



DEVELOPMENT ASSESSMENT PANEL REPORT

Application No.	DA/2024/0706
Address	140-142 Norton Street LEICHHARDT
Proposal	Fit out and use of a premises as a gymnasium, works include installation of 3 illuminated and 3 non-illuminated signs
Date of Lodgement	22 August 2024
Applicant	A Three Design Management Pty Ltd
Owner	Lantom Pty Ltd
Number of Submissions	One (1)
Cost of works	\$55,000.00
Reason for determination at Planning Panel	Section 4.6 variation exceeds 10%
Main Issues	Variation to FSR
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Plan of Management



FIGURE 1: LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		
Note: One (1) Submission has been received regarding this application, the address was not supplied.				

1. Executive Summary

This report is an assessment of the application submitted to Council for the fit out and use of a premises as a gymnasium trading 24hrs daily, including the installation of three (3) illuminated and three (3) non-illuminated signs at 140-142 Norton Street Leichhardt. The application was notified to surrounding properties and one (1) submission was received in response to the notification.

The main issues that have arisen from the application include:

- Floor Space Ratio non-compliance
- Traffic generation
- Acoustic and vibration impacts

The non-compliances are acceptable subject to conditions and for reasons discussed within this report, and therefore the application is recommended for approval.

2. Proposal

The proposal involves a fit out and change of use of an existing commercial premises to a gymnasium including 24-hour trading with external works such as enclosing the lower ground floor, illuminated signage, and installation of bicycle parking within the public domain.

3. Site Description

The subject site is located on the western side of Norton Street, between Carlisle Street and Marlborough Street, Leichhardt. The site is generally rectangular in shape with a total area of 414.4 sqm and is legally described as Lot 1 in DP 223016, Lot C in DP 300939.

The site has a frontage to Norton Street of 9.80 metres and rear lane access via Lou Street with an approximate frontage of 9.61 metres.

The site currently supports a two storey commercial premises with an open basement. The adjoining properties support shop top housing developments. The surrounding area is predominantly characterised by commercial and mixed use premises to the east and residential premises to the west.

The subject site is located within a heritage conservation area.



Figure 2: Aerial image of subject property identified in green.

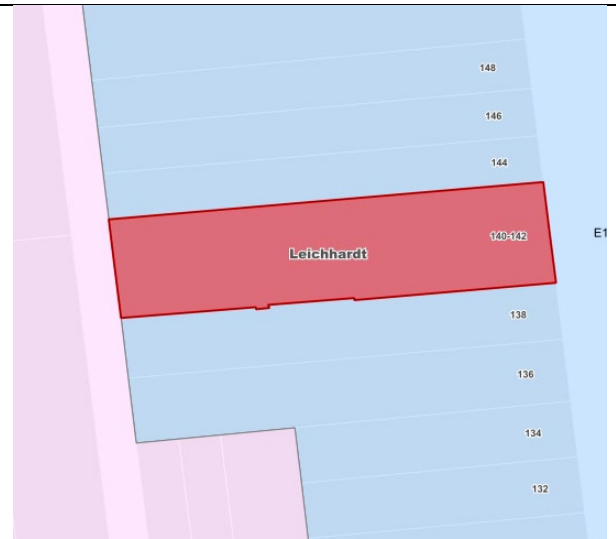


Figure 3: Zoning map of subject site identified in red.

4. Background

Site history

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

Subject Site

Application	Proposal	Decision & Date
D/2019/321	Part demolition and alterations and additions to existing building to provide for a three storey mixed use building comprising commercial tenancy to Norton Street and ten units, with lower ground/basement level accommodating parking accessed via the rear lane	09/06/2020 Deferred Commencement - Local Planning Panel
MOD/2020/0298	Section 4.55(2) Modification of Development Consent seeking various internal and external changes, including internal reconfiguration, changes to unit sizes, central courtyard amendments, relocated bike parking to basement and roof changes	23/02/2021 Approved - Local Planning Panel

Surrounding properties

Application	Proposal	Decision & Date
144 Norton Street LEICHHARDT NSW 2040		
D/2009/113	Change of use from residential to office.	25/09/2009 Approved
CDC/2015/2	Change of use from hair salon to dry cleaning premises.	28/01/2015 Approved
138 Norton Street LEICHHARDT NSW 2040		
CDC/2016/42	Fit out for Greek cafe / restaurant. Maximum 50 seats. Previous consent for a restaurant.	13/05/2016 Approved

Application history

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

Date	Discussion / Letter / Additional Information
23/09/2024	A request for further information was sent to the applicant requiring the following: <ul style="list-style-type: none"> • Clause 4.6 exemptions to development standards • Acoustic Report amendment • Vibration Assessment • Bicycle parking clarification • Off-street parking amendments
13/11/2024	Amended plans and supporting documentation were received. Renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.

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 (EPA Act 1979)*.

A Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Industry and Employment) 2021

Chapter 3 Advertising and Signage

The following is an assessment of the development under the relevant controls contained in the *Industry and Employment* SEPP.

The application seeks consent for the following signage:

Location	Sign Type	Lettering	Dimension
Eastern Elevation (Signage 01)	Illuminated wall sign	"Snap fitness 24/7"	4500mm (width) x 800mm (height)
Eastern and Western Elevation (Signage 02)	Window identification sign	"Snap fitness 24/7"	500mm in height, raps around glass
Eastern elevation (Signage 03)	Window business identification sign	General information identification	6663mm (height) x 450mm (width)
Eastern elevation (Signage 04)	Illuminated wall sign	"Snap fitness 24/7"	2400mm (width) x 400mm (height)
Western Elevation (Signage 05)	Illuminated wall sign	"Snap fitness 24/7"	3500mm (width) x 600mm height

The proposed development is consistent with the objectives set out in Section 3(1)(a) and the assessment criteria specified in Schedule 5 as follows:

Criteria	Assessment
Character of the area	<ul style="list-style-type: none"> The signage is compatible with the desired future character of the area.
Special areas	<ul style="list-style-type: none"> The signage subject to amendments to the dark paint scheme associated with the building will not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways or residential areas
Views and vistas	<ul style="list-style-type: none"> The signage does not obscure or compromise important views. The signage does not dominate the skyline.
Streetscape, setting or landscape	<ul style="list-style-type: none"> The scale proportion and form of the signage is appropriate to the streetscape and locality. The signage is of a simple design and will not contribute to visual clutter. The signage will not impact vegetation.
Site and building	<ul style="list-style-type: none"> The scale proportion and form of the signage is appropriate to the building on which the signage is to be located. The signage respects important features of the building.
Associated devices and logos with advertisements and advertising structures	<ul style="list-style-type: none"> All elements of the signage have been well integrated into the structure which displays the signage.
Illumination	<ul style="list-style-type: none"> The proposed illumination is acceptable and will not result in adverse amenity impacts or effect safety.

	<ul style="list-style-type: none"> It is recommended that the illumination of the signage on the western elevation be conditioned to comply with the below time frames due to potential amenity impacts to the surrounding residential properties. <ul style="list-style-type: none"> Monday-Sunday: 7.00am – 10.00pm
Safety	<ul style="list-style-type: none"> The signage will not reduce the safety of any public road, pedestrians, bicyclists and will not obscure sightlines from public areas.

As the signs are for business identification purposes Part 3.3 does not apply. The proposal is considered acceptable, subject to the recommended conditions, noting the aims and objectives of this chapter of the SEPP.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> The proposal encourages development that demonstrates efficient and sustainable use of energy and resources in accordance with ecologically sustainable development principles, The proposal encourages walking, cycling and use of public transport through appropriate intensification of development densities surrounding transport nodes, The proposal facilitates economic growth and employment opportunities within Inner West. 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<p>The application proposes alterations and additions and change of use from an existing <i>commercial premises</i> to a <i>recreational facility (indoors)</i>, which is permissible with consent in the E1 Local Centre zone.</p> <p>The objectives for the E1 Local Centre zone are stated as follows:</p> <ul style="list-style-type: none"> <i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i> <i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i> 	Yes

Section	Proposed	Compliance
	<ul style="list-style-type: none"> <i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</i> <i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i> <i>To provide employment opportunities and services in locations accessible by active transport.</i> <i>To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.</i> <i>To ensure Inner West local centres are the primary location for commercial and retail activities.</i> <i>To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.</i> <i>To enhance the unique sense of place offered by Inner West local centres by ensuring buildings display architectural and urban design quality and contributes to the desired character and cultural heritage of the locality.</i> <p>The proposal is consistent with the zone objectives as follows:</p> <ul style="list-style-type: none"> The proposal includes a change of use to a gymnasium which will serve the needs of people who live in, work in, and visit the area; The proposed gymnasium will generate employment opportunities and economic growth; The proposal includes a commercial use, which is consistent with the Council's strategic planning for the area; The proposal will provide employment opportunities accessible by active transport modes; The proposed development includes an active street frontage to Norton Street 	
Section 2.7 Demolition requires development consent	<p>The proposal satisfies the section as follows:</p> <ul style="list-style-type: none"> Demolition works are proposed, which are permissible with consent; and Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, subject to conditions

Part 4 – Principal development standards

Section	Proposed		Compliance
Section 4.4 Floor space ratio	Maximum	1:1 or 414sqm	No – See discussion below
	Proposed	1.41:1 or 583.597sqm	
	Variation	40.97% or 169.597sqm	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4.		See discussion below

Section 4.6 – Exceptions to Development StandardsSection 4.4 Floor Space Ratio (FSR) development standard

The applicant seeks a variation to the abovementioned development standard under Section 4.6 of *IWLEP 2022* by 40.97%, or 169.597sqm. The non-compliance is a result of the existing open basement area being enclosed and therefore contributing to the gross floor area. It is noted that the proposal does not result in any changes to the overall existing building envelope.

Section 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Section 4.6(3) of *IWLEP 2022* justifying the proposed contravention of the development standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Section 4.6 of *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the development standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the FSR standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4** is *"to establish a maximum floor space ratio to enable appropriate development density,"*. The written request states: *"The non-compliance responds to detailed design and functional requirements of the Gym's operation without resulting in additional building height or inappropriate building scale. As such, the proposed employment density does not result in inappropriate external impacts, while delivering additional economic benefits for the Norton Street local Centre"*. This reasoning is acceptable, as the proposal is consistent with and reinforces the existing development density, character, style, orientation,

pattern of development and streetscape. Accordingly, the breach is consistent with the first objective.

The **second objective of Section 4.4** is *“to ensure development density reflects its locality,”*. The written request states: *“The proposal, despite the numerical non-compliance, retains the existing building bulk and therefore maintains the existing density and character of the locality.”* This reasoning is acceptable, as the proposal is consistent with and reinforces the existing development density by providing a built form, massing and FSR consistent with nearby recent approvals to which the same controls apply. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4** is *“to provide an appropriate transition between development of different densities,”*. The written request states: *“The proposal, despite the numerical non-compliance, retains the existing building bulk and therefore maintains the existing density and character of the locality.”* This reasoning is acceptable as the proposal is consistent with and reinforces the existing development density. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4** is *“to minimise adverse impacts on local amenity”*. The written request states: *“Given that there are no changes to the existing physical external building envelope, the proposal will not result in any changes to existing amenity conditions for the adjoining properties in terms of overshadowing, visual privacy and visual bulk”*. Council does not accept this reasoning. The proposal is considered likely to result in privacy impacts from the rear of the premises as a result of the additional glass windows on the western elevation located on the basement level which is set at 1 metre above the level of the lane creating potential sightlines into the rear yard of 7 Marlborough Street. To mitigate these impacts, a condition is included in the recommendation requiring that the 2 southernmost window panels on the basement level fronting the lane shall be obscurely glazed to a height of 1.6 metres. Notwithstanding this, it is considered that the proposal will not result in any additional overshadowing or visual bulk impacts and the privacy implications can be easily ameliorated through a simple design change. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4** is *“to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”*. This objective is not applicable to the subject site in the commercial zone.

As the proposal achieves the objectives of the standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant provides the following environmental planning grounds to justify contravening the Floor Space Ratio development standard:

Environmental Planning Ground 1 – *“Maintain compatibility with the existing height, bulk and scale of the locality i.e does not result in any increases/changes to the existing building*

height, setbacks and/or building envelope. In this regard, the non-compliance does not increase the existing site coverage / building footprint”

This environmental planning ground is accepted as the proposed building does not present an unacceptable bulk and scale to the streetscape or neighbouring properties. The proposal is in keeping with the existing and desired future character of development on Norton Street. The proposal does not increase the existing height or rear setbacks and does not comprise of any lateral or longitudinal extensions that may contribute to bulk and scale. The majority of works are internal and subject to the recommended privacy treatment conditions, are considered unlikely to impact the locality.

