation with the Club Manager.

Key Vendors	
Vendor	Service
Chris Caldwell	Snap Fitness Australia CEO
Gabriel Condello	National Franchise Sales Manager
Ben Bowen	National Development Manager (Property)
Adrian Furminger	Chief Operations Officer
Rob Fulton-Kennedy	Development Consultant
Aaron Weir	Leasing Consultant
Honan	Comprehensive Insurance programme
National Franchise Insurance brokers	Comprehensive Insurance programme
Matrix Fitness	Fitness Equipment
Technogym Fitness	Fitness Equipment
Leisure Concepts	Free Weights
Aussie Strength	Fitness Equipment
Snap Fitness Approved Contractor	Project manager / Builder
Snap Fitness Approved Contractor	Security Design and Install
Appliance Tagging Services Pty Ltd	Electrical Safety Audit and Testing of Exit and Emergency Lighting
WINC	Office and cleaning supplies
TBA	Waste Collection
TBA	Commercial Cleaning
Stripe	Membership Direct Debit Payments

Subject: snap fitness crime prevention management plan

The following measures are incorporated into each Snap Fitness Club:

- **Swipe Card Access** – Snap Fitness Gladesville will provide swipe card access to its members so that entry can be gained via William Street entry doors and also via rear doors inside the buildings lobby
- **Security Monitoring Service** – The gym is connected to a 24hr security monitoring service which provides remote assistance to members during both manned and unmanned staff hours. When necessary the Security monitoring company can co-ordinate local security watch or any emergency services to attend the club. . The security monitoring provider can also see inside the gym from their remote position and verbally communicate with members over audio.
- **Security Alarm** – The security alarm system is set up with motion sensors that detect movement within the club. The alarm is automatically set when no motion is detected after a member leaves the club. When a new member swipes their access card at the front door the alarm is disabled.
- **Fixed Point Duress Buttons** – Members can press a “fixed point” duress alarm button within the club which is hard wired into a wall. The fixed point duress is a two-way intercom system that allows members to speak to our security monitoring providers while help is dispatched in the event of an emergency
- **Mobile Duress Pendants** – Members training outside of supervised hours have access to mobile security “pendants” which can be worn on the member’s person. In the event the member needs assistance while training alone the member can press a button on the mobile pendant which notifies the security monitoring company immediately.
- **CCTV Installed Throughout the Gym** – All Snap Fitness facilities have internal CCTV installed. Both real time and recorded footage can be viewed remotely (iphone etc.) or via the club’s on-site internal security system monitor. Please refer to the plans within this document to see both internal and external security camera locations.
- **Access Card and Self Closing Doors** – All members have a unique “Access Card” which they are required swipe at the club entrance to gain access. This card allows the club manager to see what members were at the club at a specific time. Once the member has swiped their access card at the fixed proxy reader the club door will unlock via an electric lock mechanism. The member enters the club and the door will automatically close behind them to avoid any “tailgating” by non-members. Snap Fitness Gladesville will provide swipe card access to its members so that entry can be gained via Victoria Road entry doors.
- **Member Education** – During the member induction process the club staff inform the member that they are not to provide club access or open external doors for any other person at any time or risk termination of their membership.
 - **Staffed Hours** – Staff will be present onsite between the following hours:

Monday – Thursday	10am – 7pm
Friday	10am – 2pm
Saturday	9am – 1pm
Sundays	no staff

Note: Personal Trainers may be inside the club outside of the aforementioned times training clients.

Yours sincerely

Ben Bowen

National Development Manager

Snap Fitness Australia

Contact: 0400 930 808 or bbowen@liftbrands.com

Annexure A (Images) – Security Pendants, Duress Alarm and Security Monitoring



**City of Ryde
Local Planning Panel Report**

Application Number	LDA2020/0380
Site Address & Ward	1 Meriton Street, Gladesville East Ward
Zoning	B4 Mixed Uses under RLEP 2014
Proposal	Use and internal fit out for a 24/7 Snap Fitness Gym.
Property Owner	BridgeLane Property 12 Pty Ltd
Applicant	Darren Laybutt
Report Author	Madeline Thomas – Senior Coordinator Development Assessment
Lodgement Date	9 November 2020
No. of Submissions	Seventeen (17) submissions received. One (1) in support and sixteen objecting to the development application
Cost of Works	\$475,200.00
Reason for Referral to LPP	Contentious Development - Development which received more than 10 submissions.
Recommendation	Refusal
Attachments	Attachment 1: Architectural Plans Attachment 2: Plan of Management

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the use and fit out of the tenancy as a 24 hour/7 day gymnasium at 1 Meriton Street, Gladesville.

The proposal was notified to owners of surrounding properties between 12 November 2020 and 4 December 2020 and resulted in seventeen (17) submissions raising objection to the proposal, and one (1) submission in support of the proposal. The concerns raised in the submissions included the following:

- Acoustic impact on adjoining residential apartments
- Traffic generation and parking
- Inadequate toilet facilities provided
- Original development application not altered within Australian standards/planning provisions
- Security issues resulting from 24 hour access

The proposal has been assessed as having an unacceptable impact on the surrounding residential properties with respect to noise and vibration, with particular concern that the proposal will result in unacceptable sleep disturbance between the hours of 10pm and 7am.

The proposal also fails to provide sufficient parking to address the parking demands generated by the change of use to a gymnasium, resulting in a shortfall in parking of twenty nine (29) parking spaces. This shortfall will have a detrimental impact on the on-street parking in the vicinity of the site.

The proposal is considered to be inconsistent with the B4 Mixed Use zoning objectives under Clause 2.1 of Ryde Local Environmental Plan 2014 (Ryde LEP 2014) as the Applicant has failed to demonstrate that the gym is a compatible use in a residential flat building development.

Given the reasons detailed above and in this report, the development application is recommended for refusal.

2. SITE & LOCALITY

The site is known as Shop G03-G05 at 1 Meriton Street, Gladesville, and is the ground floor tenancy (Lots 1, 2 and 3) in SP 100131.

