







DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2017/349
Address	Unit 17/ 1-13 Parsons Street, ROZELLE NSW 2039
Proposal	Use of Unit 17 for the purpose of a gymnasium with associated business identification sign.
Date of Lodgement	19 July 2017
Applicant	Milestone Pty Ltd
Owner	Mr J D Lethlean
Number of Submissions	34 submissions have been received from 28 different owners and/or occupiers of adjoining properties.
Value of works	\$25,000
Reason for determination at Planning Panel	Number of submissions received
Main Issues	§ Validity of application in the absence of the consent of the Owners' corporation § Noise § Parking § Traffic
Recommendation	Approval



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

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

1. Executive Summary

This report is an assessment of the development application submitted to Council seeking its approval for the following developments:

1. The use of unit 17 forming part of the existing complex located at 1-13 Parsons Street, ROZELLE NSW 2039 as a gymnasium and associated fitout; and
2. The installation of a wall sign as a business identification sign.

The application was notified to surrounding properties for 14 days from 1 August 2017 to 15 August 2017 and again, following the receipt of additional/amended information, from 14 September 2017 to 28 September 2017.

During the two notification periods, submissions were received from 28 properties. The issues raised in these submissions and officer's comments are discussed under Clause 5(f) of this report.

The submission received on 20 September 2017 from Monti Lawyers, who are acting on behalf of the Owners Corporation, questions the validity of the Development Application (DA) in the absence of the consent of the Owners Corporation. It is argued that such consent is required for the submission of the DA as per the Environmental Planning and Assessment Regulation 2000 (the Regulation) due to the proposed installation of a business identification sign on the outer face of the external wall of the subject unit and the use of the visitors' car parking spaces for the benefit of the proposed gym. Both components were identified in Monti Lawyer's submission as developments within the common property.

On 06 October 2017, a submission has been made by Thomson Geer Lawyers, acting on behalf of the applicant, in response to the concern raised by Monti Lawyers. In this submission, it was argued that following the decision of the New South Wales Court of Appeal in Owners Strata Plan No 50411 & v Cameron North Sydney Investments Pty Ltd [2003] NSWCA 5, the applicant is not obliged to seek the consent of the Owners Corporation if a development application seeks consent to carry out development wholly within the boundaries of a lot.

It is noted that paragraph 163 in Owners Strata Plan No 50411 & v Cameron North Sydney Investments Pty Ltd [2003] NSWCA 5 (6 February 2003) reads as follows:

"On the true construction of the [Environmental Planning and Assessment Act 1979 s 78A](#) and the Environmental Planning Assessment Regulation 2000 clause 49, the owner of a lot in a registered strata plan who applies to a consent authority for consent to carry out development wholly within the boundaries of that lot is not obliged to obtain and evidence the consent of the body corporate to the lodging of that application."

To ensure that the use of the visitor car parking spaces is not considered a development on its own but rather utilising a benefit that the owner of the subject lot already has, the original consent, being Development Application No. 489/93 granted for the construction of the complex, has been checked. It is noted that condition number 3 of that consent establishes the benefit of using the visitors' car parking spaces for all tenancies. The condition reads as follows:

A notice shall be clearly displayed at the Parsons Street frontage to indicate that visitor parking is available within the property with access from Parsons Street.

It is therefore satisfied that the subject tenancy, like all other tenancies within the complex, has the benefit/entitlement of using the visitor's car parking space without further consent from the Owners Corporation as such benefit already exists.

On the signage matter, the submission, made by Project lawyers, acting on behalf of the applicant, provides that the proposed sign is considered to be a “cosmetic work” in accordance with S109 of the Strata Schemes Management Act 2015 No 50.

It is noted that S109(1) of that Act allows an owner of a lot in a strata scheme to carry out cosmetic work to common property in connection with the owner’s lot without the approval of the Owners Corporation. “Cosmetic Work” is defined by S109(2) of the same Act as follows:

(2) *Cosmetic work includes but is not limited to work for the following purposes:*

- (a) *installing or replacing hooks, nails or screws for hanging paintings and other things on walls,*
- (b) *installing or replacing handrails,*
- (c) *painting,*
- (d) *filling minor holes and cracks in internal walls,*
- (e) *laying carpet,*
- (f) *installing or replacing built-in wardrobes,*
- (g) *installing or replacing internal blinds and curtains,*
- (h) *any other work prescribed by the regulations for the purposes of this subsection.*

It is noted that S109(4) of the above-mentioned Act provides that the by-laws of a strata scheme (Schedule 2 of the Strata Scheme Management Regulation 2016) may specify additional work that is to be cosmetic work for the purposes of this section. However, Clause 109(5)(g) of the same Act provides that this section does not apply to work for which consent or another approval is required under any other Act.

It is satisfied that the installation of the proposed sign is not considered exempt development and therefore would require an approval under the Environmental Planning and Assessment Act 1979.

Given the above, a condition has been included in the recommendation of the report excluding the nominated sign from the approval recommended by this report, the condition reads as follows:

No approval has been granted for any signage as part of this consent. Unless exempt, any signage associated with the approved use, the subject of this consent, required to be installed within a common property is to be the subject of a development application which is to be accompanied by the consent of the owners corporation.

To confirm the view reached above, a legal advice has been sought with respect of both matters identified by Monti Lawyers (the use of visitors’ car parking space and installation of the proposed sign).

Council’s legal advisor is satisfied that all units within the complex, including unit 17 being the subject unit, are entitled to benefit from the visitors’ car parking spaces and that the consent of the owners corporation for such use is not required.

It was also agreed that, if the sign can be carried out as exempt development under the provisions of SEPP Exempt and Complying Development Codes 2008 (the SEPP), then the consent of the owners corporation is not required. However, it was noted that the installation for the proposed sign cannot be carried out as exempt development as it would be contrary to the provisions of Clause 2.87(a) of Part 2 of the SEPP and as such a condition has been included in the recommendations of the report confirming that the business identification sign does not form part of the approved development and an approval must be obtained for such a sign prior to being installed.

It is satisfied that the issues raised by objectors can be addressed by the recommended conditions. These conditions are imposed to ensure that the impacts of the proposed

development can be adequately minimised to an acceptable level, further details are provided under Clause 9 of this report.

2. Proposal

As indicated above, the proposal involves the use of tenancy No. 17 for the purpose of gymnasium and installation of an associated business identification sign.

The proposed gym will operate classes for members. Two permanent staff members will be employed and is seeking to operate under the following trading hours:

- Monday: 5:30am to 9:00pm;
- Tuesday: 5:30am to 9:00pm;
- Wednesday: 5:30am to 9:00pm;
- Thursday: 5:30am to 9:00pm;
- Friday: 5:30am to 9:00pm;
- Saturday: 7:00am to 6:00pm; and
- Sundays & Public Holidays: 8:00am to 6:00pm.