Environmental Planning Ground 2 – *“The proposal will not have any impacts on the amenity of neighbouring properties in relation to overlooking, view loss, or solar access loss”*

This environmental planning ground is accepted subject to the imposition of privacy measures as indicated previously. Subject to obscuring glazing 2 windows on the rear façade, the development is unlikely to impact neighbouring amenity. As the building envelope remains unchanged there is no loss of solar access or any view loss as a result of the development.

Environmental Planning Ground 3 – *“Will provide functional floor layout and facilities in support of essential fitness / wellbeing, and will attract local community to participate in exercise activities within the premises promoting health, fitness and wellbeing, and in doing so meeting another objective of the E1 Local Centre Zone (to serve the needs of people who live in, work in or visit the area);*

This environmental planning ground is accepted because the proposed development will provide a form and use which is consistent with the desired character of the area and the E1 Local Centre Zone.

Cumulatively, the grounds are considered sufficient to justify contravening the development standard.

For the reasons outlined above, it is recommended that the section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is located within the Whaleyborough Estate Heritage Conservation Area.</p> <p>The application was referred to Councils Heritage Specialist who noted the following regard the proposal;</p> <p><i>The internal fitout is acceptable as the works are minor and will not be visible from the public domain.</i></p> <p><i>The proposed signage on the awning fascia to the principal (east) elevation can be supported, that is</i></p>	Yes

Section	Compliance	Compliance
	<p><i>signage 01. Though the dark grey to the ground and first-floor of the principal elevation should be deleted and replaced with a light, warm neutral or earthy tone such as Dulux 'Beige Royal Half', 'Grand Piano', 'Limed White', 'Stowe White', and 'Tuft' or equivalent. The grey fill for signage 04 should also be deleted. The proposed dark grey fill can be supported to the fascia awning only.</i></p> <p>Subject to compliance with the above the proposal achieves the objectives of this section as follows:</p> <ul style="list-style-type: none"> • The proposal is comprised of mainly internal works within an existing commercial premises. • The proposal includes signs located on the east and west elevations, these are considered acceptable as the signs are in line with objectives of the zone, being E1 Local Centre, however the colours need to be reconsidered to ensure it is sympathetic with the HCA • The proposal includes limited demolition, including the rear wall of the ground floor. This is acceptable as the demolition is at the rear of the premises and will not be viewed from the primary road, being Norton Street. <p>Subject to compliance with the recommended changes above the proposal preserves the environmental heritage of the Inner West.</p>	

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	<ul style="list-style-type: none"> • The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable. 	Yes
Section 6.3 Stormwater Management	<ul style="list-style-type: none"> • The development does not propose any changes to the existing provision of permeable surfaces. • The proposal will use existing storm water infrastructure. The proposal will not result in any significant runoff to adjoining properties or the environment. 	Yes

B. Development Control Plans

The application was assessed against the following relevant parts of the Leichhardt Development Control Plan 2013 (LDCP 2013).

Part B – Connections

Control	Proposed / Discussion	Compliance
B1.1 – Connections - Objectives	<ul style="list-style-type: none"> The proposal is consistent with the objectives and controls of this section. 	Yes
B2.1 – Planning for Active Living	<p>The proposal is for an Indoor recreational facility which meets the objectives of this section as follows:</p> <ul style="list-style-type: none"> The gym is accessible to the local community. The gym encourages a healthy lifestyle The use supports and encourages active travel options. 	Yes
B3.1 – Social Impact Assessment	<p>The proposal achieves compliance with the objectives of this section as follows:</p> <ul style="list-style-type: none"> The proposal will have a positive social impact on the area as it will provide an active and social use which will allow the local community to connect in a safe place that encourages healthy lifestyles. The frequent use will provide better general surveillance of the local surrounds. The proposal was notified in accordance with Council's Community Engagement Framework Policy and one (1) submission was received relating to traffic management. Traffic management has been addressed within this report and is considered acceptable, subject to the recommended conditions of consent. 	Yes

Part C – Section 1 – General Provisions

Control	Proposed / Discussion	Compliance
C1.3 Alterations and additions	<ul style="list-style-type: none"> The proposal complements the scale, form and materials of the streetscape and neighbourhood character, will appear as a sympathetic addition to the existing building; maintains views from the public domain and reasonably protects views obtained from surrounding development. 	Yes
C1.4 Heritage Conservation Areas and Heritage Items	<ul style="list-style-type: none"> Subject to compliance with conditions regarding colours schemes, the development is compatible with the Heritage Conservation Area as no major physical changes are proposed to the building facades. Refer to discussion under Section 5.10 of the <i>IWLEP 2022</i> contained within Part 3A of this report. 	Yes, see discussion above
C1.7 Site Facilities	<ul style="list-style-type: none"> The proposal includes facilities which are integrated into the layout and design of the development and will not have an adverse amenity impact. The facilities are adequate given the size and proposed intensity of the premises and can be easily maintained: <ul style="list-style-type: none"> Rubbish storage and collection areas are located to have minimal impacts and visibility from the street. Development shall be consistent with Part D Section 2 – Resource Recovery and Waste Management. 	Yes

Control	Proposed / Discussion	Compliance												
C1.9 Safety by Design	<ul style="list-style-type: none">The proposal encourages the application of Crime Prevention Through Environmental Design (CPTED) principles as follows: The proposal demonstrates and meets the objectives by encouraging safe and secure environments for the customers, will aim to minimise opportunities for criminal and anti-social behaviour within the public domain and will follow the crime prevention through design principles as established within this part.	Yes												
C1.10 Equity of Access and Mobility	<p>An Accessibility Design Review Report was submitted with the application, which meets the objectives of this section. However, the proposal was subsequently amended, and a revised report was not submitted to reflect the proposed amendments.</p> <p>It is noted that the amended plans include 2 off-street bicycle parking spaces located within the egress path of the front entrance. It is considered the location of these spaces will inhibit accessibility and mobility for customers using the primary entrance. In this regard, a condition is included in the recommendation requiring these spaces to be relocated into an adjacent storage area.</p>	Yes, subject to conditions												
C1.11 Parking	<p><u>Car parking</u> The DCP does not require any off-street car parking spaces for the proposed development.</p> <p>Notwithstanding, the application proposes two (2) off-street car parking spaces for staff parking, which are located within the rear setback and accessed via the laneway. The parking spaces are considered acceptable subject to the recommended conditions of consent to ensure the spaces meet the requirements of the Australian Standards.</p> <p><u>Bicycle parking</u></p> <p>Bicycle parking provision rates:</p> <table><tr><th>Land Use</th><th>Parking rates</th><th>Requirement</th><th>Proposed</th></tr><tr><td rowspan="3">Recreation facility (indoor, outdoor and major)</td><td><u>Staff</u> 2 spaces, plus 1 space per 10 staff</td><td><u>Staff</u> 2 Spaces</td><td rowspan="3">24 spaces</td></tr><tr><td><u>Customers/visitors</u> 2 spaces, plus 1 space per 100 sqm GFA</td><td><u>Customers/Visitors</u> 6 spaces</td></tr><tr><td></td><td>Total required = 8</td></tr></table> <p>It is noted that the application proposes ten (10) bicycle parking spaces on site located on the ground floor, and fourteen (14) spaces within the public domain adjacent to the premises.</p> <p>The application proposes fourteen (14) bicycle parking spaces in the public domain on Council's footpath. Works beyond the property boundary may only be approved with owner's consent.</p>	Land Use	Parking rates	Requirement	Proposed	Recreation facility (indoor, outdoor and major)	<u>Staff</u> 2 spaces, plus 1 space per 10 staff	<u>Staff</u> 2 Spaces	24 spaces	<u>Customers/visitors</u> 2 spaces, plus 1 space per 100 sqm GFA	<u>Customers/Visitors</u> 6 spaces		Total required = 8	Yes, subject to conditions
Land Use	Parking rates	Requirement	Proposed											
Recreation facility (indoor, outdoor and major)	<u>Staff</u> 2 spaces, plus 1 space per 10 staff	<u>Staff</u> 2 Spaces	24 spaces											
	<u>Customers/visitors</u> 2 spaces, plus 1 space per 100 sqm GFA	<u>Customers/Visitors</u> 6 spaces												
		Total required = 8												


Control	Proposed / Discussion	Compliance
	In this case, owner's consent has not been provided with this application. Notwithstanding, the spaces are not required to satisfy the provisions of DCP. Accordingly, it is recommended that a condition be included in the consent requiring the deletion of these spaces.	
C1.15 Signs and Outdoor Advertising	<p>The proposed flush wall business identification signs have been assessed against the relevant provisions of <i>SEPP (Industry and Employment) 2021</i> and the proposal complies with this section as follows:</p> <ul style="list-style-type: none"> • The signs relate to a lawful use of the subject site. • The signs (subject to amendments regarding colours) are compatible with the existing building and do not dominate the setting or the site. • The signs do not obscure any sight lines, traffic control devices or driveways. • The size and proportions of the proposed signs are appropriate. 	Yes
C1.18 Laneways	<ul style="list-style-type: none"> • The subject site is accessible via a laneway and the proposed use will not impact on the service function of the laneway. 	Yes

Part C – Section 2 – Urban Character

Control	Proposed / Discussion	Compliance
C2.2.3.4.5 – Leichhardt Commercial distinctive Neighbourhood	<ul style="list-style-type: none"> • The proposal is considered to be a satisfactory response to the Distinctive Neighbourhood and retains the existing Commercial character of the site and setting of the sub area. 	Yes

Part C – Section 4 – Non-Residential Development

Control	Assessment	Compliance
C4.1 Objectives for Non-Residential Zones	The proposal is consistent with the objectives for non-residential zones.	Yes
C4.2 Site Layout and Building Design	<p>The proposal complies with the sections as follows:</p> <ul style="list-style-type: none"> • An Acoustic Report was submitted, which includes appropriate noise mitigation measures, including floor coverings, adherence to the Plan of Management, and additional signage. Subject to a condition requiring the imposition of the recommendations made in the acoustic report, it is considered the proposal will not result in adverse amenity impacts. • Vehicle access and servicing are proposed to be provided at the rear of the site, and vehicle parking is located behind the street wall along the rear lane. 	Yes, subject to conditions

C4.5 Interface Amenity	<ul style="list-style-type: none"> Residential properties are located to the rear of the premises over the rear lane as demonstrated in the figures below: <div data-bbox="414 300 1190 1037">  <p>Figure 6: Subject property shown in red. Residential zoned land shown in pink. Local centre zoned land shown in blue.</p> </div> <p>The site is located within the E1 zone and as such, was assessed against the controls of this section.</p> <ul style="list-style-type: none"> An acoustic report has been provided which provides recommendations to further reduce acoustic impacts on surrounding properties to comply with the relevant standards. All activities will be conducted within the confines of the premises and are not permitted in the laneway and on surrounding land. <p>Subject to the recommendations set out in the acoustic report, the proposal is considered unlikely to result in any adverse amenity impacts to the surrounding residential properties.</p>	Yes
C4.16 Recreational Facility	<p>The proposal will meet the objectives of the section as discussed below.</p> <ul style="list-style-type: none"> Customers are encouraged to utilise public and active transport methods to reduce impacts on the surrounding neighbourhood in terms of car parking, traffic generation and noise. The site is adjacent to R1 General Residential zoned land. The proposal provides a rear setback that provides an appropriate buffer to the residential properties so the activities at the site will not be discernible from these properties. The intensity of the proposed use is limited to exclusively members only. The application does not specify a maximum number of members, however, the proposal is considered acceptable as: 	Yes

	<ul style="list-style-type: none"> ○ Only allow members entry full access. ○ Roughly 40% of members use the club on a regular basis. ○ The size of group classes is to be limited to a maximum of 30 participants and a maximum session time of 45 minutes. • The proposal encourages sustainable transport modes. 	
--	--	--

Hours of operation

The proposed gymnasium seeks to operate 24 hours a day, seven (7) days a week, including public holidays. The premises will be staffed during the following hours:

Days	Hours
Monday – Thursday	10am – 7pm
Friday	10am - 2pm
Saturday	9am – 1pm
Sundays	No staff

The proposed 24 hour operation is inconsistent with commercial uses within the locality. The approved hours of operation of surrounding commercial uses are as follows:

Property	Application and determination date	Use	Hours of operation
144 Norton Street	PCA/2015/18 28/01/2015	Dry Cleaning premises	Monday – Tuesday: 9.00am to 5.00pm Wednesday – Friday: 9:00am to 7.00pm Saturday: 9.00am to 6.00pm Sunday: Closed
146 Norton Street	CDC/2021/0091 09/03/2022	Takeaway food and drink premises	Monday – Friday: 7.00am to 10.00pm Saturday – Sunday: 7.00am to 8.00pm
138 Norton Street	CDC/2016/46 13/05/2016	Restaurant	Monday – Friday: 7.00am to 10.00pm Saturday – Sunday: 7.00am to 8.00pm
136 Norton Street	D/2009/108 24/04/2009	Supermarket (IGA)	Monday – Sunday: 8.00am to 8.00pm
127 Norton Street	Current Consent: DA/2021/0748: 17/03/2022	Medical consulting rooms and commercial offices	Monday – Friday: 8.00am to 6.00pm Saturday – Sunday: Closed

Notwithstanding this, it is considered appropriate that gymnasiums operate with a wide range of hours to best accommodate the needs of the range of users.