1 Meriton Street contains a recently constructed Part 3/ Part 6 and Part 7 storey mixed use development, and is located on the corner of Meriton Street and Victoria Road. The existing building contains one other retail premises on the ground floor that is currently used as a kitchen showroom (located on the corner of Meriton Street and Victoria Road) and fifty-one (51) residential apartments on the floors above the ground floor retail tenancies. Two (2) ground floor apartments are also located adjacent to the subject tenancy, and also back onto the communal open space.

The subject tenancy has an area 445m², and has a frontage to Victoria Road. The tenancy is currently vacant, and was approved as a "retail tenancy" under LDA2015/0156.



Figure 1: Aerial Photograph of subject site

The site is within the Gladesville Town Centre, and is located on Victoria Road, which is a key transportation corridor. The site is within a well-established mixed use area, with mixed use buildings located to the south and west, and commercial development with shop top housing situated to the north along Victoria Road. Gladesville Public School is located to the north west of the subject site.



Figure 2: Extract of location plan showing location of tenancy within existing building



Figure 3: External photograph of the subject tenancy as viewed from Victoria Road



Figure 4: External photograph of subject site as viewed from the corner of Meriton Street and Victoria Road

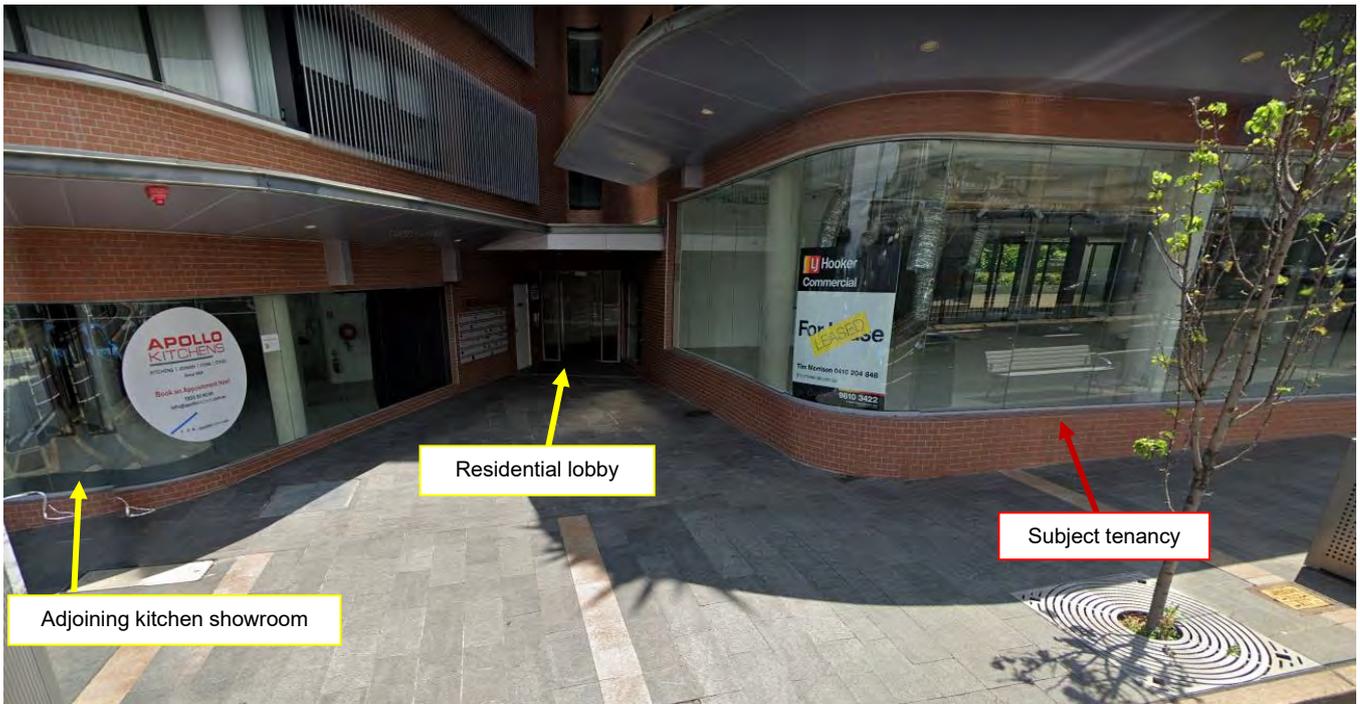


Figure 5: External photograph of subject tenancy and adjoining residential lobby

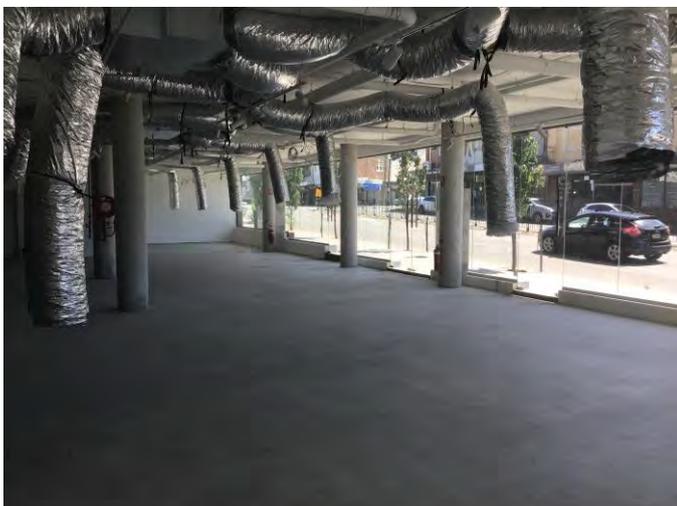


Figure 6: Photograph taken within subject tenancy near entrance (looking toward Victoria Road)



Figure 7: Photograph taken within subject tenancy near entrance (looking toward rear of tenancy)



