

 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA/2020/0766
Address	26-30 Halloran Street LILYFIELD NSW 2040
Proposal	Change of use to an indoor recreation facility, construct internal pool with internal fit-out and signage
Date of Lodgement	2 October 2020
Applicant	Pejman Talebi C-/ Aquatic Achievers Operations Pty Ltd
Owner	Miles Corporation Pty Ltd
Number of Submissions	(20)
Value of works	\$1,157,800.00
Reason for determination at Planning Panel	Number of submissions
Main Issues	Inadequate Parking provision; Traffic conflicts; & Amenity Impacts
Recommendation	Refusal
Attachment A	Conditions of consent in the event that the DA is approved
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Plan of Management



LOCALITY MAP	
Subject Site	    N
Notified Area	 

Note: Due to scale of map, not all submitters could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for change of use to an indoor recreation facility, construction of an internal pool with fit-out and signage at 26-30 Halloran Street Lilyfield. The application was notified to surrounding properties and 20 submissions were received in response to the notification. These submissions comprise 14 by objection and 6 in support.

The main issues that have arisen from the application include:

- Insufficient on-site parking provision
- Traffic conflicts
- Amenity impacts
- Signage
- Loss of existing landscaping

The proposal requires redesign to remove traffic safety conflicts resulting in a significant reduction in on-site parking provision. Given the resultant unacceptable impacts on parking demand in the surrounding area and given that anticipated adverse impacts could not be reasonably resolved through the imposition of conditions. Therefore, the application is recommended for refusal.

2. Proposal

The proposal involves a change of use of the northern industrial unit to a swim training school. The school is to teach children aged between 3 months to 12 years of age. Classes would involve 10 staff and 30 students at any time.

The proposed hours of operation are 6.30am to 8.30pm Monday to Friday and 6.30am to 8.00pm Saturdays and Sundays. The operating hours are split into 2 shifts, with a period between 12.30pm to 2.30pm where no lessons are provided.

The development involves the construction of an indoor pool and internal fit-out. Signage for the use is also proposed. Access to the facility is to be from both the Halloran Street frontage and the rear lane. It is proposed to remove existing planter beds in the Halloran Street setback area of the site to provide 8 off-street parking spaces. A further 23 parking spaces for the use are proposed in the existing basement parking area in addition to 4 spaces for the other industrial tenancy on the site. The basement parking area is accessed via the rear laneway.

3. Site Description

The subject site is located on the eastern side of Halloran Street, between Lilyfield Road and Joseph Street. The site consists of one rectangular allotment with a total area of area 1,961sqm and is legally described as Lot 60 in DP1253613.

The site has frontages to both Halloran Street and the rear lane of 64.3 metres and a secondary frontage of 30.5 metres to Joseph Street.

The eastern side of Halloran Street is zoned IN2 - Light Industrial. The western side of Halloran Street is zoned R1- General Residential. The properties located on the eastern side of the rear lane are zoned IN2 - Light Industrial directly behind the subject Industrial unit and B7 - Business Park behind, and south of, the southern industrial unit in the building.

The site supports a single industrial building containing two industrial units. Each unit has a two-storey office mezzanine component at the front of the property. The adjoining properties on the eastern side of Halloran Street support a mix of one and two storey commercial/ industrial buildings. The neighbouring properties on the western side of Halloran Street generally comprise single storey detached dwellings. Properties to the east of the site with frontages to the rear lane and Justin Street comprise a mix of commercial units with dwellings above, industrial building and detached dwellings.

The subject site is located within the ANEF20-25 noise footprint for Sydney Airport.

The following trees are located within the vicinity and are not affected by the proposed development.

- 6 x Street trees - adjacent to the western boundary of the subject site in the Halloran Street road reserve. These trees are immediately adjacent the office component of each of the existing industrial units on the site.
- 3 x Street trees - adjacent to the northern boundary of the subject site in the Joseph Street road reserve.



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
BC/2020/0127	Illegal construction of a wall between two between warehouses.	Approved 27/07/2020
PDA/2020/126	Fit out and conversion to swim school	Issued 27/05/2020
D/2012/465	Signage to existing building	Approved 4/12/2012
DA/256/1993	Display Warehouse	Approved 31/8/1993
DA/43/1992	Industrial (office and shelving)	Approved 24/02/1992
DA/208/1991	Industrial use premises for hire and storage of audio video and staging equipment	Approved 17/09/1991
DA/185/1986	Industrial use (warehouse and showroom for glassware	Approved 10/06/1986
DA/163/1985	Warehouse units to be used by Council as vehicle workshop	Approved 9/07/1985

Surrounding properties

32 Halloran Street

Application	Proposal	Decision & Date
M/2014/53	Section 96 modification of D/2010/71 which approved alterations and additions to an existing commercial building. Modification includes modification to location of fire stairs & privacy screen, new roller door and pedestrian gate.	Approved 30/09/2014

17 Halloran Street

Application	Proposal	Decision & Date
MOD/2020/0020	Modification of Development Consent D/2018/162 seeking various internal and external changes.	Approved 5/03/2020

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
9/12/2020	Request for additional information re: Contamination; Variation case for existing Breach of FSR standard; and further information as to proposed usage.
21/1/2021	Additional information provided – Amended architectural plans; Traffic report; Plan of Management
24/2/2021	Additional information provided - Cl.4.6 variation case
12/3/2021	Additional information provided - DSI
25/3/2021	Additional information provided - RAP

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *Leichhardt Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used in the past for activities which could have potentially contaminated the site. It is considered that the site will require remediation in accordance with *SEPP 55*.

A Detailed Site Investigation (DSI) and Remedial Action Plan (RAP) have been provided to address the management of contaminated groundwater onsite and the treatment and disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use after the completion of the RAP. The remediation is classed as Category 2 remediation.

To ensure that these works are undertaken, it is recommended that conditions are included in the recommendation in accordance with Clause 7 of *SEPP 55*.

5(a)(i) *State Environmental Planning Policy No. 64 - Advertising and Signage*

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

SEPP 64 specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

The application seeks consent for the erection of the following Building Identification signage:

- 1 x non-illuminated wall sign measuring approximately 9m (width) by 1.5m (height) fronting Halloran Street reading, ‘*Aquatic Achievers Swim School*’
- 1 x non-illuminated wall sign measuring approximately 3m (width) by 2m (height) fronting Halloran Street reading, ‘*Aquatic Achievers Swim school - aquaticachievers.com.au*’

The proposed signage is defined as *Business Identification Signage* and is considered satisfactory having regard to the aims of the Policy; and the assessment criteria contained in Schedule 1 of SEPP 64.

5(a)(ii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of the *Leichhardt Local Environmental Plan 2013*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 6.1 - Acid Sulfate Soils
- Clause 6.2 - Earthworks
- Clause 6.4 - Stormwater management
- Clause 6.8 - Development in areas subject to aircraft noise

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned IN2 under the *LLEP 2013*. The *LLEP 2013* defines the development as:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

The development is permitted with consent within the zone.

The following table provides an assessment of the application against the development standards:

Standard	Proposal	non compliance	Complies
Floor Space Ratio Maximum permissible: 1:1 or 1,961sqm	1.03:1 or 2,011sqm	50sqm or 2.55%	No*

*The application does not involve an increase in gross floor area from that currently existing on the site.

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.4 – Floor Space Ratio

The applicant seeks a variation to the Floor Space Ratio development standard under Clause 4.4 of the applicable local environmental plan by 2.55% (50sqm). It is noted that this breach is existing and the proposed development does not alter this existing breach.

Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable or unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the Leichhardt LEP below.

A written request has been submitted to Council in accordance with Clause 4.6(3) of the Leichhardt LEP justifying the proposed contravention of the development standard which is summarised as follows:

- The breach of the standard is existing, and the proposed development does not alter this existing breach.
- The proposed development is consistent with the underlying objective or purpose of the standard.
- The proposed development is consistent with the objectives of the IN2 Light Industrial zone.
- The proposed development will make a positive contribution to the ongoing operation of the site.
- The proposal is appropriate to the condition of the site and surrounding context.

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the IN2 zone, in accordance with Clause 4.6(4)(a)(ii) of the Leichhardt LEP for the following reasons:

Objectives of the IN2 zone:

- *To provide a wide range of light industrial, warehouse and related land uses.*
 - *To encourage employment opportunities and to support the viability of centres.*
 - *To minimise any adverse effect of industry on other land uses.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.*
 - *To support and protect industrial land for industrial uses.*
 - *To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community.*
 - *To ensure the provision of appropriate infrastructure that supports Leichhardt's employment opportunities.*
 - *To retain and encourage waterfront industrial and maritime activities.*
 - *To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.*
- The proposed development is for the purpose of an indoor recreation facility (swim school) which is permissible in the zone.
 - The proposed use would provide a community benefit to the surrounding locality.
 - The proposal would support an employment generating use on the currently vacant site.
 - The proposed use would have a positive impact on the local economy.
 - The proposed development involves minimal external changes, retaining the existing bulk, form and scale of the existing building.
 - The proposal would preserve the industrial character of the site and zone.

It is considered the development, with regard to floor space, is in the public interest because it is consistent with the objectives of the Floor Space Ratio development standard, in

accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

Objectives of the Standard:

- *To ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.*
- The proposed indoor recreation facility (swim school) is to teach children aged from 3 months to 12 years of age.
- The proposal involves a land use providing a community benefit to the surrounding locality
- The proposal will support an employment generating use on a site which is currently vacant, impacting positively on the local economy.
- The proposed development is for a change of use with minimal external changes to the existing building, retaining the existing bulk, form and scale that currently exists across the site.
- The proposal will preserve the industrial character of the site.
- The proposal will preserve an employment generating land use on the site.
- The proposal is permissible with consent on the site.

The Clause 4.6 request is supportable in the circumstances of the case however the proposal is recommended for refusal for other reasons as detailed below.

5(b) Draft Environmental Planning Instruments

Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.*

The amended provisions contained in the Draft IWLEP 2020 are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

LDCP2013	Compliance
Part B: Connections	
B1.1 Connections – Objectives	Yes
B2.1 Planning for Active Living	Yes
B3.1 Social Impact Assessment	Yes
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	Yes

C1.3 Alterations and additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	N/A
C1.5 Corner Sites	Yes
C1.6 Subdivision	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	No – see discussion
C1.12 Landscaping	No – see discussion
C1.13 Open Space Design Within the Public Domain	Yes
C1.14 Tree Management	Yes
C1.15 Signs and Outdoor Advertising	Yes – see discussion
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	Yes
C1.17 Minor Architectural Details	Yes
C1.18 Laneways	Yes
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	Yes
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
C2.2.4.2 & 2.2.4.2(f) - Nanny Goat Hill & Commercial/Industrial Sub Areas - Distinctive Neighbourhood	No – See Discussion
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	No – see discussion
C4.2 Site Layout and Building Design	Yes
C4.3 Ecologically Sustainable Development	Yes
C4.4 Elevation and Materials	Yes
C4.5 Interface Amenity	Yes
C4.6 Shopfronts	Yes
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	Yes
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	No – see discussion
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises and Service Stations	N/A
C4.19 Vehicle Repair Station	N/A
C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management	Yes
Section 2 – Resource Recovery and Waste Management	Yes
D2.1 General Requirements	Yes

D2.2 Demolition and Construction of All Development	Yes
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	Yes
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	Yes
E1.1 Approvals Process and Reports Required With Development Applications	Yes
E1.1.1 Water Management Statement	Yes
E1.1.2 Integrated Water Cycle Plan	Yes
E1.1.3 Stormwater Drainage Concept Plan	Yes
E1.1.4 Flood Risk Management Report	Yes
E1.1.5 Foreshore Risk Management Report	Yes
E1.2 Water Management	Yes
E1.2.1 Water Conservation	Yes
E1.2.2 Managing Stormwater within the Site	Yes
E1.2.3 On-Site Detention of Stormwater	Yes
E1.2.4 Stormwater Treatment	Yes
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	Yes
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	Yes
E1.3.1 Flood Risk Management	Yes
E1.3.2 Foreshore Risk Management	Yes

The following provides discussion of the relevant issues:

C1.12 Landscaping

The proposed parking at the front of the site involves the proposed removal of the existing raised planter beds in the Halloran Street front setback. The removal of these planters is not supported as it will result in the loss of existing landscape features on the site which act to soften the appearance of this industrial building, consistent with the provisions of Part C4.10 Industrial Development. Further, the provision of off-street parking spaces fronting the Halloran Street frontage of the site is not supported on safety grounds due to reversing movements across the public footway. [See also C1.11 Parking below].