As the site is located at the interface of a commercial/residential area with residential accommodation located directly west of the subject site, it is considered appropriate to impose noise mitigation measures to ensure adverse amenity impacts to nearby residences and commercial premises are minimised.

The application was accompanied by a Statement of Environmental Effects (SEE), Plan of Management (POM), and an Acoustic report, which outline specific measures to mitigate noise impacts including:

- Glass windows and doors of the gym will remain closed at all times to prevent noise from escaping the premises.
- Signs will be placed at all entry and exit points, informing patrons of the requirement to avoid generating excessive noise when entering and leaving the premises.
- Staff will monitor the behaviour of patrons both inside the gym and as they exit to ensure noise levels are minimized during ingress and egress.
- The use of low-frequency speakers (subwoofers) will be restricted, and such speakers will be isolated from the building's services to reduce vibration and noise impacts.
- Free weights over 15kg will only be permitted in the designated Free Weights area. Weights under 15kg may be used in both the Free Weights and Function Training areas.
- The internal noise level from music will be controlled to comply with acoustic requirements. Maximum reverberant sound pressure levels will be set to ensure that the operation of the gym does not adversely affect nearby receptors, based on the fit out and speaker installation.
- The background music within the gym will be kept at a level that allows patrons to speak without raising their voices, ensuring speech intelligibility.
- In areas where high impact activities are expected (such as the Free Weights and Function Training areas), impact sound-absorbing flooring will be installed to minimize the regeneration of noise and vibration.
- Gym staff, personal trainers, and members will be trained on proper techniques for placing weights without dropping them.
- Clear signage will be placed throughout the gym, advising members not to drop weights or use them outside of the designated areas.
- Members who are found dropping weights will face penalties such as membership warnings, suspensions, or lockout restrictions.

Overall, it is considered that the implementation of and adherence with the proposed measures, in addition to standard noise impact conditions, will adequately reduce adverse amenity impacts to surrounding properties.

Further, it is recommended that a condition be imposed limiting the 24 hour trading to a trial period of 12 months with further consent required to continue the extended trading hours upon conclusion of the trial. A trial period also allows Council to review management practices and the appropriateness of the operating hours. The regularity of the trial periods ensures that practices can be reviewed and if there are any issues, establish mechanisms to address such matters of concern which may be affecting the amenity of surrounding residences. This combined with the acoustic and amenity protection conditions as included by Council's

Environmental Health Specialist (i.e., compliance with the recommendations provided under the Acoustic Report and Plan of Management), are considered to mitigate any potential adverse amenity impacts to neighbouring properties.

The applicant has not nominated core hours for the development and having regard to surrounding land uses Council recommends the following core trading hours be 7:00am to 10:00pm, 7 days a week.

Subject to a trial period, the proposed 24-hour operation of the gymnasium is considered acceptable, subject to the imposition of appropriate conditions requiring the provision of stringent management practices to mitigate potential amenity impacts.

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial surrounding and amongst similar uses to that proposed.

E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 29 August 2024 to 19 September 2024.

A total of one (1) submission was received in response to the notification. The issues raised in the submission are discussed below:

Concern	Comment
Street parking availability	The development complies with the applicable parking rate for use of the tenancy as a gym, is located near public transport nodes and is adjacent to an active transport route.
Too many gyms/Impacts to other similar businesses in locality	It is noted that several gyms exist within the locality, however, the number and proximity of similar land uses and viability of a business is not a matter for consideration.

F. 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.

This has been achieved in this instance.

6. Section 7.11

Section 7.11 contributions 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 \$14,052.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

A condition requiring that contribution to be paid is included in the recommendation.

7. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist
- Development Engineer
- Environmental Health
- Waste Management
- Building Certification

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022*.

The development will not result in any significant impacts on the amenity of the adjoining premises and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. In relation to the proposal by the development in Development Application No. DA2024/0706 to contravene the development standard in 4.4- Floor Space Ratio of Inner West Local Environmental Plan 2022 the Panel is satisfied that the Applicant has demonstrated that:
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- B. 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*, grant consent to Development Application No. DA/2024/0706 for fit out and use of a premises as a gymnasium, works include installation of 3 illuminated and 3 non-illuminated signs at 140-142 Norton Street Leichhardt subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

GENERAL CONDITIONS

	Condition
1.	<p>Bin Storage</p> <p>All bins are to be stored within the property. Bins are to be returned to the property within 12 hours of having been emptied.</p> <p>Reason: To ensure resource recovery is promoted and residential amenity is protected.</p>
2.	<p>Noise – Consultant's Recommendations</p> <p>All the recommendations contained in the acoustic report prepared by Koikas Acoustics Pty Ltd, reference 3737R20240702tb140-142NortonStreetLeichhardt_DA_V2 dated 12 November 2024 must be implemented. Including the following;</p> <ul style="list-style-type: none"> • Glass windows and doors of the gym will remain closed at all times to prevent noise from escaping the premises. • Signs will be placed at all entry and exit points, informing patrons of the requirement to avoid generating excessive noise when entering and leaving the premises. • Staff will monitor the behaviour of patrons both inside the gym and as they exit to ensure noise levels are minimized during ingress and egress. • The use of low-frequency speakers (subwoofers) will be restricted, and such speakers will be isolated from the building's services to reduce vibration and noise impacts. • Free weights over 15kg will only be permitted in the designated Free Weights area. Weights under 15kg may be used in both the Free Weights and Function Training areas. • The internal noise level from music will be controlled to comply with acoustic requirements. Maximum reverberant sound pressure levels will be set to ensure that the operation of the gym does not adversely affect nearby receptors, based on the fit out and speaker installation. • The background music within the gym will be kept at a level that allows patrons to speak without raising their voices, ensuring speech intelligibility. • In areas where high impact activities are expected (such as the Free Weights and Function Training areas), impact sound-absorbing flooring will be installed to minimize the regeneration of noise and vibration. • Gym staff, personal trainers, and members will be trained on proper techniques for placing weights without dropping them. <p>Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.</p>

3.	Loading/unloading on site All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas. Reason: To ensure that any designated loading dock is available for servicing the site at all times.																												
4.	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. Reason: To ensure Council assets are protected.																												
5.	Vehicles Leaving the Site All vehicles must enter and exit the site in a forward direction. Reason: To ensure parking facilities maintain public and pedestrian safety.																												
6.	Documents related to the consent The development must be carried out in accordance with plans and documents listed below: <table><tr><th>Plan, Revision and Issue No.</th><th>Plan Name</th><th>Date Issued/Received</th><th>Prepared by</th></tr><tr><td>TP02 Rev 4</td><td>Existing Basement</td><td>24.05.24</td><td>A three design/management</td></tr><tr><td>TP03 Rev 4</td><td>Existing Ground Floor</td><td>24.05.24</td><td>A three design/management</td></tr><tr><td>TP04 Rev 3</td><td>Existing Mezzanine</td><td>24.05.24</td><td>A three design/management</td></tr><tr><td>TP05 Rev 4</td><td>Existing Elevations</td><td>24.05.24</td><td>A three design/management</td></tr><tr><td>TP06 Rev 9</td><td>Proposed Basement</td><td>13.11.24</td><td>A three design/management</td></tr><tr><td>TP07 Rev 10</td><td>Proposed Ground Floor</td><td>13.11.24</td><td>A three design/management</td></tr></table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	TP02 Rev 4	Existing Basement	24.05.24	A three design/management	TP03 Rev 4	Existing Ground Floor	24.05.24	A three design/management	TP04 Rev 3	Existing Mezzanine	24.05.24	A three design/management	TP05 Rev 4	Existing Elevations	24.05.24	A three design/management	TP06 Rev 9	Proposed Basement	13.11.24	A three design/management	TP07 Rev 10	Proposed Ground Floor	13.11.24	A three design/management
Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by																										
TP02 Rev 4	Existing Basement	24.05.24	A three design/management																										
TP03 Rev 4	Existing Ground Floor	24.05.24	A three design/management																										
TP04 Rev 3	Existing Mezzanine	24.05.24	A three design/management																										
TP05 Rev 4	Existing Elevations	24.05.24	A three design/management																										
TP06 Rev 9	Proposed Basement	13.11.24	A three design/management																										
TP07 Rev 10	Proposed Ground Floor	13.11.24	A three design/management																										

	TP08 Rev 6	Proposed Mezzanine	13.11.24	A three design/management
	TP09 Rev 5	Proposed Elevations	13.11.24	A three design/management
	TP10 Rev 3	Signage Details	24.05.24	A three design/management
	----	Plan of Management	21/08/2024	Snap fitness 24/7
	Project number: 3737 Document reference: 3737R 20240702tb140-142NortonStreetLeichhardt_DA_V2	Acoustic Report	12/11/2024	Koikasacoustic s pty ltd
	As amended by the conditions of consent.			
	Reason: To ensure development is carried out in accordance with the approved documents.			
7.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands.			
	Reason: To ensure works are in accordance with the consent.			
8.	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.			
	Reason: To protect pedestrian safety.			
9.	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 <i>Environmental Planning and Assessment Act 1979</i> .			
	Reason: To ensure compliance with legislative requirements.			
10.	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.			
	Reason: To ensure compliance with legislative requirements.			

11.	<p>Notification of commencement of works</p> <p>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:</p> <ol style="list-style-type: none"> a. In the case of work for which a principal contractor is required to be appointed: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>Reason: To ensure compliance with legislative requirements.</p>
12.	<p>Construction of Vehicular Crossing</p> <p>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.</p> <p>Reason: To protect assets, infrastructure and pedestrian safety.</p>
13.	<p>Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
14.	<p>Dial before you dig</p> <p>Contact "Dial Before You Dig" prior to commencing any building activity on the site.</p> <p>Reason: To protect assets and infrastructure.</p>
15.	<p>Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>

16.	Plan of Management The operation of the premises must comply at all times with the approved Plan of Management prepared by snap fitness 24/7 received by Council on 21/08/2024. 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. Reason: To protect the amenity of the neighbourhood.
17.	Group Classes Prior to occupation of the site, the Certifying Authority is required to be provided with an amended Plan of Management that limits the size of group classes to a maximum of 30 participants at any one time. Reason: To protect the amenity of the neighbourhood.
18.	Illumination Signage Condition Signage lighting must comply with the following requirements: <ul style="list-style-type: none"> (i) Each sign must be displayed in a completely static manner, without any motion or flash during operation. (ii) The illuminated sign on the western elevation shall only be lit between the hours of 7:00 am to 10:00pm daily. Reason: To ensure public safety and the signage complies with relevant standards.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
19.	Resource Recovery and Waste Management Plan - Demolition and Construction Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan. Reason: To ensure resource recovery is promoted and local amenity protected during construction.
20.	Bin Storage Area Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan. The submitted Waste and Recycling Management Plan must demonstrate that that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale.