Figure 8: Photograph at the rear of subject tenancy



Figure 9: Photograph of lift at rear of tenancy providing access from basement

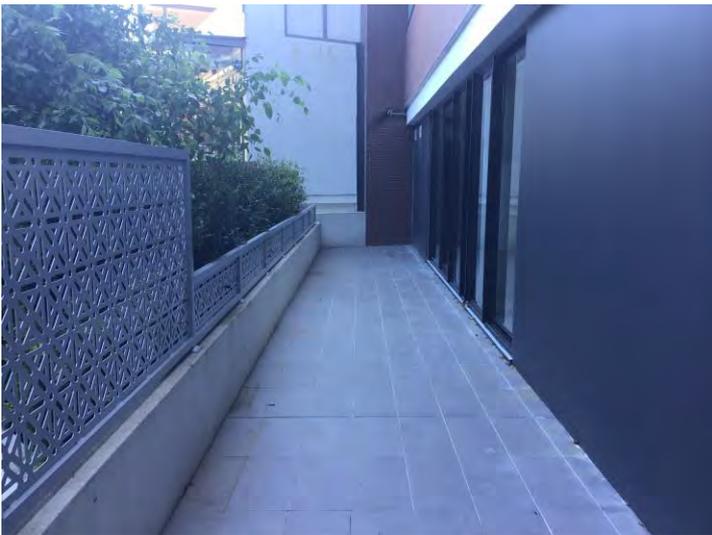


Figure 10: Photograph of outdoor area at the rear of tenancy

3. BACKGROUND

LDA2015/0156 – Approval of mixed use development

On the 28 October 2015, the Sydney North Planning Panel approved a development application for the demolition of existing structures, site works and construction of a part 3/ part 6/ part 7 storey mixed use development containing retail and residential uses over 2 levels of basement. The approved development included three (3) retail tenancies, one of which is the occupied kitchen showroom, and two of which form the subject tenancy.

Under LDA2015/0156, a shortfall of even (11) retail parking spaces was considered acceptable given additional Section 94 (now 7.11) contributions were charged to accommodate the shortfall of parking spaces.

This development has been fully constructed, and the residential units are now occupied.

MOD2016/0047 – modification to LDA2015/0156

A Section 4.55 (formerly Section 96) application was approved by Council on 29 April 2016 to modify LDA2015/0156 to remove substation, convert space into retail floor space and plant room, minor changes to basement configuration, removal of retail service lifts, reconfiguration of entry door and extension of awning.

This application approved a floor space ratio of 2.53:1 (4,598m²), which exceeds the maximum floor space ratio of 2.5:1 applicable to the site. The retail floor space approved equates to 442.5m². This approved retail space incorporates all three retail premises across the site, including the current kitchen showroom.

The increase in retail floor space approved under MOD2016/0047 resulted in a further shortfall of one parking space, with a total shortfall of twelve (12) parking spaces.

The stamped approved ground floor plan is shown in **Figure 11** below.

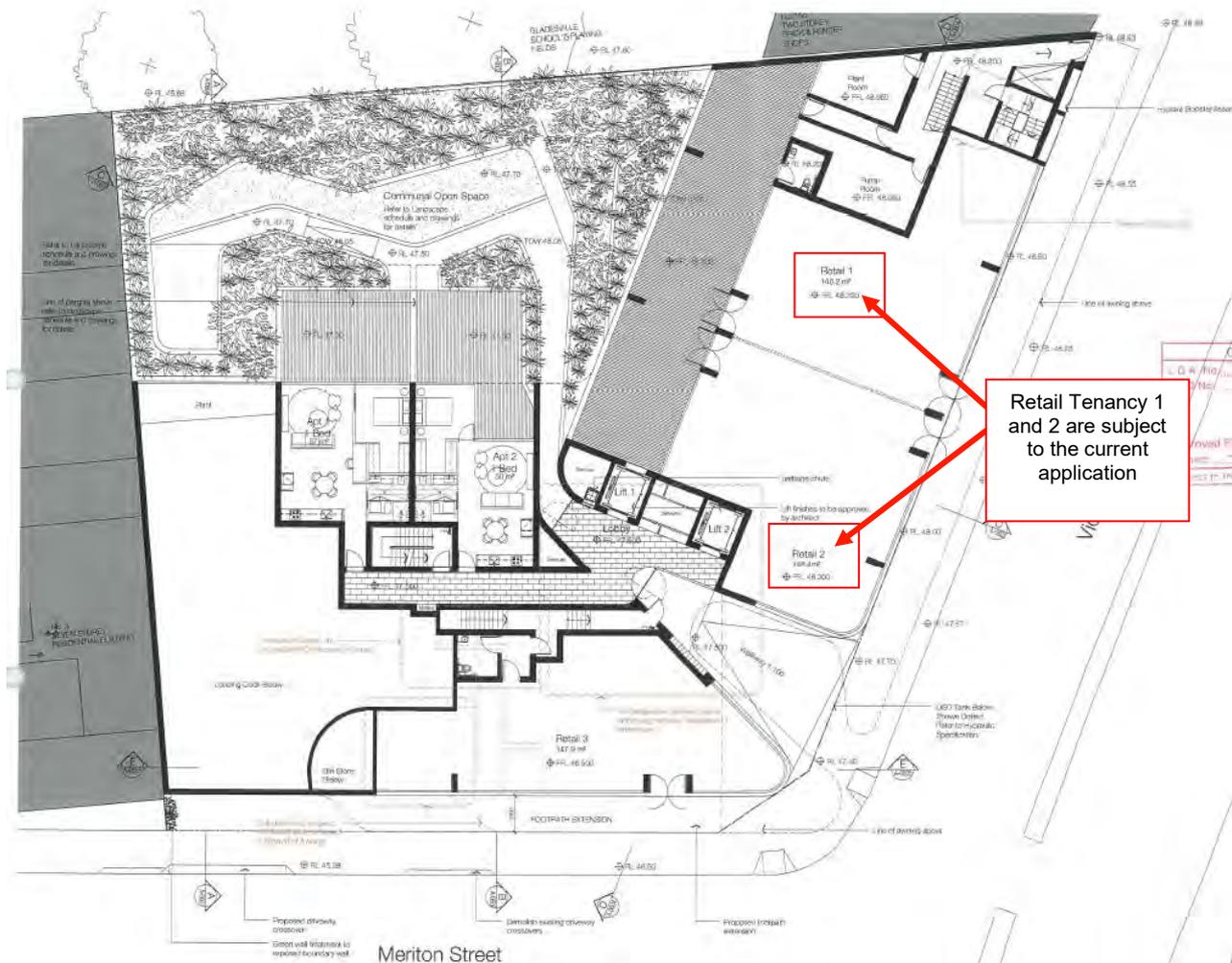


Figure 11: Extract of approved ground floor plan under MOD2016/0047 with subject tenancy identified in red

CDP2020/0261 – Complying Development approval for the erection of glass enclosure

A Complying Development Certificate was approved by a Private Certifier on 18 June 2020 for the erection of a glass enclosure at the rear of the terrace. This enclosure has been constructed, and can be seen in **Figure 8** above.