C1.11 Parking

The application proposes a total of 31 parking spaces, of which 8 spaces are to be located in the Halloran Street setback to the existing building including 1 accessible parking space.

The proposal also includes maintaining 4 stacked spaces in the basement for use in association with the other industrial/warehouse tenancy on the site [Tenancy 2].

Council’s Engineers have raised concerns with the parking and traffic implications of the proposal on the immediate area, also the operational effectiveness of the existing basement parking access door to facilitate efficient vehicular access to the facility from the rear laneway. Further, the proposed off-street parking spaces to the Halloran Street frontage will result in vehicle/ pedestrian conflict and safety concerns, particularly for users of the site.

In this regard:

The submitted Plan of Management states that there will be 10 staff and 30 students (maximum) in the pool undertaking classes/activities and that there will be additional students within the site before/after their class for some period of time.

Based on information provided, it is considered that the number of students on the site at any one time will not only be the 30 students within the pool, considering an allowance for time of arrival (e.g. parking, booking, payment, changing, walk and sign in, etc.) and departure sometime after their class (e.g. allowing for changing, walk-out, load car etc). It is therefore assumed that the total number would be up to 45 students (i.e. 30 students in the pool and 50% before/after class allowing that some will arrive at the site sometime prior to their class and some remain after their class).

The submitted basement parking area swept paths rely on parking space 10 remaining unoccupied. If this is the case, parking space 10 is not a parking space and must be marked as part of the Turning Area.

The proposal as submitted is not supported on traffic, parking and public safety grounds for the following reasons:

1. The development proposes a continuous 30m length of parking spaces across the Halloran Street frontage that will involve vehicles manoeuvring at high frequency, including reverse manoeuvres, across the footpath that is used by the public including children to access the site and walk past the site. This is unacceptable on public safety grounds due to the significant risk of conflict between pedestrians and vehicles including potential for vehicles to reverse into pedestrians.

Consequently, these proposed parking spaces should be deleted. Also, the existing redundant vehicular crossings for this unit in Halloran Street should be closed.

2. The width of the basement carpark vehicular access from the laneway is inadequate for vehicles to enter the basement whilst a vehicle exits the basement as required by *AS/NZS 2890.1:2004*. This is given the number of vehicular movements (in/out combined) is expected to be 76/hr. This is not supported on traffic and safety grounds as it results in significant risk of vehicle conflict and queuing, including reversing of vehicles within the laneway.

Consequently, in order to facilitate access to the basement it would be necessary to widen the existing basement vehicular accessway to comply with Section 2.5.2(c) and Section 3.2.2 of *AS/NZS 2890.1:2004*, such that a B99 design vehicle is able to pass a B85 design vehicle.

3. The proposal to place convex mirrors externally within the rear laneway must be deleted as owner's consent is required to their placement.
4. Due to the required deletion of the proposed parking spaces at the Halloran Street frontage, and parking space 10 in the basement to facilitate the internal turning area (noted above), the on-site parking for the swim school use would be significantly reduced, representing an inadequate quantum of parking. This would impact the amenity of properties in the area due to an increase in on-street parking demand.

The required changes to the proposed parking provision for the swim school use would result in a reduction in available on-site parking for the use from the proposed total of 31 spaces to a total of 22 parking spaces, all located within the basement. The basement would include 10 stacked parking spaces for the pool tenancy. Therefore, the proposal would have an effective provision for 16 parking spaces for customers, with the remaining 5 stacked spaces (and 1 other) available for staff use.

This level of parking provision is significantly below the potential peak parking demand of up to 45 vehicles (given up to 30 students within the pool at any one time with up to another 15 students within the site either leaving/ or waiting for their class). The submitted parking survey of another swim school site (operated by the proponent in Paddington, Queensland) identifies many times where there is a potential for 100% of customers driving to the site.

It is noted that the site also requires a parking space for persons with a disability. The application proposes this space within the front setback parking in Halloran Street. As noted above, this space is required to be deleted. The only alternative locations for a parking space for persons with a disability could be:

- A space within the Halloran Street frontage setback area that utilises the remaining vehicular crossing serving Tenancy 2, is aligned parallel to the footpath, and exited by way of a reverse movement in a southern direction across the tenancy 2 driveway, and then forward out to Halloran Street; or
- Seek Council approval for provision of an on-street parking space for persons with a disability adjacent to the Swim School front entry, within on-street parking that could be created by the closure of the existing tenancy 1 vehicular crossings.

It is considered that the proposed daily hours of pool operation, 7 days a week, in concert with the significant shortfall in on-site parking, would likely result in unacceptable impacts to surrounding properties in the area including Halloran Street and Joseph Street, that likely rely on street parking (e.g. for resident parking or visitors, etc).

Daytime kerbside occupancy in Halloran Street and Joseph Street is greater than 75%. However, as survey was conducted in mid-December 2020, it can be assumed that during more active times of the year kerbside occupancy is likely to be at or near capacity.

A consequence of such high occupancies means that, should on-site parking provision be unable to accommodate peak demand, the possibility exists that illegal parking will occur in Halloran Street. This may, in turn both inconvenience residents and reduce sightlines. These reduced sightlines are of significant concern in relation to pedestrian movements associated with the facility, particularly children.

As there is a pedestrian link from the northern end of Halloran Street to Joseph Street there is a likelihood that overflow parking will occur in Joseph Street (and other streets to the north) should any kerbside parking be available.

Additionally, the constrained parking environment in Halloran Street is likely to result in vehicles attempting to access parking in surrounding streets, consequently increasing traffic movements in these adjacent residential streets through expansion of patron's parking search pattern. This is particularly likely during peak departure periods from the facility if regular users experience delay exiting to Lilyfield Road. This parking search pattern and illegal parking

would be likely to result in significant adverse amenity impacts to surrounding residences during the significantly long operating hours of the facility, 7 days a week.

In light of the issues identified above consideration has been given to imposing conditions that require an increase in the break between class times so as to reduce on-site parking demand at during operation. Given the significant shortfall in on-site parking resulting from the required changes to the proposed parking arrangements noted above, it would be necessary to provide for staggered start times between each lesson so as to ensure sufficient time for parking demand and traffic conflict arising from customers arriving and departing the site and before the next group of attendees could find on-site parking, to be minimised. It is considered that such a stagger time would need to be considerably longer than that stated in the application. It is therefore concluded that an approval so conditioned would not be likely to resolve the traffic and parking issues without significantly reducing the number of daily swim classes. This is considered to present an unviable commercial impact on the business and in turn a management regime which is unlikely to be carried out faithfully over the long term and as such, is not a suitable alternative.

Bicycle parking

The proposal provides 6 bicycle parking spaces, seeking to conform to the *Commercial Premises* standard under the DCP. However, the *Recreation Facility* bike parking rates in Council's DCP must be used in the first instance. Noting the survey information relating to method of travel to the applicant's Queensland site, a reduction in rates could be acceptable. However, it should be considered a reasonable provision over the maximum rate surveyed to allow any additional demand in bike parking in this location relative to the that site. Further, the visitor bicycle parking should be relocated to the Halloran Street frontage of the site at ground level adjacent the entrance in a visible location (Security class C), with Staff bicycle parking located in a secure location (security class B). Any bicycle parking facilities must comply with Leichhardt DCP2013 Part C1.11 Parking, Controls C18, C19, C21 and AS2890.3.

C1.15 Signs and Outdoor Advertising

This matter is addressed in section 5(a)(i) above. The business identification sign which is proposed to be placed above the existing loading dock roller doors is placed so as to obscure the top section of existing dividing masonry column which is contrary to control C2 b. In the circumstances the impact on the façade and appearance of the building by this breach is considered minor.

C2.2.4.2 & 2.2.4.2(f) - Nanny Goat Hill & Commercial/Industrial Sub Areas - Distinctive Neighbourhood

As noted elsewhere in this report, the proposal would result in a shortfall in on-site parking provision and also likely result in parking/ traffic conflict within the immediate vicinity of the site, particularly in Halloran Street and the rear laneway. Consequently, the proposed use would not preserve the existing character of the area at the junction of Justin Street and Lilyfield Road as required by control C1 of Part 2.2.4.2(f).

C4.1 Objectives for Non-Residential Zones

As noted elsewhere in this report, the proposal would result in a shortfall in on-site parking provision and also likely result in parking/traffic conflict within the immediate vicinity of the site, particularly in Halloran Street and the rear laneway. Consequently, the proposed use would not meet the objectives O8 & O10 to this Part, which seek:

O8 - To achieve an appropriate balance between promoting economic prosperity and protecting established residential amenity.

O10 - To ensure a sensitive transition to adjoining residential areas at zoning boundaries.

C4.16 Recreational Facility

The hours of operation are proposed to be 6.30am to 8.30pm Monday to Friday and 6.30am to 8.00pm Saturdays and Sundays. The operating hours are split into 2 shifts, with a period between 12.30pm to 2.30pm where no lessons are provided.

The use involves a maximum of 5 to 7 staff will be on-site at any one time. The number of students per class will average from 3 to 4 students over 5 to 7 classes per time slot.

It is proposed that there will be 40 to 50 classes per operating shift depending on the day. Lessons times are to be staggered and set to the quarter hour with student numbers capped to limit the number of persons on site with the intention of minimising the impact of incoming/outgoing overlap of customers within the site and area.

The site is within the IN2 Industrial zone which also encompasses properties to the east of the site, and adjacent the B7 Business Park zone to the east, with the residentially zoned land located on the western side of Halloran Street. As the swim school use is to take place wholly within the subject building, the potential for amenity disturbance by way of noise generation would be limited and comparable to potential industrial use of the site. The proposed recreation use of the site would, in this respect, be unlike previous (or future) industrial uses of the building with regard to potential noise, fumes and associated amenity impacts. Consequently, the proposed use, including hours of operation, is considered satisfactory in the circumstances.

It is noted that as a consequence of the parking & traffic issues with the proposed use identified elsewhere in this report, the development fails to satisfy Controls C1 & C3 of this Part, which require:

C1 - Development does not significantly impact the amenity of the neighbourhood or create a nuisance by way of car parking, traffic generation, noise, vibration or any other emission.

C3 - Adequate car and bicycle parking is provided on site in accordance with the provisions within Part C1.11 - Parking in this Development Control Plan.

External Referral – Sydney Water

As the proposal involves the installation of a pool, the application was referred to Sydney Water for comment. In response it was advised that the site appears to have access to adequate water and wastewater infrastructure. Further, that the proposal requires an application for a Section 73 Certificate from Sydney Water. Suitable conditions are to be placed on any consent.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have unsatisfactory impacts on the locality.

5(f) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application. However, as noted in this report, the proposal will result in unsatisfactory parking and traffic impacts.

5(g) Any submissions

The application was notified in accordance with Inner West Community Engagement Framework for a period of 14 days to surrounding properties. 20 submissions were received in response to the initial notification.

The following issues raised in submissions have been discussed in this report:

- Inadequate parking provision
- Traffic conflict in laneway Internal to site and between other properties in the lane.
- Traffic movements
- Proposal contrary to Part C4.16 *Recreation Facility*
- Plan of Management
- Noise
- Hours of operation
- Signage
- Planter beds to front setback should be retained

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Applicant did not consult neighbouring residents

Comment: Although encouraged by Council, an applicant is not obliged to consult neighbouring residents/ owners in preparation of an application.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineer
- Environmental Health
- Building

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Sydney Water

7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$11,578 would be required for the development under the *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*. A condition requiring that contribution to be paid is to be included as a condition of any consent.