	<p>The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour. The bin storage area is to be adequately screened from public view, even on the rear lane.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
21.	<p>Waste Transfer Route</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins, and 1:40 for 660L bins.</p> <p>If the path of transfer exceeds this gradient, a bin tug, suited to the inclination, and which meets Australian Standards in Health, Safety, Environment and Quality is to be used to move waste and recycling bins, or bulky household waste, from the basement to ground level.</p> <p>Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.</p>
22.	<p>Noise General – Acoustic Report</p> <p>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.</p> <p><i>Note: In special entertainment precincts, this condition applies to noise and vibration from plant equipment and machinery only.</i></p> <p>Reason: To protect the amenity of the neighbourhood.</p>
23.	<p>Design Change</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <ol style="list-style-type: none"> 1. The dark grey to the ground and first-floor of the principal elevation should be deleted and replaced with a light, warm neutral or earthy tone such as Dulux 'Beige Royal Half', 'Grand Piano', 'Limed White', 'Stowe White', and 'Tuff' or equivalent. 2. The grey fill for signage 04 should also be deleted. The proposed dark grey fill can be supported to the fascia awning only. 3. Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with amended plans detailing Bicycle parking for ten (10) bicycles

	<p>to be provided on site (which do not obstruct access pathways in the building), including individual lockers and two (2) showers and change room facilities as proposed.</p> <p>4. Deletion of all the bicycle spaces located within the public domain adjacent to the property on Norton Street.</p> <p>Reason: To ensure that the design changes protect the amenity of the neighbourhood.</p>				
24.	<p>Security Deposit - Custom</p> <p>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.</p> <table border="1"> <tr> <td>Security Deposit:</td><td>\$3,119.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.90</td></tr> </table> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>	Security Deposit:	\$3,119.00	Inspection Fee:	\$389.90
Security Deposit:	\$3,119.00				
Inspection Fee:	\$389.90				

25.	<p>Parking Facilities – Major (including basement)</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably experienced Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) 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, Australian Standard AS 2890.2-2018 Parking Facilities: Commercial vehicle facilities, 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:</p> <ol style="list-style-type: none"> The longitudinal profile across the width of the vehicle crossing, vehicular access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 and AS 2890.2-2018 for a B99 design vehicle. Longitudinal sections along each outer edge of the access and parking facilities, extending to the centreline of the road carriageway must be provided, demonstrating compliance with the above requirements. The parking spaces must have minimum clear internal dimensions of 6,000 x 3,000 mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns. Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). The headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors. Headroom at a 'sag' type grade change must be measured in accordance with Figure 5.3 of AS/NZS 2890.1-2004. The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles. The bicycle storage areas within the property are designed to accommodate a minimum of 10 bicycles with individual lockers and comply with the dimensional requirements in AS 2890.3-2015 and Council's DCP; All loading docks and parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction. <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's DCP.</p>
26.	<p>Privacy</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans indicating that the 2 southernmost window panes on the basement level on the western elevation are to be amended in the following manner:</p> <ul style="list-style-type: none"> Fixed and obscure glazing to a minimum level of 1.6 metres above the floor level; <p>Reason: To minimise sightlines to neighbouring residential properties so as to protect privacy.</p>

27.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>														
28.	<p>Sydney Water – Tap In</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.</p> <p>Note: Please refer to the web site http://www.sydneywater.com.au/tapin/index.htm for details on the process or telephone 13 20 92.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>														
29.	<p>Section 7.11 Contribution</p> <p>In accordance with section 7.11 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), the following monetary contributions shall be paid to Council to cater for the increased demand for local infrastructure resulting from the development:</p> <table border="1" data-bbox="483 1115 1193 1422"> <thead> <tr> <th>Contribution Category</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Open Space & Recreation</td><td>\$3,159.00</td></tr> <tr> <td>Community Facilities</td><td>\$0.00</td></tr> <tr> <td>Transport</td><td>\$8,308.00</td></tr> <tr> <td>Plan Administration</td><td>\$408.00</td></tr> <tr> <td>Drainage</td><td>\$2,177.00</td></tr> <tr> <td>TOTAL</td><td>\$14,052.00</td></tr> </tbody> </table> <p>At the time of payment, the contributions payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> $C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$ <p>Where:</p> <p>C_{payment} = is the contribution at time of payment</p>	Contribution Category	Amount	Open Space & Recreation	\$3,159.00	Community Facilities	\$0.00	Transport	\$8,308.00	Plan Administration	\$408.00	Drainage	\$2,177.00	TOTAL	\$14,052.00
Contribution Category	Amount														
Open Space & Recreation	\$3,159.00														
Community Facilities	\$0.00														
Transport	\$8,308.00														
Plan Administration	\$408.00														
Drainage	\$2,177.00														
TOTAL	\$14,052.00														

	<p>Cconsent = is the contribution at the time of consent, as shown above</p> <p>CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.8 for the December quarter of 2024.</p> <p>CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment</p> <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) <u>if the development is for subdivision – prior to the issue of the subdivision certificate</u>, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p><u>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</u></p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres at council@innerwest.nsw.gov.au or 9392 5000 to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment may be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
30.	<p>Bicycle Parking amendment</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with amended plans detailing that the bicycle parking currently partially blocking the main entrance is moved into the adjacent storage room.</p> <p>Reason: To protect pedestrian safety.</p>

BEFORE BUILDING WORK COMMENCES

	Condition
31.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
32.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
33.	<p>Standard Street Tree Protection</p> <p>Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.</p> <p>Reason: To protect and retain trees.</p>
34.	<p>Dilapidation Report</p> <p>Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the identified properties (144 Norton Street LEICHHARDT NSW 2040 and 138 Norton Street LEICHHARDT NSW 2040) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>

35.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>
-----	---

DURING BUILDING WORK

	Condition
36.	<p>Advising Neighbours Prior to Excavation</p> <p>At least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, reasonable notice must be provided to the owner of the adjoining allotment of land including particulars of the excavation.</p> <p>Reason: To ensure surrounding properties are adequately notified of the proposed works.</p>
37.	<p>Construction Hours – Class 1 and 10</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5.00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
38.	<p>Survey Prior to Footings</p> <p>Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.</p> <p>Reason: To ensure works are in accordance with the consent.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
39.	<p>Noise – Acoustic Report</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the Protection of the Environment Operations Act 1997 and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. 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.</p>

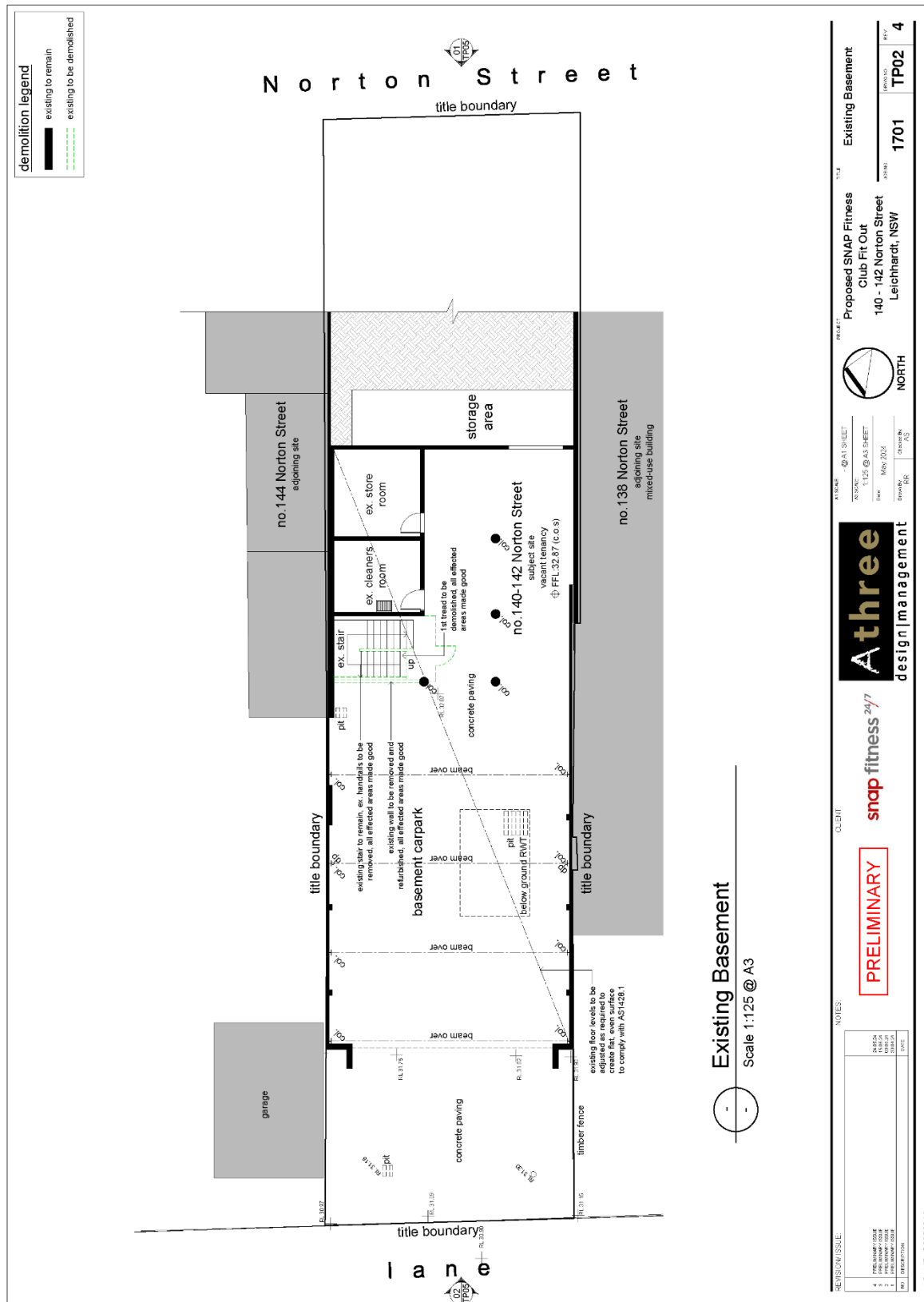
	<p><i>Note: In special entertainment precincts, this condition applies to noise and vibration from plant equipment and machinery only.</i></p> <p>Reason: To ensure compliance with the relevant Australian Standard.</p>
40.	<p>Parking Signoff – Minor Developments</p> <p>Prior to the issue of an Occupation 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 approved design and relevant Australian Standards.</p> <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and council's specifications.</p>
41.	<p>Business Parking Scheme Not Applicable</p> <p>Prior the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that measures have been put in place to advise future owners and occupants or tenants of the proposed building that they are not eligible to obtain a business parking permit under any existing or future business parking scheme for the area. The person acting on this Development Consent shall advise any purchaser or prospective tenant of this condition. All developments that are excluded from Permit Parking Schemes can be found in Councils Public Domain Parking Policy.</p> <p>Reason: To provide transparency in the application of the Business Parking Scheme.</p>

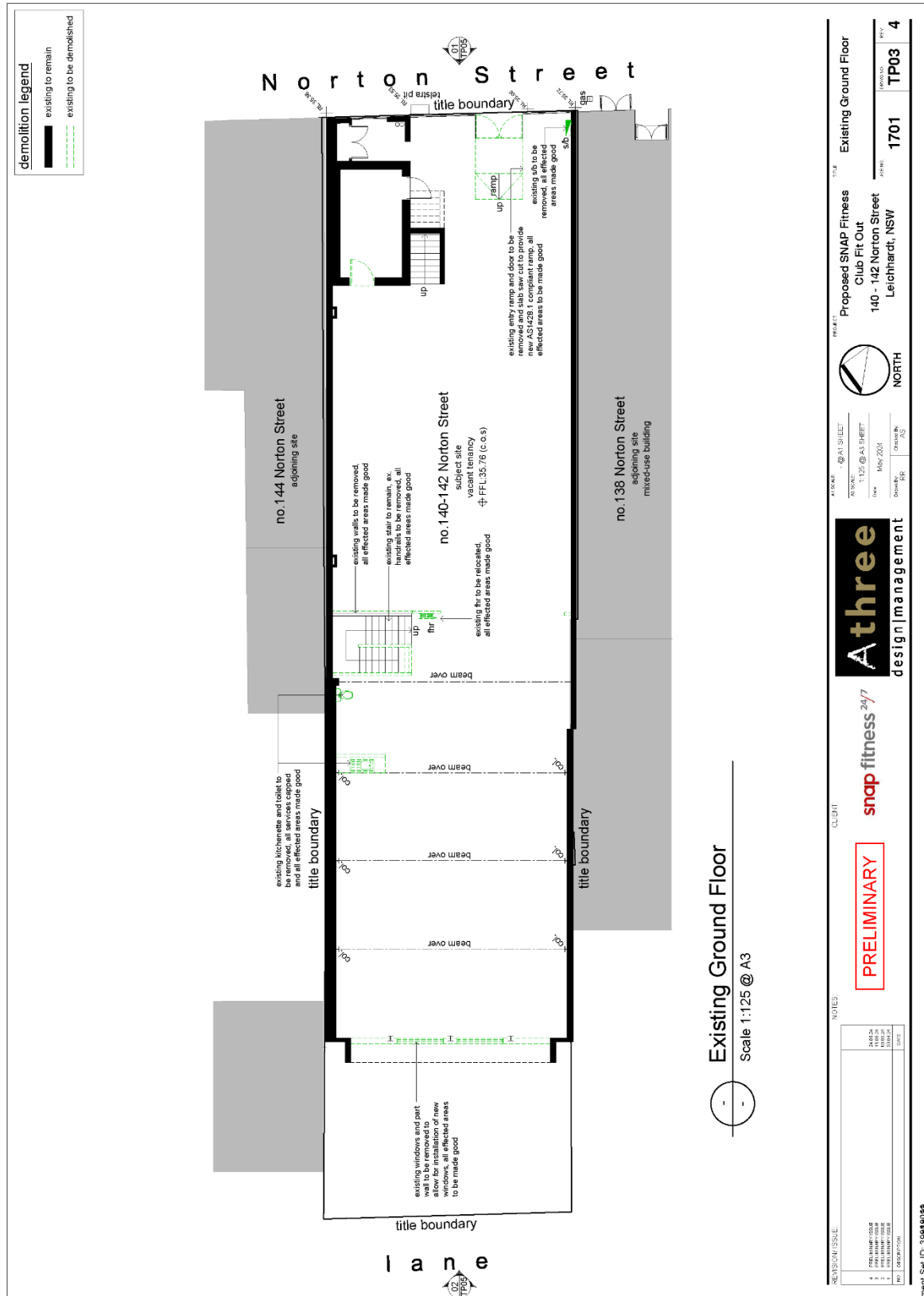
OCCUPATION AND ONGOING USE

	Condition
42.	<p>Noise General</p> <p>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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>