It is noted that the enclosure of the terrace by the glass wall has contributed to an additional 150.4m² of floor space for the retail tenancy, additional to what was approved under LDA2015/0156 and MOD2016/0047.

CDP2020/0521 – Complying Development approval for Strata Subdivision

A Complying Development Certificate was approved by a Private Certifier on 23 September 2020 for the strata subdivision of the building, including the strata subdivision of the two retail tenancies into three retail tenancies (i.e. G0, G04 and G05).

4. PROPOSAL

The proposal includes the use and internal fit out for a gymnasium, being Snap Fitness, at 1 Meriton Street, Gladesville. Details of the proposal are below:

Consolidation

The proposal involves consolidation of the three retail units (i.e. G03, G04 and G05) to facilitate the open layout of the proposed gym. Two of the existing entries to the subject tenancy are proposed to be closed off, and the central entry is proposed to be maintained as the main entrance. The existing tenancy plan is shown in **Figure 12** below.

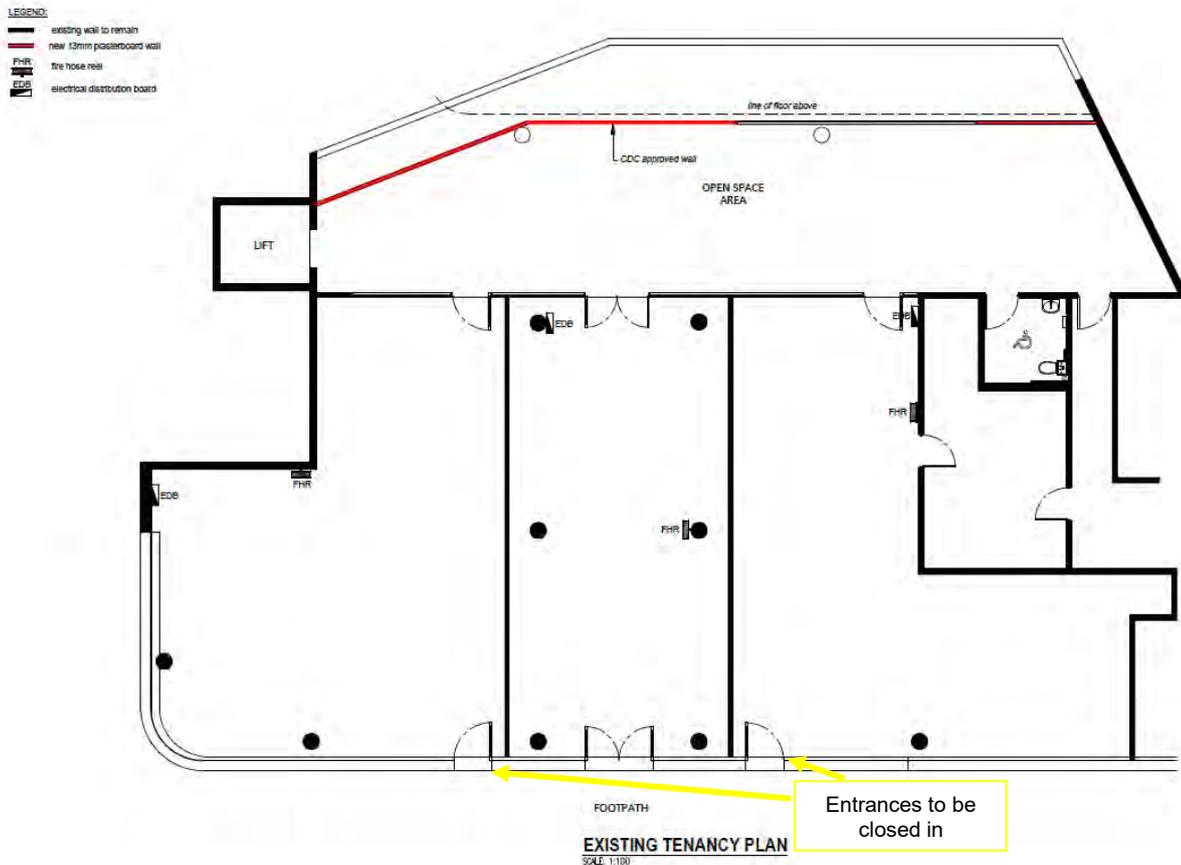


Figure 12: Existing tenancy plan (location of entrances to be removed shown in yellow)

Fit out of gymnasium

The proposal involves the fit out as follows:

- Provision of a reception area near the main entry from Victoria Road
- Cardio and stretch area located at the front of the tenancy
- Weights and strength training area
- Sled track
- 2 additional showers and toilets. It is noted the existing disabled toilet will remain unchanged
- Studio area at the rear of the tenancy which is to be used for classes