Timetable for classes is as follows:

Monday to Friday:

- 5.30am
- 6.30am
- 9.30am
- 12.00pm
- 5.00pm
- 6.00pm
- 7.00pm

Saturday:

- 7.00am
- 8.00am
- 9.00am
- 10.00am

Sunday:

- 8.00am (until 10.00am)

Each class is proposed to run for approximately one hour. There will be a maximum number of 20 clients (in addition to 2 employees) participating in each class at any given time.

3. Site Description

The subject site is located on the northern side of Parsons Street, between Mullens Street and Crescent Street. The site consists of one irregular shape allotment with a total area of 6,600m² and is legally described as Lot 1-18 SP 53638.

The subject site is not listed as a heritage item however is located within a conservation area and is identified as a flood prone lot. It has a frontage to Parsons Street of 102.112 metres and a secondary frontage of approximate 44.545 to Mullens Street. The site is affected by a 5.1m wide stormwater easement.

The site accommodates a 23 unit industrial complex generally of single storey form, some of which comprise mezzanine levels as is the case for the subject unit.

The subject unit has an internal floor area of 318m² with four car parking spaces allocated to it and is located on the north-west corner of the site.

The adjoining properties are of different uses and scale, single and two storey residential developments to the north and west of the subject site whereas multiple storey industrial developments are located to its eastern and southern sides.

4. Background

4(a) Site history

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

Subject Site

Property Address	Application	Decision & Date
1-13 Parsons Street Rozelle NSW 2039	DA489/1993, Construction of 23 unit industrial complex	Approved 02/06/1994
1-13 Parsons Street Rozelle NSW 2039	BA 1994/662, Construction of three blocks of industrial units with office mezzanine	Approved 17/01/1995
16/1-13 Parsons Street, ROZELLE NSW 2039	D/2004/271, Change of use to an automotive mechanical repair workshop and the construction of a mezzanine level.	Withdrawn 28/09/2004
3/1-13 Parsons Street, ROZELLE NSW 2039	D/2014/169, Change of use to gymnasium with associated internal alterations and signage.	Approved 15/07/2014
4/1-13 Parsons Street, ROZELLE NSW 2039	D/2008/322, Change of use to operate a magazine and newspaper distribution service	Withdrawn 29/10/2008
4/1-13 Parsons Street, ROZELLE NSW 2039	D/2009/194, Change of use to a convenience store	Withdrawn 29/06/2009
18/1-13 Parsons Street Rozelle NSW 2039	D/2009/67, Change of use to a gelato manufacturing factory	Approved 27/05/2009
16/1-13 Parsons Street, ROZELLE NSW 2039	BC/384/2002, 16/1-13 Parsons Street, ROZELLE NSW 2039	Issued 30 June 2003

Surrounding properties

Application	Proposal	Decision & Date
5 Moore Lane Rozelle - since 2007		
PREDA/2011/69	Residential alterations and additions including create a linking element between the two buildings with first floor addition	Letter sent on 10/06/2011
PREDA/2011/101	Alterations and additions to existing dwelling including create a linking element between two buildings with	Letter sent on 23/08/2011

	first floor addition	
D/2011/687	Alterations and additions to existing dwelling and outbuilding including upper floor addition.	Approved on 03/07/2012
2 Crescent Street Rozelle		
D/2007/106	Demolish and rebuild rear of property, add first floor bedroom and bathroom.	Approved on 29/06/2007
6 Crescent Street Rozelle		
PREDA/2013/184	Alterations and additions to the existing dwelling.	Letter issued on 15/01/2014
D/2014/532	Ground floor side addition to existing dwelling	Approved on 04/12/2014
64 Mansfield Street Rozelle		
D/2015/285	New rear two storey addition and internal changes to ground floor	Approved on 30/06/2015

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
19 July 2017	<p>As part of the development application submission and to satisfy the question of owner's consent for the purposes of Clause 49 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), a letter has been submitted by Chippendale Restorations P/L stating the following:</p> <ul style="list-style-type: none"> ▫ The Development Application (DA) proposes the installation of gym equipment, storage cabinets and rubber floor matting and does not propose any structural or building work to the premises or work to the common property of the Strata Plan. ▫ Following the decision of the New South Wales Court of Appeal in Owners Strata Plan No. 50411 v Cameron North Sydney Investments Pty Lid [2003] NSWCA 5, if a development application seeks consent to carry out development wholly within the boundaries of a lot, the applicant is not obliged to seek the consent of the Owner's Corporation. ▫ The owner's consent from Jeremy Lethlean, registered proprietor of the Site is provided.
1 August 2017	An email, with attachments, was received from Crisar Bala, Strata Manager of the industrial complex of which the site is located within, informing council that the Owners' Corporation of Strata Plan 53638 had declined to proceed with the development application from Lot 17 for the use of gymnasium, maintaining that the consent of the strata corporation was necessary and questioning how the development application can proceed without the consent and common seal of the Owners Corporation.
22 September 2017	Correspondence from Monti Lawyers, acting on behalf of the owners corporation, was received by Council disputing the making of the application in the absence of the body corporate consent when the application involves the installation of a signage on the external face

	<p>of the external wall of the tenancy, which makes it within a common area, and also due to the use of the car parking spaces located within the common area. In the view of Monti lawyers, these aspects of the proposed development require the consent of the body corporate. The submission also includes an advice to Council that the use of tenancy number 17 for the proposed Gym has already commenced without Council's approval.</p>
06 October 2017	<p>Correspondence has been received from Thomson Geer Lawyers (acting on behalf of applicant) addressing matters related to body corporate consent and use of visitors' car parking spaces, the correspondence includes the following arguments:</p> <p><i>As stated in the letter dated 19 July 2017, following the decision of the New South Wales Court of Appeal in Owners Strata Plan No. 50411 v Cameron North Sydney Investments Pty Ltd [2003] NSWCA 5, if a development application seeks consent to carry out development wholly within the boundaries of a lot, the applicant is not obliged to seek the consent of the Owner's Corporation.</i></p> <p><i>The applicant's position remains that the DA seeks to carry out development wholly within the boundaries of Lot 17 and does not propose any works to the common property of Strata Plan 53638 (Strata Plan) and the consent of the Owner's Corporation is not required to approve the DA.</i></p> <p>Business identification sign</p> <p><i>The proposed business identification sign sits within the existing precast recess located on the southern wall of Lot 17. The southern wall forms part of Lot 17 and does not comprise the common property of the Strata Plan.</i></p> <p>Car parking spaces</p> <p><i>The four car parking spaces within 'the common parking area' form part of Lot 17 and do not comprise the common property of the Strata Plan. This is clearly denoted on the Strata Plan, as the area of Level 1 (318m²), Level 2 (30m²) and the four car parking spaces (4 x 14m²) equate to the total area of Lot 17, 404m².</i></p> <p><i>Similarly, the eight spaces allocated to Lot 14 form part of Lot 14 and do not comprise the common property of the Strata Plan. Any future agreements with other lot owners within the Strata Plan, as contemplated by draft condition CCAMEN in the Engineering Internal Referral, will also concern car spaces that comprise those individual lots and will not affect the common property of the Strata Plan.</i></p> <p><i>It follows that as no development is proposed to the common property of the Strata Plan, the consent of the owner's corporation is not required to approve the DA.</i></p> <p>It is to be noted that tenancy number 14 does not form part of the land being the subject of the development application as the consent of the owner of that lot has not been submitted for the</p>