8. Conclusion

This application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979 and is considered to be unsatisfactory. The proposal fails on key threshold issues and does not comply with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development could not be conditioned so as to resolve the identified significant adverse impacts in terms of traffic and parking conflicts, and resulting adverse amenity impacts to surrounding properties in the area both residential and non-residential. Therefore, in the circumstances, the application is considered not to be in the public interest and unsupportable. Consequently, refusal of the application is recommended.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, **refuse** Development Application No. DA/2020/0766 for Change of use to an indoor recreation facility, construction of an internal pool with internal fit-out and signage at 26-30 Halloran Street Lilyfield NSW 2041 for the following reasons:
1. The proposal has not demonstrated compliance with the following Clauses of the Leichhardt Local Environmental Plan 2013 having regard to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
 - i. Clause 1.2 – Aims of plan
 - ii. Clause 2.3 – Zone objectives and Land Use Table
 2. The proposal has not demonstrated compliance with the following Parts of the Leichhardt Development Control Plan 2013, having regard to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
 - i. Part C – Section 1 – C1.0 – General Provisions
 - ii. Part C – Section 1 - C1.11 Parking
 - iii. Part C – Section 1 – C1.12 – Landscaping
 - iv. Part C – Section 1 – C2.2.4.2 & 2.2.4.2(f) - Nanny Goat Hill Distinctive Neighbourhood & Commercial/Industrial Sub Area
 - v. Part C – Section 4 – C4.1 Objectives for Non-Residential Zones
 - vi. Part C – Section 4 – C4.16 Recreational Facility

3. The proposal is considered to result in adverse environmental impacts on the built environment having regard to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
4. The proposal is not considered suitable for the site in its current form having regard to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
5. The public submissions raised valid grounds of objection and approval of this application is considered contrary to the public interest, having regard to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*.
6. The proposal is not considered to be in the public interest having regard to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Attachment A – Conditions of consent (in the event that the DA is approved)

CONDITIONS OF CONSENT

The following is a Deferred Commencement condition imposed pursuant to Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. This Consent will not operate and may not be acted upon until the Council is satisfied as to the following matter(s):

A. Commencement Condition - Parking Facilities

The following deferred commencement conditions must be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent.

A. Vehicular Access at rear lane

To provide suitable vehicular access to the development site, amended plans and swept paths must be provided demonstrating that a B99 design vehicle is able to pass a B85 design vehicle at the vehicular access to the site at the rear lane vehicular access. The access opening will need to be widened and demonstrate suitable transitions from the laneway levels to internal levels for ground clearances to AS/NZS2890.1:2004 and to prevent water ingress into the basement from the laneway.

B. Parking - Halloran Street

To maintain pedestrian safety, the proposed parking spaces at the Halloran Street frontage of the site must be deleted and a parking space for a persons with a disability provided at the Halloran Street frontage utilising the vehicular crossing that services Tenant 2 with forward entry and exit from the site. This will require redesign of the entry to Reception with appropriate physical barriers and line marking and relocation of entry door.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 2 years from the date of determination this consent will lapse.

Evidence of the above matter(s) must be submitted to Council within 2 years otherwise the Consent will not operate.

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
2002-DA 1.101/E	Basement 1 Floor Plan	15/1/20	Visionata Architects
2002-DA 1.102/D	Ground Floor Plan	15/1/20	Visionata Architects
2002-DA 1.103/C	First Floor Plan	16/6/20	Visionata Architects
2002-DA 1.200/E	East & West Elevations	16/12/20	Visionata Architects
2002-DA 1.300/C	Elevation & Sections	16/6/20	Visionata Architects
2002-DA 1.301/C	Sections	15/1/20	Visionata Architects
2002-E 1.101/D	Existing Basement Floor Plan	16/6/20	Visionata Architects
2002-E 1.101/D	Existing Ground Floor Plan	16/6/20	Visionata Architects
2002-E 1.102/C	Existing First Floor Plan	16/6/20	Visionata Architects
RAP-LIL/1	Detailed Site Investigation	10/3/2021	Raw Earth Environmental
RAP-LIL/1	Remediation Action Plan	19/3/2021	Raw Earth Environmental
-	Plan Of Management (Revised)	21/1/2021	Aquatic Achievers
1309/r01	Traffic & Parking Report	19/11/2020	Ason Group
-	Supplementary Traffic & Parking Letter	19/1/2021	Ason Group
LP_20176/1	Access Report	16/6/2020	Lindsay Perry Access
-	Building Code of Australia Assessment	18/4/2020	BCA Logic
Rev.2	Acoustic Report	16/6/2020	Norrebro Design
Issue A	Waste Management Plan	16/6/2020	Visionata Architects

As amended by the conditions of consent.

DESIGN CHANGE

2. Design Change - parking

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:

- a. To maintain pedestrian safety, the proposed parking spaces at the Halloran Street frontage of the site must be deleted, other than the parking space for persons with a disability.
- b. The visitor bicycle parking must be relocated to be within the site at the Halloran Street frontage at ground level adjacent the entrance in visible location (Security class C). Staff bicycle parking should be located in a secure location (security class B). Bike parking facilities incl. lockers etc must comply with LDGP2013 Part C (Place) C1.11 Parking Controls C18, C19, C21 and AS2890.3.

FEES

3. Security Deposit

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$16,000
Inspection Fee:	\$236.70

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

4. Section 7.12 (formerly section 94A) Development Contribution Payments

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Former Leichhardt Local Government Area Section 7.12 Development Contributions Plan 2020*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment amount*:

\$11,578

*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either **by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))**. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

GENERAL CONDITIONS

5. Noise – Consultant's Recommendations

The recommendations contained in the acoustic report prepared by Norrebro Design, reference Doc. Rev2 dated 16 June 2020 must be implemented.

6. Hazardous Materials Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

7. Stormwater Drainage System

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

8. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

9. Contamination – Remedial Action Plan (No Site Auditor Engaged)

The site is to be remediated and validated in accordance with the recommendations set out in the Remedial Action Plan, prepared by Raw Earth Environmental, reference RAP LIL dated 19 March 2021, the *Contaminated Land Management Act 1997* and the *State Environmental Planning Policy No 55*.

PRIOR TO ANY DEMOLITION**10. Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

11. Construction Traffic Management Plan – Detailed

Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with Transport for NSW accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a. Description of the demolition, excavation and construction works;

- b. Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c. Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d. Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e. Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f. Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g. Proposed hours of construction related activities and vehicular movements to and from the site;
- h. Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i. Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j. Measures to maintain public safety and convenience;
- k. Any proposed road and/or footpath closures;
- l. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m. Locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council;
- n. Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q. On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r. Proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period; and
- s. How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
- t. Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

12. Construction Traffic Management Plan

Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained.

13. Advising Neighbors Prior to Excavation

At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

14. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE**15. Noise General – Acoustic Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

16. Public Domain Works – Prior to Construction Certificate

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:

- a. New heavy duty vehicular crossing at the rear lane frontage of the site.

- b. The removal of all redundant vehicular crossings to the site at the Halloran Street frontage of the site. Access to parking spaces directly from Halloran Street is not permitted. The parking spaces at the Halloran Street frontage that are accessed directly from Halloran Street must be deleted;
 - c. Repair of any existing damaged concrete footpath and kerb and gutter along the frontage of the site.
 - d. Changes to the parking restriction signage in the vicinity of the site, including Halloran Street and the rear lane, to improve vehicle circulation within the vicinity of the site.
- All works must be completed prior to the issue of an Occupation Certificate.

17. Parking Facilities – including basement

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. the internal vehicle hardstand area at the rear lane frontage must be redesigned such that the level at the boundary matches the alignment level issued with this consent including adjustments to prevent water ingress into the basement. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure that it matches the above-issued alignment levels;
- b. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004;
- c. A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors;
- d. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004;
- e. Minimum headroom of 2500mm must be provided above any disabled parking space(s);
- f. The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps;
- g. A B99 design vehicle is able to pass a B85 design vehicle at the vehicular access to the site at the rear lane vehicular access.
- h. A parking space for a persons with a disability provided at the Halloran Street frontage utilising the vehicular crossing that services Tenant 2 with forward entry and exit from the site.

- i. A bicycle storage area must be provided to accommodate the numerical requirements of DCP and be designed in accordance with relevant provisions of AS 2890.3-2015; and
- j. Provision of a turning bay such that vehicles are able to enter and exit the site in a forwards direction.

18. Dilapidation Report – Pre-Development

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

19. Aircraft Noise – Acoustic Report (ANEF20-25 or Greater)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report that meets the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction. The recommendations of the report are to be indicated on the architectural plans and / or specifications.

20. Light Spill

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details demonstrating that any lighting of the premises complies with Australian Standard AS4282:1992: Control of Obtrusive Effects of Outdoor Lighting.

21. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

22. Concealment of Plumbing and Ductwork

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans detailing the method of concealment of all plumbing and ductwork (excluding stormwater downpipes) within the outer walls of the building so they are not visible.

23. Access Report

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a. Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part;
- b. Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia;
- c. Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements;
- d. Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of BCA Vol; and
- e. Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

24. Fire Safety Upgrade

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a. A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans;
- b. Review the current on site fire safety measures including their relevant standard of performance; and
- c. The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

25. Acoustic Report – Aircraft Noise

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.

DURING DEMOLITION AND CONSTRUCTION**26. Contamination – New Evidence**

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

27. Imported Fill Materials

All imported fill on the site shall be validated as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM), in accordance with NSW Environment Protection Authority guidelines, 'Consultants Reporting on Contaminated Sites' (August 2011) to ensure the imported fill is suitable for the proposed land use.

All fill imported onto the site shall be validated by either one or both of the following methods:

- a. Imported fill be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- b. Sampling and analysis of the fill material be conducted in accordance with NSW Environment Protection Authority's Sampling Design Guidelines (September 1995).

PRIOR TO OCCUPATION CERTIFICATE**28. Premises – Plan of Management**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Plan of Management for the operation of the licensed premises that addresses the following:

1. Compliance with the relevant conditions of approval;
2. Minimise the potential impact of the operation of the premises on nearby residents;
3. Effectively minimise and manage anti-social behaviour;
4. Minimise noise emissions and associated nuisances;
5. Effectively manage and respond to resident complaints.

29. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been

completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

- a. New heavy duty vehicular crossing at the rear lane frontage of the site.
- b. The removal of all redundant vehicular crossings to the site at the Halloran Street frontage of the site. Access to parking spaces directly from Halloran Street is not permitted. The parking spaces at the Halloran Street frontage that are accessed directly from Halloran Street must be deleted;
- c. Repair of any damaged concrete footpath and kerb and gutter along the frontage of the site.
- d. Changes to the parking restriction signage in the vicinity of the site to improve vehicle circulation within the vicinity of the site.
- e. Other works subject to the *Roads Act 1993* approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-“Roadworks Specifications”.

30. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.

31. Parking Signoff

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property.

- a. The car park has been completed, line marked and all signage relating to car parking erected;
- b. A notice has been clearly displayed at the Halloran Street frontage to indicate that visitor parking is available within the property with access from the rear of the property;
- c. Sign(s) have been erected that clearly indicate(s) to the drivers of vehicles the allocation of parking between Tenant 1 and Tenant 2 and allocation to staff and visitors;
- d. The vehicular access opening at the rear lane frontage of the site has been widened to enable a B99 design vehicle to pass a B85 design vehicle;
- e. A turning bay has been provided and linemarked and sign posted.
- f. Pedestrian walkways have been linemarked and any necessary physical controls installed.

32. Public Domain - Major Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with the works-as-executed plan(s), certified by a Registered Surveyor, that show the as built details in comparison to those shown on the plans approved with the public domain and Roadworks Permit with all relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

33. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.

34. Contamination – Disposal of Soil

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a validation report confirming that all off site disposal of soil has been classified, removed and disposed of in accordance with the NSW DECC Waste Classification Guidelines, Part 1: Classifying Waste (EPA 2014), Protection of the Environment Operations (Waste) Regulation 2014 and the *Protection of the Environmental Operations Act 1997*.