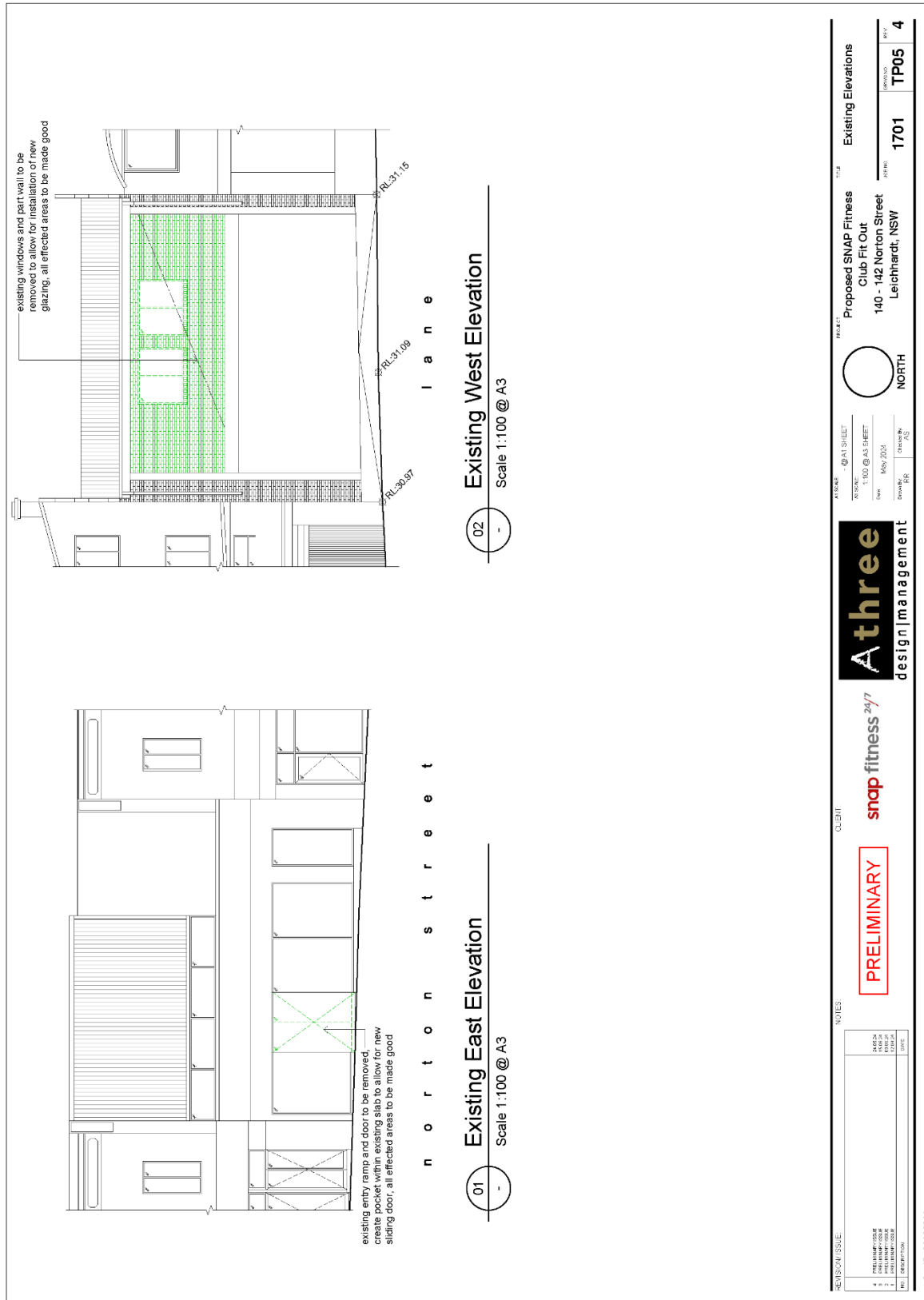
43.	Trial Hours	
	a. The hours of operation of the premises must not exceed the following:	
	Day	Hours
	Monday - Sunday	7:00am - 10:00pm
	b. For a period of not more than 12 months from the issue of the Final Occupation Certificate for this consent, the gymnasium can operate for 24 hours, seven (7) days a week, including all public holidays.	
	c. A continuation of the extended hours will require a further application under the <i>Environmental Planning and Assessment Act 1979</i> .	
	Reason: To protect the amenity of the neighbourhood.	

Attachment B – Plans of proposed development

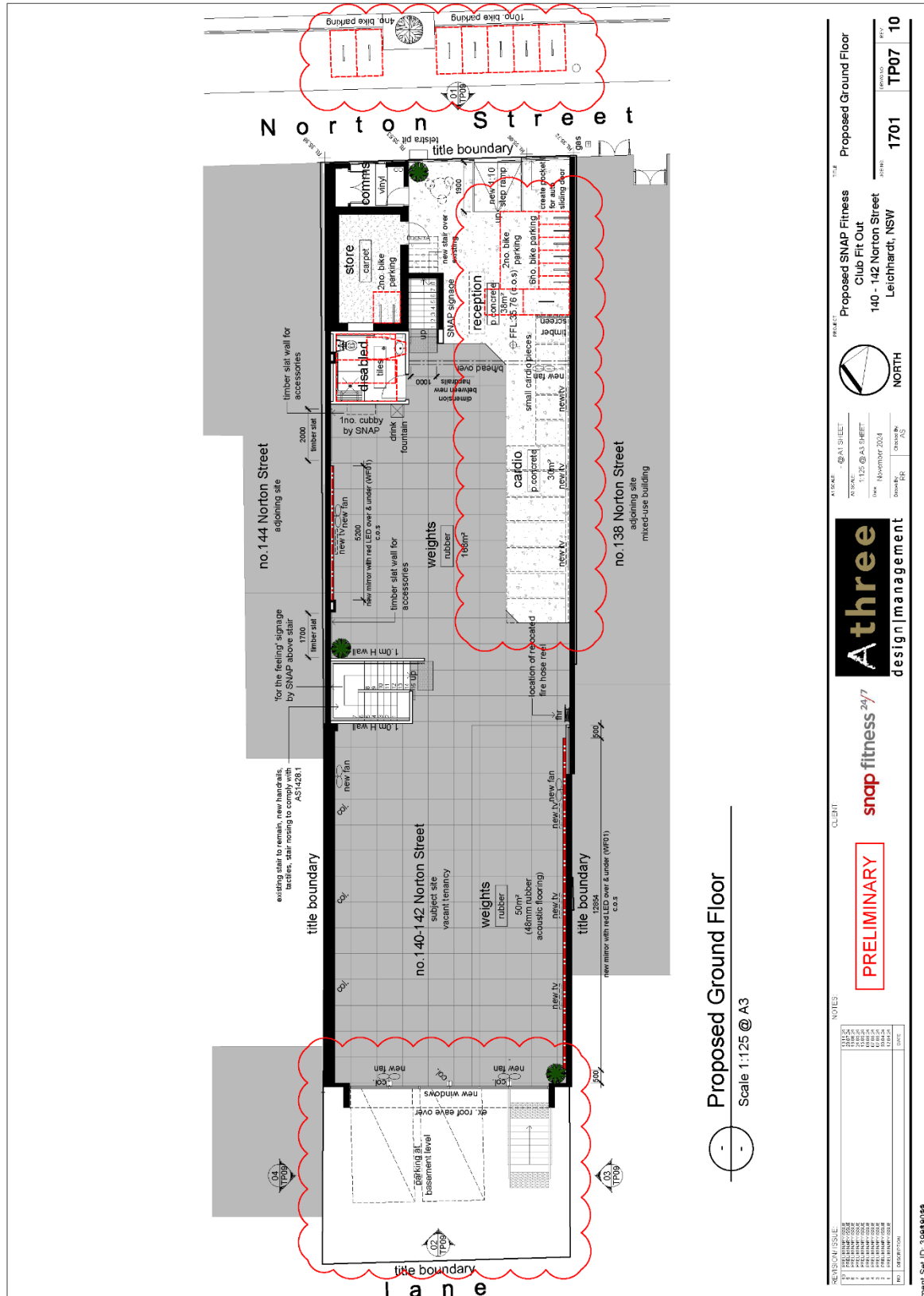


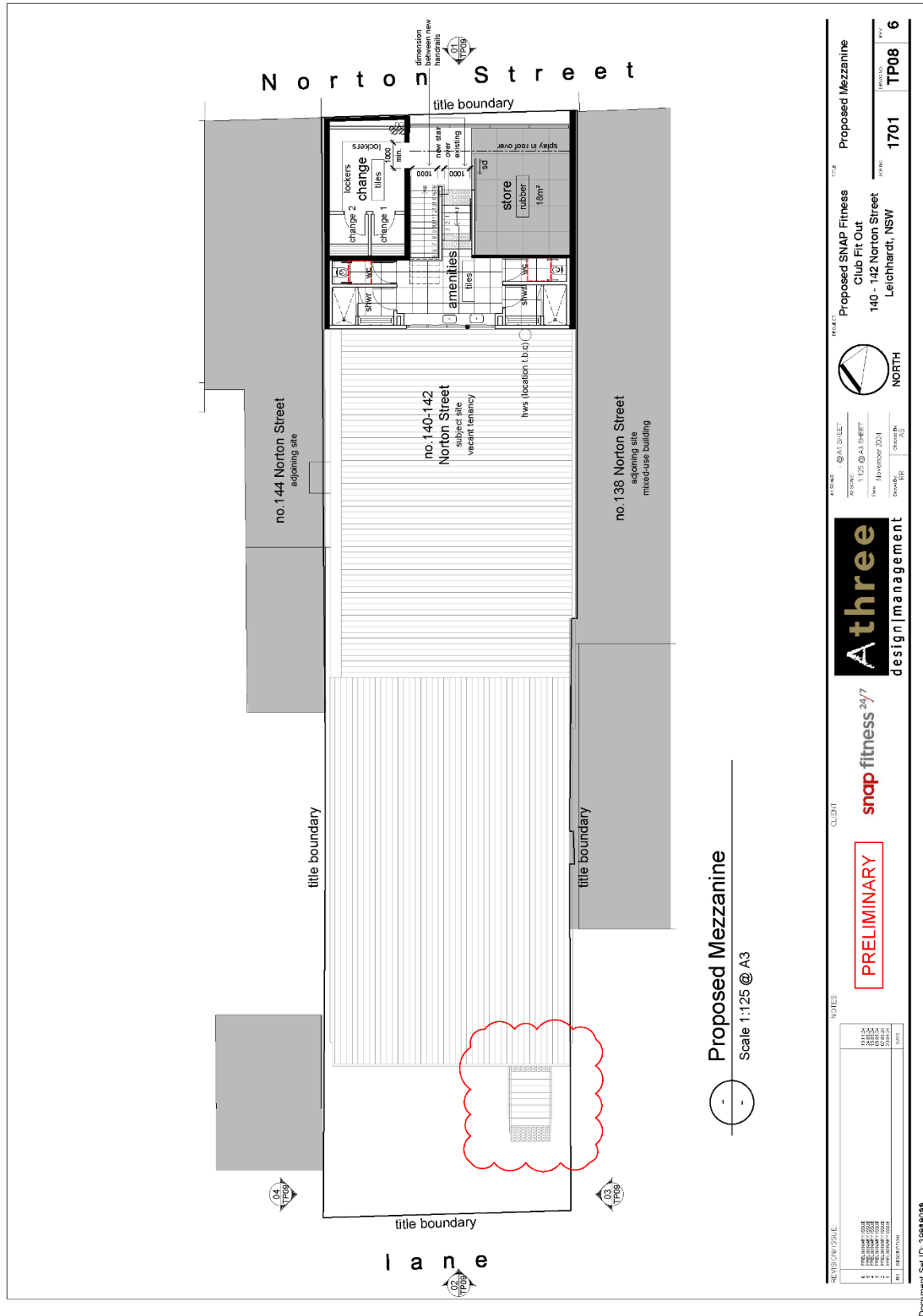














signage - 01
internally illuminated individual letter signage mounted to building facade
note: size to be confirmed on site, prior to install

signage - 02
Frosted Vinyl band, Style B - Approx. 500mm H
Vinyl film bands are to be reverse applied (except where being applied to tinted glass). Film to be applied to meet the requirements of ASI428.1

signage - 03
Digital print SAV vinyl decals applied to glazing.
Signage to be reverse applied (except where being applied to tinted glass).
Contact Lift Brands for sign templates.