	use of the car parking spaces allocated for that lot. However, such consent would have not been considered as an acceptable measure to satisfy car parking requirements as it would affect the operation of that tenancy resulting in breach to any consent granted for that tenancy. It is also noted that the mechanical business operating from the adjoining tenancy (number 16) has no approval and the matter has been forwarded to Council's compliance team.
09 October 2017	<p>A submission was received by Project lawyers, acting on behalf of the applicant, the advice provided reads as follows:</p> <ol style="list-style-type: none"> 1. Under the existing development consent regarding the Property, there is a dedicated signage area which has been used by previous businesses to install signage. Our client is proposing to affix their business sign to what is already a dedicated signage area. Such work is cosmetic, at best, and would not require consent of the Owners Corporation (Section 109 Strata Schemes Management Act 2015 attached); and 2. The proposed use of common property car parking by our client is a legal entitlement that they enjoy as lot owners within the strata scheme and does not require approval by the Owners Corporation. There is no development work proposed to be undertaken on the common property car parking spaces.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

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

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

The following provides further discussion of the relevant issues:

5(a)(vi) State Environmental Planning Policy No. 64 - Advertising and Signage—

Part 1

Clause 6 of this state policy provides that:

(1) This Policy applies to all signage:

- (a) that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and
- (b) is visible from any public place or public reserve, except as provided by this Policy.

Part 2

Clause 8 of this policy provides that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

Comments

It is satisfied that the signage:

- (i) is compatible with the desired amenity and visual character of the area, and
- (ii) provides effective communication in suitable locations, and
- (iii) is of high quality design and finish, and

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

Comments

Schedule 1 - Assessment Criteria	
<p>1 Character of the area</p> <ul style="list-style-type: none"> ▪ Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? ▪ Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>It is satisfied that the proposed signage is compatible with the existing and desired future character of the area and the locality in which it is located.</p>
<p>2 Special areas</p> <ul style="list-style-type: none"> ▪ Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The proposed sign does not detract from the amenity or visual quality of the heritage area in which the complex is located or the adjoining residential areas.</p>
<p>3 Views and vistas</p> <ul style="list-style-type: none"> ▪ Does the proposal obscure or compromise important views? ▪ Does the proposal dominate the skyline and reduce the quality of vistas? ▪ Does the proposal respect the viewing rights of other advertisers? 	<p>The proposed sign:</p> <ul style="list-style-type: none"> ▪ Does not proposal obscure or compromise important views; ▪ Does not dominate the skyline or reduce the quality of vistas; ▪ Respects the viewing rights of other advertisers.
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> ▪ Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? ▪ Does the proposal contribute to the visual interest of the streetscape, setting or landscape? ▪ Does the proposal reduce clutter by rationalising and simplifying existing 	<p>The business identification sign, which is proposed to be painted on the outer face of the external wall of unit 17 within the recessed area specially created for such development, will have minimal visibility from Parsons Street. Its scale, proportion and form are considered appropriate to setting of the complex.</p>

<p>advertising?</p> <ul style="list-style-type: none"> ▪ Does the proposal screen unsightliness? ▪ Does the proposal protrude above buildings, structures or tree canopies in the area or locality? ▪ Does the proposal require ongoing vegetation management? 	<p>It completes the picture visualised by the original 1993 development consent and as such contributes to the visual interest of the setting of the complex.</p> <p>The proposed sign does not result in clutter of signs. There is no unsightliness to be screened by the proposed sign.</p> <p>The proposed signage, being painted on the external face of the wall, does not protrude above the existing building and does not require ongoing vegetation management.</p>
<p>5 Site and building</p> <ul style="list-style-type: none"> ▪ Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? ▪ Does the proposal respect important features of the site or building, or both? ▪ Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>The proposed signage, being created within the recessed area specially created for such purpose, is compatible with the scale, proportion and the characteristics of the site and the building, on which it is located.</p> <p>The sign respect the important features of the site and the building; its design has a compatible relationship with them.</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> ▪ Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<p>No safety devices, platforms, lighting devices or logos have been designed as an integral part of the signage.</p>
<p>7 Illumination</p> <ul style="list-style-type: none"> ▪ Would illumination result in unacceptable glare? ▪ Would illumination affect safety for pedestrians, vehicles or aircraft? ▪ Would illumination detract from the amenity of any residence or other form of accommodation? ▪ Can the intensity of the illumination be adjusted, if necessary? ▪ Is the illumination subject to a curfew? 	<p>N/A, the proposed signage is not illuminated.</p>
<p>8 Safety</p> <ul style="list-style-type: none"> ▪ Would the proposal reduce the safety for any public road? ▪ Would the proposal reduce the safety for pedestrians or bicyclists? ▪ Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>The signage will not obscure sightlines from public areas and will not reduce the safety for any public road, pedestrians or bicyclists.</p>

Part 3

This Part does not apply to the proposed business identification sign.

Part 4

This Part does not apply to the proposed business identification sign.

Despite the performance of the proposed signage against the provisions of Part 2 of this policy, the sign does not form part of the recommended approval given its location within a common area which requires the consent of owners body corporate that has not been submitted with the application.

A condition has been included in the recommendation of the report confirming that no approval has been granted as part of the recommended consent for the installation of the business identification sign. A separate application, accompanied by the consent of the owner body corporate is to be submitted to Council for consideration if any such sign is required to be installed.

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

It is noted that as part of the consent granted for the construction of the industrial complex, (Development Application No. 489/93), a condition (being condition 9) has been included requiring a site contamination and site remediation reports, prepared by a suitably qualified person, to be submitted and approved by Council prior to the release of the then building application.