35. Contamination – Validation (No Site Audit Statement Required)

Prior to the issue of an Occupation Certificate, the Principal Certifier and Council must be provided with a Site Validation Report prepared by a suitably qualified environmental consultant with experience in land contamination.

The Validation report must be prepared in accordance with relevant NSW Environment Protection Authority guidelines, including the guidelines *Consultants Reporting on Contaminated Sites* and must confirm that the site has been remediated in accordance with the Remedial Action Plan and clearly state that the site is suitable for the proposed use.

36. Aircraft Noise –Alterations and Additions

Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.

Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a

further certificate being prepared and submitted to the Principal Certifier in accordance with this condition.

37. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

38. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

ON-GOING

39. Noise General

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

40. Noise – Licensed Premises/Entertainment Venues – Acoustic Report

During the first sixty (60) days of entertainment being provided at the premises, the following acoustic measures must be undertaken:

1. A suitably qualified acoustic consultant must be appointed to:
 - measure and verify the noise emanating from the premises; and
 - if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.
2. The noise measurements must be:
 - undertaken without the knowledge of the applicant, manager or operator of the premises;
 - taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 11pm until the end of the public entertainment or close of business, whichever occurs first, and
 - Submitted to the Certifying Authority within four (4) weeks of testing.
3. If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:
 - submitted to Certifying Authority with the noise measurements;

- implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises; and
- If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access)/ public entertainment on the premises must cease until such time as the recommendations are implemented and verified.

41. Premises – Plan of Management - Operation

The operation of the premises complying at all times with the approved Plan of Management. The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

42. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction. A turning bay must be provided in the car parking facilities and must remain clear at all times. Parking or standing vehicles within the turning bay is not permitted.

43. Loading/unloading on site

All loading and unloading are to be conducted within the site at all times.

44. Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

45. Staggering of Swim Classes

That the swim classes shall be staggered by 30 minutes so as to allow sufficient time for attendees of one swim class to leave the site prior to the arrival on site of customers for the following swim class.

46. Hours of Operation

- a. The hours of operation of the premises must not exceed the following:

Day	Hours
Monday to Friday, inclusive	6:30am - 8:30pm
Saturday & Sunday	6:30am - 8:00pm

47. Bin Storage

All bins are to be stored within the site.

ADVISORY NOTES

Storage of Hazardous and Dangerous Goods

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Swimming Pools

Applicants are advised of the following requirements under the *Swimming Pools Act 1992*:

1. The owner of the premises is required to register the swimming pool on the NSW State Government's Swimming Pool Register. Evidence of registration should be provided to the Certifying Authority.
2. Access to the pool/spa is restricted by a child resistant barrier in accordance with the regulations prescribed in the. The pool must not be filled with water or be allowed to collect stormwater until the child resistant barrier is installed. The barrier is to conform to the requirements of Australian Standard AS 1926:2012.
3. A high level overflow pipe has been provided from the back of the skimmer box to the filter backwash line discharging to the sewer. This line must not directly vent the receiving Sydney Water sewer. Evidence from the installer, indicating compliance with this condition must be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.
4. Permanently fixed water depth markers are to be clearly and prominently displayed on the internal surface above the water line at the deep and shallow ends on in-ground pools / spas and on the outside of aboveground pools / spas.
5. A durable cardiopulmonary resuscitation information poster sign authorised by the Life Saving Association is to be displayed in the pool / spa area in accordance with Clause 10 of the *Swimming Pool Regulation 2008*.
6. Access to the swimming pool/spa must be restricted by fencing or other measures as required by the *Swimming Pools Act 1992* at all times.

All drainage, including any overland waters associated with the pool/spa, must be pipe-drained via the filter to the nearest sewer system in accordance with the requirements of Council & Sydney Water. No drainage, including overflow from the pool or spa must enter Council's stormwater system.

Permits

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);

- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

Insurances

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Mechanical Ventilation System Certification

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

Health Premises Registration – Generic

The premises are required to be registered with Council's Environment Health Team in accordance with the following relevant legislation:

- a. *Food Shop - Food Act 2003*;
- b. *Hairdressing Salon / Barber - Public Health Act 2010 and the Local Government (General) Regulation 2005*;
- c. *Skin Penetration - Public Health Regulation 2012*;
- d. *Cooling Tower / Warm Water System / Swimming Pools - Public Health Act 2010 and Public Health Regulation 2012*; and
- e. *Boarding House / Shared Accommodation - Boarding Houses Act 2012 and the Local Government (General) Regulation 2005*.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a. Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b. Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Lead-based Paint

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441 www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406 www.foodnotify.nsw.gov.au

NSW Government	www.nsw.gov.au/fibro www.diysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555 www.environment.nsw.gov.au
Sydney Water	13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.
<p>Electrical Substations</p> <p>Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.</p>	
<p>Public Domain and Vehicular Crossings</p> <p>The vehicular crossing and/or footpath works are required to be constructed by your contractor. You or your contractor must complete an application for <i>Design of Vehicle Crossing and Public Domain Works – Step 1</i> form and <i>Construction of Vehicle Crossing and Public Domain Works – Step 2</i> form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.</p>	

You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

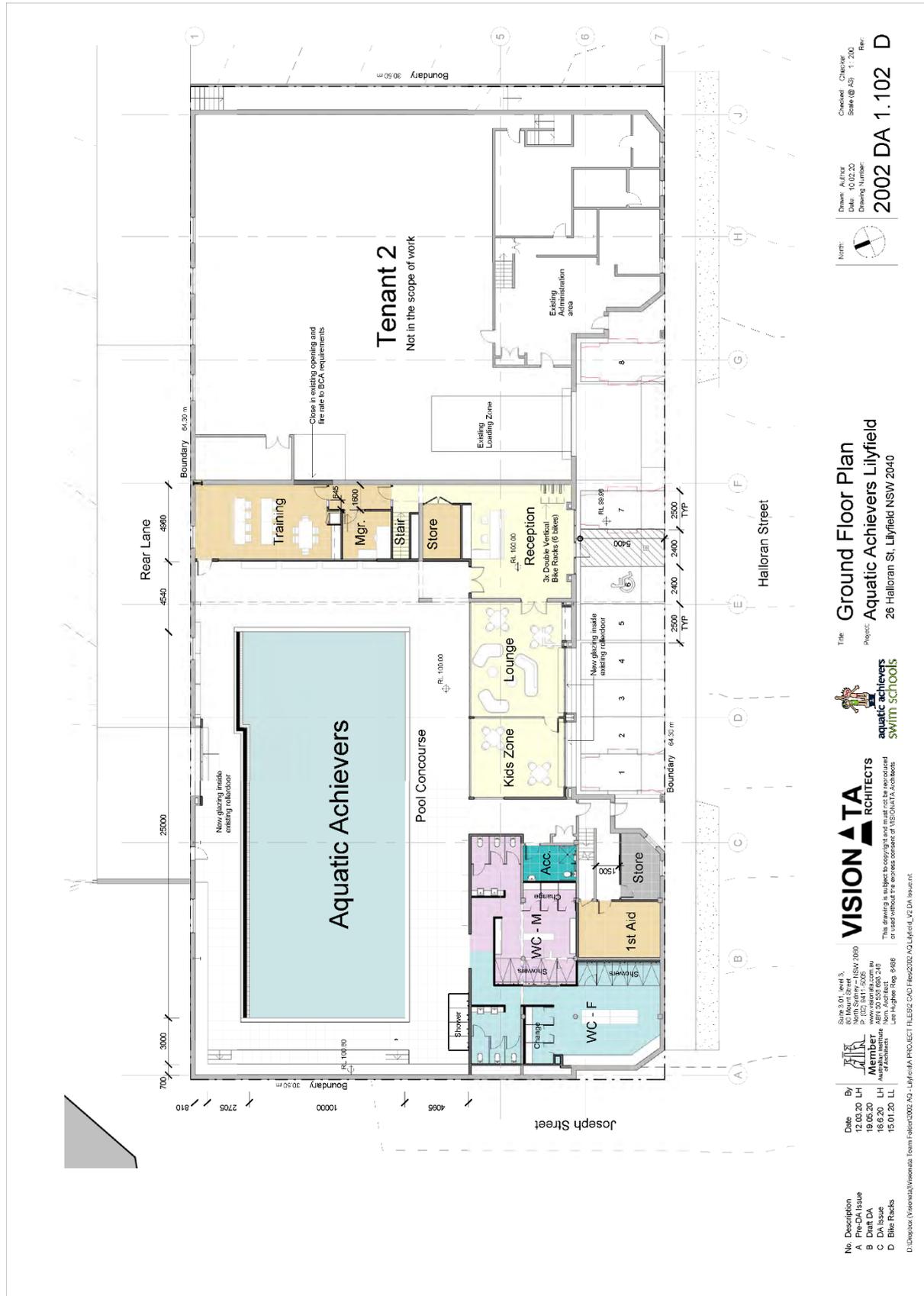
Microbial Control – Certification

All cooling towers and warm water systems are to be operated and maintained in accordance with the following:

- a. *Public Health Act 2010*;
- b. *Public Health Regulation 2012*; and
- c. Australian Standard AS/NZS 3666 – Air Handling and Water Systems of Buildings – Microbial Control, Parts 1, 2 & 3.

REASONS FOR REFUSAL

1. The proposal has not demonstrated compliance with the following Clauses of the Leichhardt Local Environmental Plan 2013 pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - i. Clause 1.2 – Aims of plan
 - ii. Clause 2.3 – Zone objectives and Land Use Table
2. The proposal has not demonstrated compliance with the following Parts of the Leichhardt Development Control Plan 2013, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979: Part C – Section 1 – C1.0 – General Provisions
 - i. Part C – Section 1 - C1.11 Parking
 - ii. Part C – Section 1 – C1.12 – Landscaping
 - iii. Part C – Section 1 – C2.2.4.2 & 2.2.4.2(f) - Nanny Goat Hill Distinctive Neighbourhood & Commercial/Industrial Sub Area
 - iv. Part C – Section 4 – C4.1 Objectives for Non-Residential Zones
 - v. Part C – Section 4 – C4.16 Recreational Facility
3. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
4. The proposal is not considered suitable for the site in its current form pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
5. The public submissions raised valid grounds of objection and approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.



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 Drawn: **Autor**
 Date: 10.02.20
 Drawing Number:
 Rev:
2002 DA 1.102 D

Title: **Ground Floor Plan**
 Project: **Aquatic Achievers Lilyfield**
 26 Hallowan St, Lilyfield NSW 2040