Figure

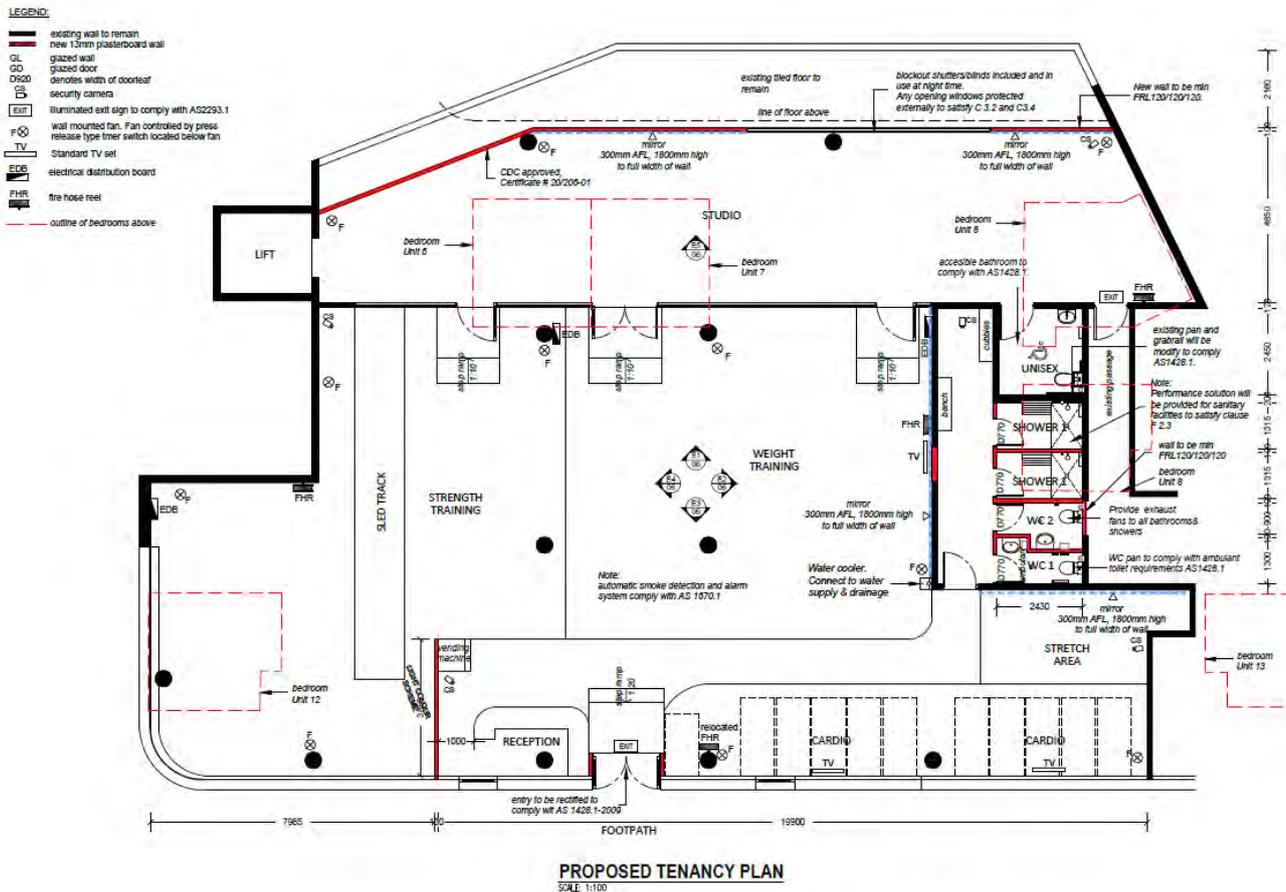


Figure 13: Proposed fit out plan

Proposed operation of gymnasium

Hours of operation

The gym is proposed to be operational 24 hours/ 7 days a week.

Within the operational hours, the staffed hours are proposed to be:

- Monday to Friday – 10am to 7pm
- Saturday – 10am to 12pm
- Sunday – by appointment

The Applicant has proposed class times as follows:

- Monday to Thursday – 6am, 7am, 9:30am and 6:30pm
- Friday – 6am, 7am and 9:30am
- Saturday – 7am and 8am

It is also proposed to have a limit of 15 people at one time in a class.

Staff members

The Plan of Management (dated 29 March 2021) indicates there will be a maximum of three to four staff members at the gym at any one time.

Gym equipment/machinery

The gym equipment proposed includes the following:

- Cardio equipment such as bikes, rowing machines, treadmills and climbing machines
- Free weights, including dumbbells, barbells, medicine balls and bench press
- Pin weight machines
- Battle ropes

Parking

The proposal seeks to utilise the four (4) parking spaces allocated to the two retail premises under the previous approvals. The Applicant has identified that these spaces will be used by staff only, and that street parking and surrounding car parks will be available for club members and staff to use.

5. APPLICATION HISTORY

The application was lodged on the 9 November 2020. The application was notified between 12 November 2020 and 4 December 2020, during which time seventeen (17) submissions objecting to the application, and one (1) submission in support of the application were received.

On 19 January 2021, a letter was sent to the applicant requesting further information to address the following issues:

- *Acoustic Impact* – the Acoustic report provided failed to demonstrate that the proposed development would not have an unacceptable impact on the adjoining residential properties.
- *Structural Certification* – Council's Building Surveyor requested a report be provided to address whether the proposed use would impact the structural capacity of the constructed building.
- *Building Code of Australia (BCA) Report* – Council's Building Surveyor also requested that a BCA report be submitted to demonstrate compliance with the BCA, including a fire safety audit.

A meeting was also attended by the Applicant, the project Acoustic Consultant and Council on 2 February 2021 to discuss the shortcomings of the Acoustic report.

On 30 March 2021, the Applicant submitted the following documents in response to Council's request for information:

- Fire Safety Report
- Acoustic response letter
- Amended architectural plans, showing further detail of floor material and glazing of windows
- Structural adequacy certificate

The amended information was reviewed by the relevant Council Officers, and was not considered to address the acoustic issues raised in Council's initial request for information.

6. PLANNING ASSESSMENT

An assessment of the development in respect to Section 4.15 of the *Environmental Planning and Assessment Act 1979* is detailed below.

6.1 State Environmental Planning Instruments

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP55)

The requirements of SEPP 55 apply to the subject site. In accordance with Clause 7 of SEPP55, Council must consider if the land is contaminated, if it is contaminated whether it is suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed development.

During the assessment of the development application for the existing building, Council assessed that the site was suitable for both retail and residential use. As such, further investigation is not warranted, and the site is suitable for the proposed indoor recreation development in this regard.