Given that the building application (BA 1994/662) has been approved by Council, it is therefore satisfied that such reports have been submitted and approved by the then building application and that the site, given that no building or earth works are proposed, is suitable for the proposed change of use.

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

The application was assessed against the following relevant clauses of the LLEP 2013:

■ Clause 1.2 – Aims of the Plan

The proposed development is generally consistent with the aims and objectives of the Leichhardt Local Environmental Plan 2013.

■ Clause 2.3 – Zone objectives and Land Use Table

The proposed development, falls under the definition of “recreation facility- indoor” which being a development that is not listed as prohibited development in the land use table of part 2 of the LLEP 2013, is permissible in Zone IN2 (Light Industrial).

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

■ Clause 4.4 – Floor Space Ratio

Not changed by the proposed development

- **Clause 5.10 – Heritage Conservation**
No building works are proposed and the proposed sign is not approved as part of the proposed development, a condition to that effect has been included in the recommendation of this report.
- **Clause 6.1 – Acid Sulphate Soils**
The proposed development is for a change of use which does not involve any excavation works.
- **Clause 6.3 – Flood Planning**
The existing floor levels, previously approved by Council, are not altered by the proposed development. No issues have been raised to the proposed development subject to conditions of consent.

5(b) Draft Environmental Planning Instruments

Nil applicable to proposed development.

5(c) Development Control Plans

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

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes, notification details are provided under Clause 5(f) of this report
Part B: Connections	
B1.1 Connections – Objectives	N/A
B2.1 Planning for Active Living	N/A
B3.1 Social Impact Assessment	Yes, subject to conditions. Further comments are provided below this table.
B3.2 Events and Activities in the Public Domain (Special Events)	N/A
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.2 Demolition	N/A
C1.3 Alterations and additions	N/A
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	N/A
C1.6 Subdivision	N/A
C1.7 Site Facilities	Yes
C1.8 Contamination	N/A
C1.9 Safety by Design	Yes
C1.10 Equity of Access and Mobility	Yes
C1.11 Parking	Yes, refer to comments provided under clause 1 of this report. Further, no issues have been raised to the proposed development by Council's traffic engineer subject to conditions of consent.
C1.12 Landscaping	N/A

C1.13 Open Space Design Within the Public Domain	N/A
C1.14 Tree Management	N/A
C1.15 Signs and Outdoor Advertising	No sign will be approved as part of this development application as relevant owners consent has not been provided
C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings	N/A
C1.17 Minor Architectural Details	N/A
C1.18 Laneways	N/A
C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls	N/A
C1.20 Foreshore Land	N/A
C1.21 Green Roofs and Green Living Walls	N/A
Part C: Place – Section 2 Urban Character	
Suburb Profile	
C2.2.5.6 Robert Street Industrial Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
Part C: Place – Section 4 – Non-Residential Provisions	
C4.1 Objectives for Non-Residential Zones	Yes
C4.2 Site Layout and Building Design	N/A
C4.3 Ecologically Sustainable Development	N/A
C4.4 Elevation and Materials	Not changed by the proposed development
C4.5 Interface Amenity	Yes, further comments are provided under clause 5(f) of this report.
C4.6 Shopfronts	N/A
C4.7 Bulky Goods Premises	N/A
C4.8 Child Care Centres	N/A
C4.9 Home Based Business	N/A
C4.10 Industrial Development	N/A
C4.11 Licensed Premises and Small Bars	N/A
C4.12 B7 Business Park Zone	N/A
C4.13 Markets	N/A
C4.14 Medical Centres	N/A
C4.15 Mixed Use	N/A
C4.16 Recreational Facility	The proposed development, when carried out in accordance with the recommended conditions, is not anticipated to have a significant adverse impact on the amenity of the adjoining properties. Given its proximity to the surrounding residential developments, particularly those fronting the rear lane, the proposed hours of operation have only been recommended to be approved for a trial period of 12 months.
C4.17 Sex Services Premises	N/A
C4.18 Vehicle Sales or Hire Premises And Service Stations	N/A
C4.19 Vehicle Repair Station	N/A

C4.20 Outdoor Dining Areas	N/A
C4.21 Creative Industries	N/A
Part D: Energy	
Section 1 – Energy Management N/A, no building works are proposed.	
Section 2 – Resource Recovery and Waste Management	
D2.1 General Requirements	Yes
D2.2 Demolition and Construction of All Development	N/A
D2.3 Residential Development	N/A
D2.4 Non-Residential Development	Yes, no issues have been raised to the proposed development by Council’s health and environment officer, subject to conditions of consent.
D2.5 Mixed Use Development	N/A
Part E: Water	
Section 1 – Sustainable Water and Risk Management	
E1.1 Approvals Process and Reports Required With Development Applications	
E1.1.1 Water Management Statement	N/A
E1.1.2 Integrated Water Cycle Plan	N/A
E1.1.3 Stormwater Drainage Concept Plan	N/A
E1.1.4 Flood Risk Management Report	No issues have been raised to the proposed development by Council’s engineer subject to conditions of consent.
E1.1.5 Foreshore Risk Management Report	N/A
E1.2 Water Management	N/A, no building works are proposed
E1.2.1 Water Conservation	N/A, no building works are proposed
E1.2.2 Managing Stormwater within the Site	No building works are proposed.
E1.2.3 On-Site Detention of Stormwater	N/A
E1.2.4 Stormwater Treatment	N/A
E1.2.5 Water Disposal	Yes
E1.2.6 Building in the vicinity of a Public Drainage System	N/A
E1.2.7 Wastewater Management	Yes
E1.3 Hazard Management	N/A
E1.3.1 Flood Risk Management	No issues have been raised to the proposed development subject to conditions of consent.
E1.3.2 Foreshore Risk Management	N/A
Part F: Food	
Section 1 – Food	
F1.1 Food Production	N/A
F1.1.3 Community Gardens	N/A
Part G: Site Specific Controls	
Old Ampol land, Robert Street	N/A
Jane Street, Balmain	N/A
Old Balmain Power Station	N/A
Wharf Road Birchgrove	N/A
Anka Site – No 118-124 Terry Street Rozelle	N/A
233 and 233A Johnston Street Annandale	N/A

Social Impact

Cross Fit Agilis, the operator of the business proposed to be carried out in unit 17, has previously been granted an approval (D/2014/169) to operate in unit 3 located within the same complex. One of the concerns raised by the objectors was the impact that would arise from having two such businesses within the same complex.

To ensure that the granting of an approval to the proposed development does not result in unreasonable impacts, conditions have been included in the recommendation to control the operation of the indoor recreation facility. This includes limitations on the maximum number of patrons/staff on the premises at any one time and other operational controls specifying additional measures (i.e compliance with Plan of Management and closure of roller door during classes).