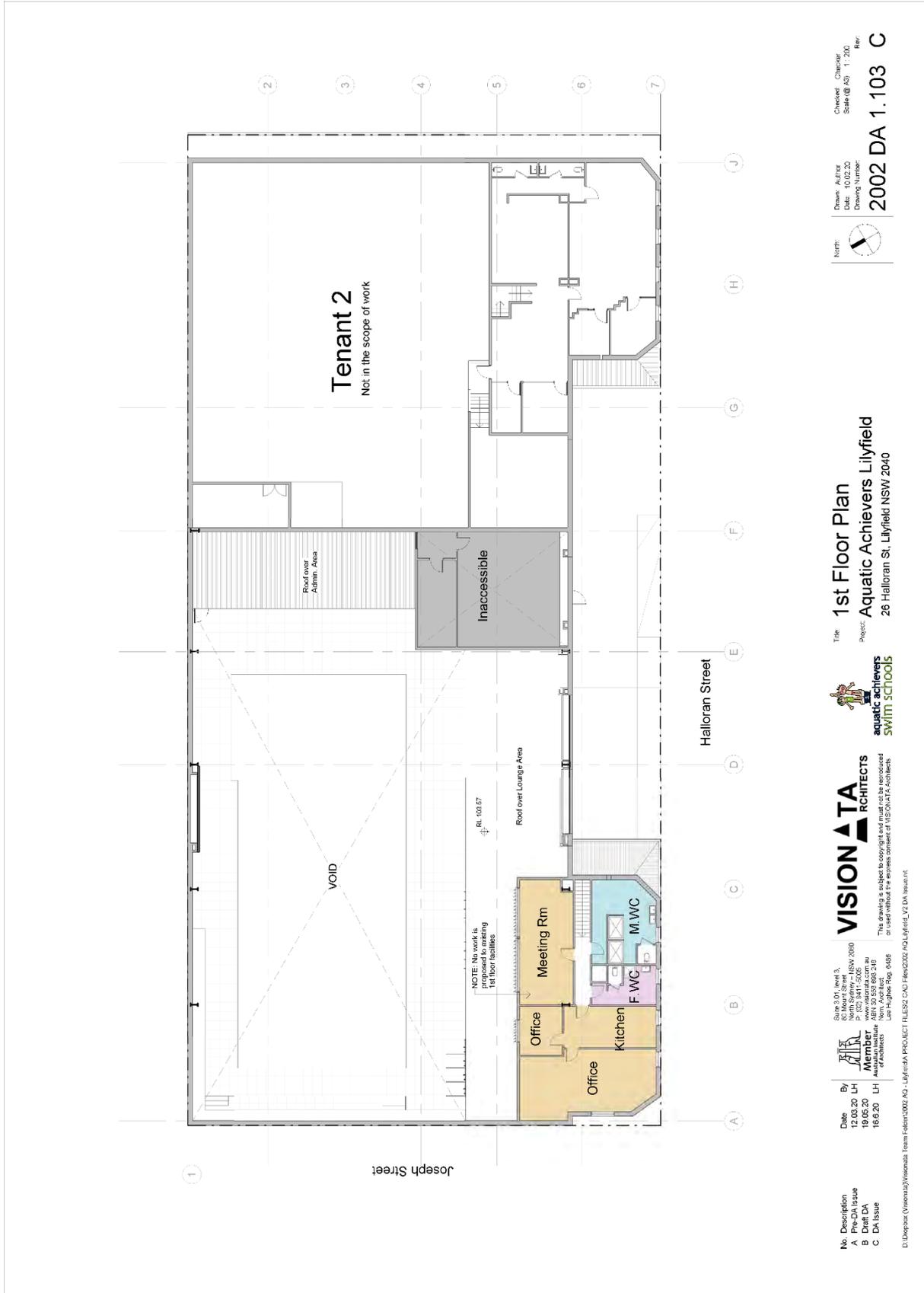
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 Lic: 19898 (NSW) Reg. 6385

By: **LH**
 Date: 15.01.20
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No. Description
 A Pre-DA Issue
 B Pre-DA Issue
 C DA Issue
 D Bike Racks

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Title: 1st Floor Plan
 Project: Aquatic Achievers Lilyfield
 26 Halloran St, Lilyfield NSW 2040



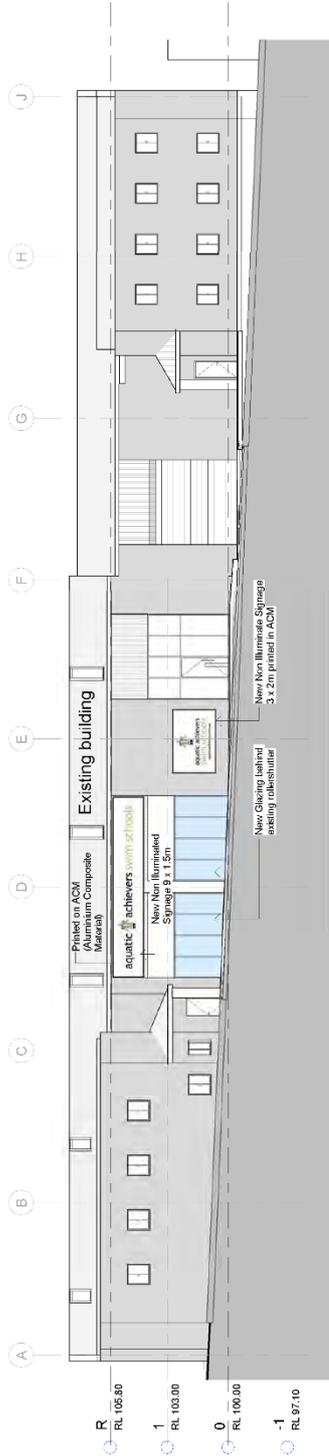
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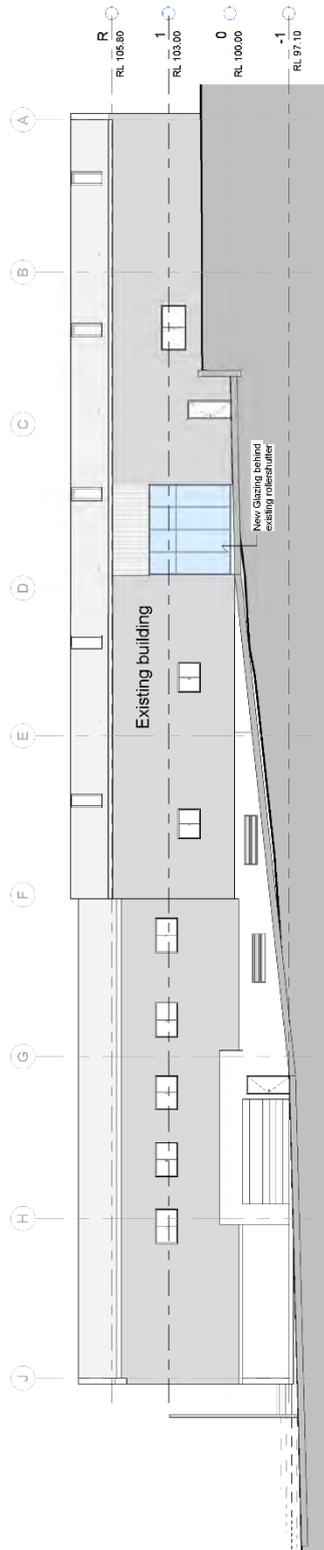
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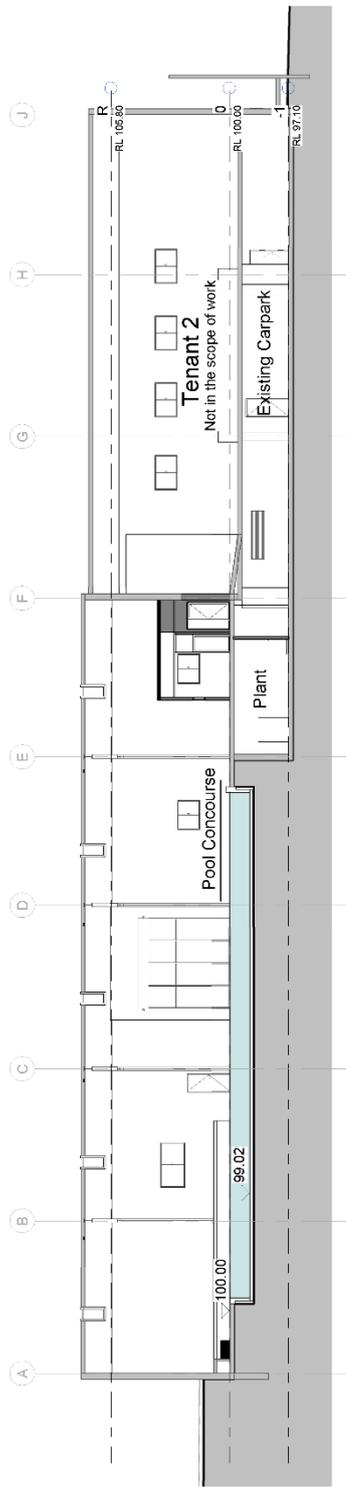
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Project: **Aquatic Achievers Lilyfield**
26 Halloran St, Lilyfield NSW 2040



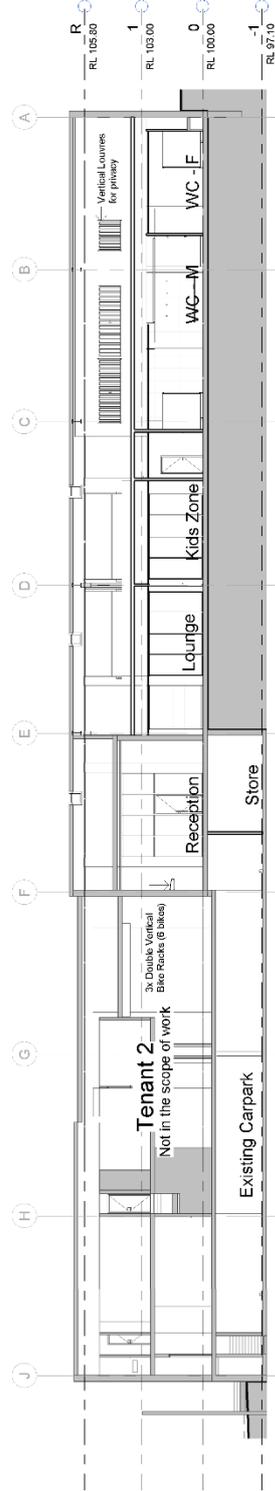
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2002 DA 1.301 C

Title: **Sections**
Project: **Aquatic Achievers Lilyfield**
26 Halloran St, Lilyfield NSW 2040



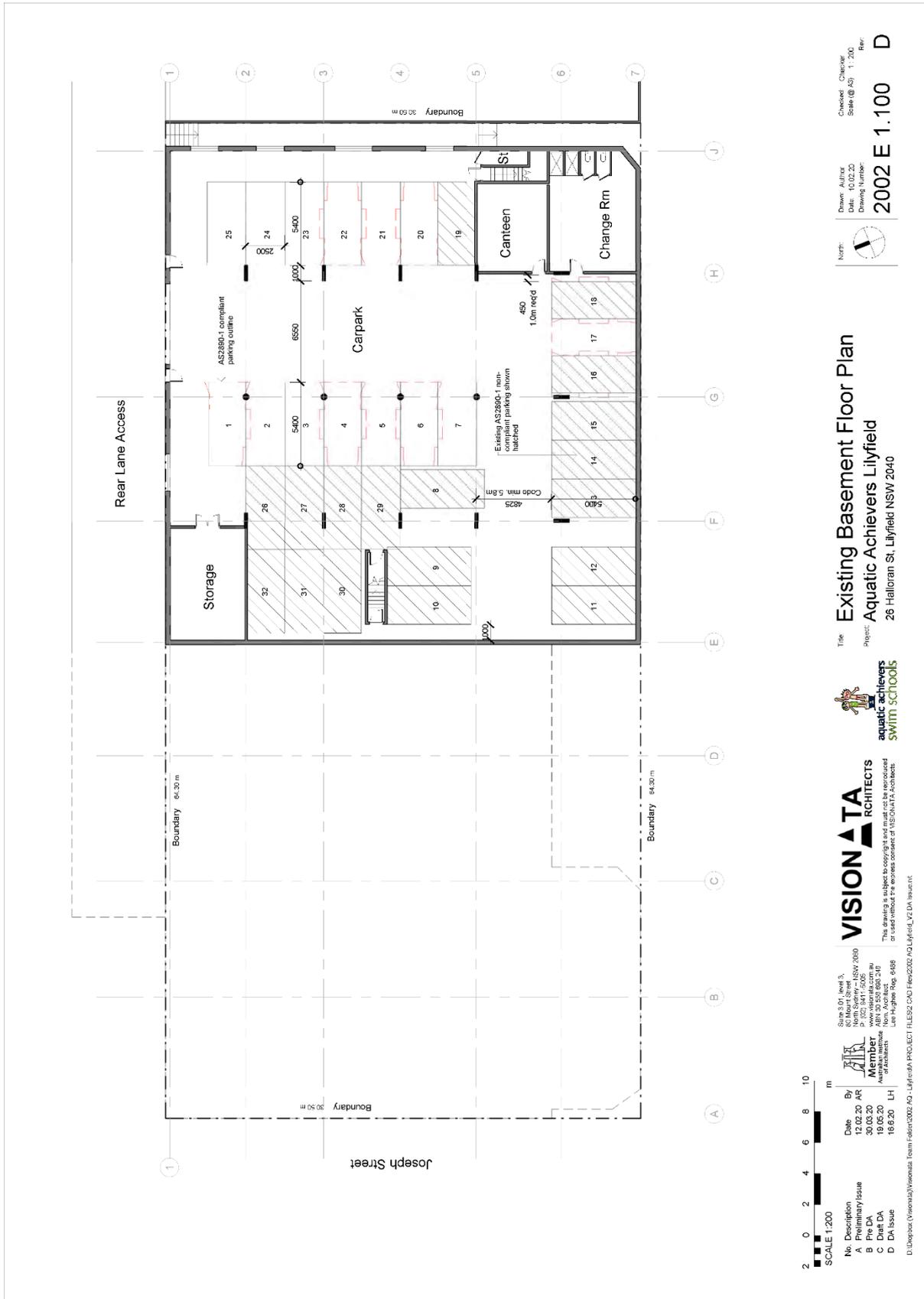
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Date: 30.03.20
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C	DA	18.06.20	LH
D	DA Issue	18.06.20	LH