signage - 04
internally illuminated individual letter signage mounted to building facade
note: size to be confirmed on site, prior to install

REVISION	DATE	BY	DESCRIPTION
1	2024-04-04	SAV	PRELIMINARY
2	2024-04-04	SAV	PRELIMINARY
3	2024-04-04	SAV	PRELIMINARY

Attachment C – Section 4.6 Exception to Development Standards

21 November 2024

Chief Executive Officer
Inner West Council

Dear Sir/Madam,

The applicant has engaged TRANPLAN Consulting to provide this submission/letter in relation to Development Application *DA/2024/0706* on land known as Lot 1 DP223016 and Lot C DP300939, being No. 140-142 Norton Street, Leichhardt.

As detailed in this written request for a variation to the Floor Space Ratio (FSR) Development Standard 4.4(2) under the LEP, the proposed development variation meets the requirements prescribed under Clause 4.6 of the *Inner West Local Environmental Plan 2022 (IWLEP)*.

1 THE SITE

The subject development site consists of two allotments with legal description of Lot 1 DP223016 and Lot C DP300939, and is more commonly referred to as 140-142 Norton Street, Leichhardt. The site is generally orientated east-west and generally rectangular in shape with a total area of 414m², and is located on the western side of Norton Street between Carlisle and Marlborough Street.

The site contains a 2-storey building, which comprises of ground floor space and a mezzanine level, in addition to a basement area (with rear lane access). The site has frontage and primary access from Norton Street and also rear access from Unnamed Lane. The immediate vicinity of the site is characterised by retail and commercial development along Norton Street, and residential development to the west on the opposite side of Unnamed Lane.

TRANPLAN

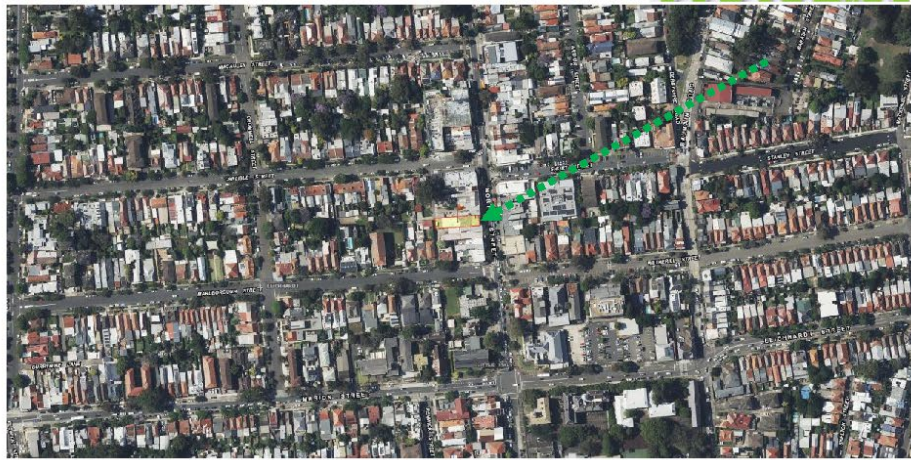


Figure 1 – Site & Locality Source: NSW Government

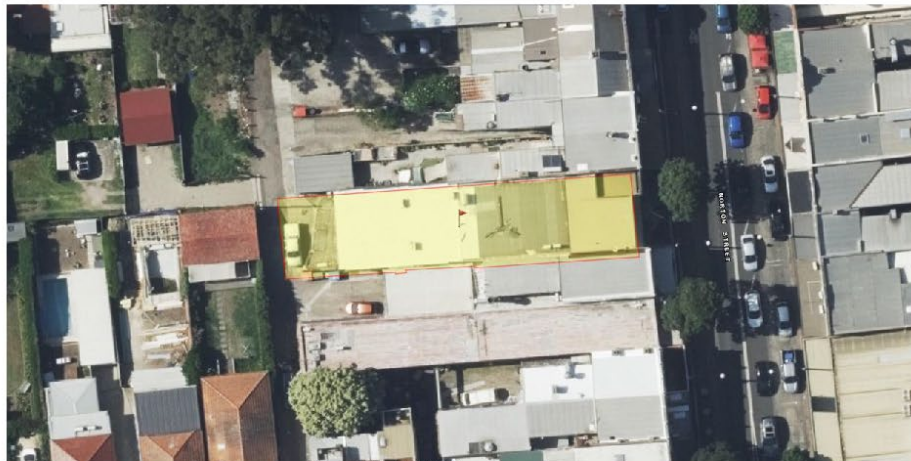


Figure 2 – Aerial View Source: NSW Government

2 CLAUSE 4.6 VARIATION TO DEVELOPMENT STANDARD 4.4(2) INNER WEST LOCAL ENVIRONMENTAL PLAN 2022

This submission is made to support the variation to Development Standard 4.4(2) of the *Inner West Local Environmental Plan 2022* i.e. support the variation to the FSR standard. Clause 4.6 establishes the framework for varying development standards applying under a Local Environmental Plan. Clause 4.6 states the following:

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

2

140-142 Norton Street, Leichhardt | Inner West Council
 M: 0415 16 33 56 | E: sydneytownplanner@gmail.com | W: www.townplanning-urbanplanning.com
 TRANPLAN Consulting Town Planner & Heritage Consultant © 2024 – All Rights Reserved



- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) The consent authority must keep a record of its assessment carried out under subclause (3)
- (5) Repealed
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) Repealed
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (caa) clause 5.5,
 - (ca) clause 6.27(4),
 - (cb), (cc) (Repealed)
 - (cd) clause 6.31.

3 ROLE OF THE CONSENT AUTHORITY

The role of the consent authority in considering a request for a clause 4.6 variation – specifically, subclause 4.6(3)(a) and 4.6(3)(b) – requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

- 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- 4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

3

140-142 Norton Street, Leichhardt | Inner West Council
 M: 0415 16 33 56 | E: sydneytownplanner@gmail.com | W: www.townplanning-urbanplanning.com
 TRANPLAN Consulting Town Planner & Heritage Consultant © 2024 – All Rights Reserved



A key consideration is that the fundamental purpose/objective of Clause 4.6 is to provide flexibility in applying development standards in that in so doing better development outcomes ensue.

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court in:

- *Wehbe v Pittwater Council* [2007] NSW LEC 827 (**Wehbe**);
- *FouR1Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 (**FouR1Five**);
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (**Initial Action**);
- *Ex Gratia P/L v Dungog Council* (2015) NSWLEC 148 (**Ex Gratia**);
- *Moskovich v Waverley Council* (2016) NSWLEC 1015 (**Moskovich**); and
- *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 (**Al Maha**).

In particular, the Council needs to be satisfied that there are proper planning grounds to grant consent and that the contravention of the standard is justified. This report provides the basis for the Council to reach this level of satisfaction.

The relevant matters contained in clause 4.6 of the IWLEP 2012, with respect to the maximum FSR standard, are each addressed below, including with regard to the above decisions.

4 CLAUSE 4.4 DEVELOPMENT STANDARD OF THE LEP

The Development Standard to which this variation relates to is Clause 4.4 Development Standard of the LEP, reads as follows:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

- (a) to establish a maximum floor space ratio to enable appropriate development density,
- (b) to ensure development density reflects its locality,
- (c) to provide an appropriate transition between development of different densities,
- (d) to minimise adverse impacts on local amenity,
- (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

Under Clause 4.4(2) of IWLEP 2022, the site base floor space ratio (FSR) of 1:1 – refer to Figure 2 below.



Figure 3 – IWLEP 2012 FSR MAP Source: NSW Planning

5 EXTENT OF NON-COMPLIANCE

As noted above, Development Standard 4.4(2) of the LEP states that “*The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map*”

On the Floor Space Ratio (FSR) Map, the maximum FSR of 1:1 applies across the whole site. With a total site area of 414m², the maximum gross floor area (GFA) of 414m² applies. However, a maximum GFA of 583.59m² is proposed for the development, representing a 40.97% variation. See Figure 3 below.

	FSR	Sqm
Maximum =	1	414
Proposed =	1.41	583.597
Variation =	40.97%	169.597

Figure 4 – Proposed Variation to maximum FSR Source: Council

The gross floor area, whilst a non-compliance with the FSR, will not have any material influence to the overall bulk and scale of the existing building, as no additional building envelope is proposed and the existing building height and setbacks are maintained as existing.

The proposal is therefore consistent with the provisions of clause 4.4 of IWLEP 2012 in that it will not have any impacts on the bulk, massing and modulation of the existing building.

Furthermore, it is worth noting that the functions of Clause 4.6 is similar to *State Environmental Planning Policy No 1 – Development Standards (SEPP 1)* in that the size/percentage of the variation is not, in itself, a material consideration as to whether



the variation should be permitted¹. Some examples of rulings of the *NSW Land and Environment Court* (Court) are as follows:

- In *Baker Kavanagh Architects v Sydney City Council* [2014] NSWLEC 1003 (**Baker**) the Court granted development consent for a 3-storey shop top housing development in Woolloomooloo, with a FSR variation of 187%.
- In *Abrams v Council of the City of Sydney* [2019] NSWLEC 1583 (**Abrams**) the Court granted development consent for a 4-storey mixed use development, with a FSR variation of 75% (2.63:1 versus LEP maximum of 1:1).
- In *Moskovich v Waverley Council* [2016] NSWLEC 1015 (**Moskovich**) the Court granted development consent for a residential flat building in Bondi, with a FSR variation of 65% (1:1 versus LEP maximum of 0.9:1).
- In *Edmondson Grange Pty Ltd v Liverpool City Council* [2020] NSWLEC 1594 (**Edmondson**) the Court granted development consent for 3x residential flat buildings, with a FSR variation of 59% (1.19:1 versus LEP maximum of 0.75:1).
- In *Landco (NSW) Pty Ltd v Camden Council* [2018] NSWLEC 1252 (**Landco**) the Court granted development consent for a land subdivision, with lot size variations ranging between 47-51% (220-240m² versus LEP minimum 450m²).
- In *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 (**SJD**) the Court granted development consent to a 6-storey shop top housing development, with a FSR variation of 42% (3.54:1 versus LEP maximum of 2.5:1).

The proposed variation from the development standard is assessed against the accepted “5-Part Test” for the assessment of a development standard variation established by the Court in *Wehbe* and the principles outlined in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSWLEC 46 (*Winten*).

6 IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

The NSW Land and Environment Court (LEC) in *FouR1Five*, considered how this question may be answered and referred to the earlier Court decision in *Wehbe*.

In the decision of *Wehbe*, Chief Justice Preston expressed the view that there are five (5) different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. This attributes to determining whether compliance with the standard is unreasonable or unnecessary in the circumstances of the case as set out on the following Table:

¹The Court of Appeal considered the issue in *Legal and General Life v North Sydney Municipal Council* (1990) 69 LGRA 201 (where North Sydney Council had approved a SEPP 1 objection allowing the FSR standard of 3.5:1 to be increased to 15:1 (329% variation), and the 5-storey height standard to be increased to 17-storeys (240% variation)).