Interface Amenity

The proponent submitted a Noise Impact Assessment Report, prepared by Acoustic Logic Consultancy, that concludes that the proposed gym can operate without undue amenity impact for residents of adjoining properties.

It is satisfied that the noise generating activities are screened from residential uses by the existing solid walls fronting Moor Lane. Nonetheless, conditions have been included in the recommendation to ensure that noise generating activities are only carried out within the subject tenancy. The proposed development, subject to conditions, will have minimal impact on the amenity of adjoining property.

Recreation Facility

The proposed development, being for an indoor recreation facility (Gymnasium), has been accompanied by a Plan of Management (POM) that outlines the management practices to be implemented to ensure that the operation of the premises does not have an undue impact on the amenity of the area. These measures read as follows:

- Music will not be included in the 5.30am class until 6.00am. Ventilation exhaust units penetrating the roof have been considered in the acoustic performance assessment.
- For each class of around 50 minutes duration, music will only be played to accompany the 'Workout of the Day' which represents around 20 minutes of the class. For the remainder of the class, members will be instructed by the coach without music.
- The maximum reverberant sound pressure level within the warehouse will not exceed 81 dB(A) leq. In accordance with the output requirement identified by the acoustic consultant, Acoustic logic. The coaches will manage this noise output as the noise levels are clearly visible on the control screen of the stereo system.
- Toilets are provided within the building for use by staff and patrons.
- Neither the common areas nor the surrounding public domain will be utilised in association with the gym use.
- Staff and patrons will be asked to enter and exit the site quietly, so as to minimise potential impacts on nearby residents.
- Staff will be encouraged to minimise noise and to report any negative behaviour.
- All staff and patrons will be advised to respect the amenity of nearby residential properties and businesses.
- Appropriate lighting will be installed within the site.
- The site will be staffed at all times to ensure that people entering the premises are greeted and unauthorised persons are not admitted.
- Lockers will be provided to securely store staff and patrons personal items.

- Together with the provision of all necessary firefighting protection and equipment, an emergency evacuation plaque with the fire exist path, closed fire exist and assembly points. This plaque will also contain the numbers of the nearest Fire Station, 000 and Police Station.
- Emergency services will have access to the premises in the case of an emergency. To assist the emergency services in accessing the premises, clear signage will be installed at each of the main entrances containing the following information:
 - Emergency contact numbers for each of the real estate agent/property manager;
 - Maps of the premises clearly outlining the buildings and room numbers;
 - Location of emergency and firefighting protection equipment and paths of travel.
 - All complaints will be handled by the proprietor of the business and an incident/complaints log will be maintained to record the details of each complaint or incident. The complaints log may be made available to Council upon request.

It is to be noted that a condition requiring compliance with the above measures, as amended by other conditions of consent, has been included in the recommendation of this report, further comment are provided under social impact comments above, Clause 1 and under Clause 5(f) of this report.

5(d) The Likely Impacts

The subject site is surrounded by industrial, commercial and residential developments. The subject unit backs onto Moore Lane which provides the main access to the dwelling houses located at 1, 3, 5 and 7 Moore Lane. All other residential properties abutting Moore Lane are positioned so that their rear yards front the lane.

The site is zoned IN2 – Light Industrial which permits a development for the purpose of “recreation facility- indoor”.

It is considered that the proposed development, subject to conditions, will not result in an unacceptable impact that warrant the refusal of the application, further comments are provided under Clause 1 and Clause 5(c) of this report.

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

It is satisfied that the subject site, provided that the proposed development is carried out in accordance with the recommended conditions, is suitable for the proposed use.

5(f) Any submissions

The application was notified in accordance with Council’s Leichhardt Development Control Plan 2013 for a period of 14 days to surrounding properties from **1 August 2017 to 15 August 2017** and again for 14 days, following the receipt of amended/additional information, from **14 September 2017 to 28 September 2017**. Submissions have been received from 28 properties.

The issues raised in submissions are listed below followed by officer’s comments:

- **Validity/legality of development application submitted without the consent of the owners corporation’s consent.**

Officer’s comments

Comments on this matter are provided under Clause 1 of this report.

- **Extended hours of operations resulting in disturbance to objectors' daily sleep and therefore quality of life;**

Officer's comments

The proposed hours of operation are recommended to be approved on a 12 month trial period within which hours of operation will be as follows:

Monday to Friday	5.30am to 9.00pm
Saturday	7.00am to 6.00pm
Sunday	8.00am to 6.00pm

At the cessation of the trial period the hours of operation will be as follows (unless otherwise approved by Council).

Monday to Friday	7.00am to 8.00pm
Saturday	7.00am to 5.00pm
Sunday	9.00am to 5.00pm

- **Noise from loud music, gym equipment and/or trainers instructions affecting adjoining residence as well as occupiers of adjoining tenancies within the complex;**

Officer's comments

A condition has been included in the recommendation requiring the roller door to be closed during classes and that the use of the premises and the operation of all plant and equipment not to give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations. The condition requires the operation of the premises, plant and equipment not to give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

- **Use of common property within the complex for training creating a hazard and safety issues and resulting in further noise closer to adjoining residence;**

Officer's comments

To ensure the common property is not used for training purposes, the following condition has been included in the recommendation of the report:

Training classes, or any similar activities, are not, under any circumstances, to be conducted in any common area within the complex or in adjoining public places and are only to be conducted within the subject tenancy between the approved hours of operation specified by other condition/s of this consent.

- **Use of surrounding streets including Moore Lane as a running track for gym members. In some instance, up to 30 people running up the lane way where there are young children living on Moore Lane/Parsons Street/Mansfield Street;**

Officer's comments

All members of the public are entitled to use public roads, however no approval has been granted for the use of the public road for training classes.

- **Increase in parking demand causing loss of available parking spaces in the surrounding streets and also safety concerns due to increased pedestrian and vehicle traffic within the car parking area;**

Officer's comments

No issues have been raised by Council's engineers to the proposed development subject to conditions of consent, further comments have been provided under clause 1 of this report.

- **Unit 17 is located next to a mechanic work shop that is constantly moving cars, backing out in front of the entrance to unit 17 which may pose a risk to members of the gym leaving and arriving every 30 mins due to the constant car manoeuvring.**

Officer's comments

Council's records have been searched, it was noted that there is no approval granted for the mechanical workshop. The matter has been referred to Council's compliance team. Notwithstanding the use of the adjoining tenancy as a mechanical workshop is not considered to cause undue safety issues for the proposed gym.