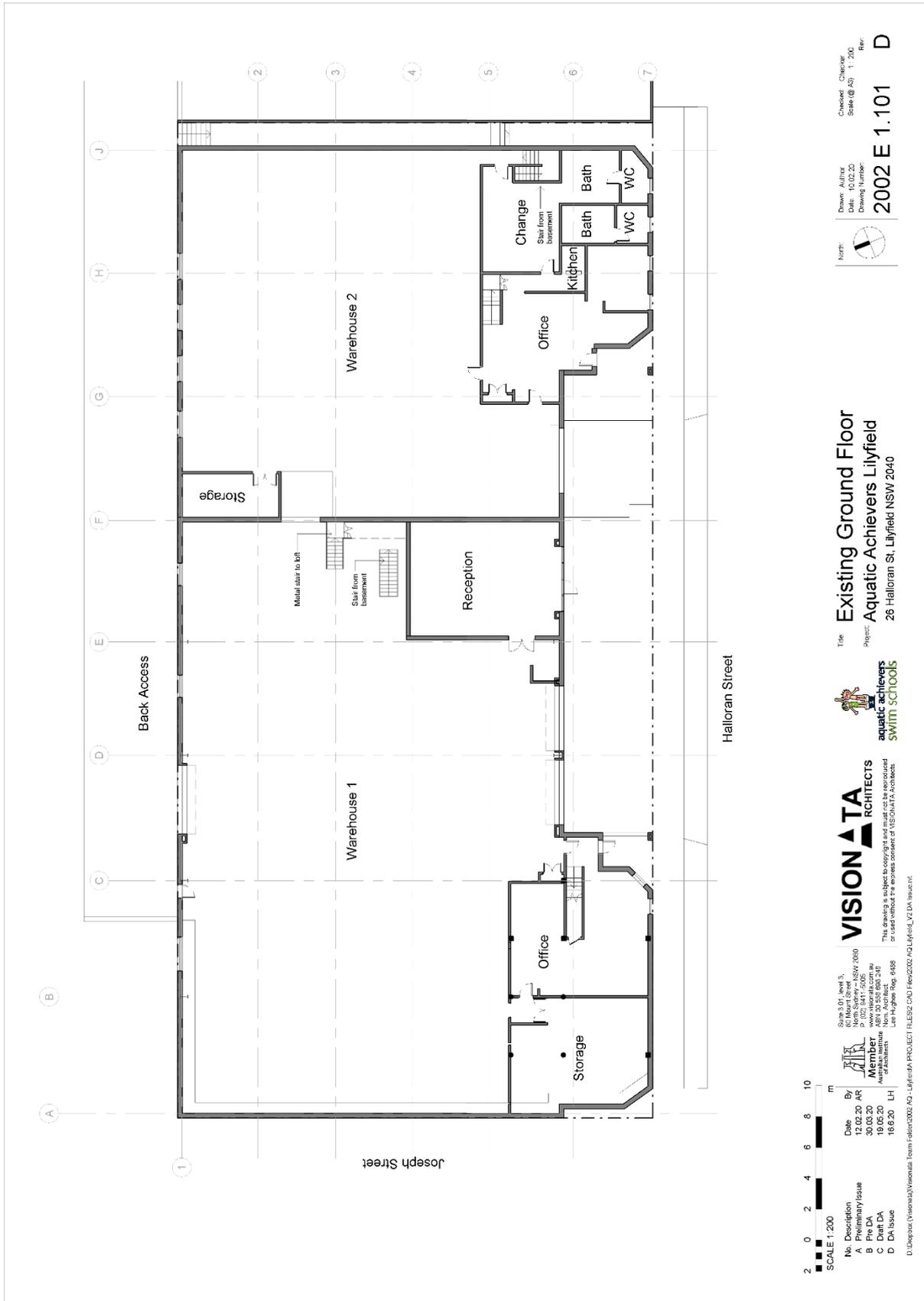
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aquatic achievers
 SWIM SCHOOLS

Title: Existing Basement Floor Plan
 Project: Aquatic Achievers Lyllyfield
 26 Halloran St, Lyllyfield NSW 2040

Drawn: Author
 Date: 10.02.20
 Drawing Number: 2002 E 1.100
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 Rev: D



Attachment C- Clause 4.6 Exception to Development Standards

24 February 2021

Ref: WTJ20-049
Planner: Ashleigh Smith



Clause 4.6 Variation - Floor Space Ratio

Change of Use to an Indoor Recreation Facility, Internal Fit-out and Signage

26-30 Halloran Street, Lilyfield
Lot 50 DP 1253613

**Prepared by Willowtree Planning Pty Ltd on behalf
of Aquatic Achievers**

February 2021

A national town planning consultancy
www.willowtreeplanning.com.au

Clause 4.6 Variation - Clause 4.4 Floor Space Ratio

Change of Use to an Indoor Recreation Facility, Internal Fit-Out Works and Signage
 26-30 Halloran Street, Lilyfield (Lot 60 DP 1253613)

Document Control Table

Document Control Table			
Document Reference:	Clause 4.6 - Variation Request		
Contact	Ashleigh Smith, Associate		
Version and Date	Prepared by	Checked by	Approved by
Version No. 1 – 05/02/2021	Ashleigh Smith Associate	Ashleigh Smith Associate	Ashleigh Smith Associate

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Clause 4.6 Variation - Clause 4.4 Floor Space Ratio

Change of Use to an Indoor Recreation Facility, Internal Fit-Out Works and Signage
 26-30 Halloran Street, Lilyfield (Lot 60 DP 1253613)

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Clause 4.6 Variation - Clause 4.4 Floor Space Ratio

Change of Use to an Indoor Recreation Facility, Internal Fit-Out Works and Signage
26-30 Halloran Street, Lilyfield (Lot 60 DP 1253613)

PART A PRELIMINARY

1.1 INTRODUCTION

This Clause 4.6 Variation request has been prepared in support of a Development Application (DA) for the **change of use to an indoor recreation facility, internal fit-out works and signage** within the property located at 26-30 Halloran Street, Lilyfield, legally described as Lot 60 DP 1253613.

The proposal exhibits a technical non-compliance with Clause 4.4 (Floor Space Ratio) under the *Leichhardt Local Environmental Plan 2013* (LLEP2013). The proposed development will not further increase the gross floor area across the Site.

This variation request has been prepared in accordance with the requirements of Clause 4.6 of LLEP2013, which includes the following objectives:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

1.2 PROPOSED NON-COMPLIANCE

Under the provisions of Clause 4.4 in LLEP2013, the Site is subject to a maximum permissible floor space ratio (FSR) of **1:1**.

The proposed change of use will not alter the existing GFA across the Site. Notwithstanding, the existing building has an combined GFA of **2,020m²**, equating to an FSR of **1.03:1**. The existing built form therefore exhibits a departure from the Floor Space Ratio Development Standard by **59m² (3%)**, resulting in a technical non-compliance with Clause 4.4 of LLEP 2013.

As aforementioned, the proposal does not result in an increase in the overall GFA and FSR. However, by virtue of the proposed change of use, the proposal results in a technical non-compliance with Clause 4.4 of LLEP 2013, as summarised in **Table 1** below.

Table 1. Variation Summary			
LLEP 2013	LLEP 2013 Development Standard	Maximum Floor Space Ratio	Proposed Development Non-Compliance
Clause 4.4 – Floor Space Ratio	Maximum Floor Space Ratio of 1:1	1.03:1	59m ² (3%)

As outlined in **Table 1** above, the existing building represents a **3%** departure from the maximum **1:1** FSR permitted under Clause 4.4 of LLEP 2013. It is important to note that the proposal only seeks a change of use and internal fit-out works within the existing building envelope and would not result in the creation of additional floor space.

1.3 PLANNING JUSTIFICATION

This Clause 4.6 Variation Request has been prepared in accordance with the aims and objectives contained within Clause 4.6 and the relevant development standards under LLEP2013. It considers the various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the existing FSR non-compliance is the best means of achieving the objective of encouraging orderly and economic use and development of land under Section 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

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In justifying the proposed contravention and demonstrating sufficient environmental planning grounds, this request is considered to have demonstrated how the proposed contravention itself satisfies **Section 1.3** of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This is discussed further in **Section 4.4** of this request.

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PART B THRESHOLDS THAT MUST BE MET**2.1 CLAUSE 4.6 OF THE LLEP2013**

In accordance with Clause 4.6 of LLEP2013 Council is required to consider the following subclauses:

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*
 - (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are responded to in **Part D** of this Clause 4.6 Variation.

2.2 CASE LAW

Relevant case law on the application of the standard Local Environmental Plan Clause 4.6 provisions has established the following principles:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, which emphasised that the proponent must address the following:
 - Compliance with the development standard is unreasonable and unnecessary in the circumstances;
 - There are sufficient environmental planning grounds to justify contravening the development standard;
 - The development is in the public interest;
 - The development is consistent with the objectives of the particular standard; and
 - The development is consistent with the objectives for development within the zone;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7, which held that the degree of satisfaction required under Subclause 4.6(4) is a matter of discretion for the consent authority;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827, which emphasized the need to demonstrate that the objectives of the relevant development standard are nevertheless achieved, despite the numerical standard being exceeded. Justification is then to be provided on environmental planning grounds. Wehbe sets out five ways in which numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:
 - The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
 - The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

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- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

These matters are responded to in **Part D** of this Clause 4.6 Variation.

2.3 THE OBJECTIVES/UNDERLYING PURPOSE OF THE CLAUSE

A key determination of the appropriateness of a variation to a Development Standard is the proposal's compliance with the underlying objectives and purpose of the Development Standard. Therefore, while there is a specified numerical control for maximum floor space ratio, the objectives and underlying purpose behind the Development Standard are basic issues for consideration in the development assessment process.

Part C of this Clause 4.6 Variation addresses the proposed variation to the Clause 4.4 Development Standard.

Clause 4.6 Variation - Clause 4.4 Floor Space Ratio

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PART C PROPOSED VARIATION TO CLAUSE 4.4 FLOOR SPACE RATIO

3.1 OBJECTIVES OF THE CLAUSE 4.4 FLOOR SPACE RATIO UNDER LLEP 2013

A key determination of the appropriateness of a Clause 4.6 Variation to a development standard is the proposed development’s compliance with the underlying objectives and purpose of that development standard. Indeed, *Wehbe v Pittwater Council* recognised this as one of the ways in which a variation to development standards might be justified (refer to **Section 2.2**). In *Four2Five Pty Ltd v Ashfield Council*, it was found that the proponent must demonstrate compliance with these objectives (refer to **Section 2.2**).

Therefore, while the Site is subject to relevant numerical standards for floor space ratio, the objectives and underlying purpose behind these development standards are basic issues for consideration in the development assessment process.

The proposed development is consistent with the relevant objectives of the control for the reasons outlined in **Table 2**.