6.2 Ryde Local Environmental Plan 2014

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

The objectives of this zone are:

- *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.*

The application does not meet the first objective in relation to compatibility of its location. The Oxford Dictionary definition of 'compatible' is "able to exist or occur together without problems or conflict". The proposed use, as well as the 24 hour a day operations, is unlikely to operate 'without problems or conflict' with the neighbouring residential units.

Council's Senior Coordinator Environmental Health has assessed the revised Acoustic Report, and has determined that the noise generated from the proposed gymnasium would not be "inaudible" between 10pm and 7am, even with the mitigation measures recommended in the revised Acoustic Report and Plan of Management. When considering the acoustic impact of development on residential properties, the generally accepted criterion for providing adequate protection to sleeping areas is "inaudibility between the hours of 10pm and 7am".

Accordingly, the proposed development is not considered to be compatible with its surrounding environment, and is therefore not considered to meet the objectives of the zone.

Clause 4.3 – Floor Space Ratio

The maximum floor space ratio applicable to the site is 2.5:1. It is noted that the approved development for the mixed use building was 2.53:1.

The proposal does not result in any change to the existing gross floor area of the subject tenancy.

Clause 5.10 – Heritage Conservation

Subclause 4 of Clause 5.10 requires the consent authority to consider the effect of the proposed development on the heritage significance of the heritage item or conservation area. The site has not been identified as a heritage item or within a conservation area.

The site is within proximity of a number of heritage items, including Gladesville Public School and the Clock Tower at the intersection of Victoria Road and Meriton Street.

The subject application will not result in any significant changes to the external appearance or footprint of the building, as such there will be no undue impact to the heritage significance of the nearby items.

6.3 Draft Environmental Planning Instruments

Draft Remediation of Land State Environmental Planning Policy

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:

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.

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. Refer to conclusions made in relation to SEPP 55.

Draft Environment State Environmental Planning Policy

The draft Environment SEPP is being developed for the protection and management of our natural environment. It proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. As the proposed development involves the fitout of an existing premises, it will not have any implications for this draft SEPP.

6.4 Development Control Plans

Ryde Development Control Plan 2014 (Ryde DCP 2014)

The following sections of Ryde DCP 2014 are of relevance, being:

- Part 4.6 – Gladesville Town Centre & Victoria Road Corridor
- Part 9.1 – Signage
- Part 9.3 – Car Parking

Part 4.6 - Gladesville Town Centre & Victoria Road Corridor

The site falls within the North Gladesville Precinct of this Part of DCP2014. The controls of this Part of Ryde DCP 2014 predominantly relate to the built form of structures, such as height, setbacks etc. Limited controls therefore apply, except those relating to Active Street Frontages.

The proposal complies with the active frontage controls, as it provides for an active use on the Victoria Road frontage.

Part 9.1 Signage

The Applicant has stated that signage does not form part of this application, and would be subject to a future development application.

Part 9.3 – Parking Controls

The existing retail tenancies within the existing building approved under LDA2015/0156 and subsequent modifications were approved with six (6) car parking spaces, two (2) spaces allocated per retail tenancy. The retail parking rate that was applicable at the time of the approval (and still applies) was 1 space per 25m² of retail GFA. The approved retail floor space of 442.5m² meant that this resulted in a shortfall of twelve (12) parking spaces. This was considered acceptable at the time as a condition of consent was imposed that the Section 7.11 (formerly Section 94) contributions were to be increased by \$35,558.16 per space.

As such, the approved floor area (excluding the enclosed terrace) warranted only four (4) spaces and the other two (2) spaces allocated to the other retail tenant.

The enclosed terraces result in an additional 150m² in GFA. The applicant's traffic report has incorporated the enclosed external terrace areas within the parking shortfall of the original DA. This was not originally considered under the original development application and therefore should be disregarded. The enclosure of this space further exacerbates the parking non-compliance.

In addition to the above, the parking demand rates under this section of the Ryde DCP 2014 are higher for 'Recreation Facilities (indoor)/Gymnasium' in comparison to retail, as follows:

Recreation Facilities (indoor) / Gymnasium	1 – 1.5 spaces per 20m ²	(5 – 7.5 spaces / 100m ²)
Retail	1 space per 25m ²	(4 spaces / 100m ²)

As such, the proposed change of use would warrant a higher parking demand.

The submitted Traffic Report has presented there is a public parking lot in the vicinity of the site (Western Crescent and Coulter Street) though this is some 400m from the site and gym patrons are more likely to obtain parking closer to the site in a residential street.

The shortfall in parking for the gym would result in a shortfall of twenty (20) spaces, including the increase in floor space as a result of the enclosed terraces.

Accordingly, it is considered that inadequate parking will be provided to facilitate the change of use, and this forms reason for refusal of the application.

6.5 Planning Agreements OR Draft Planning Agreements

None applicable.

6.6 The likely impacts of the development

Acoustic Impact

The proposal is likely to have a detrimental impact on the surrounding residential properties with regard to noise and vibration impacts.

The proposal has failed to demonstrate that the noise from the gym will be inaudible between the hours of 10pm and 7am from the adjoining residential apartments (specifically bedrooms), which is the industry accepted standard for protecting sleeping areas.

As such, the proposal will have an unreasonable environmental impact on the residential amenity of adjoining units. Suitable noise mitigation measures to ensure that the premises will not cause offensive noise have not been proposed.

Parking Impact

As discussed earlier in this report, the parking demand for indoor recreation facilities (gymnasiums) is higher than the parking demand for retail premises. The proposal would result in shortfall of twenty (20) parking spaces. Council's Senior Development Engineer has stated that this would result in an unacceptable impact upon on-street parking in the vicinity of the site.

6.7 Site Suitability

As detailed in this report, the proposal is incompatible with the mixed use building it is situated within.

6.8 The Public Interest

The proposed acoustic mitigation measures are considered inadequate and unsuitable for the development to adequately address the impacts of the development. The shortfall in parking would result in an unacceptable impact upon onstreet parking. As such, approval of the subject application would not be in the public interest.

6.9 Submissions

In accordance with the Ryde Community Participation Plan, owners of surrounding properties were given notice of the application between 12 November 2020 to 4 December 2020.