- **Use of car parking allocated to other tenancies/lots within the complex;**

Officer's comments

A condition has been included in the recommendation of the report prohibiting the use of the car parking spaces, within the common area, that are allocated to other tenancies.

- **Two development of the same kind would negatively affect the adjoining residence' quality of like**

Officer's comments

Comments on this matter are provided under Clause 5(c) of this report.

5(g) The Public Interest

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

The proposal, subject to the recommended conditions, is not contrary to the public interest.

6 Referrals

6(a) Internal

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

§ **Development Engineer** - No issues were raised to the proposed development subject to conditions of consent

§ **Health** - No issues were raised to the proposed development subject to conditions of consent

6(b) External

The proposed development did not require referral to any external bodies.

7. Section 94 Contributions

Section 94 contributions are not payable for the proposal.

8. Conclusion

The proposal, subject to the recommended conditions, generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development, subject to the recommended conditions, is not anticipated to result in any significant impacts on the amenity of adjoining premises. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

That Council, as the consent authority pursuant to S80 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2017/349 for the use of Unit 17 for the purpose of a gymnasium at 17/1-13 Parsons Street, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

1. Development must be carried out in accordance with Development Application No. D/2017/349 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
A101 - Site Plan	Cad Draft P/L	20/03/2016
A102 – Existing Ground Floor Plan	Cad Draft P/L	20/03/2016
A103 – Ground Floor Plan	Cad Draft P/L	20/03/2016
A104 0 Existing Mezzanine Level	Cad Draft P/L	20/03/2016
A105 – Section	Cad Draft P/L	20/03/2016
A106 – Front Elevation – Signage Plan	Cad Draft P/L	20/03/2016
Plan of Management	Milestone	November 2017

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail unless otherwise dictated by conditions of consent.

Where there is an inconsistency between approved Plan of Management and conditions of this consent, the condition shall prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

2. Training classes, or any similar activities, are not, under any circumstances, to be conducted in any common area within the complex or in adjoining public places and are only to be conducted within the subject tenancy between the approved hours of operation specified by other condition/s of this consent.
3. No approval has been granted for any signage as part of this consent. Unless exempt, any signage associated with the approved use, the subject of this consent, required to be installed within a common property is to be the subject of a development application which is to be accompanied by the consent of the owners corporation.
4. Following the completion of the setup, an Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in compliance with the approved plans and all conditions of this Development Consent.
5. Car parking spaces, not being the visitors' car parking space, allocated to other tenancies within the complex are not to be used by the members or staff of Cross Fit Agilis at any time. The Plan of Management is to be amended to reflect the requirements of this condition and is to be approved by Council before the issue of any Occupation Certificate.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

6. The Plan of Management (POM) is to be amended to address the following:
- a) The POM is to be amended to include the recommendations of the following documents:
 - i. Traffic and Parking Assessment Report, prepared by Varga Traffic Planning
 - ii. The Flood Risk Management Plan prepared under Condition No 10 of this consent.
 - b) The POM must be amended to address the staff's management of the use of the shared carpark area during peak periods in order to:
 - i. Ensure the use of the parking area is conducted in a safe manner for entry and exit

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to Council's satisfaction prior to the issue of any Occupation.

7. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Air conditioners must not be audible in nearby dwellings between:
 - i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

8. To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

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

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of any Occupation Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate.

9. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be submitted with and approved as part of an Occupation Certificate. The Plan must be prepared / amended to make provision for the following:

- a) The plan must be generally in accordance with the recommendations of the Floodplain Risk Management Plan prepared by Henry & Hymas Consulting Engineers and dated September 2017.
- b) Assessment of the potential sources of flooding and the potential impact and likelihood of risk to personal or property within the site. The flood impacts on the site shall be assessed for all storms up to and including the 100 year ARI and Probable Maximum Flood (PMF) storm events.
- c) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development, as identified in the risk assessment. The precautions shall include but not be limited to the following:
 - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
 - iii) A flood evacuation strategy.

All works must be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council's Development Control Plan as listed below.

Building Code of Australia	Development Control Plan 2013
<i>Defined flood level (DFL)</i>	<i>100 year Average Recurrence Interval flood level</i>
<i>Defined flood event (DFE)</i>	<i>100 year Average Recurrence Interval flood</i>
<i>Flood hazard level (FHL)</i>	<i>Flood Planning Level (FPL)</i>

- d) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Occupation Certificate.

- 10. The approved Architectural plans must be amended to address all relevant recommendations of the Flood Risk Management Plan prepared under Condition No 10 of this consent.

The plans addressing the requirements of this condition must be provided prior to the issue of a Occupation Certificate. The design must be prepared to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such must be subject to separate approval in accordance with Section 96 of the Environmental Planning and Assessment Act.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Occupation Certificate.

- 11. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer this condition has been complied with must be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

ONGOING CONDITIONS OF CONSENT

- 12. The Flood Risk Management Plan approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.
- 13. The Plan of Management required and approved under this consent must be complied with at all times. Any amendments to the Plan of Management must be subject to Council approval in accordance with Section 96 of the Environmental Planning and Assessment Act 1979. A copy of the Plan of Management must be displayed on site at all times and made available to all staff and or occupants.

14. The proposed use of the premises and the operation of all plant and equipment with the roller door to remain closed during classes, shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15min noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an LAeq, 15min and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

15. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
16. The premises are only to be open for business and used for the purpose approved within the following hours.

Trial Period	
Monday to Friday	5.30am to 9.00pm
Saturday	7.00am to 6.00pm
Sunday	8.00am to 6.00pm

The above operating hours are for a trial period of 12 months from the date of Occupation Certificate/date of this consent (whichever occurs later). At the cessation of the trial period the hours of operation are to be as follows.

After Trial Period	
Monday to Friday	7.00am to 8.00pm
Saturday	7.00am to 5.00pm
Sunday	9.00am to 5.00pm

In the event that the operator wishes to seek consent for permanent extended trading hours or a further trial period a Section 96 application is to be lodged and approved by the consent authority. The application should seek to modify this condition accordingly and be accompanied by supporting documentation. Any such application should be made 9 months after the commencement of the operation of the gym.

17. The number of people employed on the premises must not exceed 2 persons at any given time.
18. The maximum number of patron / members on the premises must not exceed 20 persons at any given time
19. The Flood Risk Management Plan approved with the Occupation Certificate, as amended by condition number 6 of this consent, must be implemented and kept in a suitable location on site at all times.