Table 2. Consistency of the Proposed Development with the Floor Space Ratio Objectives	
Objective	Comment
a) to ensure that residential accommodation— i. is compatible with the desired future character of the area in relation to building bulk, form and scale, and ii. provides a suitable balance between landscaped areas and the built form, and iii. minimises the impact of the bulk and scale of buildings,	Not applicable.
b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.	<p>The proposed development is for the purpose of an indoor recreation facility (swim school). The proposed indoor recreation facility will operate as a swim school that teaches children aged from 3 months to 12 years of age based on a Solo-1 Swimming Program.</p> <p>The proposal will contribute to providing a land use that provides a community benefit to the surrounding locality and it will support an employment generating use on a Site which is currently vacant, impacting positively on the local economy.</p> <p>As the proposed development is for the purpose of a change of use with minimal external changes, will retain the existing bulk, form and scale that currently exists across the Site. Therefore, the proposal will preserve the industrial character of the Site whilst maintaining an appropriate interface with the surrounding land uses.</p>

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Change of Use to an Indoor Recreation Facility, Internal Fit-Out Works and Signage
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3.2 OBJECTIVES OF THE ZONE

The Site is currently zoned IN2 Light Industrial under LLEP 2013. The Site is located within an established commercial and industrial precinct and is permissible at the Site. The proposed development is consistent with the following IN2 zone objectives.

Table 3. Consistency of the Proposed Development with the Zone Objectives	
Objective	Comment
<ul style="list-style-type: none"> To provide a wide range of light industrial, warehouse and related land uses. 	The proposed development includes a change of use for the purpose
<ul style="list-style-type: none"> To encourage employment opportunities and to support the viability of centres. 	The proposal will contribute to providing a land use that provides a community benefit to the locality and it will support an employment generating use on a site which is currently vacant, impacting positively on the local economy.
<ul style="list-style-type: none"> To minimise any adverse effect of industry on other land uses. 	The Site is located on the fringe of an industrial and residential precinct. The proposal has aptly considered the relevant environmental and amenity matters for consideration of the surrounding development. The proposal will not exhibit any significant environmental impacts and the built form has been designed to not adversely impact on the amenity of any adjoining sites.
<ul style="list-style-type: none"> To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area. 	The proposal will support the reinstatement of a currently vacant Site which is crucial to maintaining employment opportunities in the surrounding locality.
<ul style="list-style-type: none"> To support and protect industrial land for industrial uses. 	The proposal is permitted with consent at the Site and it will preserve an employment generating land use on the Site. The proposal will also maintain the existing building envelope as the majority of the works are limited to the internal areas of the building which would preserve the industrial character of the Site whilst providing for a new land use which will benefit the broader community.
<ul style="list-style-type: none"> To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community. 	The proposal will contribute to providing a land use that provides a community benefit to the locality and it will support an employment generating use on a site which is currently vacant, impacting positively on the local economy.
<ul style="list-style-type: none"> To ensure the provision of appropriate infrastructure that supports Leichhardt's employment opportunities. 	<p>the proposal is considered to provide a positive contribution to the area by delivering a valuable piece of social infrastructure that would benefit the surrounding community and enhance social activity. The proposal would maintain the existing building envelope and measures have been adopted as part of the proposal that seek to maintain the amenity of the surrounding area.</p> <p>Furthermore, the proposal would facilitate an employment generating activity that shall result in a positive impact for the Inner West LGA. Accordingly, the proposed development is considered to be in the public interest.</p>
<ul style="list-style-type: none"> To retain and encourage waterfront industrial and maritime activities. 	Not applicable to the proposed land use.

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Table 3. Consistency of the Proposed Development with the Zone Objectives

Objective	Comment
<ul style="list-style-type: none"> To provide for certain business and office premises and light industries in the arts, technology, production and design sectors. 	Not applicable to the proposed land use.

3.3 ESTABLISHING IF THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY

In *Wehbe v Pittwater Council [2007] NSWLEC 827*, Preston CJ set out the five ways of establishing that compliance with a development standard is unreasonable or unnecessary in support of justifying a variation:

1. Establish that compliance with the development standard is **unreasonable or unnecessary** because **the objectives of the development standard are achieved notwithstanding non-compliance with the standard**.
2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
4. Establish that the development standard has been virtually abandoned or destroyed by the Council 's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary".

In applying the tests of *Wehbe v Pittwater Council [2007] NSWLEC 827*, only one of the above rationales is required to be established. Notwithstanding the proposed variation, the development is consistent with the underlying objectives of the standard for Floor Space Ratio and the relevant Zoning prescribed under LLEP 2013.

As aforementioned, the proposal seeks consent for a change of use, internal fit-outs and associated signage. The proposal would have no bearing on the existing GFA and FSR, nor will it alter the building envelope.

In the view of the proposed development, strict compliance with Clause 4.4 of LLEP 2013 is considered to be both unnecessary and unreasonable for which the proposed development does not conflict with the intent of Clause 4.4 as demonstrated above. The proposed development achieves the objectives, notwithstanding the existing numerical departure, which has been previously approved by Council pertaining to the existing built form across the Site.

The proposed contravention of the development standard is not anticipated to result in impacts on the amenity of the Site and the surrounding development such as streetscape, privacy loss or overshadowing. Furthermore, no adverse environmental impacts onto the surrounding environment have been identified.

The proposed development outcome would retain compatibility with the surrounding development and the environmental planning framework in terms of visual appearance.

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The abovementioned justifications are considered valid, and in this instance the proposed Clause 4.6 Variation is considered to be acceptable. The objectives of the relevant Clause and IN2 Light Industrial zone would be upheld as a result of the proposed development. Therefore, in light of the above, the application of the floor space ratio standard is therefore unreasonable and unnecessary in response to the proposed development.

3.4 SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD

The variation to the development standard for floor space ratio is considered well founded on the basis that:

- The proposed development is consistent with the underlying objective or purpose of the standard as demonstrated in **Section 3.1**;
- The proposed development is consistent with the objectives of the IN2 Light Industrial zone as described in **Section 3.2**;
- Compliance with the standard would be unreasonable or unnecessary for the reasons outlined in **Section 3.3**;
- The scale of the proposal is considered to be appropriate for the Site as it ensures the continued operation of a currently vacant Site;
- The proposal is appropriate to the condition of the Site and surrounding context;
- The proposal relates to an existing non-compliance and it would not further increase the GFA and FSR across the Site;
- Compliance with the remaining development standards applicable to the Site is achieved.

For the reasons outlined above, it is considered that the proposed variation to the floor space ratio development standard under Clause 4.4 is appropriate and can be clearly justified having regard to the matter listed in Clause 4.6 of LLEP 2013.

3.5 PUBLIC INTEREST

As outlined in **Section 2.2**, *Four2Five Pty Ltd v Ashfield Council* emphasised that it is for the proponent to demonstrate that the proposed non-compliance with the development standard is in the public interest. Subclause 4.6(4)(a)(ii) requires the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Sections 3.1 and **3.2** have already demonstrated how the proposed development is consistent with the objectives of Clause 4.4 as well as the objectives of the IN2 Light Industrial zone under the LLEP 2013.

In *Lane Cove Council v Orca Partners Management Pty Ltd (No 2)* [2015] NSWLEC 52, Sheahan J referred to the question of public interest with respect to planning matters as a consideration of whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development.

The public advantages of the proposed development are as follows:

- Contributes to the renewal and revitalisation of the Site;
- It won't have any adverse impacts on the amenity of surrounding development;
- Facilitating development that is a permissible land use and consistent with the IN2 zone objectives;
- The proposed development will make a positive contribution to the ongoing operation of the Site; and
- Provide a development outcome that is compatible with the existing and emerging locality that is a permissible land use and consistent with the land use zone objectives.

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There are no significant public disadvantages which would result from the proposed development. The proposed development is therefore considered to be justified on public interest grounds.

3.6 PUBLIC BENEFIT IN MAINTAINING THE STANDARDS

Given the strict compliance with Clause 4.4 Floor Space Ratio would result in the proposal not being able to undertake the necessary change of use and associated works, that would effectively jeopardise its longevity and the future occupation and operation of the Site. Further, there is no genuine public benefit in maintaining strict compliance with the floor space ratio control in the context of the proposed development.

3.7 SUMMARY

For the reasons outlined above, it is considered that the objections to Clause 4.4 of the LLEP 2013 are well-founded in this instance and the granting of Clause 4.6 Variation to this development standard is appropriate in the circumstances. Furthermore, the objection is considered to be well founded for the following reasons as outlined in Clause 4.6 of the LLEP 2013, *Four2Five Pty Ltd v Ashfield Council* and *Wehbe v Pittwater Council*.

- Compliance with the development standard is unreasonable and unnecessary in the circumstances;
- There are sufficient environmental planning grounds to justify contravening the development standard;
- The development is in the public interest;
- The development is consistent with the objectives for development within the zone;
- The objectives of the standard are achieved notwithstanding the non-compliance with the standard;
- The development does not negatively impact on any matters of State or regional significance; and
- The public benefit in maintaining strict compliance with the development standard would be negligible.

Overall, it is considered that the proposed Clause 4.6 Variation to the existing and maximum Floor Space Ratio is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of the LLEP 2013.

Clause 4.6 Variation - Clause 4.4 Floor Space Ratio

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PART D CONCLUSION

For the reasons outlined in this Clause 4.6 Variation request, it is requested that the Inner West Council exercise its discretion and find that this Clause 4.6 Variation request adequately addresses the relevant heads of consideration under Subclause 4.6(3) of the LLEP 2013.

This is particularly the case given the relatively minor nature of the proposed exceedance, as well as the proposal being otherwise compliant with the LLEP2013, consideration and satisfaction of the objectives of the LDCP 2013, and the strategic suitability of the proposed development at both a Local and State Government Level.

Attachment D – Plan of Management



Plan of Management
26 Halloran Street
Lilyfield NSW 2040

1. Purpose

The purpose of this Plan of Management is to outline various operating mechanisms we have in place to support the appropriate management of an indoor recreational sporting venue. Throughout this plan the following stakeholders have been taken into consideration:

- Local council
- Neighbouring properties and businesses
- Staff members
- Customers

2. About Aquatic Achievers

Aquatic Achievers is one of Australia's premier Learn to Swim providers. It has been in operation for over 25 years, each year teaching over 600,000 lessons each year across its locations in Queensland, Victoria, and ACT.

Aquatic Achievers teaches children aged from 3 months to 12 years of age using our proprietary *Solo-1 program*.

There are four common themes why Aquatic Achievers' Solo-1 program differentiates our program from others, these being:

- Structure
- Ability based
- Progress
- Achievement

We have a team of over 350 teachers, progress advisors and customer service team members, currently operating across 9 locations.

Our lesson duration ranges from 30-minute lessons through to 60-minute lessons.

Number of students per class averages from 3 to 4 students over 6 to 8 classes per time slot, typically averaging 40 to 50 classes per operating shift depending on the day.

Aquatic Achievers is ISO 9001:2015 (AS/NZS ISO 9001:2016) certified. This certification (most recently re-certified on 2nd March 2020) reinforces our approach to managing our business with the appropriate structure (processes, procedures, policies). We have maintained this certification for 20+ years.

For further information regarding our Solo-1 program please visit aquaticachievers.com.au/program/

3. Hours of Operation

The opening hours for our Aquatic Achievers' sites vary from location to location.

Our operating hours are split into 2 shifts, thus leaving a period of down time in the Centre between 12.30pm to 2.30pm where typically no lessons are delivered.

Lessons times are staggered and set on the "10 minute", and student numbers in each lesson are also capped. This is done to ensure we have the optimum number of visitors in our Centres at any time meaning we can deliver a superior and quality service that is expected from a premium learn to swim provider.

Our pricing reflects a premium service and with this our business model requires us to provide a service that reflect this, as such ensuring we manage our student numbers per lesson appropriately.

With our sole focus on teaching children to swim, the only additional offering provided within Aquatic Achiever centres is access to swimming merchandise, such as caps & goggles and flippers. We do not operate cafes in our Centres.

Our offering provides many self-service options including self-check into lessons, self-service bookings, self-service payment. 99% of our customers pay via direct debit each month. We hold less than \$100 in cash on our premises at any point in time.