The Court approved the following statement by Chief Judge (in *Legal and General Life v North Sydney Council* (1989) 68 LGRA 192, 203), and upheld the validity of the Council’s decision:
The discretion vested in councils under SEPP No 1 is wide and, subject to limitations found in the instrument itself and its relation to the EP&A Act 1979, is unconfined. [emphasis added]



First	The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard. The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective.
Second	A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.
Third	A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.
Fourth	A fourth way is to 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.
Fifth	A fifth way is to 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."

The following discussion is provided in response to each point of the above Table:

6.1 the objectives of the standard are achieved notwithstanding non-compliance with the standard

The objectives supporting Development Standard 4.4(2) are discussed below and demonstrates how the proposal is consistent with the objectives outlined in clause 4.4(1). Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with Development Standard 4.4(2) would be both unreasonable and unnecessary in this instance.

- (1) The objectives of this clause are as follows:
- (a) to establish a maximum floor space ratio to enable appropriate development density,
 - (b) to ensure development density reflects its locality,
 - (c) to provide an appropriate transition between development of different densities,
 - (d) to minimise adverse impacts on local amenity,
 - (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

The primary objective/purpose of the standard is to restrict the built form of development to ensure that its bulk and scale is compatible with the character of the locality, and to mitigate against undesirable amenity impacts. It is considered that the proposal satisfies the respective objectives of Clause 4.4 Development Standard of the LEP as follows:



"(a) to establish a maximum floor space ratio to enable appropriate development density,"

- The non-compliance responds to detailed design and functional requirements of the Gym's operation without resulting in additional building height or inappropriate building scale. As such, the proposed employment density does not result in inappropriate external impacts, while delivering additional economic benefits for the Norton Street local Centre.

"(b) to ensure development density reflects its locality"

- The proposal, despite the numerical non-compliance, retains the existing building bulk and therefore maintains the existing density and character of the locality.

"(c) to provide an appropriate transition between development of different densities"

- As discussed above, the proposal maintains the prevailing external building character and the number of storeys, and will not result in any changes to the existing height, setbacks, and building envelope, and therefore maintains an appropriate transition between buildings.

"(d) to minimise adverse impacts on local amenity"

- Given that there are no changes to the existing physical external building envelope, the proposal will not result in any changes to existing amenity conditions for the adjoining properties in terms of overshadowing, visual privacy and visual bulk.

"(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain."

- Not applicable as changes to existing tree canopy cover is not proposed i.e. does not reduce existing landscaping & open space, and does not increase the existing site coverage / building footprint.

In the case of **Moskovich**, the LEC accepted that compliance with the standard (also FSR in that case) was unreasonable and unnecessary because the design achieved the objectives of the standard and the respective zone, in a way that addressed the particular circumstances of the site.

If the land use intensity for the site remains consistent with the locality in a way which provides a better planning outcome for the site (functional floor layout and facilities in support of essential fitness / wellbeing services, and generally providing sufficient floor space to meet anticipated commercial needs for the foreseeable future), notwithstanding the variation which is within the ambit of Clause 4.6, this is considered to be a positive outcome.

Overall, the proposal provides for the orderly and economic development of the site, given the site's orientation, location and context. It is considered that the site is well suited for the proposed development and that the objectives of the standard have been achieved.



6.2 the underlying objective or the purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The underlying objective or purpose of the LEP standard is relevant to the development and is achieved as outlined above.

6.3 the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

Not applicable as the underlying objective or purpose would not be defeated or thwarted if compliance was required.

6.4 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; and

The development standard has not been abandoned, however a review of Council's register indicates that Council has recently approved the following examples of FSR variations which range from 29.5% to 52.2% (see Figure 5 below).

DA No.	Address	Clause	Degree of Non-Compliance	Approved Date
DA/2022/0938	35 Church Street, Birchgrove	4.4 (FSR)	45.6%	08/08/2023
DA/2023/0257	6 Punch Street, Balmain	4.4 (FSR)	28.1m ² or 32%	12/09/2023
DA/2023/0215	68 Bettie Street, Balmain	4.4 (FSR)	29.5%	18/07/2023
DA/2023/1079	17 Jane Street, Balmain	4.4 (FSR)	52.2% (standard of 0.90:1 / approved 1.37:1)	04/09/2024
DA/2023/0994	153-155 Edgeware Road, Enmore	4.4 (FSR)	36% (standard of 0.70:1 / approved 0.90:1)	19/03/2024
DA/2022/0092	9 Prospect Street, Leichhardt	4.4 (FSR)	39.2% (standard of 0.8:1 / approved 1.11:1)	12/06/2024

Figure 5 – Sample of recent approved FSR variations by Council Source: Council

6.5 the zoning of the land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the



standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Not applicable as the zoning of the site is appropriate. The proposed development is consistent with the objectives of the E1 Local Centre zone, as demonstrated below.

To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area

The proposed development contributes substantially to the range of compatible retail, business uses that serve the needs of people who live in, work in or visit the area by delivering a high quality gymnasium that will provide essential fitness / wellbeing services and also activate the ground floor public domain areas.

To encourage investment in local commercial development that generates employment opportunities and economic growth.

The proposed development actively invests in providing a local commercial development that generates employment opportunities and economic growth – the alternative is to continue to abandon this commercial premises and leave it vacant (a poor planning outcome).

To encourage business, retail, community and other non-residential land uses on the ground floor of buildings

As per discussion above, the high quality gymnasium will provide essential fitness / wellbeing services and in doing so activate the ground floor public domain areas.

To provide employment opportunities and services in locations accessible by active transport

As per discussion above, the proposed development will provide a local commercial development that generates employment opportunities and deliver a high quality gymnasium that will provide essential fitness / wellbeing services for the local community to support the local residential population that reside in the surrounding area, thereby encouraging walking/cycling to local services.

To provide retail facilities and business services for the local community commensurate with the centre's role in the local centres hierarchy.

To ensure Inner West local centres are the primary location for commercial and retail activities.

The proposed gymnasium will complement other business and retail uses to serve visitors, workforce and residents of the Norton Street local centre, and ensure that this local centre is the primary location for commercial and retail activities for the surrounding community.

To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces

The high quality gymnasium will positively contribute to making Norton Street strip a vibrant, diverse local centre with functional streets and public spaces by revitalising the outdated and vacant commercial premises and in doing so activate the ground floor public domain areas.



7 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In the circumstances of this case, there are sufficient planning grounds particular to the site to justify contravening the development standard as the proposal:

- predominantly – in relation to the FSR non-compliance – relate to the conversion of existing basement floor area into habitable (usable) floor space. However, despite the non-compliance the development still retain the prevailing external building character and the number of storeys;
- maintain compatibility with the existing height, bulk and scale of the locality i.e. does not result in any increases/changes to the existing building height, setbacks and/or building envelope. In this regard, the non-compliance does not reduce existing landscaping & open space, and does not increase the existing site coverage / building footprint;
- will not have any impacts on the amenity of neighbouring properties in relation to overlooking, view loss, or solar access loss etc.;
- – in relation to the FSR non-compliance – is unlikely to result in other adverse environmental planning impacts such as noise, traffic, parking, waste, pollution, subject to compliance with relevant conditions of consent;
- will provide sufficient floor space to meet anticipated commercial needs for the foreseeable future, and in doing so meets the objective of the E1 Local Centre zone by contributing to the range of compatible retail, business uses for the Norton Street centre;
- will provide functional floor layout and facilities in support of essential fitness / wellbeing services, and will attract local community to participate in exercise activities within the premises promoting health, fitness and wellbeing, and in doing so meeting another objective of the E1 Local Centre zone (to serve the needs of people who live in, work in or visit the area);
- will positively contribute to making Norton Street strip a vibrant, diverse local centre with functional streets and public spaces by revitalising the outdated and vacant commercial premises, and in doing so, also activate the ground floor public domain areas and meet another objective of the E1 Local Centre zone;
- actively invests in providing a local commercial development that generates employment opportunities and economic growth – the alternative is to continue to abandon this commercial premises and leave it vacant (a poor planning outcome).

In the case of *Moskovich v Waverley Council (2016) NSWLEC 1015*, the LEC accepted that compliance with the standard (also FSR in that case) was unreasonable and unnecessary because the proposal achieved the objectives of the standard and the respective zone, in a way that addressed the particular circumstances of the site.

If the land use intensity for the site remains consistent with the locality in a way which provides a better planning outcome for the site (functional floor layout and facilities in support of essential fitness / wellbeing services, and generally providing sufficient floor space to meet anticipated commercial needs for the foreseeable future²),

² Generally competition is extremely high in the fitness industry, and it is critical that the Gym provide excellent facilities & offerings in order to maintain a competitive edge. This is especially true given the current severe economic downturn due to high inflation and cost-of-living pressures, and everyone is being highly selective of discretionary spending e.g. gyms/personal training sessions.



notwithstanding the variation which is within the ambit of Clause 4.6, this is considered to be a positive outcome.

Notwithstanding the variation, the proposal represent a well-considered development that addresses the site constraints, streetscape and satisfy the relevant objectives of both the standards and the zone.

A key consideration is that the fundamental purpose of Clause 4.6 is to provide flexibility in applying development standards in that in so doing better development outcomes ensue.

Variation to this particular development standard will allow a otherwise well-considered development to proceed which will allow the Gym to attract customers within the highly competitive fitness industry. This is especially true given the current severe economic downturn due to high inflation and cost-of-living pressures.

The majority of the above environmental planning grounds that warrant support for the variation, are not "generic", but rather, specific to the site and circumstances of the development. Overall, the proposal provides for the orderly and economic development of the site, given the site's orientation, location and context. It is considered that the site is well suited for the proposed development.

8 IS THE VARIATION IN THE PUBLIC INTEREST?

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 to be carried out.

Pursuant to case law of *Ex Gratia* the question that needs to be answered is "*whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development*".

There is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to Clause 4.4(2), whilst better planning outcomes are achieved.

The departure of 40.97% allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes and objectives of the relevant planning standards.

On balance, it is considered that there is no benefit to the public or the community in maintaining the development standard. The proposed development will provide functional floor layout and facilities in support of essential fitness / wellbeing services, and generally providing sufficient floor space to meet anticipated commercial needs of the Norton Street Local Centre for the foreseeable future. We therefore conclude that the benefits of the proposal outweigh any disadvantage and as such the proposal will be in the public interest.

12

140-142 Norton Street, Leichhardt | Inner West Council
M: 0415 16 33 56 | E: sydneytownplanner@gmail.com | W: www.townplanning-urbanplanning.com
TRANPLAN Consulting Town Planner & Heritage Consultant © 2024 – All Rights Reserved



9 IS THE VARIATION WELL FOUNDED?

In summary, this Variation Request is well founded as required by Clause 4.6 in that:

- Compliance with the development standard under Clause 4.4(2) would be unreasonable and unnecessary, in the circumstances of the development;
- The development meets the objectives of the development standard and where relevant, the objectives of the land use zone, notwithstanding the variation – see Heading 6 for more details;
- There are sufficient environmental planning grounds to justify the departure from the standard, which results in a same or better planning outcome than a strictly compliant development in the circumstances of this particular case – see Heading 7 for more details;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard;

Based on the above, the variation is considered to be well founded. The consent authority may be satisfied that all requirements of Clause 4.6 have been accounted for, having regards to the merits of the proposed development.

If you have any questions regarding the above, please do not hesitate to contact TRANPLAN Consulting.

Yours sincerely

A handwritten signature in blue ink that reads "David Tran".

David Tran B. Planning (Honours)

Attachment D – Plan of Management

Date Received by
Council: 21/08/2024

snap fitness 24/7

**plan of
management**

snap fitness **Leichhardt**

140-142 Norton Street Leichhardt NSW 2040

Document Set ID: 30600338
Version: 1, Version Date: 09/08/2024

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Contents

Overview.....	4
Scope and Velocity of Member visitation.....	4
Fitness Australia.....	4
Insurance	5
Fire & Perils	5
Business Interruption	5
Theft	5
Glass	5
Public Liability	5
Products Liability	5
Professional Indemnity	5
Complaints Procedures	6
Complaints Register	6
Verbal complaints	6
Written Complaints	6
Unresolved complaints	7
Staffing Details	7
Full Time Club Manager	7
Personal Trainers	7
Guidelines for Staff	7
Rules of conduct for members	8
Payment Facilities	8
Public Transport	9
Property Damage	9
Incident/Injury and Investigation Register	9
Graffiti	9
Cleaning	10
Waste Removal	10
Review Process	10
Key Vendors	11

snap fitness ^{24/7}

Document Set ID: 39608338
Version: 1, Version Date: 09/08/2024

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Overview

Snap Fitness Leichhardt will be a privately owned and operated club providing fitness services exclusively to members only. We provide a great alternative to the big box health club concepts available today positioning ourselves in Neighbourhood centres so we are 'close to home and work'.