NOTES

1. This Determination Notice operates or becomes effective from the endorsed date of consent.

2. Section 82A of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development, integrated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 82A.
3. If you are unsatisfied with this determination, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. 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 96 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
8. Prior to the issue of the Occupation Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Attachment B – Plan of Management



PLAN OF MANAGEMENT FOR THE USE OF THE EXISTING PREMISE FOR THE PURPOSES OF A GYMNASIUM AND BUSINESS IDENTIFICATION SIGN AT UNIT 17, 3-11 PARSONS STREET, ROZELLE (SP53638)

NOVEMBER 2017

1. Introduction

This Plan of Management details the operational measures to be implemented for the use of the existing premise for the purposes of a gymnasium and business identification sign at Unit 17, 1-13 Parsons Street, Rozelle (SP53638) (the site).

The site currently accommodates a large scale industrial/business complex, approximately 6,600m² in area and comprising eighteen (18) tenancies (by SP), with a single driveway access point accessible from Parsons Street and includes associated internal car parking and landscaping. The subject tenancy (Unit 17) is approximately 404m² in area and is located to the northern corner of the site abutting Moore Lane. Unit 17 is currently vacant.

The subject site currently accommodates a number of industrial and business related uses, including the existing CrossFit Agilis premise (Unit 3), a vehicle mechanic as well as a number of general industrial and business related storage units.

Development surrounding the site to the south and east consists of a range of long standing established industrial and other businesses along Parsons Street and Mullens Street, Rozelle. The site is also within proximity to the former White Bay Power Station, located approximately 130m to the south of the site.

Development surrounding the site to the north and west consists of predominately established low density residential development located along Crescent Street and Mansfield Street, Rozelle. Please refer to an aerial view of the site and locality held in Figures 1 and 2.



Figure 1: Locality Map
Source: Six Maps, 2017



Figure 2: Overview of Location of Subject Tenancy
Source: Six Maps, 2017

2.0 Objectives

This Plan of Management (POM) relates to the ongoing operation of the proposed gymnasium at the site. The purpose of this POM is to document the rules, processes and procedures by which the quiet enjoyment, safety, security and utility of the gymnasium will be achieved and preserved for the benefit of the proprietors, customers of the gymnasium, neighbouring properties, the local community and the Inner West Council (Council).

The objective of the proposed use of the site is to assist in the relocation of the existing successful business (within Unit 3, as approved under DA/2014/169) and to continue to operate a successful, clean, friendly and safe gymnasium, consistent with existing business operations within Unit 3 at the site

3. Operational Details

The proposed development seeks the use of the site for the purposes of a gymnasium ('CrossFit Agilis'). With regard to Section 2 of this POM, the proposed development otherwise seeks relocation of this existing successful business operation to a larger tenancy within the parent complex at the site. The proposed relocation to Unit 17 will otherwise replicate the existing operating procedures (staffing, hours etc.) of the existing CrossFit Agilis premise within Unit 3.

Use of Site as a Gymnasium

The proposed development seeks the use of the site as a Gymnasium ('CrossFit Agilis'), which operate classes for members.

The proposed development is to employ approximately two permanent staff members and is to operate under the following trading hours.

- Monday: 5:30am to 9:00pm;
- Tuesday: 5:30am to 9:00pm;
- Wednesday: 5:30am to 9:00pm;
- Thursday: 5:30am to 9:00pm;
- Friday: 5:30am to 9:00pm;
- Saturday: 7:00am to 6:00pm; and
- Sundays & Public Holidays: 8:00am to 6:00pm.

Class times will be as follows:

- | | |
|-------------------|---|
| Monday to Friday: | <ul style="list-style-type: none">• 5.30am• 6.30am• 9.30am• 12.00pm• 5.00pm• 6.00pm• 7.00pm• |
| Saturday: | <ul style="list-style-type: none">• 7.00am• 8.00am• 9.00am• 10.00am• |
| Sunday: | <ul style="list-style-type: none">• 8.00am (until 10.00am) |

Classes run for approximately one hour. There will be a maximum number of 20 clients (in addition to 2 employees) participating in each class at any one time.

The proposed peak hours are 5:30am to 7:00am and 6:00pm to 8:00pm during weekdays, which coincides when the other industrial uses are closed.

Staff may be on site outside of the above trading hours to undertake back of house tasks such as cleaning or administration tasks.

No running will be conducted within the unit complex or on common property as part of classes. Music will be limited to the values stated in the submitted Noise Impact Assessment Report and will only be utilised during class times.

No Internal Works

The proposed development does not include any building work as defined within the Environmental Planning and Assessment Act 1979 (the Act). The proposed development will however include the installation of gym equipment, storage cabinets and rubber floor matting, as detailed on the architectural plans, prepared by Cad Draft Pty Limited accompanying this submission, however will generally include:

- Installation of rubber floor matting within the tenancy;
- Installation of moveable gymnasium machines and equipment (various);
- Installation of movable bicycle racking (no permanent fixtures); and
- Installation of storage cabinets.

The proposal includes the installation of movable equipment only with no permanent fixtures at the site.

Parking

Access to the site will occur via the existing vehicle access off Parsons Street.

The proposed development seeks to utilise the existing four (4) car spaces allocated to the subject tenancy within SP53638, as detailed on the development plans, prepared by Cad Draft Pty Limited and held at **Appendix A**. In addition

The subject tenancy has a total of four allocated car parking spaces within the common car parking area on the site. Further, the owner of Unit 14, Atelier Furniture, within the same industrial complex has granted approval for the multi-use of the eight allocated car spaces to this tenancy for the use by Crossfit during the following times:

- Mondays to Fridays; 5.30am -7.30am and 5pm -8pm.
- Saturdays and Sundays; 7am - 11am.

It is sustainable and reasonable to have a multi-share flexible car parking arrangement for the site. The use of 12 car parking spaces in relation to the use of the tenancy as a gym plus five common visitor car parking and five bicycle spaces will adequately satisfy the actual car parking demands of the Crossfit premise and ensure that the proposed use will not have an unreasonable impact on available car parking in the locality. We note that all car parking spaces associated with the gym use will be sign marked for use of Crossfit Agilis members.

The site also benefits from visitor parking and bicycle parking, shared amongst tenancies of the complex, as detailed within the development plans as well as the Strata Plan held at **Appendix A**.

Gyms by their nature attract local residents and workers as convenience is an important consideration. Therefore many patrons are likely to walk or cycle to the gym. Some patrons are likely to park in the allocated parking available on site.

A diagram of authorised car parking for clients will be displayed at the entrance of the gym. All clients will be notified of acceptable parking spaces within the complex upon joining the gym. If no car parking is available within the permitted allocated spaces clients will be directed to park on the street.

Deliveries and Waste Collection

The on-going use of the subject tenancy as a gym will generate a small quantity of non-putrescible waste, which will be removed regularly by contractors. Waste collection is to occur once per week through existing commercial waste disposal arrangements. All waste will be stored on site within the dedicated waste storage area as detailed on the architectural plans.