The opening hours for our Aquatic Achievers' Halloran St site are as follows:

- Monday to Friday: 6.30am to 8.30pm
- Saturday: 6.30am to 8.00pm
- Sunday: 6.30am to 8.00pm

4. Staffing

Aquatic Achiever Centres typically employ up to 40 staff per centre in a Full time, part time and casual capacity as per below:

- 1 x Manager - Full time during business hours
- 1 x Assistant Manager - Full time during business hours
- 3-5 x Customer Service - Each working up to 20 hours per week
- 3-5 x Progress Advisors - Each working up to 20 hours per week
- 25-30 x Teachers - Each working up to 20 hours per week

Centers are normally staffed with 5 to 10 staff at the time per shift.

Each of our Centres have the appropriate people holding the following certifications:

- Working with Children
- Plant Room
- Lifeguard
- First Aid & CPR
- Austswim teaching qualifications

Aquatic Achievers uses a human resource system called Employment Hero. Employment Hero ensures that each team member has completed the necessary acknowledgement of company policies. It is also used to automatically track compliance for retention of relevant certifications. Employment Hero is also used to manage the employee lifecycle including recruitment, onboarding, induction, performance management and offboarding.

Aquatic Achievers requires its team to complete necessary training on a regular basis. This training includes refresher training on our Emergency Action Plan (EAP).

5. Class scheduling:

Classes are scheduled with 5-8 student classes staggered by 10 minutes, with a maximum of up to 30 students and 10 staff be on site at any one time as per the (table) below:

Time	People								
	Staff			Customers			TOTAL		
	IN	OUT	ACCUM	IN	OUT	ACCUM	IN	OUT	ACCUM
07:00			0	0	0	0	0	0	0
07:05			0	0	0	0	0	0	0
07:10			0	0	0	0	0	0	0
07:15	5		5	0	0	0	0	0	5
07:20			5	0	0	0	0	0	5
07:25			5	0	0	0	0	0	5
07:30			5	0	0	0	0	0	5
07:35			5	0	0	0	0	0	5
07:40			5	7	0	7	7	0	12
07:45			5	0	7	0	0	0	12
07:50			5	6	0	13	6	0	18
07:55			5	0	13	0	0	0	18
08:00			5	7	0	20	7	0	25
08:05			5	0	20	0	0	0	25
08:10			5	5	0	25	5	0	30
08:15			5	0	25	0	0	0	30
08:20			5	5	7	23	5	7	28
08:25			5	0	23	0	0	0	28
08:30			5	5	6	22	5	6	27
08:35			5	0	22	0	0	0	27
08:40			5	5	7	20	5	7	25
08:45			5	0	20	0	0	0	25
08:50			5	5	5	20	5	5	25
08:55			5	0	20	0	0	0	25
09:00			5	5	5	20	5	5	25
09:05			5	0	20	0	0	0	25
09:10			5	5	5	20	5	5	25
09:15			5	0	20	0	0	0	25
09:20			5	5	5	20	5	5	25
09:25			5	0	20	0	0	0	25
09:30			5	5	5	20	5	5	25
09:35			5	0	20	0	0	0	25
09:40			5	5	5	20	5	5	25
09:45			5	0	20	0	0	0	25
09:50			5	6	5	21	6	5	26
09:55			5	0	21	0	0	0	26
10:00			5	5	5	21	5	5	26
10:05			5	0	21	0	0	0	26
10:10			5	6	5	22	6	5	27
10:15			5	0	22	0	0	0	27
10:20			5	5	5	22	5	5	27
10:25			5	0	22	0	0	0	27
10:30			5	6	6	22	6	6	27
10:35			5	0	22	0	0	0	27
10:40			5	5	5	22	5	5	27
10:45			5	0	22	0	0	0	27
10:50			5	5	6	21	5	6	26
10:55			5	0	21	0	0	0	26
11:00			5	5	5	21	5	5	26
11:05			5	0	21	0	0	0	26
11:10			5	3	6	18	3	6	23
11:15			5	0	18	0	0	0	23
11:20			5	3	5	16	3	5	21
11:25			5	0	16	0	0	0	21
11:30			5	3	5	14	3	5	19
11:35			5	0	14	0	0	0	19
11:40			5	0	9	0	0	0	14
11:45			5	0	9	0	0	0	14
11:50			5	0	3	6	0	3	11
11:55			5	0	6	0	0	0	11
12:00			5	0	3	3	0	3	8
12:05			5	0	3	0	0	0	8
12:10		5	0	3	0	0	8	0	0
14:45		10						0	10
14:50							7	7	0
14:55								7	0
15:00							7	7	0
15:05								14	0
15:10							8	22	8
15:15								22	0
15:20							7	29	7
15:25								0	29
15:30							7	7	29
15:35								0	29
15:40							8	7	30
15:45								0	30
15:50							7	8	29
15:55								0	29
16:00							7	7	29
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17:40							8	7	30
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17:50							7	8	29
17:55								0	29
18:00							7	7	29
18:05								0	29
18:10							8	7	30
18:15								0	30
18:20							7	8	29
18:25								0	29
18:30							7	7	29
18:35								0	29
18:40							8	7	30
18:45								0	30
18:50							7	8	29
18:55								0	29
19:00							7	7	29
19:05								0	29
19:10							8	7	30
19:15								0	30
19:20							7	8	29
19:25								0	29
19:30							7	7	29
19:35								0	29
19:40							2	7	24
19:45								0	24
19:50							8	16	0
19:55								0	16
20:00							7	9	0
20:05								0	9
20:10							7	2	0
TOTAL	15	15	995	336	334	2686	351	349	3691
MAXIM	10	10	10	8	8	30	10	17	40

6. Traffic

Aquatic Achievers' operates in different locations with different considerations relating to traffic management. As part of our business model, it is a current requirement for each of our Centres to have on-site parking.

Whilst on-site parking is made available, a significant portion of our clients either walk, cycle and carpool to lessons.

There are levels within our program that allow children to be dropped off to lessons and recollected. This is approximately 20% of our program. All requirements to facilitate this have been provided at Halloran St as per presented DA level architectural plans.

Surveys of 2 similar Centres to Halloran St, in location and size, have been submitted to Anson Consultants to support this, which will be presented to council as part of the required traffic report in greater detail.

7. Waste Management

As an operator focused solely on teaching children to swim, our waste impact is minimal. Our waste for our existing centres is currently managed using the kerbside local council collection, for both refuse and recycling.

The only additional waste management requirement for our centres is for sanitary waste. This collection is managed through dedicated service providers with fixed service agreements.

Our waste and recycling management plan will comply with all relevant provisions and requirements of the relevant local council authority

8. Cleaning

Our Centres are cleaned daily and this is done either through cleaners directly employed by Aquatic Achievers or via a third-party cleaning company.

Each centre has a strict cleaning schedule and checklist / sign off process. The centres are cleaned each night (minimum 3 hours) by the rostered cleaner. During the day it is the responsibility of the Manager / Assistant Manager to complete the daily cleaning checklist relevant for tasks during operational hours.

Aquatic Achievers has supply agreements in place with cleaning supplies company, thus using commercial grade cleaning products in maintaining our Centres.

9. Security

Our Centres are securely monitored by a third party (outside of operating hours). Our premises hold less than \$100 on site at any point in time, and the nature of our business means we have very limited assets, of which are also low value, hence making it less attractive for criminal intent.

With respect to security threats during hours of operation, we have Emergency Action Plans (EAP) in place with clearly defined procedures to support the team for various situations. Our Managers, Assistant Managers and Responsible Persons are regularly updated and refreshed on our EAP.

Taking the last 5 years of operation as an indication, we have only had 1 x break in situation that resulted in less than \$500 worth of damage/loss.

10. Safety

Safety is a key component of what we do – we teach children how to swim and stay safe around water.

Plan of Management

Aquatic Achievers Operations Pty Ltd

There are several safety related aspects in place supporting the safe operations of our Centres. These are summarized below:

Royal Life Guidelines:

- It is a requirement of our licence to operate we apply and adhere to the guidelines outlined in the Royal Life Safe Pool Operations. We review these guidelines on an annual basis, as well as implementing any updates or amendments as communicated by Royal Life.
- The following guidelines are taken into consideration with how we operate:
 - Swimming, Water Safety
 - Incident Management
 - Facility Design
 - Aquatic Supervision
 - Swimming Pool Design
 - Aquatic Signage

Certifications

- It is a requirement of our licence to operate we apply and adhere to the requisite compliance requirements regarding certifications. For our business this includes:
 - Austswim teaching certifications (Austswim in a nationwide industry body)
 - Working with Children certifications
 - Lifeguard, First Aid and CPR certifications
 - Plant Room certifications

Workplace Health & Safety

- It is a requirement of our licence to operate we apply and adhere to the requisite government WorkSafe legislation.
- Aquatic Achievers has a formal Incident Management process in place. Each incident is recorded via our Employment Hero application and automatic notifications are provided to our senior leadership team. These are reviewed and addressed on a regular basis to help assess actions & plans to mitigate and minimise future incidents.
- In addition to the legislative WH&S considerations, there are also various state generated guidelines relating to Pool & Spa water quality. Included in these are guidelines with respect to the treatment of water quality, including testing & recording regimes. Aquatic Achievers complies with these.
- Aquatic Achievers has never been subject to a MAJOR incident where a Workplace Inspector would have been required to address. We take pride in our safety respect in this respect.
- Each month the Aquatic Achievers Board receives a WHS report indicating any LTIFR (lost time). These are addressed as the first agenda item of each Board meeting (monthly).

Safety Programs

- Each year Aquatic Achievers runs a number of “Safety Week” programs. These are branded events that draw additional attention to important aspects regarding safety, including helping children become even more aware of the key aspects of water safety. It also creates opportunities for us to use these events to test aspects of our Emergency Action Plans.

11. Insurances

Aquatic Achievers holds the following insurances:

- Public Liability for each Centre - \$20m
- Professional Indemnity - \$5m

In addition to these policies we hold Business Insurance to help protect our individual centres for inclusions such as business interruption, material damage.

12. Noise Mitigation

In the construction of our Centres we use the following to help mitigate noise:

- Ceiling product – Rockfon/Medicare standard acoustic system
- Insulation product
- Centre design – pool area is contained behind viewing areas, separating the pool from the exterior of the building with minimal glazing on external walls
- All pump and filter rooms are located in the basement

In addition to the design and construction of the Centre, the following also help mitigate and minimize any excessive noise impacts:

- There are no loudspeakers used, and our centres are not equipped with any public announcement systems. We do not play music and whilst we have digital panels in our Centres, they do not play sound (visual advertising only).
- The nature of our service means our Customers attend their lesson, and then depart quickly. We do not have any additional services (like food and beverage café services) that could keep people on premise longer. This helps us to mitigate and manage any excessive noise impact.
- Lessons times are staggered and set on the “15 minute”, and student numbers in each lesson are also capped. This is done to ensure we have the optimum number of visitors in our Centres at any time meaning we can deliver a superior and quality service that is expected from a premium learn to swim provider. This also helps us mitigate and manage any excessive noise impact.

13. Complaint Recording

The recording and management of complaints (and compliments) is a set defined procedure within Aquatic Achievers.

Each complaint is documented and logged and then addressed as per our process. Part of managing this process is our Centre Quality Audits that take place each month. Through these audits, our complaints register is reviewed, and assessments completed in terms of them having been addressed appropriately.

We respect the communities within which we operate. We are active participants in our communities providing sponsorship and support to community programs. We know working collaboratively with our community stakeholders is key to us being successful. Our approach to any complaint is to acknowledge it and work openly and collaboratively in resolving it.

Plan of Management

Aquatic Achievers Operations Pty Ltd

14. Plan of Management Review

This plan will be included in operational documents that form part of our annual ISO review and certification process. This plan will receive a QA number and will be registered in our QA schedule of documents with the appropriate review schedule assigned. We will use the annual ISO review process to ensure this Plan of Management document is reviewed and updated as appropriate.

End Document