Some of the benefits our members experience are;

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

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

- Reciprocity across all Snap clubs – over 2,500 worldwide
- Consistent modelling – Fitout and Equipment Standards
- Consistent Service – Club procedures, membership inductions etc replicated throughout all Snap Fitness Clubs
- Proven Systems for member safety, security and use
- Proven Procedures for member safety, security and use

Scope and Velocity of Member visitation

On average across Snap Fitness clubs, the majority of members live within 3.2 kilometres of their club. Our member's workout is shorter than that of competing concepts (big box clubs), being typically 40 minutes.

In the fitness club industry, roughly 40% of members use the club on a regular basis. Therefore, a club with about 800 members would have about 320 regular users. Most regular users go to the club 2 times per week. This would mean approximately 640 visits per week total.

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

The other 60% who only go now and again would equate to about another 200 visits per week, bringing the total number of visits to 840 per week. This equates to an average of 120 workouts over a 24 hour period (about 5 per hour).

Factoring in peak hours (4pm to 7pm) and peak days (Monday, Tuesday), on average Snap Fitness Clubs rarely see more than 20 people training in the club at one time.

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

Snap Fitness' 24-hour trading allows members to attend the facility beyond traditional peak times such is the case in a non 24-hour facility. This leads to a more even spread of use and lower on-site numbers at any one time. The following chart provides an overview of the typical user spread over the course of a week.

time	mon	tues	wed	thurs	fri	sat	sun	peak
12am - 1am	0	0	2	1	1	2	0	2
1am - 2am	0	1	1	0	1	1	0	1
2am - 3am	0	1	1	0	0	0	0	1
3am - 4am	0	0	1	1	1	2	0	2
4am - 5am	0	2	1	2	0	0	0	2
5am - 6am	9	11	13	17	5	1	0	17
6am - 7am	7	7	7	8	7	13	1	13
7am - 8am	5	6	13	3	7	9	1	13
8am - 9am	9	2	3	3	2	6	7	9
9am - 10am	3	2	9	5	5	4	6	9
10am - 11am	1	3	1	3	3	12	5	12
11am - 12pm	5	8	6	3	7	4	7	8
12pm - 1pm	2	4	2	2	5	4	1	5
1pm - 2pm	1	5	10	3	9	4	6	10
2pm - 3pm	5	7	10	7	3	5	2	10
3pm - 4pm	7	12	7	10	7	4	2	12
4pm - 5pm	14	11	15	14	11	7	6	15
5pm - 6pm	15	17	18	16	8	6	7	18
6pm - 7pm	18	19	18	11	12	6	7	19
7pm - 8pm	18	13	12	15	9	5	8	18
8pm - 9pm	15	8	10	15	5	7	6	15
9pm - 10pm	8	8	6	4	3	4	1	8
10pm - 11pm	6	4	3	6	4	4	3	6
11pm - 12am	3	1	2	4	4	3	2	4

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Fitness Australia

Snap Fitness Leichhardt will be a registered member of Fitness Australia, the national fitness industry body responsible for administering The Fitness Industry Code of Practice. The Code provides a guideline for the business conduct of fitness businesses and a guarantee to consumers of fair, safe and ethical service.

Under the Code, fitness centres that are members of Fitness Australia must:

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

Insurance

Snap Fitness Leichhardt will have a Comprehensive Insurance Program with covers including but not limited to the following areas;

- **Fire & Perils**
Building, stock and/or other business contents at the business premises caused by fire, lightning, explosion or implosion, impact by animal, vehicle or aircraft, cyclone, earthquake or volcanic eruption, malicious acts, storm or water damage, falling trees, masts or satellite dishes.
- **Business Interruption**
Loss of gross profit, or loss of gross rentals following a claim for damage at the business premises. The damage must be insured under the Fire and Other Damage, Accidental Damage or Burglary policy sections.
- **Theft**
Stock, electronic equipment and other business contents stolen from within the premises following forced and violent entry, threat of violence, or by a person concealed at the premises.
- **Glass**
All fixed internal and external glass. Includes repairing damage to frames or tiled shopfronts around the glass, replacing any sign writing, ornamentation, burglar alarm tapes & connections attached to the glass, and temporary shuttering pending replacement of broken glass.

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

- **Public Liability**

In respect of any one occurrence or series of occurrences arising out of the one event during the period of insurance. \$20,000,000.00

- **Products Liability**

In respect of any one occurrence or series of occurrences arising out of one event in the aggregate during the period of insurance. \$20,000,000.00

- **Professional Indemnity**

In respect of any one occurrence or series of occurrences arising out of one event in the aggregate during the period of insurance. \$5,000,000.00

Complaints Procedures

Snap Fitness Leichhardt will adopt and be governed by the Fitness Industry Code of Practice for complaints. The complaints procedures are set out for members of the club and for the general public. A sign will be displayed in the entrance door to the club clearly showing the clubs contact number for members and the general public.

Complaints Register

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

Verbal complaints

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

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

Written Complaints

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

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

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

Unresolved complaints

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

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

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

Staffing Details

Full Time Club Manager

The Club Managers key focus will be on Sales & Marketing, Managing Personal Trainers ensuring best short and long term outcomes for members and ensuring a safe work and training environment. The Club Manager will hold minimum qualifications of Certificate III in Fitness, a current Senior First Aid Certificate and a current CPR Certificate. The Club Manager also needs to hold and maintain a current Professional registration with Fitness Australia.

Personal Trainers

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

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

NOTE: Number of Personal Trainers will be governed by membership levels and demand. Fitness Australia Professionals are required to keep current Senior First

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Aid Certification (every 3 years) and CPR certification (every 12 months). Further requirements include continuing educational credits (CECs) and insurance.

Guidelines for Staff

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

Induction will include;

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

The Team Handbook forms part of the Staff member's contract and needs to be signed, dated and accepted.

The Team Handbook covers, but is not limited to the following;

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

Rules of conduct for members

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

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

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

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Payment Facilities

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

Direct Debit

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

Payment in Advance

Membership paid up front by Eftpos facility for 6 or 12 months. Current Bank Account or Credit card still held on file for security. We will have an Eftpos facility in the club for memberships and merchandise sales, eliminating the need for cash. There will be no cash handling or cash kept on site.

Public Transport

A number of bus routes service Leichhardt and there are a number of stops a short distance from the gym. The main routes are:

- 437 Five Dock to City QVB
- 440 Bondi Junction to Rozelle
- 445 Balmain to Campsie via Marketplace Leichhardt
- 469 Marketplace Leichhardt to Glebe loop service
- 438N City Martin Place to Abbotsford
- 438X City Martin Place to Abbotsford

In addition, there are a number of dedicated school bus services, passing through the Leichhardt area providing connections to a variety of high schools including:

- 596S Burwood Girls High to Leichhardt Town Hall
- 649S St Scholasticas College to Five Dock
- 654S Sydney Secondary College (Balmain) to Canterbury Station
- 670S Domremy College to Leichhardt Town Hall
- 682S Fort Street High to Balmain Gladstone Park
- 683S Sydney Secondary College (Leichhardt) to Canterbury Station
- 684S Sydney Secondary College (Leichhardt) to Newtown Station
- 691S Sydney Secondary College (Blackwattle Bay) to Marketplace Leichhardt

The nearest light rail station, Leichhardt North is located approximately 900 metres or 10 minutes' walk away from the gym.

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Car Parking

While there is no onsite car parking available for club members, there are several public car parks available within a few minute's walk of the gym, including:

Marion Street Carpark	106 spaces	250m
Palace Cinema	48 spaces	300m
Norton Plaza	340 spaces	400m
Berkelouw	19 spaces	400m
Italian Forum	96 spaces	500m

Bike Parking

A generous amount of bike parking will be available to members, encouraging them to ride to the gym.

Light spill control measures

Any lighting shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS4282:1997 Control of Obtrusive Effects of Outdoor Lighting.

Noise

The clubs internal amplified background music is volume controlled by the club manager and set at a suitable level so not to disturb surrounding lot owners or a members health. Self-closing doors to the club ensures that amplified music is always kept inside the club. Signage will be installed outside of the club in a prominent position advising members to be always considerate of our neighbours. The Plan of Management is to be reviewed yearly and any amendment which impacts the protection of the residents from noise is to be referred to Council for acceptance. A copy of the Plan of Management is to be maintained at the club and be provided when required by Council Staff.

ACOUSTIC MANAGEMENT PROCEDURES

- 1) Ensuring the glass windows, doors of the proposed gym are kept closed at all times (other than when patrons enter and exit the premises);
- 2) The erection of clear signage at all studio entries and exits advising patrons that they must not generate excessive noise when entering and leaving the premises;

snap fitness ^{24/7}

Document Set ID: 39608338
Version: 1, Version Date: 09/08/2024

Date Received by
Council: 21/08/2024
Plan of management

snap fitness Leichhardt

- 3) Staff monitoring the behaviour of patrons within the subject premises and as patrons egress to ensure noise emission of patrons is kept to a minimum when entering and leaving the premises;
- 4) Restricting the use of low frequency speakers (sub-woofers) and ensuring any full range speakers are isolated from building services;
- 5) The use of free weights over 15kg are to be restricted to the free-weights area only. Free weights under 15kg are restricted to the Free Weights area and Function Training area;
- 6) Reduction of the internal noise level from music to comply with acoustic requirements. Note is made that the maximum internal reverberant sound pressure level can be set to ensure the adjacent receivers are not adversely affected by the operation of the subject gym, following the fitout of the premises and the installation of the speaker system;
- 7) The noise level of background music within the gym should be kept to an appropriate level, to enable speech intelligibility within the gym and to ensure patrons are not required to raise their voices while in the gym;
- 8) Installation of impact sound absorbing flooring to reduce the regenerated noise and vibration in areas of the gym where high levels of impact are expected, i.e. the Free Weights area and Function Training area; and
- 9) The implementation of an appropriate management policy regarding the dropping of weights, including:
 - Education and training of all gym staff, personal trainers and members, instructing how to place weights without dropping;
 - Erection of clearly visible signage throughout the gym advising members that they must not drop weights or allow weights to drop on the floor, or use weights outside the designated weight areas; and
 - Imposition of penalties (membership warnings, suspensions or lockout restrictions) on members identified dropping weights.

Small Group Training

Snap Fitness Leichhardt will provide small group training classes to members included in their membership fee. Classes will be administered by a qualified personal trainer in order to comply with acoustic requirements. Small Group Training classes will be typically held during the hours of 6am-10am and 4pm-8pm.

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Property Damage

Property Damage defined as any damage to property and includes Theft, Burglary and Malicious Damage. Any damage to property will be acted upon immediately to ensure that any negative impact on our business, street scape and surrounding business and residents is minimised. Snap Fitness Leichhardt comprehensive Insurance programme does provide for Property Damage as defined above.

Incident/Injury and Investigation Register

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

Graffiti

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

Cleaning

The club will engage a commercial cleaner to clean the club 3-5 times a week, floors, mirrors, bathrooms and equipment. Daily cleaning will be undertaken primarily by the Club Manager with the assistance of Personal Trainers. The cleaning will be structured on a roster/checklist basis which will need to be signed and initialled when the relevant duty is complete.

Waste Removal

General Waste will be stored in the basement area in bins allocated for Snap Fitness. The bins will be emptied on a weekly basis by a private contractor through this dedicated loading dock area. Any waste over and above the standard weekly collection will be arranged on an as required needs basis through the same contractor.

Review Process

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

snap fitness ^{24/7}

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Review Process

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

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

snap fitness ^{24/7}

Document Set ID: 39608338
Version: 1, Version Date: 09/08/2024

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

Subject: snap fitness crime prevention management plan

The following measures are incorporated into each Snap Fitness Club:

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

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

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

Yours sincerely

Ben Bowen
National Development Manager
Snap Fitness Australia
Contact: 0400 930 808 or bbowen@liftbrands.com

snap fitness ^{24/7}

Document Set ID: 39608338
Version: 1, Version Date: 09/08/2024

Date Received by
Council: 21/08/2024
Plan of management

snap fitness **Leichhardt**

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



snap fitness ^{24/7}

Document Set ID: 49608338
Version: 1, Version Date: 09/08/2024