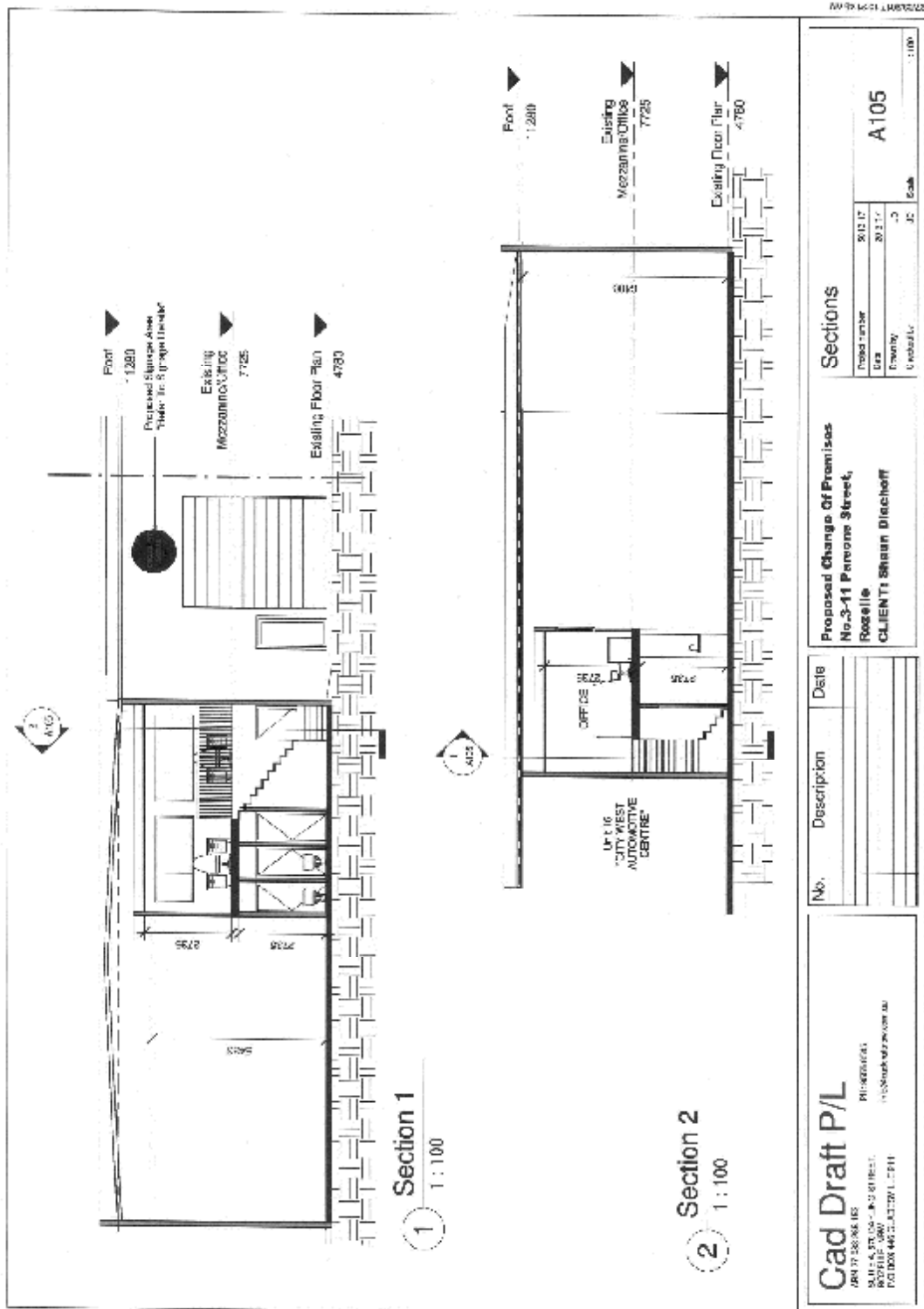
4.0 Management Measures

In addition to operational details outlines above, the following measures will continue to be implemented in the management of the proposed gymnasium, to ensure safety of patrons and maintenance of amenity is maximised and maintained:

In relation to any noise impacts associated with the music playing during classes we note the following:

- Music will not be included in the 5.30am class until 6.00am. Ventilation/ exhaust units penetrating the roof have been considered in the acoustic performance assessment.
- For each class of around 50 minutes duration, music will only be played to accompany the 'Workout of the Day' which represents around 20 minutes of the class. For the remainder of the class, members will be instructed by the coach without music.
- The maximum reverberant sound pressure level within the warehouse will not exceed 81dB(A) L_{eq} , in accordance with the output requirement identified by the acoustic consultant, Acoustic Logic. The coaches will manage this noise output as the noise levels are clearly visible on the control screen of the stereo system.
- Toilets are provided within the building for use by staff and patrons.
- No common areas nor the surrounding public domain will be utilised in association with the gym use.
- Staff and patrons will be asked to enter and exit the site quietly, so as to minimise potential impacts on nearby residents.
- Staff will be encouraged to minimise noise and to report any negative behaviour.
- All staff and patrons will be advised to respect the amenity of nearby residential properties and businesses.
- Appropriate lighting will be installed within the site.
- A single business identification sign will be installed on the building façade to provide for ease of site identification.
- The site will be staffed at all times to ensure that people entering the premises are greeted and unauthorised persons are not admitted.
- Lockers will be provided to securely store staff and patrons personal items.
- Together with the provision of all necessary firefighting protection and equipment, an emergency evacuation plaque with the fire exist path, closed fire exist and assembly points. This plaque will also contain the numbers of the nearest Fire Station, 000 and Police Station.
- Emergency services will have access to the premises in the case of an emergency. To assist the emergency services in accessing the premises, clear signage will be installed at each of the main entrances containing the following information:
 - Emergency contact numbers for each of the real estate agent/property manager;
 - Maps of the premises clearly outlining the buildings and room numbers;
 - Location of emergency and firefighting protection equipment and paths of travel.
- All complaints will be handled by the proprietor of the business and an incident/complaints log will be maintained to record the details of each complaint or incident. The complaints log may be made available to Council upon request.

Attachment C – Plans of proposed development



Cad Draft P/L		Sections	
Unit 16 City West Automotive Centre No. 3-11 Percorne Street, Roselle CLIENT: Shaun Diechoff	Proposed Change Of Premises No. 3-11 Percorne Street, Roselle CLIENT: Shaun Diechoff	Project name 20117	Section A105
Date 2017	Date 2017	Drawn by J	Scale 1:100