During the notification period, seventeen (17) submissions were received raising objection to the proposal. One (1) submission was received in support of the proposal. Given the number of submissions received, the issues raised in the submissions have been summarised and addressed below. It is noted that the majority of the submissions were consistent in the issues raised. These included the following:

- Acoustic impact on adjoining residential apartments

It is agreed that the proposal would result in an unacceptable impact on adjoining residential units. The Applicant has failed to demonstrate that the proposal would not result in 'offensive noise', as defined under the *Protection of the Environment Operations Act (POEO Act)*. The Applicant has also failed to demonstrate that noise generated between the hours of 10pm and 7am in bedrooms of adjoining residential units would be inaudible.

As such, this issue warrants refusal of the application.

- Traffic generation and parking

It is agreed that the shortfall in parking of twenty (20) spaces is unsatisfactory, and will result in an unacceptable impact on the on-street parking in the vicinity of the site.

As such, this issue warrants refusal of the application.

- Inadequate toilet facilities provided

The toilet facilities provided are considered to be sufficient to facilitate a gym of this size. This issue does not form reason for refusal of the application.

- Original development application not altered within Australian standards/planning provisions

The Complying Development Certificate (CDP2020/0261) was issued in accordance with *State Environmental Planning Policy (Exempt and Complying Codes) 2008* in June 2020.

The concerns raised in this regard in the submission is not a matter for consideration by the Ryde Local Planning Panel.

- Security issues resulting from 24 hour access

The Plan of Management (PoM) submitted by the Applicant fails to address the potential conflict with a gym operating 24 hours a day. The PoM does not specify that access to the gym will be limited to the Victoria Road entrance. The PoM is required to be specific in providing measures that will ensure gym members will not access areas of common property outside of staffed hours.

7. REFERRALS

Environmental Health Officer: Council's Senior Coordinator of Environmental Health has reviewed the amended application, including the Acoustic Report and Plan of Management, and has provided the following comments:

Inaudibility between 10pm – 7am

- *The additional information provided on 22/2/21 has not outlined how noise from the gym will be inaudible during this time period*
- *In the meeting held between Council, the developer and the acoustic consultant, the acoustic consultant acknowledged that to achieve inaudibility would be very difficult.*

Background noise measurements (RBL vs LA90)

- *The background noise readings are taken from the first level balcony of Unit 111, 1 Meriton St, which faces Victoria Road.*
- *Blackett have stated "Establishing the background noise level at this location is deemed to be adequate". I do not consider this to be appropriate because noise on the balcony where traffic noise is experienced is not the same as the background noise level inside the most affected residences (in a habitable room) directly above the gym.*
- *It is also understood that the building designed required acoustic treatment to external facing openings to satisfy the noise criteria set out in clause 102 of the Infrastructure State Environmental Planning Policy.*

Offensive Noise

The plan of management outlines the following for the team training schedule:

- *Monday, Tuesday, Wednesday and Thursday (6.00am, 7.00am, 9.30am and 6.30pm)*
- *Friday (6.00am, 7.00am and 9.30am)*

- Saturday (7.00am and 8.00am)
- There is the potential for offensive noise to affect all residences above the gym, particularly during the early times that the team training commences. Team training often involves multiple repetitions of exercises including dropping weights, using battle ropes, instructors yelling, music etc.
- The overall measure LAeq for typical music noise during training sessions is stated as 75dBA.

Layout of the gym & flooring system

- The amended architectural plans demonstrate the locations of affected bedrooms in units above the gym.
- The Technogym Equipment Layout is referenced in the acoustic report in figure 2.3.
- The amended architectural plans indicate the flooring will be carpet tiles where the battle ropes, kettle bells and medicine balls are intended to be located (as shown in the Techogym equipment layout).
- The amended architectural plans have not adopted the recommended flooring system outlined in the acoustic report.

Reasons not supported

1. I am not satisfied that noise from the gym will be inaudible between 10pm – 7am.
2. I am not satisfied that the appropriate background noise measurements have been applied and this adopted background noise measurement is applied to develop all project specific noise levels.
3. I am not satisfied that the operation of the gym will not create offensive noise, based on;
 - a. the location of above and surrounding residences as indicated on the Architectural Plans.
 - b. the layout of the gym and location of noise generating equipment, and
 - c. the proposed flooring system to mitigate noise producing facets from the operation of the gym.
 - d. the likely noise levels produced while the gym is in operation including music noise, noise producing facets from equipment, noise from “team training” classes.

Assessing Officer comment:

It is agreed that the Applicant has failed to demonstrate the proposal would afford a reasonable level of amenity for adjoining residential apartments with respect to noise and vibration. This forms reason for refusal of the application.

Senior Development Engineer: Council’s Senior Development Engineer has reviewed the amended application and has provided the following comments:

It is noted that the proposed use follows from a recent CDC approval which has effectively enclosed the originally approved terraced areas.

The original development application accepted a significant parking shortfall for numerous reasons. Due to the location of the site on the traffic intersection and implications with vehicle access, a parking shortfall of 12 spaces was accepted. Accordingly the approved floor area (excluding the enclosed terrace) warranted only 4 spaces and the other 2 spaces allocated to the other tenants. The enclosed terraces therefore exacerbates this non-compliance further.

The applicant's traffic report has also incorporated the enclosed external terrace areas as a parking shortfall. This was not originally considered under the original development application and therefore should be disregarded.

Disregarding the CDC works, the parking demand rates in Council DCP are higher for "Recreation Facilities (indoor) / Gymnasium" in comparison to retail, noted as follows;

<i>Recreation Facilities (indoor) / Gymnasium</i>	<i>1 – 1.5 spaces per 20m²</i>	<i>(5 – 7.5 spaces / 100m²)</i>
<i>Retail</i>	<i>1 space per 25m²</i>	<i>(4 spaces / 100m²)</i>

As such, the proposed change of use would warrant a higher parking demand.

The submitted Traffic Report has presented there is a public parking lot in the vicinity of the site (Western Crescent and Coulter Street) though this is some 400m from the site and gym patrons are more likely to obtain parking closer to the site in a residential street.

Assessment of the proposed development presents that the proposed change of use generates a greater parking demand than what was originally envisaged under the original approval. Accordingly this will impact upon on-street parking in the vicinity of the site and therefore the development is not supported on parking grounds.

Building Surveyor: Council's Building Surveyor has reviewed the amended documentation. They have noted that a number of fire safety issues have been raised for the entire building, which the owner is currently working with Council's Health and Building team to resolve. The fire safety issues that apply to the subject tenancy include defects to the fire hydrant booster pump, smoke detectors and emergency lights and exit signs.

It is anticipated that these deficiencies could be resolved by conditions of consent, should the application be considered for approval.

8. CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979, the application is recommended to refused for the following reasons:

1. The proposal results in an unacceptable impact on the adjoining residential properties with respect to noise and vibration.
2. The proposal is inconsistent with the objectives of the B4 Mixed Use zone under the Ryde LEP 2014, as the proposal is not considered to be compatible with the surrounding residential uses.
3. The shortfall in parking spaces results in an unacceptable impact on the on-street parking in the vicinity of the site.
4. The Plan of Management submitted with the application is inadequate as it:
 - Fails to address the potential conflict with a gym operating 24 hours a day with the nearby residential uses.
 - Does not outline sufficient mitigation measures with respect to parking, noise and vibration and building security.
5. The development is not suitable for the site.
6. The proposal is not in the public interest.

9. REASONS FOR REFUSAL

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- A. That the Local Planning Panel refuse the Development Application LDA2020/0380 for the use of and fit out of the tenancy as a 24hour/7 day gymnasium at No. 1 Meriton Street, Gladesville, for the reasons as follows:
 1. In accordance with Section 4.15(1)(a), the development does not comply with the following planning provisions:
 - *Ryde Local Environmental Plan 2014* in that the proposal is inconsistent with the B4 Mixed Use zone objectives, as the proposal is incompatible with the surrounding residential uses.
 - *Part 9.3 of the Ryde Development Control Plan 2014* in that the proposal does not provide adequate parking to meet the parking demand generated for the proposed use.
 2. In accordance with Section 4.15(1)(b), the likely impacts due to noise and vibration of the development are unreasonable. Inadequate information has been provided to demonstrate that the adverse noise and vibration impacts caused by the use and fit out of the premises can be satisfactorily mitigated.
 3. In accordance with Section 4.15(1)(c) the site is unsuitable for the proposed development given the proposal's incompatibility with surrounding land uses.
 4. The approval of the proposed development is not in the public interest in accordance with Section 4.15(1)(e).
- B. That the persons who made submissions be advised of this decision.

Report prepared by:

Madeline Thomas
Senior Coordinator – Development Assessment

Report approved by:

Sandra Bailey
Manager – Development Assessment

Liz Coad
Director – City Planning and Environment

Date of Determination	13 May 2021
Panel Members	Steve O'Connor (Chair) Michael Leavey (Independent Expert) Ian Stapleton (Independent Expert) Bec Ho (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 13 May 2021 opened at 5:00pm and closed at 5:35pm. Papers circulated electronically on 6 May 2021.

MATTER DETERMINED

LDA2020/0380 – 1 Meriton Street, Gladesville
Use and internal fit out for a 24/7 Snap Fitness Gym

The following people addressed the meeting:

1. Greg Pobke (objector)
2. Valerie Vega / Margaret Roberts (owner / applicant)

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 **refuse** the development application as described in Schedule 1, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

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

1. In accordance with Section 4.15(1)(a), the development does not comply with the following planning provisions:
 - *Ryde Local Environmental Plan 2014* in that the proposal is inconsistent with the B4 Mixed Use zone objectives, as the proposal is incompatible with the surrounding residential uses.
 - *Part 9.3 of the Ryde Development Control Plan 2014* in that the proposal does not provide adequate parking to meet the parking demand generated for the proposed use.
2. In accordance with Section 4.15(1)(b), the likely impacts due to noise and vibration of the development are unreasonable. Inadequate information has been provided to demonstrate that the adverse noise and vibration impacts caused by the use and fit out of the premises can be satisfactorily mitigated.
3. In accordance with Section 4.15(1)(c) the site is unsuitable for the proposed development given the proposal's incompatibility with surrounding land uses.
4. The approval of the proposed development is not in the public interest in accordance with Section 4.15(1)(e).

The Panel adopts the recommendation and reasons for refusal as outlined in the Assessment Officer's report.

CONDITIONS

Not Applicable

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. No new issues were raised during the public meeting.

PANEL MEMBERS

Steve O'Connor (Chair)	
Michael Leavey	
Ian Stapleton	
Bec Ho	

SCHEDULE 1

1	DA No.	LDA2020/0380
2	Proposal	Use and internal fit out for a 24/7 Snap Fitness Gym.
3	Street Address	1 Meriton Street, Gladesville
4	Applicant / Owner	Darren Laybutt / BridgeLane Property 12 Pty Ltd
5	Reason for referral to RLPP	Contentious Development - Development which received more than 10 submissions.
6	Relevant mandatory considerations	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning No. 55 – Remediation of Land (SEPP55) ○ Ryde Local Environmental Plan 2014 • Draft environmental planning instruments: <ul style="list-style-type: none"> ○ Draft Remediation of Land State Environmental Planning Policy ○ Draft Environment State Environmental Planning Policy • Development control plans: <ul style="list-style-type: none"> ○ Ryde Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	Material considered by the Panel	<ul style="list-style-type: none"> • Council assessment report • Written submissions during public exhibition: 17 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil ○ In objection – Greg Pobke (also provided written summary of his address to the Panel) ○ Council assessment officer – Madeline Thomas ○ On behalf of the applicant – Valerie Vega / Margaret Roberts
8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: At the discretion of Panel members due to COVID-19 restrictions • Briefing: 13 May 2021 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Michael Leavey, Ian Stapleton, Bec Ho

		<ul style="list-style-type: none">○ <u>Council assessment staff</u>: Sandra Bailey, Madeline Thomas, Daniel Pearse● Papers were circulated electronically on 6 May 2021
9	Council Recommendation	Refusal
10	Draft Conditions	Not Applicable